Committee for Justice

Report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill (NIA 26/11-15)

Together with the Minutes of Proceedings, Minutes of Evidence, Written Submissions and Other Memoranda and Papers relating to the Report

Ordered by the Committee for Justice to be printed on 10 April 2014
Report: NIA 170/11-15

Powers and Membership

The Committee for Justice is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, Section 29 of the Northern Ireland Act 1998 and under Standing Order 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Justice and has a role in the initiation of legislation.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider relevant subordinate legislation and take the Committee stage of primary legislation;
- call for persons and papers;
- initiate inquires and make reports; and
- consider and advise on any matters brought to the Committee by the Minister of Justice.

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee during the current mandate has been as follows:

Mr Paul Givan (Chairman)
Mr Raymond McCartney (Deputy Chairman)
Mr Sydney Anderson[1, 2]
Mr Stewart Dickson
Mr Tom Elliott[3]
Mr William Humphrey[1]
Mr Séan Lynch
Mr Alban Maginness
Ms Rosaleen McCorley[4]
Mr Patsy McGlone[5]
Mr Jim Wells

1 With effect from 1 October 2012 Mr William Humphrey and Mr Alex Easton replaced Mr Peter Weir and Mr Sydney Anderson.

2 With effect from 16 September 2013 Mr Sydney Anderson replaced Mr Alex Easton.

3 With effect from 23 April 2012 Mr Tom Elliott replaced Mr Basil McCrea.

4 With effect from 10 September 2012 Ms Rosaleen McCorley replaced Ms Jennifer McCann.

5 With effect from 23 April 2012 Mr Patsy McGlone replaced Mr Colum Eastwood.

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List of Abbreviations and Acronyms used in the Report

ATMG	Anti-Trafficking Monitoring Group
PCSP	Policing and Community Partnership
CJINI	Criminal Justice Inspection Northern Ireland
DHSSPS	Department of Health, Social Services and Public Safety
DoJ	Department of Justice
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
GRETA	Council of Europe's Group of Experts on Action Against Trafficking in Human Beings
HMRC	Her Majesty's Revenue and Customs
HSCT	Health and Social Care Trust
ICTU	Irish Congress of Trade Unions
IJM	International Justice Mission
ILO	International Labour Organization
JRF	Joseph Rowntree Foundation
MLA	Member of the Legislative Assembly
NCA	National Crime Agency
NGOs	Non-Government Organisations
NICCY	Northern Ireland Commissioner for Children and Young People
NIHRC	Northern Ireland Human Rights Commission
NIPB	Northern Ireland Policing Board
NRM	National Referral Mechanism
OCTF	Organised Crime Task Force
PBNI	Probation Board for Northern Ireland
PCSPs	Policing and Community Safety Partnerships
PPS	Public Prosecution Service
PSNI	Police Service of Northern Ireland
THB	Trafficking in Human Beings
TIP	US Trafficking in Persons
UKBA	United Kingdom Border Agency
UNCRC	United Nations Convention on the Rights of the Child
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
WSN	Women's Support Network

Executive Summary

1. This report sets out the Committee for Justice's consideration of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

2. The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill consists of 19 clauses and proposes to make provision for human trafficking offences and exploitation; measures to prevent and combat human trafficking and slavery; and support for human trafficking victims.

3. The Committee requested evidence from a number of government departments and interested organisations and individuals as well as from Lord Morrow, Bill Sponsor, as part of its deliberations on the Bill. Written submissions were received from more than 140 individuals and organisations and the Committee took oral evidence from a wide range of organisations.

4. To assist its consideration of Clause 6 the Committee undertook a visit to Sweden in December 2013 to meet with Government and Non-Government representatives to discuss its legislation which criminalises the purchase of sex. The Committee also met with the Oireachtas Joint Committee on Justice, Defence and Equality in Dublin on 23 January 2014 to discuss the findings of its Report on a Review of Legislation on Prostitution which recommended the introduction of a summary offence penalising the purchase of sexual services of another person by means of prostitution, or any request, agreement or attempt to do so. The Committee also held two private informal meetings, one with a victim of human trafficking for sexual services and the other with a former sex buyer, to hear their personal experiences and views on criminalising the purchase of sexual services.

Clauses of the Bill

5. When the Committee deliberated on the clauses of the Bill some Members indicated that they wished to reserve their position in relation to a number of the clauses, in particular Clause 4 and Clause 6.

6. The Committee agreed 17 of the clauses in the Bill as drafted or as drafted with proposed amendments by Lord Morrow, Bill Sponsor, and/or the Department of Justice at its meetings on 3 April and 8 April 2014. The Committee did not agree Clause 8 as drafted and agreed to bring forward an amendment in relation to Clause 19.

Part 1

7. Clauses 1 to 8 cover offences and investigation/prosecution of offences. The principal aim of these clauses is to ensure there are effective offences and sufficient resources for effective investigation and prosecution of cases. The clauses bring in some new definitions in relation to human trafficking and slavery offences and create a new offence of purchasing sexual services to reduce demand for trafficked individuals and combat exploitation.

8. The Committee was content with the definition of human trafficking and slavery offences and the provision to make consent irrelevant in Clauses 1 and 2. However it noted that depending on the results of the Department of Justice consultation on proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences changes may be required. The Committee also supported the inclusion of aggravating factors as set out in Clause 3 subject to some technical amendments.

9. In relation to Clause 4 the Committee was clear in its support for a robust sentencing framework that reflects the gravity of human trafficking and slavery offences and indicates the seriousness with which such offences are viewed in Northern Ireland and agreed that the minimum sentence requirement should not apply to children. Some Members expressed

reservations about the broad concept of including minimum sentences in legislation and were concerned that Clause 4 could interfere with judicial discretion in individual cases. Other Members were of the opinion that Clause 4 provided sufficient qualification to ensure that it was not an absolute minimum sentence and while it narrowed judicial discretion it did not exclude it. They viewed the Clause as being persuasive on the Court to impose a 2-year sentence but not binding on it. The Committee agreed Clause 4 subject to amendments to restrict a minimum sentence for a human trafficking offence to adults only and cover other issues.

10. The Committee was content to support Clause 5 but noted that it could become redundant depending on the results of the Department of Justice consultation on a proposal for a new consolidated offence of human trafficking.

11. Clause 6 attracted the most evidence and discussion. Having considered the evidence some Members indicated that they supported the amendments Lord Morrow proposed to make which included narrowing the scope of the offence, providing further sentencing options and requiring an advertising campaign to ensure public awareness of the changes in the law. In their view the information obtained during the visit to Sweden regarding the impact its legislation had on reducing demand for sexual services and tackling human trafficking and the meeting with the Oireachtas Joint Committee on Justice, Defence and Equality added weight to the case for introducing the Clause and they noted the importance of both jurisdictions on the Island of Ireland moving forward together on this issue.

12. Other Committee Members indicated that they were not in a position at this stage to support Clause 6 as the appropriate way to deal with human trafficking and supporting vulnerable people in prostitution. They stated that they were concerned about the possible consequences on those involved in prostitution and required more evidence regarding the size and nature of prostitution in Northern Ireland and the possible unintended consequences of criminalising the purchase of sexual services here. They welcomed the fact that the Department of Justice had commissioned research into prostitution in Northern Ireland and stated that this should be completed as speedily as possible to inform the right legislative approach in relation to this matter.

13. The Committee agreed to support Clause 6 subject to the proposed amendments by Lord Morrow with a number of Members indicating they reserved their position as they had not reached a definitive decision.

14. In relation to Clause 7 the Committee viewed the provision of adequate and appropriate training to all frontline professionals to effectively tackle human trafficking as very important and was content to support the approach that had been agreed by Lord Morrow, the Bill Sponsor, and the Department of Justice to omit Clause 7 (1) and amend Clause 15 to address the issue. The Committee also supported the provisions in Clause 7 that set out that a prosecution was not dependent on reporting or accusation by a victim and it could take place even if the victim had withdrawn their statement.

15. Members recognised and shared the concerns that had been expressed regarding ‘blanket immunity’ arising from Clause 8 and noted this was not the policy intent. They also noted that the Clause may not be needed if appropriate assurances are provided by the Public Prosecution Service that the prosecutorial guidance on Human Trafficking cases will adequately address the issue of non-prosecution of victims of trafficking.

16. The Committee therefore agreed that it was not in a position to support Clause 8 as drafted but did support the principles outlined by Lord Morrow, the Bill Sponsor, regarding non-prosecution and wished to consider the findings of the Joint Committee in Westminster which is considering this matter as part of its scrutiny of the draft Modern Slavery Bill.

Part 2

17. Clauses 9 to 12 set out legal requirements for providing effective assistance and support for victims of human trafficking.

18. The Committee recognised the need to provide effective assistance and support for victims of human trafficking whether or not criminal proceedings are taken and to give additional protection to victims and witnesses during investigations and trials and supporting the intention of the Department of Justice and the Department of Health, Social Services and Public Safety to bring forward amendments to clarify definitions and respective roles and responsibilities.

19. Some Members expressed concern about the statutory guidance that the Department of Justice would be required to produce in respect of compensation for victims of human trafficking. They felt guidance would not be sufficient to make this provision effective and ensure compensation can be paid to victims of trafficking. In light of this the Committee indicated that it would seek a commitment from the Minister of Justice, during Consideration Stage, that the Department will consult the Committee on the draft guidance and take full account of its views.

20. The Committee supported the concept of an independent Child Trafficking Guardian but noted that the Department of Health, Social Services and Public Safety was continuing to discuss this Clause with Lord Morrow and amendments may be needed to address potential issues with existing legislation.

21. The Committee was content with Clauses 9 to 12 subject to a range of proposed amendments.

Part 3

22. Clauses 13 and 14 provide additional protection for victims and witnesses during investigations and trials. Clause 14 amends the law on 'special measures' for witnesses to ensure that all trafficked victims are eligible for special measures.

23. The Committee supported the extension of the provision of special measures to victims of human trafficking during the investigation process and the provision of special measures to victims of human trafficking during the court process. However it noted that consequential amendments may be required following the outcome of the Department of Justice consultation on its proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences to ensure that witnesses to ensure that all trafficked victims are eligible for special measures. It was content with Clauses 13 and 14 subject to a range of amendments.

Part 4

24. Clauses 15 and 16 require the Department of Justice to publish a strategy every year to raise awareness of and reduce human trafficking and slavery and to set up a Northern Ireland Rapporteur.

25. In relation to Clause 15 the Committee was content with the intention to place a statutory requirement on the Department of Justice to publish a strategy to raise awareness of, and contribute to, the reduction of human trafficking and slavery offences. It also noted that, with the agreement of Lord Morrow, Bill Sponsor, the strategy would also cover matters relating to training, investigation and prosecution and raise awareness of the rights and entitlements of victims of human trafficking.

26. The Committee agreed that it was content with the provision for a Northern Ireland Rapporteur in Clause 16. However it noted that the remit of the Anti-Slavery Commissioner, which would be created by the draft Modern Slavery Bill, could be extended to Northern

Ireland, and indicated that it would consider the matter further when there is clarity on the position regarding such a Commissioner and the likely remit and responsibilities.

Part 5

27. Clauses 17 to 19 set out definitions and commencement information.

28. In light of comments made by the Attorney General the Committee was of the view that it would be preferable to remove the requirement to commence the Bill from the Department of Justice and agreed to consider a draft amendment to Clause 19 to make provision for the Bill to commence on Royal Assent.

29. The Committee subsequently considered the wording of an amendment to make provision for the Bill to commence on Royal Assent and also discussed whether a better approach would be to build in some time to enable those Departments and organisations that would be responsible for the implementation of the provisions of the Bill to develop the necessary measures and procedures, particularly in relation to support services and training.

30. Members indicated a preference to build in a short time period between Royal Assent and commencement of the Bill and agreed this should be three months. A draft amendment to Clause 19 to commence the Bill three months after it receives Royal Assent was therefore prepared and the Committee agreed the wording of the amendment at its meeting on 8 April 2014.

Proposed New Provisions

31. Four proposals for new provisions were brought to the attention of the Committee during the Committee Stage of the Bill. Three provisions were proposed by Lord Morrow and one by the Department of Justice.

Forced Marriage

32. Lord Morrow advised the Committee that he had received a request from the Minister for Finance and Personnel to include a new offence of forced marriage as part of the Bill. Lord Morrow indicated that he was content for the offence, which is to be enacted in England, Wales and Scotland, to be included in his Bill.

33. The Committee briefly considered the proposed new provision at its meeting on 13 March 2014, and agreed to request information on the background to and rationale for the new offence and the wording of the draft clause from the Department of Finance and Personnel.

34. The Committee was supportive of the inclusion of the new provision in principle and agreed to give further consideration to the detail of the proposed new offence once further information had been received from the Department of Finance and Personnel.

Support Services for Exiting Prostitution

35. The Committee considered a proposed new provision from Lord Morrow which would provide support services for those who wish to exit prostitution. Lord Morrow outlined during his oral evidence to the Committee on 20 March 2014, that numerous parties, including Women's Aid and Ruhama, had made it clear that for the Bill to be effective an exit strategy had to be built in for those who wish to exit prostitution.

36. The Committee discussed with him the estimated costs associated with the implementation of an exit strategy for those who wished to leave prostitution, the assumptions they were based on, and the range of Departments and organisations who may be involved in the implementation, and provision of the support services.

37. The Committee agreed to write to the Departments of Justice, Education, and Health, Social Services and Public Safety and the Department for Social Development to request their views on the new proposal in order to assist its consideration of the detail of the proposed support services package.

38. The Committee was supportive of the intent of the new provision, recognising the need for a support mechanism to be put in place had been highlighted by the Oireachtas Joint Committee and a range of organisations who work with trafficked victims and those in prostitution. The Committee indicated that it would give further consideration to the provision when the views of the various Departments had been received.

Slavery offence to be triable only on indictment

39. The Committee noted a proposal by Lord Morrow to insert a new Clause 3A which would allow a two year minimum sentence for slavery offences by removing the option of a summary offence in section 71 of the Coroners and Justice Act 2009. Lord Morrow highlighted that this new clause may not be needed depending on the outcome of the Department of Justice's consultation on its proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences.

40. The Committee noted the proposal.

Time limit for prosecution of offences under Article 64A of the Sexual Offences (Northern Ireland) Order 2008

41. The Committee noted a proposal by the Department of Justice, that should Clause 6 not stand part of the Bill, then it would introduce a new Clause 6A to amend Article 64A of the Sexual Offences (Northern Ireland) Order 2008. It outlined that Article 64A makes it an offence to pay for the sexual services of a prostitute who is subjected to force or any form of coercion or exploitation. The new Clause 6A would extend the time limit for prosecution of offences under Article 64A of the Sexual Offences (Northern Ireland) Order 2008 from six months to three years. The Department clarified that the new Clause 6A would not be moved if Clause 6 stands part of the Bill.

42. The Committee considered and agreed its report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill at its meeting on 10 April 2014.

Introduction

Background to the Bill

1. The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill was introduced to the Assembly by Lord Morrow MLA, the Bill Sponsor, on 25 June 2013. The Bill has 19 Clauses and its objective is to provide Northern Ireland with a more robust legal framework in relation to:

   - The prosecution of traffickers and those subjecting people in Northern Ireland to conditions of slavery;
   - The provision of improved support for the victims of trafficking; and
   - Tackling the demand for trafficking.

The Committee's Approach

2. To inform Members in advance of the Second Stage debate, the Committee invited Lord Morrow, the Bill Sponsor, to give evidence on the provisions of the Bill at the Committee's meeting on 12 September 2013. Following the Second Stage debate on the principles of the Bill on 23 and 24 September 2013, it was referred to the Committee for Justice in accordance with Standing Order 33 (1).

3. The Committee issued a public call for written evidence following the Bill's referral and also wrote to a wide range of key stakeholders inviting views on the Bill. Respondents were asked to structure written submissions to address the specific clauses of the Bill. In response the Committee received over 139 written submissions. In general terms most if not all of the responses were supportive of the overall aims and objectives of the Bill with regard to tackling the scourge of human trafficking and supporting victims of human trafficking. There was however a divergence of views in relation to Clause 6 which creates a new offence of purchasing sexual services to reduce demand for trafficked individuals and combat exploitation. Many respondents focused their evidence on this clause and were either very supportive of it or strongly opposed to it. The written submissions are provided at **Appendix 5.**

4. The Committee invited a wide range of witnesses to give oral evidence on the Bill including voluntary organisations who provide support to trafficked victims and work with those involved in prostitution, academics, church and faith based representatives, the NI Human Rights Commission, the Law Centre (NI), individuals who are currently or were involved in prostitution, the Police Service of Northern Ireland and the Public Prosecution Service. Department of Justice officials gave oral evidence on two occasions with the latter also providing an opportunity to discuss amendments the Department intends to bring forward in relation to a number of the clauses.

5. In January 2014 the Department of Justice advised the Committee that it intended to undertake a consultation on 'Proposals to Strengthen the Response to Human Trafficking and Slavery in Northern Ireland'[1] which had been informed by measures contained in the draft Modern Slavery Bill[2] published by the Home Secretary on 16 December 2013. Depending on the results of the consultation the Department indicated that it was likely to bring forward proposals that would impact on a number of the provisions in the Human Trafficking Bill.

6. The Minister of Health, Social Services and Public Safety attended the Committee to discuss those clauses that fall within his responsibilities and the Attorney General provided advice

1 http://www.dojni.gov.uk/index/public-consultations/current-consultations/human-trafficking-and-slavery-strengthening-northern-irelands-response.pdf

2 http://www.parliament.uk/business/committees/committees-a-z/joint-select/draft-modern-slavery-bill/

on legal aspects of the Bill. The Committee also invited the Bill Sponsor, Lord Morrow MLA, to attend to discuss the evidence received and his final position in relation to the clauses in the Bill. The Official Reports of the evidence sessions are provided at **Appendix 2.** The written correspondence and papers from the Departments of Health and Justice are included at **Appendix 4,** the correspondence from the Attorney General is at **Appendix 6** and the correspondence and papers from the Bill Sponsor, Lord Morrow MLA, are included at **Appendix 3.**

7. To assist its consideration of Clause 6 the Committee undertook a visit to Sweden in December 2013 to meet with Government and Non-Government representatives to discuss its legislation which criminalises the purchase of sex. The Committee also met with the Oireachtas Joint Committee on Justice, Defence and Equality in Dublin on 23 January 2014 to discuss the findings of its Report on a Review of Legislation on Prostitution[3] which recommended the introduction of a summary offence penalising the purchase of sexual services of another person by means of prostitution, or any request, agreement or attempt to do so. A note of the visit to Sweden and the discussions with the Oireachtas Joint Committee is included at **Appendix 6.** The Committee also held two private informal meetings, one with a victim of human trafficking for sexual services and the other with a former sex buyer, to hear their personal experiences and views on criminalising the purchase of sexual services. The notes of each meeting are also included at **Appendix 6.**

8. At its meeting on 17 October 2013 the Committee agreed to seek an extension to the Committee Stage of the Bill until 11 April 2014. Given the level of interest in the Bill and in particular Clause 6, the Committee was of the view it required that length of time for the oral evidence sessions and the visits to be undertaken and a robust and detailed scrutiny of the issues raised to be completed. On 5 November 2013 the Assembly agreed a motion to extend the Committee Stage to 11 April 2014.

9. The Committee commenced its clause-by-clause deliberations on 20 March 2014 and undertook its formal decisions on the clauses at the meetings on 3 April and 8 April 2014. The Committee agreed its report on the Bill and ordered that it should be printed at its meeting on 10 April 2014.

3 http://www.oireachtas.ie/parliament/mediazone/pressreleases/name-17366-en.html

Consideration of the Provisions in the Bill

10. In response to its call for evidence, the Committee for Justice received more than 140 written submissions from organisations and individuals. While there was general support for the principles of the Bill the evidence raised a number of issues and concerns, particularly in relation to Clause 6 which attracted the most comment and a diverse range of views both in support of it and opposed to it. The Committee explored the issues raised and the views expressed in detail in oral evidence sessions with a wide range of organisations and individuals. The Committee also engaged with the key statutory justice organisations including the PSNI, the Public Prosecution Service and the Department of Justice and with the Department of Health, Social Services and Public Safety given several of the clauses fall within its responsibilities.

11. Prior to Second Stage the Committee discussed the principles of the Bill, with Lord Morrow MLA, the Bill Sponsor, and before conducting its formal clause by clause consideration Lord Morrow MLA attended to discuss the provisions in the Bill, the evidence received by the Committee and proposed amendments.

Part 1 – Offences

12. Clauses 1 to 8 of the Bill cover offences and investigation/prosecution of offences. The principal aim of these clauses is to ensure that there are effective offences and sufficient resources for effective investigation and prosecution of cases. The clauses bring in some new definitions in relation to human trafficking and slavery offences and create a new offence of purchasing sexual services to reduce demand for trafficked individuals and combat exploitation.

Clause 1

13. Clause 1 sets out what the Bill means by a human trafficking offence and a slavery offence.

14. A number of organisations who submitted written evidence including the PSNI, Omagh District Council and the Church in Society Commission of the Church of Ireland supported the clarity that, in their view, Clause 1 brought to the definition of human trafficking.

15. Some respondents particularly welcomed the fact that forced labour was being subsumed within Clause 1 with the Law Centre viewing it as an expansive interpretation of victims and highlighting that not all victims of slavery meet the trafficking definition: some victims of forced labour may not be victims of trafficking but nonetheless have endured extreme situations of exploitation and require assistance.

16. Anti-Slavery International expressed appreciation that reference is made in Clause 1 to section 71 of the Coroners and Justice Act 2009 and stated that all forms of modern day slavery should be covered under a unified piece of legislation reflecting that trafficking and forced labour can occur both concurrently and consequently. It believed that the definitions of offences included in the Bill could be improved by including a single definition of trafficking that mirrors the definition of the EU Trafficking Directive (2011/36) that specifically included trafficking for forced criminal activity and begging; and keeping a separate forced labour definition that refers to the International Labour Organization (ILO) Convention 29 which should be accompanied by providing the criminal justice actors with lists of indicators developed by the ILO for identification of situations of forced labour.

17. The Joseph Rowntree Foundation also welcomed the emphasis in the Bill on trafficking for labour exploitation.

18. In its written evidence the Northern Ireland Human Rights Commission advised that harmonisation of the domestic law with international standards would be enhanced if the Bill was amended to state the international definition of Trafficking in Human Beings as well as identifying the legislative instruments that address related exploitation.

19. During the oral evidence session with the Commission the Committee explored whether the definition contained in the draft Modern Slavery Bill[4] would satisfy the issues the Commission had raised. Having considered the matter further the Commission indicated that the definition of human trafficking in the Modern Slavery Bill followed a different construction to the international standards in that it separates the 'act' component but amalgamates the 'means' and the 'purpose' components under the overarching definition of 'exploitation' with the result that at times the definition is broader than the international definition and at other times, it may be interpreted as narrower. In light of this, the Human Rights Commission recommended that if the language of that Bill is adopted, the Assembly should make clear the intention is that the domestic definition should be read to fully accord with the relevant international standards and suggested that the Committee engages with the Minister of Justice to propose that departmental guidance be issued to this effect following Royal Assent and prior to the Act coming into force.

20. In its written and oral evidence the Department of Justice stated that it was supportive of Clause 1 but highlighted that the results of its current consultation on proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences: *Human Trafficking and Slavery: Strengthening Northern Ireland's Response*[5], if enacted, was likely to have a bearing on the Clause and amendments may be needed.

21. In his oral evidence to the Committee on 20 March 2014, Lord Morrow MLA, the Bill Sponsor, also indicated that the definitions of the offences of human trafficking and slavery were likely to be subject to amendment following the results of the Department of Justice's consultation.

22. **The Committee considered the views expressed and, while agreeing that it was content with Clause 1 as drafted, noted that the results of the current Department of Justice consultation on proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences may have a bearing on Clause 1 and could give rise to the need for amendments.**

Clause 2

23. Clause 2(1) sets out the conditions when the consent of a victim to either a human trafficking offence or slavery offences shall be seen as irrelevant i.e. situations of duress, or the victim is a child. Clause 2(2) defines vulnerability.

24. All the organisations and individuals who commented on Clause 2 agreed that a victim's consent should be irrelevant in cases of human trafficking or slavery offences.

25. In its evidence CARE recognised that consent was not relevant under the current law, however, highlighted that this did not seem to be the case in practice and referenced the 2013 Anti-Trafficking Monitoring Group (ATMG) Report[6] which indicated 'The UK has restricted its interpretation of the international trafficking definition by requiring only the establishment of the 'act' and 'purpose', excluding the need for ascertaining the means element which operates to explicitly negate the supposed consent of the trafficked person to their exploitation… However, it is common for both the prosecution and defense to draw on the trafficked person's consent to their trafficking in such trials to substantiate their case.'

4 https://www.gov.uk/government/publications/draft-modern-slavery-bill

5 http://www.dojni.gov.uk/human-trafficking-and-slavery-strengthening-northern-irelands-response

6 http://www.antislavery.org/english/what_we_do/programme_and_advocacy_work/trafficking/anti_trafficking_monitoring_group.aspx

The Report also pointed out that 'the ATMG was presented with cases where the trafficked person agreed to travel to the UK, not knowing about the real purpose of their trip. Their initial consent was perceived as complicity in their exploitation, despite the established deception, use of threats and long working hours for little or no recompense once in the UK. An incorrect view seems to persist that a trafficked person needs to be abducted or forced to come to the UK against their will.'

26. CARE was of the view that Clause 2 was needed to ensure that situations as reported in the ATMG Report did not occur. Contemporary Christianity also viewed Clause 2 as positive as it would ensure the trafficker could not argue that the victim in some way agreed to the action related to trafficking.

27. Equality Now appreciated that an individual could not consent to their own exploitation however considered it vital to include in the law an enumeration, in line with International and European legislation, of circumstances in which a victim's consent shall be considered irrelevant. It suggested that the text of the law or its explanatory note should elaborate on what types of situation can constitute 'vulnerability', including at a minimum, but not limited to, poverty, drug addiction etc.

28. The International Justice Mission (IJM) welcomed clarity on the situations where consent is nullified, especially point 2(1)g which sets out that consent is nullified if the victim was a minor at the time of the offence. It contested that minors should always be categorised as victims whatever the circumstances and highlighted that it had found in instances of human trafficking that the use of force to keep victims from leaving the situation of exploitation or speaking out, and the use of deception to trap them into exploitation in the first place, was widespread.

29. In her written evidence the Northern Ireland Commissioner for Children and Young People (NICCY) highlighted the importance of ensuring that clauses which list for example, forms of irrelevant consent and aggravating factors, do not in practice have the unintended consequence of restricting the factors that will be considered in the investigation and prosecution of cases. In relation to consent, NICCY highlighted that the preamble to the EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims is unambiguous in its statement that in regard to children consent should never be considered valid.

30. The Presbyterian Church in Ireland stated that the boundaries between human trafficking and people-smuggling were often very unclear. It noted that in some cases there may be some level of consent but in others there may not and expressed the view that the legislation should take into account people who are smuggled but who gave a very little level of consent.

31. The PSNI highlighted that the circumstances surrounding 'facilitation' of travel vis a vis trafficking can overlap and be difficult to separate. It also stated that a key component of trafficking is the fraud/deception element which impacts on the issue of 'true consent' of the victim, had they known the full circumstances and intentions of the trafficker.

32. The Attorney General for Northern Ireland, when he attended the Committee meeting on 7 March 2014 to discuss the Bill, stated that there was nothing wrong with Clause 2 but questioned whether it was necessary as, in existing criminal law, consent is vitiated by the features that are identified in paragraphs 2(1)(a) to 2(1)(e) of Clause 2 i.e. whenever consent is relevant in the criminal law such consent would not be validly given if, for example, it had been obtained by threat, fraud or coercion. He expressed the view that, as a general rule, if a provision is not necessary then enacting it may give rise to unnecessary risk or complication.

33. The Department of Justice indicated in its written and oral evidence that it was content that Clause 2 should stand part of the Bill subject to an amendment to make it clear that consent is irrelevant which it understood the Bill Sponsor, Lord Morrow MLA, would bring forward.

34. Lord Morrow, Bill Sponsor, in his oral evidence to the Committee on 20 March 2014, recognised that there had been considerable discussion about whether this Clause was needed and highlighted that the same discussion about how the consent of a victim should be treated was taking place with the Westminster Joint Committee on the Draft Modern Slavery Bill since consent being irrelevant is included in Clause 2(2) of that Bill.

35. Lord Morrow indicated that, in his view, stating the need for the consent of victims to be irrelevant is important and the Clause should remain. He advised the Committee that following discussions with the Department of Justice he was proposing to bring forward an amendment to make it clear that consent is irrelevant to any action related to being a victim of a human trafficking or slavery offence by removing any reference to where the victim had agreed to an action because of fraud, deception, coercion etc. He also highlighted that a consequential amendment may be needed if the proposed Clause 2(2) of the Modern Slavery Bill is enacted in a similar way in Northern Ireland following the Department of Justice consultation.

36. **The Committee agreed that it was content to support the inclusion of Clause 2 in the Bill subject to the proposed amendment by Lord Morrow to make it clear that consent is irrelevant. The Committee noted that a consequential amendment may be needed to this clause if the proposed Clause 2(2) of the Modern Slavery Bill is enacted in a similar way in Northern Ireland following the Department of Justice consultation.**

Clause 3

37. Clause 3(1) sets out the aggravating factors that apply to both human trafficking and slavery offences. Clause 3(2) sets out definitions for three of the terms used in Clause 3(1).

38. Most of the evidence received regarding Clause 3 centered on whether the aggravating factors to apply in human trafficking and slavery offences should be set in statute and, if so, would this limit judicial discretion, or would the use of sentencing guidelines be a preferable option.

39. The Northern Ireland Human Rights Commission (NIHRC) stated that the concept of aggravating factors was an aspect of a proportionate sanction. It highlighted that the UN Recommended Principles, Guideline 4 states that: 'where appropriate, legislation should provide for additional penalties to be applied to persons found guilty of trafficking in aggravating circumstances, including offences involving trafficking in children or offences committed or involving complicity by State officials'. Similarly, the United Nations Office on Drugs and Crime (UNODC) Model Law states that aggravating factors 'can be added to the law, if and in as far as, this is in line with existing aggravating circumstances with regard to other crimes'.

40. The Commission also highlighted that the domestic courts may consider additional aggravating factors at their discretion. Furthermore, domestic trafficking offences are structured so as, at times, aggravating factors constitute a component of the offence. It stated that neither the Guidelines, nor Clause 3 of the Bill include on their face the entirety of the required aggravating factors provided by the international standards and advised that if Clause 3 remains it should be amended to include, at a minimum, the totality of aggravating factors laid down under the international standards, for example, where the offence was committed within the framework of a criminal organisation. In the Commission's view the Bill should explicitly state that the legislation does not restrict the court from taking into account additional aggravating factors.

41. Equality Now considered trafficking for sexual exploitation always to involve violence and harm and as such, the penalties for trafficking-related crimes should be commensurate with its severity and damaging effect. Given that the Bill enumerates specific aggravating factors,

it proposed to add when the perpetrator is related to, has legal guardianship over, or is in a position of trust or authority in relation to the victim.

42. In its written evidence Evangelical Alliance indicated that, while it did not disagree with the list of aggravating factors and welcomed efforts to ensure that those convicted of serious trafficking offences receive serious sentences, it questioned whether aggravating factors should have a statutory basis or take the form of judicial guidelines. It highlighted the danger of Clause 3 making judicial independence and separation of powers real or perceived issues. In its view sentencing is a matter for the judiciary who have discretion to decide on and apply aggravating or indeed mitigating factors to sentences. It highlighted that there was already an appeals mechanism for unduly lenient sentences in place for offences including trafficking and suggested that it might be better to leave the application of aggravating factors to the Judicial Studies Board Northern Ireland rather than through the Bill.

43. The Law Centre was also of the view that sentencing guidelines were preferable as they afford flexibility, enabling the courts to respond to new issues as they arise. While it did not support Clause 3 it was of the view that if the Clause was adopted, it should include an offence committed by an organised crime network or trafficking ring.

44. In contrast the Church in Society Commission of the Church of Ireland in its evidence stated that while it recognised that there were potential issues around a legislature specifically directing the judiciary, Clause 3 ultimately leaves the determination of aggravating factors to the sentencing judge. The Commission therefore welcomed these factors being defined in the Bill.

45. Both Extern and the International Justice Mission welcomed the clarification of aggravating factors provided by Clause 3. Omagh District Council viewed the inclusion of aggravating factors as appropriate and Women's Aid also supported the list of aggravating factors the Clause outlined, viewing them as reasonable and in keeping with the nature of the crime of human trafficking.

46. CARE stated that Clause 3 makes it clear that the factors set out in the European Convention and EU Directive would be taken into account for all trafficking and slavery offences.

47. CARE believes that Clause 3 does not allow the Assembly to interfere in particular cases, but sets out a framework for judicial decisions, and highlighted that there was a precedent for aggravating factors in legislation in Section 4A of the Misuse of Drugs Act 1971, as introduced by the Section 1, Drugs Act 2005, although it recognised that this section applies only in England and Wales. In CARE's view it is helpful to have these factors in statute rather than guidance which can change.

48. The PSNI indicated that sentencing guidelines set out the general principles which relate to aggravating and mitigating factors and pointed out that the role of the trial judge was to consider all facts relevant to the matter at hand. While a number of factors may make the trafficking offence more serious and have a greater impact on the victim, the trial judge would be conscious of such factors and could sentence accordingly within current guidelines.

49. The PSNI noted that the factors which could impact on the gravity of the crime are numerous and could vary in each individual circumstance and expressed the view that caution should be exercised when trying to categorise levels of gravity without understanding of surrounding factors and victim impact. It did not believe that there was a need for additional legislation to define aggravating factors. The PSNI highlighted that the Bill indicates that the Court 'must treat the following as aggravating factors' and suggested that this should remain at the discretion of the Court. It may therefore be more practicable to amend this to 'may treat the following as aggravating factors'.

50. The Department of Justice initially expressed concern that setting aggravating factors in statute would limit flexibility in responding to emerging case law and would fetter the discretion of judges. It viewed sentencing guidelines as a better vehicle to respond flexibly to

case law as it emerged. It did however state that it would not oppose Clause 3 if it was the will of the Assembly but in its view it should be amended to broaden the definition of 'position of trust'.

51. When officials gave oral evidence on 6 March 2014 they indicated that, in light of the strong support expressed by stakeholders for the provisions of Clause 3, the Department would support the Clause. The Department subsequently advised the Committee that in conjunction with Lord Morrow and Legislative Counsel it had identified the need for a number of technical amendments which it intended to bring forward. The amendments would insert a definition of 'public official'; standardise the various references to the family of the victim; define the family of the victim by reference to Article 34 of the Sexual Offences Order; correct subsection(1)(g) to refer to the offender rather than the offence; correct the definition of 'position of trust', which in the current Bill cites Article 29 instead of Article 28 of the Sexual Offences (Northern Ireland) Order 2008; omit the reference to an offence involving 'serious violence' on the ground it would already be reflected in the reference to serious harm to the victim; and extend the 'previous convictions' ground to cover convictions for similar offences outside Northern Ireland.

52. The Attorney General for Northern Ireland advised the Committee that there was no obstacle to the legislature setting out a series of aggravating factors and it was not inconsistent with judicial discretion in sentencing. He highlighted that the sentencing judge retains discretion to consider factors other than those set out by statute in reaching his or her decision on sentence. He suggested that it may be helpful to include in Clause 3 additional procedural provisions setting out how the aggravating factors should be recorded by the judge and explicitly reflected in the sentence imposed.

53. In his written letter of 18 March 2014, and when he attended the Committee meeting on 20 March 2014, Lord Morrow, the Bill Sponsor, indicated that he was proposing one amendment to Clause 3 which would replace the definition of a 'vulnerable adult' with that used in the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2012. He advised that he was still discussing the proposed amendment with the Department of Justice to ascertain if it was the most suitable option. He also confirmed that he was content with the technical amendments proposed by the Department of Justice. The Department subsequently indicated in its letter dated 7 April 2014 that it intended to make two further technical amendments to provide a definition of "vulnerable adult" and provide a definition of the family of the victim by reference to Article 34 of the Sexual Offences Order and Lord Morrow MLA was content with this approach.

54. **The Committee noted that the Department of Justice was now supportive of the inclusion of this Clause in the Bill. The Committee agreed that it was content with Clause 3 subject to the proposed amendments by the Department of Justice.**

Clause 4

55. Clause 4 requires a minimum sentence for human trafficking and slavery offences. Clause 4(2) requires there to be a minimum custodial sentence of two years unless there are exceptional circumstances which justify not having this minimum sentence.

56. The evidence received in relation to Clause 4 highlighted two particular issues – whether the inclusion of a minimum sentence in legislation regarding human trafficking and slavery offences fettered judicial discretion and the fact that the compulsory minimum sentence applied to children.

57. Amnesty International, Banbridge Policing and Community Safety Partnership (PCSP), CARE, the Belfast Health and Social Care Trust, the Presbyterian Church in Ireland, Victim Support, Evangelical Alliance, the Northern Ireland Commissioner for Children and Young People, and the Northern Ireland Human Rights Commission (NIHRC) all stated that it was unacceptable

for Clause 4 to apply equally to children and adults and it needed amended to clarify that the minimum sentence provision does not apply to children. The NIHRC and the Presbyterian Church in Ireland also expressed a view that children should not be criminalised more than is absolutely necessary and the imprisonment of a child should be the last resort.

58. A number of stakeholders including Banbridge PCSP, the Law Centre, the Progressive Unionist Party, the Police Service of Northern Ireland (PSNI), the Church in Society Commission of the Church of Ireland and Victim Support NI expressed concern that the application of minimum sentencing would compromise judicial discretion. The Law Centre also highlighted that it may impact on plea bargaining, which can be a very useful tool for prosecutors to obtain information.

59. CARE was of the view that incorporating a statutory minimum sentence was an indication of the serious nature of these criminal offences and would send a strong signal to perpetrators about the consequences of trafficking. It highlighted in its written submission that other countries such as Canada, Luxembourg, India, Bosnia and Herzegovina and Liberia had introduced statutory minimum sentences for human trafficking offences. CARE also noted that minimum sentences had been used in the UK on a number of occasions for drug trafficking, domestic burglary and firearms offences and in Northern Ireland through the Firearms (Amendment) (Northern Ireland) Order 2004, Article 70.

60. In its view Clause 4 would not seek to instruct the judiciary on particular cases but rather set out legislative principle and therefore would not interfere with judicial discretion. CARE also suggested the insertion in Clause 4(2) of the words 'an immediate" instead of 'a' before 'custodial sentence' to avoid the possibility of a suspended sentence being imposed when the policy intention is clearly to provide a robust sentencing regime.

61. Evangelical Alliance welcomed the overarching aim of Clause 4 stating that it was an important opportunity to show, through legislation, the value our society places on freedom and human dignity. It also noted that a minimum sentencing provision exists in Sweden's trafficking legislation.

62. With reference to section 2 of the Clause, it suggested the need for further clarity around the wording 'exceptional circumstances relating to the offence or the offender'. It suggested that these exceptional circumstances should include: the offender is under 18; the offender was coerced themselves; and the offender was a vulnerable adult.

63. Evangelical Alliance acknowledged that Clause 4 could be viewed as an interference with judicial independence and the separation of powers however stated that if the words 'exceptional circumstances' were sufficiently defined so as to allow judicial discretion then it would be satisfied that a balance could be struck between the legislator and judiciary with regard to these offences. More generally, if the words 'minimum sentence' caused difficulty it suggested that the Clause should be worded in terms of a mandatory sentence. It highlighted a number of precedents or examples of offences where there are mandatory sentences which in some circumstances are effectively minimum sentences: if someone is convicted of causing death by dangerous driving there is a mandatory sentence of at least 2 years in prison; and, if someone is convicted of drink driving or dangerous driving the court has no discretion with respect to banning the person from driving for a period.

64. Omagh District Council in its written submission stated that minimum sentencing which reflects the seriousness of human trafficking and slavery offences is a required deterrent.

65. The International Justice Mission (IJM) and Women's Aid argued that two years for the minimum sentence is not strong enough, and may not provide the incentive required.

66. The Northern Ireland Commissioner for Children and Young People (NICCY) highlighted that it is not a convention for minimum sentencing to be set out in primary legislation and noted that recent guidance highlighted that aggravating and mitigating factors should be considered in the particular circumstances of each case.

67. The NIHRC indicated that the UN Convention Against Transnational Organised Crime, Article 11 stipulates that the commission of a trafficking offence shall be liable to sanctions that take into account the gravity of that offence and that each Government 'shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences covered by this Convention are exercised to maximise the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences'.

68. The NIHRC also highlighted that the Council of Europe Trafficking Convention, Article 23 and the EU Trafficking Directive, Article 4 require trafficking offences to be punishable by 'effective, proportionate and dissuasive' sanctions. Such penalties should allow for a deprivation of liberty. Furthermore, it pointed out that the European Court of Human Rights ('ECtHR') has determined that Trafficking in Human Beings (THB) falls directly within the remit of the European Convention on Human Rights (ECHR), Article 4 which prohibits slavery and forced labour. In order to ensure that the rights guaranteed within the ECHR are practical and effective and not theoretical or illusory, Government is under a positive obligation to institute effective penalties for conduct that violates an ECHR right. The ECtHR considers the effectiveness of judicial decisions regarding penalties according to their efficacy, preventative and deterrent nature.

69. In addition, the ECtHR will take into account the proportionality of the measure which requires a 'discernible and sufficient link between the sanction and the conduct and circumstances of the individual concerned'. In this regard, the Court has found that certain blanket and indiscriminate provisions do not satisfy the proportionality test. The UN Recommended Principles also caution that legislatively mandated minimum penalties, particularly if set very high, may not satisfy the standard of proportionate sanction where the involvement in and benefit from the exploitation has been slight.

70. The NIHRC noted that in Northern Ireland, THB offences are triable on indictment only, with a maximum sentence of imprisonment up to 14 years. It also noted that sentencing guidelines for the NI Crown Court are provided within the case law of the NI Court of Appeal. It pointed out that, to date, the NI Court of Appeal had not issued sentencing guidelines for trafficking offences.

71. The NIHRC pointed out that in 2012, the NI Crown Court passed two judgments on THB offences within which it discussed the applicability of the England and Wales Guidelines: R v. Matyas Pis, and R v. Rong Chen.

72. It highlighted that in R v. Matyas Pis, the Court applied the Guidelines. In R v. Rong Chen however, the Court did not apply the Guidelines in totality, identifying 'major difficulty' concerning the requirement to adopt a starting point and in particular, the six year starting point for coercion cases regardless of the degree of coercion involved. Judge Stephens stated, 'I do not consider it appropriate that there should be no assessment of the degree of coercion before one increases a starting point by 4 years from 2 to 6 years custody. The difficulties with the feature of coercion continue because under the 2007 guidelines it is potentially an additional aggravating factor'….I consider it more appropriate to form one overall view on the facts of a particular case as to the degree of coercion involved and to take that factor along with the other aggravating and mitigating factors into account in imposing an appropriate sentence within the overall sentencing range.

73. The NIHRC noted that both cases were currently awaiting deliberation by the NI Court of Appeal and that in the absence of further guidance, the current starting point for sentencing to be applied following a conviction for trafficking for the purposes of sexual exploitation where there is no coercion is likely to remain as set out by the Sentencing Council at 2 years.

74. The NIHRC further noted that under both the Asylum and Immigration Treatment of Claimants, etc.) Act 2004 and the Sexual Offences Act 2003, it is possible to be convicted of a domestic THB offence that would not constitute THB under the international framework, namely

because the domestic legislation does not always require one of the 'means' specified within the international definition.

75. The NIHRC highlighted that the figure of two years proposed as the minimum sentence was not arbitrary but reflected a subtle increase on current sentencing practice. It advised that the existence of the exception under legislation should remain within the Bill to ensure that the sanctions imposed under Clause 4 are considered proportionate for all THB offences, including those offences defined as trafficking domestically but which fall outside of the international standard.

76. In its oral evidence the NIHRC confirmed its view that Clause 4 allows for judicial discretion because exceptional circumstances are written into the Clause.

77. The PSNI stated that, as with Clause 3, sentencing should be matter for the Court and one which a Trial Judge can address within current guidelines and therefore did not see this as an area that required legislative parameters.

78. In its written submission dated 29 October 2013 the Department of Justice highlighted that the Minister of Justice supported Lord Morrow's view that those who have been convicted of human trafficking offences should receive robust sentences which reflect the seriousness of the crime and its impact on victims and referred to the human trafficking provisions set out in the Criminal Justice (Northern Ireland) Act 2013 which enabled the Director of Public Prosecutions to ask the Court of Appeal to review any sentence imposed by the Crown Court in respect of human trafficking offences, where he considers it to be unduly lenient. It also highlighted that the Minister had removed the option of the case being tried summarily (it must now be tried in the Crown Court).

79. The Minister did, however, have concerns about the proposal for a compulsory minimum custodial sentence. The Department stated that compulsory minimum sentences were rarely specified in law, reflecting the principle that judges should normally be free to take account of all available evidence and the unique circumstances in a particular case, allowing them to reach a decision on sentencing which fits the crime. In its view Clause 4 would restrict the scope for judicial discretion which was particularly important in the context of human trafficking cases, where supply chains can be complex and a number of different individuals involved, to varying degrees and with varying culpability, throughout the trafficking process. The Department also highlighted that the existing sentencing guidance already indicates that a custodial sentence should be the norm for involvement in the human trafficking process.

80. On that basis the Minister of Justice opposed Clause 4. His overriding concern however was that the Clause as it stands applies to children as well as adults. The Department stated that the extension of minimum custodial sentences to children was inappropriate and in breach of the 'best interests of the child' principle set out in Article 3 of the United Nations Convention on the Rights of the Child. As a minimum, therefore, if Clause 4 remained in the Bill, an amendment is required to clarify that the provision should not apply in respect of children.

81. In its written evidence dated 26 February 2014 and oral evidence on 6 March 2014 departmental officials highlighted that its current consultation on proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences proposes an increase in sentence to life and such a change would be a further indication to judges of the seriousness with which the Minister and Assembly view these offences.

82. When challenged during the oral evidence session officials accepted that Clause 4 may not, strictly speaking, introduce a compulsory minimum custodial sentence as there was qualification to permit judicial discretion, but indicated that the view of the Department was that it was better not to have a range of statutory provisions that would then have an exemption in them as, if every case became an exception, the exception becomes the rule. They reiterated that in the Department's view it was preferable to leave the discretion entirely in the hands of the judiciary.

83. When he attended the Committee meeting on 6 March the Attorney General for Northern Ireland indicated that Clause 4 did not make provision for a hard minimum-sentence model and the provision for the retention of discretion for the judge to impose a sentence below the minimum threshold where there are exceptional circumstances allows flexibility for judges to depart from the predictive statutory minimum. He expressed the view that it was a proper device if the Assembly is satisfied as to its policy.

84. The Attorney General suggested that it should be made clear that the custodial sentence will only apply to a person of 18 years or above and the word "immediate" should be inserted before "custodial" to avoid a court imposing a suspended sentence when the policy intention is clearly to provide a robust sentencing regime. In the context of whether the inclusion of provision for 'exceptionality' detracts significantly from the primary purpose of the Clause the Attorney General proposed that it might be desirable to include an obligation for reasons to be stated by the judge if a case is considered exceptional. He felt that this would strike an appropriate balance between the policy imperative of an effective minimum sentence and the requirement to do justice in the individual case.

85. Lord Morrow MLA, Bill Sponsor, outlined in his letter dated 18 March 2014 that, while noting the position of the Department of Justice, he was minded to keep the Clause but intended to propose amendments so that the minimum sentence framework should not apply to children; the court cannot impose a suspended sentence; and the court must state the reasons they consider a case exceptional if they decided not to impose the minimum sentence. When he attended on 20 March he also highlighted that a number of countries including Canada, Luxembourg and India had introduced minimum sentences for human trafficking.

86. **The Committee was clear in its support for a robust sentencing framework that reflects the gravity of human trafficking and slavery offences and indicates the seriousness with which such offences are viewed in Northern Ireland.**

87. **Some Members expressed reservations about the broad concept of including minimum sentences in legislation and were concerned that Clause 4 could interfere with judicial discretion in individual cases. Other concerns highlighted related to whether the majority of cases would became 'exceptional' or appeals of the severity of the sentence based on whether or not the judge had given appropriate weight to the exceptional circumstances put forward would arise. They indicated that they wished to reserve their position in relation to Clause 4 and consider the arguments supporting the inclusion of a minimum sentence further.**

88. **Other Members were of the opinion that the Clause provided sufficient qualification to ensure that it was not an absolute minimum sentence and while it narrowed judicial discretion it did not exclude it. They viewed the Clause as being persuasive on the Court to impose a 2-year sentence but not binding on it. They also welcome the proposed amendment to require a judge to state the reasons if a decision is reached that the case is exceptional and the minimum sentence should not be imposed, viewing this as an appropriate mechanism to address concerns around exceptional cases becoming the norm.**

89. **All Members agreed that the minimum sentence requirement should not apply to children.**

90. **The Committee agreed to support Clause 4 subject to the proposed amendments by Lord Morrow to restrict a minimum sentence for a human trafficking offence to adults only, ensure that the sentence is an immediate custodial sentence and not a suspended sentence, require a court to state the reasons why a case is considered exceptional and address a number of technical issues.**

Clause 5

91. Clause 5 amends section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 so that additional definitions are included in the Act to mirror the EU Directive.

92. In its written evidence CARE highlighted that Clause 5 seeks to ensure that Section 4 of the Asylum and Immigration Act 2004 mirrors Article 2 of the European Directive in relation both to what is known as the 'means' by which a person is trafficked i.e. the methods used to exert control over that person, and the 'nature' of their exploitation i.e. the purpose for which they have been trafficked: Article 2 (1) of the Directive sets out the 'means' by which control is exerted as 'the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation'.

93. CARE indicated that currently the Asylum and Immigration Act 2004 only refers to the use of force, threats or deception as means of exerting control and stated that Clause 5 would ensure that the full definition of the EU Directive would be applied.

94. In relation to the type of exploitation, CARE noted that Article 2(3) of the EU Directive defines exploitation as including 'as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs'. CARE pointed out that at present the Asylum and Immigration Act 2004 makes specific reference to forced labour, slavery or practices similar to slavery and servitude, provision of services and acquisition of benefits of any kind, and organ removal - it does not make any reference to forced begging or to forced criminal activity.

95. CARE emphasised that Clause 5 was necessary to ensure that the definitions of exploitation in Article 2 were explicit in Northern Ireland law, including forced begging and criminal activities, otherwise it felt there was an argument for not having any definitions in Section 4 of the Asylum and Immigration Act at all.

96. Extern, the Law Centre NI, Omagh District Council and the PSNI echoed CARE's support for a definition of forced begging being expressly stated in statute. The PSNI in particular highlighted that the interpretation and enforcement of the legislation surrounding forced labour contained within the Asylum and Immigration Act 2004 had proved difficult and suggested that the entire legislation surrounding forced labour should be examined.

97. The PSNI did however state that concerns existed around the provision of evidence where 'he believes that another person is likely to exploit' (Section 1b, 2b and 3b) as the evidential test surrounding an individuals' belief is difficult to prove without significant supporting evidence. It suggested an amendment to include 'that he should have reasonable cause to suspect' or similar terminology which would be appropriate and would improve the ability to enforce this legislation.

98. Victim Support NI pointed out that forced begging was already recognised to fall within the labour exploitation definition while Women's Aid sought clarity on how and where Clause 5(e) amends the Asylum and Immigration (Treatment of Claimants etc.) Act 2004, and the specific definition of forced begging or criminal activities.

99. The Department of Justice outlined in both oral and written evidence that it had no concerns about the intended effect of Clause 5 which would make amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 on the definition of trafficking for exploitation purposes. It did however advise that, subject to the results of its consultation on a proposal for a new consolidated offence of human trafficking, which would result in the repeal of Clause 4 of the 2004 Act, Clause 5 of the Bill could become redundant.

100. The Department also highlighted that, as the Clause currently sits within the Bill, a number of technical amendments to 5(e) would be necessary.

101. In his written advice on the Bill, the Attorney General highlighted that, if Clause 5 is to proceed, it may be thought that it deals with immigration and it may therefore be prudent to obtain the Secretary of State's consent.

102. Lord Morrow, the Bill Sponsor, noted in his written evidence dated 18 March 2014, that, subject to the results of the Department's consultation on a proposal for a new consolidated offence of human trafficking, Clause 5 of the Bill could become redundant. He indicated that, should the Clause remain, he was content with the Department of Justice proposed amendment to broaden the definition of 'position of trust'.

103. **The Committee agreed that it was content with Clause 5 as drafted but recognised that, subject to the results of the Department of Justice consultation on a proposal for a new consolidated offence of human trafficking, which would result in the repeal of Section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Clause 5 of the Bill could become redundant. It also noted that if Clause 5 remained, a number of technical amendments may be necessary.**

Clause 6

104. Much of the evidence received in relation to this Bill focused on Clause 6. While the majority of written submissions received supported Clause 6 either in its entirety or in principle there was a significant minority that made strong arguments against it. A number of those who supported the introduction of Clause 6 highlighted the need to ensure that a support package was in place to provide assistance to those who wished to exit prostitution and recommended the inclusion of a provision covering this in the Bill.

105. A brief synopsis of the key issues raised in the written and oral evidence received is outlined below. The detailed views and comments can be found in **Appendices 2** and **5**.

106. Clause 6 aims to reduce the demand for trafficking by substituting a new Article 64A of the Sexual Offences (NI) Order (SONIO) 2008 for the one that was introduced by the Policing and Crime Act 2009. Rather than making it an offence for paying for sexual services if the prostitute is subjected to force it makes it an offence for paying for sexual services. The new Article 64A makes it an offence to obtain sexual services from a person over the age of 18 in exchange for payment, whether payment is made directly or through a third party (paragraph 1); allows the offence to be triable either way and sets out the maximum penalty for the offence as a one year imprisonment (paragraph 2); defines payment (paragraph 3); ensures that the person who is selling sex is not guilty of aiding and abetting this offence (paragraph 4); requires the Department of Justice to raise awareness of the offence in its first year of operation (paragraph 5); requires the Department of Justice to collect data to review the operation of the offence and report to the Assembly after three years (paragraph 5). No other articles in the SONIO 2008 on prostitution would be amended by this Bill.

The nature of prostitution

107. A number of organisations and individuals, particularly former prostitutes and those who were involved in providing support and assistance to prostitutes and former prostitutes, highlighted that very few women entered prostitution as a career choice. They noted that poverty, homelessness and abusive and dysfunctional family backgrounds were often behind a person's entry into prostitution. During their oral evidence sessions Rachel Moran, a former prostitute and founder of SPACE International and Mia de Faoite, a former prostitute, outlined in detail the circumstances which led to their entry into prostitution. Women's Aid, Ruhama

and other similar organisations also provided an insight to the backgrounds of some of the women to whom they provided services and support.

108. Other respondents, including some of the academics and those who represented or provided support to sex workers, highlighted that there were those who entered prostitution as a career choice but most noted that in a number of cases there were contributing factors behind their decisions such as those mentioned above.

The issue of whether the legislation on prostitution should be separate and not part of the Human Trafficking Bill

109. The overwhelming view of those respondents in favour of Clause 6 was that criminalising the purchase of sexual services would directly address the principal source of trafficking and would do so more effectively than current laws. Representatives of the Turn Off the Red Light Campaign highlighted in their oral evidence that there was overwhelming evidence and research available to demonstrate that prostitution and trafficking were inextricably linked. It referred in particular to two recent reports[7] by economists which were published by the International Labour Organization which showed that there was a direct correlation between scale and percentage i.e. the more you allow the sex industry to grow, the bigger the scale of trafficking.

110. A number of respondents questioned whether the legislation on prostitution should be separate and not included in a Bill dealing with human trafficking. Amnesty International in particular expressed its opposition to the inclusion of Clause 6 in the Bill stating that the selling of sexual services and human trafficking were two very complex social phenomena which required more considered separate policy and legislative responses. The Law Centre (NI) and Nexus also shared this view, with the Law Centre indicating that although there were links between trafficking and prostitution, it may be more beneficial to keep the issues separate so as not to detract attention from other forms of exploitation.

The Swedish Model

111. The majority of respondents who were in favour of Clause 6 felt that the Swedish Model of criminalising the purchase of sexual services was an effective, tried and tested model. Members of the Turn Off the Red Light Campaign, including Clondalkin Women's Network, the Immigrant Council of Ireland and the Irish Country Women's Association stated that the best way to tackle the demand for prostitution was to criminalise the purchase of sex, maintain services to those trafficked and affected by prostitution, and ensure that victims were not criminalised and re-victimised. They were of the view that by attacking the commercialised sex business through the introduction of penalties for buyers had proven to be an efficient approach that best responded to the nature of the trafficking trade which thrived on threats, abuse and violence.

112. Other respondents, including the academics who responded to the Committee's call for evidence and Amnesty International, questioned whether the Swedish Model could be transposed to Northern Ireland. Some, including Ugly Mugs and the International Union of Sex Workers, also referred to the conflicting evidence regarding the effectiveness of the Swedish Sex Purchase Act in relation to decreasing trafficking for prostitution and the adverse impact on prostitutes' health, safety and well-being and the reporting of crime. Some stakeholders also questioned whether the policing of Clause 6 would be the best use of PSNI resources if dealing with consensual encounters negotiated between adults.

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7 http://www.sciencedirect.com/science/article/pii/S0305750X12001453
http://www.ilo.org/sapfl/Informationresources/ILOPublications/WCMS_081931/lang–en/index.htm

Whether Clause 6 would drive prostitution underground

113. The overwhelming majority of respondents who supported Clause 6 were of the view that prostitution was already underground because of its very nature and the prevalence of criminal elements within that area, and referred to evidence from Sweden which demonstrated that this was not the case.

114. Those who were opposed to Clause 6 voiced concerns that it could have a negative impact on reporting by creating an impossible environment for anyone involved in the provision or purchase of sex to approach the authorities for assistance if they found themselves in an exploitative situation. They felt that this would create conditions for crime and abuse, including trafficking, to thrive.

Whether further research is required

115. Some respondents were of the view that further research on prostitution was required before legislation on criminalising the purchase of sexual services should be adopted in Northern Ireland. Nexus in particular stated that more research was required to know the nature, scale and extent of sex work in Northern Ireland to allow informed decisions to be made regarding the supports that are required both around exiting prostitution and support required for those who choose not to exit yet. Others, including Amnesty International, referred to the absence of evidence-based research on the links between human trafficking and prostitution in Northern Ireland.

116. Other respondents, particularly those organisations who work on the ground with trafficked victims and those in prostitution, indicated that there was already sufficient evidence. Turn Off the Red Light Campaign stated that there was ample evidence to show the extent of prostitution in Ireland and other countries and expressed a view that the situation in relation to prostitution would be little different in Northern Ireland. Women's Aid also referred to the extensive research and evidence already available on prostitution and was of the view that no further research was needed.

The message which such legislation sends

117. Many stakeholders felt that legislation which would criminalise the purchase of sex would have a positive impact on attitudes within society towards prostitution. It was acknowledged by many that the legislation would not totally prevent prostitution, however it was recognised that it would curtail demand and challenge attitudes. Eaves was of the view that criminalising the demand for prostitution would make the statement that women should have the right not to be bought for sex when made vulnerable, whether this vulnerability was caused by economic need or other difficulties. CARE in Northern Ireland also highlighted research which has shown that changing the law in Sweden has had a positive transformative effect on public attitudes with regard to paying for sex and the attitudes of men to buying sex.

118. Others, many of whom were opposed to Clause 6, were concerned about the impact the legislation would have on society's attitude towards prostitutes and were of the view that they could be ostracised further. Some, including many of the academics and the International Union of Sex Workers, referred to evidence from Sweden which in their view demonstrated that sellers were further stigmatised following the introduction of the Swedish Sex Purchase Act.

The requirement for support services

119. The overwhelming majority of respondents recognised the importance of ensuring that support services were put in place for those who are in, have exited, or wish to exit prostitution. Women's Aid in particular was deeply concerned about women who were

currently trapped in prostitution. It urged that the Bill be amended to include pathways of support for those women wishing to exit prostitution.

Whether current legislation available to combat human trafficking is sufficient

120. A number of stakeholders referred to the Policing and Crime Act of 2009, and whilst the advancement in Northern Ireland's trafficking legislation was welcomed, the Irish Congress of Trade Unions in particular highlighted that its impact had been limited by the requirement of proof of coercion within a very limited timeframe. It noted that this failure was in line with that of other countries which had introduced similar legislation, such as Finland and the Republic of Ireland at present. It stated that legislation which was limited to proven victims of coercion had been shown to have little or no effect on demand for trafficked victims.

121. Others referred to existing prostitution legislation. Ugly Mugs stated that a review of prostitution legislation was needed. It recommended that Northern Ireland looked towards Merseyside in the UK where police had defined crimes against sex workers as hate crimes, provided dedicated police sex work liaison officers and publicly sent out the message that crime against sex workers would not be tolerated.

The implications if Northern Ireland and the Republic of Ireland adopt different legislative approaches

122. The importance of ensuring a co-ordinated cross border approach to tackling prostitution and human trafficking was raised by a number of stakeholders. Concerns were expressed regarding whether the problem could be displaced if different prostitution laws exist in Northern Ireland and the Republic of Ireland. When referring to the possible legislation on prostitution in the Republic of Ireland, Ruhama saw this an extraordinary opportunity for both jurisdictions to act in tandem, notwithstanding the fact that they were different pieces of legislation, to create a strong all-Ireland message and approach to this issue. Mia de Faoite, a former prostitute, highlighted that prostitution and trafficking on the island of Ireland knows no borders and legislation for the whole Island was critical to combat the evil of trafficking and degradation of prostitution. Evidence from a former sex trafficking victim highlighted that she had moved between Northern Ireland and the Republic of Ireland on a number of occasions.

123. The Northern Ireland Human Rights Commission (NIHRC) highlighted that in the absence of exploitation, it was currently not a criminal offence to pay for the sexual services of an adult in Northern Ireland. It noted that Clause 6(1) of the Bill aimed to discourage the demand for THB by changing this aspect of the law and making it a criminal offence to pay for the sexual services of a prostitute over 18 years. It also highlighted that Clause 6(6) required the Department of Justice to review the operation of this offence and report to the Assembly three years after the offence came into effect.

124. The Commission provided in its written and oral evidence to the Committee advice on the relevant obligations in international human rights treaties ratified by the United Kingdom and in addition directed the Committee to a number of soft law standards on human trafficking that would assist the Committee in its deliberations.

125. In its oral and written evidence to the Committee the Commission advised that the criminalisation of payment for the sexual services of an adult was neither required nor prohibited by the international human rights treaties. The Commission further advised that if a decision was taken to introduce Clause 6(1) of the Bill, an obligation to monitor and evaluate the Bill's effects should remain within the legislation.

126. A matter of serious concern to the NIHRC was that Clause 6 of the Bill did not extend criminalisation to include paying for the sexual services of a child. The Commission stated that there may be a view that this issue is already addressed though Article 37 of the Sexual Offences Order 2008. However it was the view of the NIHRC that the current legislation concerning children was inadequate.

127. The Commission advised that currently it is an offence to pay for the sexual services of a child between the ages of 13 and 18 if the purchaser does not reasonably believe that the child is 18 or over. It is a matter for the prosecution to prove that the purchaser does not reasonably believe that the child is 18 or over. It is, therefore, the case that the prosecution must prove beyond reasonable doubt that the purchaser did not reasonably believe that the child was over 18.

128. The Commission advised that in July 2013, the UN CEDAW Committee recommended to the UK Government that they revise their legislation by shifting the burden of proof from the prosecution to the purchaser of sexual services. The Commission advised the Committee that, if Clause 6 is implemented in its current form, it will be easier to penalise persons who pay for sex with adults than those who pay for sex with children. In the Commission's view, children must be protected by the provisions of the Bill.

129. The Commission recommended that the Bill should introduce an amendment to the Sexual Offences (NI) Order 2008, Article 37 to ensure that paying for the sexual services of all children is adequately criminalised and the development of the child is safeguarded.

130. The Commission also indicated that the United Kingdom will be examined on the fulfilment of its obligations under the UN optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in June this year. The Bill provides a timely opportunity and will no doubt be considered by the United Nations with regard to how Northern Ireland is moving forward to protect its children.

131. When questioned during the oral evidence session the Commission advised that it welcomed Clause 6. It stated that protecting vulnerable people had to be the priority and that it would be reasonable and proportionate to legislate given the gravity of the offences being committed against vulnerable people.

132. In its written submission the Public Prosecution Service (PPS) highlighted that Clause 6 as currently drafted referred to 'sexual services' however there was no definition of 'sexual services' contained within the Bill. It was the PPS's opinion that what constituted 'sexual services' required clarification.

133. In oral evidence on 28 November 2013, PPS officials advised the Committee that if the intention of the Clause was that 'sexual services' would be defined with reference to the definition found in the 2008 Order, that could include acts such as, paying for a lap dancer, chatlines or webcam viewing. PPS highlighted that there was also a question about whether the offence would result in notification on the sex offenders register.

134. PPS stated that it was not clear regarding the sentencing provisions in Clause 6 as currently drafted. It highlighted as an example a lack of clarity in respect of which court tier the potential to imprison for a term not exceeding one year applied. PPS indicated that it did not refer to prosecution on indictment in the Clause and that this required clarification.

135. In oral evidence the PPS officials stated that they could foresee difficulties in investigating and obtaining the required evidence to prosecute the offence in cases where the person providing the sexual services does so consensually and without being subject to force from a third party. They also expressed the view that any potential prosecution in cases where both parties are consenting adults could give rise to issues of human rights, particularly the right to private life enshrined in article 8 of the ECHR but also potentially article 10 and article 17.

136. PPS also highlighted the fact that the proposed offence in Clause 6 refers to sexual services of 'a person', whereas the existing offence at Article 64A of the Sexual Offences (Northern Ireland) Order 2008 refers to sexual services of 'a prostitute', widens the scope of the offence further and would therefore require clarification as to interpretation.

137. In its written submission, the Police Service of Northern Ireland (PSNI) stated that the issue of prostitution and trafficking for the purposes of sexual exploitation while very closely aligned, remained two very separate issues. It highlighted that the trafficked victim had had their ability to choose withdrawn from them either by force, coercion, deception, and threat or other and therefore could not make an informed decision regarding their conduct. The PSNI went on to say that a prostitute was a person, either male or female who engaged in sexual activity for the purposes of personal financial benefit. The PSNI stated that whilst many factors and life circumstances could lead someone into prostitution, the fact remained that some choice did exist. It noted that legislation was currently enacted around prostitution activity that occurred in a public place, around brothels and latterly around purchasing sex from a person subject of coercion and sought to address the public nuisance factor and the exploitation of trafficked victims.

138. The PSNI stated that the proposal as outlined would make it a criminal offence for a person to make or promise payment for the sexual service of a prostitute and this would present a number of challenges. It felt that the term 'sexual service' would need to be clearly defined and referenced, as it would be open to a wide range of interpretations and moral comment. It noted that the spectrum range could stem from 'sex phone line', voyeurism with no physical contact through to sexual intercourse.

139. The PSNI indicated that the majority of prostitution within Northern Ireland was through independent prostitutes who were not trafficked or controlled by organised crime groups. It highlighted that Law Enforcement engagement with workers and groups involved in this area had resulted in information being supplied that had directly assisted in the identification of human trafficking offences. It felt that the proposal may potentially change the availability of prostitution within Northern Ireland, leading to it becoming more hidden and displaced to other parts of the United Kingdom and Republic of Ireland. It felt that this would lead to a change in how this activity was made available to the public and the ability of Law Enforcement Agencies to actively identify and rescue victims of human trafficking. It stated that the current investigative methods utilised advertising and other internet material to investigate those individuals and organised crime gangs who were involved in trafficking and exploitation. The PSNI highlighted a serious concern that displacement or movement into a hidden environment would seriously impede law enforcement capability. It stated that the proposal may also be difficult to enforce as Law Enforcement would require corroboration of a transaction between two parties involved. It also highlighted that alternative evidence gathering methods utilised by European Law Enforcement partners, who have criminalised this activity was not available to the PSNI.

140. The PSNI expressed the view that the deterrent value of the legislation would be minimal, in that persons using prostitutes did so in a clandestine way. It felt that legislation, as proposed around the purchase of sex, would present investigative difficulties and in reality would be difficult to police, given the requirement to prove who offered what for sale, and the specific details of the interaction between two or more persons. It highlighted that there was also concern that this would draw resources away from Human Trafficking investigations into a prostitution enforcement role.

141. The PSNI noted that whilst there were many advocates of the Swedish Model in the criminalisation of the purchase of sexual services, there was conflicting information available It stated that recent PSNI experience and investigations in Sweden had highlighted concern that significant levels of trafficking and prostitution still existed despite the introduction of legislation to criminalise the purchase of sexual services.

142. In its oral evidence the PSNI welcomed Clause 6 which sends out a strong message and it envisaged, if the law was passed, that prosecutions may flow from major investigations that are ongoing into organised crime groups.

143. The PSNI stated that Northern Ireland is a target for organised crime groups; a demand now exists for prostitutes and crime gangs regard it as high yielding in hard cash and low risk therefore it is attractive to get involved in. If Clause 6 is passed the PSNI said it would use it to the best effect it could.

144. The PSNI indicated that it had moved from opposition to Clause 6 to qualified support for it and welcomed the focus in the Bill on victims and on what other legislative tools may be used to address human trafficking and prostitution. The PSNI also welcomed the awareness that had been raised regarding human trafficking in Northern Ireland as a result of the debate on the Bill. It stated that most of the groups operating prostitution in Northern Ireland came from outside the jurisdiction and Clause 6 would send a strong message of intent and our revulsion at this type of crime. The PSNI indicated that if the legislation was passed they would want to ensure that they maintained a relationship with those individuals involved in prostitution that were not part of organised crime groups so that they continued to feel the PSNI will protect them from assault and serious harm as a result of crime.

145. When asked to clarify its position, which had obviously moved from that outlined in its written submission, the PSNI stated that it was now in a position, having listened to the debate and discussed it as a Command Team, where it had qualified support for Clause 6 and believed the impacts could be positive but at this stage this was difficult to quantify.

146. In its written submission dated 29 October 2013, the Department of Justice highlighted that Clause 6 would criminalise any person who entered into a financial transaction in return for any sort of sexual service which would include the purchase of sexual services between two fully consenting adults. The Minister of Justice was of the view that such a change to the criminal law extended beyond the scope of a Bill aimed specifically at alleviating the crime of human trafficking. While the Department did not argue with the fact that demand for sexual services was a factor in the supply of trafficked victims into prostitution, it did argue that there were additional important factors outside of this one area which took the proposed provision beyond the remit of the Bill's objectives, and which could leave vulnerable individuals at greater risk of harm.

147. The Department's reasoning for advocating that Clause 6 should be removed from the Bill was based on its view that there was no evidence base available in Northern Ireland to back-up the change. It indicated that there was insufficient information on what negative impacts there might be on those vulnerable women, and men, who use prostitution as a way of earning a living in terms of their safety and well-being if their client base was criminalised. Nor was it known what may happen to their willingness to come forward and provide the police with information about abusers and traffickers whether criminalisation would have the desired effect of reducing the incidence of trafficking into prostitution.

148. The Department highlighted that it was aware that Lord Morrow and others had been looking to the Republic of Ireland for signs of a move to change the law on prostitution, particularly given the Oireachtas Joint Committee report to the Government which recommended criminalisation. It stated that, although relevant to the debate on human trafficking, it needed to be recognised that the conclusion reached by the Committee came after policy consultation concerning the law on regulating prostitution, not just on the single issue of ways to reduce trafficking. The Minister had made clear that future policy decisions would need to take into account legislation in the Republic of Ireland but it noted that the Irish Government had not made any response to the Oireachtas report as of yet. It was also aware of the strength of the presentation by the Swedish proponents but felt there was also a strong body of opinion that would question some of the claims made.

149. The Department advised that the Minister could not support Clause 6 but instead was prepared to consider the law on prostitution separately, not just as a measure to control trafficking, and intended to commission research to provide an evidence base for future decisions.

150. In a further written submission dated 26 February 2014 and in its oral evidence to the Committee on 6 March 2014, the Department did not argue with the proposition that the demand for sexual services can be a factor in the supply of trafficked victims into prostitution and in the exploitation of women and men. The Department reiterated its view that the appropriate context in which to address this issue was that of a sound evidence base on the nature, extent and characteristics of prostitution in Northern Ireland. Given the wider focus of the Bill on the needs of victims, the Department felt that it was vital that full account is taken of the impact of legislative action on vulnerable individuals so that they are not put in any greater risk of harm. It indicated that it hoped the research into prostitution in Northern Ireland which it was commissioning would be completed in the autumn of 2014. It also clarified that the Minister was not taking a position on the Swedish model but was waiting on the results of the research before deciding.

151. The Department highlighted that current law criminalises various activities related to prostitution, aimed largely at preventing public nuisance, but, more importantly, preventing exploitation. Specifically, Article 64A of the Sexual Offences (Northern Ireland) Order 2008 makes it an offence to pay for the sexual services of a prostitute who is subjected to force or any form of coercion or exploitation. The Department advised that in response to concerns raised about the time available within which to prosecute this offence, the Minister intends to seek a legislative change to extend the time limit for prosecution of such cases from 6 months to 3 years.

152. When he attended the Committee on 6 March 2014 and subsequently in his written submission dated 11 March 2014, the Attorney General for Northern Ireland indicated that he had no significant concern about the Assembly's competence to enact Clause 6 but highlighted some technical issues.

153. He referred to the concerns expressed by the Public Prosecution Service that human rights issues might arise in relation to articles 8, 10 and 17 of the ECHR and stated in his view the criminalisation of this form of sexual activity would engage the right to respect for private life (article 8) however the legislature is entitled to interfere with this right proportionately with the aim of protecting the rights of others. In general, the Attorney General felt that penalising the purchasers of sexual services pursues a legitimate aim (protection of the rights of others) and meets the test of proportionality as a response to the social evil of trafficking in human beings. He was not persuaded that articles 10 (freedom of expression) and 17 (prohibition of the abuse of rights) are likely to be engaged, far less breached by the provision.

154. The Attorney General raised an issue on the scope of criminalisation for which Clause 6 provides. He felt that it was important that the basis for interference with article 8 ECHR, for example, dissuading traffickers, can be linked to the criminalisation of all the particular forms of sexual activity encompassed by Clause 6 which is presently drafted widely. He highlighted that the term 'sexual service' is not defined in the Bill, meaning, in his view, that a court would look to how 'sexual' is interpreted elsewhere in the Sexual Offences (NI) Order 2008. He pointed out that in is this context it would allow for a wide interpretation e.g. lap dancing, telephone sex lines and other commercial activities for the purposes of sexual gratification and such a wide scope should be considered by the Committee.

155. The Attorney General indicated that it was also important to look at the definition of 'payment' in what Clause 6 proposes as 64A (3). The Attorney General acknowledged that it was necessary to include advantages other than cash to minimise loophole opportunities but was concerned however about how the 'payment' definition creates an understanding of 'financial advantage' as one which includes, almost counter-intuitively, 'sexual services'. He strongly suggested removing the words '(including sexual services)' from the definition

to avoid an outcome whereby mutually exchanged sexual activity, for example by agreement between husband and wife, without any element of financial or material exchange, is caught by this provision. It was the Attorney General's view that this would not be a proportionate interference with article 8 ECHR and so would present competence concerns. He highlighted that there would also need to be a slight amendment to article 58 of the 2008 Order to make it clear that its definition of 'payment' does not apply to the new article 64A.

156. The Attorney General also believed that the proposed 64A (2) penalty clause would benefit from clarification. He felt that it was not clear in the present draft that 2(b) is referring to a penalty imposed after prosecution on indictment. He pointed out that if it was intended that a hybrid offence be created then it would make sense to provide the magistrate with a power to impose a period of imprisonment rather than merely a fine. if the offence is to be prosecuted summarily only, then this should be made clear and consideration could be given to explicitly extending the six month time bar that would otherwise apply by making provision for this in Clause 6 or elsewhere in the Bill.

157. The Attorney General also suggested that the Committee considers whether this offence should be subject to notification requirements and if so, this should be provided for in the Bill.

158. The Attorney General referred to the discussion that had taken place about the use of the term 'person' rather than 'prostitute' (in the proposed new article 64A), in contrast to the statutory language in the current offence of 'paying for the sexual services of a prostitute subjected to force'. He was clear that the use of 'person' rather than 'prostitute' would better achieve the policy intention behind this Bill and indicated that if the Bill were to use 'prostitute' this would add another layer of proof to the prosecutorial burden.

159. In a subsequent letter dated 12 March 2014 the Attorney General made a further suggestion to remove the words 'over the age of 18' from the draft article 64A(1) in Clause 6. This would ensure that an offence is committed regardless of the age of the person from whom services are purchased and the prosecution choice on what offence to charge can be made on the basis of the strength of the evidence around belief on age and the penalties available.

160. In his letter dated 18 March 2014 and his oral evidence on 20 March 2014 Lord Morrow, Bill Sponsor, indicated his determination to continue to press for the inclusion of Clause 6 in his Bill given the strong support for it presented in evidence to the Committee, the continuing precedents for this sort of measure that had taken place since Second Reading of the Bill and the likelihood that the issue would not be revisited before the next Assembly mandate. He outlined eight amendments he proposed to make in response to concerns raised by the Public Prosecution Service and the Northern Ireland Human Rights Commission regarding the wide scope of the clause and the discrepancy with the current Article 37 offence of paying for sex with a child.

161. He also advised of his intention to introduce a new provision to provide support services to help people in prostitution who wish to exit it and discussed the broad outline of the proposals with the Committee.

162. Lord Morrow subsequently wrote to the Committee on 7 April 2014 indicating that, following advice from the Attorney General for Northern Ireland in relation to Clause 6, who strongly advised against replacing 'person' with 'prostitute' because of evidential difficulties and the use of stigmatising language, he intended to revise his amendments. He outlined that he was now going to make seven amendments which would narrow the offence whilst keeping the word 'person'; remove any reference to the age of the person who is selling the sexual services; remove the reference to payment 'including sexual services'; provide some further options on sentencing; and require an advertising campaign to ensure public awareness of the change affected by Clause 6.

163. **The Committee took the opportunity during the oral evidence sessions to explore and debate in detail the evidence for and against this Clause.**

164. **To inform its consideration of Clause 6 the Committee also undertook a visit to Sweden, which was the first country to pass legislation to prohibit the purchase of sexual services, and met with a range of governmental and non-governmental officials including the National Rapporteur. During the visit the Committee engaged in detailed discussions on how the legislation which criminalises the purchase of sex worked in practice in Sweden, the impact of the legislation, the effect on the scale and nature of human trafficking and prostitution in Sweden, and the benefits and outworkings of it.**

165. **The Committee also met with the House of the Oireachtas Joint Committee on Justice, Defence and Equality to discuss the findings and conclusions of its Report on a Review of Legislation on Prostitution which had been published in June 2013 and which had recommended the adoption of the 'Swedish Approach' of criminalising the purchase of sexual services. The meeting provided a useful opportunity to discuss how the Committee had reached its conclusion that criminalising the purchasing of sexual services would curtail demand and therefore lessen the incentives for human trafficking and the implications if either jurisdiction adopted a different legislative approach to prostitution. The Joint Committee also highlighted the importance of ensuring that there are support services in place for those who wish to exit prostitution.**

166. **Having considered all the evidence received, a number of Members indicated that they supported Clause 6 and the amendments Lord Morrow proposed to make which included narrowing the scope of the offence, providing further sentencing options and requiring an advertising campaign to ensure public awareness of the changes in the law. They highlighted that in both written and oral evidence a wide-ranging group of organisations including the Irish Congress of Trade Unions, the various Christian Church Groups, and organisations such as Women's Aid that worked with and supported victims of human trafficking and those in prostitution indicated they fully supported the criminalisation of the purchase of sexual services in Northern Ireland. The evidence from those who had exited prostitution and the victim of sex trafficking also made a compelling case for the introduction of Clause 6.**

167. **In their view the information obtained during the visit to Sweden regarding the impact its legislation had on reducing demand for sexual services and tackling human trafficking and the meeting with the Oireachtas Joint Committee on Justice, Defence and Equality added weight to the case for introducing the Clause and they noted the importance of both jurisdictions on the Island of Ireland moving forward together on this issue. They also highlighted developments over the past six months which indicated a move towards the adoption of similar legislation in other countries such as France and the publication of the European Parliament's Committee on Women's Rights and Gender Equality report on sexual exploitation and prostitution and its impact on gender equality, the European Parliament's Plenary vote which supported the position that demand reduction should be part of the strategy to reduce trafficking and the Westminster All-Party Parliamentary Group on Prostitution and the Global Sex Trade which recommended in its recent report that there should be 'a general offence for the purchase of sexual services', all of which strengthened the argument to adopt Clause 6.**

168. **They strongly believed that there is a clear link between human trafficking and the demand for sexual services. Criminalising the purchase of such services would curtail demand and therefore lessen the incentives for human trafficking thus reducing it and making Northern Ireland a hostile place for such activity. In their view the objectives of the Bill would be weakened without Clause 6.**

169. **Views were also expressed that changing the law changes and creates values over time and cited the drink driving legislation as an example. Changing the law will challenge**

attitudes within society about paying for sex and indicate a desire to protect the most vulnerable.

170. **Other Members on the Committee indicated that they were not in a position at this stage to support Clause 6 as the appropriate way to deal with human trafficking and supporting vulnerable people in prostitution. They stated that they were concerned about the possible consequences on those involved in prostitution and required more evidence regarding the size and nature of prostitution in Northern Ireland and the possible unintended consequences of criminalising the purchase of sexual services here. They welcomed the fact that the Department of Justice had commissioned research into prostitution in Northern Ireland and stated that this should be completed as speedily as possible to inform the right legislative approach in relation to this matter.**

171. **The Committee agreed to support Clause 6 subject to the proposed amendments by Lord Morrow to narrow the scope of the Clause, ensure that it will not be easier to prosecute someone purchasing sex from an adult than a child, introduce further sentencing options and require an advertising campaign to ensure public awareness of the change in the legislation relating to the purchase of sexual services.**

Clause 7

172. Clause 7 sets out three requirements for investigation or prosecution, which meet Article 9 (Investigation and prosecution). Clause 7(1) - there must be sufficient training and resources for investigating and prosecuting human trafficking and slavery offences; Clause 7(2) - a prosecution is not dependent on reporting or accusation by a victim; Clause 7(3) - a prosecution can take place even if victim has withdrawn their statement.

173. All respondents who commented on this Clause recognised the importance of sufficient training and resources for investigating and prosecuting human trafficking and slavery offences and a number welcomed the fact that the investigation and prosecution would not be dependent on securing a complaint or statement from a victim. A number of concerns were however raised regarding who was responsible for the training and ensuring that adequate resources were made available. The general view was that a multi-agency approach was more appropriate.

174. The Joseph Rowntree Foundation (JRF) stated that its research had explored the issues around mounting investigations into forced labour and human trafficking for labour exploitation in detail and it welcomed the recognition that resources are required. It highlighted that investigations needed to involve multiple agencies (such as the police, the Gangmasters Licensing Authority (GLA), UKBA and HMRC) and were often complex operations. It noted that the 2013 Anti-Trafficking Monitoring Group report recommended improved PSNI training to identify all forms of trafficking, especially forced labour and child trafficking, and that it should be ensured that training is mandatory for all police officers.

175. JRF welcomed the extension of Clause 7 to cover the investigation of offences committed under Section 71 of the Coroners and Justice Act 2009; offences of forced labour without trafficking. It recognised however that there is a wider debate on whether Clause 7 should be enshrined in primary legislation or whether a policy approach might be more appropriate. While this was ultimately for legislatures to decide it encouraged forced labour to be considered in any policy or legislative amendments.

176. JRF also encouraged Lord Morrow, Bill Sponsor, and the Department of Justice to recommend to the UK Government to extend the power of the GLA to be the lead investigative agency on trafficking for labour exploitation and forced labour. It felt that the GLA was the centre of excellence in the areas where it was currently mandated and highlighted that research funded by JRF had showed the urgent need to extend its powers and resources to cover forced labour

investigations and to act in all relevant sectors where exploitation and forced labour had been identified and workers remain most vulnerable.

177. The Belfast Health and Social Care Trust in its written evidence called for further training and awareness to recognise the signs and symptoms of trafficking and prostitution including risks and triggers. The International Justice Mission welcomed the commitment to the provision of specific training and equipment for those involved in investigating and prosecuting human trafficking crimes as did the Law Centre (NI), Omagh District Council, the Presbyterian Church in Ireland, Women's Aid Federation Northern Ireland and the Church in Society Commission of the Church of Ireland.

178. CARE stated that there would be little point in having legislation to tackle human trafficking and slavery if investigators and prosecutors lacked the requisite tools and training to identify victims and prosecute perpetrators. It also noted that the duty required training to investigate forced labour cases that were not necessarily related to trafficking.

179. It highlighted that Clause 7 would ensure that Northern Ireland complied with Articles 9 and 18(3) of the Directive which require that States 'take the necessary measures to ensure that persons, units or services responsible for investigating or prosecuting [human trafficking offences] are trained accordingly' and 'that effective investigative tools, such as those which are used in organised crime or other serious crime cases are available to persons, units or services responsible for investigating or prosecuting the offences' and 'regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings aimed at enabling them to identify and deal with victims and potential victims'. It also highlighted that the Convention recommended provision or strengthening of 'training for relevant officials in the prevention of and fight against trafficking in human beings' (Article 29(3)) and referred to the recommendation on training in the GRETA report.

180. CARE hoped that Clause 7 would help to increase the number of successful prosecutions in Northern Ireland. It was particularly concerned about the potential implications of the National Crime Agency (NCA) not operating in Northern Ireland and the impact that may have on trafficking operations. It noted that the Minister for Justice had said that the PSNI would 'not be able to draw on the direct operational support of the NCA in Northern Ireland, except where there are immigration offences' and was of the view that this may make Clause 7 even more essential.

181. CARE indicated that Clause 7 might require amendment as a consequence of the reference to the 'Department' made at the opening of the Clause and suggested that either each Department should be listed in a subsection to the Clause or a general phrase such as 'all Departments and agencies responsible for investigating or prosecuting a human trafficking offence or slavery offence shall take the necessary measures' meaning that the responsibility for all training did not lie with the Department of Justice.

182. Contemporary Christianity stated that the provision of training was positive. However it highlighted that the Bill was very general in its wording and was concerned that there was no reference to the extent or level of training, how it would be assessed or if there would be any accountability as to the standard of that training.

183. In contrast Dr Graham Ellison stated in his written evidence that he was unclear in what ways the current proposals in the Bill for the investigation of offences dovetailed with the National Referral Mechanism (NRM). In his view the Bill did not adequately make clear who or what determines when a 'victim' becomes a victim in the newly proposed arrangements and what the respective roles of the NRM, PSNI and the UK Border Agency would be in this process. He expressed concern that in a fiscally challenged environment this Bill would needlessly add another level of bureaucracy and confusion to existing structures and felt that, in some respects, the Bill seemed to muddy rather than clarify existing service provision in respect of support for victims of human trafficking.

184. Evangelical Alliance welcomed the intentions behind Clause 7 but cautiously raised the need for operational and budgetary independence for the PSNI, PPS and other agencies. It also highlighted the danger of the precedent of prioritising resources for one particular issue in statute.

185. The Josephine Butler Society in its written evidence welcomed that a prosecution would not be dependent on reporting or accusation by a victim. It suggested that the victim, if she/he requested, be allowed to return home if it was safe for her/him to do so, before the trial instead of being kept for the sake of prosecution purposes.

186. The NI Commissioner for Children and Young People and Women's Aid Federation NI also supported the position that the investigation and prosecution of trafficking would not be dependent on securing a victim complaint or report.

187. The PSNI in its written evidence welcomed the provisions regarding a prosecution not being dependent on reporting or accusation by a victim and a prosecution could take place even if the victim had withdrawn their statement. It highlighted that the responsibility for the investigation of human trafficking rests with a number of Law Enforcement Agencies within Northern Ireland. It noted that each Agency had existing processes in place to ensure they could effectively investigate particular crime types and work in partnership across Northern Ireland in order to maximise their impact. In addition, it noted that training in this area had been developed, implemented and remained under constant review given the ever-changing criminal methodology. It advised that, within the PSNI, proactive investigations into trafficking were conducted by Organised Crime Branch, who retains oversight on all PSNI Trafficking Investigations.

188. The PSNI highlighted that it had developed and introduced training packages to educate and assist officers in detecting and investigating human trafficking offences. It therefore did not believe that there was a requirement for legislation to determine, 'persons, units or services be trained accordingly' within the PSNI and it questioned the meaning of 'trained accordingly'.

189. It also highlighted that 'effective investigative tools' was not clearly defined and was of the view that there was no need for legislation to direct investigative tools available, as these were deployed in all crime types dependent on the seriousness of the offence under investigation. Human trafficking was deemed to be a serious offence and all investigative tactics were available to investigators.

190. The Superintendents' Association of Northern Ireland supported this view and indicated that Section 32 of the Police (Northern Ireland) Act 2000 adequately sets out the investigative responsibilities of the police.

191. The Public Prosecution Service indicated in its written and oral evidence that it would apply the Test for Prosecution in all cases referred to it by police regardless of whether the victim reported the offence, made a statement or withdrew a statement. As a general rule the PPS would prosecute all cases where there was sufficient evidence and prosecution was required in the public interest. It highlighted that the PPS Policy for Prosecuting Cases of Human Trafficking clarified this and detailed the steps to be taken in such circumstances.

192. The PPS noted that Clause 7 did not define which Department was responsible i.e. the Department of Justice or the Department of Health, Social Services and Public Safety for taking the necessary measures to ensure that services responsible for investigating or prosecuting a human trafficking offence or slavery offence were trained accordingly. It did however place a responsibility for public prosecutors to be trained accordingly and this would require the appropriate Department to provide the PPS with legal training resources.

193. In both written and oral evidence the Department of Justice highlighted its concerns that Clause 7(1) would place a statutory duty solely on the Department that it could not deliver. It advised that responsibility for training investigators and prosecutors and for equipping them with appropriate tools did not rest with the Department of Justice, but with the relevant

law enforcement agencies, including the Police Service of Northern Ireland, Gangmasters Licensing Authority, Home Office, the National Crime Agency and the Public Prosecution Service for Northern Ireland some of which fall outside the authority of the Department of Justice.

194. The Department recognised the intent behind the provision and the importance of providing appropriate training and resources for frontline professionals in effectively responding to human trafficking and this is reflected in the Northern Ireland Human Trafficking Action Plan for 2013-14 in which priority is given to training, investigation and prosecution. It highlighted that a number of steps had already been put in train across the criminal justice system and other relevant frontline professions to train and raise awareness of this issue.

195. The Department stated that its preferred approach was to omit Clause 7(1) from the Bill and amend Clause 15 (Prevention) to require that the strategy under that clause must include matters relating to training, investigation and prosecution. The Department's view was that this would provide a more strategic response which would allow training and resources to be considered under a more comprehensive multi-agency approach.

196. The Department viewed Clauses 7(2) and 7(3) as unnecessary as the principles were already made clear in legislation, and the new October 2013 Public Prosecution Service guidance, 'Policy for Prosecuting Cases of Human Trafficking'[8] also covers prosecution practice. It was not however concerned about their impact and would not seek to oppose their inclusion in the Bill.

197. The Attorney General for Northern Ireland noted the intention to remove Clause 7(1) and address the issues by an amendment to Clause 15 and expressed the view that the rest of Clause 7 simply reflects the current legal position and is not necessary.

198. Lord Morrow MLA, Bill Sponsor, advised the Committee when he attended on 20 March 2014 that he had discussed the Department's concerns with officials and was content with the proposed approach to omit Clause 7(1) from the Bill and and address matters relating to training, investigation and prosecution through an amendment to Clause 15. He did intend to keep Clauses 7(2) and 7(3) which sets out the obligations under Article 9 (1) of the European Directive to ensure clarity in those areas.

199. **The Committee viewed the provision of adequate and appropriate training to all frontline professionals to effectively tackle human trafficking as very important and was content to support the approach that had been agreed by Lord Morrow, the Bill Sponsor, and the Department of Justice to omit Clause 7 (1) and amend Clause 15 to address the issue.**

200. **The Committee also supported the provisions in Clause 7 that set out that a prosecution was not dependent on reporting or accusation by a victim and it could take place even if the victim had withdrawn their statement and noted that the Department would be bringing forward one amendment to omit unnecessary words in Clause 7 (2).**

Clause 8

201. Clause 8 sets out the requirement for no prosecution or imposition of penalties on victims of trafficking if a victim commits a crime under duress associated with trafficking (Clause 8(a)) or if victim was a child at the time (Clause 8(b)) which meet the stipulations of Article 8 (Non-prosecution or non-application of penalties to the victim).

202. Whilst the majority of stakeholders agreed with Clause 8 in its entirety, or with the principles of Clause 8, some expressed concerns about whether it provided, in effect, a blanket immunity from prosecution and would impede the work of the Director of the Public Prosecution Services in discharging his statutory obligations to review each case received

8 http://www.ppsni.gov.uk/Prosecution-Policy-and-Guidance--5084.html

from the investigator in accordance with the Code for Prosecutors. A number of those in favour of the Clause in its entirety felt that the provision should also be extended to those in prostitution.

203. CARE in Northern Ireland (CARE) highlighted the international obligations which exist in relation to Clause 8 and pointed out that the Anti-Trafficking Monitoring Group Report published in 2013, argued that 'It remains the case in the UK that trafficked children are prosecuted for crimes they are forced to commit while being exploited and under the control of traffickers, while their traffickers go unpunished.' The report went on to say that 'It is reported that, despite the ACPO and CPS guidance, many children, in particular Vietnamese young people, are being arrested when found in cannabis farms and sent to prisons or Young Offenders Institutes'. It also noted that in Northern Ireland, the Law Centre had submitted that victims had been prosecuted and detained before establishing whether actions were the result of coercion.

204. CARE welcomed the Public Prosecution Service recently published 'Policy for Prosecuting Cases of Human Trafficking'. While it thought it positive that the PPS outlined that 'should evidence or information be available to the prosecutor to support the fact that the person has been trafficked and has committed the offence whilst in a coerced situation, this will be considered a strong public interest factor mitigating against prosecution', it remained unconvinced that this policy goes far enough in looking to protect victims of human trafficking from prosecution.

205. CARE was deeply concerned by how the policy of non-prosecution on grounds of interest was actually working in practice. It submitted that a legislative solution may be a better approach in light of the fact that some individuals in the UK had been charged with offences that they were forced to commit due to their trafficked status.

206. It believed that it was important that legislation made clear that victims of trafficking in human beings should not be prosecuted for offences they committed as a consequence of being trafficked. It also believed that Clause 8 did not provide for 'blanket immunity' rather it provides only for prosecution to be waived or for penalties not to be imposed where the victim 'has committed a criminal act as a direct consequence of the trafficking in human being' and where the victim has been compelled to commit the criminal act as a direct consequence of being subjected to threats, abduction, fraud, deception, etc. and did not provide a 'get out of jail free' card for victims of trafficking to avoid all prosecution.

207. CARE stated that the criteria which apply to Clause 8 retain the necessity for prosecutorial and judicial consideration both in determining the relationship between the offence and the offender's status as a victim of human trafficking and (for adult offenders) the connection between the criminal act and the coercive actions of their trafficker.

208. Dr Brooke Magnanti highlighted that it had been shown that, even when laws were written seeming to codify non-prosecution of victims of trafficking, it was often contingent upon their cooperation in investigations. Dr Magnanti stated that coercion resulted in two problems: workers claiming to have been trafficked even if not to prevent deportation; and, victims putting themselves at considerable risk by being publicly involved in the investigation. She felt that both situations were undesirable.

209. Evangelical Alliance recognised that a victim of human trafficking should not be unfairly penalised for criminal acts which they were forced to do. However, it expressed concern about establishing a statutory basis for the non-prosecution of a group of people.

210. It noted that Clause 9 defined the meaning of 'victim' for parts 2 and 3 of the Bill, but that the term victim was not defined in Part 1 of the Bill. It questioned whether this created an issue of defining the group of people to whom this non-prosecution was extended - whether it applied to suspected victims, to those who self identity as victims, to those who co-operate with criminal investigations, to those who were successful in the National Referral Mechanism process or to all of these?

211. Evangelical Alliance stated that crimes were often committed for a number of reasons which could be hard to separate. It noted that Clause 8 stated that the criminal act must be 'as a direct consequence of the trafficking in human beings'. It was of the view that this could be difficult to prove in many instances. For example, someone who was trafficked into Northern Ireland 2 years ago and had since escaped from exploitation, they struggle to rehabilitate and often commit petty crimes while intoxicated, attributing this behaviour to their trauma. Would they be prosecuted? Would there be a time bar between trafficking and offences committed or does the offence only apply to offences committed while they were being trafficked?

212. It is also expressed concern that this immunity might create a hierarchy of victims whereby the non-prosecution of victims of human trafficking who committed crimes could diminish the justice, needs and views of their victims.

213. It noted that there were victims who may have risen to a position of power becoming a trafficker themselves and in these cases, victims may have committed a very serious offence such as trafficking, murder or rape. It stated that the intention of this Clause was certainly not to provide an excuse for serious organised criminals despite their real or bogus claims of being trafficked themselves but highlighted that it would be difficult in these very complex cases to decide which offences were committed because of coercion and the 'direct consequence of human trafficking' and those committed through free will and choice. It felt that the line between coercion and an individual's own responsibility needed to be drawn more clearly. It also felt that such cases should be considered on their own merits and having regard to the seriousness of the crime committed.

214. Evangelical Alliance went on to question whether there could be a conflict of legal interpretation under the Bill as it stands. For example, if a trafficked person who had been coerced into becoming a trafficker themselves was convicted of a trafficking offence, how are they to be treated? Under Clause 4 they may be subject to a minimum sentence while under Clause 8 they could actually argue that they should not have even been prosecuted at all.

215. Evangelical Alliance reiterated that it welcomed the intentions of Clause 8. However as it stands, it expressed a fear that it could be abused by traffickers themselves. It felt that it may be better to highlight the broad aim of this Clause to the PSNI, the PPS and the Judicial Studies Board Northern Ireland, leaving the decision to charge, prosecute or impose penalties to each of these organisations.

216. The Law Centre highlighted that although it was deeply concerned that some victims of trafficking were being charged with criminal offences (it had been involved in a number of such cases), it was uneasy about there being a blanket prohibition on prosecution. It advised that it was not aware of any case to date but could just about conceive a situation where a victim of trafficking committed an offence where there was a strong public interest for a prosecution. It recognised that blanket immunity would impede the work of the Director of the Public Prosecution Services in discharging his statutory obligations to review each case received from the investigator in accordance with the Code for Prosecutors. It stated that, rather than blanket immunity, it would prefer Clause 8 to be cast as a presumption against prosecution.

217. The Northern Ireland Commissioner for Children and Young People (NICCY) stressed the importance of child victims not being prosecuted and/or detained in justice facilities following involvement in criminal or immigration offences due to having been subject to trafficking or exploitation. However, she stated that in complex cases the principle of unconditional immunity may offer protection to individuals who, although they had been subject to trafficking or exploitation, go on to commit serious crimes of violence and abuse, including against children.

218. The Reformed Presbyterian Church of Ireland was of the view that organised crime makes use of some persons from other jurisdictions who are willing participants in criminal acts. It expressed concern that Clause 8 may place the burden of proof on the prosecution and

thereby block the proper prosecution of Foreign Nationals who have engaged in criminal behaviour. It stated that the defence of coercion is already available to persons who have committed criminal acts under threat of violence.

219. The NIHRC noted that under the Council of Europe Trafficking Convention, Article 26 requires that 'each party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so'. It also noted that the Group of Experts on Action against Trafficking in Human Beings (GRETA) urged the British authorities to 'step up' their efforts to adopt a victim centred approach when implementing Article 26 of the Convention by: encouraging prosecution services to consider Trafficking in Human Beings (THB) as a serious violation of human rights when assessing the public interest of prosecuting identified victims of trafficking; ensuring that relevant guidance is fully applied in order to prevent imposing penalties on identified victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so; and ensuring that while the identification procedure is ongoing, potential victims of trafficking are not punished for immigration-related offences. In addition it noted the UN Recommended Principles which state that 'Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons'.

220. The NIHRC highlighted that the European Court of Human Rights (ECHR) explained that Article 4 ECHR 'entails a procedural obligation to investigate situations of potential trafficking'. Noting that the 'requirement to investigate does not depend on a complaint from the victim or next-of-kin; once the matter has come to the attention of the authorities they must act on their own motion'. In light of this, the NIHRC noted the primary duty to identify whether a suspected perpetrator of a crime was also a victim of THB.

221. The NIHRC recalled however that 'judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible'. Further, international human rights standards require an effective remedy for individuals whose rights have been violated.

222. It was of the view that any granting of immunity which would remove the access to justice and an effective remedy would run counter to these principles.

223. It referred to the 2013 England & Wales Court of Appeal judgment in L and Others v. R which demonstrated that despite guidance regarding protections for victims of trafficking, prosecutions of victims of trafficking, including children do occur in practice.

224. In its oral evidence the NIHRC repeated that there was a strong persuasive value as to why human trafficking victims would have immunity from prosecution given the vulnerability of trafficked persons. However it stressed that there were other victims as a result of the criminal offences committed and that they had a right to an effective remedy. It noted that those offences could range from theft to murder and in its view the gravity of the offences that could fall within its remit were not captured within the Bill. It felt that a degree of discretion should be afforded to the Public Prosecution Service regarding which criminal offences it does or does not pursue.

225. It highlighted that anything that suggests a blanket approach generally raised a human rights flag and in this case it would concern the rights of the victims of the criminal offence.

226. In conclusion the NIHRC was content with the general principle of Clause 8 but felt that it needed to be amended to ensure that it was not open to abuse.

227. Parosha Chandran, Barrister at Law, outlined the provisions of Article 8 of the Trafficking Directive: 'Non-prosecution or non-application of penalties to the victim Member States shall,

in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2'.

228. Ms Chandran stated that the use of the term 'Member States shall', when taken with the rest of the wording of Article 8, indicated that Article 8 requires Member States to provide a legally binding form of protection from prosecution, conviction and sentence for those victims of trafficking who satisfy the Article 8 test.

229. She also stated that the phrase 'Member States shall…take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties' is to achieve harmonisation across the EU and is addressed to those Member States which have mandatory systems of prosecution (unlike the UK) as such States will need to introduce new processes to entitle their courts to prevent prosecutions from continuing which satisfy the Article 8 test.

230. Ms Chandran pointed out that it was critical to note that the Article 8 legal duty on the UK was not satisfied by a prosecutor's discretion as to whether or not to prosecute. Rather the Article 8 duty falls on the Courts of a State as being the ultimate arbiter of justice and it is necessary therefore for there to be a legal framework which recognises this. Where there is not, there is a clear risk a country falling foul of its EU obligations under Article 8.

231. Furthermore, she pointed out that by enshrining the Article 8 duty in legislation, via Clause 8, this would directly impact on the minds of all those involved in the criminal justice system to consider whether a trafficked defendant was in fact culpable of the offences with which s/he is charged including for example the police, prosecutors, defence lawyers, court clerks, probation, social services and, importantly, the judges. Ms Chandran was of the view that such an approach as that proposed by Clause 8 must therefore be commended. She stated in her oral evidence that, "until non-prosecution becomes a substantive right, and whilst it remains in the hands of an individual prosecutor in an individual court on an individual day to make an individual decision that may not be overseen by anybody, we will continue to have a completely uneven, piecemeal and flawed system of protection for victims of trafficking. We will continue to have growth exponentially of human trafficking as a profitable business in the United Kingdom, including in Northern Ireland".

232. Ms Chandran also highlighted that the ethos behind the non-punishment provision was not only to protect the human rights of those who have been trafficked from being convicted or punished for crimes which but for their trafficked status they would not have committed at all. She felt that the measure was also aimed at enabling the successful prosecution of traffickers.

233. Ms Chandran advised that in all cases known to her where the trafficked victim was charged, prosecuted and convicted for the crimes of trafficker (such as the cannabis cultivation cases) or crimes which otherwise arose directly from the trafficking (for example the 'run-away crimes' where a trafficked victim has used a false passport to try to escape the trafficker in the UK) there had been no police investigation whatsoever into their trafficking. She indicated that each time it had been the trafficked victim who was wrongly treated as an ordinary criminal offender and exposed to the criminal justice system as a defendant whilst their trafficker, who had committed extremely serious crimes against the trafficked victim and had conducted financial crimes against the State, for example by unlawfully controlling prostitution or via highly lucrative drug manufacture enterprises (having intended or used the trafficked victim for one of those exploitative purposes) got clean away.

234. Ms Chandran stated that the deliberate use by traffickers of vulnerable human victims with the aim of exploiting them for their personal profit was, when coupled with the State's

prosecution and conviction of trafficked victims for their traffickers' crimes, a perfect escape strategy for human traffickers across the EU.

235. She commended Clause 8 for confronting the realities that requires the State to comply with Article 8 of the EU Trafficking Directive. She felt that the adoption of Clause 8 would enable not only the protection of victims of trafficking in Northern Ireland from unlawful conviction and punishment in breach of EU obligations where the criminal acts they are prosecuted for arose through compulsion and as a direct consequence of their trafficking. She felt it would also enable a highly critical focus in Northern Ireland on catching the perpetrators of the very serious crimes of human trafficking and would undoubtedly enable an increase in successful trafficking investigations and prosecutions in its territory.

236. The Police Service of Northern Ireland (PSNI) highlighted that the non-prosecution of victims of trafficking was already addressed within current guidelines and legislation. It stated that it would be unwise to introduce automatic immunity from prosecution and every case should be examined on an individual basis; the Public Prosecution Service prosecutorial test should be applied in each case.

237. When probed further on its views on Clause 8 during its oral evidence, the PSNI stated that Clause 8 provided almost a mandatory immunity. It highlighted that it had seen people in its investigations who raised nothing about being trafficked when they were caught for example in the middle of the cultivation of cannabis. However, very late in the day, they would suddenly throw in the allegation that they had been trafficked. The PSNI indicated that it was obliged to pursue that as a very proper allegation and often had not found evidence to support it.

238. The PSNI felt that Clause 8 would allow people to claim from the the start, in a range of different criminal investigations, that they had been trafficked and if that was the case, it potentially raised a number of barriers to prosecuting people who had not been trafficked but who had been involved in serious criminality.

239. The Public Prosecution Service (PPS) stated that it could not provide blanket immunity from prosecution. It stated that the statutory obligations placed on the Director of Public Prosecutions by the Justice (Northern Ireland) Act 2002 required Public Prosecutors to review each case received from investigators in accordance with the Code for Prosecutors to determine whether criminal proceedings should be instituted or continued. It stated that every case must be considered on its own merits and having regard to the seriousness of the offence committed. However it noted that, should evidence or information be available to the prosecutor to support the fact that the person had been trafficked and had committed the offence whilst in a coerced situation or as the direct consequence of the other factors contained in Clause 8, this would be considered a strong public interest factor mitigating against prosecution. It highlighted that the PPS policy outlined the approach to be taken in such cases.

240. The PPS stated that, to enable the prosecutor to consider such factors, they must be provided with the information from police or other sources who suspect that the person may be a victim of trafficking. Further this was only relevant where the criminality is as a direct consequence of the trafficking situation. There must also be consideration of the extent to which the victim was compelled to undertake the unlawful activity.

241. The PPS stated that prosecutors take into consideration all relevant information provided by police and other agencies including any decision arising from the National Referral Mechanism when deciding where the public interest lies in relation to prosecution.

242. The PPS was of the view that these cases highlighted the need for prosecutors and defence practitioners to take all reasonable steps to identify victims of trafficking and to be pro-active in causing enquiries to be made and provide that prosecutors must consider the public interest in prosecution when the defendant is a trafficked victim and the crime had been committed when he or she was in some manner compelled to commit.

243. During its oral evidence representatives highlighted a particular case that had been considered by the PPS where the prosecutor and police made further enquiries to establish that a suspect was a potential victim of human trafficking and was being compelled to work in a cannabis factory where they tended to plants. The prosecutor in that case applied the PPS policy and took the decision that prosecution was not in the public interest.

244. When asked whether Clause 8 could be non-compliant with current law and possibly Article 26 of the Convention, the PPS stated that it would be non-compliant as it would create a provision that would effectively debar the Director from taking a decision to prosecute in a case where the categories set out in the Clause 8 were met. It highlighted that the entitlement to grant immunity was set out in the Serious Organised Crime and Police Act 2005 which gave permission to the Director to grant immunity. It noted that Clause 8 would effectively fetter that expression.

245. The PPS also highlighted that the type of offence committed was also a relevant consideration in determining whether duress could be a defence. It stated that duress was not a defence to murder or attempted murder: R v Howe [1987] A.C. 417, HL and noted that this also applied to a child of the age of criminal responsibility no matter how susceptible he might be to the duress: R v Wilson [2007] 2 Cr.App.R. 31, CA.

246. The PPS was also of the view that there should be recognition that the commission of an offence may have resulted in other victims of the offence who have the right to due process.

247. The Attorney General in his written and oral evidence indicated that Clause 8 goes much further than what is required by EU law. The EU Directive simply requires the UK to be in a position not to prosecute and prosecuting authorities in the UK have always had discretion not to prosecute, particularly where the public interest so requires.

248. The Attorney General was of the view that the combination of existing criminal law defences and the correct application of the PPS discretion, his section 8 human rights guidance for the PPS and PPS's internal guidance are sufficient to ensure compliance with the Directive.

249. In its written submission dated 29 October 2013 the Department of Justice highlighted that, in its view, Clause 8 would provide blanket immunity from prosecution for victims of human trafficking where they had been compelled to commit other offences as a result of having been trafficked. The Minister had serious concerns about the impact of this Clause and the Department's assessment was that it went too far; it runs counter to the statutory obligations placed on the Director of Public Prosecutions under the Justice (Northern Ireland) Act 2002; it could have a negative impact on the rights and interests of some victims; and, ultimately, it could lead to inappropriate outcomes in difficult cases.

250. The Department noted that the EU Directive requires that prosecutors are entitled not to prosecute or impose penalties on victims in cases where they have been compelled to commit other offences and stated that this was already the case in Northern Ireland. It highlighted that the Directive does not require Member States to ensure immunity from prosecution in all cases. It also highlighted that within Northern Ireland, Public Prosecutors must apply the Test for Prosecution, including whether prosecution would be in the public interest and noted that, in doing so, they are able to consider the specific circumstances of each case, including whether any mitigating factors exist - such as the fact that an individual had been compelled to commit the offence as a result of having been trafficked. The Department noted that the PPS had exercised this prosecutorial discretion already in a number of cases, including cases of cannabis cultivation and brothel keeping and its recently published Policy on Prosecuting Cases of Human Trafficking also covers this issue and provides further guidance.

251. The Department indicated that the Minister was opposed to the introduction of the blanket immunity from prosecution that Clause 8 would provide and was of the view that the Clause should not stand part of the Bill. The Department also stated that while the Minister

recognised and shared Lord Morrow's concern that victims of human trafficking be afforded appropriate protections under the law, he was satisfied that those protections already existed.

252. The Department's view was that, instead of providing for blanket immunity from prosecution in these circumstances, there is a need to ensure a greater awareness of human trafficking across the criminal justice system and an understanding of the system's responsibilities in protecting victims. The Department advised that it had already begun to address this through the Organised Crime Task Force (OCTF) and it had written to stakeholders across the justice system, including the Law Society, the Bar Council and the Judicial Studies Board to highlight the issue.

253. The Department suggested that there was scope to amend Clause 15 of the Bill to ensure that the annual strategy would include actions to raise awareness and to highlight the rights and entitlements of victims across the justice system.

254. In its more recent written and oral evidence the Department reiterated its view that Clause 8 does not provide a proportionate or appropriate response and highlighted its serious concerns that the Clause would fetter the Director of Public Prosecution's current obligations under the Justice (Northern Ireland) Act 2002 to review each case received from investigators in accordance with the Code of Prosecutors to determine whether criminal proceedings should instigated or continued.

255. It was of the view that Clause 8 would introduce a less nuanced and fact-specific approach to these victims of crime that is presently available.

256. The Department highlighted that the Minister had discussed his concerns with Lord Morrow who had indicated that it is not his policy intention to provide a mechanism for blanket immunity but rather to ensure that victims are protected from prosecutions that are not in the public interest in cases in which they have been compelled to commit offences. The Minister shared that view but believed that those protections were already available and the appropriate way forward was through the raising of awareness of the rights and entitlements of victims across the criminal justice system, something which should be addressed through the strategy required under Clause 15. The Department indicated that it had also written to the Director of Public Prosecutions seeking his view on whether more detailed guidance, similar to that issued by the Crown Prosecution Service, would be helpful and noted that the Attorney General's draft human rights guidance for the PPS also deals specifically with the issue.

257. Lord Morrow, Bill Sponsor, in his evidence dated 18 March 2014, acknowledged that strong views had been expressed about whether Clause 8 should remain in the Bill. He stated that he remained convinced that the following principles should underlie the discussion on non-prosecution: in order for a trafficked person to have the prosecution stopped the circumstances of their trafficking need to be investigated at an early stage as a priority. There needs to be good information flow between the police, prosecutors and the NRM and knowledge of the Convention/Directive rights amongst those working with potential victims; and where victims of trafficking have committed crimes as a direct result of coercion/duress associated with trafficking/exploitation then their Article 26 Convention rights and Article 8 Directive rights should be applied. However he accepted that there cannot be blanket immunity, especially for serious crimes like murder.

258. He highlighted that the question of how non-prosecution of victims should be dealt with was being considered by the Joint Committee in Westminster as part of its scrutiny of the Modern Slavery Bill and indicated that he was minded to await the Joint Committee's recommendations before proposing any amendments to his Bill on this issue. He pointed out however that regardless of the outcome on Clause 8, he supported the Department's suggestion that there should be awareness raising around the rights and entitlements of

victims across the criminal justice system which should be a focus of the annual strategy required by Clause 15.

259. **Members recognised and shared the concerns that had been expressed regarding "blanket immunity" arising from Clause 8 and noted this was not the policy intent. They also noted that the Clause may not be needed if appropriate assurances are provided by the Public Prosecution Service that the prosecutorial guidance on Human Trafficking cases will adequately address the issue of non-prosecution of victims of trafficking.**

260. **The Committee agreed that it was not in a position to support Clause 8 as drafted but did support the principles outlined by Lord Morrow, the Bill Sponsor, regarding non-prosecution and wished to consider the findings of the Joint Committee in Westminster which is considering this matter as part of its scrutiny of the draft Modern Slavery Bill.**

Part 2 – Assistance and Support

261. Clauses 9 to 12 set out legal requirements for providing effective assistance and support for victims of human trafficking.

Clause 9

262. Clause 9(1) defines a victim as someone for whom there are reasonable grounds to believe they are a victim of human trafficking and there has not been a conclusive determination that they are not; Clause 9(2) defines reasonable grounds as being decided by the competent authority under Article 10 of the Trafficking Convention, the Article on identification of victims; Clause 9(3) defines a conclusive determination; Clause 9(4) sets out definitions associated with this section and the European Trafficking Convention. In particular, this section defines "trafficking in human beings" as having the same meaning as in the Convention, that is Article 4a: "Trafficking in human beings" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

263. Evidence received supported this Clause with respondents also raising a number of issues regarding the legal status of victims during and following the determination process.

264. In its oral evidence, the Irish Congress of Trade Unions (ICTU) stated that victims of all forms of exploitation must be able to seek help without fear of criminalisation, marginalisation or deportation. It expressed its support for measures such as those introduced in Italy that identify trafficked people and other forced labourers as victims of crime rather than illegal immigrants and stated that measures that permit trafficked people to regularise their status, whether temporarily or permanently, in the country in which they have been exploited would encourage them to come forward to testify against traffickers because it would remove the danger of immediate deportation.

265. The ICTU expressed concern about the GRETA Report findings that victims of trafficking had been arrested, prosecuted and convicted of immigration and other offences. It supported the call for authorities to step up their efforts to adopt a victim-centered approach to ensure that potential victims of trafficking were not punished for immigration-related offences and urged the adoption of such an approach in Northern Ireland.

266. In its oral evidence, the Law Centre expressed a view that Clause 9 should also apply to victims of forced labour. It highlighted that the definition was very much rooted in the

language of the National Referral Mechanism (NRM) and referred specifically to Clause 9(1) which states that a victim is treated as a victim if there are reasonable grounds to believe that the individual is such a victim. It noted that to get a reasonable grounds decision a person needs to be referred to the NRM by a first responder, which can take up to 48 hours. The competent authority then has five days to make that reasonable grounds decision. This means that, as the legislation is drafted, a person who is suspected of being a victim will have no statutory entitlement to support for at least the first week after they come to the attention of the authorities. If the victim is subject to immigration control, they are to all intents in Northern Ireland unlawfully and are arguably not entitled to anything. For this reason the Law Centre felt it was essential that the support provision should commence at the first encounter with the first responder.

267. The Law Centre also commented on the need for legal status for victims. It stated that there was a need for some form of temporary status as a victim goes through the process and a clear, tenable and durable legal status for a victim who goes through the process and is recognised as a victim of trafficking.

268. The Law Centre advised that it was currently acting in the case of a woman who was subjected to sexual exploitation. She went to the police herself and endured hours and hours of police interviews, immigration interviews and long, protracted medical examinations in connection with her account of rape. Following an appeal to the High Court, she was finally recognised as a victim of trafficking. The Home Office however has hitherto refused to provide her with a resident's permit which in the Law Centre's view begged the question of what the NRM had done for the victim - she had been left with no status, and, were it not for the fact that she had an ongoing asylum claim, she would have got to the end of the process and, in the eyes of the law, would have been deemed an immigration offender and subject to deportation.

269. The Law Centre suggested that the Committee could have some influence on the Modern Slavery Bill with a view to ensuring that a trafficked victim has some form of temporary legal status during the determination process and an endurable status on completion of the process.

270. The Presbyterian Church in Ireland, in its oral evidence, recommended that a reflective period should be observed before trafficked victims are removed from a jurisdiction meaning that unconfirmed or suspected victims would not be removed until such time as they could be screened and a definitive judgment could be made about whether they had been trafficked. It highlighted what it saw as a very clear conflict of interest between this legislation and the UK Border Agency dealing with immigration and removing people from the jurisdiction.

271. It was of the view that additional measures could be implemented to ensure the detection and protection of trafficked victims e.g. workplace checks not only to remove those in breach of immigration law but to find evidence of trafficking and ensure that people are protected in the first instance.

272. Women's Aid pointed out that the bureaucratic processes associated with making determinations as to whether someone was trafficked were prone to error, for example, a person presenting as a victim but with a determination that they are not a victim was a real possibility. It was of the view that there must be sensitivity within this legislation to the fact that there may be victims who have endured a great deal of trauma but have been failed by the NRM. It highlighted that these victims also require assistance and support.

273. CARE highlighted that Clause 9 employed useful terminology already used in England and Wales for the purpose of defining a victim so that it was possible to refer to victims in later clauses in Parts 2 and 3 of the Bill to ensure that victims are able to receive particular services and support which are open to them.

274. CARE referred to the suggestion by the Department of Justice that this Clause was unnecessary and was of the opinion that Lord Morrow could have been criticised if there had been no definition of a victim for Parts 2 and 3 of the Bill. It stated that it was noticeable that the Westminster Government was of the view that it needed to define a victim in the Legal Aid Act 2012 and did so in relation to the European Convention, highlighting that Clause 9 is based on the wording used in the Legal Aid Act.

275. In its written submission dated 29 October 2013, the Department of Justice expressed the view that clear definitions of human trafficking victims, derived from the UN's Palermo Protocol and the EU Directive, already existed and UK jurisdictions were bound by these. While it had no concerns about Clause 9 and stated that it would not seek to oppose or amend it, it did note that, subject to its proposed amendments to Clauses 13 and 14, Clause 9 would require a minor consequential amendment to define 'complainant'.

276. The Department subsequently indicated in its written submission dated 26 February 2014 that it was satisfied that the effect of the Clause 9 definition was appropriate in respect of the requirements for assistance and support under Clause 10 and the requirement under Clause 12 for the appointment of a Child Trafficking Guardian. It was of the view however that the current definition would not have the appropriate effect in respect of the other clauses under Parts 2 and 3 of the Bill. For example, whilst it agreed that the provisions of Clauses 10 and 12 should be available both to potential victims under the NRM and to confirmed victims of trafficking, it believed that Clause 11, which relates to compensation, should only apply in respect of confirmed victims, since not all potential victims would receive a positive conclusive determination confirming them to be victims. It was therefore considering an amendment to the Clause to address this.

277. In its written submission dated 19 March 2014 the Department outlined its updated position on the Bill. It indicated that amendments to Clause 9 would be needed to clarify the definitions of victims of human trafficking in relation to the distinct roles and responsibilities of the Department of Justice and the Department of Health, Social Services and Public Safety in respect of providing support to victims and potential victims of human trafficking. It outlined that the Department of Justice's specific responsibilities were in respect of support provided to adult victims of human trafficking who have received a reasonable grounds decision but who have not yet received a conclusive determination (i.e. potential victims who are still within the recovery and reflection period of the NRM) and the Department of Health, Social Services and Public Safety was responsible for providing support to all child victims and to adults who have received a positive conclusive grounds decision (i.e. confirmed victims).

278. Lord Morrow MLA, the Bill Sponsor, indicated in his letter dated 18 March 2014, that he was proposing 2 minor consequential amendments to Clause 9 required as a result of proposed amendments to Clauses 13 and 14 to ensure there is consistency in the language used relating to 'special measures'. He also noted that the Department intended to bring forward amendments to the Clause.

279. **The Committee agreed that it was content with Clause 9 subject to Lord Morrow's consequential amendments. It also supported the intention of the Department of Justice to bring forward amendments to clarify the definitions of victims of human trafficking in relation to the distinct roles and responsibilities of both the Department of Justice and the Department of Health, Social Services and Public Safety in providing support to victims and potential victims of human trafficking and indicated that it would consider the text of these amendments when provided by the Department.**

Clause 10

280. Article 11 (Assistance and support for victims of trafficking in human beings) of the Directive sets out a list of practical assistance and support that States must provide to adult victims of

human trafficking. Care for a trafficked child would be met by the requirements of the Children (NI) Order 1995. Clause 10 sets out obligations on the relevant Government departments: Clause 10(1)(a) - meet the needs of victims up until 3 months after criminal proceedings are completed; Clause 10(1)(b)(i) - provide assistance to a family of a child victim if they resident in Northern Ireland as long as they are not suspected as having committed a human trafficking offence; Clause 10(1)(b)(ii) - provide assistance and support regardless of an individual's willingness to act as a witness; Clause 10(1)(b)(iii) - provide assistance and support with the agreement of the individual; Clause 10(1)(b)(iv) - provide assistance and support that takes due account of the victim's safety and protection needs. This is not a requirement of the EUD but is a requirement of the European Convention against Human Trafficking, article 12(2). The Bill contains a new addition that there should be recognition of the need for assistance from a person of the same gender; Clause 10(1)(b)(v) - the assistance and support shall be provided to assist victims in their physical, psychological and social recovery. This is not a requirement of the EUD but is a requirement of the European Convention against Human Trafficking, article 12(1). Clause 10(2) lists the type of assistance and support that victims should receive.

281. There was widespread support for the emphasis placed on the provision of assistance and support for victims by Clause 10 although some respondents suggested that the overarching requirement should be in the Bill with the detail in secondary legislation.

282. Amnesty International welcomed the support provisions for victims. It did however believe that the Clause would benefit from clarifying the responsibilities of both the Department of Health, Social Services and Public Safety (DHSSPS) and Department of Justice (DoJ) in statute. It recommended that the overarching requirement for support be placed in primary legislation with a requirement for the relevant Departments to set out the detail by Order in secondary legislation. It highlighted that human trafficking was not a static issue and would change and evolve over time, as would the needs of victims. It was of the view that the policies, processes and legislation must retain a degree of flexibility and be easily amended to ensure they can adequately respond to upholding the protection and promotion of the rights of victims and secondary legislation would be easier to amend at a later point.

283. CARE outlined the International obligations in relation to assistance and support for victims as set out in Articles 11 and 14 of the Directive and Article 12 of the Convention.

284. CARE was of the view that the provision of proper assistance and support for victims of trafficking was a key emphasis of the GRETA report. In particular, Recommendation 26 of the report stated that the UK should ensure that all potential and actual victims of trafficking are provided with adequate support and assistance from their identification through to their recovery.

285. It highlighted that the Anti-Trafficking Monitoring Group noted a number of difficulties with regard to support services for victims. In its 2013 report, it stated that in Northern Ireland the availability of ongoing specialist support services or interpreters trained in dealing with cases of trafficking was patchy and that many victims did not receive the counselling they needed and were entitled to.

286. CARE stated that, although services are currently provided by Migrant Help and Women's Aid, they are not mandated by law. It felt that Clause 10 would make the provision of assistance and support for victims of trafficking secure and while it would be preferable for it to be in primary rather than secondary legislation, the important point was that it should be in legislation rather than guidance.

287. Contemporary Christianity acknowledged that one of the important purposes of the Bill was to provide support and assistance to victims. However, it expressed concern that this was limited to 3 months after the criminal proceedings against the trafficker were completed. Whilst it recognised that resources were limited and it would perhaps be prudent to have some kind of restriction put in place, it felt that it would leave the victim again potentially

vulnerable, a relatively short period of time after the court proceedings had taken place. In addition, with regards to children, it pointed out that the Bill sets out to promote the long-term welfare of that child and it questioned whether this can be achieved if post-court support was only to last for that 3 month period.

288. Equality Now also proposed an extension to the time period for which victims are provided assistance and support, from three months to at least six months. Furthermore, it proposed that, as set out in Article 11(2) of the European Directive, this assistance should not be linked to victims' willingness to cooperate in any criminal investigations or proceedings. In addition to the measures outlined in Article 11 of the European Directive, it also proposed that, whenever possible, victims are given a choice to receive assistance – especially psychological assistance and counselling, from professionals of the same sex.

289. It highlighted that an integral pillar of the Nordic model, in addition to criminalising the purchase of sex and raising public awareness of the realities of prostitution, was to provide exiting and other assistance to people in prostitution. It pointed out that the provision of exit and other support services to people in prostitution was vital and was of the view that it must have a statutory foundation which guarantees government funding for such programmes and measures.

290. The Evangelical Alliance pointed out that some victims of trafficking and exploitation were freed in a police operation or by sudden events, however, it recognised that, for many, exiting a situation of trafficking or exploitation was far from a one-off process, and was instead typified by stops and starts. It noted that victims of human trafficking were often enslaved by physical or psychological dependence on the traffickers or users. It highlighted that this would compete with the practical difficulties to be faced on exiting, and the uncertain benefits of doing so without guarantees of formal and informal support.

291. It felt that there needed to be a well funded programme to support victims who want to break away from the dreadful circumstances in which they find themselves. It highlighted that cooperation was required across Government Departments to develop targeted exit strategies which should include health support, counselling, education, income support and retraining. It also highlighted the need to ensure that victims have the freedom to leave exploitative situations.

292. Evangelical Alliance stated that it would like to see this assistance and support extended to prostituted people and those exploited in providing sexual services. It felt that this was especially important if Clause 6 came into effect so issues could be dealt with in a victim centred and holistic way. It pointed out that in Sweden, after the purchase of sexual services was criminalised, sixty percent of prostitutes took advantage of the well-funded programmes and succeeded in exiting prostitution. In addition to providing the incentive for women wanting to escape prostitution to seek the assistance they need, it highlighted that the Swedish NGOs reported that prostituted women and girls contact them in greater numbers to get assistance to leave prostitution. Evangelical Alliance was of the view that such measures would also act as a preventative for a future generation of marginalised individuals who could be vulnerable to entering the industry.

293. The Joseph Rowntree Foundation (JRF) was of the view that providing better services to victims should mean that more victims are able to come forward and potentially contribute to making human trafficking and forced labour a higher risk crime. It felt that it was very important that more successful prosecutions take place in Northern Ireland as was emphasised in the recent GRETA report.

294. It outlined that its research (Scott et al (2012))[9] had found that it was very difficult for workers who have been victims of forced labour or high levels of exploitation to come forward

9 http://www.jrf.org.uk/publications/forced-labour-uk-food-industry

to make a complaint or to contact the authorities. Its research also found a 'justice gap' for victims of forced labour and exploitation.

295. It recommended that all assistance and protection measures should be available to victims of offences that related to modern day slavery, i.e. both trafficking and forced labour. It encouraged Lord Morrow, the Justice Minister, the Justice Committee and the Minister for Employment and Learning to liaise to explore options for support mechanisms for victims of both forced labour and human trafficking for labour exploitation. It welcomed the inclusion of a commitment in the Department of Justice Annual Action Plan on Human Trafficking to review the measures for trafficked victims of labour exploitation in Employment Tribunals and encouraged continued focus on this area.

296. The Labour Party in Northern Ireland highlighted that 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. It felt that this might prevent victims, who are afraid to return to their country of origin, to come forward and believed that this issue needed to be addressed. The European Women's Lobby echoed this view and felt that it would be important to guarantee for victims, as long as the criminal procedure is taking place, access to temporary residence permits.

297. Whilst the Law Centre (NI) welcomed the thrust of Clause 10, it expressed concern that subsection (1) appeared to restrict support to victims where there were criminal proceedings. It pointed out that for various reasons, some trafficking cases do not involve criminal proceedings, and was of the view that it was essential that victims in such cases were not excluded from the protections offered by this Bill. Parosha Chandran, Barrister at Law, queried whether assistance and support being dependent on criminal investigations was an oversight in the drafting. She highlighted that the EU Directive requires there to be support, at a minimum, for victims who have given evidence in criminal proceedings – she felt it was an oversight to have it amalgamated as a whole in the Bill. She suggested that the support should be enabled until the final decision is made under the National Referral Mechanism (NRM). She noted that that would encompass a delay through no fault of the individual if they were going through the Judicial Review process which is laborious and takes time. Women's Aid also shared the same concerns and highlighted that Italy had a better support model which offers three to six months temporary residence which can be extended for up to a year and is not contingent upon cooperation with an investigation.

298. The Law Centre felt the Bill should specifically make provision for dependents of victims of trafficking to access support services. It noted that the Bill currently makes reference to education (Clause (2)(h)) but makes no mention of medical treatment and other services for victims' dependents. It highlighted that some Law Centre clients had given birth during the trafficking process and it wanted to be absolutely sure that any children have a clear entitlement to access services. This view was also shared by Dr Ruth Gray.

299. The Law Centre also felt that consideration should be given to what assistance and support could be provided to those persons who get a positive reasonable grounds decision but then a negative conclusive grounds decision highlighting that this was a very current and challenging issue. The Law Centre pointed out that it had represented a number of victims who had successfully challenged a negative 'conclusive grounds' decision. It explained that by virtue of there being no right of appeal within the NRM, the only challenge to a decision is by way of Judicial Review, which can take several months, if not longer. It was of the view that if this Clause, as currently drafted, was to become law, such victims would not benefit from its protections as the moment they receive a negative decision, they would be excluded from the Bill albeit they may ultimately be recognised as a victim of trafficking and granted immigration status accordingly. It pointed out that in Britain there were proposals out for consultation to reduce access to Judicial Review and stated that it would be concerned if similar measures were to be adopted in Northern Ireland.

300. The Law Centre highlighted that some people who, despite there being compelling circumstances, were not conclusively recognised as victims of trafficking (partly due to the relatively high standard of proof required in trafficking cases and also due to the problems in providing and collecting evidence in very difficult circumstances). It noted that these individuals may nevertheless have a number of support needs requiring urgent and compassionate assistance. It felt that this should be available on a discretionary basis.

301. The Presbyterian Church in Ireland strongly endorsed the emphasis on the support of victims and stressed its desire to see all victims of trafficking properly supported and protected. It stated that the Presbyterian Church had consistently held that the protection of the victims of trafficking was of paramount importance and welcomed the comprehensive measures contained in the Bill including tackling the demand factors which drive trafficking, given that the issue is not confined to those trafficked for prostitution/sexual exploitation.

302. In addition to the measures outlined, it recommended additional safeguards stating that the Bill could go even further in ensuring that a 'reflective period ' is observed before trafficked victims are removed from the country which would ensure that unconfirmed or suspected victims of trafficking are not removed from the jurisdiction until such time as they can be screened and a definitive judgment made as to whether they are trafficked or not. Agencies such as the UK Border Agency (UKBA) are involved in the process and it expressed concern that the potential of target driven responses by the UKBA mitigates against proper support for victims. It fully accepted that the proposed legislation did not directly affect the legislation under which the UKBA operates, but urged that the support services available and the liaison with the UKBA were to the highest possible standards rather than minimalist requirements to ensure high quality support.

303. The Presbyterian Church in Ireland acknowledged the resource requirements involved if this Bill was to become law. However, it was of the view that it was necessary to commit to proper resourcing by all the agencies involved, not only to deal with the victims and the issues raised, but also to make a clear statement as a society that trafficking of human beings is totally unacceptable.

304. Victim Support NI welcomed Clause 10 but felt that clarification was needed on the proposed responsibilities of both the Department of Health, Social Services and Public Safety (DHSSPS) and Department of Justice. It also joined with Amnesty International in recommending the overarching requirement for support be placed in primary legislation with a requirement for the relevant Government Departments to set out the detail in secondary legislation given that human trafficking was not a static issue and would change and evolve over time, as would the needs of victims. The flexibility provided by secondary legislation would enable amendments to be made more easily at a later point.

305. Women's Aid welcomed the fact that victims must be offered assistance from someone of the same gender but pointed out that for this to be delivered in any meaningful way, longer term therapies must be included, and that certain therapies were not appropriate shortly after a victim had been identified. For example, it highlighted that counselling was crucial for a victim 1 – 2 years after their ordeal, but it would be entirely counter-productive and inappropriate if it was only offered earlier than that.

306. Women's Aid suggested adding another clause after Clause 10 to specifically deal with assistance and support for those in prostitution and include the establishment of support pathways and routes to exit and the means of assistance identified in Clause 10. It was of the view that many of the support provisions necessary for victims of domestic violence or human trafficking are not dissimilar to those required by women who were or have been in prostitution.

307. The Belfast Health and Social Care Trust raised a particular issue in relation to children seeking asylum in Northern Ireland. It highlighted that unaccompanied children seeking asylum in Northern Ireland, were the responsibility of Social Services and were therefore

afforded assistance and support, which incorporates the 'best interest' principle guaranteed by the UN Convention on the Rights of the Child. It stated that these children are some of the most vulnerable and traumatised in our society - many have fled war torn countries, under horrific circumstances and have had no recent contact with family members. It noted however that concerns exist when children are brought into the country as refugees to join their parents but have not been escorted by a family member. It highlighted that proving a family link without correct information such as dates of birth can be difficult, as the risk exists that these children may be trafficked without knowledge. The Trust recommended tighter controls at Port Health to minimise this situation.

308. In its written evidence the PSNI expressed the view that legislation was not required in this area as appropriate assistance and support networks were currently provided by the Department of Justice and other partners. It noted that the networks had proved extremely successful in recent years and did not consider this to be a legislative matter.

309. The Department of Health, Social Services and Public Safety stated that while the provision of assistance and support to a child victim was not an issue it highlighted that assistance and support to adult victims of human trafficking was indefinitely more complex and was linked to a persons immigration status. In the Minister of Health's view Clause 10, as currently drafted, was problematic in that it may cause conflict with existing legislation. Specifically, he stated that it may prevent compliance with the Children (Northern Ireland) Order 1995, the Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2005, the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004 and the Human Rights Act 1998.

310. The Department for Health indicated that should Clause 10(b)(i) be removed from the Bill the emphasis of support would be on the victim and any potential conflict with existing legislation would likely be eliminated. The Minister of Health highlighted that the entitlement to assistance and support for the family of the victim, where the family is resident in Northern Ireland, was already considered to be available and his Department was drafting regulations that, when made, will provide that secondary healthcare services will be made available at no charge during the recovery and reflection period in circumstances where there are reasonable grounds to believe that an individual is a victim of human trafficking.

311. In its initial written evidence on 29 October 2013 the Department of Justice welcomed the Bill's focus on supporting and protecting victims of human trafficking and highlighted that the Minister of Justice had already signaled his intention to bring forward secondary legislation in respect of his responsibility to support and protect victims. He was however content that this policy intent could be achieved through Clause 10. The Department highlighted that some further amendment would be needed to clarify the respective functions of the Departments of Justice and Health to mitigate the possibility of any future litigation.

312. It was also of the view that it may be helpful to consider in detail the language used, to ensure that the requirement for support to be provided was in accordance with need. For example, Clause 10(2) requires translation and interpretation services to be provided, regardless of whether the victim receiving these services has any actual language need.

313. The Department of Justice subsequently advised in its written submission dated 19 March 2014 that it was working with the Department of Health, Social Services and Public Safety on amendments to Clause 10, including amendments needed to set out the respective functions and responsibilities of each Department. It highlighted that this is a complex area, particularly in light of how the Clause will interface with the legislative framework under which the Department of Health currently operates. It noted that whilst it may be easier to identify an amendment setting out the requirements on the Department of Justice in respect of the assistance and support to be provided to adult *potential* victims of human trafficking, such an amendment would not be comprehensive without equivalent provisions in respect of the assistance and support provided by the Department of Health.

314. Lord Morrow, the Bill Sponsor, advised in his letter of 18 March 2014 that he welcomed the support of the Department of Justice and the Department of Health, Social Services and Public Safety to include victim care in primary legislation and noted that both Departments were working on amendments to make clear where the lines of responsibility fall for providing the services. He also highlighted that he had been liaising with the Department of Justice on some other improvements to Clause 10, in particular to ensure that assistance is available to victims even if there are no criminal proceedings given that some concerns had been raised in this regard. Lord Morrow clarified that that was not the intention of the Bill.

315. **The Committee recognises the importance of the provision of adequate and appropriate support and assistance to human trafficking victims whether or not criminal proceedings are taken and welcomes the inclusion of this area in the Bill. The Committee agreed that it was content with Clause 10 subject to the intended amendments by the Department of Justice and Department of Health which will set out the respective functions and responsibilities of each Department in relation to the assistance and support to be provided to victims of human trafficking. It would consider the text of the amendments when provided by the Departments.**

Clause 11

316. Article 17 (Compensation to Victims) requires that victims of trafficking have 'access to existing schemes of compensation to victims of violent crimes of intent'. The 2010 Anti-trafficking Monitoring Group states there are four types of compensation available to victims of trafficking in the UK, but they are not successfully used: compensation order in criminal proceedings; application to Criminal Injuries Compensation Authority; civil litigation; in some cases before an employment tribunal. Some of these compensation options go beyond the scope required by the Directive (i.e. beyond compensation to victims of violent crime) so Clause 11 requires that the Department of Justice must, by order, set out: Clause 11(a) - how the compensation routes shall operate for victims of trafficking; and Clause 11(b) - what assistance will be provided a person (both adults and children) applying for compensation and seeking leave to remain in order to claim compensation.

317. The Law Centre welcomed Clause 11 which it felt should make it easier for victims to obtain compensation. It was of the view that compensation was necessary, both in terms of restorative justice and in giving the victim some financial security. It felt this was important because poverty can make a person vulnerable to re-trafficking/exploitation.

318. During its oral evidence Victim Support NI stated that the compensation proposals were very positive and much needed and highlighted that as an organisation it provided support and assistance to any victim of crime who wishes to seek compensation. It indicated that it was currently supporting seven male victims and one female victim of human trafficking - the males from the fishing industry and the female from the sex trade. It stated that while all had applied for compensation under the current scheme, a positive outcome was very unlikely due to the strict criteria set down by Compensation Services. It also stated that no specific tariff for the crime of human trafficking was incorporated in the scheme.

319. It advised that victims of such crimes were required to apply for compensation based on their physical injuries and/or mental trauma. It pointed out that not all victims were in a position to fulfil the required medical criteria, including such things as three visits to a GP and reporting to the police. Additionally, it pointed out that providing evidence of emotional and psychological damage could be extremely difficult for those individuals who often have to return to work to ensure their financial well-being and that of their dependents. Victim Support strongly recommended that the Committee looked at the provision for compensation alongside the review of compensation legislation being undertaken by Compensation Services.

320. Victim Support confirmed that under the current compensation scheme victims of trafficking who had been imprisoned or put into servitude would not be entitled to compensation unless they had sustained a physical or psychological injury.

321. Women's Aid agreed that victims of human trafficking should be eligible for criminal compensation. It noted that it was not aware of any instances where a victim of human trafficking had been successful in claiming such compensation. In light of this it urged that the process whereby victims of such intimate and harrowing crimes as human trafficking, sexual violence and exploitation and domestic violence claim compensation should be simplified, to ensure that the compensation process does not re-victimise applicants and that compensation was genuinely open to them in practice.

322. In her oral evidence Parosha Chandran highlighted that the Sexual Offences Act crime of trafficking and the exploitation crime of trafficking both came under the Proceeds of Crime Act (POCA), which meant that money could be chased straight away. She pointed out however that section 71 did not fall under POCA. She felt that there could be a potential amendment to enable the money to be chased where section 71 prosecutions were obtained. She suggested that where the Crown requests a confiscation order following the successful prosecution of a trafficker, it was morally right to ask at that time for a compensation order for the victim who was brave enough to stand and give evidence against a trafficker and that the victim in those circumstances should be the first creditor in the asset recovery.

323. She also highlighted that there were many victims who would never be able to give evidence for one reason or another and highlighted that these victims would need to have access to an effective remedy for compensation under a statutory scheme. She pointed out that Article 17 of the EU Directive on Trafficking in Human Beings requires that compensation is payable to victims of human trafficking and that there is access to any existing statutory schemes that give compensation to 'victims of violent crimes of intent'. She felt that this indicated that victims of trafficking, regardless of the form of exploitation, should be seen as victims of the crime of violent intent.

324. Ms Chandran understood that thus far, although compensation claims had been successfully made to the Criminal Injuries Compensation Authority on behalf of victims of trafficking who were female victims of sexual exploitation and who had given evidence against their traffickers, no child had ever received compensation, nor had any person who was a victim of domestic servitude.

325. CARE highlighted that, in 2010, the Anti-Trafficking Monitoring Group set out the potential avenues of compensation for victims but noted that it had consistently raised concerns about whether victims do in practice receive the compensation due.

326. CARE advised that there had only been two cases of compensation paid out through the Criminal Injuries Compensation Scheme while there had been over 90 potential victims of human trafficking found in Northern Ireland since 2009. It noted that six cases of compensation had been lodged in 2013. It further noted that while there was some support provided by Victim Support NI, this was for victims of violent crime and some individuals who are trafficked may not fall within this definition.

327. CARE outlined Recommendation 29 of the GRETA Report which stated that the UK should adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to: ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed; ensure that all victims of trafficking are eligible for compensation under the existing compensation scheme; enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid; encourage prosecutors to request compensation orders to the largest possible extent; and enable victims of trafficking who have left the UK to benefit from the possibilities to claim compensation.

328. Evangelical Alliance questioned whether Clause 11 was needed. It highlighted that Compensation Services had already set out procedures on how to apply for criminal injuries compensation. It noted that the procedures for compensation within civil law were quite different and were already provided for within the High Court and County Court rules. It suggested that, instead of legislation, those working with victims would be best placed to point them towards the existing statutory frameworks within which to seek compensation for criminal injuries or loss within the civil law.

329. The Joseph Rowntree Foundation (JRF) expressed concern that Clause 11 did not apply to victims of forced labour. It encouraged further discussion with relevant justice agencies and the Department for Employment and Learning on how victims of forced labour could be supported. It also suggested that all assistance and protection measures should be available to victims of both offences that relate to modern day slavery, i.e. human trafficking and forced labour.

330. The Banbridge Policing and Community Safety Partnership supported the Criminal Assets Funds being used both for law enforcement and community funds. However, it highlighted a need to develop supportive programmes for those who are victims of trafficking and indicated its support for the move to ensure that adequate resources are made available to victims, and those who are most vulnerable within society as a result of being trafficked.

331. The Belfast Health and Social Care Trust advocated that the same empathy expressed in Clause 11 should apply to those in prostitution.

332. The Police Service of Northern Ireland (PSNI) was of the view that legislation was not required in this area as compensation procedures were available. It felt that additional guidance to victims and all agencies involved would provide benefits and ensure that appropriate compensation is delivered to victims of human trafficking.

333. In its written submission dated 29 October 2013 the Department of Justice highlighted that compensation arrangements were already set out under the Criminal Injuries Compensation (Northern Ireland) Order 2002. It noted that victims could seek compensation under the statutory scheme provided for by this Order and there was no requirement for the applicant to be resident in Northern Ireland.

334. During oral evidence departmental officials clarified that victims were compensated for injuries received rather than for being trafficked. They also highlighted that a review of compensation legislation that focuses on criminal damage but will also look at criminal injuries has begun and that Review could be the appropriate time to consider such issues as the definition of criminal violence and how trafficking victims can apply for compensation.

335. Following discussions between the Department and Lord Morrow, the Bill Sponsor, the Department advised in its written evidence dated 19 March 2014, that Lord Morrow had agreed that Clause 11(b)(ii), which deals with leave to remain in the United Kingdom in order to claim compensation, should be removed. The Department also advised that Lord Morrow had agreed that the Department should be required to bring forward statutory guidance instead of an Order. The Department indicated that it would bring forward the necessary amendments.

336. Lord Morrow subsequently advised the Committee that he was content with the Department's proposed amendments.

337. **Noting that the Department would now produce statutory guidance under Clause 11, some Members expressed concern that the guidance would not be sufficient to make this provision effective and ensure compensation can be paid to victims of trafficking. In light of this concern the Committee agreed to give consideration to the options available to provide the Assembly with a degree of control in relation to the content of the guidance.**

338. **The Committee considered possible options including an amendment to make the guidance subject to the affirmative or the negative resolution procedure. It also considered whether a preferable option would be to seek a commitment from the Minister of Justice, either in writing or on the floor of the Assembly during Consideration Stage, that the Department will consult the Committee on the draft guidance and take full account of its views before finalising it.**

339. **Members indicated a preference to seek a commitment from the Minister of Justice, during Consideration Stage, that the Department will consult the Committee on the draft guidance and take full account of its views.**

340. **The Committee agreed that it was content with Clause 11 subject to the Department of Justice amendment to require it to produce statutory guidance in respect of compensation for victims of human trafficking and to remove subsection 11(b)(ii) as victims do not need to be resident in Northern Ireland to be eligible to apply for compensation.**

Clause 12

341. Clause 12(1) requires a child trafficking guardian to be appointed when a child is identified as a possible trafficking victim and they have no person with parental responsibility available, as defined by subsection (3). The guardian should be safeguarding the child's best interests. Clause 12(2) sets out the responsibilities of a child trafficking guardian. Clause 12(3) sets out the conditions that apply for a child to have a child trafficking guardian, that is if the person who has parental responsibility for the child: is suspected of taking part in a human trafficking offence; has another conflict of interest with the child; is not in contact with the child; or is in a country outside of the UK (i.e. the child is unaccompanied). Clause 12(4) defines who can be a child trafficking guardian: employees of a statutory agency; employees or volunteers of a "recognised charitable organisation". Clause 12(5) requires relevant agencies to recognise the authority of the child trafficking guardian in relation to a particular child. Clause 12(6) defines a relevant agency as a person or organisation which provides services to the child (e.g. housing, education) or to which the child needs access in relation to being a human trafficking victim (e.g. courts, CPS, police). Clause 12(7) states the Department: Shall by order set out the arrangements for appointing a child trafficking guardian as soon as possible after identification of a trafficked child; may set out rules on training for child trafficking guardians, in a similar way to magistrates (see Courts Act 2003, section 10(4)); and shall by order designate which organisations can be a recognised charitable organisation. This is in place to ensure that only specialised NGOs could be involved in being a child trafficking guardian.

342. There was broad support in the evidence received for a Child Trafficking Guardian.

343. CARE stated that Clause 12 met the requirements of Articles 14(2) and 16(3) of the EU Directive. It also highlighted that the EU Convention on Action against Trafficking in Human Beings requires that an unaccompanied child who is identified as a victim shall have representation 'by a legal guardian, organisation or authority which shall act in the best interests of that child'. It also highlighted that the introduction of a guardian was recommended as an action for the UK by the US State Department in the 2013 Trafficking in Persons Report[10]. It noted that the Westminster Joint Committee on Human Rights said, 'There may also be a role for other individuals to advocate the best interests of unaccompanied migrant children. We are persuaded that providing children with a guardian could support children more effectively in navigating asylum, immigration and support structures and help them to have their voices heard. We therefore support establishing pilot programmes in England and Wales to examine the case for guardianship in more depth'. It also noted that Still at Risk, a major new Home Office funded Children's Society and Refugee Council study, recommended 'A system of protection needs to be developed which includes

10 http://www.state.gov/j/tip/rls/tiprpt/2013/

an independent trusted adult appointed to a separated child as soon as they come to an authority's attention. This person's role would ensure that all potential victims of trafficking are able to understand their rights, ensure that their voice is heard in decisions that affect them and are supported effectively through the different legal processes they are engaged in'.

344. CARE referred to the three rescued trafficked children in care in Northern Ireland who had gone missing. It recognised that some of these children had received a Guardian ad litem, but pointed out that this was a much narrower role than that proposed in Clause 12. It noted that Guardian ad litems only represent a child in care proceedings when a Care Order is made and pointed out that not all trafficked children are subject to a Care Order. In addition, these children would also have other agencies to deal with if they were subject to asylum and immigration matters or if they needed to be witnesses in a criminal case related to the trafficking and exploitation to which they had been subjected.

345. CARE expressed the view that having a child trafficking guardian would ensure that effective support could be given to children who have been trafficked into Northern Ireland. It highlighted that trafficked children were particularly vulnerable to re-trafficking and was of the view that the child trafficking guardian proposed in Clause 12 would provide someone who would be a constant adult and would be able to accompany and speak on behalf of the child throughout its interactions with the State.

346. Evangelical Alliance welcomed the provision for guardians for child victims of child trafficking and the role that they would provide in being a stable and safe influence. It suggested that the concept of guardians be offered to all victims of trafficking. Given that the numbers of victims recorded were small, it felt that this would not be a large additional cost. It highlighted that the services already provided by Migrant Help, Woman's Aid and Social Services were excellent but felt that there would be an added benefit to the victim in having a guardian assigned to them - one person they consistently dealt with to steer them through the complicated legal, healthcare and immigration procedures they face. It noted that an adult 'guardian' may have different legal functions and a different name to avoid legal confusion. However, it was of the view that the main roles as described in Clause 12 (2) (a)-(k) could easily be applied to the circumstances of any victim, child or adult.

347. The Law Centre (NI) expressed its support for Clause 12 and felt that it would be beneficial for the Clause to make direct reference to Article 12 of the UN Convention on the Rights of the Child (i.e. right to be heard). It stated that access to legal representation for children was always essential and recommended the deletion of 'where necessary' in Clause 12 (2)(c). It highlighted that Clause 12 (2)(d) suggested that the child trafficking guardian would have a role in advising the child. It was of the view that the guardian's role should complement rather than substitute the work of legal advisers and stated that it is imperative that the child benefits from advice provided by qualified legal practitioners. For this reason, it recommended that the word 'advise' be removed.

348. In its oral evidence, the Law Centre highlighted that its experience was based not only in the issue of trafficked minors but also in unaccompanied asylum-seeking minors and suggested that the remit of Clause 12 should be broadened and the guardian role should not be confined just to trafficked children.

349. The Northern Ireland Commissioner for Children and Young People (NICCY) felt that it was of particular significance that the Bill included the provision of a legal guardian for potential child victims to represent their best interests. However, as required by international child rights standards and advocated by the four UK Children's Commissioners, NICCY expressed a view that government should ensure that all separated children subject to immigration control (SCSIC), of which separated children subject to trafficking would be one sub-group, have access to a guardian.

350. NICCY noted that the recent evaluation of the Scottish Guardianship Service for SCSIC highlighted that the process of disclosure for victims may be lengthy and complex and

referred to cases where victims of trafficking had been identified by guardians rather than statutory agencies involved with the child. NICCY therefore felt it was important to clarify the need for this specific provision for separated children subject to complex interactions between immigration, welfare, trafficking and other processes and Northern Ireland child victims.

351. The Northern Ireland Human Rights Commission (NIHRC) also referred to the report by the four UK Childrens Commissioners to the United Nations Convention on the Rights of the Child Committee which called for a formal guardianship scheme for asylum seeking children, noting that 'many asylum seeking children are not allocated their own social worker'. The NIHRC suggested the Committee should scrutinise the current social worker system for separated or unaccompanied child victims of Trafficking in Human Beings (THB) against the international standards with a view to establishing whether or not a separate system of legal guardianship is necessary for child victims of THB as called for within the Bill.

352. In its oral evidence the Presbyterian Church in Ireland supported the Department of Health taking the lead in this matter but suggested that delivery would perhaps be best done through a voluntary organisation. It also expressed a wish to have 'spiritual' included in the list of responsibilities of a child trafficking guardian at Clause 12(2)(b) and reflected in Clause 12(2)(g).

353. The PSNI highlighted that any young person who is trafficked or suspected of being trafficked has a named, allocated social worker appointed with case management responsibility and, upon application by the Trust to the Court to secure a legal order in respect of the child, a Guardian ad Litem would be appointed by the court. It pointed out that the Guardian ad Litem will subsequently appoint a legal representative to act on behalf of the child and each of these professionals may in circumstances act as a representative for the child. The PSNI was of the view that, as this was currently the case for all child victims of serious crime and legislation and processes exist to deal with this, there was no requirement for further legislation in this area.

354. The Department of Health, Social Services and Public Safety (DHSSPS), who has overall responsibility for child protection, stated that, while not opposed to the concept of a Child Trafficking Guardian or the responsibilities of the guardian as set out in the Bill, Clause 12 was problematic as it required the DHSSPS to set out the arrangements for the appointment of a Child Trafficking Guardian when, in its view, the duty should fall to the Health and Social Care Trusts. It suggested that this could be resolved by amending Clause 12(1) to place the onus for appointing a Child Trafficking Guardian in circumstances prescribed by DHSSPS on the relevant Health and Social Care Trust, which has existing statutory duties to safeguard children and promote their welfare - this is on the assumption that child victims of trafficking will become looked after by one of the five Trusts.

355. The DHSSPS also proposed that Clause 12(2), which specifies the responsibilities of the Child Trafficking Guardian, could be amended to allow for responsibilities of the Guardian to be a matter for Regulations to be brought forward by the Department. This would entail stipulating at Clause 12(2)(l) 'any other responsibility as prescribed by the DHSSPS which would then allow the removal of Clause 12(3) to Clause 12(7) inclusive from the Bill.

356. In a response to a request from the Committee for clarification of whether the DHSSPS intended to propose any amendments to Clause 12, the Minister of Health indicated that he and his officials were continuing to liaise with Lord Morrow on potential tensions between the Clause and existing legislation and possible solutions to these tensions.

357. Lord Morrow, the Bill Sponsor, indicated in his letter dated 18 March 2014, that he supported Child Trafficking Guardians because it is internationally recognised best practice which should be implemented in Northern Ireland. He believed that the position of a Child Trafficking Guardian should be set in statute; be appointed as soon as a trafficked child has been identified; be recognised by other agencies as having a legitimate role working in the best

interests of the child; and be suitably trained. In his oral evidence Lord Morrow advised that he was continuing to discuss the best way forward in relation to the Clause with the DHSSPS and appreciated its support for the inclusion of the Clause in the Bill.

358. Lord Morrow also expressed the view that the guardian should be someone independent of the Department of Health and the Health Trusts to ensure there is no conflict of interest. He was therefore proposing an amendment to Clause 12 to exclude an employee of a Health Trust from being a guardian.

359. **The Committee supported the concept of an independent Child Trafficking Guardian and agreed that it was content with Clause 12 as amended by Lord Morrow. It also noted that the Department of Health, Social Services and Public Safety was continuing to discuss this Clause with Lord Morrow and amendments may be needed to address potential issues with existing legislation.**

Clause 13

360. Clause 13 meets obligations of Article 12(4) and Article 15(3) and requires the police chief to ensure that there is no secondary victimisation of a victim (13a) and that special care is taken in the case of child victims (13b).

361. The International Justice Mission highlighted that it was vital to put practical measures in place which would minimise the risk of further distress to victims of human trafficking during any investigations and court proceedings. It agreed that the use of communication technologies, where possible, was necessary, as well as minimising the number of interviews a minor victim had to undergo. It stated that it had found in its work that victim testimony was often key in securing convictions, so measures to make this process easier for victims were to be embraced.

362. Women's Aid welcomed the inclusion of special measures for victims in criminal investigations. However it was of the view that the phrase 'as far as possible' in 13(a) significantly weakened the protections for victims, and that this needed to be strengthened. It advised that such special measures should be available as standard and without exception. It also advised that in 13(b)(vi), the choice to be accompanied by a person or support worker from a support organisation should be included, as should the right for the victim to be accompanied by someone of the same gender.

363. Equality Now proposed that, in addition to the measures outlined in Articles 12 and 15 of the European Directive on Trafficking in Human Beings, whenever possible, victims should be given the choice to be interviewed by law enforcement or prosecution professionals of the same sex, and staff that have received training on cultural diversity and/or staff from the same community.

364. The Law Centre (NI) supported Clause 13 and made some suggestions about wording the clause to ensure that all interviews are conducted in a 'child friendly' environment, only appropriately trained persons conduct interviews with children and that a child has a right to be accompanied by an appropriate adult during the interview.

365. On a more general point, it noted that Clause 13 could only protect victims from secondary victimisation that occurred during police interviews. As currently drafted, it could not provide protection during interviews conducted by immigration officials.

366. CARE in Northern Ireland (CARE) highlighted that Clause 13 was similar to sections 3 and 4 of the Trafficking People for Exploitation Regulations 2013 which were introduced by the British Government to make England and Wales compliant with the Anti-Trafficking Directive Articles 12 (4) and 15 (3). It stated that it was unfortunate that Northern Ireland had fallen behind England and Wales in this regard which it felt need not have happened had the Criminal Justice Bill made these provisions. It highlighted that the 2013 Regulations used

the word 'complainant' whereas Clause 13 used the word 'victim' since victim is defined in Clause 9.

367. Evangelical Alliance warmly welcomed the intention behind Clause 13 to prevent secondary victimisation and re-traumatisation. However, it questioned whether primary legislation was the best format in which to set out these measures. It asked whether there were already robust procedures and guidelines in place within the Police Service of Northern Ireland and through the Police Ombudsman to deal with these concerns and whether Clause 13 could be extended beyond trafficking into investigations concerning other forms of exploitation for example, domestic violence, abuse and intimidation.

368. The PSNI stated that the rights of the victim needed to be considered within the rights to a fair trial. It highlighted that existing procedures for Special Measure applications existed and stated that each case should be considered in isolation rather than a legislative blanket approach. Given the nature of trafficking, the PSNI was of the view that victims should be considered vulnerable and indicated that current procedures could continue to address this issue.

369. In its written evidence dated 29 October 2013, the Department of Justice highlighted that the Minister of Justice had intended to legislate in this area and the Minister was therefore supportive of the Clause 13 proposal. It was of the view that the Clause might benefit from an amendment to change all references to 'victims' to the correct criminal law terminology of 'the complainant'. The Department stated that it understood the sympathetic approach of referring to 'the victim' but, to maintain consistency with the regular use of the terminology 'the complainant' in criminal law, it was of the view that there would be merit in maintaining this consistent use in Clause 13. It highlighted that this would then require a consequential amendment to Clause 9 of the Bill which does not include a definition of 'complainant'.

370. In oral evidence officials advised that further technical amendments would be needed to change 'chief office of police' to 'Chief Constable' and 'professionals' to 'persons'.

371. In his oral evidence on 20 March 2014 Lord Morrow highlighted that he had reached agreement with the Department of Justice that "special measures" should be extended to victims of human trafficking during the investigation process as provided for by Clause 13. He also indicated that he was proposing amendments to the titles of Part 3 and the text of Clause 13 to replace "victim" with "complainant" and to include a definition of "the accused" and a "complainant" as used in the England and Wales Trafficking People for Exploitation Regulations 2013.

372. **The Committee supported the extension of the provision of special measures to victims of human trafficking during the investigation process and was content with Clause 13 subject to Lord Morrow's and the Department of Justice's proposed amendments.**

Clause 14

373. Clause 14 meets the obligations of Articles 12 and 15 to ensure victims of trafficking are supported and protected during criminal proceedings against traffickers. In Northern Ireland vulnerable witnesses are eligible for so-called "special measures" under the Criminal Evidence (Northern Ireland) Order 1999 (CENIO). Child victims of a sexual offence are automatically entitled to special measures under the CENIO. These clauses extend the provisions to trafficking for other types of exploitation.

374. Women's Aid supported the inclusion of Clause 14 in the Bill and in particular the presumption of being under 18 in ambiguous cases.

375. The Joseph Rowntree Foundation (JRF) welcomed the inclusion of support mechanisms for victims of forced labour. It highlighted that this Clause mirrored the text of the EU Anti-

Trafficking Directive and sought to ensure that protections outlined are available to all victims of human trafficking, whether subject to sexual exploitation or forced labour.

376. CARE advised that vulnerable witnesses were eligible for 'special measures' under the Criminal Evidence (Northern Ireland) Order 1999 (CENIO). It highlighted that victims of trafficking for sexual exploitation were automatically entitled to special measures under the CENIO. Clause 14 extended the provisions to trafficking for other types of exploitation and extended special measures for children in particular circumstances.

377. CARE was of the view that the special measures provided for by Clause 14 would make it much easier for trafficking victims, where there is no element of sexual exploitation, to act as witnesses in criminal trials. It highlighted that giving evidence at trial can be a stressful experience for witnesses and this could be especially so for trafficking victims, whatever form of exploitation they experienced. Consequently, it was of the view that any measures which help to make this process easier (without jeopardising the trial process) would be valuable. In particular, it felt the protection from having to give evidence in open court face to face with their abuser was a vital provision. It hoped that in making it easier for trafficking victims to give evidence in Court, this Clause would help the courts to secure more convictions of traffickers, an area where Northern Ireland and indeed the UK as a whole has not been strong up to now.

378. CARE recommended an amendment to change the word 'victim' to 'complainant' in Clause 14(c) so there is consistent use of terminology across the Criminal Evidence (Northern Ireland) Order 1999.

379. Equality Now proposed that in addition to the measures outlined in Articles 12 and 15 of the European Directive on Trafficking in Human Beings, whenever possible, victims should be given the choice to be interviewed by law enforcement or prosecution professionals of the same sex, and staff that have received training on cultural diversity and/or staff from the same community.

380. In its written evidence the Department of Justice highlighted that the Minister of Justice had intended to legislate in this area and the Minister was therefore supportive of the Clause 14 proposal. It was of the view that the Clause might benefit from similar amendments to those for Clause 13 to change all references to 'victims' to the correct criminal law terminology of 'the complainant'. It highlighted that this would then require a consequential amendment to Clause 9 of the Bill which does not include a definition of 'complainant'.

381. Officials also indicated that its current consultation on its proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences may impact on Clause 14 and, subject to the outcome, the Department may need to seek some further consequential amendment in due course.

382. Lord Morrow advised in his oral evidence on 20 March 2014 that he had reached agreement with the Department of Justice that "special measures" should be extended to victims of human trafficking during the court process. He also indicated that he was proposing an amendment to Clause 14 to change "victim" to "complainant" and noted that, following the outcome of the Department of Justice consultation, further amendments may be required to ensure that "special measures" apply to the appropriate offences.

383. **The Committee supported the provision of special measures to victims of human trafficking during the court process and was content with Clause 14 subject to Lord Morrow's proposed amendment to change 'victim' to 'complainant'. The Committee also noted that consequential amendments may be required following the outcome of the Department of Justice consultation on its proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences to ensure the Clause applies to the appropriate offences.**

Clause 15

384. Clause 15 obliges the Department of Justice to publish a strategy every year on raising awareness and reducing trafficking and slavery offences in co-operation with non-governmental organisations and other relevant organisations.

385. The evidence received indicated widespread support for this Clause.

386. Banbridge Policing and Community Partnership (PCSP) highlighted that information sharing, data protection and collaborative working across agencies continued to present challenges at strategic and operational levels as demonstrated through recent child protection inquiries throughout the UK and beyond. It encouraged guidance measures at policy level to support discussion and exploration on best practice on how best to safeguard sensitive information and yet ensure effective communication amongst agencies and professionals to best safeguard rights and support criminal investigations.

387. Banbridge PCSP suggested that Policing and Community Safety Partnerships could positively assist as a delivery mechanism in raising awareness of human trafficking and to highlight some of the prevention measures and local strategy measures that are being employed to tackle this issue. It pointed out that within the NI Community Safety Strategy there was a focused target on encouraging reporting of crime and criminal activity. In light of this, it was of the view that PCSPs were well placed to support enhanced reporting on human trafficking.

388. CARE was of the view that the production of a strategy would help ensure that Northern Ireland was compliant with the spirit of Article 18 of the European Directive on Trafficking in Human Beings and Article 35 of the European Convention on Action against Trafficking. It felt this would be helpful in focusing the Department of Justice on tackling human trafficking and slavery offences and holding it to account if it failed to take effective action on these issues, and to co-operate with non-governmental organisations, other relevant organisations and members of civil society in establishing strategic partnerships.

389. It highlighted that raising awareness of human trafficking was one of the recommendations in the GRETA report. That report also raised concerns about data collection on human trafficking including the lack of reliable data on adult and child victims of trafficking in Northern Ireland and mentioned in particular that there was no central data collection and analysis point.

390. CARE welcomed the publication of a non-statutory human trafficking action plan in May 2013 by the Minister of Justice but felt that it would be better if the report was required in statute as the present position left it open for a decision to be taken to withdraw the annual action plan without any scrutiny from the Assembly. It also highlighted that the strategy would cover slavery offences where there is no element of trafficking.

391. Contemporary Christianity viewed the publication of an annual strategy as a positive measure to ensure a continual role for the Department of Justice to raise awareness of and to consider ways to reduce trafficking. However, it highlighted that the wording was wide and the level of the requirements was left open to speculation.

392. The European Women's Lobby felt that prevention should include reporting on the measures prohibiting paying for sexual services of a person. It also felt that sustainable and adequate funding for prevention activities, as well as for services to support and assist persons in prostitution and victims wishing to exit the system of prostitution should be included. It strongly welcomed the involvement of NGOs in the elaboration of strategies to raise awareness and reduce prostitution and trafficking.

393. Evangelical Alliance welcomed the requirement to produce and publish a strategy. It did not express a view on how often the strategy should be published but felt that it was important that there was flexibility to respond to changing trends in trafficking. It also felt that it was essential that the strategy reflects up-to-date figures to give the best picture possible of the number of victims, traffickers and users involved so that resources could be diverted

effectively. It highlighted that figures on the number of people reached through awareness-raising efforts were also important to shape the effectiveness of future strategies.

394. It suggested that a strategy to raise awareness around human exploitation should not be strictly limited to trafficking and slavery i.e. grave abuses of freedom, human rights and the dignity of the person. It suggested that raising awareness of these issues presented an even greater opportunity when engaging with the public or training frontline workers.

395. Evangelical Alliance proposed that any training and awareness-raising begins with a framework around the dignity of the human person and why these issues matter. It felt that this consistent context and framework could help change our culture to one where any exploitation of another person becomes much more difficult and unacceptable. It was of the view that awareness training could be given on recognising signs around a whole range of other issues such as domestic violence, abuse, bullying etc.

396. The Joseph Rowntree Foundation (JRF) welcomed the inclusion of an annual action plan within the legislation and felt that enshrining this commitment in law would ensure a guaranteed commitment from the Department of Justice in future.

397. It noted that since its response to Lord Morrow's consultation in October 2012 much progress had been made. It further noted that the Department of Justice had already committed to publishing an Annual Action Plan and it welcomed its first plan published in May 2013. It particularly welcomed the Action Plan's commitment to ensure a victim-centred approach to human trafficking across the criminal justice system and its review of measures for trafficked victims of labour exploitation in Employment Tribunals in conjunction with DEL and the PPS. It was also encouraged to see that the annual strategy included a data collection element. It felt that it was vital for this to continue to enable incidences of human trafficking and forced labour to be monitored and to track progress. It also welcomed that Clause 15 extended the scope of the action plan to include co-operation with non-governmental organisations and other relevant organisations.

398. JRF was of the view that any strategy to prevent forced labour/trafficking for labour exploitation needed to look at working with the private sector. It felt that it would also be important to consult with businesses about prevention methods (reducing demand for labour exploitation) and what works in terms of raising awareness within the private sector.

399. The Law Centre (NI) welcomed the duty on the Department of Justice to publish a strategy every year. It noted and commended the Department's Action Plan which was published in May 2013, and was of the view that this could be a useful template for a strategy under Clause 15.

400. During her oral evidence Parosha Chandran, Barrister at Law, referred to the fact that no police force had been accountable in a number of cases she was aware of, in which forced labour had been present. She suggested that a potential prevention strategy might be to request that there be performance targets in police stations for the investigation of forced labour and trafficking forced labour offences.

401. Women's Aid, in keeping with the Government's approach to domestic and sexual violence, recommended an accompanying action plan with the proposed strategy, and suggested that a new strategy each year was not necessary but that the strategy could be updated annually. It also recommended that there should be regular reporting on the workings of Clause 6 and whether there had been successful decriminalisation of those in prostitution. While it noted that this was alluded to within Clause 6, it regarded such reporting as ongoing and not merely something to complete once after 3 years. It strongly urged that such reporting be incorporated into an action plan and reported on annually after the initial 3 year report.

402. The PSNI indicated in its written evidence that it supported the publication of a three to five year Northern Ireland strategy to complement the UK Strategy on raising awareness and prevention of human trafficking would assist in this area, and should be developed further

within current existing structures. However it thought the strategy could be adopted as best practice rather than be placed on a statutory footing.

403. The Department of Justice advised that the statutory requirement to publish an annual strategy would in effect replace the Department's current non-statutory commitment to the production of an annual Human Trafficking Action Plan and it was content with the intended effect of the Clause.

404. The Department highlighted in its oral and written evidence that agreement had been reached with Lord Morrow that Clause 7(i) should be removed from the Bill and the provisions should be covered in Clause 15, in that the strategy must include matters relating to training, investigation and prosecution. The Department advised that an amendment to this effect would be brought forward. The Department further advised that its amendment would also require that the annual human trafficking strategy must include matters relating to raising awareness of the rights and entitlements of victims of human trafficking across the criminal justice system to address concerns relating to the non-prosecution of victims of human trafficking who have been compelled to commit an offence as a consequence of being a victim of trafficking.

405. Lord Morrow, the Bill Sponsor, indicated that he was supportive of the Department's proposal to include awareness of the issues around non-prosecution of victims of human trafficking who have been compelled to commit an offence as a consequence of being a victim of trafficking. He was also content that the Clause was amended to ensure the annual strategy covers matters related to training, investigation and prosecution.

406. **The Committee was content with the intention to place a statutory requirement on the Department of Justice to publish a strategy to raise awareness of, and contribute to, the reduction of human trafficking and slavery offences. It also noted that, with the agreement of Lord Morrow, Bill Sponsor, the strategy would also cover matters relating to training, investigation and prosecution and raise awareness of the rights and entitlements of victims of human trafficking.**

407. **The Committee agreed it was content with Clause 15 subject to the amendments proposed by the Department of Justice.**

Clause 16

408. Clause 16 obliges the Department of Justice to establish an independent body to report to the Assembly on the performance of this Act and on other related matters to human trafficking and slavery. This will meet the demands of Article 19 (National Rapporteurs or equivalent mechanisms).

409. The Law Centre (NI) was supportive of the concept of an oversight mechanism and felt that it was necessary given that there are no appeal rights within the trafficking process and as a result there is very limited judicial scrutiny of decisions. It felt that whatever form the oversight mechanism would take, the terms of reference should encompass forced labour in its widest sense including human trafficking. It recommended that the person/body must have an entirely independent function, a wide remit, strong investigative powers and should be able to hold the Executive and agencies to account. It also felt that it was essential that the remit of the person/body would go beyond transferred matters in order to have traction with the Home Office. It highlighted that the Home Office plays a crucial role in the trafficking process: it regularly acts as a First Responder; it is the decision maker for victims who are subject to immigration control; and it is responsible for taking enforcement action against those who are not eligible to remain in the UK. While it recognised that immigration was a reserved matter, it felt it was of vital importance that the rapporteur/commissioner would be able to scrutinise the Home Office's functions in respect of victims identified in Northern Ireland.

410. CARE highlighted that the Inter-departmental Ministerial Group (IDMG) on Human Trafficking had been acting as the UK's National Rapporteur. It noted that whilst this might technically meet the demands of the EU Directive on Trafficking in Human Beings it was generally recognised that Rapporteurs should be independent of the body they are overseeing. It noted that there was now independent NGO representation on the IDMG but this was still not enough to meet the spirit of the requirements for a National Rapporteur.

411. CARE felt that Clause 16 would ensure that an independent body in Northern Ireland would be able to hold the relevant Departments to account. It recognised that the Rapporteur was required at a national level, not a regional level, but it highlighted that the Northern Ireland Assembly could not legislate for the whole of the UK.

412. CARE was cognisant of the Home Secretary's announcement in August 2013 that there should be a Modern Slavery Commissioner for the United Kingdom and that this would be introduced through a Modern Slavery Bill for England and Wales. In CARE's view it was important that a rapporteur was providing independent scrutiny of the work of the PSNI and relevant departments in Northern Ireland. It stated that if it could be shown that it would be better if this was provided for the whole of the UK, it would be supportive of that. It was of the view that Clause 16 should be retained until more detail is confirmed of how this Commissioner would work in the Northern Ireland context.

413. Deirdre O'Reilly also felt it would be helpful if a body was appointed to oversee the work of Government agencies and report to the Northern Ireland Assembly on the trafficking/slavery situation. She noted that while the UK Government had indicated that it planned to introduce a Modern Slavery Commissioner, the responsibilities of such a post had not yet been clarified and there was no definite time-scale given for the implementation of this plan. In light of this she felt that, at least in the meantime, there should be a body such as a Northern Ireland Rapporteur, independent of Government, to report to the Assembly on the situation.

414. Parosha Chandran, Barrister at Law, highlighted that the US State Department's Trafficking in Persons Report monitors each country for compliance with trafficking standards under prosecution, prevention and protection of victims. She suggested that, if there were to be a separate monitoring body such as a commissioner or other, that type of tripartite focus would be relevant and enable quite deliberate attention to the balance or imbalance between the three. She noted that the Palermo protocol made it clear that all three elements are critical to effectively combating human trafficking and highlighted that it would not be done by legislation, assistance to victims or prevention strategies alone.

415. The Presbyterian Church In Ireland stated that, given the international nature of trafficking, it would be much more supportive of a UK-wide rapporteur on human trafficking rather than one limited to this work in Northern Ireland only.

416. The PSNI stated that it did not support the appointment of an independent body as the existing oversight arrangements in Northern Ireland for the PSNI and other parties in the justice sector was sufficient.

417. The Police Superintendents' Association of Northern Ireland agreed stating that the establishment of a Northern Ireland Rapporteur would not represent an efficient use of public funds and the existence of the Northern Ireland Policing Board, Criminal Justice Inspection Northern Ireland and various Assembly Departmental Committees ensured there were sufficient oversight bodies and accountability mechanisms already in place.

418. In written and oral evidence, the Minister of Health, Social Services and Public Safety indicated that he viewed Clause 16 as unnecessary. His opposition was solely based on the fact that the current system had a range of checks and balances, as well as scrutiny and challenge mechanisms, including regulation and inspection bodies, of which there are many in the Health and Social Care Sector, and he felt that an independent rapporteur would add a further unnecessary layer of bureaucracy. He stated that there were already sufficient

mechanisms in place to account for how the needs of both current and future victims of human trafficking are responded to.

419. In its written submission dated 29 October 2013, the Department of Justice highlighted that Clause 16 would place a requirement on it to establish an independent body to act as a Northern Ireland Rapporteur and to report to the Assembly on the performance of the Act and related matters. The Minister of Justice agreed that effective monitoring and accountability arrangements should be in place in respect of his Department's response to human trafficking and had indicated that he wanted to identify the best solution for Northern Ireland. However, he was concerned that the model proposed may not be the most effective way to deliver this. The Minister was particularly concerned that sight is not lost of the international obligations under the EU Directive in respect of a National Rapporteur for the whole Member State.

420. The Department advised that the Inter-Departmental Ministerial Group on Human Trafficking had been discussing a proposal to establish a UK-wide Anti-Slavery Commissioner to perform the functions of the national rapporteur for the UK Member State and was of the view that the arguments for a Commissioner needed further consideration and consultation. It stated that the Minister's assessment was that a broader-based, UK-wide Commissioner would bring a wider perspective, which should add more value than a regional rapporteur, particularly given the global nature of trafficking. In addition, a UK-wide Commissioner would be able to look comprehensively at the actions of all of the organisations and agencies operating in Northern Ireland, including those for whom responsibility has not been devolved such as the Home Office, National Crime Agency, UK Human Trafficking Centre, and Gangmasters Licensing Authority. The Department highlighted that a Northern Ireland rapporteur could not have statutory power to consider these organisations, which it believed would limit its value, particularly given the joined-up, multi-agency response to human trafficking that is provided under the Organised Crime Task Force. The Department also indicated that there were local accountability arrangements to monitor the justice system's anti-trafficking efforts and arrangements through the Criminal Justice Inspection Northern Ireland (CJINI).

421. The Department outlined developments in neighbouring jurisdictions in relation to human trafficking which may have a bearing on this Bill, most notably, the Home Secretary's plans for a Modern Slavery Bill and, in Scotland, the introduction of the Criminal Justice (Scotland) Bill. In particular, it highlighted that the proposal for an Anti-Slavery Commissioner in the draft Modern Slavery Bill should have a direct read across to consideration of the proposal for a Northern Ireland Rapporteur. The Minister's view was that a broader UK-wide Commissioner would be preferable both in terms of the establishment of effective accountability arrangements and value for money and he intended to consult on the issue when the details were available.

422. In its more recent correspondence the Department reiterated the Minister's view that a more effective approach would be to extend the remit of a United Kingdom-wide Anti-Trafficking Commissioner (which the Modern Slavery Bill would establish) to cover Northern Ireland and he therefore intend to oppose the inclusion of Clause 16 in the Bill. He believes that on balance the breadth of the issue is global rather than local and points to a UK-wide Commissioner.

423. During oral evidence officials indicated that the Minister had made it clear to the Home Office that he expected to have a role in the appointment of such a Commissioner and in setting their terms of reference. Any reports would also have to be made to the Assembly and the Minister of Justice.

424. Lord Morrow, the Bill Sponsor, in his written evidence dated 18 March 2014 highlighted that since he introduced his Bill the draft Modern Slavery Bill had proposed an Anti-Slavery Commissioner which the Department of Justice proposed to extend to Northern Ireland. He acknowledged that there was a good argument for a national rapporteur to operate on a UK wide level. However, he stated that he was unwilling to commit to removing Clause 16 until

more detail was available on how the Anti-Slavery Commissioner would operate in Northern Ireland. He was particularly concerned by the fact that, as currently drafted, the proposed Commissioner would only consider law enforcement and not areas such as victim support which his proposed Rapporteur would have the power to do. He highlighted the importance of a Rapporteur who would consider effectively the needs of Northern Ireland and its particular challenges including the land border with the Republic of Ireland.

425. **The Committee met with the Swedish National Rapporteur when it visited Stockholm and took the opportunity to discuss the role, remit and benefits of having such an individual in post. Members were supportive of the principle of having an independent body to monitor and report on the response to human trafficking in Northern Ireland. While recognising there may be an opportunity to extend the remit of the Anti-Slavery Commissioner to cover Northern Ireland the Committee wanted to examine in more detail how this would operate and the extent to which it would meet the particular needs and requirements of this jurisdiction.**

426. **The Committee agreed that it was content with Clause 16. Noting that the remit of the Anti-Slavery Commissioner, which would be created by the draft Modern Slavery Bill, could be extended to Northern Ireland, the Committee indicated that it would consider the matter further when there is clarity on the position regarding such a Commissioner and the likely remit and responsibilities.**

Part 5 – General

427. Clauses 17 to 19 set out definitions and commencement information.

Clause 17

428. Clause 17 sets out interpretation so: Clause 17(2) - a child is defined as being under the age of 18 in the same way as a child is defined in the Children (NI) Order 1995; Clause 17(3) - if the age of the person is uncertain and there is reason to believe they are a child, they shall be treated as a child.

429. Both the Northern Ireland Commissioner for Children and Young People and Woman's Aid Federation in their written evidence welcomed the fact that the Bill clearly defined children as being under 18 and Women's Aid supported in particular the presumption of a victim being a child where there is uncertainty. The Commissioner for Children and Young People also recommended that consideration should be given to providing particular protections for young people up to the age of 21 years where they are care experienced or have a disability.

430. In its written submission dated 19 March 2014, the Department of Justice advised that it intended to table a technical amendment to Clause 17(2) to simplify the definition of a "child" under the Bill. Lord Morrow, Bill Sponsor, confirmed in his letter dated 18 March 2014, that he was content with the Department's proposed amendment.

431. **The Committee agreed that it was content with Clause 17 subject to the proposed amendment from the Department of Justice to clarify the definition of a child.**

Clause 18

432. Clause 18 states that orders under this Bill will be made by negative resolution.

433. No comments on Clause 18 were received in the written evidence from stakeholders.

434. Lord Morrow MLA, Bill Sponsor, indicated in his letter dated 18 March 2014 that, having considered comments made by the Assembly Examiner of Statutory Rules, he proposed to

amend Clause 18 to make it clear that as Clause 12(7) (a) and Clause 16 stand, they should be subject to the draft affirmative procedure. Other orders would be subject to the negative resolution procedure except for the Commencement Order in Clause 19. He also highlighted that further amendments may be necessary in light of any changes that occur to Clauses 12 and 16.

435. The Department of Justice has indicated that minor technical amendments to Clause 18 will be necessary if Clause 16 was to fall from the Bill.

436. **The Committee agreed that it was content with Clause 18 subject to Lord Morrow's proposed amendment to make it clear that as Clause 12(7)(a) and Clause 16 stand, they should be subject to the draft affirmative procedure.**

Clause 19

437. Clause 19 sets out the title of the Act and that it will come into force as determined by the Department of Justice.

438. The Department of Justice indicated in its written evidence 26 February 2014 that it did not wish to propose any amendments to Clause 19. However in its written evidence dated 19 March 2014 it indicated that it intended to table two amendments to ensure that the power to make Commencement Orders under the Bill comes into operation before that power is exercisable and to reflect drafting conventions within the Northern Ireland Assembly in relation to the Short Title.

439. The Attorney General highlighted in his letter dated 11 March 2014 and in his oral evidence to the Committee that Clause 19 confers power over commencement on the Department of Justice. He suggested that the Assembly might want to make provisions in the Bill for its commencement on Royal Assent or on another fixed date or dates without reference to action by the Department of Justice. He pointed out that this would avoid placing the Department in the position of having to decide when to commence provisions with which it is not in policy agreement.

440. **In light of the Attorney General's comments, Members expressed the view that it would be preferable to remove the requirement to commence the Bill from the Department of Justice and agreed that a draft amendment to Clause 19 should be prepared to make provision for the Bill to commence on Royal Assent.**

441. **The Committee subsequently considered the wording of an amendment to make provision for the Bill to commence on Royal Assent and also discussed whether a better approach would be to build in some time to enable those Departments and organisations that would be responsible for the implementation of the provisions of the Bill to develop the necessary measures and procedures, particularly in relation to support services and training. Members indicated a preference to build in a short time period between Royal Assent and commencement of the Bill and agreed this should be three months. A draft amendment to Clause 19 to commence the Bill three months after it receives Royal Assent was therefore prepared and the Committee agreed the wording of the amendment at its meeting on 8 April 2014.**

Proposed New Provisions for Inclusion in the Bill

442. Four proposals for new provisions were brought to the attention of the Committee during the Committee Stage of the Bill. Three provisions were proposed by Lord Morrow and one by the Department of Justice.

Forced Marriage

443. In his letter dated 11 March 2014, Lord Morrow advised the Committee that he had received a request from the Minister for Finance and Personnel to include a new offence of forced marriage as part of the Bill. Lord Morrow indicated that he was content for the offence, which is to be enacted in England, Wales and Scotland, to be included in his Bill.

444. The Committee briefly considered the proposed new provision at its meeting on 13 March 2014, and agreed to request information on the background to and rationale for the new offence and the wording of the draft clause from the Department of Finance and Personnel.

445. The Committee received further information from Lord Morrow on the new offence in his letter dated 18 March 2014. He outlined that the offence of forced marriage was part of the Westminster Anti-Social Behaviour and Policing Act 2014 which had recently received Royal Assent and introduced a new offence of forcing someone to marry against their will. Lord Morrow highlighted that Northern Ireland was now out of step with the rest of the UK and, in his view, action needed to be taken to make the law consistent across the UK.

446. **The Committee was supportive of the inclusion of the new provision in principle and agreed to give further consideration to the detail of the proposed new offence once further information had been received from the Department of Finance and Personnel.**

Support Services for Exiting Prostitution

447. The Committee considered a proposed new provision from Lord Morrow which would provide support services for those who wish to exit prostitution.

448. Lord Morrow outlined during his oral evidence to the Committee on 20 March 2014, that numerous parties, including Women's Aid and Ruhama, had made it clear that for the Bill to be effective an exit strategy had to be built in for those who wish to exit prostitution.

449. The Committee discussed with him the estimated costs associated with the implementation of an exit strategy for those who wished to leave prostitution, the assumptions they were based on, and the range of Departments and organisations who may be involved in the implementation, and provision of the support services.

450. The Committee agreed to write to the Departments of Justice, Education, Social Development, and Health, Social Services and Public Safety to request their views on the new proposal in order to assist its consideration of the detail of the proposed support services package.

451. **The Committee was supportive of the intent of the new provision, recognising the need for a support mechanism to be put in place had been highlighted by the Oireachtas Joint Committee on Justice, Defence and Equality and a range of organisations who work with trafficked victims and those in prostitution. The Committee indicated that it would give further consideration to the provision when the views of the various Departments had been received.**

Slavery offence to be triable only on indictment

452. In his written evidence date 18 March 2014, Lord Morrow provided details of a new Clause 3A which would allow a two year minimum sentence for slavery offences by removing the option of a summary offence in section 71 of the Coroners and Justice Act 2009. Lord Morrow noted that this new clause may not be needed depending on the outcome of the Department of Justice's consultation on its proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences.

453. **The Committee noted the proposal.**

Time limit for prosecution of offences under Article 64A of the Sexual Offences (Northern Ireland) Order 2008

454. In its written evidence dated 7 April 2014, the Department of Justice advised that should Clause 6 not stand part of the Bill, then it would introduce a new Clause 6A to amend Article 64A of the Sexual Offences (Northern Ireland) Order 2008. It outlined that Article 64A makes it an offence to pay for the sexual services of a prostitute who is subjected to force or any form of coercion or exploitation. The new Clause 6A would extend the time limit for prosecution of offences under Article 64A of the Sexual Offences (Northern Ireland) Order 2008 from six months to three years. The Department clarified that the new Clause 6A would not be moved if Clause 6 stands part of the Bill.

455. **The Committee noted the proposal.**

Clause by Clause Consideration of the Bill

456. Having considered the written and oral evidence received on the Bill, the Committee deliberated on the clauses of the Bill at its meetings on 20 and 27 March and undertook its formal clause-by-clause consideration at its meetings on 3 and 8 April.

457. Some Members indicated that they wished to reserve their position in relation to a number of the Clauses, in particular Clause 4 which would introduce a minimum sentence for human trafficking and slavery offences, and Clause 6 which would criminalise the purchase of sexual services.

458. Information on the Committee's deliberations on the individual clauses in the Bill can be found in the previous section of this report.

Clause 1 - Definition of human trafficking and slavery offences

459. Agreed: the Committee is content with Clause 1 as drafted.

460. The Committee noted that, depending on the results of the Department of Justice consultation on its proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences, changes may be required.

Clause 2 - Consent irrelevant for victim of human trafficking or slavery offences

461. Agreed: the Committee is content with Clause 2 subject to Lord Morrow's proposed amendment as follows:

Clause 2, Page 1, Line 14

Leave out from 'where' to end of line 6 on page 2

462. The Committee noted that a consequential amendment may be needed to this clause if the proposed clause 2 (2) of the Modern Slavery Bill is enacted in a similar way in Northern Ireland following the Department of Justice consultation.

Clause 3 - Aggravating factors

463. Agreed: the Committee is content with Clause 3 subject to the Department of Justice's proposed amendments as follows:

Clause 3, Page 2, Line 13

Leave out 'family member' and insert 'member of the family'

Clause 3, Page 2, Line 15

Leave out 'a victim who was'

Clause 3, Page 2, Line 17,

Leave out 'the victim's family' and insert 'a member of the family of the victim'

Clause 3, Page 2, Line 19

Leave out 'offence' and insert 'offender'

Clause 3, Page 2, Line 21

Leave out 'was committed by use of serious violence or'

Clause 3, Page 2, Line 24

At end insert 'or has previously been convicted in respect of anything done outside Northern Ireland which is not such an offence but would be such an offence if done in Northern Ireland'

Clause 3, Page 2, Line 26

Leave out '29' and insert '28'

Clause 3, Page 2, Line 27

At end insert

' "public official" means

(a) a member of the Northern Ireland civil service or the United Kingdom civil service;

(b)a person employed by a body established by an Act of Parliament or by Northern Ireland legislation;

(c)the holder of an office established by an Act of Parliament or by Northern Ireland legislation;

(d)a police officer.'

Clause 3, Page 2, Line 30

Leave out from 'means' to end of Line 34 and insert 'means a person aged 18 or over whose ability to protect himself or herself from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, old age, addiction to alcohol or drugs or for any other reason.'

Clause 3, Page 2, Line 34

At end insert –

'(3) For the purposes of this section a person is a member of the victim's family if the relation of that person to the victim is within Article 34 of the Sexual Offences (Northern Ireland) Order 2008.'

Clause 4 - Minimum sentence for human trafficking and slavery offences

464. Agreed: the Committee is content with Clause 4 subject to Lord Morrow's proposed amendments as follows:

Clause 4, Page 2, Line 37

After offence 'insert' and that individual was aged 18 or over when the offence was committed'

Clause 4, Page 2, Line 41

At end insert –

'() The Court shall not exercise its power under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to a sentence which it is required to impose under subsection (2).'

Clause 4, Page 3, Line 1

At start insert –

( ) If a court considers that there are exceptional circumstances which justify the imposition of a lesser sentence than that provided for under subsection (2), the court must give its reasons for considering exceptional circumstances to exist and record those reasons in the order book.

Clause 4, Page 2, Line 41

At end insert

'(2B) In section 36 (review of sentencing) of the Criminal Justice Act 1988 after subsection (9)(c) insert

"(d) subsection (2)(b) shall be read as if it included a reference to a sentence required by section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.".

(2C) The Criminal Justice (Northern Ireland) Order 1996 is amended as follows

(a) in Article 2(9) (interpretation of references to sentences falling to be imposed under various statutory provisions) after "2006" insert "or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014";

(b) in each of

- *(i) Article 4(1) (power to discharge defendant except in specified circumstances),*
- *(ii) Article 10(1) (power to impose probation order except in specified cases),*
- *(iii) Article 13(1) (power to impose community service order except in specified cases),*
- *(iv) Article 15(1) (power to impose combination order except in specified circumstances),*

after "2008" insert "or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014".

(2D) In the Criminal Justice (Northern Ireland) Order 2008

(a) in Article 5 (restrictions on imposing certain custodial sentences) in paragraph (1)(b) omit "or" at the end add of paragraph (ii) and after paragraph (iii) add

"(iv) section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.";

(b) in Article 7 (length of custodial sentence) in paragraph (3) at the end add

"(c) section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014."

465. Some Members indicated that they had broad concerns about the inclusion of minimum sentences in legislation.

Clause 5 - Amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

466. Agreed: the Committee is content with Clause 5 as drafted.

467. The Committee noted that, subject to the results of the Department of Justice consultation on a proposal for a new consolidated offence of human trafficking, which would result in the repeal of Section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, this Clause could become redundant. It further noted that if Clause 5 remains, a number of technical amendments may be necessary.

Clause 6 - Paying for sexual services of a person

468. Agreed: the Committee is content with Clause 6 subject to Lord Morrow's proposed amendments as follows:

Clause 6, Page 3, Line 26

At end insert-

'(1A) In Article 58 (Interpretation of this Part) at the end of paragraph (3) insert "other than in Article 64A".'

Clause 6, Page 3, Line 31

Leave out 'over the age of 18'

Clause 6, Page 3, Line 35

After 'to' insert 'imprisonment for a term not exceeding six months or'

Clause 6, Page 3, Line 36

After 'scale' insert ', or both'

Clause 6, Page 3, Line 37

At start insert 'on conviction on indictment'

Clause 6, Page 3, Line 41

Leave out '(including sexual services)'

Clause 6, Page 3, Line 41

At end insert -

'(3A) No offence is committed under this article unless the sexual services that are provided or are to be provided by B to A involve—

(a) B being physically in A's presence,

(b) B touching A or A touching B, and

(c) the touching is sexual.'

Clause 6, Page 4, Line 4

Leave out 'must raise awareness of this offence' and insert 'shall conduct an advertising campaign to ensure public awareness of the change effected by this section'

469. Some Members indicated that they had not reached a definitive view on this Clause.

Clause 7 - Requirements and resources for investigation or prosecution

470. Agreed: the Committee is content with Clause 7 subject to the Department of Justice's proposed amendments as follows:

Clause 7, Page 4, Line 10

Leave out subsection (1)

Clause 7, Page 4, Line 19

Leave out 'wherever the offence takes place'

Clause 8 - Non prosecution of victims of trafficking in human beings

471. Agreed: the Committee is not content with Clause 8 as drafted.

472. The Committee expressed its support for the principles underlying Clause 8 and wished to consider the findings of the Joint Committee in Westminster which is currently considering the question of how non-prosecution of victims should be dealt with as part of its scrutiny of the draft Modern Slavery Bill.

Clause 9 - Victim of trafficking in human beings

473. Agreed: the Committee is content with Clause 9 subject to Lord Morrow's proposed amendments as follows:

Clause 9, Page 5, Line 4

Leave out 'and Part 3'

Clause 9, Page 5, Line 19

Leave out lines 19 and 20

474. The Committee noted the intention of the Department of Justice to bring forward amendments to clarify the definitions of victims of human trafficking in relation to the distinct roles and responsibilities of both the Department of Justice and the Department of Health, Social Services and Public Safety in providing support to victims and potential victims of human trafficking. The Committee is content in principle with this approach and will consider the wording of the amendments when available.

Clause 10 - Requirements for assistance and support

475. Agreed: the Committee is content with Clause 10 as drafted.

476. The Committee noted the intention of the Department of Justice and the Department of Health, Social Services and Public Safety to bring forward amendments which will set out the respective functions and responsibilities of each Department in relation to the assistance and support to be provided to victims of human trafficking. The Committee is content in principle with this approach and will consider the wording of the amendments when available.

Clause 11 - Compensation for victims of trafficking

477. Agreed: the Committee is content with Clause 11 subject to the Department of Justice's proposed amendment as follows:

Clause 11, Page 6, Line 19

Leave out from ', by order' to end of line 25 and insert

'issue guidance as to

(a)the procedures to be followed by a victim of human trafficking to apply for compensation under the Criminal Injuries (Compensation) (Northern Ireland) Order 2002;

(b)the grounds on which compensation may be awarded under that Order; and

(c)the arrangements available to assist and support a victim of human trafficking in applying for such compensation.'

478. The Committee indicated that it would seek a commitment from the Minister of Justice during Consideration Stage to consult the Committee on the draft guidance and take full account of its views.

Clause 12 - Child trafficking guardian

479. Agreed: the Committee is content with Clause 12 subject to Lord Morrow's proposed amendment as follows:

Clause 12, Page 7, Line 16

At end insert 'except for an employee of a Health and Social Care trust'

Clause 13 - Protection of victims in criminal investigations

480. Agreed: the Committee is content with Clause 13 subject to Lord Morrow's and the Department of Justice's proposed amendments as follows:

Amendment to Title of Part 3

Clause 13, Page 8, Line 3

Leave out 'investigation' and insert 'investigations'

Amendments to Clause 13

Clause 13, Page 8, Line 2

Leave out 'victims' and insert 'complainants'

Clause 13, Page 8, Line 4

Leave out 'victims' and insert 'complainants'

Clause 13, Page 8, Line 6

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 9

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 12

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 14

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 15

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 16

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 18

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 20

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 23

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 24

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 27

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 27

Leave out 'victim's' and insert 'complainant's'

Clause 13, Page 8, Line 29

At end insert -

'(2) In this section—

"the accused" means a person who is alleged to have committed, or has committed, a human trafficking offence;

"complainant" means a person against or in relation to whom a human trafficking offence is alleged to have been committed, or has been committed.'

Clause 13, Page 8, Line 6

Leave out 'chief officer of police' and insert 'Chief Constable'

Clause 13, Page 8, Line 21

Leave out 'professionals' and insert 'persons'

Clause 14 - Amendments to the Criminal Evidence (Northern Ireland) Order 1999

481. Agreed: the Committee is content with Clause 14 subject to Lord Morrow's proposed amendment as follows:

Clause 14, Page 9, Line 2

Leave out 'victim' and insert 'complainant'

482. The Committee noted that a consequential amendment may be required following the Department of Justice consultation on its proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences.

Clause 15 – Prevention

483. Agreed: the Committee is content with Clause 15 subject to the Department of Justice's proposed amendment as follows:

Clause 15, Page 9,

Leave out lines 27 to 30 and insert

'15.(1) The Department shall, at least once in every year, publish a strategy on humantrafficking and slavery offences.

(2) In drawing up the strategy the Department must

(a)consult with other relevant organisations; and

(b)have regard to views expressed by such organisations.

(3) The purpose of the strategy is to

(a)raise awareness of human trafficking and slavery offences in Northern Ireland;

(b)contribute to a reduction in the number of such offences.

(4) The strategy shall in particular

(a)set out arrangements for co-operation between relevant organisations in dealing with human trafficking or slavery offences or the victims of such offences;

(b)include provision as to the training and equipment of those involved in investigating or prosecuting human trafficking or slavery offences or dealing with the victims of such offences;

(c)include provisions aimed at raising awareness of the rights and entitlements of victims of such offences.

(5) In this section "relevant organisation" means any body, agency or other organisation with functions or activities relating to human trafficking or slavery offences or the victims of such offences.

Clause 16 - Northern Ireland Rapporteur

484. Agreed: the Committee is content with Clause 16 as drafted.

485. The Committee noted that the remit of the Anti-Slavery Commissioner, which would be created by the Modern Slavery Bill, could be extended to Northern Ireland and indicated that it would consider the matter further when there is clarity on the position regarding this Commissioner.

Clause 17 - General interpretation

486. Agreed: the Committee is content with Clause 17 subject to the Department of Justice's proposed amendment as follows:

Clause 17, Page 10, Line 1

Leave out from 'shall' to end of line 2 and insert 'means a person under the age of 18.'

Clause 18 – Orders

487. Agreed: the Committee is content with Clause 18 subject to Lord Morrow's proposed amendment as follows:

Clause 18, Page 10, Line 7

Leave out lines 7 and 8 and insert -

(1) Except as provided by subsections (2) and (3), orders made under this Act are subject to negative resolution.

(2) No order shall be made under section 12(7)(a) and section 16 unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(3) Subsection (1) does not apply to an order under section 19.

Clause 19 - Short title and commencement

488. Agreed: the Committee is content with Clause 19 subject to its proposed amendment as follows:

Clause 19, page 10, line 12

Leave out from 'in' to 'order' on line 13 and insert-

'3 months after Royal Assent'

Long Title

489. Agreed: the Committee is content with the Long Title of the Bill

Northern Ireland Assembly

Appendix 1

Minutes of Proceedings (Extracts)

Appendix 1 Minutes of Proceedings (Extracts)

- 12 September 2013
- 26 September 2013
- 17 October 2013
- 7 November 2013
- 14 November 2013
- 21 November 2013
- 28 November 2013
- 5 December 2013
- 10 December 2013
- 9 January 2014
- 16 January 2014
- 30 January 2014
- 6 February 2014
- 13 February 2014
- 20 February 2014
- 6 March 2014
- 20 March 2014
- 27 March 2014
- 3 April 2014
- 8 April 2014
- 10 April 2014

Thursday 12 September 2013
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Stewart Dickson MLA
Mr Alex Easton MLA
Mr Tom Elliott MLA
Mr Seán Lynch MLA
Mr William Humphrey MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Ms Roisin Donnelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Patsy McGlone MLA

2.03 p.m The meeting commenced in public session.

4. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Briefing by Lord Morrow

Lord Morrow MLA, Mr Mark Baillie, Public Policy Officer, CARE NI, Dr Dan Boucher, Director of Parliamentary Affairs, CARE and Ms Gunilla Ekberg, Policy Advisor to the Swedish Government, joined the meeting at 2.10 p.m.

Lord Morrow outlined the key principles of his Bill and the issues covered by the provisions in the Bill.

2.15 p.m.Mr Stewart Dickson joined the meeting.

A detailed question and answer session followed covering issues including: the change in position of the Minister of Justice in relation to clauses 13 and 14 of the Bill; the benefits of including the requirement to publish a yearly strategy in statute; the differing views of academics in relation to prostitution, the payment for sexual services and the rights of women; why prostitution should be covered in a human trafficking bill; the recent comments made by a PSNI officer in relation to clause 6 and what contact or written evidence the PSNI had made during Lord Morrow's consultation on the Bill; whether criminalising paying for sexual services would drive prostitution underground; why a minimalist approach to implementation of the EU Human Trafficking Directive has been adopted by the UK Government and the Department of Justice; the specific linkages between human trafficking and prostitution; the relevance of research in other countries into prostitution; whether there is a need for Northern Ireland specific research into levels of prostitution; whether this Bill would replicate existing legislation; the profile of people being trafficked in Sweden; the decrease in the level of prostitution in Sweden since the introduction of the Swedish Model; the position in the Republic of Ireland in relation to similar legislation; the legal position if the buyer and seller of sexual services reside in different jurisdictions; what liaison has taken place with the Minister of Justice in relation to the Bill; the position in Northern Ireland compared to England and Wales; the potential unintended consequences of the Bill; the views of the Minister of Health, Social Services and Public Safety on the areas of the Bill relevant to his Department; and the implementation costs if the Bill becomes law.

The briefing was recorded by Hansard.

The Chairman thanked Lord Morrow and his colleagues for the briefing and they left the meeting.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Departmental Briefing

Mr Gareth Johnston, Head of Criminal Justice Policy and Legislation Division, Ms Amanda Patterson, Head of Criminal Policy Branch, and Ms Julie Wilson, Head of Human Trafficking Team, Department of Justice joined the meeting at 4.01 p.m.

Mr Johnston outlined the Department's position in relation to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: the Department's overall budget and the costs associated with the implementation of the Bill; the primary reason for human trafficking in Northern Ireland; the linkages between human trafficking and prostitution; whether the Department views prostitution as a valid form of work; the health impacts of prostitution; whether the Department has been in contact with the Swedish Government regarding its legislation; the number of prosecutions brought under existing legislation; the level of contact with the PSNI in relation to the Bill; the implications for Northern Ireland of the introduction of similar legislation in the Republic of Ireland; the level of paramilitary involvement in prostitution; the extent of Lord Morrow's consultation; the reasons why the Department carried out its own consultation; the nature, extent, purpose and timescale of the Department's commissioned research into prostitution in Northern Ireland; what cognisance the Department will take of the support for Lord Morrow's Bill; whether the Department supports the principles of the Bill; whether the Department would support the Bill if clause 6 was removed; and the specific clauses of the Bill the Department supports or supports in part.

4.49 p.m. Mr Paul Givan left the meeting.

4.49 p.m. Mr Raymond McCartney took the Chair.

5.01 p.m. Mr Paul Givan joined the meeting and resumed the Chair.

5.19 p.m. Mr William Humphrey left the meeting.

5.25 p.m. Ms Rosaleen McCorley left the meeting.

The briefing was recorded by Hansard.

The Chairman thanked the officials for the briefing and they left the meeting.

Agreed: While some Members highlighted issues with some areas of the Bill that needed further consideration the Committee agreed that it was supportive of the principles of the Bill and the Chairman would indicate this at Second Stage.

Agreed: The Committee agreed to give further consideration to a visit to Sweden to view the workings of the Swedish Model that prohibits the purchase of sexual services subject to the Bill passing Second Stage.

Agreed: The Committee agreed to give further consideration to a visit to the Oireachtas to meet with the Committee which is considering the introduction of similar legislation. In the meantime a copy of that Committee's report on the subject would be provided to Members.

Mr Paul Givan MLA
Chairman, Committee for Justice
19 September 2013

[EXTRACT]

Thursday 26 September 2013
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr Seán Lynch MLA
Mr William Humphrey MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Roisin Donnelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

The Committee agreed to meet in closed session to consider item 1 under Matters Arising.

2.04pm The meeting commenced in closed session.

4. Matters Arising (continued)

iii. The Committee considered proposals for the handling of the Committee Stage of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill including a draft Bill timetable, a draft media sign-posting notice, a draft letter seeking evidence on the Bill and a list of key stakeholders.

Agreed: The Committee agreed that the consultation period for the Bill should last 4 weeks with a closing date for written evidence of 1 November 2013.

Agreed: The Committee agreed the media sign-posting notice, the list of key stakeholders, and the letter to be sent seeking written evidence on the Bill.

Agreed: The Committee agreed that a copy of the written submissions received should be provided to Lord Morrow MLA.

Mr Paul Givan MLA
Chairman, Committee for Justice

3 October 2013

[EXTRACT]

Thursday 17 October 2013
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Roisin Donnelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Ms Rosaleen McCorley MLA
Mr Alban Maginness MLA

2.09pm The meeting commenced in public session.

8. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Proposals for Handling the Committee Stage of the Bill

The Committee considered proposals for handling the Committee Stage of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Agreed: The Committee agreed that oral evidence sessions on the Bill would be scheduled from 21 November onwards and consideration would be given to which organisations should be invited to give oral evidence at the meeting on 7 November 2013.

Agreed: The Committee agreed that evidence received from individuals would be anonymised if requested.

Agreed: Members agreed to advise the Clerk if they intended to participate in the planned fact finding visit to Sweden in December 2013.

Agreed: The Committee agreed to request a report from the Examiner of Statutory Rules on the delegated powers contained in the Bill.

The Committee considered a motion to extend the Committee Stage of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Question put and agreed:
That, in accordance with Standing Order 33(4), the period referred to in Standing Order 33(2) be extended to 11 April 2014, in relation to the Committee Stage of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill (NIA 26/11-15).

Mr Paul Givan MLA
Chairman, Committee for Justice

7 November 2013

[EXTRACT]

Thursday 7 November 2013
Senate Chamber, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Ms Roisín Donnelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Stewart Dickson MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

2.06 p.m. The meeting commenced in public session.

6. Committee Stage: Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Consideration of Oral Evidence Sessions

The Committee considered further handling arrangements for the Committee Stage of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Agreed: The Committee agreed to invite the Department of Health, Social Services and Public Safety, Public Prosecution Service, Northern Ireland Commissioner for Children and Young People and Women's Aid Federation to give oral evidence on the Bill at the meetings on 28 November and 5 December 2013.

Agreed: The Committee agreed to consider further oral evidence sessions when an initial analysis of the written submissions was completed.

Agreed: The Committee agreed to publish the written evidence in relation to the Bill on the Committee webpage.

Agreed: The Committee agreed that options to expand the range of briefings for inclusion in the programme for the Committee visit to Sweden to view the Swedish Model that prohibits the purchase of sexual services should be explored.

Mr Paul Givan MLA
Chairman, Committee for Justice

14 November 2013

[EXTRACT]

Thursday 14 November 2013
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Ms Roisin Donnelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Raymond McCartney MLA (Deputy Chairman)
Mr Patsy McGlone MLA
Mr William Humphrey MLA

2.14 p.m. The meeting commenced in closed session.

4. Matters Arising

ii The Committee considered a draft outline programme for the visit to Sweden as part of the Committee's consideration of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Agreed: The Committee agreed the draft outline programme.

Mr Paul Givan MLA
Chairman, Committee for Justice

21 November 2013

[EXTRACT]

Thursday 21 November 2013
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Patsy McGlone MLA

2.08 p.m. The meeting commenced in public session.

3. Matters Arising

iii The Committee noted that a number of additional organisations were being contacted to ascertain their availability to meet during its visit to Sweden as part of the Committee's consideration of the Human Trafficking and Exploitation (Further Provisions and Support for Vicitms) Bill.

6. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

The Committee considered advice provided by the Assembly Examiner of Statutory Rules on the delegated powers in the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Agreed: The Committee agreed to refer the report of the Examiner of Statutory Rules to the Bill sponsor, Lord Morrow MLA, for his consideration and comments.

4.02 p.m. The meeting was adjourned.

Mr Paul Givan MLA
Chairman, Committee for Justice

28 November 2013

[EXTRACT]

Thursday 28 November 2013
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Seán Lynch MLA

2.09pm The meeting commenced in public session.

3. Matters Arising

i. The Committee noted correspondence from the NI Commissioner for Children and Young People advising that she was not available to give oral evidence on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill on the dates proposed and was content to rely on the written evidence she had submitted.

ii. The Committee considered a final draft programme for the visit to Sweden as part of the Committee's consideration of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Agreed: The Committee agreed the programme for the visit to Sweden.

4. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from Women's Aid Federation Northern Ireland

2.11pm Ms Annie Campbell, Director and Ms Noelle Collins, Team Leader, Belfast and Lisburn Women's Aid, Women's Aid Federation Northern Ireland joined the meeting.

Ms Campbell outlined the key issues in the Women's Aid submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

2.24pm Mr Jim Wells joined the meeting.

A detailed question and answer session followed covering issues including: whether the minimum sentencing set out in clause 4 is sufficient; details of an additional clause proposed by Women's Aid to provide support pathways for those who wished to exit prostitution; levels of trafficking in Northern Ireland; whether criminalising the purchase of sexual services is an appropriate model for Northern Ireland; the assessment of how the model in Sweden worked; how the Bill would strengthen human trafficking legislation in Northern Ireland;

2.42pm Mr Patsy McGlone joined the meeting.

Whether a clause to change the criminal position regarding prostitution should be dealt with in this Bill; whether there is evidence that some people enter prostitution by choice; whether there was a need for further research; the current legislative provision dealing with exploitation and coercion; the experiences of women supported by Women's Aid; whether clause 6 will worsen the situation of vulnerable women; issues with the national referral mechanism and changes needed; the possible impact of reduced National Crime Agency operations in Northern Ireland; the number of trafficked women Women's Aid have supported; the percentage of those trafficked for sexual exploitation; issues regarding repatriation of victims of human trafficking including those without official papers and debt bondage; how the ICTU represents the views of sex workers organisations in relation to clause 6; and the possible unintended consequences of clause 6.

The briefing was recorded by Hansard.

The Chairman thanked Ms Campbell and Ms Collins and they left the meeting.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from the Public Prosecution Service for Northern Ireland

3.41pm Ms Marianne O'Kane, Assistant Director and Ms Mairead Lavery, Policy and Information Section, Public Prosecution Service for Northern Ireland joined the meeting.

The officials outlined the key issues in the submission from the Public Prosecution Service on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: unintended consequences of clause 6; requirement for definition in law of the term 'sexual services'; the suggested replacement of 'person' with 'prostitute' in clause 6; a requirement for clarity within the provisions of the Bill;

4.04pm Mr Tom Elliot left the meeting.

The type of evidence needed to ensure successful prosecutions; ensuring that the intention of the Bill is realised; existing legislative provision; which Department has responsibility for the duty in clause 7 relating to the training of prosecutors and what it meant in practice; whether the provisions in clause 8 provide blanket immunity and how it would change the current position; whether PPS has considered the operation of the Swedish model; the effectiveness of the existing offence around coercion; the use of victim's evidence; prosecutorial decisions; whether the safeguards in clause 8 already exist; the independence of the Public Prosecution Service; representation of the PPS on the Organised Crime Task Force; and whether the PPS consulted with the Attorney General for Northern Ireland on the human rights comments made in its submission.

4.39pm Mr Patsy McGlone left the meeting.

The briefing was recorded by Hansard.

The Chairman thanked Ms O'Kane and Ms Lavery and they left the meeting.

4.43pm Mr Raymond McCartney left the meeting.

4.50pm The meeting was adjourned.

Mr Paul Givan MLA
Chairman, Committee for Justice

5 December 2013

[EXTRACT]

Thursday 5 December 2013
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr Seán Lynch MLA
Ms Rosaleen McCorley MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr William Humphrey MLA
Mr Alban Maginness MLA
Mr Patsy McGlone MLA

2.04pm The meeting commenced in public session.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from the Minister of Health, Social Services and Public Safety

2.11pm The Minister of Health, Social Services and Public Safety, Mr Edwin Poots MLA and Eilís McDaniel, Director of Family and Children's Policy, Department of Health, Social Services and Public Safety joined the meeting.

The Minister of Health, Social Services and Public Safety outlined a number of issues in relation to the clauses in the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill for which the Department of Health has responsibility or part responsibility and made a number of general comments.

A detailed question and answer session followed covering issues including: child protection issues arising in clause 10; issues with clause 12 as currently drafted; concerns regarding three trafficked children who had gone missing; the role of a child trafficking guardian and the responsibilities involved; issues regarding the appointment of a Northern Ireland Rapporteur and the current oversight arrangements; responsibility for trafficked children within the health and social care system; the advantages and disadvantages of placing protection in legislation rather than in guidance; whether secondary legislation would be a more flexible approach; how social services approach to dealing with human trafficking could be improved; the national referral mechanism; the number of victims of human trafficking with whom the Department of Health is working with; the number of human trafficking victims Women's Aid has worked with; the distinction between sexual exploitation and human trafficking; an assessment of the Swedish model and views of Clause 6; the types of support required by victims of human trafficking; the cost of the provision of such support to the health service; and how the legislation could make human trafficking more difficult.

Ms McDaniel agreed to provide the Committee with further information on the cost of support to victims of human trafficking.

The briefing was recorded by Hansard.

The Chairman thanked the Minister of Health, Social Services and Public Safety and Ms McDaniel and they left the meeting.

The Chairman advised Members that the oral evidence sessions on the Bill to be scheduled for January 2014 would be considered at the Committee's next meeting on 10 December 2013.

3.57pm The meeting was adjourned.

Mr Paul Givan MLA

Chairman, Committee for Justice
10 December 2013

[EXTRACT]

Tuesday 10 December 2013
Room 29, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Mrs Sinead Kelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

12.46pm The meeting moved into public session.

4. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Arrangements for oral evidence sessions

The Committee considered further oral evidence sessions to be scheduled on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill in January 2014.

12.48pm Mr Sean Lynch joined the meeting

12.52pm Mr Alban Maginness joined the meeting

12.57pm Mr William Humphrey joined the meeting

Agreed: The Committee agreed eight oral evidence sessions with a range of organisations and individuals to be scheduled in January 2014.

Agreed: The Committee agreed that arrangements should be made for the Department of Justice and the PSNI to give oral evidence.

Agreed: The Committee agreed to hold an evidence event to which other key stakeholders who had provided written evidence would be invited. The format and arrangements for the event and the organisations/individuals to be invited would be finalised in January 2014.

9. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Arrangements for Oral Evidence Sessions (continued)

The Committee considered a draft programme for an informal meeting with the Houses of the Oireachtas Joint Committee on Justice, Defence and Equality in relation to its Report on a Review of Legislation on Prostitution.

Agreed: The Committee agreed the draft programme for the meeting which will take place on Thursday 23 January 2014.

1.32pm The meeting was adjourned.

Mr Paul Givan MLA
Chairman, Committee for Justice

9 January 2014

[EXTRACT]

Thursday 9 January 2014
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Mr Jonathan Lamont (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr William Humphrey MLA

The Committee agreed to meet in closed session to consider agenda item 1.

2.04pm The meeting commenced in closed session.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from Ruhama

2.40pm Ms Sarah Benson, Chief Executive Officer and Ms Gerardine Rowley, Policy and Communications Manager, Ruhama joined the meeting.

Ms Benson outlined the key issues in Ruhama's submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: the work carried out by Ruhama in the past 25 years; the percentage of prostitutes who have been trafficked or have pimps; who benefits from the earnings and the role of organised crime gangs; the frequency with which prostitutes are moved between Northern Ireland and the Republic of Ireland; the impact Clause 6 would have on people in prostitution; the effectiveness of the current laws; the support services required by sex workers; the research findings in relation to the Swedish model; whether human trafficking and prostitution should be treated as two separate issues; whether Clause 6 would drive prostitution underground; the use of prostitutes by people with disabilities; the likely implications if similar laws to criminalise the buying of sex were not introduced by both Northern Ireland and the Republic of Ireland; how the introduction of Clause 6 could deter criminal gangs from operating; whether there would be any adverse effects if Clause 6 was adopted; how Clause 6 could facilitate prostitutes to give evidence; the views of An Garda Síochána on the possible introduction of laws similar to Clause 6; and the breakdown of those involved in the sex trade in Northern Ireland and the Republic of Ireland.

The briefing was recorded by Hansard.

The Chairman thanked Ms Benson and Ms Rowley and they left the meeting.

3.51pm Mr Patsy McGlone left the meeting.

6. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from Turn Off the Red Light Campaign

3.52pm Ms Claire Mahon, President of Irish Nurses and Midwives Organisation, Ms Monica O'Connor, Researcher and Activist on Trafficking and Sexual Exploitation, Mr John Cunningham, Chair of the Board of the Immigrant Council of Ireland, and Mr Jerry O'Connor, Communications Manager at the Immigrant Council of Ireland, Turn Off the Red Light Campaign joined the meeting.

The representatives of Turn Off the Red Light Campaign outlined the key issues in its submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: the attitudes to the selling of sex in Sweden compared to Northern Ireland and the purpose of the Swedish law; the organisations and political parties that support the Turn Off the Red Light campaign; the background and circumstances of women from other countries who end up in prostitution in Northern Ireland or the Republic of Ireland; whether the proposal to criminalise buyers of sexual services would be supported by Dáil Eireann; the findings of the Houses of the Oireachtas Joint Committee on Justice, Defence and Equality Report on a Review of Legislation on Prostitution including the provision of support services; the likely impact Clause 6 would have on those sex workers who work independently;

4.27pm Mr Paul Givan left the meeting.

4.27pm Mr Raymond McCartney took the Chair.

4.30pm Mr Paul Givan joined the meeting and resumed the Chair.

the availability of research and evidence on the effectiveness of the Swedish model and approaches in other countries to the criminalisation or decriminalistation of the buying of sex; why the Swedish legislation protects only Swedish Nationals; the likely implications if similar laws to criminalise the buying of sex were not introduced by both Northern Ireland and the Republic of Ireland; whether the Human Trafficking Bill contains sufficient provision for support services; the views of An Garda Síochána on the possible introduction of laws similar to Clause 6 in the Republic of Ireland; the need to extend the timeframe for proving coercion; and the Turn Off the Blue Light campaign and the people associated with it.

4.54pm Mr Raymond McCartney left the meeting.

The briefing was recorded by Hansard.

The Chairman thanked the representatives from Turn Off the Red Light Campaign and they left the meeting.

7. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from the International Union of Sex Workers

2.40pm Ms Laura Lee, Sex Worker, International Union of Sex Workers, joined the meeting.

Ms Lee outlined the key issues in the International Union of Sex Workers submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: the membership of the International Union of Sex Workers including its Northern Ireland membership; the main supporters and funders of the Union; the extent of coercion in the sex industry; the number of deaths of sex workers in Amsterdam and Sweden; whether the sex trade would be driven underground as a result of the proposed new law; the possible implications if Clause 6 was introduced; how the reported £30 million profit from the sex trade in Northern Ireland is distributed; the extent of violence in the sex industry; the stigma associated with sex work

and the reasons why it could increase under the proposed new legislation; the legal definition of trafficking and what it meant in practice; the Swedish model and its effect; the trade union organisations to which the International Union of Sex Workers is affiliated and their differing views on the proposed new law; the extent to which people with disabilities use prostitutes; and whether sex workers rights should be protected.

The briefing was recorded by Hansard.

The Chairman thanked Ms Lee and she left the meeting.

6.08pm The meeting was adjourned.

Mr Paul Givan MLA
Chairman, Committee for Justice

[EXTRACT]

Thursday 16 January 2014
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

2.09pm The meeting commenced in public session.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from the Northern Ireland Human Rights Commission

3.53pm Dr David Russell, Deputy Director and Ms Leanne Cochrane, Researcher, Northern Ireland Human Rights Commission joined the meeting.

The representatives outlined the key issues in the Northern Ireland Human Rights Commission's submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A question and answer session followed covering issues including:whether the Northern Ireland Human Rights Commission supported Clause 6; whether the definition in Clause 1 reflected the definition in the draft Modern Slavery Bill; the reasons why the introduction of a minimum sentence would allow for judicial discretion; whether Clause 6 contravened any international Human Rights convention/standard; what further measures are needed to safeguard the rights of children; and concerns regarding the requirement in Clause 8 for no prosecution or imposition of penalties on victims and the potential for the abuse of this requirement.

The briefing was recorded by Hansard.

The Chairman thanked the representatives and they left the meeting.

6. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from the Joseph Rowntree Foundation

4.17pm Frank Soodeen, Senior Public Affairs Manager, Joseph Rowntree Foundation and Neil Jarman, Director, Institute for Conflict Research joined the meeting.

The representatives outlined the key issues in the Joseph Rowntree Foundation's submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A question and answer session followed covering issues including: the size of the problem of forced labour in Northern Ireland and the proportion of victims of forced labour who had not been trafficked; the number of victims of forced labour who would be eligible for support/ assistance per year; the role of businesses and employers in addressing forced labour

and whether this should be reflected in the Bill; how clause 7 could be enhanced to make clear that a wider response than from Criminal Justice Agencies is required; the differences between slavery and forced labour;the lack of robust figures on the scale of forced labour in NI; what additional measures could be introduced to the Bill to address forced labour; the need to avoid discrepancies in the legislation between Northern Ireland and the rest of the United Kingdom in relation to forced labour; the extent of forced labour in the Republic of Ireland compared to Northern Ireland and whether the border had any impact; whether prostitution could be considered as forced labour; the background and circumstances of people from other countries who end up as victims of forced labour in Northern Ireland; whether the Joseph Rowntree Foundation's (JRF) written evidence on the Bill would have been different if it had had sight of the Draft Modern Slavery Bill at the time of writing; whether Northern Ireland required additional separate powers compared to the rest of the United Kingdom in relation to the Gangmasters Licensing Authority; and the importance of sharing research with the Republic of Ireland.

The briefing was recorded by Hansard.

The Chairman thanked the representatives and they left the meeting.

7. Draft Consultation on Proposals to Strengthen the Response to Human Trafficking and Slavery in Northern Ireland

5.02pm Simon Rogers, Deputy Director, Protection and Organised Crime Division, Julie Wilson, Head of Human Trafficking Team, and Alison Redmond, Human Trafficking Team, Department of Justice joined the meeting.

Mr Rodgers outlined the proposed consultation on Proposals to Strengthen the Response to Human Trafficking and Slavery in Northern Ireland which had been informed by the measures contained in the draft Modern Slavery Bill published by the Home Secretary on 16 December 2013.

5.05pm Mr Paul Givan left the meeting.

5.05pm Mr Raymond McCartney took the Chair.

5.10pm Mr Paul Givan joined the meeting and resumed the Chair.

A question and answer session followed covering issues including: the reasons for the Department of Justice statement that the levels of human trafficking and slavery in Northern Ireland were lower than in neighbouring jurisdictions; whether more resources are attached to uncovering human trafficking and slavery in other jurisdictions; whether the Anti-Slavery Commissioner as currently proposed would be fully independent of Government; maximum life sentences and mandatory life sentences for repeat offenders; the impact of the land border with the Republic of Ireland and whether this necessitated further measures; the remit of the Gangmasters Licensing Authority; the percentage of victims of forced labour who have not been trafficked; how the PSNI deals with slavery/forced labour and whether action is preemptive or reactive; whether suspected victims are questioned at points of entry to Northern Ireland; and issues relating to Clause 6 of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

The briefing was recorded by Hansard.

The Chairman thanked the officials and they left the meeting.

8. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Evidence Event and programme for visit to Dublin

The Committee discussed arrangements for an oral evidence event on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and the programme for the Committee visit to Dublin on Thursday 23 January 2014, to meet with the Houses of the Oireachtas Joint Committee on Justice, Defence and Equality to discuss its Report on a Review of Legislation on Prostitution.

6.01pm Mr Patsy McGlone left the meeting.

Agreed: The Committee agreed a range of organisations and individuals to be invited to the oral evidence event which would take place on Thursday 13 February 2014 in the Long Gallery from 12.00 noon to 3.00 p.m.

Agreed: Members agreed to advise the Clerk if they would be partcipating in the visit to Dublin.

6.20pm The meeting was adjourned.

Mr Paul Givan MLA

Chairman, Committee for Justice

[EXTRACT]

Thursday 30 January 2014
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Alban Maginness MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Seán Lynch MLA
Ms Rosaleen McCorley MLA

2.06pm The meeting commenced in public session.

3. Matters Arising

i. The Committee noted additional information provided by the Turn off the Red Light Campaign following its oral evidence session on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

ii. The Committee noted correspondence from Else Solicitors regarding Committee procedures in relation to the oral evidence sessions on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and that the Clerk would respond to the issues raised.

11. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from SPACE International

2.18pm Rachel Moran, Founding Member and European Coordinator, SPACE International joined the meeting.

Ms Moran outlined the key issues in the SPACE International submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: the circumstances around Ms Moran's entry into prostitution; the consequences for Ms Moran of speaking publicly about her experiences; the ways in which Clause 6 would have a normative effect; the reasons why this legislation would be more effective than existing legislation; why current legislation appeared to be ineffective; the extent of drug addiction in prostitution; whether some people chose prostitution; the extent of violence in prostitution; whether criminalising the buyer would make prostitution more dangerous; the types of people who buy sex; the extent to which people with disabilities buy sex; whether pimps are active in the Republic of Ireland; whether Ms Moran had been interviewed by any of the pro-lobby academics; whether a choice exists for those who enter into prostitution; the extent to which men and boys are involved in prostitution; the number of women in prostitution who have been trafficked; and whether both prostitutes and buyers should be criminalised.

The briefing was recorded by Hansard.

The Chairman thanked Ms Moran and she left the meeting.

12. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from the Irish Congress of Trade Unions

3.20pm Peter Bunting, Assistant General Secretary, Clare Moore, Equality Officer, and Pamela Dooley, Chair of the Northern Ireland Committee, Irish Congress of Trade Unions joined the meeting.

The representatives outlined the key issues in the Irish Congress of Trade Unions submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: whether prostitution is a valid form of work; the need to provide adequate support services and whether the Bill fully addresses this; whether prostitution and human trafficking should be dealt with in separate legislation; whether existing trafficking legislation is sufficient; the argument that Clause 6 would drive prostitution further underground; how victims of forced labour are dealt with; how existing legislation could be employed more effectively; how support and integration services should be managed; whether central government should take the lead and be more proactive in dealing with trafficked persons; the deportation of trafficked victims; whether they should be integrated into Northern Ireland society and the likely associated costs; the level of support for the Turn Off the Red Light Campaign; whether the Congress had an affiliation with the International Union of Sex Workers; and whether Clause 6 will have the intended effect.

The briefing was recorded by Hansard.

The Chairman thanked the representatives and they left the meeting.

13. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from Dr Graham Ellison and Dr Susann Huschke

4.08pm Dr Graham Ellison, Postgraduate Research Coordinator, and Dr Susann Huschke, Visiting Fellow, Queen's University, Belfast joined the meeting.

Dr Graham Ellison and Dr Susann Huschke outlined the key issues in their submissions on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: the basis of Dr Ellison's opposition to Clause 6; the nature of Dr Ellison's contact with a particular witness; the basis of Dr Ellison's evidence; the size of Dr Huschke's survey sample, who completed the on-line form and whether it was representative; how many face to face interviews Dr Huschke carried out as part of her research project; whether Dr Ellison had advised Amnesty International on the Bill; whether Dr Ellison was in favour of the legalisation of prostitution; the movement of women for prostitution; the extent of human trafficking for sexual purposes; the number of sex workers in Northern Ireland and the number of those who have been trafficked; whether anyone has the right to buy sexual services; Dr Ellison's reasons for conducting his research; how to determine the authenticity of research; the reasons a range of organisations support Clause 6; whether legislation can change views and values; migration and global equality; alternative regulatory approaches to prostitution including the Manchester project; how existing legislation could be improved; whether there has been any recent evidence of paramilitary involvement in the sex trade in Northern Ireland; the differing views of the Swedish model and the results achieved; the PSNI's views on Clause 6; the legislation that is needed to deal with prostitution without driving it underground; the difficulty in obtaining reliable statistics regarding the extent of prostitution in Northern Ireland and how much the industry is worth; the importance of protecting vulnerable people in society; and whether Dr Ellison had any dealings with Escort Ireland.

The briefing was recorded by Hansard.

The Chairman thanked the representatives and they left the meeting.

14. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from UglyMugs.ie

6.14pm Mr Paul Givan left the meeting.

6.14pm Mr Raymond McCartney took the Chair.

6.14pm Lucy Smith, Manager, UglyMugs.ie joined the meeting.

Ms Smith outlined the key issues in the UglyMugs.ie submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: where UglyMugs.ie is based; who funds UglyMugs.ie; the links between UglyMugs.ie and Escort Ireland; the movement of prostitutes between Northern Ireland and the Republic of Ireland; the practice of rating the performance of sex workers; whether anyone has the right to buy sex; the features and benefits of the Merseyside and Manchester models and how they could work in Northern Ireland; whether UglyMugs.ie deals with trafficked victims; the percentage of prostitutes who have been trafficked; whether UglyMugs.ie provides support to those who wish to exit prostitution; whether the existing legislation is sufficiently robust in relation to sex workers who have been coerced; whether support services are adequate; whether there should be a central PSNI resource to deal with prostitution and trafficking; the impact of land borders on the movement of prostitutes; the use of the word escort to describe a prostitute; the undergound nature of prostitution; whether there is any evidence of paramilitary involvement in prostitution in Northern Ireland; the reasons why UglyMugs.ie is opposed to the Swedish model; whether decriminalising prostitution would help prostitutes; the differences between off street and in door sex workers; why few outdoor sex workers use UglyMugs.ie; conviction rates in relation to crimes against sex workers; the level of cooperation and liaison between UglyMugs.ie and the police; and the reasons why the criminalisation of sex buyers could drive prostitution further underground.

The briefing was recorded by Hansard.

The Chairman thanked Ms Smith and she left the meeting.

15. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from Amnesty International UK

7.10pm Grainne Teggart, Northern Ireland Campaigner and Catherine Murphy, Law and Policy Team, Amnesty International UK joined the meeting.

The representatives outlined the key issues in Amnesty International UK's submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: Amnesty International's membership; the details of a motion relating to sex workers that was passed by the Newcastle-upon-Tyne branch of Amnesty International; how Amnesty International's policies are developed; Amnesty International's draft policy document 'Decriminalisation of sex work'; whether Amnesty International had consulted with former prostitutes and organisations who provided support to prostitutes; whether anyone has the right to buy sex; the number of deaths of prostitutes in the Netherlands compared to Sweden; how the buying and selling of women fits with Human Rights standards; the need for further research into prostitution/trafficking before the law is changed; whether the sex industry in Northern Ireland differs from the rest of Europe; Amnesty International's views on the Swedish model;

the purpose of a needs analysis of those in the sex industry and how those needs differ for women, men and the transgender community; the possible negative consequences and benefits of Clause 6; the need for cross-departmental working between the Department of Justice and the Department of Health, Social Services and Public Safety; whether trafficked people should be integrated into society and the possible costs; whether existing legislation provides adequate protection for vulnerable people; the need to provide adequate support services; minimum sentencing and the need for clarification that Clause 4 is not applicable to children; the reasons why there should be separate legislation to deal with prostitution and human trafficking; how the likely implications of Clause 6 can be assessed; and whether existing trafficking legislation is adequate.

The briefing was recorded by Hansard.

The Chairman thanked the representatives and they left the meeting.

Mr Paul Givan MLA

Chairman, Committee for Justice
6 February 2014

[EXTRACT]

Thursday 6 February 2014
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Sydney Anderson MLA

2.06pm The meeting commenced in public session.

3. Matters Arising

i. The Committee noted correspondence from a Ms Dalton regarding an oral evidence session on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

ii. The Committee noted information provided by Jim Wells MLA that had been referred to during an oral evidence session on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

The Committee agreed to bring Agenda Items 13, 14, 15 and 12 forward.

8. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from Mia de Faoite

2.14pm Ms Mia de Faoite joined the meeting.

Ms de Faoite outlined the key issues in her submission on the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

2.16pm Mr William Humphrey joined the meeting.

A detailed question and answer session followed covering issues including: Ms de Faoite's experiences of prostitution and whether she had reported incidences of rape to the police; the typical behaviours of men who buy sex; whether in her view men who buy sex care for the welfare of prostitutes; the age at which Ms de Faoite entered prostitution; the number of women in prostitution, the number of those trafficked and whether any minors are involved; the benefits of criminalising the buyer; the circumstances surrounding Ms de Faoite's exit from prostitution; the extent of drug and alcohol addiction in prostitution and the reasons for it; how Clause 6 would deter buyers when existing legislation does not have that effect; the appropriate penalties for people who purchase sexual services; the need for extensive support services for those who have exited or wish to exit prostitution and how these should operate; to what extent a choice exists for those who enter into prostitution; the importance of the Republic of Ireland and Northern Ireland having similar legislation in place; whether Ms

de Faoite felt she had been trafficked in any way; whether Clause 6 would drive prostitution further underground; the differing academic views on Clause 6; the response Ms de Faoite had received to speaking publicly about her experiences;

3.10pm Mr Stewart Dickson joined the meeting.

and the reasons why this legislation would be more effective than existing legislation.

The briefing was recorded by Hansard.

The Chairman thanked Ms de Faoite and she left the meeting.

13. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Evidence Event

The Committee noted the format for the evidence event on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill to be held on Thursday 13 February 2014 from 12.00 noon to 3.00pm in the Long Gallery, Parliament Buildings.

Mr Paul Givan MLA

Chairman, Committee for Justice
13 February 2014

[EXTRACT]

Thursday 13 February 2014
Long Gallery And Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Mrs Julie Devlin (Clerical Supervisor)
Miss Leanne Johnston, (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Patsy McGlone MLA

12.20pm The meeting commenced. in the Long Gallery in public session.

2. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral Evidence Event

The Chairman welcomed the witnesses to the meeting and outlined the structure of the evidence session.

The Chairman invited the witnesses to outline issues in relation to the clauses in the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and Members asked questions.

Clause 1: Definition of Human Trafficking and Slavery Offences

Ursula O'Hare and Liz Griffith, Law Centre NI, Gregory Carlin, and Parosha Chandron raised a number of issues regarding Clause 1 of the Bill.

Clause 2: Consent irrelevant for victim of human trafficking or slavery offences

Gregory Carlin, Parosha Chandron, and Richard Kerr, Presbyterian Church in Ireland raised a number of issues regarding Clause 2 of the Bill.

Clause 4: Minimum sentence for human trafficking and slavery offences

Lindsay Conway, Presbyterian Church in Ireland, David Smyth, Evangelical Alliance, and Geraldine Hanna, Victim Support raised a number of issues regarding Clause 4 of the Bill.

Clause 7: Requirements and resources for investigation or prosecution

Gregory Carlin, and Andrea Matolcsi, Equality Now raised a number of issues regarding Clause 7 of the Bill.

Clause 8: Non-prosecution of victims of trafficking in human beings

Parosha Chandron, David Smyth, Evangelical Alliance, and Gregory Carlin raised a number of issues regarding Clause 8 of the Bill.

Clauses 9, 10 and 11: Victim of trafficking in human beings; Requirements for assistance and support; Compensation for victims of trafficking

Dorothy Dickson, Victim Support, Liz Griffith, Law Centre NI, David Smyth, Evangelical Alliance, Richard Kerr, Presbyterian Church in Ireland, and Parosha Chandron raised a number of issues regarding Clauses 9,10 and 11 of the Bill.

Clause 12: Child trafficking guardian

Ursula O'Hare, Law Centre NI, Lindsay Conway, Presbyterian Church in Ireland, and David Smyth, Evangelical Alliance raised a number of issues regarding Clause 12 of the Bill.

Clauses 13: Protection of victims in criminal investigations

Liz Griffith, Law Centre NI, and Gregory Carlin raised a number of issues regarding Clause 13 of the Bill.

Clause 15: Prevention

David Smyth, Evangelical Alliance, Gregory Carlin, and Parosha Chandron raised a number of issues regarding Clause 15 of the Bill.

Clause 16: Northern Ireland Rapporteur

Liz Griffith, Law Centre NI, and Parosha Chandron raised a number of issues regarding Clause 16 of the Bill.

Clause 6: Paying for sexual services of a person

Pam Hunter, Nexus, Ruth Breslin, Eaves, Andrea Matolcsi, Equality Now, Gillian Clifford, Victim Support, Reverend Norman Hamilton, Presbyterian Church in Ireland, David Smyth, Evangelical Alliance, and Gregory Carlin raised a number of issues regarding Clause 6 of the Bill.

The Chairman thanked the witnesses for their evidence.

3.26pm The meeting was suspended.

3.36pm The meeting resumed. in Room 30 in public session.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Timetable for Committee Stage

The Committee noted the timetable for the Committee Stage of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and the oral evidence sessions and informal meetings still to take place.

Agreed: The Committee agreed to invite the Attorney General for Northern Ireland to brief the Committee on a number of technical legal points relating to the Bill.

Mr Paul Givan MLA

Chairman, Committee for Justice
20 February 2014

[EXTRACT]

Thursday 20 February 2014
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Miss Leanne Johnston (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: None

2.59 p.m The meeting moved into public session.

4. Matters Arising

ii. The Committee noted correspondence from UglyMugs.ie to the PSNI regarding the policing of indoor adult sex workers in Northern Ireland.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral Evidence from the Police Service of Northern Ireland

Assistant Chief Constable Drew Harris and Detective Chief Superintendent Roy McComb, PSNI, joined the meeting at 3.13 p.m.

Assistant Chief Constable Drew Harris outlined a number of points relating to the clauses and schedule of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and in particular Clause 6 where the PSNI position had moved on in light of the debate and discussion since it had provided its written submission.

A detailed question and answer session followed covering issues including: the ways in which the offence under Clause 6 would complement existing offences; the nature of serious crime gangs in Northern Ireland and the crimes they engage in; the PSNI's view on Clause 6 of the Bill and the nature of its qualified support for it;

3.25 p.m. Mr Tom Elliott joined the meeting.

how the PSNI supports/cares for victims of human trafficking and how this is balanced against getting a prosecution; the ways in which the consistency of approach by police officers is ensured; the level of sex trafficking in Northern Ireland and whether there has been any increase; the practice by traffickers of regularly moving victims to different locations and the difficulty this poses for police; the extent of trafficking for labour/servitude; the need to increase awareness of sex trafficking/prostitution and how this sits with the criminalisation of buyers; the potential impact and possible unintended consequences of Clause 6; the resource implications of Clause 6; how the police prioritises its resources; whether the criminalisation of buyers would result in prostitution going further underground and the impact this could have on information provided to the police; the effect Clause 6 could have

in reducing demand and therefore supply; the message Clause 6 would send out regarding what is considered acceptable in Northern Ireland;

3.45 p.m. Mr Patsy McGlone left the meeting.

the importance of identifying when coercion has been used; whether there is any evidence of paramilitary involvement in human trafficking in Northern Ireland including sex trafficking; the likely implications if similar laws to criminalise the buying of sex were not introduced by both Northern Ireland and the Republic of Ireland; whether there will be more prosecutions as a result of Clause 6; whether the legislation is likely to deter those who already coerce victims; the impact Clause 6 would have on the PSNI's methods of working; the investigative tools that would be available to the PSNI to enforce Clause 6; the threshold for intrusive covert surveillance and the resources required to carry it out; the deterrent value of Clause 6 to the ordinary buyer; the internet as a source of information for the PSNI and the likely impact of Clause 6 on escort websites; the definition of a consenting prostitute; whether the rights of a minority should be protected at the expense of the majority; whether police officers are trained to provide adequate care and support to possible and identified victims of human trafficking; the use of translator services etc. by the police; the impact of the reduced role of the National Crime Agency on tackling serious organised crime; whether Clause 6 is too broad in its concept and could be focused better to tackle organised crime; the percentage of women in prostitution and the current percentage who have been trafficked; whether Clause 6 would stop prostitutes reporting abuse;

5.08 p.m. Mr Tom Elliott left the meeting.

Clause 8 and whether existing legislation is sufficient; the number of convictions for paying for coerced sex in the past year; how the police would use Clause 6 if brought in; the implementation of the Swedish model, its effectiveness and whether a heavy reliance on wiretapping has an impact on the number of convictions in Sweden; the lessons learned from recent operations with Swedish police; and the number of victims rescued from human trafficking in recent years.

The briefing was recorded by Hansard.

The Chairman thanked Assistant Chief Constable Drew Harris and Detective Chief Superintendent Roy McComb and they left the meeting.

Mr Paul Givan MLA
Chairman, Committee for Justice

[EXTRACT]

Thursday 6 March 2014
Room 30 , Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Miss Leanne Johnston (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Patsy McGlone MLA

2.41 p.m The meeting moved into public session.

4. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from the Department of Justice

Simon Rogers, Deputy Director, Protection and Organised Crime Division, Gareth Johnston, Deputy Director, Criminal Justice Policy and Legislation Division, Julie Wilson, Policing and Organised Crime Division and Amanda Patterson, Criminal Justice Policy and Legislation Division, Department of Justice joined the meeting at 2.45 p.m.

Simon Rogers and Gareth Johnston outlined the Department's current position on each of the clauses in the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

A detailed question and answer session followed covering issues including: the reasons why the Department no longer feels that an amendment to Clause 1 is necessary; the availability of sentencing guidelines and whether there is a need to specify aggravating factors in legislation; the use of mandatory minimum sentences and whether the Bill provided sufficient qualification for exceptional circumstances; the policy intent of Clause 8; the outcome of the discussions that have taken place with Lord Morrow in relation to Clause 8; whether raising awareness around the non-prosecution of victims of trafficking could be addressed through Clause 15 and whether this would be a better approach; whether Clause 8 provides for a blanket immunity from prosecution; whether Clause 8 would be required if prosecutorial guidance could be strengthened; the potential for abuse of the Clause 8 provisions; the National Referral Mechanism process; the level of compensation for victims of trafficking; whether victims are compensated for injuries received or because they have been trafficked; the criteria to be met before a victim becomes eligible for compensation; potential amendments to the compensation scheme; whether there is a need for a Northern Ireland Rapporteur; the proposal for a United Kingdom-wide Anti-Trafficking Commissioner as set out in the draft Modern Slavery Bill; the research being carried out by the Department of Justice on prostitution in Northern Ireland and the associated timescale; the researchers the Department has engaged in the past; the Department's assessment of the PSNI's revised view on Clause 6; the EU Women's Rights and Gender Equality Committee resolution on prostitution and criminalising the purchase of sex; the Department's current position on Clause 6 of the Bill; in what context the Department would legislate for prostitution; how

Clause 6 would impact on existing legislation; the potential unintended consequences of Clause 6; the recommendations of the House of Commons All Party Group on Prostitution and the Global Sex Trade; the meetings which have taken place between the Department of Justice and external stakeholders in relation to Clause 6; the various departmental officials working on this area and potential differing views; the number of people the Department/its agencies have helped exit prostitution; the Department's handling of a complaint made by a representative of the International Union of Sex Workers; whether the Minister of Justice intends to visit Sweden and which officials will accompany him; the Minister's evidence to the Westminster Joint Select Committee on the Draft Modern Slavery Bill; the reasons for the differing views on Clause 6; the Northern Ireland Human Rights Commission's evidence on Clause 6; whether Clause 6 could be amended to make it more effective/easier to implement; whether Clause 6 would sit better in a wider legislative framework; whether legislation could be introduced at a later stage to address any unintended consequences of Clause 6; whether the Department's research will be published; the Terms of Reference for the research and when these are set; and the timetable for the provision of draft amendments to the Bill to the Committee for consideration.

The briefing was recorded by Hansard.

The Chairman thanked the officials and they left the meeting.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral evidence from the Attorney General for Northern Ireland

The Attorney General for Northern Ireland, Mr John Larkin Q.C. joined the meeting at 4.23 p.m. to discuss the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and answer Members' questions.

The Attorney General raised a number of technical/legal issues in relation to the Bill including the scope and nature of Clause 2; possible amendments to Clause 4; the penalty for the payment of sexual services of a person and the definition of 'payment' and 'sexual services' in Clause 6 and a possible amendment; the purpose of Clause 7; the scope and purpose of Clause 8; and a possible amendment to Clause 19.

4.14 p.m. Mr Wells left the meeting.

At the Chairman's request the Attorney General also clarified that he had had no involvement in the devising or processing of the On the Runs administrative scheme and had not been consulted by the Public Prosecution Service regarding it.

The briefing was recorded by Hansard.

The Chairman thanked the Attorney General and he left the meeting.

Mr Paul Givan MLA
Chairman, Committee for Justice

[EXTRACT]

Thursday 20 March 2014
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Stewart Dickson MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Mr Alban Maginness MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Mrs Marie Austin (Assistant Assembly Clerk)
Miss Leanne Johnston (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Tom Elliott MLA

2.03pm The meeting commenced in public session.

3. Matters Arising

i. The Committee noted correspondence from the Northern Ireland Human Rights Commission providing additional information in relation to an issue raised during the oral evidence session on 16 January 2014 on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

4. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Oral Evidence from the Bill Sponsor, Lord Morrow MLA

2.07pm Lord Morrow MLA, Bill Sponsor, and Dan Boucher, Advisor to Lord Morrow joined the meeting.

2.09pm Ms Rosaleen McCorley joined the meeting.

Lord Morrow updated the Committee on his current position in relation to each of the clauses in the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, including his proposed amendments, and the outcome of his discussions with the Department of Justice.

A question and answer session followed covering issues including: the amendments proposed by the Department of Justice and Lord Morrow's position on them; the principle and use of minimum sentences and the possibility of appeals; whether there was any intention of proposing a maximum sentence for human trafficking in the Bill; the estimated costs associated with the implementation of an exit strategy for those who wish to leave prostitution and the assumptions they are based on; the range of organisations involved in the implementation of an exit strategy; who would be entitled to assistance under the exit strategy; the Department of Health, Social Services and Public Safety's (DHSSPS) role in relation to the delivery of the exit strategy; whether the proposed extension of the reflection period from six months to three years by the Department could negate the need for Clause 6; the level of consultation on the proposals for an exit strategy including with those involved in sex work and the transgender community; Lord Morrow's visit to Sweden; whether an EQIA had been carried out on the Bill; the evidence base used to determine the levels of prostitution in Northern Ireland; the time frame associated with the Department's research on

prostitution; the recent EU report on prostitution and its recommendations; the percentage of victims who have been trafficked for sexual purposes; the position in the Republic of Ireland in relation to prostitution legislation; the likely implications if similar laws to criminalise the buying of sex were not introduced by both Northern Ireland and the Republic of Ireland; whether consideration had been given to providing support to the buyer of sexual services to address that behaviour; whether existing prosecutorial guidance negates the need for Clause 8; whether the decriminalisation of prostitution has been considered;

3.29pm Mr Paul Given left the meeting.

3.29pm Mr Raymond McCartney took the Chair.

3.31pm Mr Paul Givan joined the meeting and resumed the Chair.

the criteria for the appointment of a child trafficking guardian; the costings associated with a National Rapporteur; and, the introduction of the new offence of forced marriage.

The briefing was recorded by Hansard.

The Chairman thanked Lord Morrow MLA and his advisor and they left the meeting.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Clause-by-Clause Consideration

The Committee noted a written update from the Department of Justice outlining its position in relation to the Bill and the wording of its initial set of amendments.

The Committee commenced consideration of the evidence received in relation to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and agreed to seek clarification/further information on a range of issues. A number of clauses were identified as requiring further discussion.

Agreed: The Committee agreed to give further consideration to the amendments proposed to Clause 4 by both Lord Morrow MLA and the Attorney General for Northern Ireland and to seek guidance on the effect of the amendments.

Agreed: The Committee agreed to give further consideration to the proposed amendment to Clause 6 by Lord Morrow MLA which would replace any reference to 'person' with 'prostitute' and to seek further clarification of the likely effect of the change in terms of prosecutorial requirements.

Agreed: The Committee agreed to give further consideration to Clause 8 as it may not be necessary if Lord Morrow is content with the assurances given by the Public Prosecution Service in relation to its prosecutorial guidance which deals with human trafficking cases.

Agreed: The Committee agreed to give further consideration to a proposed amendment to Clause 9 when the Department provided the wording of the amendment.

Agreed: The Committee agreed to write to the Departments of Justice, Education, and Health, Social Services and Public Safety and the Department for Social Development to request their views on the new Clause 10A proposed by Lord Morrow which makes provision for an exit strategy for those who wish to leave prostitution.

Agreed: The Committee agreed to give further consideration to Clause 11 and seek guidance on options to amend which would give the Assembly control in relation to the content of the guidance.

Agreed: The Committee agreed to request clarification from the Department of Health, Social Services and Public Safety on whether it intends to bring forward any amendments to Clause 12.

Agreed: The Committee agreed to give further consideration to a proposed amendment to Clause 15 when the Department provided the wording of the amendment.

4.20pm Mr Patsy McGlone joined the meeting.

Agreed: The Committee agreed to give further consideration to Clause 16.

Agreed: The Committee agreed to request that a draft amendment to Clause 19 is prepared to make provision for the Bill to commence on Royal Assent and to give further consideration to the matter when the wording is available.

Mr Paul Givan MLA

Chairman, Committee for Justice

[EXTRACT]

Thursday 27 March 2014
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Seán Lynch MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Mrs Marie Austin (Assistant Assembly Clerk)
Miss Leanne Johnston (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Alban Maginness MLA

2.05 p.m The meeting commenced in public session.

3. Matters Arising

ii. The Committee noted correspondence from the Department of Justice on an issue raised with departmental officials during the oral evidence session on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill on 6 March 2014.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Clause-by-Clause Consideration

The Committee continued its consideration of the clauses of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and agreed to seek clarification on a number of issues. A number of clauses were identified as requiring further discussion.

Agreed: The Committee agreed to seek clarification from Lord Morrow, Bill Sponsor, on his position on his proposed amendments to Clause 6 to change 'person' to 'prostitute' following comments made by the Attorney General.

Agreed: The Committee agreed to seek confirmation from Lord Morrow, Bill Sponsor regarding whether he intends to carry out an Equality Impact Assessment on the Bill.

Agreed: The Committee agreed to continue its consideration of the Bill at the meeting on 3 April and schedule a meeting on Tuesday 8 April 2014 to complete its formal clause-by-clause consideration of the Bill.

Mr Paul Givan MLA
Chairman, Committee for Justice

[EXTRACT]

Thursday 3 April 2014
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Ms Rosaleen McCorley MLA
Mr Patsy McGlone MLA
Mr Alban Maginness MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Mrs Marie Austin (Assistant Assembly Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Miss Leanne Johnston (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Sydney Anderson MLA

2.05 p.m The meeting commenced in public session.

1. Apologies

Apologies are detailed above.

3. Matters Arising

2.07 p.m. Mr William Humphrey joined the meeting.

ii. The Committee noted further information from the Department of Justice regarding assisting people out of prostitution which had been requested during the oral evidence session with departmental officials on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill on 6 March 2014.

6. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Clause-by-Clause Consideration

The Committee continued its consideration of the clauses of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Agreed: The Committee agreed to continue its consideration of a number of the clauses at the meeting on Tuesday 8 April and consider and agree its draft report on the Bill at the meeting on Thursday 10 April 2014.

The Committee commenced its formal clause-by-clause consideration of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Clause 1 - Definition of human trafficking and slavery offences

The Committee considered Clause 1 as drafted and noted that, depending on the results of the Department of Justice consultation on its proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences, changes may be required.

Question: "That the Committee is content with Clause 1 put and agreed to".

Clause 2 - Consent irrelevant for victim of human trafficking or slavery offences

The Committee considered an amendment proposed by Lord Morrow to make it clear that consent is irrelevant for victims of human trafficking or slavery offences and noted that consequential amendment may be needed to this clause if the proposed clause 2(2) of the Modern Slavery Bill is enacted in a similar way in Northern Ireland following the Department of Justice consultation.

Agreed: The Committee was content with the following amendment proposed by Lord Morrow:

Clause 2, Page 1, Line 14

Leave out from 'where' to end of line 6 on page 2

Question: "That the Committee is content with Clause 2 subject to Lord Morrow's proposed amendment put and agreed to".

3.58 p.m. Mr Stewart Dickson joined the meeting.

Clause 5 - Amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

The Committee considered Clause 5 as drafted and noted that, subject to the results of the Department of Justice consultation on a proposal for a new consolidated offence of human trafficking, which would result in the repeal of Section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, it could become redundant. It further noted that if Clause 5 remains, a number of technical amendments may be necessary.

Question: "That the Committee is content with Clause 5 put and agreed to".

Clause 7 - Requirements and resources for investigation or prosecution

The Committee considered amendments proposed by the Department of Justice to remove 7(1) and cover training in Clause 15 and omit unnecessary words in 7(2).

Agreed: The Committee was content with the following amendments proposed by the Department of Justice:

Clause 7, Page 4, Line 10

Leave out subsection (1)

Clause 7, Page 4, Line 19

Leave out 'wherever the offence takes place'

Question: "That the Committee is content with Clause 7 subject to the Department's proposed amendments put and agreed to".

Clause 9 - Victim of trafficking in human beings

The Committee considered amendments proposed by Lord Morrow consequential to amendments to Clause 13 to change 'victim' to 'complainant' and noted the Department of Justice's intention to bring forward proposed amendments to clarify the definitions of victims of human trafficking in relation to the distinct roles and responsibilities of both the Department of Justice and the Department of Health, Social Services and Public Safety in providing support to victims and potential victims of human trafficking.

Agreed: The Committee was content with the following amendments proposed by Lord Morrow:

Clause 9, Page 5, Line 4

Leave out 'and Part 3'

Clause 9, Page 5, Line 19

Leave out lines 19 and 20

Question: "That the Committee is content with Clause 9 subject to Lord Morrow's proposed amendments put and agreed to".

Clause 10 - Requirements for assistance and support

The Committee considered Clause 10 as drafted and noted the intentions of both the Department of Justice and Department of Health, Social Services and Public Safety to bring forward amendments which will set out the respective functions and responsibilities of each Department in relation to the assistance and support to be provided to victims of human trafficking.

Question: "That the Committee is content with Clause 10 put and agreed to".

Clause 12 - Child trafficking guardian

The Committee considered an amendment proposed by Lord Morrow to ensure that an employee of a Health and Social Care Trust cannot be a guardian.

Agreed: The Committee was content with the following amendment proposed by Lord Morrow:

Clause 12, Page 7, Line 16

At end insert 'except for an employee of a Health and Social Care trust'

Question: "That the Committee is content with Clause 12 subject to Lord Morrow's proposed amendment put and agreed to".

Clause 13 - Protection of victims in criminal investigations

4.16 p.m. Mr Jim Wells joined the meeting.

The Committee considered amendments proposed by Lord Morrow to change 'investigation' to 'investigations' and change 'victim' to 'complainant' and to include a definition of 'the accused' and 'the complainant'.

Agreed: The Committee was content with the following amendments proposed by Lord Morrow:

Amendment to Title of Part 3

Clause 13, Page 8, Line 3

Leave out 'investigation' and insert 'investigations'

Amendments to Clause 13

Clause 13, Page 8, Line 2

Leave out 'victims' and insert 'complainants'

Clause 13, Page 8, Line 4

Leave out 'victims' and insert 'complainants'

Clause 13, Page 8, Line 6

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 9

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 12

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 14

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 15

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 16

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 18

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 20

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 23

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 24

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 27

Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 27

Leave out 'victim's' and insert 'complainant's'

Clause 13, Page 8, Line 29

At end insert -

'(2) In this section—

"the accused" means a person who is alleged to have committed, or has committed, a human trafficking offence;

"complainant" means a person against or in relation to whom a human trafficking offence is alleged to have been committed, or has been committed.'

The Committee considered proposed amendments by the Department of Justice to change 'chief office of police' to 'Chief Constable' and 'professionals' to 'persons'.

Agreed: The Committee was content with the following proposed departmental amendments:

Clause 13, Page 8, Line 6

Leave out 'chief officer of police' and insert 'Chief Constable'

Clause 13, Page 8, Line 21

Leave out 'professionals' and insert 'persons'

Question: "That the Committee is content with Clause 13 subject to Lord Morrow's and the Department of Justice's proposed amendments put and agreed to".

Clause 14 - Amendments to the Criminal Evidence (Northern Ireland) Order 1999

The Committee considered an amendment proposed by Lord Morrow to change 'victim' to 'complainant' and noted a consequential amendment may also be required following the Department of Justice consultation on its proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences.

Agreed: The Committee was content with the following amendment proposed by Lord Morrow:

Clause 14, Page 9, Line 2

Leave out 'victim' and insert 'complainant'

Question: "That the Committee is content with Clause 14 subject to Lord Morrow's proposed amendment put and agreed to".

Clause 17 - General interpretation

The Committee considered a proposed amendment by the Department of Justice to clarify the definition of a child.

Agreed: The Committee was content with the following proposed departmental amendment:

Clause 17, Page 10, Line 1

Leave out from 'shall' to end of line 2 and insert 'means a person under the age of 18'

Question: "That the Committee is content with Clause 17 subject to the Department of Justice's proposed amendment put and agreed to".

4.20 p.m. Mr Raymond McCartney left the meeting.

Clause 18 – Orders

The Committee considered an amendment proposed by Lord Morrow so that orders under Clauses 12(7)(a) and Clause 16 are subject to the draft affirmative procedure with other orders being subject to the negative resolution except for the Commencement Order in Clause 19 and noted that the Department of Justice was working on minor technical amendments which it would bring forward if Clause 16 was to fall from the Bill.

Agreed: The Committee was content with the following amendment proposed by Lord Morrow:

Clause 18, Page 10, Line 7

Leave out lines 7 and 8 and insert -

(1) Except as provided by subsections (2) and (3), orders made under this Act are subject to negative resolution.

(2) No order shall be made under section 12(7)(a) and section 16 unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(3) Subsection (1) does not apply to an order under section 19.

Question: "That the Committee is content with Clause 18 subject to Lord Morrow's proposed amendment put and agreed to".

Mr Paul Givan MLA
Chairman, Committee for Justice

[EXTRACT]

Tuesday 8 April 2014
Room 29, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Sydney Anderson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Ms Rosaleen McCorley MLA
Mr Alban Maginness MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Mrs Marie Austin (Assistant Assembly Clerk)
Miss Leanne Johnston (Clerical Supervisor)

Apologies: Mr Stewart Dickson MLA
Mr Seán Lynch MLA
Mr Patsy McGlone MLA

1.02 p.m The meeting commenced in public session.

1. Apologies

Apologies are detailed above.

2. Matters Arising

The Committee noted a response from the Minister for Health, Social Services and Public Safety regarding his position in relation to Clause 12 of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Child Trafficking Guardian.

3. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Clause-by-Clause Consideration

The Committee continued its formal clause-by-clause consideration of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Mr Elliott indicated that while he did not intend to vote against any of the clauses he was reserving his position in relation to a number of them.

Clause 3 - Aggravating factors

The Committee considered amendments proposed by the Department of Justice to insert a definition of public official; refer to the offender rather than the offence; correct the definition of position of trust; omit the reference to the offence involving serious violence; extend the previous convictions ground to cover convictions for similar offences ouside Northern Ireland; and define vulnerable adult and the family of the victim by reference to Article 34 of the Sexual Offences (Northern Ireland) Order 2008.

Agreed: The Committee is content with the following amendments proposed by the Department of Justice:

Clause 3, Page 2, Line 13

Leave out 'family member' and insert 'member of the family'

Clause 3, Page 2, Line 15

Leave out 'a victim who was'

Clause 3, Page 2, Line 17,

Leave out 'the victim's family' and insert 'a member of the family of the victim'

Clause 3, Page 2, Line 19

Leave out 'offence' and insert 'offender'

Clause 3, Page 2, Line 21

Leave out 'was committed by use of serious violence or'

Clause 3, Page 2, Line 24

At end insert 'or has previously been convicted in respect of anything done outside Northern Ireland which is not such an offence but would be such an offence if done in Northern Ireland'

Clause 3, Page 2, Line 26

Leave out '29' and insert '28'

Clause 3, Page 2, Line 27

At end insert

' "public official" means

(a) a member of the Northern Ireland civil service or the United Kingdom civil service;

(b) a person employed by a body established by an Act of Parliament or by Northern Ireland legislation;

(c) the holder of an office established by an Act of Parliament or by Northern Ireland legislation;

(d) a police officer.'

Clause 3, Page 2, Line 30

Leave out from 'means' to end of Line 34 and insert 'means a person aged 18 or over whose ability to protect himself or herself from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, old age, addiction to alcohol or drugs or for any other reason.'

Clause 3, Page 2, Line 34

At end insert –

'(3) For the purposes of this section a person is a member of the victim's family if the relation of that person to the victim is within Article 34 of the Sexual Offences (Northern Ireland) Order 2008.'

Question: "That the Committee is content with Clause 3 subject to the Department of Justice's proposed amendments put and agreed to".

Clause 4 - Minimum sentence for human trafficking and slavery offences

Mr McCartney and Ms McCorley indicated that they had broad concerns about the inclusion of minimum sentences in legislation.

The Committee considered amendments proposed by Lord Morrow to restrict a minimum sentence for a human trafficking offence to adults only; ensure that the sentence is an

immediate custodial sentence and not a suspended sentence; require a court to state the reasons why a case is considered exceptional; and, to address technical issues as consequence of Clause 4.

Agreed: The Committee is content with the following amendments proposed by Lord Morrow:

Clause 4, Page 2, Line 37

After offence 'insert' and that individual was aged 18 or over when the offence was committed'

Clause 4, Page 2, Line 41

At end insert –

'() The Court shall not exercise its power under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to a sentence which it is required to impose under subsection (2).'

Clause 4, Page 3, Line 1

At start insert –

( ) If a court considers that there are exceptional circumstances which justify the imposition of a lesser sentence than that provided for under subsection (2), the court must give its reasons for considering exceptional circumstances to exist and record those reasons in the order book.

Clause 4, Page 2, Line 41

At end insert

'(2B) In section 36 (review of sentencing) of the Criminal Justice Act 1988 after subsection (9) (c) insert

"(d) subsection (2)(b) shall be read as if it included a reference to a sentence required by section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.".

(2C) The Criminal Justice (Northern Ireland) Order 1996 is amended as follows

(a) in Article 2(9) (interpretation of references to sentences falling to be imposed under various statutory provisions) after "2006" insert "or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014";

(b) in each of

(i) Article 4(1) (power to discharge defendant except in specified circumstances),

(ii) Article 10(1) (power to impose probation order except in specified cases),

(iii) Article 13(1) (power to impose community service order except in specified cases),

(iv) Article 15(1) (power to impose combination order except in specified circumstances),

after "2008" insert "or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014".

(2D) In the Criminal Justice (Northern Ireland) Order 2008

(a) in Article 5 (restrictions on imposing certain custodial sentences) in paragraph (1)(b) omit "or" at the end add of paragraph (ii) and after paragraph (iii) add

"(iv) section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.";

(b) in Article 7 (length of custodial sentence) in paragraph (3) at the end add

"(c) section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.".'

Question: "That the Committee is content with Clause 4 subject to Lord Morrow's proposed amendments put and agreed to".

Clause 6 - Paying for sexual services of a person

The Committee considered amendments proposed by Lord Morrow to narrow the offence of paying for the sexual services of a person whilst keeping the word 'person'; remove any reference to the age of the person who is selling the sexual services; remove the reference to payment 'including sexual services'; provide some further options on sentencing; and, require an advertising campaign to ensure public awareness of the change affected by Clause 6.

Mr McCartney, Ms McCorley and Mr Elliott indicated that they had not reached a definitive view on Clause 6.

Question: "That the Committee is content with the amendments proposed by Lord Morrow as follows:

Clause 6, Page 3, Line 26

At end insert-

'(1A) In Article 58 (Interpretation of this Part) at the end of paragraph (3) insert "other than in Article 64A".'

Clause 6, Page 3, Line 31

Leave out 'over the age of 18'

Clause 6, Page 3, Line 35

After 'to' insert 'imprisonment for a term not exceeding six months or'

Clause 6, Page 3, Line 36

After 'scale' insert ', or both'

Clause 6, Page 3, Line 37

At start insert 'on conviction on indictment'

Clause 6, Page 3, Line 41

Leave out '(including sexual services)'

Clause 6, Page 3, Line 41

At end insert -

'(3A) No offence is committed under this article unless the sexual services that are provided or are to be provided by B to A involve—

(a) B being physically in A's presence,

(b) B touching A or A touching B, and

(c) the touching is sexual.'

Clause 6, Page 4, Line 4

Leave out 'must raise awareness of this offence' and insert 'shall conduct an advertising campaign to ensure public awareness of the change effected by this section'

The Committee divided: Ayes 6; Noes 0; Abstain 2

AYES	**ABSTAIN**
Mr Sydney Anderson	Mr Raymond McCartney
Mr Tom Elliott	Ms Rosaleen McCorley
Mr Paul Givan	
Mr William Humphrey	
Mr Alban Maginness	
Mr Jim Wells	

Agreed: That the Committee is content with the amendments proposed by Lord Morrow.

Question: "That the Committee is content with Clause 6 subject to Lord Morrow's proposed amendments put and agreed to".

The Committee divided: Ayes 6; Noes 0; Abstain 2

AYES	**ABSTAIN**
Mr Sydney Anderson	Mr Raymond McCartney
Mr Tom Elliott	Ms Rosaleen McCorley
Mr Paul Givan	
Mr William Humphrey	
Mr Alban Maginness	
Mr Jim Wells	

Agreed: That the Committee is content with Clause 6 subject to Lord Morrow's proposed amendments.

Clause 8 - Non prosecution of victims of trafficking in human beings

The Committee considered Clause 8 as drafted. The Committee expressed its support for the principles underlying Clause 8 but noted that it wished to consider the findings of the Joint Committee in Westminster which is currently considering the question of how non-prosecution of victims should be dealt with as part of its scrutiny of the draft Modern Slavery Bill.

Question: "That the Committee is not content with Clause 8 put and agreed to".

Clause 11 - Compensation for victims of trafficking

The Committee considered an amendment proposed by the Department of Justice to require it to produce statutory guidance in respect of compensation for victims of human trafficking and to remove subsection 11(b)(ii) as victims do not need to be resident in Northern Ireland to be eligible to apply for compensation.

The Committee indicated that it would seek a commitment from the Minister of Justice on the floor of the Assembly, during Consideration Stage, that the Department of Justice will consult the Committee on the draft guidance and take full account of its views.

Agreed: The Committee is content with the following amendment proposed by the Department of Justice:

Clause 11, Page 6, Line 19

Leave out from ', by order' to end of line 25 and insert

'issue guidance as to

(a) the procedures to be followed by a victim of human trafficking to apply for compensation under the Criminal Injuries (Compensation) (Northern Ireland) Order 2002;

(b) the grounds on which compensation may be awarded under that Order; and

(c) the arrangements available to assist and support a victim of human trafficking in applying for such compensation.'

Question: "That the Committee is content with Clause 11 subject to the Department of Justice's proposed amendment put and agreed to".

Clause 15 – Prevention

The Committee considered an amendment proposed by the Department of Justice to require it to publish an annual strategy for tackling human trafficking and slavery after consultation with other relevant organisations, and specifying specific issues the strategy should cover.

Agreed: The Committee is content with the following amendment proposed by the Department of Justice:

Clause 15, Page 9,

Leave out lines 27 to 30 and insert

'15.(1) The Department shall, at least once in every year, publish a strategy on human trafficking and slavery offences.

(2) In drawing up the strategy the Department must

(a) consult with other relevant organisations; and

(b) have regard to views expressed by such organisations.

(3) The purpose of the strategy is to

(a) raise awareness of human trafficking and slavery offences in Northern Ireland;

(b) contribute to a reduction in the number of such offences.

(4) The strategy shall in particular

(a) set out arrangements for co-operation between relevant organisations in dealing with human trafficking or slavery offences or the victims of such offences;

(b) include provision as to the training and equipment of those involved in investigating or prosecuting human trafficking or slavery offences or dealing with the victims of such offences;

(c) include provisions aimed at raising awareness of the rights and entitlements of victims of such offences.

(5) In this section "relevant organisation" means any body, agency or other organisation with functions or activities relating to human trafficking or slavery offences or the victims of such offences.

Question: "That the Committee is content with Clause 15 subject to the Department of Justice's proposed amendment put and agreed to".

Clause 16 - Northern Ireland Rapporteur

The Committee considered Clause 16 as drafted and noted that the remit of the Anti-Slavery Commissioner which would be created by the draft Modern Slavery Bill could be extended to Northern Ireland. The Committee indicated that it would consider the matter further when there is clarity on the position regarding the Anti-Slavery Commissioner.

Question: "That the Committee is content with Clause 16 put and agreed to".

Clause 19 - Short title and commencement

The Committee considered its proposed amendment to Clause 19 to make provision for the Bill to commence three months after Royal Assent.

Agreed: The Committee was content with the amendment as follows:

Clause 19, page 10, line 12

Leave out from 'in' to 'order' on line 13 and insert-

'3 months after Royal Assent'

Question: "That the Committee is content with Clause 19 subject to the proposed Committee for Justice amendment put and agreed to".

Long Title

The Committee considered the Long Title of the Bill as drafted.

Question: "That the Committee is content with the Long Title put and agreed to".

4. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Draft Committee Report

The Committee noted a list of documents for inclusion in the Appendices of the Committee Report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

5. Correspondence

The Committee considered correspondence from a Mr Bradfield, a Newsletter journalist, following the oral evidence sessions with Laura Lee, International Union of Sex Workers and Dr Graham Ellison.

Agreed: The Committee agreed that Mr Bradfield's correspondence should be included in the Committee Report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

6. Date, Time and Place of next meeting

The next meeting will take place on Thursday 10 April 2014 at 2.00 p.m. in Room 30, Parliament Buildings.

1.26 p.m The meeting was adjourned.

Mr Paul Givan MLA
Chairman, Committee for Justice

Thursday 10 April 2014
Room 30, Parliament Buildings

Present: Mr Paul Givan MLA (Chairman)
Mr Raymond McCartney MLA (Deputy Chairman)
Mr Stewart Dickson MLA
Mr Tom Elliott MLA
Mr William Humphrey MLA
Mr Seán Lynch MLA
Ms Rosaleen McCorley MLA
Mr Alban Maginness MLA
Mr Jim Wells MLA

In Attendance: Mrs Christine Darrah (Assembly Clerk)
Ms Marie Austin (Assistant Assembly Clerk)
Mrs Roisin Donnelly (Assistant Assembly Clerk)
Miss Leanne Johnston (Clerical Supervisor)
Miss Marianne Doherty (Clerical Officer)

Apologies: Mr Sydney Anderson MLA
Mr Patsy McGlone MLA

2.10 p.m The meeting commenced in public session.

5. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Consideration of the Draft Report

The Committee considered a draft Report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Agreed: The Committee agreed to approve the report at the end of the meeting.

12. Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill - Approval of Committee Report

The Committee considered the final draft report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Title Page, Committee Membership and Powers, Table of Contents and List of Abbreviations

The Committee considered the Title page, Committee Membership and Powers, Table of Contents and List of Abbreviations.

"Question: That the Committee is content with the Title page, Committee Membership and Powers, Table of Contents and List of Abbreviations as drafted put and agreed to".

Introduction

The Committee considered the Introduction section of the report.

"Question: That the Committee is content with the Introduction (paragraphs 1 to 9) as drafted put and agreed to".

Consideration of the Provisions of the Bill

The Committee considered the Consideration of the Provisions of the Bill section of the report.

"Question: That the Committee is content with the Consideration of the Provisions of the Bill section of the report (paragraphs 10 to 441) as drafted put and agreed to".

Consideration of Other Proposed Provisions for Inclusion in the Bill

The Committee considered the Consideration of Other Proposed Provisions for Inclusion in the Bill section of the report.

"Question: That the Committee is content with the Consideration of Other Proposed Provisions for Inclusion in the Bill section of the report (paragraphs 442 to 456) as drafted put and agreed to".

Clause by Clause consideration of the Bill

The Committee considered the Clause by Clause consideration of the Bill section of the report.

"Question: That the Committee is content with the Clause by Clause consideration of the Bill section of the report (paragraphs 457 to 490) as drafted put and agreed to".

Appendices

The Committee considered the Appendices section of the report.

"Question: That the Committee is content with the contents of the Appendices to be included in the report put and agreed to".

Executive Summary

The Committee considered the draft Executive Summary of the report.

"Question: That the Committee is content with the Executive Summary as drafted put and agreed to".

Agreed: The Committee agreed that it was content for the Chairman to approve the extract of the Minutes of Proceedings of today's meeting for inclusion in Appendix 1 of the report.

Agreed: The Committee agreed to order the Report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill (NIA 170/11-15) to be printed.

Agreed: The Committee agreed that an electronic copy of the Bill report should be sent to all organisations and individuals who provided evidence to the Committee on the Bill.

The Chairman thanked the Committee team, Hansard and all other Assembly staff who had assisted the Committee during its scrutiny of the Bill.

4.25 p.m The meeting was adjourned.

Mr Paul Givan MLA
Chairman, Committee for Justice



Appendix 2

Minutes of Evidence

Appendix 2 Minutes of Evidence

12 September 2013

Lord Morrow MLA, Bill Sponsor

12 September 2013

Department of Justice

28 November 2013

Public Prosecution Service

28 November 2013

Women's Aid Federation Northern Ireland

5 December 2013

Minister of Health, Social Services and Public Safety

9 January 2014

Ruhama

9 January 2014

Turn off the Red Light Campaign

9 January 2014

International Union of Sex Workers

16 January 2014

Joseph Rowntree Foundation

16 January 2014

Northern Ireland Human Rights Commission

30 January 2014

SPACE International

30 January 2014

Irish Congress of Trade Unions

30 January 2014

Dr Graham Ellison and Dr Susann Huschke, Queen's University Belfast

30 January 2014

Ugly Mugs.ie

30 January 2014

Amnesty International UK

6 February 2014

Ms Mia De Faoite

13 February 2014

Eaves
Equality Now
Evangelical Alliance Northern Ireland
Law Centre (NI)
Nexus
Mr Gregory Carlin
Ms Parosha Chandran BL
Presbyterian Church in Ireland
Victim Support

20 February 2014

Police Service of Northern Ireland

6 March 2014

Department of Justice

6 March 2014

Attorney General for Northern Ireland

20 March 2014

Lord Morrow MLA, Bill Sponsor

20 March 2014

Committee Clause-by-Clause Consideration

27 March 2014

Committee Clause-by-Clause Consideration

3 April 2014

Committee Clause-by-Clause Consideration

8 April 2014

Committee Clause-by-Clause Consideration

12 September 2013

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Alex Easton
Mr Tom Elliott
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

Witnesses:

Lord Morrow MLA	*Fermanagh and South Tyrone*
Dr Dan Boucher	*Christian Action Research and Education*
Mr Mark Baillie	*Christian Action Research and Education in Northern Ireland*
Ms Gunilla Ekberg	*Former Swedish Government Special Adviser*

1. **The Chairperson**: I welcome Lord Morrow MLA; Mr Mark Baillie, public policy officer of Christian Action Research and Education (CARE) in Northern Ireland; Dr Dan Boucher, director of parliamentary affairs for CARE; and Ms Gunilla Ekberg. That was, I hope, a reasonable stab at pronunciation.

2. **Ms Gunilla Ekberg (Former Swedish Government Special Adviser)**: You are doing well.

3. **The Chairperson**: Your English will be better than my interpretation of your name. Alex, do you want to declare an interest at this stage?

4. **Mr Easton**: No, I will just want to ask a question.

5. **The Chairperson**: OK. Lord Morrow, I invite you to brief the Committee.

6. **Lord Morrow MLA (Northern Ireland Assembly)**: Thank you, Chair. It is good to be back with the Justice Committee. As you are now one day I was, and, maybe, one day as I am you will be.

7. Thank you very much to you and the Committee for permitting me to come here with my team. You made a very good stab at pronouncing Gunilla Ekberg's name. She is a lawyer and academic researcher and is assisting with the Bill, as are Dr Boucher and Mark. Without further ado, I would like to take the Committee briefly through the presentation that we have prepared. As you said, we are here today to talk about the principles of the Bill rather than the detail, which I suspect will come at a later stage. Again, I thank the Committee for having us.

8. The first slide in my presentation asks why the Bill is necessary. Are the present arrangements not adequate? We hope that we can convince the Committee to take a serious look at what we propose in the Bill. First, we would like to say that it is widely acknowledged by the PSNI, non-governmental organisations (NGOs) and the Department of Justice (DOJ) that human trafficking here in Northern Ireland is a real issue. There are new international obligations to be met, and, over the past five years — 2008 to 2013 — over 100 victims of human trafficking have been identified in our Province. That is a measure only of those victims who have been rescued. I want to emphasise that this is recognised as being purely the tip of the iceberg.

9. Why is the Bill necessary? In 2008-09, there were 11 cases of human trafficking. We know that sexual exploitation was connected with six, forced labour with three and domestic servitude with two. I ask Committee members to keep in mind what we said, which is that this is but the tip of the iceberg. In 2008-09, there were 25 victims of human trafficking: 17

of sexual exploitation; five of forced labour; one of domestic servitude; and two unknown. In 2010-11, there were 23 victims: 18 were victims of sexual exploitation and five of forced labour; and, in 2012, there were 27 victims of which it has been determined that 18 were victims of sexual exploitation. In 2012-13, there were 16 victims, of which nine were victims of sexual exploitation, two of forced labour and five unknown.

10. In June 2010, Theresa May announced that the UK Government would not opt in to the EU anti-trafficking directive. At that stage, our hearts sank, to put it mildly. In March 2011, a petition from and lobbying by the organisation 38 Degrees led to a Government U-turn, which was very welcome in my book, who announced that the UK would opt in. However, this was only half the battle, as they still had to implement the directive. In January 2012, amendments to the Protection of Freedoms Act 2012 were introduced in the House of Lords. These Government amendments illustrated the UK Government's minimalist approach to the implementation of the directive. These amendments did not apply — I emphasise that they did not apply — to Northern Ireland.

11. In February 2012, I arranged for the drafting and submission of a Northern Ireland Bill, which, rather than doing the bare minimum, would enable Northern Ireland to become fully compliant with the European directive. In April 2012, the Department of Justice launched its consultation on compliance with the EU directive. In that consultation, the Department illustrated that it was going to follow the minimalist approach of England and Wales. In June 2012, the Minister of Justice published the Criminal Justice Bill. That Bill introduced two new offences to ensure that, first, when offences are carried out abroad, individuals can be prosecuted in Northern Ireland, and, secondly, internal trafficking within the UK is a crime. I commended the Department at the time for introducing these two necessary and important changes. However, the Bill was indicative of the minimalist approach that the Department of Justice has followed in this area.

12. In August 2012, I launched a consultation on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. The consultation closed on 18 October 2012. In April 2013, the Criminal Justice Act (Northern Ireland) 2013 received Royal Assent. In June 2013, I introduced my Bill to the Northern Ireland Assembly and published the results of the consultation.

13. Subsequently, the UK Government made a further change to achieve compliance in England and Wales through the Trafficking People for Exploitation Regulations 2013. No comparable provisions have been introduced in Northern Ireland, and we now, sadly, lag behind. I had proposed changes along those lines in my consultation and draft Bill, and they are now covered in clauses 13 and 14.

14. I want to dwell for a minute or two on the consultation results. I hope that, by this point, you will have had the opportunity to consider the results of that. A total of 147 submissions were made, and the vast majority were in favour of the proposals in my Bill. In light of the consultation, I made a number of changes to it.

15. I introduced the Bill for two main reasons. First, I believe that the Bill is necessary to effectively tackle human trafficking and exploitation in this Province. I firmly believe that the measures in the Bill will help to protect some of the most vulnerable men, women and children who come to this Province. I want Northern Ireland to be a world-beater in its legislation in this area. Rather than simply trailing behind England and Wales, as we currently are, I want us to lead the way. I want other countries to look to Northern Ireland as a model of effective practice for tackling the scourge of human trafficking.

16. Secondly, I want to ensure that Northern Ireland complies with both the letter

and spirit of the European directive. As the Department of Justice will point out, I am aware that what a directive mandates and what a state has to do to be technically compliant with it are not necessarily the same. However, the directive mandates a bold agenda. We have a choice here. We can follow the minimalist route and do the least that we possibly can to be compliant. To my mind, this is the approach that the Department of Justice has, sadly, taken. Alternatively, we could go further and adopt a maximalist approach in line with the spirit of the convention.

17. I will now give a brief overview of the Bill. Clauses 1 to 8 deal with the definition, investigation and prosecution of offences. Clause 9 to 12 contain the legal requirements for providing effective assistance and support for victims of human trafficking. Clauses 13 and 14 deal with special measures. Clause 15 and 16 deal with prevention and reporting, and clauses 17 to 19 are general clauses.

18. I will now deal with what the Bill seeks to do. Clause 2 sets out the conditions on which the consent of a victim to a human trafficking or slavery offence shall be seen as irrelevant. This is in line with article 2(4) of the EU directive and article 4b of the European Convention.

19. Clause 3 allows courts to take aggravating factors into consideration when passing sentence. This is in line with article 4 of the Europe directive and article 24 of the convention.

20. Clause 4 is a new clause that was introduced following the consultation. It appears when a person is convicted of a human trafficking or slavery offence. It requires that there be a minimal custodial sentence of two years unless there are exceptional circumstances that justify not having that minimum sentence.

21. Clause 5 extends the definition of "other exploitation" in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 to include forced begging. This clause meets the requirements of article 2 of the European directive.

22. I suspect that most of you will have heard about clause 6. It seeks to reduce the demand for trafficking and reduce exploitation by making it an offence to pay for sexual services. In light of the consultation, some further changes were made to this clause. This offence will apply whether the payment is made directly or through a third party — for example, a gift. This offence is triable either at the Magistrates' Court or the Crown Court and has a maximum penalty of one year's imprisonment. This reflects the penalty in Sweden. The clause will ensure that the person who is selling sex is not guilty of aiding and abetting the offence. If the Bill is enacted, it will be reviewed within three years by the Department of Justice.

23. Clause 7 requires training and investigative tools to be made available to police and prosecutors. Those proposals would meet the requirements of articles 9 and 18 of the European directive and Group of Experts on Action against Trafficking in Human Beings (GRETA) recommendations 9 and 10.

24. Clause 8 ensures that no prosecution will be brought for a criminal offence committed by a trafficking victim as a direct consequence of being trafficked. That is in line with article 8 of the European directive.

25. Clause 9 defines a victim of trafficking.

26. Clause 10 sets out the assistance and support required for victims of trafficking. This meets the requirements of articles 11 and 12 of the European directive and article 12 of the convention.

27. Clause 11 requires clear compensation procedures. This would effectively fulfil the requirements of article 17 of the European directive and GRETA recommendation 29.

28. Clause 12 requires each child victim to have a child trafficking guardian to support them thorough the relevant criminal, immigration and compensation

procedures. It also ensures that they receive suitable assistance. This effectively fulfils the requirements of articles 14 and 16 of the European directive and GRETA recommendation 22.

29. Clause 13 seeks to effectively fulfil the obligations of article 12(4) and 15(3) of the European directive by requiring the Chief Constable to ensure that there is no secondary victimisation of a victim and that special care is taken in child victim cases.

30. Clause 14 provides special measures for trafficking victims if they are called to be witnesses. This seeks to bring Northern Ireland into line with article 12 and 15 of the European directive.

31. Clause 16 requires the Department of Justice to publish a strategy every year on raising awareness and reducing trafficking and slavery, in co-operation with NGOs and in line with article 18 of the directive. Clause 16 is a new clause introduced following the consultation. It obliges the Department of Justice to appoint a Northern Ireland rapporteur, who will report to the Assembly on the performance of the Bill and other matters related to human trafficking and slavery, in line with article 19 of the EU directive.

32. If we introduce the Bill, we will be the first part of the UK to have a focused anti-trafficking Act. We will have the most robust anti-trafficking legalisation in any part of the United Kingdom. Northern Ireland has a proud abolitionist heritage. It is right that we seize the initiative and take the lead in this key area. The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill provides us with the opportunity to do this. As an Assembly and a Committee, I trust that we will seize it with both hands.

33. I will stop there. You will see that my Bill consists of more than one clause. It is robust legislation that it is worthy of consideration by the Committee and merits the support of the Northern Ireland Assembly.

34. **The Chairperson**: Lord Morrow, thank you. Now is a good time to put on record our tribute to the work that you have done to get the Bill to this stage. I know that you have dealt with the Bill with great conviction and that it means a lot to you personally. You have driven this process forward, and we all commend you on the work that you have done. Obviously, there is now more to be done, and I trust that the Committee will be able to facilitate that work and get into the detailed scrutiny once it gets past Second Stage.

35. **Lord Morrow**: Thank you, Chair.

36. **The Chairperson**: I want to pick up on a couple of points. Initially, from my recollection, when the Bill was first published, the correspondence that the Minister provided in October 2012, which we were copied into, indicated that clauses 13 and 14 were neither desirable nor necessary. That was the language that the Minister used to describe them. However, now that the Westminster Government plan to introduce the Trafficking of People for Exploitation Regulations 2013, the Minister has changed his position. Do you want to comment on that development?

37. **Lord Morrow**: I will let Dan, who is working seriously on that issue, comment.

38. **Dr Dan Boucher (Christian Action Research and Education)**: We are not surprised that that has happened. Lord Morrow felt that it was necessary to make these changes from his draft Bill, which he consulted on. This is now covered by clauses 13 and 14 in order to be properly compliant with the directive. The deadline for achieving compliance with the directive was April this year, and the England and Wales regulations came out in March this year. Obviously, they apply only to England and Wales, but that means that there is no parity now. The provisions in the Criminal Justice Act (Northern Ireland) 2013 were broadly the same as those in the England and Wales Protection of Freedoms Act 2012, and so there was parity of implementation. With

the introduction of the new England and Wales regulations in March this year, that parity of implementation was lost, and it makes Lord Morrow's Bill much more important to help Northern Ireland to catch up with England and Wales and, if other parts of the Bill are implemented, overtake them.

39. **The Chairperson**: My other point is about the need to publish a strategy every year and put that in statute. Since you published the draft Bill, the Minister has done quite a lot of catching up. You have led, and he is trying to follow. One would imagine that it would be the other way round. Nevertheless, he has now published a strategy. So why would there be a need to put the requirement for an annual strategy into the statute books?

40. **Lord Morrow**: We welcome what the Minister has done, and we do not mind if the Department, the Minister or anyone else wants to step ahead of us in relation to what we have proposed. I feel strongly that it needs to go the second mile, and I think that it brings more robustness to the issue that we are trying to tackle. Dan, would you like to add to that?

41. **Dr Boucher**: If it does not have a statutory foundation, it will be a provision that exists at the pleasure of the current Minister. If he were to change his mind or, at some future time, there was another Minister, it would be very easy for it to be withdrawn, in the same way that it was very easily introduced. If there is a statutory foundation, it could not be removed without the Assembly as a whole deciding that that was appropriate.

42. The GRETA report on UK compliance is interesting. GRETA is the treaty body for monitoring our compliance with the Council of Europe Convention on Action against Trafficking in Human Beings, and it produced its first report on UK compliance in September last year. Some of the comments in that are generic and UK-wide, but it made a specific comment about Northern Ireland and the lack of available data. So an annually produced plan could help to put more onus on the need to generate and provide reliable data so that we have a clear understanding of where we are headed in Northern Ireland year by year in relation to trafficking challenges.

43. **The Chairperson**: This is my last question, and then I will bring in other members. Perhaps Ms Ekberg will comment on this. The issue of prostitution is probably where the greatest controversy and discussion will be. There seems to be a broad view in the academic world on the rights or the wrongs of criminalising prostitution. Will you explain your position? How can academics come to such differing views on criminalising prostitution, particularly in the area of payment for sex?

44. **Ms Ekberg**: I am happy to address that. In addition to being a lawyer and an academic, I was the adviser to the Swedish Government on prostitution and trafficking for six and a half years. I have worked on these issues since the 1990s, so I have had a long period of practical experience. I was also a social worker and worked with victims. Many academics are not in that position. They base their position on their ideology, which may not be the same as the ideology that I represent, which is the one that underlies the Swedish policies: an approach of human rights and gender equality.

45. I also find that, in the academic world, where I feel quite uncomfortable at times, it is sometimes interesting to put out controversial ideas and have them approached. The academic world in the UK is particularly pro-prostitution compared with other countries. It will be interesting to discuss later why that is. When we make policies on prostitution and trafficking of all forms, we need to take a practical approach. We have to use practical experience and ensure that it is not just an academic exercise about what is choice, what is work and so on. Our policies were based on 25 years of experience of working at all levels on how to deal with prostitution. Victims and victims' organisations had a big

input, which is not the case in the UK academic experience.

46. **The Chairperson**: What do you say to people who say that it is a woman's body and it is her right to do whatever she wishes?

47. **Ms Ekberg**: I do not dispute the right; I dispute the conclusions that they draw from that. Of course, in my little world, I can do whatever I want to with my little body, but sexual violence, which prostitution is, is a systemic problem. We cannot deal with that problem by looking at a few individuals and saying that they make choices while ignoring 97% of the other women who are in prostitution and have a completely different experience. I can say that from research, but I can also say it from my own experience of meeting and working with victims in all of the 60-plus countries that I have been to in the time that I have worked on these issues.

48. There will always be a few individuals who will speak out and say that it is their choice, that they are in this and like it or whatever. The women who are not in a position to do that rarely get a place at the table. That has been changing in the past five or six years thanks to work done by support organisations, women's movements, immigrant institutions and things like that. More women with experience of prostitution have support to enable them to speak about it with courage and in the knowledge that they will not be isolated from the rest of the world, which did happen in the beginning. When you come out and say that you are a victim of prostitution, all the ideas of what it means to be a victim of prostitution or trafficking come into play.

49. I have no problems debating this issue, because those who put forward that view are very well aware that they speak from a particular angle and ideology. The practical implications of that ideology in countries like the Netherlands, where I am doing research and where I have been monitoring for the last 15 years at least, is that people who are in key law enforcement positions — the prosecutors, the police, some women's organisations and now the Parliament — are aware that the consequences of saying that prostitution is a choice or work are that you end up with thousands of victims. The Dutch criminal police concluded in its evaluation of the legislative proposal that between 50% and 90% of the women in the legal brothels are there involuntarily, no matter what people say.

50. We have to be careful when we are given arguments. I always say this: you have to see where the person — including me — who is putting forward that particular argument comes from. There are business interests in this area. We can see that, in all the countries where there has been a proposal to criminalise the buyers and to do a comprehensive policy on human trafficking and prostitution, there is a growth in organisations that will go against that. Later on, if you want, I can tell you some of my experiences in that field where we know the prostitution industry is behind it. I cannot express myself on what is happening here, as I do not know about Northern Ireland, but I certainly know the situation in the countries where I have been involved.

51. **The Chairperson**: Just to follow through on that, some have argued that putting this area of prostitution into a Human Trafficking Bill is not the right way to do it.

52. **Ms Ekberg**: I disagree. If you look historically at how the international community has faced prostitution and human trafficking — this is what I write on — up until the mid-1980s, you see that there was never a separation between human trafficking and the exploitation that the traffickers intend to put the victims in, which is in local prostitution. There was an understanding that human trafficking was a way of recruiting and transporting victims, and then they would be exploited for different reasons when they ended up at the end destination. We know that the majority of those victims are exploited in the prostitution industry of that particular destination. There was not that division. However, there was a

division that expressed itself during the negotiations of the Palermo protocol, which I was part of, I want to point out. The countries that have legalised prostitution were very keen to separate human trafficking from prostitution, and they wanted to be able to enforce the law in situations where the victims were visibly confined or forced. However, they also wanted to leave room so that women could travel with assistance from one country to the other to be in the prostitution industry legally. In fact, the European Court of Human Rights has a case where, based on the mobility directive in the EU, it allowed for the fact that women could travel to the Netherlands and work as independent contractors. That is allowed under the mobility directive.

53. It is a false distinction, and it is easy to understand. Trafficking has always been a part of the business of those who want to make a profit out of selling individuals. You have to move the victims around. A big reason for that is the fact that the men who buy the women do not always want to buy the same women, and we have research to support that. Pimps want to maximise their profits, which means that they move the women around, and that may be across borders or between towns. In Sweden, we have a number of domestic cases where local Swedish pimps move women from one town to another, and they have been prosecuted under the Human Trafficking Act. Sometimes we do it under the Human Trafficking Act, and sometimes it is done under the procuring provisions, depending on the evidence that is available. However, there is absolutely no distinction here. One is a consequence and one is the way to get the victims there. That is recognised. There is a human rights standard there, but there have been efforts by Governments to change that or to disconnect that. It is a trap, and you have to be careful if you were to try to separate it.

54. I can give you an example of a case that we had in Sweden about a year and a half ago. There was a brothel — not a legal brothel but a house that was bought by somebody who then rented it to Swedish organised crime — and in that house, which became a brothel, there were two Swedish women and three women from the Baltic countries. If you were to separate human trafficking from prostitution locally, then this is what would happen: those women were bought by men every day — Swedish men — and, if we said that human trafficking was one thing and prostitution was another thing, then the victims of the men who bought the women who came from the Baltic countries would be penalised but those who bought the Swedish women who were not trafficked over the border would not, although their experience would be absolutely similar. So, you have to be very careful, because you end up in those situations. Of course, that did not happen. The traffickers were prosecuted and successfully convicted of counts of human trafficking for all of those, because those women had been moved from one town to the other. So, you have to be very careful how you do it.

55. I know that there are arguments out there; I have lived with them for the last 25 years. Our major objective has to be that everything we do causes no harm, and that means taking the victims into consideration first of all. If you separate it, first of all, women have to prove themselves that they were actually trafficked and you put the burden not on the trafficker but on the victim, which is a problem. So, there should be no disconnection there.

56. **Mr Easton**: Thank you for your presentation. I am very much in favour of what Lord Morrow proposes. I have two questions for you. One prominent Northern Ireland policeman has said that criminalising paying for sex will not work. What has been the experience of the Swedish police force?

57. **Lord Morrow**: Before Gunilla answers that, it may be appropriate for me to say that I found it astounding that we had a senior police officer going on the radio two days before I came to this Committee, yet the same police

force had an opportunity, through the consultation, to say what it wanted to say but decided to stay silent on the issue. I found that surprising.

58. **The Chairperson**: Can I just pick up on that? I think Superintendent Marshall is the guy who has been on the radio and writing articles. Has he spoken to you?

59. **Lord Morrow**: No. Well, to say that he never said "Hello" to me would be a lie, but he has never spoken to me about this matter.

60. **The Chairperson**: He has not spoken to you about this Bill at any point? I find that appalling. Here we have the police failing to speak to the sponsor of the Bill. Ultimately, it is for politicians to decide policy, not for the police to tell us what we should and should not do, just as we should not tell judges what they should do. We set the laws in this country, not the police or the judges. I am disappointed that that is the case. I will give you an assurance that I will raise it with Matt Baggott when he comes to the Committee next week, and I will want an explanation of why they have been out so publicly lobbying against it, without even giving you the courtesy of speaking to you in respect of the Bill. I certainly think it is very disappointing and lacks the professionalism that one would expect of the PSNI.

61. **Lord Morrow**: That is where we are, and that is the society in which we live. We have to work within that. I must say that I was disappointed and surprised; however, I have had many disappointments and a few surprises in my life, and I suspect there may be a few more ahead of me.

62. **Ms Ekberg**: My comment to Mr Marshall's pronouncement is that, if I was in the Government, I would make the same comment that you have made. If you look at how the Swedish police and the Swedish prosecutors reacted when the proposal came to criminalise the buyers, you can see that it was the same reaction.

63. When we had a consultation on the Government Bill in 1998 and 1999 — it came into force on 1 January 1999 — both the prosecution services and the police said that it would not be useful and it would be impossible to enforce. Then you would get all of the arguments that prostitution would go underground and it would be harmful to the women, etc. We had that in a document sent to us. The law passed, of course, and in the first few months the police were quite slow to enforce the legislation, but then they started to realise that the legislation was very helpful. The prosecutors realised that having the buyer in the trial was very helpful, because they could get testimony about other issues in terms of the connections with the pimps and the traffickers. So, within the year — and after having, of their own accord, published a research study on how the law does not work six months after it was implemented — they completely changed their idea about how the legislation could work.

64. If you talk to Swedish police, and I think that would be a good idea, they will say the opposite; they will say that the legislation is very helpful in criminalising the whole chain — all the individuals who are responsible for human trafficking procuring. It is also useful to show to the men that, if they were not there, that whole thing would not happen; there would not be any human trafficking. When I was in the Government, the Stockholm chief of police went out publicly to denounce the previous conclusions about the legislation. He underlined that they were very grateful that that offence was there, because now they can investigate the pathway of buyers, such as using the internet and following the e-mails that buyers have sent to websites where women are for sale. They can track the buyer — where it comes from — and they can also track the websites. It has gone from, "Oh my goodness; we do not want to do this" to great enthusiasm. We have specialised prosecutors in procuring and human trafficking cases. As I said, they did not know how they were going to act with the legislation,

but they are also very enthusiastic about it. They use it consistently in all those cases. I have invited Mr Marshall to come to Sweden. I spoke with the police in Stockholm again this morning. They would be happy to receive him if he wanted to see how it actually works.

65. **The Chairperson**: That might be helpful for him.

66. **Mr Easton**: Thank you for that. I have heard some opponents of the Bill, in which you propose to criminalise the purchase of sexual services, saying that it will drive prostitution underground. How do you respond to that suggestion?

67. **Ms Ekberg**: We know that it is a myth. Think about it this way: in order to make profit out of selling women, somebody has to buy them. Of course, it is the men who do that. In order for a pimp or a trafficker to get in contact with the buyers, he has to use some method to do that. He can put business cards in hotel rooms and cafeterias. He can put posters on lamp posts. He can put websites on the internet or whatever means he thinks is useful. However, there has to be a meeting between the pimp and the buyer. The Stockholm police have said for many years now that, if buyers can find those women, so can they. It is not a matter of it being difficult. If you go to Stockholm or any other city in Sweden and talk to the police, they will say that they know exactly where prostitution takes place.

68. Some of the cases need lots of resources, so they cannot investigate immediately. As I said, they will follow phone calls. They can follow e-mails. Women who are in prostitution will also tell the police who has bought them. We have a very prominent case that was on the table again last week: the former Minister for labour in Sweden had to step down because a woman whom he bought went to the police. He could not be prosecuted because the statute of limitations had run out. However, we can see also from that work that we have many men in prominent positions who have been convicted under the legislation. The police no longer avoid investigating men, even those in high positions, including the police chief of Uppsala, which is the second largest police district in Sweden.

69. The underground argument is as if this world happened outside of everyone's knowledge. If I were a man, I could go to the centre of Belfast, sit myself in a bar and say that I was looking for a woman. I would find that out; it is not very difficult. That is the first step, or I could sit at home and go on the internet, which is what most men do now.

70. The Swedish national rapporteur on trafficking publishes annual reports, and in every report, there is a part that looks at websites and how they have investigated this. We also have a High Court decision that says that attempting to purchase somebody from a website that has women for sale is an attempt under the legislation, and you can be prosecuted. We have had quite a number of prosecutions against men who trawled the internet like that, and they had to pay a fine or whatever.

71. **Mr Easton**: So, basically, the nature of the business is that pimps have to come out in public to get their business.

72. **Ms Ekberg**: If I were selling cars, how would I get people to buy them? I would have to make publicity somewhere, or there has to be some way that I can tell you. Somehow, the word has to come out. You cannot live in a bubble; it is impossible. Most people think that it is easier to work where there is free prostitution, but it is just as easy elsewhere if you have the right techniques, which are not very difficult. Of course, having dedicated teams to work on this is quite useful, because you grow the experience.

73. When it comes to the criminalisation of the purchase of sexual services, I also want to underline that it is an offence in our country to attempt to purchase a sexual service. So the police do not have to catch them with their pants down. It is enough to go up to somebody in the street and say, "How much is it?", or to send an e-mail, make a phone call, etc.

74. **Mr A Maginness**: I thank Lord Morrow for his very comprehensive and lucid presentation on his Bill. It was expertly put together and presented. Lord Morrow, you were fairly critical of the British Government's approach to the issue. Why do you think they adopted a minimalist approach to it?

75. **Lord Morrow**: Thank you, Mr Maginness, for your comments.

76. Sometimes you have to stand back and take a look at these things and ask, "Why are they taking the position that they are taking?" Sometimes, it is quite difficult to answer that. Let me say this: I believe that things are changing right across the whole of Europe and that, in the years ahead, there will be considerable movement of populations and everything else. I think that the Government in London are doing the minimum simply to keep themselves within the regulations and away from infringement. When we heard what they were proposing do, we thought, "Why are they doing the minimum here instead of going the second mile on something that is a real scourge to society?" That is why I have come forward with my private Member's Bill.

77. I give notice of this during the debate on the Justice Bill. I pushed the Minister to do certain things, but he was not for doing them. Mr Maginness, I feel that doing nothing is not an option here. I recognise some of the things that we have pushed for, which were referred to, have been or will be done. I believe that this is an opportunity for Northern Ireland to stride out ahead.

78. I have been looking, watching and listening carefully to what is going on with our nearest neighbour, the Irish Republic. I know that they are exercised about this issue. Given the porous border we have, it is vital that we have very robust legislation. I am not saying that — I want to make this very clear — once this legislation comes in, all is well; oh, that it would be. I am not saying that anymore than those who legislated for homicide or robbery said, "Fine; that is it. We have dealt with that whole issue." Oh, that we could do that.

79. No; my Bill, if it is implemented by the Assembly, will put in place legislation that, dare I say it, could be the envy of other regions and other countries.

80. **Mr A Maginness**: You make a convincing case for your proposed legislation, but some may argue, "Yes, we have a problem with trafficking here, but it is not a big problem". What would you say to people who said that the Bill was too previous in relation to the problem of human trafficking?

81. **Lord Morrow**: I certainly would not agree that we do not have a big problem here. We quoted figures and put a firewall around those comments by saying that they were but the tip of the iceberg. We cannot repeat that often enough. I think your question is whether we are going too far: I do not think we are.

82. Gunilla has already spoken about how the Swedish police responded at the start not unlike the PSNI here in Northern Ireland. I think and hope that in maybe four or five years' time — I hope that it does not take them as long as that — they may come around to saying, "That Bill was a very good idea after all". Whether it wins, loses or draws, they may come around to that position and say, "I am glad that the Assembly adopted it" or "the Assembly should have adopted it", whichever position the Assembly takes.

83. **Ms Ekberg**: Having worked as a legislative adviser, when you look at laws, you technically do an impact assessment, asking, "Should we do this or not?" What we often forget is to do an impact assessment on what happens if we do not do it, so you have to think of the consequences of what if things remain as they are while the world around you changes.

84. In Sweden, we made the prevention and combat of prostitution and human trafficking the strongest political priority starting in 1998, which meant that we had to do it on all levels. If we had not done that and our neighbouring

countries, such as Norway and Iceland, had, for example, criminalised the buying of sexual services and included the whole package, as we did, and because the traffickers look for the best market, we would be the best market and those countries would not.

85. The UK has taken a minimalist approach and has been criticised by international treaty bodies for not doing what it should on human trafficking, including the Committee on the Elimination of Discrimination Against Women (CEDAW) in July. If you do not do anything, you will be the most attractive place in Europe. The traffickers know that. We have police phone-tap evidence of criminal elements in Sweden and Swedish organised crime groups or individuals advising traffickers and pimps from, for example, the Baltic countries not to go to Sweden because it was not profitable enough. They directed them to Denmark, for example, where there is also a minimalist approach and, in fact, a toleration and encouragement of this.

86. Other countries have found themselves at the butt end of this, and it is not a good idea just not to deal with the issue. Traffickers do not care about borders. They will just do a business assessment, as it were, and go where they find it possible to operate.

87. **Ms McCorley**: Go raibh maith agat, a Cathaoirleach. Thank you for the presentation. Nobody would disagree with the view that human trafficking is a complete obscenity. It has no right to exist in any proper society and is something that we would like to see not as part of our society but gone completely, and, to whatever extent that it exists in our society, we would want to be clear of it. Likewise, we want to be clear of anything that involves violence against women or men. Anything like that or anything associated with it should not exist, and we do not want it to be a part of us.

88. Clause 6 gives us some concern. It makes an assumption that human trafficking and prostitution are completely and inextricably linked. Although there are similarities and connections, I do not think that there is evidence available to prove that there is a need or requirement to include this clause. Human trafficking, I believe, has a particular role and is a particular experience, and it is an aspect of society that needs to be dealt with. We, as legislators, have responsibility to be clear that any law that we are involved in making does what it is required to do. I think that that is absolutely necessary. The issue of prostitution needs to have more evidence and to be researched further. It is clear from listening to the people who spoke today — I acknowledge your vast experience, Gunilla — that there are different views and opinions. We need to hear much more before I, personally, and Sinn Féin, can support clause 6. That is our position. We need to see more evidence that there is that connection. We need to know more about prostitution and the extent of it in the North. Nobody really knows that. We need that information.

89. **Ms Ekberg**: Obviously, I respect that, although what is important to think about today is that this, a country in the European Union, is no different from others. There is now 30 years of experience and research on prostitution and trafficking in some countries, and I am not just talking about Sweden; there is recognition of that in many countries.

90. Think practically about organised crime. In most communities where there is prostitution, some form of organised crime is involved that protects and sometimes sells women. Even if there is just a single pimp who has two women, he will negotiate with other pimps. When human traffickers come in, they have to negotiate with those people to be able to sell their women, and those women will be prostituted in the same venues.

91. I think that we have to disabuse ourselves of the view of an independent contractor: a woman who sits in her own apartment inviting nice men to come in and use her a couple of times. I am afraid that many try to put that view forward. There might be a few such women, but that is not the reality for the

majority of women. We know that to be the case here, and we know women who have spoken out in Northern Ireland. In all the countries where I have been, there are many women who speak out about the most harmful conditions that you can think of.

92. Although I respect your view, reinventing the wheel every time just prolongs the process. Eventually, it leaves women stranded. That is my concern. I come from the women's movement, as you know. I have worked on violence against women since I was 18, and I have run shelters. I was one of the first to talk about prostitution in connection with what we do in battered women's shelters, because women come there. It troubles me when it becomes a debate based not on evidence but on ideas that come from people and groups that have another agenda. If you are going to do research, you need to do research into who is presenting some of the evidence, including me, if you like.

93. I have always fought for facts. Everything that I say to you is based on fact; it has been proven. You have to do the same thing. If you hear those who say that prostitution is a choice and work, you have to have them present facts on that. After having spent so much time in the Netherlands and talked to women there, I can tell you that 95% of the victims there are from Romania and Bulgaria, and they are Roma. They are the women who are presented as making a choice. Everyone knows it.

94. **Dr Boucher**: I have just one point about —

95. **The Chairperson**: Can I just pick up on a point? Certainly, Dan, you can follow up on it. Obviously, the Minister here has now commissioned research in Northern Ireland. How useful is that specific research in Northern Ireland? What I am trying to ask is whether it differs from nation to nation or culture to culture. Some may argue that that specific research in Northern Ireland is just a delaying tactic. Maybe you could comment on the need for nation-specific research.

96. **Ms Ekberg**: I absolutely think that the more evidence that we can get to take useful preventative and prosecution measures, the better. That is very important. Such research should be ongoing, which it is. I will give an example from Sweden. When we passed the law that prohibits the purchase of a sexual service, we put it into the anti-violence package with the other laws on violence, but we also put in requirements on certain monitoring mechanisms. They have to do either biennial or triennial reports on the situation of prostitution and trafficking in Sweden. As you know, we have a rapporteur on trafficking. I think that it is absolutely necessary to monitor the situation, and you also have to adapt your measures. However, if research is used only with the purpose of stalling measures that you are obliged to put in place — I do not know that it is — it is a big problem.

97. You also have to be careful who you employ and who the researchers are on those projects. You have to ensure that you do research that is based on an understanding of the situation of women in that context. I am not going to pronounce on that research project. As I said, I am all for knowing the facts. However, when it comes to the facts and the consequences of human trafficking and of being in prostitution, and the consequences and reasons why men buy women, young men and children for prostitution that we already know, there is tons of research that is very well carried out in Europe as well as in other places.

98. I am working on a research project, for example, in Lebanon, where we have interviewed 65 men who buy women for prostitution purposes. They are of many religious and ethnic backgrounds etc. We have interviewed them in depth. I can tell you that the result of that research is absolutely replicable to what we did in Sweden, what they did in Scotland on the demand research or what they did in Illinois in the United States, or whatever. The responses, reasons and results are the same.

What is most important is that the response of all of those men when you ask them, "What would make you not buy somebody?" is that they could get arrested or publicly shamed. So, we have the research that proves exactly what we knew. I argue that you can use that to make a decision, but I still think that the situation should be monitored in a country. That is why we have a special rapporteur. We give money to research projects regularly in Sweden so we know what is going on. You see the difference.

99. **The Chairperson**: Thank you for that.

100. **Dr Boucher**: I will add to that. If you imagine having two different groups of researchers — one that views prostitution as the exploitation of women and another that views it as a valid job — and gave them the Northern Ireland evidence to work on, they would reach entirely different conclusions. So, the important thing for you as a Committee is to decide what you think. Do you think it is a valid form of work or do you think it is, in the main, a form of exploitation?

101. That leads me to the main point that I want to make, which is to pick up on a slight misunderstanding about the Bill. The Bill is not the Human Trafficking Bill; it is the Human Trafficking and Exploitation Bill. Clearly, if we look at trafficking and the principal driver in the national referral mechanism figures, we see that the single biggest reason why people are trafficked to Northern Ireland is the demand for paid sex. So, it would be very odd if any human trafficking Bill worth its salt did not, in trying to address human trafficking, address the single biggest driver for trafficking to Northern Ireland.

102. That is not to say that everyone involved in the sex industry in Northern Ireland has been trafficked here. That is where the "and exploitation" part becomes very relevant. Look at the data on the experience of most people in prostitution. It is very clear. Look at the proportion of people who have experienced sexual or physical abuse at home, who entered the sex trade in their early teens or who suffered psychological abuse. Look at the murder rate within prostitution etc. If you put all the figures together, it becomes very clear that, for the majority of women, it is a place of exploitation. So, it is the Human Trafficking and Exploitation Bill, and deals with both sides of that. To complete that picture, let me say that there are provisions in the Bill that deal with forced labour where there is no element of trafficking. That comes under the exploitation part of the Bill. The two things need to run together.

103. **Ms McCorley**: I am completely content that any change we make to the law that addresses human trafficking, exploitation and forced labour is good, if it is going to add to what we have. There is no complaint from me about that.

104. This morning, I listened to a woman on Radio Ulster who had had a horrifying experience. She very graphically described what had happened to her. I am not sure that the Bill that Lord Morrow is putting forward changes anything. From what I could make out, the crimes committed against that woman are covered under current legislation. It was nearly as though that case was being presented as something that would be rectified by Lord Morrow's Bill. However, my understanding is that current legislation criminalises everything that that woman was subjected to and whoever committed the crimes against her.

105. **Dr Boucher**: It does not work. Since 2009, it has been an offence to buy sex from someone who is subjected to force, but there has not been a single conviction. It is very similar to the experience in Finland, where they have a similarly caveated offence, which I will let Gunilla explain. It is not user-friendly. It is very difficult to prove coercion in the time frame available, whereas, in Sweden, it is easy to use and we have had intercepts between traffickers. There have been no intercepts from traffickers saying to organised crime gangs, "Do not send your women to Northern Ireland; in

2009, they criminalised paying for sex from someone who is coerced and it is too hostile a legal environment for you to go and buy women there". Everyone knows that there has not been a single conviction. Everyone knows that it is, de facto, still legal. That is why the Bill would make a huge difference. It would make it very clear, for the first time, that it would be a real offence, not just an offence on paper but in a practical sense. It would perhaps be helpful, Gunilla, if you could talk about the number of convictions that you have had in Sweden.

106. **Ms Ekberg**: I would be happy to give you that information. First, I want to say that, as I told you, attempts are criminalised. So, as in other crimes, the first step in intervention for law enforcement agencies is to make sure that a crime is not committed. That means that they will intervene if they find a man in a space where there is prostitution, even if there is no evidence at all that he has attempted to buy. He will be cautioned and told not to come back. That is the majority.

107. Since 1 January 1999, 15 years ago, until June 2013, 4,974 men have been arrested. Last year, 549 men were arrested, and 319 of them were convicted. Most of the others pleaded guilty. In 2011, 765 men were arrested and 450 were convicted — I could go on. The problem, of course, is that the prosecution and conviction rates are delayed, because you have the arrest and then some of the prosecutions happen in the following year. So, I do not have the prosecution rates for 2013; we will not get them until 2014. If you look at the whole period, you see that about two thirds of the men who were arrested were convicted. They could be given a prison sentence, which we have yet to get, and that is because, as in so many other situations when it is about violence against women, judges have problems in seeing the seriousness of that violence. For example, as you know, in rape prosecutions, the attrition rate in the European Union is 6%. Attrition rate means that 6% have been convicted. As you know, with rape, the majority of women do not report the attack. In the cases that are reported, most of the men are not prosecuted and, of those who are prosecuted, very few are convicted. That is important to remember, and that is why we have not yet had a prison sentence given, but we have a number of summary convictions, so we are just waiting for one of them to breach and end up in prison in no time. We think that that will make a difference to how judges will see it later.

108. Those who are convicted or plead guilty have to pay a fine. In Scandinavia, we have what are called "day fines", which means that the convicted person has to pay a percentage of his income. So, if you make a lot of money, you pay a lot. If you do not make a lot of money, you pay a limited amount. Because we have had men in very high-income brackets convicted, a lot of money has come into the coffers. Not that that is important; I am just saying that. In Sweden, all court cases, as is the case here, are public, so many of the cases are written up in the papers.

109. This is not a single issue. We have had a debate on what to do with prostitution for the past 25 years. There is an agreement that it is violence against women and a human rights violation, so it is interesting news. That reinforces the norm, which was the other aspect of this legislation, and that is to shift the culture or the idea in a country that there is a subclass of women. Women who are marginalised to start out with can be socially and economically deprived. The majority of women in prostitution have been subjected to violence prior to ending up in prostitution. We know that; there is strong evidence of that in most countries. So, we needed to shift that idea to say that there is no privilege in our country that allows men to purchase and sexually use those women. That is the normative effect.

110. As I said, just last week in Sweden, there was discussion about a Minister of labour who had to step down. He was interviewed on TV and said that he

did not do it. We know the woman he bought. She is not in prostitution any more. She is very together and clear about what she is doing, and she wrote a letter to the national Swedish TV station expressing her disappointment that it did not believe her story. So, when you adopt such legislation, there is constantly this normative reinforcement everywhere that most people do not think about. That has trickled down to young men.

111. Of course, we did not just change the law; we did all sorts of awareness-raising things as part of the strategy for this Bill. That is necessary. You need to raise awareness and work on the attitudes of young men. Now, we have in the high school curriculum gender equality plus: you have to look at pornography and prostitution as human rights violations and violence against women and talk about it. I could go on, but I will not.

112. **Mr McCartney**: Some 549 people were arrested. What was the profile of the people they were purchasing?

113. **Ms Ekberg**: That is an interesting question. The first study of men who buy women in prostitution was carried out in Sweden in 1996.

114. **Mr McCartney**: I do not mean the purchasers. If there were 549 women on the receiving end of someone purchasing sex, what was the profile of the women? Were they victims of human traffickers or were they residents of Sweden?

115. **Ms Ekberg**: Most of them were victims of trafficking. Most of these cases are prosecuted as a procuring offence under trafficking because they are connected to that. If you look at victim profiles, you see it is just as I said: it is women who are already marginalised. In Sweden, this has led to most women interviewed by the police about their experiences being quite open about what has happened because they are not going to be penalised and they have access to social services, so they will talk about it. The majority are quite young — between 18 and 25 — as they are across Europe. We also have a similar offence of buying somebody under the age of 18, and we record that. So, they are young — early teens up to the age of 25, but there are also older women.

116. Most of them have experience of having been victims of other forms of violence prior to ending up in prostitution. Some flee abusive husbands. We have had a number of women from Ukraine and Lithuania who have left their children to try to get some money so that they may be able to keep custody of them. They may be running away from husbands who are making life difficult. We have a number of young women who are survivors of sexual abuse, and it is very problematic because the pimps play on that. They pretend that they care for these women, which makes it incredibly difficult when we are trying to prosecute the pimps because the girls try to run away to get to them because that is the only stable individual in their lives. They come from countries of socio-economic deprivation where the status of women is low. Swedish girls and women are, without exception, victims of severe violence prior to that. Many of them have at one point been drug dependent, but the initial problem has not been drugs. The drugs have been provided by the pimps or the traffickers because they are clever enough to know, and I have even had a pimp say to me, “Of course we give them drugs; they last longer and we make more money off them.” That is not just human traffickers but local men. So, that is the profile, and that profile is the same in most other countries; it is nothing strange.

117. The profile of the buyers is any man from any background, any class and any ethnic background. Men usually buy on the level they can afford. If they do not have a lot of money, they will still buy in some context. If they have a lot of money, like the police chief, they would then buy women and have them sent to the place where he and his cronies used them, usually in somebody’s home.

118. It is interesting with the men who come from other countries. You would like to talk about that with the Stockholm

police, because Stockholm is, of course, the most attractive place. Men from other countries also get arrested and are incredibly surprised that, not only can they not go home with nothing happening, but they will be prosecuted, so there is a learning experience there.

119. They are of all backgrounds, but, generally speaking, they are in a committed relationship with somebody — a woman. Most of them have children. They are men with a lot of experience of sexual activity. Some of them also have other women whom they use; they have a wife and they have other women. It is not the stereotypical man who is disabled and has no sexual contact. We know that from the Swedish experience but also from all the other research. It is men who go on business trips. Often, men buy outside of the context of where they live, and the reason why they do that is, of course, they do not want anyone to know about it. That means that they go to another town or, if they travel for business, they will go to other places. In Stockholm, the police have put up a hotline for the hotels. The hotels in Stockholm have made a commitment to ensure that there is no prostitution in the hotels, so as soon as they suspect a man in that hotel, they will call the hotline and the police will go there and arrest him.

120. **Mr McCartney**: Fourteen years after the law changed, are 549 arrests —

121. **Ms Ekberg**: No, that was just last year. There were 4,947, I think.

122. **Mr McCartney**: Last year?

123. **Ms Ekberg**: All in all.

124. **Mr McCartney**: So, that is 14 years after the law was introduced. Would you say that you have done away with the issue of prostitution?

125. **Ms Ekberg**: No, of course not. Any social change takes more than 15 years, but what I can say with some conviction is that Sweden is a country where prostitution is much less prevalent and is a country that is not attractive for traffickers. I would be happy to send you the national rapporteur's statistics, because we say that we have victims of trafficking, but we never get more than 200 or 300, whereas if you look at, for example, Finland, you see that they had 15,000, and they wrote about that in a report, so that tells us —

126. **Mr McCartney**: Is that 15,000 arrests?

127. **Ms Ekberg**: No, 15,000 victims of trafficking per year, whereas we have maybe 200 or 300 at the most. Again, that is because it is not attractive. Think about it. If you were a trafficker, where would you go? Where would I go? I would not go to a place where you risk getting caught. I would go to a place where they tolerate it, and Denmark is the perfect place, because they have done nothing. They have all the laws and they do not use them.

128. Finally, just the other day, I spoke to the national rapporteur, who has had requests from the Danish police because they cannot handle it anymore. In Denmark, as in so many countries, local organised crime wants to get in on it, so the motorcycle gangs that have been ruling parts of the drug market in Denmark are now also very interested in prostitution, which makes it absolutely impossible to deal with. That will happen — trust me.

129. In Canada, where I also work a lot, I spoke to the people who deal with the organised crime in Québec, and they said that 85% of the prostitution businesses these days are run by either Bandidos or Hell's Angels. They do not want people to come from the outside; they want to make money themselves.

130. **Mr Wells**: I have a technical point for Lord Morrow. You wrote to the PSNI at the time of the consultation period?

131. **Lord Morrow**: When I first published my Bill, I had it sent to the Chief Constable. Not only that, but afterwards, I got a call from the headquarters of the police requesting more copies. My consultation then went public for everybody and sundry to make their comments known.

132. **Mr Wells**: So, the PSNI was aware of the Bill and the consultation and chose not to respond.

133. **Lord Morrow**: The first two people who got my Bill were the Minister of Justice and the Chief Constable. I thought that that was the right thing to do.

134. **Mr Wells**: Had you any prior notification of Superintendent Marshall's recent intervention?

135. **Lord Morrow**: Absolutely not. No, when I switched on the radio, I heard it.

136. **Mr Wells**: I read it in the local press, and I was absolutely astounded, I have to say, not only by the content but because of protocol. I hope that the Chief Constable has some pretty strong answers when we raise that with him.

137. With the Swedish model, it is stated that the number of men purchasing sex has declined from 13·6% to 7·8% since 1999, which would indicate a halving of demand. However, I will play the devil's advocate: that also coincides with the internet and the whole change in how many services, if you can call them that, are purchased. Therefore, could it not be the case that, instead of being on the streets and very evident, it has now gone out there on the electronic media and is being done behind the scenes?

138. **Ms Ekberg**: That is what I was trying to explain. Any enforcement work that you do on a crime has to follow the times, otherwise the police lose the ability to intervene. The Bill was passed on 1 January 1999 and, if you remember away back then, most of us did not have e-mail. There has been a complete electronification of communications and, of course, the prostitution industry has also moved online. That is why the Swedish police do a lot of investigations online. In 2008, the Chancellor of Justice was set to evaluate the effects of the law, and she compared Sweden — it is in my brief that some of you have — with the situation in Norway and Denmark at the time. Those countries were used as comparatives because our cultures and our way of living is similar and the development and standard is similar. She noted very clearly that if you compare Sweden with other countries that do not have that legislation and where it is not enforced, there is a much higher number of websites with women who are being distributed online.

139. It would be very interesting for you to meet, if you can, the ones who do the internet investigations in Sweden. We have a lovely, expensive computer programme that can search for terms and follow where many e-mails are going to the same websites, and they then follow and locate the server. In fact, it is quite well described in one of the annual reports of the rapporteur. They locate the server and then investigate. They arrest the men, who then provide them with how they got in contact with them. They may also pretend to be clients themselves, because, if it is a trafficking case, you can do provocation in the sense that you can send an e-mail to see what happens. Of course, it is easier for the police to go down to the street corner and arrest the guy who solicits a woman there. Interestingly, the police thought that this was such a boring crime and asked, "Why do we want to investigate this?" They then realised that it was much more sophisticated than they had thought. It was not about arresting somebody on the street corner but, in fact, it required thinking and required them to outwit the criminals — the traffickers, the pimps and the buyers.

140. **Mr Wells**: Lord Morrow, you mentioned contact that you have had with the Irish Republic and what it is planning to do. As you know, the Justice Committee in the Dáil in Leinster House has unanimously voted to go down the same route as you and to make it illegal to purchase sexual services. How will your legislation dovetail with anything that goes on in the Republic? There is an obvious issue. Pimps and prostitutes do not recognise borders, and the traffic will move freely from one side to the other. Is there a danger that, if we do not strengthen our laws, Northern Ireland will become a hub for that activity for

those coming from the Republic or vice versa. How will it work in the long term?

141. **Lord Morrow**: Therein lies the great problem, because just imagine us having weaker legislation than the Republic of Ireland. Obviously, what will happen — it does not need much spelling out — is that the problem will move north. Now turn it round the other way and imagine that we have tougher legislation than the South. It will then have a problem. I hope that Northern Ireland and the Irish Republic will have similar legislation, because if we do not, one or other jurisdiction will have a problem. If the South moves ahead of us with its legislation, we will have a real problem here. Therefore, it is incumbent upon us to make sure that our legislation is robust and that we are not an attractive stopping point.

142. **Mr Wells**: Can I ask about a technical point? This maybe arises between Denmark and Sweden, where you now have the land bridge. What happens if the server and seller of the sexual services — the pimp — is based in one jurisdiction and the person in Sweden orders the service in Denmark but the prostitute is based in Sweden?

143. **Ms Ekberg**: The pimp is where?

144. **Mr Wells**: The pimp is based in Denmark, which is 20 minutes across the bridge.

145. **Ms Ekberg**: Are you asking what happens if the pimp is in one jurisdiction and the purchase happens in another jurisdiction?

146. **Mr Wells**: Yes. Where do you stand legally?

147. **Ms Ekberg**: Denmark is an interesting case, but let us use Norway to start out as an example. If the pimp is in Norway and the Swedish man buys a woman in Norway, he can be prosecuted not only in Norway, because it has the legislation, but in Sweden as well. Denmark does not have the legislation. The Norwegian legislation allows the Norwegian Government to prosecute a Norwegian man in Norway even if it is outside the jurisdiction. Swedish law does not do that, because the sitting Government did not want to make that addition.

148. At the moment, it is quite common for traffickers not to leave their home country and to instead direct the women over the phone. They make sure that they have control over the women before they send them off to, for example, Sweden or Denmark. They indicate to them that if the police find them, they have to say that they independently, without any help, travelled to our country or else they will harm their families and friends. In our country, we do not believe that women from Romania can happily find their way to Sweden while not speaking a single, solitary word of Swedish or English. So, we will initiate an investigation with the Romanian police and follow the mobile phone conversation. We have had several cases where pimps who never moved out of the jurisdiction were prosecuted in Romania for crimes that were committed in Sweden.

149. **Mr Wells**: Would it be a defence under Lord Morrow's Bill if you could prove that you ordered the services provided by — for want of a better word — a pimp from an individual based in another jurisdiction where there is not this legislation?

150. **Ms Ekberg**: It is where you commit the crime.

151. **Mr Wells**: Where you commit the crime is the issue, not where you ordered the service or paid for it.

152. **Ms Ekberg**: No; it is like any other crime. I am a common law lawyer, but I work in civil law, which is used in Scandinavia. Under civil law, you can convict a person in Sweden only if the country in which the crime was committed has similar legislation. However, you can make a decision in Parliament to say that you are going to lift that possibility, as we have done on child sexual exploitation, and I am assuming that you have done that too. So, if somebody travels to Thailand and buys a child, he can be prosecuted in Sweden; that is a choice that you made.

153. In 1999, the Swedish Parliament had not thought about criminalising men who had bought somebody in Finland. That did not come up until two years later when we started to really work on this; we thought, "Damn, we did not think about that". Norway looked at our experience and decided to cover that hole by making it possible to prosecute men who purchase anywhere. Its first case was, I think, two years ago. It involved a parliamentarian — a member of the Norwegian Parliament — who travelled to the Baltic countries and purchased someone. Many men use a not-to-be-named cheap airline to travel to the Baltic countries for stag nights or other celebrations and buy women there, which is what he did. He was found out, which was easy, and he was then prosecuted and convicted in Norway. He had to pay a huge fine and leave his party.

154. **Mr Wells**: Again, I think that this is one for Lord Morrow. At the start of your presentation, you said that many of the people you consulted supported the criminalisation of the purchase of sexual services. First of all, can you give us a bit more detail on that? On what grounds did they support what is now clause 6?

155. **Lord Morrow**: There is no doubt that there was overwhelming support for the criminalisation of the purchase —

156. **Mr Wells**: Was it 80% or 90%?

157. **Lord Morrow**: Eighty per cent. It was 80:20. I wanted to come in when Rosaleen McCorley was asking quite a pertinent question; I know that this might not have the same context now because we have moved on. Rachel Moran, who is based in Dublin, has written a book, and she very kindly sent me a copy of it. The one thing in the book that struck me very strongly was this: Rachel was not trafficked into the sex industry. Rachel found herself in it. She was homeless at 14 years of age and on the streets at 15 years of age. She said that, in all her time in prostitution, she did not meet one girl who was there because she wanted to be there. Some were there through exploitation and some through circumstances, but not one of them said, "This is my lifestyle. I enjoy it, and I want to be there". When I read that, it really struck me. I have not met Rachel Moran, although I hope to meet her next week here in Stormont. When you get that in front of you, my goodness, it is very hard to walk past it.

158. **Mr Humphrey**: Thank you all very much for your presentation. It was a very compelling case for the Bill before us. Lord Morrow, you said that the first two copies of your Bill were sent to the Minister and the Chief Constable. Have you met the Minister around the Bill?

159. **Lord Morrow**: Yes. Counting today's meeting, I have had three meetings with the Minister. In his defence, I say that I met him yesterday along with some others, and we met him again this morning at 9.00 am. I disrupted his whole diary. I was very appreciative of that, because he could have simply said to me that his diary was booked, which it was, but he very kindly rejigged it and met us again. I have met the Minister three times.

160. **Mr Humphrey**: He is to be commended for that. You talked in your presentation about the Minister taking a minimalist approach. Do you believe that, in the three meetings that you have had, his position has shifted or changed in any way that would allow the Bill, if it became law in Northern Ireland, to narrow the gap between Northern Ireland and England and Wales?

161. **Lord Morrow**: Body language is very hard to read sometimes. The Minister is in his position on my Bill. I do not think that I would be doing him justice if I said that there was a meeting of minds. There are aspects of my Bill that he has quite clearly said that he would not or could not support. Is that right, Dan? You were there on both occasions.

162. **Dr Boucher**: Yes. Between the first meeting and the last meeting, he seemed more favourably disposed. He now seems more interested in clauses 10, 13 and 14.

163. **Lord Morrow**: I do not want to misrepresent the Minister in any way. He is more than capable of representing himself. I do not want to speak for the Minister any more than he would want to speak for me, I suspect.

164. **Mr Humphrey**: I think that that might be the case. Thank you.

165. **Mr McCartney**: I met you this morning, so I am perhaps asking a question that we spoke about then. A big part of this is to make the best informed work at this. I look at the list of respondents. I know that there is an issue. Maybe you will share it with the Committee. Will you be able to furnish us with even a summary of their views, or are there issues?

166. **Mr Mark Baillie (Christian Action Research and Education in Northern Ireland)**: I can give you that today.

167. **Lord Morrow**: We have done a fairly detailed and comprehensive report on the consultation. We sent that report to the Committee and the Minister. We are quite happy to provide a copy to anybody who wants one.

168. **Mr McCartney**: I know that it is a summary. In a normal process of consultation, the Department would make the responses available for us to read through. I am sure that we are all guilty sometimes of presenting what we feel is the best part of the argument for our argument and maybe leaving another part out. We have to appraise all of it. The process in the Oireachtas at Leinster House and the fact that it is examining this issue has been referred to. It had 800 submissions and hours of evidence. That is the type of task. I am not saying that it will be on the same scale, but if we had summaries of responses, we might not have to call as many witnesses. It is just to assist in that process.

169. **Lord Morrow**: The only issue around that, which we have to study carefully, is that respondents might feel that they are responding to us. We might have to take a look at where that sits in respect of confidentiality and stuff like that. I want to be as transparent as I possibly can, because this is a very important issue. The more knowledge and information that we bring to it, the more it will help everybody to make decisions. I can understand your question though.

170. **The Chairperson**: To reassure Mr McCartney and other Committee members, subject to the Assembly's letting this get to the detailed scrutiny level, we, as a Committee, will seek consultation responses. We will take what Lord Morrow has furnished us with, but we will also seek responses. I am keen to see the report from the Oireachtas's Justice Committee. Gunilla has suggested other opportunities to get more information. I want to give all members the best opportunity to get all the information that they need. To that end, let me apologise for overlooking Mr Dickson, who wants some information. Stewart will be the last member to speak.

171. **Mr Dickson**: I genuinely appreciate the work that Lord Morrow and others have done to bring the Bill to this stage. Have you analysed what might be described as the unintended consequences of the Bill? There may be circumstances in which people — we are talking primarily about men, but there could be women as well — are identified to the police, and, therefore, to the wider public, for whom there will be a perfectly innocent explanation for the initial contact and, indeed, for whom there will be no prosecution. However, all the same public opprobrium would follow those people. In other words, can you protect the innocent? Are there any unintended consequences of the particular nature of clause 6?

172. Secondly, I want to ask you about the jurisdictional issue. A lot has been said about the need to ensure that what happens in the Republic of Ireland and Northern Ireland match one another for all the obvious reasons. Likewise, given the further proximity of Northern Ireland — my home constituency, for example — to Scotland, where there does not seem to be the same intent to change the legislation, would it have the unintended consequence of people

going on the ferry from Northern Ireland to Scotland for day trips for sex?

173. My third question, which perhaps Lord Morrow can answer directly, relates to clause 12 and the child-trafficking guardian proposal contained in it. I sincerely welcome that; I think that it is absolutely spot on. However, will you just clarify for me whether that is a justice issue or a health issue?

174. **Dr Boucher**: It is a health issue.

175. **Mr Dickson**: What has the Health Minister said to you about that?

176. **Lord Morrow**: We met the Health Minister yesterday, and he is very supportive of what we are attempting to do here. We had a very positive meeting with the Minister. I did not detect that he is unduly concerned. However, there is one issue that we will consult on further.

177. **Mr Baillie**: Yes; as expected, there are certain drafting issues —

178. **Lord Morrow**: — that we have to tidy up.

179. **Mr Dickson**: Finally, has your Bill been costed in respect of the resource implication of its implementation for both the Public Prosecution Service and the police by comparison to where we are today?

180. **The Chairperson**: I think that it was £1·3 million.

181. **Ms Ekberg**: I can respond to the first question. Protection for innocents? Are there any? We trust that the police will weigh up the situation carefully before they arrest somebody. Out of the 4,974, we have had only a few appeals from the men, and that has usually been the men who are in very high positions, including the CEO of a big company who appealed all the way up to the Court of Appeal and was convicted. I say that with some trepidation having been very critical of the police through my life as a social worker. We train the police regularly. Everyone in the police force — everyone who goes through the police academy — gets a whole week on how to deal with prostitution and trafficking, for example, so every new recruit knows about that. They have developed a very comprehensive programme on the internal training of police officers, both at street level and higher up in the hierarchies, which everyone has to go through at least, I think, every two years — I cannot remember. So, there is a high awareness of what is expected. It is not about investigative techniques mostly; it is about attitudes and how to approach the whole situation. We have had no one who has claimed that he was innocent, except those appealing.

182. **Mr Dickson**: Has no one claimed that they were entrapped or falsely accused?

183. **Ms Ekberg**: No. They appeal and the evidence is very thoroughly evaluated by the courts. As I said, the CEO lost his job because most corporations in Sweden have a code of conduct that says that you cannot purchase sexual services while at work. That has been the result for a number of the men who have been convicted; they also lose their job. In fact, one man has gone to the European Court of Human Rights because he thought that it was against his human rights that he lost his position. The Court would not accept that because its opinion was, "What about the human rights of the woman whom he purchased?" There are guardians that look at police behaviour, and I assume that it is the same here, and, as with any investigation, training is necessary. The police are trained on working on violence against women. The Swedish police have been trained for the past 20 years on how to do that, so I hope, although I cannot guarantee, that no one will be arrested if they are innocent. It has not come to my attention. In the other cases, the men usually appeal.

184. **Mr Dickson**: That is helpful.

185. **Lord Morrow**: Stewart, we have a costing of about £1·5 million, and that is a 90%:10% break between justice and health.

186. **Mr Dickson**: Is that per annum?

187. **Lord Morrow**: Yes, it is.

188. **Mr Baillie**: Some of the costs are one-off, and some of them are ongoing. We are still working on the costings, and that is the provisional figure. When we get a more detailed one, Lord Morrow will provide that.

189. **Ms Ekberg**: I have two things to say about cost, if I may. You have to look at the cost of not doing it, which we usually do not do in Government; we just look at the costs that are easy to quantify. However, you have to look at the costs to society if you do not do something.

190. Your second question was on day trips to Scotland. That is an interesting argument, because that argument has happened many times, especially as there is now a bridge between Sweden and Denmark. There are ferries between Sweden and Finland, and the Baltic countries are very close. My quick comment on that is that, in studies of men who buy women or men for the purpose of prostitution, if you ask them what would make them stop, they say legislation or public shaming or both. A study that was done in Sweden — there are others, too, but this one is interesting — showed that 3% of men who have admitted to buying sex or using a woman for sexual purposes would do anything to be able to do that, but the other 97% think differently. Most men buy sexual services by traveling from their place of work, stopping somewhere and then going home, not using any more time than their wife, or whoever they are going home to, would notice; or they do it at stag parties, after they have been to a football match or when they travel for business. None of those situations impacts on their social environment. Nobody knows. If there is an arrest, everyone will know. That means that a man will not necessarily travel regularly, take the ferry to the Baltic countries or drive over the bridge as often as he would was it just down the road.

191. In 2003 or 2004, a Danish journalist was damned if he was going to prove that all the Swedish men were travelling to Denmark because of the prostitution industry in Copenhagen. I suggest that you go there — without using them, of course — just to see the difference. Do travel across; you will see the difference in the prevalence of nightclubs, which are all prostitution venues, and young women on street corners in the centre of Copenhagen. He followed Swedish cars and went into the nightclubs. He was doing everything he could think of to try to find proof that there was an increased number of Swedish men in the brothels, but he could not find them. Of course Swedish men travel to Copenhagen to buy women — they would — but not in the numbers that would buy had we not had this law in Sweden. That is referring to the statistics that were mentioned. We knew that 13·6% of men had the experience of having bought somebody once or more prior to the legislation coming in. That was a big, longitudinal/latitudinal study. The study was repeated in 2008. That is when the figure of 7·8% came up. There are, of course, safeguards against lying and all that. I think that we can, with some surety, say that there has been a decrease. They would not go, because it is not worth it.

192. **Dr Boucher**: The other point perhaps worth making is that the displacement argument is one that was used during the campaign against the slave trade, 200 years ago. It was said that if it was banned in one place, it would just go elsewhere. Obviously, the thing to do is to encourage a global movement.

193. **Ms Ekberg**: The traffickers, however, will go. In some ways, they have an incentive that is stronger. They need to profit if they are going to make their money in this business, so they will move away from Sweden, for example. That was very obvious when Norway criminalised the buying of sex, just 10 years after we did. In weeks, there was an increase in the number of pimps in northern Denmark, which the police recognised. That just tells us that it is efficient. We then know that it is efficient legislation and that Denmark should do the same thing.

194. **The Chairperson**: Thank you very much.

195. Lord Morrow, do you want to make a final comment, and that will wrap us up?

196. **Lord Morrow**: How do you follow that? I thank the Committee for having us here today. I hope that you have heard something to make you feel that my Bill does merit support. If any member of the Committee, at any time, wants to talk to us further about it, in the margins or otherwise, we are happy to do that. If, when you reflect on today's deliberations, you feel that there is any information that needs to be fine-tuned, we are happy to try to provide that.

197. **The Chairperson**: Thank you, Lord Morrow, and thank you to the team that came with you. We get a lot of presentations and have a lot of experts come before us, but I can say, hand on heart, that today has been one of the most impressive days for me due to the expertise that you have brought and the knowledge that you have in this area. I want to put that on record. In particular, Gunilla, thank you very much. No doubt we may well want to have you back as we go through the process. Thank you for the time that you have taken to facilitate the Committee to try to provide us with the information that, I think, we all need to make an informed decision when this comes to the crunch vote.

198. **Ms Ekberg**: Thank you. If I may add, I had a chat with the police and the national rapporteur this morning before I came here. They receive lots of Committees, including the Justice Committee from the southern part of Ireland. You are very welcome to come to Sweden and meet all these people and see for yourself.

199. **The Chairperson**: We may decide that that is necessary. If so, I have no doubt that we will avail ourselves of your expertise again to facilitate that type of endeavour.

200. **Lord Morrow**: Chair, may I say one final word? I feel that I am very privileged to have such expertise around me, which has assisted me with the Bill.

201. **The Chairperson**: Thank you very much.

12 September 2013

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Alex Easton
Mr Tom Elliott
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

Witnesses:

Mr Gareth Johnston — *Department of Justice*
Ms Amanda Patterson
Ms Julie Wilson

202. **The Chairperson**: I welcome formally to the meeting Mr Gareth Johnston, who is the head of the criminal justice policy and legislation division in the Department of Justice (DOJ); Ms Amanda Patterson, who is the head of the criminal policy branch; and Ms Julie Wilson, who is the head of the human trafficking team. Gareth, I will hand over to you.

203. **Mr Gareth Johnston (Department of Justice)**: Thank you, Chairman. Committee members will have received a written briefing setting out the Department's position in detail, so I propose to concentrate on the key points. We can certainly respond to members' specific questions. I should say that in considering the Bill, our focus has been on the elements that affect the Department of Justice. As was noted, there are elements that also affect the Department of Health, Social Services and Public Safety (DHSSPS).

204. The written briefing states that the Minister has taken the opportunity during recess to hear the opinions of a range of interested stakeholders. A wide range of views was expressed. Although there was some support for the Bill in its entirety, a significant number of those whom the Minister met had concerns or questioned aspects of the Bill. The process has been helpful and assisted the Minister's consideration of the Bill. The Minister has listened to stakeholders and considered the Bill in detail, and his position on the latest version of the Bill as introduced remains fundamentally unchanged.

205. The Minister wholly supports the motivation and sentiment behind the Bill. He very much welcomes Lord Morrow's commitment to tackling human trafficking. Nevertheless, our assessment of the detail of the Bill's provisions is that they fall into three categories.

206. The first category concerns provisions that, in many cases, we believe are not needed: that is to say that they are covered under existing legislative or administrative provision, or they would add no practical value in protecting or supporting victims.

207. The second category concerns a small number of provisions in clauses 12, 13 and 14 for which the Minister himself had intended to legislate. Officials had commenced work on draft subordinate legislation in those areas. However, that work has paused pending the outcome of the Bill. Should those clauses drop from the Bill, we would still intend to proceed with secondary legislation. We anticipate that we would be in a position to bring draft legislation before the Committee within two months of recommencing work.

208. The third and, perhaps, most significant category are those areas about which we are concerned that provisions in the Bill could have a detrimental effect. Should the Bill progress beyond Second Stage, the Minister's strong view is that not only that clause 6 should be removed but that significant amendments would be needed to

mitigate any negative impact of other clauses. On clause 6, we recognise that some prostitution is certainly one aspect of the various outcomes of human trafficking. However, the debate surrounding the introduction of the Bill has focused only on that one aspect and has not recognised the wider issues involved, both on trafficking and public policy on prostitution. As the Minister emphasised, it does not help our consideration of, or response to, either of those issues to conflate them in the manner in which debate on the Bill has been doing.

209. As regards prostitution, clause 6 would, of course, make it a criminal offence for an individual to purchase sexual services. The Minister has made clear his concerns about that clause and is minded to stand against its inclusion in the Bill. As we have argued, the intent behind clause 6 is focused entirely on reducing the incidence of trafficking into the sex industry, with no consideration of the wider issues surrounding prostitution or the implications for women involved in it. We are also unaware of any direct engagement with women working as prostitutes about how this provision would impact on them. Police are concerned about the potential impact on reporting, and we have heard concerns that clause 6 could drive prostitution underground, making trafficking more difficult to detect and, indeed, bringing the possibility of negative consequences for the safety and well-being of vulnerable women.

210. We know that a number of agencies have concerns about such a fundamental change to the law, and, as we noticed in the Minister's meetings with stakeholders, that although there was broad support for the principle of tackling demand for trafficking, there was no consensus on the actual provision in the Bill, with a number of the stakeholders echoing the same concerns that the Department has articulated. Particularly in light of those concerns, the Minister believes that it is inappropriate to make any change to the criminal law on prostitution without full and wider-ranging consultation across the policy spectrum.

211. There has been much attention on Sweden, whose model deserves careful study. Indeed, the Minister and I had a very helpful meeting with Ms Ekberg this morning. However, devolution is about finding local solutions to local problems. Our strong view is that there is not enough reliable data within the local setting to make informed policy decisions on the issue. Consequently, as members will note, the Minister has now announced his intention to address that gap by commissioning research on the extent and nature of prostitution in Northern Ireland. Initial work to scope the extent of that research has commenced, which will ensure that any subsequent policy review is based on the identification of local needs and issues. Members will also be aware that the Department has reviewed the legislation governing the offence of paying for the sexual services of a prostitute subjected to force. That is article 64A of the Sexual Offences (Northern Ireland) Order 2008. We acknowledge the concerns that have been raised, and, in response, the Minister has announced that he will bring forward proposals to extend the time limit within which offenders can be prosecuted. That is clause 6, but it would be fair to say that the Department also has some significant concerns about other elements of the Bill that relate to human trafficking. We set those out in detail in the written briefing to the Committee, but I want to highlight three of them briefly.

212. Clause 8, which deals with an immunity from prosecution for victims of trafficking, is a concern. We do not believe that the blanket immunity from prosecutions for victims that this clause would provide is appropriate. It runs counter to the obligations of the Director of Public Prosecutions and goes beyond the requirements of the EU directive. We are satisfied that under the current arrangements, whereby prosecutors have the discretion not to prosecute when it is considered to be in the public

interest, those arrangements comply fully with our obligations under the directive. We believe that to go beyond that in the way that clause 8 proposes would be disproportionate and could also disadvantage other victims of crime. In one potential scenario, for instance, a trafficked victim may have risen to a position of trust and power in an organised crime group and, in turn, become involved in the act of trafficking other victims. Clearly, such cases would need to be very carefully considered in light of their specific circumstances. Prosecutors can do that at present. Under existing arrangements, they are obliged to apply the test for prosecution, including whether the prosecution would be in the public interest. In doing so, they are able to consider the specific circumstances in each case, including whether mitigating factors exist. We believe that clause 8 goes too far in offering blanket immunity from prosecution and, therefore, removes any scope for prosecutors to exercise appropriate discretion in the public interest in that small number of difficult, tricky and complex cases.

213. The Department has also raised concerns about the impact of clause 4, which would introduce compulsory minimum sentences. In particular, I have to say that we consider it unacceptable that that clause would apply to children equally as it does to adults. We believe, indeed, that that runs counter to the best interests of the child principle, which is set out in article 3 of the UN Convention on the Rights of the Child. Our view is consistently that children should not be subject to the same sentencing regime as adults and that our sentencing framework for children offers sufficient options to the judiciary.

214. More generally, we do not support the principle of legislating for a statutory minimum sentence. We believe that clause 4, as well as clause 3 on statutory aggravating factors, would have an adverse impact on judicial discretion. Judicial discretion, like prosecutorial discretion, is particularly important when a difficult or unprecedented case comes along that you perhaps have not thought of when you have been phrasing the terms of the Bill.

215. I want to touch on the proposal for a Northern Ireland rapporteur under clause 16. Although we recognise fully the need for accountability, we do not believe that the measure would enhance the existing structures. We are also concerned that the Northern Ireland rapporteur under that clause is not aligned to the national rapporteur structure. Members will be aware that the Home Secretary recently announced her intention to bring forward a modern slavery Bill, which would, among other things, establish a UK-wide anti-slavery commissioner. That may have advantages. We believe that the arguments for a commissioner or rapporteur should be considered when the Home Secretary's plan is clearer. A national rapporteur would be able to look across the entire range of relevant agencies and not just the devolved ones.

216. In conclusion, I know that I have said much that sounds negative —

217. **Mr Wells**: Yes — absolutely.

218. **Mr Johnston**: It is certainly the case that the Department has significant concerns about the provisions that are set out here. However, I want to be clear that the Department fully supports Lord Morrow's assessment that, together, we need to provide a robust and effective response to these appalling crimes. The young woman who told her story on 'Good Morning Ulster' this morning shows us why it is right that the criminal justice agencies invest considerable effort and expertise in tracking down traffickers and freeing their victims. Members will know that the Department is working in partnership with others across the statutory and non-statutory sectors to provide a robust response. We set out a *[Inaudible.]* programme of work in the annual action plan, which members will have seen. Work is progressing against that plan. In particular, new human trafficking offences were provided in the Criminal

Justice Act (Northern Ireland) 2013. Those have toughened the law in the area and complement ongoing work to ensure effective training, to support victims, to raise awareness, to change attitudes, to reduce demand and to equip people to identify and respond to potential victims. That is very far from a minimalist approach. I hope that there might be some opportunity in the questions to explore that further. The Minister has been clear that he wants to ensure that we have the best possible system in Northern Ireland to tackle human trafficking, and he will consider legislative or administrative responses that will enhance our response. However, our assessment is that elements of the Bill will not enhance but could actually have a detrimental impact on how we are able to respond to human trafficking. As I said, there is support for that from some of the representative organisations that we have spoken to recently.

219. Lord Morrow has estimated that the financial effects of the Bill would result in approximately £1·3 million to £1·5 million of new costs. As was highlighted, it is unclear how much of that would be one-off and how much would be recurring costs, but Lord Morrow has helpfully agreed to give us more information. I need to flag up that the Bill would result in an unfunded pressure for the Department, and, if implemented, could be delivered only by identifying and stopping other work that the Department is carrying out.

220. We recognise that the Bill has shone a spotlight on and increased the prominence of public awareness of human trafficking. However, at the very least, we feel that significant amendments are needed to address the points that I have set out.

221. **The Chairperson**: I would like to say thank-you, Mr Johnston, but I will not.

222. **Mr Wells**: Don't bother.

223. **The Chairperson**: It is depressing. The Department's position is more than lamentable. I find it disgraceful. We will spend the next period of time interrogating the Department's position.

224. What is the Department's overall budget?

225. **Mr Johnston**: About £1·4 billion, if you take account of the policing budget, which is the biggest proportion of that.

226. **The Chairperson**: So, you can sit here at this Committee and put forward an argument with a straight face, mentioning £1·35 million as an unfunded pressure that gives the Department a concern out of a budget of £1·4 billion?

227. **Mr Johnston**: As the Committee will be aware, the Department is already facing a range of unfunded pressures, particularly on legal aid. Like all Departments, our budgets are under pressure and are reducing. I am quite sure that there would be no issue about committing expenditure to something that we believed was going to advance the cause against human trafficking. In fact, the level of resource and effort going into tackling human trafficking at the minute is considerable. I sat yesterday —

228. **The Chairperson**: I am going to stop here. That was a very short question, and I am not going to allow you to start trying to justify and explain things away. We can all have crocodile tears about the issue, or you can get on and step up to the mark. I have heard the lame rationale that was put forward for the inclusion of £1·35 million as a reason to bring to this Committee as something that we should be concerned about for a Department that has a budget of £1·4 billion. I am really not going to let you pursue some kind of waffle to try to explain that conclusion.

229. **Mr Johnston**: Chairman, I am concerned that —

230. **The Chairperson**: I am going to move on, Mr Johnston. I am chairing this meeting. We will ask the questions, and you will answer them. If I feel that you are not answering them appropriately, we will move on. The Committee members run

this Committee, and I will be chairing this meeting.

231. As for the connection between human trafficking and prostitution, what is the primary reason for people being trafficked into Northern Ireland and internally in Northern Ireland?

232. **Mr Johnston**: It is perfectly true that the majority of cases of trafficking in which victims have been identified have been sexual trafficking. It is not the whole story about human trafficking. We see a lot of trafficking that is about drugs. There is also trafficking that is about forced labour. We have seen all of that in Northern Ireland. We are not saying that there are no links between prostitution and human trafficking; we are saying that you need to look at the totality of the issues around prostitution. Our worry is that the Bill and the proposals, particularly the Swedish model, are about one set of issues around prostitution. If you do something there and go with what clause 6 proposes, what impact do you then have? What impact do you have on women who are working as prostitutes? What impact do you have on the reporting of suspicions about human trafficking, whether from clients or from prostitutes? The police receive both. What impact do you have on those information flows? What impact do you have on intelligence that is flowing to the police? What impact do you have on the ability to identify and respond to cases of human trafficking?

233. We are concerned that this has been a narrow debate and that there are much wider questions that need to be asked about prostitution and how clause 6 would impact on prostitution and on women who find themselves in that position.

234. **The Chairperson**: The Bill is certainly much wider than clause 6, and I accept that a lot of the debate has been around clause 6. We cannot hold the media to account for doing that. However, I want the Department at least to acknowledge that the Bill is much more than around clause 6.

235. **Mr Johnston**: Indeed, and there will certainly be plenty of issues that we will want to discuss when we come to the more detailed clause-by-clause consideration by the Committee. We will want to see what can be done in this range of areas about human trafficking.

236. **The Chairperson**: On the issue of prostitution, does the Department see prostitution as a valid form of work?

237. **Mr Johnston**: I do not think that anybody would suggest that people who come into prostitution come in by choice and that this is, somehow, another sort of employment just like any other.

238. **The Chairperson**: With respect, that was not my question. It is not under what circumstances they were brought into it. I am asking you for the Department's view of prostitution? Is it a valid form of work?

239. **Mr Johnston**: I just hesitate because I am so conscious of the pressures that have led women into prostitution, and I do not want to say anything that belittles those pressures. I am conscious that, in the previous presentation, we heard a lot about the reasons why you cannot regard prostitution as a choice, and the Department is not trying to argue that. When I sat in front of my careers adviser at school at 16 years of age and said that I wanted to be a civil servant, I cannot imagine that there were people elsewhere who were saying that they wanted to be a prostitute. We are not paying attention to those voices that are saying that this is a choice and that people should be able to have this choice. However, we are aware that there are a lot of reasons why people have ended up in prostitution, and we just need more evidence of those reasons. We need more evidence of how policies, such as clause 6 — other countries have adopted lots of other policies — would impact on the local situation before we can make decisions on the way forward.

240. **The Chairperson**: If you are not going to give me a clear answer on that — it disappoints me that you

cannot — maybe you can answer me another question around the effects of prostitution. I will give an example of some evidence. In the Oireachtas Joint Committee on Justice, Defence and Women's Rights, the Irish Medical Organisation (IMO) pointed out that working in prostitution can have seriously detrimental health effects on individuals. It pointed to a Health Service Executive (HSE) women's health project in 2007 that showed that the majority of women who came to the project who were involved in prostitution recorded symptoms related to sexually transmitted infections such as reproductive tract infection or other health complications related to prostitution, such as thrush, hepatitis A and B, chlamydia, vaginal/genital warts, urinary tract infections and cervical cell abnormality. It further pointed to the fact that one study in London found that mortality rates were estimated to be 12 times higher among women involved in prostitution than the national average. What is the Department's assessment of the effect of prostitution on the health of individuals who work in this? Again, does the Department see prostitution as a valid form of work?

241. **Mr Johnston**: Nobody is arguing that prostitution is a good thing. I hear and understand all the concerns that are being expressed about the health impacts, which is why, if we are going to have a debate on prostitution and what our attitude should be to prostitution, we should have it in a context in which all those factors can be taken into account, and not in a context that is simply about human trafficking.

242. **The Chairperson**: We have the evidence from across most of Europe; that was provided by the previous expert who was before us. Given that Lord Morrow's Bill has been up for discussion for over a year and that it highlights the Swedish model, how many times has your Department been in contact with the Swedish Government?

243. **Mr Johnston**: Happily, a lot of the information is available on the internet, and we have been able to obtain a variety of reports on the Swedish model. It would be fair to say that that variety of reports expresses different points of view, and even reports from within the Swedish Government or the Swedish public sector express different points of view. Aside from Sweden, we hear different points of view locally, and I think that those are points of view that organisations will want to express to the Committee as the Bill proceeds.

244. **The Chairperson**: How many prosecutions have there been under the relatively new offence of the criminalisation of the purchase of sexual services from a prostitute who has been subjected to force? How many have been successful?

245. **Mr Johnston**: As yet, none.

246. **The Chairperson**: Is it that none has been successful?

247. **Mr Johnston**: As yet, there have been no prosecutions. One issue about that provision is that it is subject to a six-month statutory time bar. I think that the recent discussion and debate has helped to bring this problem into focus, which is welcome. If you are going to demonstrate that someone has been subjected to force, you probably need a conviction on one of the trafficking offences first. Such a prosecution would have to go through the Crown Court and would take more than six months. As the Minister announced, we propose to find an early legislative vehicle so that we could extend that time bar to three years. That will allow any prosecutions to take place and should make that legislation more effective.

248. I would emphasise, however, that that provision is only part of the wider legislative armoury around human trafficking. A whole gamut of offences, both ordinary offences such as assault and GBH as well as the specific offences around human trafficking, is available. At yesterday's meeting of the Organised Crime Task Force (OCTF), I heard about some recent investigations into human trafficking, including sex trafficking. It is very clear that the

police are, first, devoting a great deal of resource to this and, secondly, are drawing on the best sources of international assistance. Inquiries are going on through Interpol, Europol and Eurojust, and a great deal of technology is being used to track where trafficking is coming from and where women are being trafficked from and to. The PSNI is working at a national and international level on these issues. I would not want just one offence to be seen as the totality of our response.

249. **The Chairperson**: Finally — I will bring in other members — how many times have you spoken to Detective Superintendent Philip Marshall about this Bill?

250. **Mr Johnston**: I have not spoken to him, but I know that colleagues have quite a lot of contact with him and the department he represents.

251. **The Chairperson**: How often has your team spoken with him?

252. **Mr Johnston**: With police, on issues around —

253. **The Chairperson**: Around this Bill.

254. **Mr Johnston**: — issues of human trafficking, there is a constant dialogue.

255. **Ms Julie Wilson (Department of Justice)**: We have given updates on the Bill and the Department's position and analysis of the Bill at the immigration and human trafficking subgroup of the OCTF. That has happened on a number of occasions. It has been mentioned at those meetings in the course of a general update on lots of issues. Philip Marshall has been present at at least some of those meetings.

256. **Mr Wells**: Was there any collusion between your Department and Superintendent Marshall in the drafting of his recent statement? Did your Department prompt him to do that?

257. **Mr Johnston**: The first that I knew about the statement was when I read it in the 'Belfast Telegraph'.

258. **Mr Wells**: You have deniability. What about underlings in the Department? Did any of them prompt him to write that very convenient article, as far as your Department's stance on this legislation is concerned?

259. **Mr Johnston**: I am not sure that either of my colleagues would appreciate being called underlings.

260. **Ms J Wilson**: Not that I am aware of.

261. **Mr Johnston**: I am certainly not aware of contact.

262. **Mr Wells**: I did not refer to the two ladies who are here today, by the way; I was thinking about those who are much further down the line.

263. **Mr Johnston**: We have to remember that the police have rightly been set up as an independent agency that is not under the Department's control. Maybe we can think back to situations in this country when there was less confidence in the independence of the police. So, one can understand why the police —

264. **The Chairperson**: Personally, I cannot actually recall when there was not confidence in the police going back a number of years. I am not aware of that. Maybe you are.

265. **Mr Johnston**: I am sure there are plenty of people who have written about situations in the 1960s, and even before that, when there were concerns. The police are independent, and it is right that they can express their concerns about proposals.

266. **Mr Wells**: Was it just coincidence that he happened to come out very publicly for the first time and having not bothered to make a submission to Lord Morrow during the consultation period? Was it just a coincidence that his line came out at the most appropriate time to underscore your Department's view on the legislation?

267. **Mr Johnston**: I am sure that the police are aware of the public debate that has been happening and of the fact that this is now before the Assembly. However, I certainly was not prompting them to say anything. That is no doubt an issue that

the Committee will want to explore with the Chief Constable next week.

268. **Mr Wells**: We will.

269. **Mr Johnston**: I know that the maintenance of good relationships with the Committee and with Members of the Assembly is a very high priority for the police. I am quite sure that there was no offence meant or intended in anything that was done or said.

270. **Mr Wells**: I reassure you that neither Ms Patterson nor Ms Wilson could possibly be deemed underlings. They are very senior members of your support staff and would never come into that category.

271. There is a clear distinction between those who believe that prostitution is a perfectly legitimate, free-will service that is provided by women, some of whom want to be in it and some of whom enjoy it, and those of us who believe that prostitution involves trafficked women who are vulnerable and abused. That is the huge chasm between the two different views of prostitution.

272. Were you not impressed by the evidence given by Ms Ekberg, who clearly stated that it is almost impossible to find a woman who is in prostitution by choice? Indeed, that point was underlined by the recent radio interview. Women are either forced into it, trafficked into it or driven into it by circumstances. Does your Department subscribe to the view that there are women who actually want to be prostitutes and who enjoy it?

273. **Mr Johnston**: You put two points of view that are expressed at either end of the spectrum. My concern is about the Department being associated with the point of view that this is all about choice and the empowerment of women, because that is certainly not the case. There may be a very small number who have come into prostitution totally by choice. However, I am quite sure that, for the vast majority of women and men who find themselves in prostitution, there are aspects of financial coercion, family coercion or past abuse. Indeed, the Minister expressed that view to Ms Ekberg just this morning. There are many different reasons that can lead someone to be influenced to go into prostitution. So, I am not going to argue that this is somehow an informed choice that people make or that it is an issue of informed consent.

274. **Mr Wells**: Sadly, the vast majority of those who buy sexual services are men, and it is much to the disgrace of our own gender that that happens, I have to say. Do you accept that, if you make it difficult or impossible for a man to acquire or to buy a woman's services, the whole rationale for prostitution just disappears?

275. **Mr Johnston**: I wish that it were all as straightforward as that. However, I think that we need to get under the skin of the extent to which that happens. To what extent in Northern Ireland is there prostitution that is driven underground? To what extent would that deter people who prostitutes might regard as better clients and force them, if there were no alternatives for them, into working with people who perhaps put them at risk? The danger here is that you push down in one area and suddenly, something else pops up. What would this mean for women and the few men who are working as prostitutes? What other sources of income do they have, to what extent do they depend on prostitution income and what other career choices are open to them? Those are all questions that I want to get under the skin of —

276. **The Chairperson**: So, you answered my earlier question, then; the Department does view it as a valid form of work. If you are concerned about what other forms of employment there may be for people in this industry, you have answered the question: you regard it as a valid form of work.

277. **Mr Johnston**: Chairman, with respect, you are putting words into my mouth. I am sure that, if no one were involved in prostitution, that would be a good thing. However, I am also very conscious that, for all sorts of reasons, people have found themselves in prostitution. I feel that I need to respect that, and I feel

that I need to respect the very difficult situations in which those people find themselves.

278. **Mr Wells**: It is a classic "knock it into the long grass" argument that Northern Ireland is very different from the rest of the world. The fact is that a lot of these traffickers are coming from other parts of Europe. A lot of these women are coming from places such as Romania, Bulgaria or Latvia, but we are different, so the classic way to get rid of Lord Morrow's Bill would be to kick it into the bushes by saying that we need more research. What is radically different about Northern Ireland that is not already known through the thousands of studies that have been carried out on prostitution in the rest of Europe? What is so different about us that requires these studies?

279. **Mr Johnston**: We do not have information on how policies on prostitution would impact locally, such as the pattern, nature and extent of prostitution locally, to give us a map on to which you can set your policies and see how they would impact. There is a big difference between how prostitution is expressed internationally.

280. Queen's is doing a piece of work at the moment that is looking at a number of cities, Manchester among them. Greater Manchester has a population of 2·7 million, so compared with greater Belfast, it is maybe four or five times bigger. They have 400 street prostitutes working there. We may have a number that is more like 15 or 20; we will find out more when we do the research. So, between two cities that are a couple of hundred miles apart, you have two different situations of how prostitution is being expressed.

281. We heard the example of Copenhagen and of what can happen when you come out of the station. Indeed, our own Minister was accosted by a prostitute and offered some services in Danish when he came out of the station at 7.00 am in Copenhagen. He does not speak Danish, but he said that it was not very difficult to work out what was being offered. For the record, I should say that he declined — *[Laughter.]* As we heard, there is a whole street there with strip clubs and saunas and so on. So, the situation in another European city is very different.

282. I think that we are legitimate in saying that there are different situations. Yes, there may be patterns, and yes, it is perfectly legitimate to look at international research, but I think that you need the local information.

283. **Mr Wells**: So, our prostitutes are less abused, less trafficked and less manipulated than prostitutes elsewhere in Europe, yet many of those —

284. **Mr Johnston**: We do not know.

285. **Mr Wells**: — women have come from other parts of Europe where they have been treated exactly that way. It is a strange argument, but I know that that is the classic way of trying to shelve a piece of legislation, because it is saying, "Let us go off and do more studies" or, "Let us set up a working party". That is the normal procedure.

286. Let us move to the situation in the Irish Republic. As you know, the Oireachtas Justice Committee at Leinster House has unanimously supported moves towards legislation that would very much be in line with Lord Morrow's Bill. You have heard my arguments about the fact that prostitution moves across borders overnight; there is no recognition of borders at all. If the Irish go down the route of putting in strong controls over prostitution, are we in danger of having it simply move en masse up to Northern Ireland? Have you had any thought about the implications of a change in the legislation in the Republic on this issue?

287. **Mr Johnston**: That is really taking two steps ahead, because, at this stage, we do not know what the Government in the Republic are going to do. The Oireachtas Committee has expressed a point of view and made a recommendation, just as the Assembly here makes recommendations about various things. However, the decision is now down to the Department, the Minister and

the Government. We will wait to see what conclusion is reached. I would not regard it as a foregone conclusion, because I know that different views are being expressed in the South. So, we will have to keep a close eye on that, just as we will have to keep a close eye on what is happening across the water and what comes out of this modern slavery Bill.

288. **Mr Wells**: Hopefully, you or the Minister will look at the transcript of the additional evidence that was given about Sweden today and perhaps consider examining the Swedish and Norwegian models very carefully. All the arguments that you put forward were put up in 1998 when this legislation was going through in Stockholm. However, the police have now turned round and said, "It is good legislation and has worked well". You told us that, under article 64A, you have had no prosecutions, never mind a conviction, whereas they told us that the number of men convicted in Sweden is running into 500, 600 and 700 a year. Is that not an indication that you have a lot to learn from the Swedish model?

289. **Mr Johnston**: With respect, that is not comparing like with like. The offence in Sweden is simply using the sexual services of a prostitute. The offence under article 64A is using the sexual services of a prostitute who has been subjected to force.

290. Certainly, we will look at the Swedish model. We had the advantage of a briefing this morning. I know that Ms Ekberg will send further material to the Department, and that is helpful. However, I am conscious, too, that, even from looking at the research paper that was produced for the Oireachtas, the report by the National Board of Health and Welfare in Sweden stated that it was unclear about the extent to which prostitution had increased or decreased as a result of the 1999 changes, with the result that it could not give an unambiguous answer to the question. There are other Swedish reports where the conclusions have been more measured. I am not belittling any of the evidence that we heard today — it is important that it is considered very carefully — but it is not the totality of the evidence or the opinions that have been expressed about the Swedish model.

291. **The Chairperson**: Can you elaborate on who is doing the research that has been commissioned? What is the extent of that research, and what is its purpose?

292. **Mr Johnston**: We have begun to have some conversations with relevant people so that we can draw up a specification for the research. Essentially, we want to see what is already available, what are the gaps and how best to plug those gaps. I intend, Chairman, to bring a full specification for that research to the formal Committee Stage of the Bill. As I say, those conversations are just taking place at this stage. We had a helpful meeting with Queen's yesterday. So, I will bring that specification to the formal Committee Stage.

293. **The Chairperson**: What concerns me is why the Department is not already aware of what is going on in Northern Ireland in prostitution, given its inextricable link to human trafficking. I am concerned that you need to do this research in the first place.

294. **Mr Johnston**: It is really over the past while that people in the public realm have become more concerned about prostitution in Northern Ireland. There were concerns in years gone by about the extent of street prostitution. However, the police have been working with other agencies, and the number of street workers in Northern Ireland is now very small. As I said, there has been a good flow of information to and from the police about concerns of instances of human trafficking. So, it is maybe only over the past while that public representatives have really started becoming concerned again about prostitution, and, obviously, the Department has been responding to that.

295. **Mr Humphrey**: Thank you for the presentation. For close on the past three hours, we have been debating

and discussing human rights and the dreadful abuse of young women throughout Europe. The problem is not just on the European mainland, if I can call it that; it is clearly a problem that is on our own doorstep.

296. I will start with clause 6 and with the Department's and the Minister's concern about prostitution being driven underground. I put it to you, Mr Johnston, that, in Northern Ireland, prostitution, particularly that which is organised and driven by paramilitary organisations, has been driven underground for some time. That problem is there, and nothing has been done about it.

297. **Mr Johnston**: Actually, the amount of contact with people who are involved in prostitution, even information that comes from clients, has been quite significant. There have been a number of cases in which human trafficking has been identified because somebody who is involved in one way or another has spoken to police, rung the confidential telephone or used other methods to get in touch. I cannot comment on paramilitary involvement, because I am not particularly well briefed on that. We can certainly find out more about that. However, there is a concern that, once you start to legislate in the way that clause 6 would, there could be a risk that those sources of information will dry up and the ability to spot where human trafficking is happening could be restricted.

298. **Mr Humphrey**: I find it incredible, given the number of years of the Troubles and paramilitary activity in Northern Ireland, that the Department does not seem to have grasped that there is paramilitary organisation of and involvement in the delivery of prostitution in Northern Ireland. There have been numerous TV and radio programmes, newspaper articles and journalists' exposés left, right and centre over the years about it. Effectively, the position that the Department and the Minister are adopting on clause 6 is to do nothing.

299. **(The Acting Chairperson [Mr McCartney] in the Chair)**: I listened to what Lord Morrow said about Ms Moran from Dublin, and I tend to agree with her. I have watched television programmes about this issue, read articles about it and listened to testimonies such as that which we heard today. I do not believe that one of those girls chose what is called the "oldest profession" to make a living. I was very concerned to hear the Department trot out terms such as "career choices". Surely it cannot be considered a career choice; it is an abuse of someone's basic human rights, and we need to afford those people protection when they come to Northern Ireland.

300. **Mr Johnston**: When I said "career choices", I was not using that term to describe prostitution. If someone is working in prostitution and a considerable amount of their income is coming from that, and you then come in with something like clause 6, I was asking what alternatives are available to them in moving into regular areas of work. We want to explore that through the research. This is all about the consequences that need to be thought about when you implement a policy on prostitution. What alternatives are there? How do you support women? That was the context in which I was talking about career choices. I apologise, Deputy Chairman, if I did not make that clear.

301. **Mr Humphrey**: I think that the reality is that there can be no option that basically says that the Department or the Minister can choose to do nothing on this issue. I put it to you again that a lot of prostitution in Northern Ireland has been driven underground already and is existing underground and that people are making lots of money by exploiting and abusing young people, some of them from Northern Ireland but many from across Europe.

302. I will turn to the Minister's view on clause 8. I understand that Sweden became a member of the European Union on 1 January 1995. In your evidence, you said that clause 8, in

the Minister's and the Department's judgement, goes "too far" in providing blanket immunity and is "beyond" — I think that that is the term that you used — the EU directive. Mr Johnston, what actions has the European Union taken against Sweden? Has Sweden been sanctioned by Brussels? Is the EU proposing to expel Sweden? What sanctions has it taken? I ask that because Sweden is one of the most liberal democracies on the globe.

303. **Mr Johnston**: I do not mean "beyond" the directive in the sense of being contrary to it. The point that I am making is that, with the changes that we have made to legislation recently, we are doing in Northern Ireland all that the directive requires. I am not arguing that, as a matter of course, victims of trafficking should be prosecuted. Indeed, I would be shocked if that were to happen. However, occasional situations can arise. I tried to give one example, which is that of someone who maybe comes in through the trafficking route and then becomes a trafficker themselves. There would need to be a very careful analysis of what exactly were the rights and wrongs in that situation, of whether that person had done something that was blameworthy and of how that was explained by the duress that they had suffered. I suggest that that sort of analysis, which is difficult and complex, is best done in the context of prosecutorial discretion, which we have at the minute, rather than in the context of a provision that says that certain people must not be prosecuted. Now, maybe there is a discussion to be had about how exactly does prosecutorial guidance — the code for prosecutors — address that and whether it does it in the best way and so on. That is a discussion that we could have when we come to the more detailed consideration of the Bill. However, clause 8 strikes us as something of a blunt instrument, and we are worried about the unintended consequences that it could have.

304. **Mr Humphrey**: I have to say that the evidence that the Department has given today on clause 8 being beyond the EU directive is a red herring. It is a smokescreen, and, quite frankly, I think that it is a scare tactic by the Department that should be ignored. I think that, to our shame, something like 86% of the legislation that passes through the House of Commons originates in Brussels. The French are happy to ignore legislation on agriculture, and the Spanish are happy to ignore it for fishing. So, when it comes to the protection of human rights and young girls from across Europe being exploited, we should ignore it. If this is something that the Department or the Minister will use to say that we should not put in place laws to protect people, it is, frankly, a nonsense.

305. **Mr Johnston**: Can I —

306. **Mr Humphrey**: No, I need to make progress. I want to talk about the potential for the law to be changed in the Republic of Ireland and the Dáil Committee report and, as we heard earlier, the law being changed in England and Wales. I am very concerned that the Department's and the Minister's position, as you outlined today, will basically mean that, as Mr Wells mentioned, the problem will be dumped over the border into Northern Ireland. I put it to you that Northern Ireland will become one of the soft underbellies of that heinous crime and abuse of human rights. We cannot allow people to be exploited and exposed in such a way and not do as much as we can to stop it happening.

307. **The Deputy Chairperson**: I do not think that you should be directed by members, but if there is something that you feel that you have to rebut, you are entitled to do it when giving evidence today.

308. **Mr Johnston**: Thank you, Deputy Chairman. As I said, a great deal is already happening with human trafficking, and the PSNI is very well tied in to that work. Bearing in mind that we are a small jurisdiction, we are as tied in to international networks and information as other, bigger jurisdictions. That has been given a real priority

in catching offenders, in supporting victims and in making sure that the right arrangements are in place.

309. I think that two questions need to be asked about clause 8. One is that, in the law of Northern Ireland, as I understand it, duress is not a defence to murder. It does not matter how much pressure somebody puts on me to kill someone else, I must not do it. This clause is introducing a situation in which duress could be a defence to murder. There is an argument to be had about that, but it is one of the issues that will need to be considered.

310. Clause 8(a)(vi) is about a victim who has received payments or benefits to achieve consent. Does that mean that a victim who has been trafficked and is then offered £100,000 to do something is automatically exempt from prosecution? I think that we would want the discretion to examine the rights and wrongs. There are some concerns about what clause 8 means in practice. We want to explore those and what alternatives to clause 8 there might be that would achieve the same thing.

311. **Mr Humphrey**: That is what the police and courts are there for.

312. **Mr Johnston**: Indeed, and the prosecution.

313. **Mr Humphrey**: If you do not put the laws there to protect people who are not getting the mythical £100,000 that you are talking about but who are being abused day and daily and are afforded no human rights, I honestly believe that Northern Ireland will be one of the soft underbellies for that appalling abuse and that we will not have the armoury to deal with it in laws and legislation.

314. **Mr Johnston**: I can say with certainty that the Minister is determined that we do not become in any way soft on human trafficking. However, the question that the Committee will need to address is whether the Bill and every provision in it is the best way of achieving that.

315. **Mr Humphrey**: The evidence that we heard today does not give me confidence that the Department's or Minister's position will prevent that happening.

316. **Mr Easton**: If we go back to the meetings with DS Phillip Marshall, you said that there were some meetings to discuss human trafficking and that he was there. Have any of those meetings been solely to discuss Lord Morrow's Bill?

317. **Ms J Wilson**: No. They have been in the context of the wider OCTF immigration and human trafficking subgroup. It was mentioned in updates to that group when there was a general round-up of things that were happening. The discussion was not on the Bill; it happened in the context of other issues.

318. **Mr Easton**: So, clause 6 was never discussed at any of those meetings?

319. **Ms J Wilson**: Not to my memory. It was discussed generally as part of a wider round-up of issues that we were updating. For example, when the Bill was introduced, we would have highlighted that, or we would have said that we were expecting the Bill to be introduced shortly. We did not look substantively at the issues under the Bill.

320. **Mr Easton**: So, to the best of your knowledge, there have been no meetings with this police officer to discuss the Bill.

321. **Ms J Wilson**: It has come up in conversations. We have not had meetings to discuss the Bill.

322. **Mr Easton**: But it has come up in conversations.

323. **Ms J Wilson**: Yes.

324. **Mr Easton**: Was the Minister present when those conversations happened?

325. **Ms J Wilson**: Other than the meetings that the Minister held with stakeholders in the summer — Philip Marshall attended one of those — they were the meetings referred to in the paper that we provided.

326. **Mr Easton**: We got figures from Lord Morrow today about human trafficking and prostitution. He gave figures from 2008 and was able to show that the

vast majority of prostitution cases came from human trafficking cases. How come you do not seem to have that sort of data? You indicated that there is no real data for that, yet Lord Morrow seems to have the data.

327. **(The Chairperson [Mr Givan] in the Chair)**: Mr Johnston: I think that we are talking about two different things. The figures that Lord Morrow put up on the screen were the data on potential victims of human trafficking, who are referred to in the national referral mechanism. We have those figures, and, if it would be helpful, I can give you a year-by-year breakdown of how many victims there were of sexual exploitation. There are lots of data for human trafficking, and we can analyse it in all sorts of ways. There is a dearth of information on prostitution. The police can make estimates — even they would say that they are just estimates — of the numbers that are involved in prostitution. However, we need to know more about the nature of prostitution in Northern Ireland and about some of the other issues that have been flagged up to the Committee.

328. **Mr Easton**: So, you have estimates from the police.

329. **Mr Johnston**: Philip Marshall, in his article, quoted some estimates. We have kept in touch with the police on this over the years and have had conversations from time to time about the sorts of numbers of women who are involved in street prostitution, for example.

330. **Mr Easton**: OK. You also made reference to the consultation. You indicated that you felt that the consultation was not wide enough and did not have enough scope. Lord Morrow, in his consultation, has written to councils, the Assembly, churches, charity groups and all sorts of other groups. Is that not good consultation?

331. **Mr Johnston**: That consultation has certainly covered a wide range of people. A particular set of questions was asked and set out in the consultation paper. Our hesitation is twofold. First, that consultation was very focused on human trafficking. We are just conscious of all the wider prostitution issues that we think need to be considered before you go forward with a clause 6 proposal. Secondly, we have asked Lord Morrow for copies of the responses, as has the Committee. He has responded helpfully. He wants to check that people are happy for those responses to be shared with the Department. I am not aware that there was any particular engagement with people who are directly involved as sex workers. That is an important constituency of people whom we want to make sure is covered.

332. **Mr Easton**: I notice that he consulted Sex Work IE, whatever that is. Is that organisation not something to do with the sex industry or knowing something about it?

333. **Mr Johnston**: We will see when we get copies of the responses. However, I am not aware that individual sex workers were consulted as part of the exercise.

334. **Mr Easton**: That organisation would have a great in-depth insight into that sort of way of thinking. You might not be correct there.

335. **Mr Johnston**: I am willing to be corrected. As I say, we have asked for copies of those responses.

336. **Mr Easton**: Lord Morrow's consultation indicated that 80% seemed to be very supportive of the Bill and, certainly, of clause 6. Do you not take that into consideration?

337. **Mr Johnston**: Amanda might want to say something about the meetings that were held with a range of organisations over the summer. The feedback that we got was more mixed, not about the importance of being tough on human trafficking but about the specific proposals.

338. **Ms Amanda Patterson (Department of Justice)**: People had concerns that to adopt clause 6 would perhaps not look widely enough at the issue of prostitution in Northern Ireland and

about the ongoing effects that it might have on different individuals. As Gareth said, it was not supported in that respect. A lot of the non-governmental organisations felt that it was not based on sufficient local research and information as to the wider aspects of prostitution, namely the effects on people who had not been trafficked but who work in prostitution and what it might mean for the safety of those vulnerable women. Those are the concerns that are put to us, which is one of the reasons why the Department has decided that it needs to carry out some further research.

339. **Mr Easton**: Were those organisations the same ones that wrote back to Lord Morrow?

340. **Ms Patterson**: I do not know.

341. **Mr Easton**: You do not know. How come the 80% who are supportive of the Bill are not complaining about what you say your groups are?

342. **Ms Patterson**: Because it might have been a different question that we were discussing at the time, rather than the Bill as a whole and the need to address human trafficking. The question of criminalising prostitution and its effect on the wider problems has not really been addressed; they were not responding on that particular point.

343. **Mr Easton**: Why did you start consulting these groups? Was that done as part of your own Bill, or was it done just to muddy the waters for Lord Morrow's Bill?

344. **Mr Johnston**: This issue was gaining prominence, and the Bill was coming to the Assembly. It was important that we, as the Department, were informed on the current thinking out there.

345. **Mr Easton**: The Department does not seem to like clause 6.

346. **Mr Johnston**: I cannot imagine what gave you that impression. *[Laughter.]*

347. **Mr Easton**: Does that mean that the Department of Justice supports prostitution?

348. **Mr Johnston**: No.

349. **Mr Easton**: How can you justify that answer when you want to keep it legal?

350. **Mr Johnston**: It is one thing to say that there are issues and challenges in respect of prostitution that we need to address in Northern Ireland; yes, that is fine. However, when you look internationally, you see that there are lots of different examples of how this has been done. There is everything from the Swedish model to Germany, where they have liberalised everything and you can quite happily get on with selling or buying whatever services you want.

351. **Mr Wells**: You are not selling services; you are selling women. Be careful: it is not a service; you are selling women.

352. **Mr Johnston**: I am quite happy to adopt that language; absolutely.

353. There is a wide range of examples of how different countries have coped with this. We are not denying that there issues about prostitution. We are simply saying, "Hang on. Why do you take the particular example that has been used in three countries — Sweden, Norway and Iceland — and apply it to Northern Ireland? Is Northern Ireland in 2013 maybe not a bit different from Sweden in 1999?" We are not saying that you do not consider it. We are simply saying that you should not take one of a whole variety of models and superimpose it onto a different situation.

354. **Mr Easton**: The reason why the Swedish model is so good is that Sweden has reduced its prostitution rate by 50%; the figures were produced earlier. I cannot understand why you are saying that the Justice Department does not support prostitution but is not willing to legislate, or allow someone else to legislate, to stop it. It seems to me that there is doublespeak going on. Does the Department support prostitution or not? You cannot say no, if you are not going to do something about it. What is the Department's position?

355. **Ms Patterson**: I think that the Department has a responsibility to look

at the effects and impacts on women and vulnerable women before taking —

356. **Mr Easton**: Why are you not doing something about it?

357. **Ms Patterson**: We are going to look —

358. **Mr Easton**: But you will not support clause 6.

359. **Ms Patterson**: We think that clause 6, at the minute, could have a possible negative impact on individuals who are working as prostitutes.

360. **Mr Easton**: We want to stop that, so why does the Department not want to stop it?

361. **Mr Johnston**: The Department is taking a range of actions on prostitution. In the context of its strategies on domestic and sexual violence, the Department is making sure that there is specific mention of the issues around children leaving care, which is a particular concern for the Department regarding prostitution. The establishment of The Rowan, a sexual assault referral centre (SARC) in which the Department has been very much involved, is another example of something that is available to sex workers and allows for easy — well, nothing is easy for people who have been attacked. It allows for confidential reporting in therapeutic surroundings if there are concerns about clients who have been violent, or whatever. I could list other things.

362. Plenty of stuff has been happening on prostitution and human trafficking. We simply need to ask whether clause 6 is the right thing to do in Northern Ireland. Again, I quote from a research paper that went to the Oireachtas in the context of their discussions on the Swedish model. It says:

"Nevertheless, the Swedish authorities cannot estimate with any degree of certainty how many indoor prostitutes, who form the majority of prostitutes in Sweden, there are."

363. I am not trying to take an absolute view, but when you say that there has been a 50% reduction, I am trying to say that there have been questions asked about the statistics quoted.

364. **The Chairperson**: It gets back to the point about who submitted that research. What is the ideology that governs where they are coming from? I think that this gets to the core of the issue for Northern Ireland as a society: what is our ideology on this particular issue? Are we in favour of women being abused or are we not? Are we just going to treat the symptoms? I commend what the Department is doing. I have been to the SARC in Antrim; it is fantastic. We can treat all of the symptoms, or we can get to the core and deal with the cause and effect, and the supply and demand. That is where we need to be, and that is why clause 6 is so important, from our perspective, because it gets to the core driver of what is actually happening in Northern Ireland.

365. **Mr Easton**: To me, your Department would not have been doing anything had Lord Morrow not brought this Bill before the Assembly. To be honest with you, you are just playing catch-up. I have to say that if the Department and the Minister do not support clause 6, then I have to ask whether you are supporting prostitution. You are not doing anything to fix it. I will be very disappointed with the Department if you do not support clause 6, because you are not doing anything to do away with prostitution and help protect all those vulnerable women.

366. Clause 6 is vital to reducing prostitution and all of the things that go along with it — all of the sexual diseases, the murders and the beatings. Clause 6 is vital to protect these women. If you do not support it, the charge will be laid at your Department that it is supporting prostitution.

367. **Mr Johnston**: The Department wants to protect vulnerable women —

368. **Mr Easton**: Well, do something about it.

369. **Mr Johnston**: The question is whether, in the Northern Ireland situation, clause 6 would result in protections for vulnerable women or whether it would open up new difficulties that we have not had until now. We need the research so that we can assess the impact of the likes

of clause 6 or other policy options. I come back again to the volume of work that has gone on in the Department, the police, the prosecution service and all the agencies on human trafficking. That includes the new offences that were introduced earlier this year in the Criminal Justice Act; the action plan, with input from the Organised Crime Task Force, that has been put in place; the training needs that have been addressed, through which 4,000 police have received online training and there has been particular training needs analysis for detectives; the development of an operational field guide for PSNI officers; the cross-border cooperation between us and the South, which I suggest is second to none compared with any European borders; the support services provided to victims; and the development of a new policy in the Public Prosecution Service for handling human traffic cases. I could go on. The issue has been very high on the Department's agenda, and I regret that our concerns about a particular clause of the Bill that does a very particular thing somehow calls into question the Department's commitment to combating human trafficking.

370. **Mr Easton**: If a Justice Department, which is here to introduce laws to protect society, cannot support a Bill to stop prostitution, there is something very wrong with that Justice Department.

371. **Ms McCorley**: Go raibh maith agat, a Cathaoirleach. I do not want to delay things. I want to express some concerns about the black-and-white approach that is being taken to clause 6, whereby if you have concerns about clause 6, it means that, somehow, you support prostitution. It flags up that we need more information to make decisions based on our informed judgement, and we have responsibility to find the research and the information that allows us to make our judgement and decisions. It is not really right that we should be asked to adopt law that operates in other jurisdictions without basing it on data and evidence from the jurisdiction in the North. We would not do that on any other issues, so why would we do it on this issue?

372. **Mr Johnston**: When you look at the example of Sweden, you see how a great deal of thought over a number of years was given to all the issues around prostitution. It came out of a very different context from the human trafficking context that we are discussing today. It came from a desire that has been very strong in Sweden for gender equality and from a view that any purchase of sex was an expression of violence against women. That is a discussion that I would welcome us having, and I am sure that it would be important and useful. However, that discussion is distinct from the aspects of human trafficking that we are talking about today, and it is a discussion that needs to happen in an engaged and comprehensive way so that everybody has an opportunity to contribute to it.

373. **Mr A Maginness**: If clause 6 was not in the Bill, would you support the Bill?

374. **Mr Johnston**: As we have said, the Department's analysis is —

375. **Mr A Maginness**: I have an open mind on clause 6, but would you, as a Department, be supportive of the Bill without clause 6?

376. **Mr Johnston**: We feel that some bits of the Bill replicate things that are already in place, and there are some that we have concerns about. Clause 6 is the major concern. As I have set out and as is set out in the papers, we have concerns about a number of other clauses. We could have a discussion about that through the Committee Stage and could certainly look at alternatives. The Department would still have concerns about the Bill as a whole, but, certainly if clause 6 and the relatively small number of areas that we have highlighted were addressed — well, I do not want to go too far ahead of myself. I would need to discuss all that with the Minister, but maybe for now I can say that it would certainly help to put the Bill in a different light.

377. **Mr A Maginness**: I heard your criticisms of the Bill in relation to clause 8. I think that that is easily amended by providing for partial immunity. I heard your criticism in relation to clause 16 on the rapporteur. I cannot see any problem with having a Northern Ireland rapporteur. I have listened to you in relation to clause 4 about mandatory sentences. I do not support mandatory sentences, but there is a let-out section in that clause in any event. It is not an absolute —

378. **Mr Johnston**: There is an exceptional circumstances provision.

379. **Mr A Maginness**: You could, in fact, amend that even further to make it more flexible. And then, I have heard you say that there are many other aspects of the Bill that have already been addressed under other legislation. However, the point that should be made is that, in effect, this Bill consolidates that legislation and that is a valuable exercise in itself. The point that Lord Morrow made — I thought very convincingly — is that it is right that we seize the initiative and take the lead in this key area. This Bill provides us with the opportunity to do that. That is a fairly noble aspiration on the part of Lord Morrow, and I think that the Department shows a lack of ambition in that area.

380. **Mr Johnston**: There were already legislative plans — they are set out in detail in the paper — where we felt that improvements could be made to legislation. That has been part of a rolling programme of work on human trafficking, both legislative and non-legislative. Today, we have spent an awful lot of time on clause 6 and the issue of prostitution, but I think that it is helpful to bear in mind that the Bill covers much more than that. We will have discussions at a later stage about the impact of individual clauses, the detail of the concerns that the Department might have, and what alternative approaches there might be. We will welcome those discussions when we come to them.

381. **Mr McCartney**: I suppose that in some respects — I made this point earlier and when I spoke to Lord Morrow this morning — we must be as well informed as we possibly can be before we make any decision. That goes for any piece of legislation. There is a tendency that, because you are for something, you want to rush it through. There is a feeling that, since this sort of thing worked in Sweden, it should work here, so let us just pass legislation. If we did that, all of the legislative process would become redundant, near enough. What need for these Committees? What need for an Assembly? Why not just have somewhere in the centre of Europe where laws are made and we can just transpose them to here? We cannot have that. It is important that we scrutinise it.

382. As to the research that you will be doing, the onus is on you to complete it as speedily as possible. People may feel that, because you are opposed to it, it is going to take a year. I am not saying that it will be a desktop operation. Certainly, if we get that research as quickly as possible, we will be in a better position. Have you any timescale?

383. **Mr Johnston**: When I have more detailed specifications of the research at Committee Stage, I will be able to give you a better estimate of the timescale. However, we are already exploring some mechanisms that will let us get it done more quickly.

384. **Mr Elliott**: My question, on the Bill itself, is along the same lines as Mr Maginness's. In your presentation — I do not want to go into it too much because both it and Lord Morrow's presentation were very detailed — you indicated that you could still support the Bill. You said that the Minister's view is that clause 6 should not stand part of the Bill, which sounds to me as though you are accepting the Bill but not some aspects of it.

385. Earlier in the briefing document, you say that the Minister has significant reservations about a number of clauses in the Bill. So, again, as Mr Maginness

has outlined, that is almost saying that you support the Bill but not some aspects of it. I am looking for a bit more clarity on where the Department is going to go. Is it going to totally oppose the Bill, or will it table amendments and try to progress it?

386. **Mr Johnston**: Today has been about looking at the general principles of the Bill, and we are maybe getting to things on which I will need to have discussions with colleagues and the Minister —

387. **Mr Elliott**: Sorry to interject, but the point is that we are talking about the principles of the Bill. Is the Bill going to go forward or not? Are you going to support it going forward? That is the key issue.

388. **Mr Johnston**: We are all aware that, on the issue of whether the Bill goes forward, we will be subject to the views of the Assembly. I am not able to say what way the Minister wants to vote at Second Stage; I have not had that conversation with him. Today has set out that there are a number of significant concerns. As we go forward, we will explore how those concerns could be dealt with.

389. As you said, the Minister feels that clause 6 should not stand part. It is difficult to see how our concerns about clause 6 could be addressed other than by excising that clause. With regard to other parts of the Bill, there are discussions we need to have.

390. **The Chairperson**: Thank you very much.

28 November 2013

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Ms Mairead Lavery	*Public Prosecution Service*
Ms Marianne O'Kane	

391. **The Chairperson**: I welcome Marianne O'Kane, assistant director, and Mairead Lavery, the principal private secretary, from the Public Prosecution Service (PPS). As before, the session will be recorded by Hansard and published in due course. We are grateful to you for taking the time to come to us. I now hand over to Marianne to brief us, and members will then ask some questions.

392. **Ms Marianne O'Kane (Public Prosecution Service)**: Good afternoon, Chairman and members of the Committee. We are pleased to attend today, at your request, to provide you with whatever assistance we can to enable you to debate the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. I am an assistant director in the Public Prosecution Service, and I currently have responsibility for the policy and information section. I oversaw the development of the PPS policy for prosecuting cases of human trafficking, and I also have experience of taking prosecutorial decisions in human trafficking cases.

393. Just to make a correction to the agenda, Ms Lavery is, in fact, a senior public prosecutor and the PPS policy lead on human trafficking. She developed the recently published PPS policy, and she represents us on the Organised Crime Task Force human trafficking and immigration subgroup. She has also provided training to partner agencies, voluntary and non-governmental organisations.

394. We have carefully considered the Bill proposed by Lord Morrow, and we share his aim that all legitimate steps are taken by the criminal justice system and beyond to end trafficking in human beings and to support victims of that heinous crime.

395. On 3 October 2013, the Committee wrote to the Director of Public Prosecutions inviting views or comments on the Bill. Ms Lavery provided a response on behalf of the director to the Committee Clerk on 1 November 2013. With regard to the response and also the proceedings today, it is important for me to restate that legislative and sentencing policy is a matter for Ministers to determine; the implementation of sentencing policy in individual cases is a matter for the judiciary; and we, as prosecutors, will apply the relevant law in force at the time. We are, however, very willing to assist the Committee by providing views on the Bill from a prosecutorial perspective, taking into consideration the statutory functions of the director and the role of the prosecutor.

396. With your permission, Chairman, I invite Ms Lavery to summarise the response that we submitted.

397. **The Chairperson**: Thank you.

398. **Ms Mairead Lavery (Public Prosecution Service)**: As Ms O'Kane said, the Committee wrote to the director on 3 October, welcoming views or comments on the Bill. I provided a response on behalf of the director to the Committee Clerk on 1 November. In the response,

I referred mainly to three clauses; namely, 6, 7 and 8. I begin with clause 6, which seeks to amend the Sexual Offences (Northern Ireland) Order 2008 by substituting article 64A to create an offence of:

"Paying for sexual services of a person".

399. That would extend the existing offence to include paying for sexual services where there is no reference to a person being subjected to force or exploitation. The proposed offence refers to "sexual services of a person", whereas the existing offence in article 64A refers to "sexual services of a prostitute". That would widen considerably the scope of the offence and would therefore require clarification around interpretation within the text of the Bill. That is because the clause, as currently drafted, refers to "sexual services"; however, there is no definition of sexual services in the Bill. If one looks at the Sexual Offences (Northern Ireland) Order 2008, one will see that "sexual" is defined thus:

"penetration, touching or any other activity is sexual if a reasonable person would consider that—

(a) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual, or

(b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both), it is sexual."

400. If the intention is that sexual services would be defined with reference to the aforementioned definition in the 2008 order, that could include acts such as, for example, paying for a lap dance, chat lines or webcam viewing, which could result in prosecution in cases such as that of a teenager who may have viewed a webcam or used a chat line. There is a question, therefore, about whether that offence will also result in notification on the sex offenders register. It is expected that this type of activity was not intended to be criminalised, but, as the Bill is currently drafted, it would make it so.

401. Furthermore, the sentencing provisions in clause 6, as drafted, are not understood. For example, it is not clear in respect of which court tier the potential to imprison for a term not exceeding one year applies. It does not refer to prosecution on indictment in the clause. That requires clarification. It is opined that what constitutes sexual services requires clarification in relation to that offence, as does the sentencing provision and the question about whether it is intended that the offence will be added to the list of offences contained in schedule 3 to the Sexual Offences Act 2003 regarding notification.

402. As you are aware, investigation is a matter for police, not the Public Prosecution Service, although the PPS will provide prosecutorial or pre-charge advice to police when required. I can foresee difficulties in investigating and obtaining the required evidence to prosecute the offence in cases where the person providing the sexual services does so consensually and without being subject to force from a third party. Further, any potential prosecution in cases where both parties are consenting adults could give rise to issues of human rights, particularly the right to private life enshrined in article 8 of the European Convention on Human Rights but also potentially article 10 and article 17.

403. Clause 7(1)(a) requires the Department to take necessary measures to ensure that services responsible for the investigation or prosecution of human trafficking offences or slavery offences are trained accordingly. The clause does not define which Department has that responsibility. Is it the Department of Justice or the Department of Health, Social Services and Public Safety, both of which have responsibility for supporting victims of human trafficking? Nevertheless, the clause places a responsibility on a Department to ensure that public prosecutors are trained accordingly. It is not clear whether that places a responsibility on the undefined Department to provide actual training or resources to the

particular service, such as the PPS, to enable us to deliver training to our staff. Presently, when a case involving potential offences of human trafficking is received in the PPS, it is brought to the attention of an assistant director or regional prosecutor, who will allocate the case to a senior public prosecutor of appropriate experience. Complex cases involving human trafficking are dealt with by specialist prosecutors in the PPS central casework section. Those experienced senior prosecutors have expertise in dealing with complex cases and cases that may involve intelligence or interjurisdictional issues. A programme of training will be provided to all prosecutors in due course.

404. I will move to clauses 7(2) and 7(3). Clause 7(2) provides:

"The investigation or prosecution of a human trafficking offence … shall not be dependent on reporting or accusation by a victim wherever the offence takes place."

405. I ask whether this also includes offences committed outside Northern Ireland and that any criminal proceedings may continue even if the victim has withdrawn his or her statement. Regarding clause 7(2), the PPS will apply the test for prosecution in all cases referred to it by police regardless of whether the victim reports the offence, makes a statement or withdraws their statement. The test for prosecution, as you are aware, is a two-stage test: the evidential test and the public interest test. Both tests must be passed in order to prosecute. The evidential test must be passed before the public interest test can be considered. In order for the evidential test to be passed, the evidence that can be adduced at court must be sufficient to provide a reasonable prospect of a conviction. If and only if that test is met, the prosecutor will then consider the public interest test, which is about whether prosecution is required in the public interest. The PPS will always strive to maintain a prosecution unless there is either no or insufficient admissible evidence to afford a reasonable prospect of conviction or the public interest does not require prosecution.

406. The PPS policy for prosecuting cases of human trafficking clarifies that the withdrawal of a complaint does not necessarily mean that a case will be stopped. As a general rule, the PPS will prosecute all cases where there is sufficient evidence and prosecution is required in the public interest. The policy also details the steps that will be taken by the prosecutor in such circumstances. I remind the Committee that the policy was launched officially on 15 October. These considerations regarding instituting or continuing prosecution in the absence of a formal complaint or where a victim withdraws his or her support for prosecution are given a similar approach to other types of cases involving vulnerable victims, such as sexual offences and cases involving domestic violence.

407. Clause 8 provides for the non-prosecution of victims of human trafficking who may have committed a criminal offence as a direct result of their trafficking. The statutory obligations placed on the Director of Public Prosecutions by the Justice (Northern Ireland) Act 2002 require public prosecutors to review each case received from investigators in accordance with the code for prosecutors to determine whether criminal proceedings can be instituted or continued. Although the director can grant immunity from prosecution in certain circumstances, that is currently a matter for the director to determine in accordance with the provisions of the Serious Organised Crime and Police Act 2005. Every case must be considered on its own merits and having regard to the seriousness of the offence committed. However, should evidence or information be available to the prosecutor that supports the fact that a person has been trafficked and has committed an offence as a result, that will be a strong public interest factor militating against prosecution. The PPS policy outlines the approach to be taken in such cases. To enable the prosecutor to consider such factors, they must be provided with information

from police or other sources who suspect that the person may be a victim of trafficking. Further, that is only relevant where the criminality is a direct consequence of the trafficking situation. There must also be consideration of the extent to which a victim was compelled to undertake the unlawful activity.

408. Prosecutors currently give consideration to all information provided by police and any other agencies, including any decision arising from the national referral mechanism, when deciding where the public interest lies. The policy that has been issued by the PPS is compliant with article 26 of the Council of Europe Convention on Action against Trafficking in Human Beings 2005. It also includes reference to and complies with the Court of Appeal cases of R v O and R v LM. Those cases highlight the need for prosecutors and defence practitioners to take all reasonable steps to identify victims and to be proactive in causing enquiries to be made and provide that prosecutors must consider the public interest in prosecution when the defendant is a trafficked victim and the crime has been committed when he or she has been compelled to do so. Further, in the case of R v LM, the Court of Appeal gave guidance on the application of article 26 of the convention. The Court of Appeal stated that article 26 does not say that no trafficked victim should be prosecuted, whatever offence has been committed. It does not say that no trafficked victim should be prosecuted when the offence is in some way connected with or arises out of trafficking, and it does not provide a defence that may be advanced before a jury. What it says is no more or no less than that careful consideration must be given to whether public policy calls for a prosecution and punishment when the defendant is a trafficked victim and the crime has been committed when he or she was in some manner compelled, in the broad sense, to commit it.

409. Article 26 does not require blanket immunity from prosecution for victims of trafficking. It follows that the application of article 26 is fact-sensitive in every case, which is the essence of the PPS policy for such cases. I can advise that I am aware of at least one case that has been considered by the Public Prosecution Service where the prosecutor and police made further enquiries to establish that a suspect was a potential victim of human trafficking and was being compelled to work in what was essentially a cannabis factory where they tended to plants. The prosecutor in that case applied the PPS policy and took the decision that prosecution was not in the public interest. So, the PPS policy has been applied and implemented in that regard.

410. The type of offence committed is also a relevant consideration in determining whether duress can be a defence. Duress is not a defence to all offences. It is not a defence to murder or attempted murder. That also applies in the case of children of the age of criminal responsibility, no matter how susceptible he or she may be to duress. There is case law on that. Further, there should be recognition that the commission of an offence may have resulted in other victims, who also have a right to due process and consideration.

411. That concludes our observations on the Bill as drafted. I hope that it assists from a prosecutorial point of view with the practical issues raised in the Bill.

412. **The Chairperson**: Mairead and Marianne, thank you very much. I will move to questions from members.

413. **Mr A Maginness**: Thank you very much. That was very instructive. First, in real terms, you say that, given the law as presently stated, clause 8 would not stand as being acceptable. The Public Prosecution Service has to look individually at the merits of every case. Then, having passed the evidential test that a case could be established against the person, the public interest factor kicks in. It is only then that a final decision could be made either for or against a prosecution. Is that really the summary of the situation?

414. **Ms Lavery**: Currently, the obligations on the director are to review every case and determination, to look at the evidence in every case and to apply the test for prosecution. That is a requirement under the Justice (Northern Ireland) Act 2002. If the Assembly were to legislate, that could, I suppose, change that. However, as things are, the director cannot give blanket immunity to prosecution in these cases but must look at every case on its individual circumstances and merits and apply the test for prosecution. The policy, as it is currently, is compliant with article 26. I think that article 26 of the convention gets quoted in respect of non-prosecution and non-penalties imposed on victims of human trafficking, but it does not provide, as the Court of Appeal has said, for a blanket no prosecution because someone has been a victim *[Inaudible.]*

415. **Mr A Maginness**: If we were to pass the clause as it is currently expressed in the Bill, it could well be non-compliant with current law and possibly article 26.

416. **Ms O'Kane**: With respect, I would not say that it follows that it is non-compliant. It would go further than the current legal position.

417. **Mr A Maginness**: Sorry, explain that to me. In straightforward terms, what does that mean?

418. **Ms O'Kane**: As I read it, clause 8 would create a provision that would effectively debar the director from taking a decision to prosecute in a case where the categories set out in the clause were met.

419. **Mr A Maginness**: Given what your colleague said, is it correct to say that that provision would not be compliant with the law as it stands?

420. **Ms O'Kane**: The law as it stands sets out the opportunity for the director. As you will probably know, the entitlement to grant immunity is set out in the Serious Organised Crime and Police Act 2005. That gives permission, if you like, to the director to grant immunity. This would effectively fetter that expression.

421. **Mr A Maginness**: In general terms, could it be regarded as being unlawful if we passed that provision?

422. **Ms O'Kane**: I am not a constitutional lawyer, so I do not want to comment on that particularly. We simply flag it to the Minister and his advisers as a potential consequence.

423. **Mr A Maginness**: There is a danger of there.

424. **Ms O'Kane**: We flag it as an issue for the Minister's attention.

425. **Mr A Maginness**: You are very circumspect about it.

426. As you illustrated in your submission, there are two problems with clause 6. One is that "sexual services" is not defined in the Bill. The definition of sexual services in the 2008 order, if we were to borrow that, is much wider and goes over and beyond prostitution. Is that a fair summary of what you are saying?

427. **Ms Lavery**: Yes, the 2008 order does not define "sexual services"; it defines the term "sexual".

428. **Mr A Maginness**: Is "sexual services" defined anywhere in statute?

429. **Ms Lavery**: Not that I am aware of.

430. **Mr A Maginness**: So, there is a problem of getting into statutory form "sexual services".

431. **Ms Lavery**: I do not mean this in any disrespectful way, but it is further complicated by the use of "person" as opposed to "prostitute".

432. **Mr A Maginness**: I was going to come to that. If, instead of "person", "prostitute" were put in, what difference would that make?

433. **Ms Lavery**: There would still be no definition of "sexual services".

434. **Mr A Maginness**: Leave the definition of "sexual services" aside for a moment.

435. **Ms Lavery**: I understand. There is a definition of "prostitute" in legislation, as far as I understand, which may well —

436. **Mr A Maginness**: If the Bill were to say "prostitute" instead of "person", that would be a clearer definition.

437. **Ms Lavery**: It could assist, but we would need to look at it again.

438. **Mr A Maginness**: It could assist. Let us assume that we do that. We still have a remaining problem of how to define "sexual services", is that right?

439. **Ms Lavery**: The clause would be as it is now except for the removal of "force" or "exploitation". It currently refers to:

"sexual services from a person … in exchange for payment".

440. The word "person" could be replaced with "prostitute". The issue outlined in my submission would still remain, which concerns obtaining evidence in those types of cases in order to prosecute.

441. **Mr A Maginness**: I was going to come to the evidence part, but we are still dealing with the drafting of this clause. We have already discussed replacing "person" with "prostitute", and we must then look at the definition of "sexual services" and try to get a more appropriate definition.

442. **Ms Lavery**: I think that, if "person" is substituted with "prostitute", the issue of what "sexual services" are and the circumstances included will become clear.

443. **Mr A Maginness**: It will become much clearer because you are contextualising it, are you not?

444. My other point concerns evidence. This has always been a problem that occurred to me when dealing with this. Even if the draft is perfect in its definitions and so forth, in reality, where people avail themselves of the services of a prostitute, it might be difficult to prove that the sexual services were bought, might it not? The person buying the sexual services is not going to say, "Yes, I paid such-and-such amount for this sexual service". Does that amount to a real problem for you as a prosecutor?

445. **Ms Lavery**: Police are investigating in those matters. However, I can foresee that, if a prostitute is consenting without force to provide the services, there may be difficulties in obtaining evidence or a statement from the person whom they provided those sexual services to for financial gain.

446. **Mr A Maginness**: Is that because she is unlikely to say, "I received money in exchange for sex"?

447. **Ms Lavery**: Potentially. I am not sure that that person could continue in their line of work if it is known that they are providing information.

448. **Mr A Maginness**: Yes, so there is potentially an evidential problem in prosecuting the offence.

449. **Ms O'Kane**: I think that the problem comes before the gathering of evidence. There is a problem identifying the offence or finding out that the offence is likely to be occurring in order to trigger a police investigation. Who would the complainant be and how would the police even commence investigation? I think that that is the main barrier, and perhaps part of the reason that previous witnesses to the Committee are describing the number of witnesses that they have supported.

450. **Mr A Maginness**: I will finish here, Chair, and I am sorry for hogging this. Have you looked at other jurisdictions, such as Sweden, where there is a similar provision?

451. **Ms O'Kane**: Yes. I have read the research that initiated Lord Morrow's Bill, and I express a neutral view on that. It is one piece of research setting out one perspective. I know that there are competing views and that other academic research has been done.

452. **Mr A Maginness**: I am sure that the same problem with evidence-gathering arises in Sweden as would here if the provision were to be enacted.

453. **Ms O'Kane**: Yes, indeed.

454. **Mr A Maginness**: Have you come across any papers or documentation on how the

Swedish police gather the evidence and get successful prosecutions?

455. **Ms O'Kane**: No, I have not gone so far as to look at the position in Sweden, I am afraid.

456. **Mr McGlone**: Thank you for being with us here today. We have heard the compelling evidence as to the why, and now we are into the nitty-gritty of the how. To go back to clause 6, you could wind up having reasonable legislation in theory but making a total mess of its interpretation when cases get to the courts. I want to get this clear in my mind: the clause concerns paying for the sexual services of a person, and thank you for clarifying where this could go. It could skew into all sorts of things, with all sorts of activities that are not intended to be made offences becoming offences. In your opinion, as the professionals to whom cases would come, if the offence were paying for the sexual services of a prostitute, would that narrow the definition and make it so legally specific as to mean what it is supposed to based on the intention of the Bill?

457. **Ms O'Kane**: Yes, in my mind that would make it more legally specific, and anything that makes the law clear assists prosecutors, defence practitioners, the judiciary and, indeed, the public. We are simply saying to the Minister that we take a neutral view on it, but we recommend that there be clarity around the provisions so that we know how to use them and do not face challenges in the courts.

458. **Mr McGlone**: There is a bit that I am unclear about, which my colleague was seeking to tease out. If the person who is procuring the sexual services is likely to wind up in court, he — it usually is a he — is certainly not going to make a complaint to police about it. If the person who is availing herself of the funding for those sexual services is not likely to make a complaint to police, how are convictions likely to be secured, unless the whole operation is being monitored in a sting by undercover police?

459. **Ms O'Kane**: I cannot say definitively. Obviously, it is case-specific. It is not an absolute requirement that we have live evidence from a victim or, indeed, an admission from a defendant. I can easily foresee the challenges in proving a case to the criminal standard beyond reasonable doubt. Yes, we might have surveillance, and so on, or there might be other information about the movements of persons, but we ultimately have to prove the case to that very high standard of proof. I think that one can see the difficulty.

460. **Mr Humphrey**: I wish to deal with clause 8. You will have heard the evidence from the two previous witnesses, who addressed the Committee on the protection of people who are being exploited, and in the worst possible way in many cases. We heard of the case of the Chinese ladies who had no rights, and no identity even. I think that what Lord Morrow is trying to do is ensure that the maximum protection is given to people who are the most vulnerable in our society and who have been brought here under false pretences.

461. Something strikes me about clause 8. I would like to take a moment to read something from the Crown Prosecution Service (CPS) policy for prosecuting cases of human trafficking, which applies in England and Wales. It seems to me to have stronger wording than that proposed by you. It states:

"Where there is clear evidence that the suspect has a credible defence of duress, the case should be discontinued on evidential grounds."

462. Why did the Public Prosecution Service for Northern Ireland not follow its counterparts in England and Wales in that respect?

463. **Ms O'Kane**: Will you refer us to the relevant part?

464. **Mr Humphrey**: It is effectively around clause 8.

465. **Ms Lavery**: It actually is there, in section 7:

"Where there is clear evidence that the person has a credible defence of duress, the case should be discontinued on evidential grounds."

466. It is in our policy as well.

467. **Mr Humphrey**: That does not seem to be as strong as it is in England and Wales. Are you saying that yours is exactly the same?

468. **Ms O'Kane**: Would you mind —

469. **Mr Humphrey**: I do not have the full document.

470. **Ms O'Kane**: Will you repeat the CPS section?

471. **Mr Humphrey**: It states:

"Where there is clear evidence that the suspect has a credible defence of duress, the case should be discontinued on evidential grounds."

472. Why is the PPS line not as strong as that of the Crown Prosecution Service across the water?

473. **Ms Lavery**: The PPS policy is identical, except that we use "person" rather than "suspect".

474. **Mr Humphrey**: Right.

475. **Ms Lavery**: It is the same line:

"Where there is clear evidence that the person has a credible defence of duress, the case should be discontinued on evidential grounds."

476. It is in section 7.

477. **Mr Humphrey**: Why the difference?

478. **Ms Lavery**: It was not in the initial consultation document. It was added to the final policy following representations and consideration of the CPS policy.

479. **Mr Humphrey**: You made that change.

480. **Ms Lavery**: It is in the final policy that was launched. It was not in the consultation document.

481. **Ms O'Kane**: By way of reassurance to the Committee, it is no different in substance to the CPS position.

482. **Mr Humphrey**: I am grateful for that clarification.

483. **The Chairperson**: Just following up on that, even with the guidance, victims are still being prosecuted. The Anti-Trafficking Monitoring Group report of 2013 states:

"It remains the case in the UK that trafficked children are prosecuted for crimes they are forced to commit while being exploited and under the control of traffickers, while their traffickers go unpunished."

484. Even with the guidance —

485. **Ms Lavery**: I am aware that there have been cases in England and Wales that have gone to the Court of Appeal. Those cases are quoted in the policy. Persons have been prosecuted, and it was subsequently discovered that they were victims of human trafficking. The cases went to the Court of Appeal, and guidance was issued from those cases. I am not aware of any case in Northern Ireland. I am not aware of it being brought to the attention of the PPS that someone has been prosecuted and said that they are a victim of human trafficking.

486. **The Chairperson**: Would this not be belt and braces?

487. **Ms Lavery**: Sorry? To enact —

488. **The Chairperson**: Clause 8 would be belt and braces. The CPS in England clearly got it wrong, and your guidance is exactly the same.

489. **Ms Lavery**: I presume that either the police investigating or us considering a case would still have to be provided with the information that the person is a victim of human trafficking and has been compelled. After an offence has been committed, I am not sure who decides that the person is a victim of human trafficking, and at what stage. I understand that there is the national referral mechanism, but I do not know whether police have already had to begin investigations because an offence has been committed and a complaint has been made. I am not sure, practically as well, about the stage at which a

determination is made, who makes that determination about whether someone is a victim of human trafficking and who determines whether the offence was a direct consequence of being a victim of human trafficking. There are also practical issues, should the clause be agreed.

490. **The Chairperson**: It seems pretty perverse that a prosecution is taken that subsequently goes to the Court of Appeal. That victim, who has been traumatised and abused, is then persecuted by the prosecution service, in England in this case.

491. **Ms Lavery**: It was as a result —

492. **The Chairperson**: "Regrettable" is not a word that I would use to say that it had to go to the Court of Appeal.

493. **Ms Lavery**: It was as a result of the cases that went to the Court of Appeal that the CPS also revised its guidance to prosecutors and published its policy.

494. **Ms O'Kane**: The policy is to assist the public in understanding how we prosecute, but one of the more strategic aims is to ensure consistency among prosecutors. That kind of case ought not to happen in this jurisdiction.

495. **The Chairperson**: It seems that clause 8 shares the same objective, but it is, as I would term it, a belt-and-braces approach. I think that it is potentially open to some kind of refining, but the principle of it is meritorious.

496. **Ms Lavery**: Clause 8(a) refers to the criminal act being:

"a direct consequence of being subjected to—

(i) threats, the use of force or other forms of coercion,

(ii) abduction,

(iii) fraud,

(iv) deception",

497. and so on. Certain parts of that would have to be looked at, such as the giving or receiving of payments or benefits, under subparagraph (vi). That should perhaps be looked at in more depth to determine what it means and in what circumstances.

498. **The Chairperson**: OK. That is helpful.

499. **Ms McCorley**: Go raibh maith agat, a Chathaoirligh.

500. Thank you for the presentation. To go back to the issue about "person" and the problems with that, why do you think that "prostitute" was changed to "person"? What would have been the purpose in doing that?

501. **Ms O'Kane**: I am afraid that we were not involved in that part of the process.

502. **Ms McCorley**: Can you hazard a guess?

503. **Ms O'Kane**: Mairead, you were more closely involved.

504. **Ms Lavery**: No. I saw a draft of the Bill earlier when there was a consultation, and it highlighted the issue of the person selling the sexual services potentially being investigated for aiding and abetting or conspiring, but I was not involved in the change of terminology.

505. **Ms McCorley**: Could the way in which this is framed result in the person selling ending up being accused of aiding and abetting or being involved in a conspiracy?

506. **Ms Lavery**: In the initial draft, it did not. The Bill as it stands states:

"For the avoidance of doubt, person B",

507. who is the person providing the services,

"is not guilty of aiding, abetting or counselling the commission of an offence under this article".

508. In those circumstances, the person would not be guilty of aiding and abetting or commissioning the offence. However, there are other offences for which that person could still be considered, such as brothel-keeping, if they were working in a brothel, taking money or assisting. It does not mean that they will not be considered for other offences.

509. **Ms McCorley**: Given that there are problems and perhaps flaws with the clause — the lack of a definition of "sexual services" and the use of "person" — would it be your view that it should be taken out of the Bill and considered separately in more depth and more comprehensively?

510. **Ms O'Kane**: There are many examples in this jurisdiction of legislation that has different elements, some of them quite disconnected, so there is no bar to having different themes in legislation. We would not express a view on that as long as whatever provisions are commenced are clear and applicable.

511. **Mr Anderson**: Thank you, Marianne and Mairead, for your presentation. I think that you, Mairead, referred to clause 7(1), which states:

"It shall be a requirement that the Department shall take the necessary measures to ensure—

(a) persons, units or services responsible for investigating or prosecuting a human trafficking offence or a slavery offence are trained accordingly".

512. How do you suggest that the Bill set out responsibilities for training prosecutors?

513. **Ms Lavery**: I am not aware of any other legislation that imposes a legislative duty on training. I am aware that there are lots of action plans and strategies that people, Departments and organisations will sign up to and deliver training to their staff. We have delivered training to our staff on human trafficking, sexual offences, the legislation and special measures. We have also delivered evidential training, as well as awareness training on trafficking. I am just not aware of any legislation that imposes a duty in respect of training. My issue with this is that it is not clear which Department is involved: what exactly does it mean that it will ensure that Public Prosecution Service staff are trained? Is it that it will provide resources for training or advise on what training is required? I am just not sure.

514. **Mr Anderson**: Do you accept that training is required?

515. **Ms Lavery**: Absolutely.

516. **Mr Anderson**: You spoke of senior specialist prosecutors.

517. **Ms Lavery**: Absolutely. Training is essential and highly relevant for dealing with human trafficking offences and the issues that go with them, such as even identifying cases in which someone may be a trafficked victim when you are considering prosecuting them for an offence.

518. **Mr Anderson**: If you accept that, does your department have a vision of how that should be done?

519. **Ms Lavery**: We have now launched the policy, and we have a plan for further training for all prosecutors. We have also spoken to CPS about its training and how it trains its prosecutors.

520. **Mr Anderson**: Do you think that that will be sufficient to prosecute human trafficking and such like through this legislation? They will be trained to a level.

521. **Ms O'Kane**: That is the norm in all our business. We have, in the main, specialist prosecutors dealing with these cases, but we also need to have all other prosecutors trained to a level so that they are at least aware of the issues when a case comes to them. So, yes, we entirely accept the training need. To be candid, with or without this provision, the training would be happening.

522. **Mr Anderson**: It may be happening with or without the provision, but is there an area in which extra training will be required? Will more resource be needed?

523. **Ms O'Kane**: It is always a resource issue. Mairead is our policy lead —

524. **Mr Anderson**: She touched on that, yes.

525. **Ms O'Kane**: — and we have a staff of almost 570 people at any time. Mairead is also the policy lead in other important

business areas, so the resource is stretched. Of course, we have the opportunity to call in assistance from third parties, other external providers. It is always an issue, but it is not a bar or an obstacle to ensuring that that training is delivered.

526. **Ms Lavery**: We try to work within the resources that we have, and we have been able to avail ourselves of training from other providers and to assist in providing training to others. It is essential. I do not have a view on whether it should be in the legislation. However, clarification is required on which Department will be responsible for ensuring that the Public Prosecution Service —

527. **Mr Anderson**: So either/or. You do not have a view, but you want to tie it down Department-wise.

528. **Ms Lavery**: Yes, and what exactly does it mean? Will they provide us with training, will they tell us what training to have or will they resource our training?

529. **Mr Anderson**: Clause 7(2) states:

"The investigation or prosecution of a human trafficking offence ... shall not be dependent on reporting or accusation by a victim wherever the offence takes place."

530. Clause 7(3) states:

"Any criminal proceedings ... may continue even if the victim has withdrawn his or her statement."

531. Is it not helpful to clarify that in statute? As I understand it, guidance may be ignored by the PPS, but something in statute cannot be ignored. Is that the case?

532. **Ms O'Kane**: Again, respectfully, I would say no. Frankly, with or without this explicit provision in the legislation, that would be our duty in taking a decision on prosecution or continuing a prosecution. It will depend on reporting — sorry, when I think about it, that may not necessarily be the case. However, something will have to initiate a police investigation, but we do not necessarily need the live evidence of a victim. We can proceed even when a victim has withdrawn his or her statement.

533. **Mr Anderson**: Is that a grey area?

534. **Ms Lavery**: In those circumstances, we have to look at whether the evidence is sufficient to proceed without the victim should he or she withdraw support for the prosecution. We also have to consider whether it is in the public interest to proceed against a victim's wishes. That has the potential to result in victims giving evidence against their wishes or, even if that were not the case, it might increase the risk to victims. This is similar to cases of domestic violence, and our policy reflects exactly that. In such cases, we often try to prosecute even when victims have made a withdrawal statement. Sometimes, when a case gets to court or progresses down the line, that becomes very difficult because the evidential test is not met. On occasion, we have to take difficult decisions to bring victims to court against their will, because the public interest requires us to prosecute given the background of previous incidents and the seriousness of the offence. The policy sets out what happens when the victim withdraws support for the prosecution, which is similar to when a victim does not make a statement or does not want to engage with the police or the prosecution in the first place.

535. **Mr Anderson**: So you would still try to take a case through on the evidence of the police or whatever.

536. **Ms Lavery**: We will look at the evidence and apply the test to determine whether the evidence that is available without the victim is sufficient to provide a reasonable prospect of a conviction. In quite a lot of cases, it may be difficult to proceed with a prosecution without the cooperation of a victim, but we can look at other things as well as a victim's evidence. In fact, when we deliver training to police in domestic violence, for example, we ask them also to look at other avenues as part of their investigation. That is not because we presume that a victim will withdraw

support but because we know that it is highly likely. So it is about looking at how to investigate in a different way as well.

537. **Mr McCartney**: Thank you for the presentation. I want to ask about clause 8. The document supplied to us states:

"The PPS highlights that it cannot provide blanket immunity from prosecution."

538. Are you saying that the provisions of clause 8, as they stand now, amount to blanket immunity?

539. **Ms O'Kane**: I suppose that it is, perhaps, a conditional immunity. If the circumstances set out in clause 8(a) or 8(b) are met, immunity is mandatory. Clause 8(a) states:

"no prosecution or imposition of penalties shall occur"

if those circumstances are met.

540. **Mr McCartney**: Does that go against your existing code of practice?

541. **Ms O'Kane**: It does not run counter to any codes of practice, but it is quite a step change from the current legislation. It occurs to me that there are also potential issues — this is where, perhaps a constitutional lawyer might be able to assist — with the role of the director under the Justice (Northern Ireland) Act 2002. If he is barred, effectively, from pursuing prosecutions, that marks quite a change.

542. **Mr McCartney**: So he would have no role. Who would interpret whether a person falls within the confines of this?

543. **Ms Lavery**: That is what I mentioned earlier. At which stage would it be decided that a person was a victim of human trafficking and that they committed this offence? Will it be at the investigation stage and, therefore, the police will not submit a file to the Public Prosecution Service, or will such cases still come to the director even though we have no ability to make a prosecutorial decision on them? This needs to be thought about practically as well.

544. **Mr McCartney**: On immunity, there is provision in the current legislation that, where a victim of human trafficking commits a criminal offence, the Director of Public Prosecutions can rule that there should be no prosecution.

545. **Ms O'Kane**: Setting aside the legislation, according to our code, we could take a public interest decision. Although the evidence indicates that an offence has been committed and it is sufficient to prosecute, the public interest part of our test for prosecution would indicate that prosecution is not required in the public interest. Without going beyond that, there is a protection and safeguard there.

546. **Mr McCartney**: Would that be publicly stated or remain private?

547. **Ms O'Kane**: Not at all, no.

548. **Ms Lavery**: Our code, and our policy at section 7, explain how we consider these cases.

549. **Mr McCartney**: So the spirit of clause 8 is already in place.

550. **Ms O'Kane**: I contend that the safeguards that it aims to achieve already exist.

551. **Mr McCartney**: Except, perhaps at clause 8(b), "was a child." What is the legal definition of a child? Is it someone under 18?

552. **Ms Lavery**: Yes, a person under 18.

553. **Mr McCartney**: If a 17-year-old, irrespective of all the other clauses, is trafficked, is he or she immune in all circumstances from being prosecuted?

554. **Ms Lavery**: According to clause 8, yes.

555. **The Chairperson**: Mairead, you mentioned the Court of Appeal ruling, which dealt with CPS guidance and the reasons not to prosecute. That flowed from article 8 of the human trafficking directive, which seems to be what clause 8 is trying to address. I just want to be clear on whether you are saying that you feel that existing practice pretty much addresses that, as Mr McCartney

touched on. Is your guidance reflective of that Court of Appeal decision?

556. **Ms Lavery**: Yes. The Court of Appeal decision is mentioned in the guidance and included in the policy.

557. **Mr Wells**: I have to say that I get the impression that your view is this, "The answer is no. Now, what is the question?" You seem to be putting up a series of obstacles to what many of us believe is very sensible and sound legislation. What is your relationship with the Minister and his staff on this? Were there any meetings with or briefings by him or his colleagues about your presentation to the Committee?

558. **Ms O'Kane**: I have had no direct briefings on this topic at all.

559. **Ms Lavery**: I am on the Organised Crime Task Force subgroup, and there are members of DOJ on that group.

560. **Mr Wells**: Is Mr Philip Marshall from the PSNI on that group?

561. **Ms Lavery**: Yes, he is.

562. **Mr Wells**: We all know his very publicly expressed views on the legislation. Has there been any discussion of the Bill in those meetings?

563. **Ms Lavery**: In any discussion, we would be asked, from a prosecutorial point of view, whether we foresee any issues. That is what I have addressed to the Committee.

564. **Mr Wells**: So you are not here as servants of the Department to put up obstacles to the legislation.

565. **Ms Lavery**: No, we are not part of the Department of Justice.

566. **Ms O'Kane**: I wish to state very clearly that the views that we have presented to the Committee in our evidence are entirely independent of influence or input from anybody. This is the PPS's position on behalf of the Director of Public Prosecutions.

567. **Mr Wells**: Even if those views totally contradicted those of the Minister, would you still make them known?

568. **Ms O'Kane**: We would have to do so, because we are here representing the views of the director and with his authority.

569. **Mr Wells**: That is good to know. Are Sweden, Norway and Iceland signatories to the European Convention on Human Rights?

570. **Ms O'Kane**: I have my papers here. It will take me a while to check.

571. **Mr Wells**: I can tell you that they are.

572. You stated that some of the provisions could be in contravention of various articles of the convention. Yet other countries that have been signatories for longer than us have had no difficulty whatsoever in transposing such legislation to their statue books while remaining within the terms of the convention. That has not been contested at the European Court of Human Rights.

573. **Ms Lavery**: I am not aware whether there have been any cases at the European Court of Human Rights that emanated from the law in Sweden. I merely raised the point that there is that potential.

574. **Mr Wells**: It has not happened, and this legislation is based on the Scandinavian experience.

575. **Ms O'Kane**: We can only flag and highlight the potential. We take no view on it. We are saying that we think that it is an issue for consideration. Perhaps the Minister and the Committee have considered it and, therefore, the point is redundant. If there is legislation to be passed, we want to make sure that it is effective and will achieve its aim.

576. **Mr Wells**: Are you saying that you are trying to be helpful to us and make the proposed legislation easier to implement —

577. **Ms O'Kane**: Absolutely.

578. **Mr Wells**: — rather than trying to make negative comments about it?

579. **Ms Lavery**: As we said at the outset, legislation is a matter for you. As

prosecutors, we want to raise issues that we foresee arising when we are trying to implement whatever laws or legislation you pass.

580. **Ms O'Kane**: I am not au fait with the detail of legal practice in those other jurisdictions, but I think that it is fair to say that, in this jurisdiction, one would expect robust challenge from the defence in many cases. We want to ensure that there is in place legislation that equips us properly to meet those challenges and see prosecutions through to conclusion and, indeed, to conviction, where that is the outcome. It is simply stated and, we hope, of assistance to you.

581. **Mr Wells**: Right. You —

582. **The Chairperson**: I would like to follow up on that: did you speak to the Attorney General about human rights compliance? Ultimately, it is the Attorney General and Advocate General who decide whether legislation is compliant with human rights legislation.

583. **Ms O'Kane**: I have not consulted the Attorney General.

584. **Ms Lavery**: I did not consult the Attorney General when drafting the paper.

585. **Mr Wells**: I have to read from my notes because this is quite complicated. You raised concerns about the definition of sexual services. I catch your drift on that. The interpretation of the proposed new article 64A of the Sexual Offences (Northern Ireland) Order 2008 would be covered by article 58, which sets out the interpretation of that part of the order. Does that cover your concerns?

586. **Ms Lavery**: This is about whether using the term "person" or "prostitute" may clarify matters. I think that I mentioned that that would clarify what was meant by "sexual services".

587. **Mr Wells**: So you are saying that, with a bit of thought, it is possible for us to overcome your initial concerns about these definitions. That would just be a matter of tabling an appropriate amendment at Committee Stage or Consideration Stage, but it does not negate the thrust of the legislation.

588. **Ms Lavery**: No, and that is why I raised the issue. It is very unclear as it is, so, if the legislation can be clarified —

589. **Mr Wells**: This is certainly not aimed at lap dancing or chat lines. It is quite clear. All the debate has been about those who are trafficked or used and abused through prostitution.

590. **Ms O'Kane**: With respect, all of us in this room may understand the aim and object of the legislation, but when one is walking into a court to prosecute such a case or make a decision, that is where we face difficulty.

591. **Mr Wells**: Finally —

592. **Mr McCartney**: Your observation might strengthen the legislation.

593. **Ms Lavery**: We hope that our observations will help.

594. **Mr Wells**: We hope that that is indeed the case and the motivation.

595. **Mr Wells**: Finally —

596. **Ms O'Kane**: Again, I wish to make it very clear that the motivation is exclusively to assist the Committee and that the views expressed are entirely independent.

597. **Mr Wells**: That is good to hear. It just seems that the various facets of the DPP and the architecture around the Department of Justice all seem to be coming to quite a negative opinion on the Bill, whereas general society, women's groups and faith groups are coming to a totally different view. That is, perhaps, just a coincidence.

598. **Ms Lavery**: We are not saying anything negative about the legislation or whether it should be passed. We are just highlighting the issues that we see in enforcing whatever law is finally passed.

599. **Mr Wells**: Finally, have any of your staff looked at the outworkings of the Swedish model? This is fundamental: it is why we will go to Sweden in a few weeks and what the whole debate is about. Several times, representatives

of the Department have told us that they do not know what is going on in Sweden or that they have not looked at it. I would have thought that it was self-evident that the Swedish model should have been looked at immediately after the Bill was published.

600. **Ms O'Kane**: In preparation and out of interest, I looked at the research, but I have not conducted any independent research. I refer back to our role: we will implement whatever legislation the Committee determines to pass, but we do not, I am afraid, have a research function to that extent.

601. **Mr Wells**: You said just one thing that you might want to correct. You said that it was for the Minister to devise legislation and you to implement it. Technically, it is for the Assembly to devise legislation.

602. **Ms O'Kane**: I paraphrased, and I stand corrected.

603. **Mr Wells**: The Assembly is the legislator, not the Minister. The Minister can certainly propose legislation, but it is this Committee and the Assembly that pass and amend it.

604. **Ms O'Kane**: I accept that correction.

605. **Mr Wells**: He is a powerful man, but he is not that powerful.

606. **The Chairperson**: One of the issues raised is that the existing legislation is ineffective. The point made is this: if we are serious about tackling the drivers behind human trafficking and sexual exploitation, we need to criminalise payment. We can refine and define that better to try to take on board those comments. Does the PPS share the view that the legislation could be strengthened to secure convictions or even to bring cases?

607. **Ms Lavery**: We are aware that, under article 64A, there have not been any prosecutions for paying for the sexual services of a prostitute subject to force, and, in that regard, we appeared before the all-party group on human trafficking. I told the group that, in a number of cases that I had considered, one reason for non-prosecution was the file was received by the Public Prosecution Service after the six-month time limit to prosecute had expired. That, in turn, was because of the nature of the police investigation, which was long and complex. We raised that as an issue with the all-party group and at various other venues. As a result, I am aware that the Minister will, potentially, legislate to extend the time limit from six months to three years. That may assist in prosecuting such cases and in how those cases are prosecuted: for example, if we have already secured a conviction for human trafficking, we may not need to call a victim to give evidence again. We think that some elements of the legislation could be amended to assist with prosecution.

608. **The Chairperson**: A point that I have made before is that there has not been a prosecution under the new offence of coercion. You are saying that that is not because the PPS has looked at the file and considered that the chances of getting a conviction are remote but because all the files that you received were outside the time limit,

609. **Ms Lavery**: We have received five cases involving nine suspects for that offence, which came in, I think, in April 2009.

610. **The Chairperson**: Yes. It came in through the Police and Crime Act 2009.

611. **Ms Lavery**: Of the nine suspects, two were not prosecuted because there was no evidence that the person was subject to force or coercion. For five suspects, the cases were statute-barred by the time that they came to the PPS. That is when the issue became obvious, and it was raised as soon as it was identified.

612. **The Chairperson**: I do not think that members have any further questions. The point that you made at the start, Marianne, was that, ultimately, it is for the Assembly to legislate. If we can properly define sexual services and address some of the other issues, I take it that the PPS could prosecute on the basis of the principle behind clause

6. The Assembly might decide that it wants to criminalise an action through creating a new offence of payment for sexual services. If the Assembly decides to enact that, it is compliant with human rights legislation and the Attorney General signs off on it, can the PPS prosecute?

613. **Ms O'Kane**: Absolutely. If the Assembly determines ultimately that there is to be a new offence in those terms and all the safeguards that we have set out are in place, it is our role and duty to prosecute those cases, subject to the test for prosecution, of course.

614. **The Chairperson**: I suspect that there will be a bit of toing and froing at Committee Stage.

615. **Ms O'Kane**: Whatever else might be thought, we are here to assist. If any clauses are redrafted following the evidence taken, we will, of course, be content to make any further observations that we can. So it is not a closed conversation.

616. **The Chairperson**: That will be very helpful. Thank you both very much.

28 November 2013

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Ms Annie Campbell	*Women's Aid Federation Northern Ireland*
Ms Noelle Collins	

617. **The Chairperson**: I formally welcome Annie Campbell, director, and Noelle Collins, team leader, from Belfast and Lisburn Women's Aid. The meeting will be recorded by Hansard and will be published in due course. I will invite you to make opening comments and then open the meeting to members for questions. You are very welcome, and thank you for making yourselves available for the Committee. Annie, I will hand over to you.

618. **Ms Annie Campbell (Women's Aid Federation Northern Ireland)**: Thank you very much. It is a pleasure to be here, and we thank the Justice Committee for inviting us. We are very keen to open up this dialogue with you.

619. I have a wealth of papers in front of me, so please forgive me. We submitted an extensive document and are keen to discuss anything that you want to talk to us about on that. I do not want to take up too much time at the beginning but will just set the scene a little for you. Many of you are long-term supporters of Women's Aid and we have met you in other contexts. Women's Aid has a network of refuges and support services across Northern Ireland for victims of domestic violence and now sexual violence, an area of work that we are moving into more overtly.

620. We have been in existence over 33 years. I am proud to say that I front the organisation, albeit that behind it there is a horrible story of misery, degradation and abuse in what happens to victims. We also run a 24-hour domestic and sexual violence helpline, which, in the past year, managed 47,500 calls. We really know clearly the story behind abuse, whether it is domestic, sexual or other types of abuse.

621. Noelle has been in a front line refuge that deals with human trafficking and she will speak about that later. We have seen trafficking victims coming through over the past 20 years. In 2006, we put together the first piece of research on trafficking in Northern Ireland, entitled "Crossing Borders". We took that research to the Joint Committee on Human Rights, at Westminster at the time because it was calling for evidence. I think that that Committee was a wee bit surprised that people were popping up from Northern Ireland and saying, "Actually, it is happening with us as well".

622. We thought that it was not rocket science to think that there are porous borders between the UK and Republic of Ireland. Trafficking was happening in great quantity everywhere else, therefore, logically, it had to be happening here. From experience, we also knew that women had been trafficked. Often, their stories did not come out for some time, but when they did so, they were graphic and dreadful, so we wanted to press to get the provisions here.

623. Over the past year, we have supported 47 women who were victims of human trafficking. Of those, interestingly, 27 came through the project with the Department of Justice. The rest are victims of historical trafficking. Those

women are in our communities and need support.

624. We very much welcomed the UK signing the Council of Europe Convention on Action against Trafficking in Human Beings. We very much welcomed the Department of Justice here taking forward the work to put support measures in place. We provide support for women victims and Migrant Help provides support for male victims.

625. Our submission is based on the detailed, intimate knowledge of what abuse does to victims, the reality of it and the sort of support that they need. We believe that the Bill improves the support available to human trafficking victims. As that is our main concern, the Bill will have our full support. We are aware that human trafficking crosses a lot of areas. We deal with sexual exploitation and domestic servitude. Equally, a lot of women who are migrant workers or who are trafficked in the field of economic exploitation also end up as victims of domestic and sexual abuse. It is a vicious cycle once you get into an abusive cycle. Although some provisions are in place, the Bill takes them that bit further, so we are supportive of it.

626. We are 100% behind the proposed criminalisation of those who seek to buy sexual services. It is time that society woke up to that degradation, primarily of women and girls but also of boys and men, and sent out a clear message about it. We would like to see that taken forward.

627. Underlying that, we have a strong concern about women who are currently trapped in prostitution. We urge that there be a specific addition recommending pathways of support for those women who can then get out of prostitution and start to live a full life. In just the same way that women are in a domestic violence situation, it is a long journey for them to heal. Women who are in prostitution need support and pathways to achieve that.

628. Briefly, as regards specific clauses, we are very supportive of clause 7 because it opens the door a little to have what are deemed victimless prosecutions so that the successful prosecutions of traffickers are not dependent on the one frightened woman who is the victim at the centre of it. In the same way that we are pressing for that in the domestic violence field, we would like to see that happening. We are supportive of clause 9, because many women who come in who may not be deemed to be strictly human trafficking victims under the national referral mechanism (NRM) are still victims of dreadful exploitation, so we need to keep some form of support for them in place. Clause 10, and I am aware that I am rattling through, but I do not want to hold you up —

629. **The Chairperson**: No, you are doing well.

630. **Ms A Campbell**: We are very supportive of having a longer period of reflection. The period of 45 days, in our view, is just not enough. You are dealing with people who are in severe trauma. It can take them quite a while just to get out of that place and be able to think in any way clearly. Sometimes it is enough, but not always. We always point to the support models such as those in Italy, which have the three- to six-months temporary residence.

631. We are keen to see the inclusion of a clause stating that victims must be offered assistance from people of the same gender. For us, that is a very important point. When you see the women who come into our refuge, you will be in no doubt that they would be terrified if they were approached by any man, no matter how well meaning. They need to get support from another woman.

632. Also in clause 9 is something that has not happened to date. We recommended on a number of occasions that, if a victim is taken for any form of questioning or discussion, then the person giving them support from their support organisation should be able to be with them, as of right. That does not happen at the moment. Because they are not being charged with a crime, they do not actually have anyone with them,

which leaves them in a very vulnerable position. It can also mean that the victim can end up feeling re-victimised because they have to continually keep retelling their story. That is something that we are very careful to avoid in Women's Aid, because you can really be deepening the trauma rather than helping with it.

633. In clause 16, we support the establishment of an independent rapporteur. I know that there is a move afoot UK-wide, but we support having some sort of independent mechanism. From experience in other fields, we have found that if it becomes UK-wide, then we can simply lose focus sometimes on what is happening here on our doorsteps in Northern Ireland. That is our position of support for general clauses, with some clarification.

634. I have no doubt that we will talk further about clause 6, but we are unequivocal about it: the majority of human trafficking is for the purposes of sexual exploitation, and we need to send a message out to society that, if you are engaging in the sex industry, you are supporting slavery. That is the clear message that we want to send out. The second message would be that research has proven time and again, across all sorts of international borders, that the links with prostitution, with abused young people, with vulnerable adults, with those who are vulnerable because of drug addiction or mental health issues or indeed end up in drug addiction or with mental health issues because of prostitution, are legion. The fantasy that there are some people who are choosing this is, I think, a myth propagated by those who want to make profit from abuse. Prostitution is not a choice; it is a trap that women and girls are lured into or fall into. They need a humane society to send out a zero-tolerance message of no abuse to support them to get out of that trap.

635. We are very glad to say that all the major agencies who understand violence against women and who work with victims are supporting us on this. The End Violence Against Women campaign, the European Women's Lobby, which has thousands of organisations as its membership, and the trade unions including the Irish Congress of Trade Unions ICTU are fully supportive of us, among many others.

636. Fundamental to this — and it links very closely to our work with domestic violence victims — is trying to find a way to end it rather than just tolerate it. We have to find a way to create a culture of respect for all of us, and certainly for women and girls. We teach all children in school settings — and, indeed, adults in adult settings when we can go there — about healthy relationships and the difference between healthy relationships and unhealthy relationships and abuse. A model of prostitution, with society actually saying that it is OK because it is not a criminal offence, undermines all that work. It sends out a very dangerous message for the future to the society that we are trying to create.

637. We are very supportive of the Bill. We hope very much that, at the end of your deliberations, the Justice Committee will also support it. Thank you.

638. **The Chairperson**: Annie, thank you very much for your contribution. I will ask couple of questions and then bring in other members. I am sure that other members will get to clause 6 as well, but you have been very clear in that respect. I will ask a couple of points unrelated to it initially. On clause 4, you state in your submission:

"Women's Aid believes that two years is not sufficiently lengthy to reflect the serious and despicable nature of the crime of slavery."

639. Do you want to elaborate on why you believe that? What do you believe would be appropriate?

640. **Ms A Campbell**: I would love to have the chance to rewrite all the rules about how long people get for different crimes. It is simply that. I appreciate that we are not putting this into the whole framework of the rest of the sentencing because we are not coming from a legal perspective. However, frankly, I think that, if you are engaging in aiding and abetting

the crime of international slavery, two years is just a rap on the knuckles. We recognise that that would be an improvement but, if I were to hazard a guess of what the sentence should be, I would say 20 years. *[Laughter.]*

641. **The Chairperson**: You suggest that there should be a new clause after clause 10 to deal specifically with assistance and support for those in prostitution. Do you want to give us some more detail on how you think that that legislation should be framed? How would you determine who receives that type of support?

642. **Ms A Campbell**: It might be good to bring Noelle in to talk about the sort of support and pathways for women who are in prostitution that we would need.

643. **Ms Noelle Collins (Women's Aid Federation Northern Ireland)**: The women in prostitution who we work with feel that they do not have an option. They feel that they have to stay there to fund whatever it is, usually an addiction, or because they are forced to be there by a pimp. There needs to be resources to address the issues and the needs of women. There is not a particular organisation that is doing that at the moment. Women's Aid has been trying to help women to exit the sex industry for many years, but it is particularly difficult to do so with the lack of resources.

644. **Ms A Campbell**: If that were to be considered, we would be very happy to give our experience and help to set it up. As Noelle said, we have women in our services. Domestic violence also includes an element of sexual coercion. A lot of women are already being forced into some sort of prostitution or sexual activities with strangers that they do not want. We have experience of giving support, but you would want to be doing it in conjunction with the health services. A lot of models of support have been set up in Glasgow and elsewhere. Partners with whom we have good communication offer models around it. It could be quite dangerous to start to criminalise primarily men who are buying these services and not set up the pathways. We see it as two sides of the same coin.

645. **Ms McCorley**: Go raibh maith agat, HSIRI. Thanks very much for the presentation. Women's Aid sees the coalface probably more than any other organisation. You have probably seen more abuse of women than any of us can imagine. In a year, about how many women do you see who want to come out of prostitution?

646. **Ms Collins**: Prostitution takes many forms. There are women who are involved in the sex industry, independent of relationships. We talk to quite a lot of women who, through relationships, are forced into the use of sex for money or for power and control. Obviously, there is abuse within relationships all the time. There are women who have, historically, been in the sex industry who have tried to exit it and still cannot do so, and that is reflective of the relationships that they are in. They have tried to move on, and get into relationships, but it was thrown up at them, with name calling, and they find it very difficult to move on. Prostitution is not something that happens and then you leave it, have a party and move on to another job. It stays with you for the rest of your life. It has a massive impact on women. It brings shame. Probably a lot of them cannot sustain a normal relationship after that. It differs. It would be quite hard to put a number on that.

647. **Ms McCorley**: Around how many, then? I am trying to get some sense of the enormity of the issue.

648. **Ms A Campbell**: It is one of those things where, because there is no official pathway, then it is a case of, "If you do not look for it, you cannot find it". It is a bit like human trafficking. In our initial discussions with the PSNI, when we brought out the research, it told us that there were none because it did not know of any. Anecdotal numbers come through, but you are not actually looking for it. You are not advertising that there is a support pathway, so it would be hard to estimate.

649. **Ms McCorley**: What percentage of those women would you say are victims of human trafficking?

650. **Ms A Campbell**: We have had 47 identified victims over the past four years, 27 of whom have gone through the project, as we are service providers, with Migrant Help and the DOJ. The other 20 did not actually recognise the fact that they were trafficked. They came to us through other sources and after talking to them we found that, historically, they had been trafficked, not only into Northern Ireland but into England.

651. **Ms McCorley**: Do you suspect that there are a lot of women who are unidentified who are actually trafficked victims but are hidden?

652. **Ms Collins**: Yes.

653. **Ms McCorley**: Is it possible to judge how many you might be talking about?

654. **Ms Collins**: If you look at the National Association for Asylum Seekers (NASS) accommodation here, you can see that there are 329 in the greater Belfast area alone. A lot of those women are isolated, and I would deem that a lot of them may have been trafficked, but we do not know that.

655. **Ms A Campbell**: Again, if women are trafficked for any purpose, they can be subject to sexual exploitation. It often goes with the terrain.

656. **Ms Collins**: Of the 47 women we have worked with in Belfast and Lisburn alone, 45 had been trafficked for sexual exploitation, and the other two for domestic servitude.

657. **Ms A Campbell**: The comparable figures in the Republic and the UK indicate that we are not finding all the victims. I do not think there is anything special about Northern Ireland that would mean that we do not have roughly the same number of human trafficking victims.

658. **Ms McCorley**: So you just speculate that there are loads of people.

659. **Ms Collins**: Last year the South of Ireland identified over 350 victims. I think in Northern Ireland we had 12, so I do not think there is a comparison.

660. **Ms McCorley**: We say that there should be a national rapporteur, but the Minister says that the interdepartmental group does that work and we do not need a rapporteur. I am not sure whether a rapporteur might do a better job. That group recently produced its second annual report, which was very comprehensive and gave a lot of statistics. What I thought was notable was that there was a huge number — well over a thousand — of victims of trafficking, and the vast majority were in England. I think there were 15 in the North here and a small number in Scotland and Wales. Nowhere in the group's strategies or action plans did it suggest that criminalising paying for sex was a way to deal with it. What do you think about that? You would imagine that that group would look at every way to reduce demand, because that is what people want to do. Why would you think they did not see that?

661. **Ms A Campbell**: Well, I think —

662. **Ms Collins**: It is certainly linked.

663. **Ms A Campbell**: It is, and the truth is that, when people are embedded in a system and that is the way that it has been running, they do not often think about what you can actually do differently or upstream that will stop or halt it. You are basically managing a problem rather than thinking about how you can stop it. So, on the business of criminalising the sexual services, I am sure you will know, from reading some of the research now, the Nordic model, which we advocate. It has been working successfully. Equally, other models such as legalisation of prostitution have become a disaster as far as the increase in human trafficking numbers is concerned, in Germany and so forth. So, it is out there, but it is not always the case that the organisation that will produce that report will be tasked to think about solutions. The great thing here is that, out of the relatively new

Stormont, we have an opportunity to think about new things and think, "Let us be a model for Europe", rather than waiting to be the tail that wags. Let us do something radical. We have identified the problem. I very much hope that, in 50 years' time, people will look back and think, "Good grief, there was a wide swathe of slavery rocking across the world, and nobody was really thinking about how you stop this". It is just being managed. It is not good enough. I do not mean that in any way about people in the system, but the systems have to change, not your aim, which is to stop this.

664. **Ms McCorley**: I take it that the Nordic model that you are referring to is the Swedish model. There is evidence contrary to the evidence which says that it has worked. It is difficult when you are reading academic research that says different, so who is right and who is wrong here?

665. **Ms A Campbell**: I suppose that I look at what the experts are saying. In this respect, I have to say that, without trying to be boastful, you have to look at the organisations that are providing the support to the victims, such as us and that wide European Women's Lobby, which has thousands of women's organisations in it. The End Violence Against Women campaign includes all of the black and ethnic minority (BME) women's organisations, which are working on all of those issues around honour killing and female genital mutilation. They are very clear that this is a good route to take. Again, as I am sure you will all accept, research can be used in the most disingenuous fashion to create false information. How many years ago was it that we were having loads of research saying that tobacco was good for you? I have to question the motivation behind some of those reports. In Sweden, the police now favour that model. Initially, they did not, but they are now seeing that is getting results.

666. **Ms Collins**: Prostitution is linked with trafficking. It is the same market out there. The market is men who want to use women for sex. That is linked. It is in our society. When we talk about the market that is there and the people who use women in the sex industry, we think that someone comes up to the north-west of Ireland on a Friday night in a boat. That is not the case. Our society is where the market is. It is among us. It is our families, our friends and our colleagues. That is who the market it. The men who are using women who are trafficked are using women who are in the sex industry for prostitution. So it is linked.

667. **Ms McCorley**: I accept that there is a definitely an overlap. There is no doubt about that. The difficulty is that you have made a very broad statement that anyone who pays for sex is guilty or basically supports sexual slavery and degradation. I think that that is a very broad statement that people might find insulting. I do not know any, but there may very well be people who do not abuse anyone but who maybe pay for sex at times. So, I do not think that you can say across the board that, if you do this, that automatically makes you that. I have wee questions about that.

668. **Ms Collins**: In our experience, the women who we work with who are in the sex industry — women who have not been trafficked but women who are local in Northern Ireland — are very vulnerable women. Most of those women do not have choices. I do not think that women, when growing up, say that they want to go into the sex industry. Women have been in forced into that for all sorts of reasons and are in there now, and it is usually because someone else is profiting off them. If it is not through drugs, it is through making money off them for what they are doing. I hear about women who choose to go there as a way of making money, but that is very rare. In my experience of working with those women, they all regret it.

669. **Ms A Campbell**: Some men think, "Well, I'm doing it this way or that way, and that's not really abusive". That may well be their intention, but they should look at the facts, such as the average

age at which girls enter prostitution and their background. They could be in care. There is a whole scandal at the moment about what has happened with young people out of their care homes. Who ends up in prostitution and why? At some point, you cannot have this little bubble where you can buy sex off somebody who says that they want to sell sex and think that you are OK. You are part of that chain of abuse. We stand over that statement. We are not actually recommending that each person caught in that situation should get 20 years, but you have to give a short, sharp message that it is abuse. We have not done figures for the components of brothels or whatever here, but some of the statistics across the rest of the UK show that a staggering number of women in the sex industry are known to have been coerced into it. If you do that, you take the risk that you are absolutely defending that chain of slavery. You have to wake up to that and stop doing it.

670. **Ms Collins**: We had the same argument 30 years ago in relation to domestic violence. People were saying, "It happens in the home. It is one else's business. They are at it again this Friday night. People have drink, and that is what causes domestic violence". It is the same.

671. **Ms A Campbell**: It is not an individual right to override community safety in general and the rights of a group — in this case, the rights of women and girls to live in safety. We and other organisations argue that the very existence of a prostitution industry that is, effectively, protected or treated like any other respectable industry is a threat to women and girls. It is a form of abuse that needs to be challenged.

672. **Ms McCorley**: The end result is what everybody is seeking. Nobody doubts that. It is about how you get there. I do not really see the analogy with domestic violence, because you just target the abusers; you would not dream of going into a home presuming that somebody might be committing domestic violence, but —

673. **Ms Collins**: What I meant was that the attitude around prostitution is the same now —you know, it is like the oldest profession. There is a mindset in our society that needs to be changed. Prostitution is violence against women in another form.

674. **Ms A Campbell**: It is also very much linked to the adult protection agenda. We would all be clear that, if a child were being prostituted, there would immediately be a prosecution, and the child would be protected. As soon as you step over that line, you become an adult. Our view is that, if you are in prostitution, you are a vulnerable adult. The likelihood is that you will have a background in all of that, but just by being in there, you are a vulnerable adult who needs protection. Instead of offering that protection, society just says, "No. A few of you have made the choice, so we'll let the rest of you just fester".

675. **Ms McCorley**: No, I do not think that you do that. I think that you use the laws that we have to pursue the abusers and the human traffickers.

676. **Ms A Campbell**: In prostitution, there is so much violence. Surveys of prostitutes show the amount of violence that is enacted on them. They never get a prosecution. They are not protected.

677. **The Chairperson**: To pick up on that in terms of the message that you want to go to society, I had a debate with students only yesterday. One of the boys at it — I think that they were below 16 — put it to me that we should just legalise prostitution. The girl from Bangor said that any form of prostitution was violence against women. Elaborate on how you see that as a message to society to try to address those attitudes that you think need to be addressed.

678. **Ms A Campbell**: I am glad to hear that some young girl out there tied it together. I also understand why a young lad would start thinking like that. We have to recognise that we are living in a society that uses sex, sexual attractiveness and all the rest of it as

a commodity. It has linked us all into a real distortion, so that, instead of being a healthy part of a relationship and so on, it becomes commodified and sold. There has always been an issue around how women are valued in society. Are they valued as full human beings with full human rights, or is it just about their role as an accessory to a man in some way? Part of that is what it is about; it is still about the unequal position between the genders. If you had full respect on the basis of us all being human beings, we would not need to have a lot of these conversations.

679. There are international standards for protecting women. Globally, there is a huge epidemic of violence against women and girls. We have it in the form of domestic violence here; as Noelle said, it is rife in Northern Ireland. It is there in all classes and cultures. We have that, but internationally, there are the things that I mentioned earlier such as female genital mutilation. There is a lack of protection for women. You have women being stoned if they have, apparently, been adulterers in Saudi Arabia. All of that ties up into a huge amount of violence against women and girls, both by individuals and by states. That is fully recognised by the UN in a lot of countries. The UK has signed up to a lot of that protection, but there is often a gap when you translate it into what you do on the ground.

680. That is the framework, but for us, fundamentally, it comes down to building a more decent, respectful society where people are respected and abuse, of whatever kind, is just not tolerated. To instil that, you have to educate young people. You also have to do some unpicking educational work with older people, because they are carrying some of those assumptions. You need to send out the message that abuse will not be tolerated.

681. I am veering off a wee bit from what you were saying, Chair, so apologies for that. Effectively, for us, the very idea that you can say that a person can be bought is fundamentally a form of abuse. That is the essence of slavery, and that is exactly what prostitution does. It says that you are no longer a human being with rights; you are a commodity, a thing that can be bought so that things can be done to you, and you do not have any say in that. That is just what happens. Our model in the deep recesses of our minds is that, somehow, this is a safety valve or this is the way it is going to be or this is how men and women are. We are saying no. There are other ways in which people live lives and are respectful. We do not have to accept that model of society for boys or girls into the future. You do not have to say that prostitution will always be with us. I personally hope that it will not. I hope that poverty will not, either. We can change all those things. It is within human ingenuity and intellect. Did I answer your question?

682. **The Chairperson**: You did, yes.

683. **Mr Wells**: You certainly did.

684. **Mr Humphrey**: Thank you very much for your presentation, ladies. What I have heard so far, I have found extremely powerful. I imagine that some of the contributions that you have already made will be heavily quoted from when the Bill is discussed on the Floor of the House.

685. In your submission, you state:

"We believe that this Bill is a bold and radical opportunity for Northern Ireland to lead the way in the fight against human trafficking and sexual exploitation."

686. It would be helpful to this Committee and for the Northern Ireland Assembly if you could expand on why you feel that is the case.

687. **Ms A Campbell**: Well, it comes back to the beginning when I was trying to recap the fundamental reasons why we are supporting it. First, we believe that the Bill's clauses go that little bit further than we have gone so far with the Department of Justice's support packages. It takes things beyond some of those lines that we have in the sand at the moment.

688. For example, there are some provisions around counselling which would mean

that victims could access counselling in matters like that after a period of time, rather than just the 45 days. Certainly, in our experience, that is crucial, because no one is ready for full counselling within 45 days. The provisions just take it that bit further and take the support for victims further.

689. We have to be very mindful to treat these victims as victims. Sometimes, they run up against the immigration laws and so forth. Of course, those laws have to operate, but in society, I think, we have to carve out a special place for victims of this type of crime to make sure that they are being protected and supported. That is the first thing. The second thing is the very radical step of thinking about the criminalisation of those who want to purchase sexual services, because that has never come onto the agenda in the UK. In the Republic of Ireland, there is a Turn Off the Red Light campaign. That has been getting a lot of support, but it has not translated into any legislation yet.

690. **Mr Humphrey**: Our party's concern would be that action is not taken. Given that there is an all-party Committee in the Dáil looking at legislation for the Republic of Ireland, we could become the soft underbelly for human trafficking and prostitution. As you said I think that I quote you correctly supporting the sex industry is supporting slavery. In the society that we are trying to build in Northern Ireland, it is not conceivable to leave people completely exposed in that way without putting protections in place for them. You mentioned the Nordic position, and this Committee is going to Stockholm in a few weeks to look at how Sweden has implemented protections there. Do you think that that is a valuable thing for the Committee to do?

691. **Ms A Campbell**: I think that is excellent. I am delighted to hear it. It is a great idea.

692. **Mr A Maginness**: Thank you very much, ladies. It has been very helpful and very robust.

693. Some people argue that clause 6 should not be in this Bill at all because it deals with prostitution per se; that we, as an Assembly, should be dealing with prostitution but not in the context of this Bill; and that, therefore, it is not the right time or place in terms of legislation to deal with the issue of prostitution and the criminalisation of the purchase of sexual services. What do you say about that argument?

694. **Ms A Campbell**: I am not trying to be facetious, but would we start here if we could choose? This is where we are. I understand, as an outsider looking in, that it is not the easiest thing in the world to get legislation through Stormont. So, if you actually have a live proposal, you go with it. That is my first thing: the pragmatic reality. When will this issue get back on to the agenda? Another 10 or 15 years? How many women will have died who have been locked into that servitude? The other thing is that there is a clear logic for us in entwining the two because, more and more, the sexual industry is being populated by people who are victims of human trafficking, and most of the victims are then exploited for sexual reasons. So, there is a clear logical link. It is not as if the two are not linked. The rise in protections for women and girls in Northern Ireland or western Europe will lead to women who come in and are more vulnerable from countries that have not got those protections being shunted into this sexual services industry. So, you need to protect them in order to protect all the women in a society. For me, there is a clear logical link, and unless you are some sort of legislator purist, I cannot see why there is a problem with it. I cannot understand that argument, as a punter or a person on the street.

695. **Mr A Maginness**: There is another argument — I suppose that you have met the argument — that whilst a lot of those involved in prostitution are exploited, some are not exploited. Do you accept that argument, or is it a spurious argument?

696. **Ms Collins**: I certainly do not accept that. In our experience, we do not come across women who had those choices. We come across women who had perhaps been abused as children, who are vulnerable and who had been led down that path, with no choices.

697. **Ms A Campbell**: If a woman or young girl has been groomed to be abused, it will often take her quite a while to realise that. There are parallels with domestic violence in that it can take quite a while, and space and support, for a woman to actually realise what has happened to her in a violent marriage or partnership. If that has been your life, it can be hard to put yourself outside it or to get the information and support required to see, "Good grief, that is what was happening to me." We should absolutely never say "Never". There may be one or two cases, but they really do not count for a hill of beans, because the mass amount of women are being exploited and are coming from extremely vulnerable positions.

698. **Mr A Maginness**: So, in most cases, it is an exploitive and, indeed, abusive relationship.

699. **Ms Collins**: Those are the cases that we come into contact with.

700. **Mr Anderson**: Thank you, ladies, for coming along to present to us today. I also refer to clause 6, about which there is much debate. A number of groups and individuals coming from the feminist perspective have suggested that clause 6 is anti-women for a variety of reasons. As you are a feminist group supportive of the approach outlined in clause 6, can you tell the Committee why you believe that that approach will actually be good for the women of the Northern Ireland?

701. **Ms A Campbell**: Certainly. For clarification, did you say that some feminist organisations are saying that it is not abusive?

702. **Mr Anderson**: Some feminists have suggested that it can be anti-women for a variety of reasons.

703. **Ms A Campbell**: There is always healthy debate in any movement, and some of those debates have certainly been aired over the past month or so. What I would say is that — this is on page 2 of our position paper — the list of long-term organisations who are in the women's movement and the feminist movement — some people just say "women's movement" — are, if you like, the big hitters. Something like the European Women's Lobby ranges from small organisations to major umbrella organisations across all of western Europe. Our own Women's Resource and Development Agency is in there, and its membership includes all our major women's centres here, smaller women's groups in local areas, and so on. Not necessarily feminist; there are women's institutes and things like that. However, they are all very supportive of criminalising the actual act of buying sexual services.

704. Some of the other debate, to be quite honest, is a wee bit academic. It is all about three people somewhere who may have made that choice and the fact that, in the 21st century, maybe that is OK. However, if you ask just about any woman in any community in Northern Ireland, you will get a clear answer: criminalise it. They do not want it. That is the strength of feeling there. The reality is that when women are involved in sexual services and are being degraded in that way, the whole of womanhood is degraded. That is not to say that a woman who is trapped in it is in any way to blame. She needs help, but we need to stop what is going on. Society needs to say no. It was only when we got everyone working together on domestic violence that we managed to turn it around so that it was not acceptable to make jokes about beating your wife any more. That happened in all our lifetimes. So, we need to do the same thing with this. Again, we need to think in terms of pathways for those women, because otherwise they will still be condemned to that abuse and its after-effects.

705. **Mr Anderson**: Thank you for that and for your clear vision. Considering your stance and support for clause 6, what is your reaction to the argument made by the Department that more research is required before any action can be taken on reducing demand for human trafficking for sexual exploitation and prostitution?

706. **Ms Collins**: More research?

707. **Mr Anderson**: Yes, allow more time for research.

708. **Ms Collins**: We have the evidence. The evidence has been hundreds of years in the making, and it is very clear. In Women's Aid, we work with tens of thousands of women in Northern Ireland over the course of a year. We hear about sexual exploitation on a daily basis from these women, whether it is by strangers or within relationships. We are very clear that the evidence is out there. I do not think that there is any need for further research.

709. **Ms A Campbell**: If I recall, the DOJ did research a couple of years ago; it might be cited in our paper. What else do you need? I do not think any of us will have a cap on what the numbers will be or exactly what will be needed in a few years. However, we could start out on the path and present the pathways and support for women who are in it. We could do it carefully. No one wants some huge furore around it all. You would do it carefully and review it so that you are putting in place what is required. More changes may be needed in terms of police protocols etc, but I do not think that that should stop you from starting out on that path.

710. **Mr Anderson**: As my colleague said, the Committee is going to Sweden. Do you think that that is a good model? They are some 14 or 15 years in the process. The idea and what has happened there, and maybe the way it started — do you think that it is now a perfect model to take a lead from?

711. **Ms A Campbell**: I think that it is a very good model. I doubt whether there is a perfect model in any area of life. There may be aspects of that that we can draw on or modify a little. From what we have read and from what people have told us, it sounds an awful lot better than what we have here at the moment. Basically, what we have here at the moment is society turning its face away and saying, "It is happening; let it happen."

712. **Mr Elliott**: Thanks very much for your presentation. Everybody else has focused on clause 6, so I might as well start there as well. To some, it may seem almost out of context in that it is dealing specifically with prostitution, as opposed to just trafficking. It has been suggested that clause 6 would not deal with the issue of prostitution in its entirety. Is there anything else, then? Annie, I take your point that, if we were starting over again, we would not start from here. However, we are here. Is there anything that should be added to that, or should it go into a much bigger package somewhere to try to deal with prostitution overall? Do you still see gaps, even if that clause is put into the Bill?

713. **Ms A Campbell**: Our suggestion is that we need a new clause setting out that there will be pathways and support for anyone who is in prostitution; obviously, there are some young men as well. We need that. We do not pretend to know what else you might need in the legal sphere. I am not sure if anything else would be required in the Bill to criminalise it and take that forward. However, if it were in the Bill and in statute that there have to be pathways and support, the details of that could be worked out in the same way that the details of support for human trafficking victims had to be worked out. None of us had been doing that, so we had to sit down with the DOJ, work that out and explain to the DOJ what we have and how it could be made available. We would do the same thing for the support pathways for women in prostitution.

714. **Mr Elliott**: I am just trying to get a handle on it. Let us not hide the fact that there are suggestions that putting one clause into the Bill to deal with prostitution is not a good way to deal

with the issue. I am trying to tease out whether you are better with a separate Bill or trying to deal with it in this Bill and, if so, whether that one clause is enough or we need more. That is really what I am trying to get a handle on. Maybe that is as far as you can go on that.

715. **Ms A Campbell**: If it said very clearly in the Bill that pathways and support packages for exit routes out of prostitution had to be set up, that would be the law and everybody who is responsible would have to get on with it.

716. **Mr Elliott**: OK. My second query is around what you stated in your presentation. You have not raised it in respect of clause 8, which gives a level of immunity to those involved in prostitution. On clause 6, you state in your submission:

"It is essential that the criminalisation of buyers is accompanied by the decriminalisation of those in prostitution".

717. Could that not be significantly abused? I see where you are coming from, especially in relation to trafficked people. I have huge concerns about the possibility of that being abused and the potential abuse of it by people who will say, "I had no option other than this". That may be quite difficult to prove. It might be difficult — I do not know — first, to get a prosecution and, secondly, to prove that they were not forced. I am trying to get an idea of where you are coming from and how you would get over those difficult issues.

718. **Ms Collins**: It is a very difficult one. On 90% of the occasions on which we hear from women who tell us their stories, they do not have proof. We have to believe them. We, in Women's Aid, have had the experience of being able to relate to women who genuinely have been abused. I imagine that there need to be investigations all the time.

719. **Mr Elliott**: Do you see the potential for it to be abused?

720. **Ms Collins**: Everything that is out there may well be abused. I heard recently from an Garda Síochána in the South who said that they now spend most of their time dealing with supposed victims of human trafficking who have not actually been victims of human trafficking but are saying that to try to get leave to remain in the country. It is necessary to go through that. Unfortunately, it tars everything for genuine victims. If you ever sit with someone who has genuinely been trafficked across the world and gone through the most horrendous ordeals, you will surely see that saving one person from that is worth it.

721. **Ms A Campbell**: Our point is that we do want to get into a situation in which, when the police use their powers to go in and arrest people who they have reason to think are trying to buy sexual services, they automatically tack on the women whose services are being bought as a kind of accessory to the crime. The crime is in the buying of the services not in being the vulnerable person who is providing the services. You should be looking at treating that person as a victim in the same way as, when the police rescue people who they think are human trafficking victims, the presumption is that they are victims and not that they have committed a crime. In that way, human trafficking and that aspect of it are very much linked.

722. As Noelle said, there is always the possibility of abuse. However, in a culture in which the victim is centralised, reputable services that are providing support are not going to cover up victims who are codding. We do not do that in Women's Aid, because that would undermine our reputation in respect of what we do for genuine victims. There might be a bit of muddy water at the beginning, but I think that that could be sorted.

723. **Mr Elliott**: I am genuinely trying to get to the bottom of it. Your presentation makes it seem black and while: criminalise the buyers and decriminalise those who you would almost interpret as sellers. To me, it is not as black and white as that. On the ground and in practical terms, it is probably not as

black and white as that. I am trying to get to the bottom of it. You have gone to some length to explain it, but I still have concerns about the decriminalisation aspect being abused by some people. Anyway, maybe that is for another time.

724. **Ms A Campbell**: That is probably the case in a lot of areas when protections are put in place. The people who are there to make a profit out of abuse will try to find a way around it. You continually have to try to outsmart them. I suppose that that is partly the police's role.

725. **The Chairperson**: You mention sending a strong message to those who buy sexual services here or worldwide. Sweden did not apply it to those who engage in the activity worldwide, but Norway did. If the Assembly takes forward clause 6, do you think that, as well as people who buy sexual services in Northern Ireland, those who are found to have bought them in any other country should be liable to prosecution?

726. **Ms A Campbell**: Well, yes. Interestingly, when we were saying that it was more that we felt that Northern Ireland and Stormont could actually be a model of innovative, forward-thinking practice and, in that way, send out that signal. I am quite sure that, for example, Scotland, England and Wales and so on would be very interested in it. If we are going to end it globally, that has to happen. You cannot just export the problem. So we would be in favour of that. You are not trying to say that you cannot exploit or abuse people in this country but you can go and do whatever you like in any other country.

727. **Mr McCartney**: Thank you very much indeed for a very powerful presentation. I commend you on the work that Women's Aid does. Tom Elliott and Alban have already spoken about the fact that there is a view abroad that the two things should be separate. You can already see it clearly as human trafficking equals sexual exploitation and sexual exploitation equals human trafficking, but we know that human trafficking is wider than sexual exploitation. The Oireachtas report, in its trajectory, has to deal with prostitution as a single issue, so here there might be a feeling that we are clouding the issues. Do you have any view on that?

728. **Ms A Campbell**: All of the provisions in the Bill that improve the support services for victims are for all victims of human trafficking, not just for victims of sexual exploitation. I will repeat that, of all of the victims of trafficking who come in, whether it is domestic servitude or economic, there will always be victims of sexual exploitation. For me, it is a double indemnity thing. It is good because it puts the spotlight on that and on what can actually happen to the most vulnerable. We see the linkage. The working-out of it, how it is going to be implemented, how the police are going to prosecute and how the packages of support are going to be set up will all be detailed and in the nitty-gritty stuff, but, when just setting out the case in legislation, we see it as positive that they are linked, because it actually sends a message out to society — a reality check that this is what is happening. We need to do some of the same things like asking where your ordinary mushrooms are coming from and all of those sorts of things —

729. **Ms Collins**: Apples in Armagh at the moment.

730. **Ms A Campbell**: Who is working on the trawlers and in the fields? All that stuff.

731. **Mr McCartney**: That is what I am saying: the servitude aspect of it gets pushed to the side. It now almost looks like a Bill solely focusing on prostitution.

732. **Ms A Campbell**: It is one clause. Obviously, it has opened up a huge debate. Society obviously needed that, but still, if it goes into legislation, all of the other support measures are there for all victims of human trafficking. That has got to be great.

733. **Mr McCartney**: In your presentation and your paper, you stated very clearly that, in your experience in Women's Aid in particular, people who present themselves to Women's Aid who are

there as a result of prostitution have been coerced, abused and put in a position of doing things that they do not want to do, yet there are laws in place to prevent that happening. Where do you see the weakness in the structure there?

734. **Ms A Campbell**: I must be missing some of the laws. I do not think there are. There are child protection measures in place, but what about vulnerable adults? We actually have no services for young women —

735. **Mr McCartney**: No, I understand about the services at present, but the Department has presented us with a number of pieces of legislation that deal with exploitation, abuse and coercion of anyone, particularly women, for sexual services.

736. **Ms A Campbell**: To be honest — I am saying this with respect — maybe there are cases where they have helped, but I just see them as sleeping clauses, because they are not being activated.

737. **Mr McCartney**: That is a point that I would like to explore, because laws are put in place to have an impact. We could enact this legislation, but it might not be employed. We might say to ourselves that it will bring about the end of prostitution, so we sit back, rest on our laurels and say, "There you are, that is the legislation. That is the end of that for time immemorial". Take the analogy with domestic violence. Domestic violence did not come to people's attention and focus simply because we brought in new laws. The laws were already in place; assaulting another person was a crime. It was about awareness, campaigning and breaking down the barriers that often led society to believe that domestic violence was acceptable. Sometimes, I think that we have to prevent this idea that, if we enact a law, it will bring something to an end. We may not achieve that. Do you see any merit in that?

738. **Ms Collins**: The laws were not there to protect women from domestic violence for many years. Although it was a draconian law, until 1979 it was legal to beat your wife as long as you did not use a stick that was wider than you thumb. The laws were not there to protect women, and groups like Women's Aid had to actively promote the issue of domestic violence, change the mindset of society and say that it was a crime that was happening in the home.

739. I do not think that people are aware that there is a law to prevent someone from buying sex. I do not think that that is well known.

740. **Ms A Campbell**: Or to prevent someone from being coerced into it. It is a form of grooming, and people are not aware that what is happening to them might be a criminal act. At the end of the day, the prostitution industry is not seen as illegal. If it was, people might think, "They are trying to make me do something that is illegal".

741. Although there may be clauses somewhere in other laws, it is not clear to society that we have taken a stand and said that prostitution is unacceptable. That sort of sea change could come from this clause. I would not want the clause to override all the other positives that could come out of enacting the Bill. As we said, we see the Bill as being very positive in taking forward support for all human trafficking victims. However, equally, the clause is getting so much attention because it is so different.

742. Why would we be afraid to take that step? We are not naive enough to think that it will end prostitution, but it will put down a big marker, and it will start people on the journey of thinking that, if prostitution can be ended, we can have a different society in which we do not have it.

743. **Mr McCartney**: You talked about the pathway and the aftercare. Do you think that the Bill is rigorous enough with the pathways and dealing with the impact afterwards?

744. **Ms A Campbell**: We would like an additional clause that specifies that there would be exit routes, pathways and

support for those who are in prostitution now.

745. **Mr McCartney**: What about those who are involved in human exploitation rather than sexual exploitation? Would you also like to see aftercare for those people?

746. **Ms A Campbell**: Some of the other clauses deal with aftercare in the form of broad support, but we are in favour of anything that would strengthen that. There are particular issues around the trauma that people can be locked into when they have been victims of sexual exploitation, and they need long-term care. We see those victims in prostitution. Human trafficking victims do not really fall into that zone. Victims of sexual exploitation really need a lot of care and support to get out of it.

747. **Mr McCartney**: Reading through it, there does not seem to be enough research about the extent of the problem that we are trying to deal with. Notwithstanding your everyday experience, it is not translated into research or —

748. **Ms A Campbell**: When the Convention on Action against Trafficking in Human Beings was brought in and we set out support pathways here for human trafficking victims, the only piece of research in Northern Ireland was the one that we had done. It was very hard to get the figures because it is a hidden problem. The same is true for prostitution. You have to acknowledge that it is there, that you do not know the parameters, start on the pathway and be rigorous about trying to determine how much is there and so on. That is part of it. However, you are not going to know that in advance. If research is done now, people will not be able to find out the extent of it.

749. **The Chairperson**: Should legislation be used to make a statement about what this society takes a position on?

750. **Ms Collins**: It helps.

751. **Ms A Campbell**: I do not think that it should just be a PR brief, but definitely. Is that not what it is partly about?

752. **The Chairperson**: How much research do you think would be needed to enable support of this legislation? The argument seems to be being made that we need research. How much research and evidence do you think that someone would need to be able to make a decision on supporting this Bill, particularly clause 6?

753. **Ms Collins**: I repeat that the evidence is there. We see it very clearly as sexual violence against women. It has been going on for hundreds of years, and we are dealing with it daily. We would say that we have the evidence.

754. I have listened to researchers and academics talk about comparisons in other countries and how prostitution works in other countries where the sex industry is legalised, and you could have a shopping mall and lots of rooms that are let by the day. Is that the sort of society that we want to live in — where there are panic buttons for women who are being used in prostitution and security come up if there is any sort of bother? I do not want to live in that sort of society, and I am sure that many of you do not either. Let me use this comparison: who has a panic button in their daily work? Who has to live and work and have a panic button to protect them?

755. **Ms A Campbell**: And who has to be drugged to the hilt to get through their working day?

756. **Ms Collins**: We hear horrific stories from those women.

757. **Ms A Campbell**: There is obviously a big responsibility on the Justice Committee. We recognise that doing a bit of targeted fact finding, such as going to Sweden, makes sense, but you have to call a halt on it somewhere and say, "OK. We will do what we can here".

758. **The Chairperson**: Tell me about the type of abuse that women you have dealt with have suffered.

759. **Ms Collins**: The trafficked women that we have talked to refer to their journey. We have taken women from countries from all over the world. They are perhaps

from Afghanistan, where the Taliban raided their villages, and they were moved along a path through Europe from Athens to Northern Ireland. Along that pathway, they were abused, put to work and locked up, not knowing what countries they were in except for the weather. They do not know what they are doing in Northern Ireland, and they do not speak the language.

760. You can imagine what it is like to arrive in a country where you continue to be abused before you are rescued by the PSNI. Then you come to live with others who you do not trust, who do not speak your language and who do not have the same culture as you. How do you begin to tell your story and recover from that? It is a long and a very slow process to gain recovery.

761. I do not want to sensationalise it, but we also deal with women from Northern Ireland who have been forced into prostitution by their partners. They told them that they loved them and then took them to various places in Northern Ireland and expected them to sell their bodies — they did not gain the money — and be used and abused by so-called friends of their partners. We hear those horrible stories daily.

762. **The Chairperson**: What do those women suffer daily?

763. **Ms Collins**: What do they suffer?

764. **The Chairperson**: Yes.

765. **Ms Collins**: They are being raped. I suppose that some of them are addicted to alcohol and drugs and, as Annie said, that is how they get through the day. They think that that is their lot. They are self-harming, they are suicidal, and they certainly have mental health problems. They are exhausted by their lives, and quite a lot of them just do not wish to go on. They have been estranged from their families, they are totally isolated from friends and, most days, they only have organisations to help them to get through the rest of the day.

766. **Ms A Campbell**: Many of them will also suffer from straightforward physical problems, such as gynaecological problems, broken bones that were never set or health conditions that were never checked. Even something as simple as not getting to the dentist can create misery in their lives.

767. **Ms Collins**: Some of them also have pregnancies as a result of rape.

768. **The Chairperson**: And you think that this Bill will help to reduce the problem?

769. **Ms A Campbell**: It will not be an automatic switch. However, it will start society out on the path of saying that that is not acceptable, it is not what we want in society, and we are going to do everything that we can to target those who are creating it and help those who have been trapped in it.

770. **Mr Wells**: I welcome entirely your evidence. As Mr Humphrey said, you should not be surprised if large chunks of your evidence are quoted on many occasions to support the Bill. That is a perhaps an indication of my initial view on the Bill.

771. I do not know whether you saw 'Prime Time'; RTÉ in the Irish Republic had quite a remarkable exposé of women, mostly Romanians, being trafficked in the Irish Republic, but some of them came up here. Indeed, all six counties of Northern Ireland featured on the website that marketed the women. What was noticeable I am playing devil's advocate was that, on several occasions, the police intervened and the women were asked to report individually to the local Garda station, but at no time did they actually reveal that they were being trafficked or how they were being treated. When they had the opportunity to say to the guards confidentially, "Look, I am not here voluntarily; I was shipped in from Romania", they did not. Does that surprise you?

772. **Ms A Campbell**: No.

773. **Ms Collins**: Women are so afraid. They are living in fear. We have had women who were trafficked right across the world and can remember every single detail and yet cannot remember what

happened to them in Northern Ireland. I think that that is selective memory; they are so frightened that whatever happened here in Northern Ireland could continue.

774. It is a bit like relationships in domestic violence. Women live in relationships for 20 or 30 years and do not tell anyone about it at all. It is that inverted fear that they have. Women tell us that they were hit 20 years ago and never had to be hit again because they knew what was going to happen. They live their lives walking on eggshells. I am not surprised that women who have suffered that ordeal do not say anything. Traffickers have power and control over the women. They are frightened. They believe that, no matter how well we try to protect them, those people will get them. One woman, after living with us for nearly nine months, was still suspicious of us. She thought that we were in league with or worked for immigration.

775. You have to remember that quite a lot of the women who come to us do not have a lot of security in their country of origin. Their police service may have been corrupt at times. They have no faith in their criminal justice system at all.

776. **Mr Wells**: The other interesting revelation in that programme was that the controllers were making €27,000 a week from 14 women through the website and through selling their services. Some of them had 22 clients in 24 hours.

777. **Ms A Campbell**: It is big business. That is why it is being so fiercely protected. I talked earlier about some of the misinformation that goes out. If you really examine the root of some of those, they are quite shady. There are websites and so on where, allegedly, women who have been prostitutes are speaking, and, sometimes, some of the bodies are putting them up to it — it is not an authentic voice. There are a lot of authentic organisations; I think that Ruhama came up —

778. **Mr Wells**: Sarah Benson.

779. **Ms A Campbell**: Yes. But some women are being manipulated.

780. **Mr Wells**: We, as MLAs, have been approached by various cooperatives representing sex workers that say that this is nonsense. They say that there are women out there who have made that career choice, and that, if you take that away from them, they have no other option. Again, I am playing devil's advocate. They are saying that it is not a choice between a good life and a bad life; it is between a bad life and a terrible life. They are saying that prostitution at least offers vulnerable women from poor backgrounds an opportunity to survive in this world, and that, although it is not the optimum choice for their life, it offers them some prospect of putting bread on the table. What is your reaction to that?

781. **Ms Collins**: Sorry. I am exhausted. I do not think that it is a choice for women. We are here to represent the vulnerable women who have no choices. There are thousands of those women. The women who we come in contact with daily are being abused. They are vulnerable; they do not have choices. If you are in a position to have a choice, it is our duty to look at options.

782. **Ms A Campbell**: You definitely need pathways for those women. You cannot just cast them out without the means to live. That is why we are saying that you need the support pathways. I really question, in some instances, who is putting those women up to doing that. Manipulative abusers are not above getting a few women in a room and telling them what to say.

783. **Mr Wells**: Most of the spokeswomen would say that they have been through the industry themselves and have been practising for decades.

784. **Ms A Campbell**: The other aspect of that is, if you get the pathways in place, the argument that there will be no economic support goes. The other side of it is whether that is good enough. Do you say that, just because some people are making money or a living out of

abuse, it should continue? If you take that argument, you could say that we should never have had the emancipation of black slaves because where would they go after the plantation? There is a bit of disruption, but you have to do something to change society. You have to care for the victim and not just say, "That industry is providing people with a bit of money, so let it carry on no matter what the consequences".

785. **Mr Wells**: You have detected that there is opposition to this private Member's Bill from the Department and members of this Committee. One point that has been frequently made and must be addressed is that, if you introduce clause 6, you will drive prostitution in Northern Ireland underground. It will make women even more vulnerable, they cannot be seen for medical care and will just disappear. Therefore, clause 6 worsens the conditions for vulnerable women who have been trafficked for sexual services.

786. **Ms Collins**: It already is underground. You cannot just walk out. The police have to have intelligence to detect where those places are and rescue trafficked women. I just do not get that argument. It is almost saying that we will do nothing. What is the alternative to it?

787. **Ms A Campbell**: Yes, it is already underground. In general, it has moved off the street. I am not a police officer, but there are investigative tools to track where people are promoting services through the internet and so on. There must be ways. If they are selling a service, there has to be a bit of publicity around it, so you find it that way.

788. Again, that is like saying that because the spotlight is going to be turned on something, you do not turn it on, you just let it continue, because if you turn the spotlight on, they will try to find another way to get around it. They will. But then you have to get cleverer and find ways to get around them and expose them.

789. **Mr Wells**: You say that the national referral mechanism fails some victims who experienced the most trauma, and those people need support as well. What safety net should be in place if it is not the NRM? That is a more technical issue but I am sure that it will be raised. You are not happy with the present national referral mechanism, but what do you put in its place?

790. **Ms A Campbell**: It is more the issue of timescale.

791. **Ms Collins**: Yes, it is more the timescale of the 45-day reflection period that bothered us. I suppose that the NRM works if someone is willing to go down the criminal justice route and can give that evidence. Women who still feel frightened and do not want to go down that route will probably not get a positive, conclusive decision. Support needs to be put in place for those women.

792. **Ms A Campbell**: They could still be genuine victims of human trafficking but still be frozen in fear that they are not engaging enough and will not get a conclusive determination. There is a cliff that they just fall off after the 45 days, which is why we push for a longer reflective period.

793. **Mr Wells**: Women are also trafficked from other parts of the United Kingdom and within the United Kingdom. Do you see the absence of the National Crime Agency in Northern Ireland as an encumbrance to tracking down those women?

794. **Ms A Campbell**: The option of it?

795. **Mr Wells**: It will not be operational in Northern Ireland.

796. **Ms A Campbell**: I am not au fait enough with the technicalities of that. They should be being tracked by whoever can do it.

797. **The Chairperson**: Thank you. We are nearly finished.

798. **Mr Dickson**: I appreciate very much the length of time that you have spent with us and the information that you have given us. You give a graphic description of the people you work with and the type

of things that they have to face. Do laws not already exist to cover all the issues that you described today? Is any law missing in respect of any of the items that you raised today?

799. **Ms Collins**: Apart from the criminalisation of prostitution, I suppose the laws are there. I suppose that the use of the laws has been a problem for the women who we deal with.

800. **Mr Dickson**: As an organisation, you will know your own statistics. How many trafficked women have you dealt with?

801. **Ms Collins**: In four years, 47.

802. **Mr Dickson**: The greatest fears of anyone who is being trafficked, according to one organisation, are the debt that they incurred in getting here, destitution, and the fear, particularly for asylum seekers, of being returned to the issue that they have sought asylum from in the first instance. The greatest fear, in that case, is that of deportation. How do you see the improvement of pathways for dealing with that citation of the greatest fear being that of deportation?

803. **Ms Collins**: Some of the women who we have dealt with who have been trafficked for sexual exploitation have chosen to be repatriated to their home. There have been other women who, as you mentioned, have been in debt bondage, and they feel that they cannot go back home or feel that their families, usually in Asia, mostly China, are under threat. That is very difficult because, obviously, it is an international problem. I think that a lot more needs to be done there so that the protection is on the other side.

804. Many of those women do not wish to be deported. For instance, some of the Chinese women who we have dealt with cannot be deported because they have no papers. They are known as the "black women" of China. They may be a second child and were therefore never registered and have no papers; they are in no-man's-land. There are women who, believe it or not, do want to go back home, but for those who do not, having been through this, to be given leave to remain as a human right is probably the right thing to do.

805. **Mr Dickson**: Mr Wells made reference to the national agencies that deal with trafficked people. They are primarily women, and I accept that that is the argument we are talking about today. Do you think that it is counterproductive for the UK trafficking centre phone service to be manned by immigration officers rather than by civil servants who are dealing with trafficking as opposed to the UK Government's stated aim of deporting people?

806. **Ms Collins**: It is worrying.

807. **Ms A Campbell**: It is very difficult. As we said earlier, there has to be a clear recognition of what happens when you are a victim of human trafficking. Therefore, if you find someone who you have reasonable grounds to think is a victim, they have to be treated with respect and care. One call of that nature could be enough to drive someone back to the trafficker.

808. **Mr Dickson**: How many of the people who have been trafficked who you have dealt with have been trafficked specifically for the purpose of sexual exploitation or prostitution?

809. **Ms Collins**: Of the 47, 45. The other two were for domestic servitude. One of them was given the option of working in a brothel as a housekeeper or working in the brothel, so she chose to work as a housekeeper.

810. **Mr Dickson**: In those particular circumstances, the prosecution of those who are operating a brothel currently falls within the legal framework and there are penalties for that. If there is a criminalisation of prostitution in the sense of decriminalising it for the provider, and we have always got to remember that this can include men, but it is predominantly women, do you have any concerns that the Swedish model or the change in the law has the potential to lead to blackmail?

811. **Ms Collins**: Blackmail?

812. **Mr Dickson**: Yes. In other words, the provider decides, for some reason, that they are innocent. They know that, under the law, they are innocent, and therefore, if they gave information to the police regarding their clients, they could extort further from their clients above and beyond that which they have got through the services that they provided by the threat of going to the police.

813. **Ms A Campbell**: I suppose that potential exists already.

814. **Mr Dickson**: Yes, but it is potentially redoubled.

815. **Ms A Campbell**: My sympathy would not lie with that, given the scale of all the crimes that are committed in that regard. Blackmail is possible in any walk of life. It is not something that I would consider. It should be about ensuring that the person who is being exploited is not criminalised and criminalising those who are making the demand, and that is clear. In practice, it will be a little less black and white, and there will be things to work out, but if you have the principles —

816. **Mr Dickson**: But those are not things that you can work out. This is a piece of law that we are making.

817. **Ms A Campbell**: That would be about implementation.

818. **Mr Dickson**: Therefore, we need to look at all the unintended consequences of any changes in the law. This is not opposition to clause 6; this is simply attempting to ensure that there are no unintended consequences of what we are trying to achieve by way of this change.

819. You made reference to support from the Irish Congress of Trade Unions on this matter. Why, then, is the International Union of Sex Workers a member of the GMB, which, in turn, is a member of the Irish Congress? How is it going to deal with that issue?

820. **Ms A Campbell**: It was voted through at the ICTU conference. I suppose that not every individual member of any large umbrella body always wins a vote.

821. **Mr Dickson**: How will it represent the views of the GMB in this discussion?

822. **Ms A Campbell**: In the normal way, I suppose. With an umbrella body, there might be elements in it that do not like what has been taken as a national policy.

823. **Mr Dickson**: It is more than a national policy. It has a member trade union that actively represents workers in the sex industry. That union is one of its member unions.

824. **Ms A Campbell**: All I can say is that it would not be unusual in the trade union movement for a branch to feel that what it wanted —

825. **Mr Dickson**: This is not a matter of policy; this is a matter of an actual trade union being a member of the Irish Congress of Trade Unions.

826. **Ms A Campbell**: Yes, but I am saying that individual trade unions may not all agree with every resolution that is passed any more than every branch might agree with a resolution that is passed at your national conference.

827. **Mr Dickson**: It is, perhaps, unfair to ask you, but you made reference to the ICTU. Perhaps it will explain it to us when it gives evidence.

828. **The Chairperson**: Mr Humphrey has a supplementary question, just to wrap things up.

829. **Mr Humphrey**: You were talking about women from China who do not have papers, rights and whatever. Obviously, in every case, that is the worst example because, effectively, they do not even exist in their home nation. Annie, you said that victims' support groups should be allowed to attend with victims. I would have thought that, in a case like that, that would be absolutely essential, particularly when someone is unable to speak English or speak it fluently. If someone has no papers and, effectively, no identity, there is no question that that would have to happen. Do you agree?

830. **Ms A Campbell**: It should be, but it is not happening at present.

831. **Ms Collins**: Quite often, they have to go down the asylum route, especially if there is no conclusive decision from the NRM. I know of at least four women who have been refused asylum and are still living in NASS accommodation. One of those women has been living in that accommodation for four years.

832. **The Chairperson**: Thank you very much for your time. Annie, you opened this session, and I am going to let you finish it. In a couple of months, we will have to vote on this, and there are differing views. I want to give you the opportunity to conclude this part of the meeting with what you would say to members, ultimately, when they come to vote on this.

833. **Ms A Campbell**: I say to everyone on the Committee that it is wonderful to come here and feel that everyone is so engaged and that you want to hear our input. We appreciate that very much. I urge everyone here and all the political parties at Stormont to give the Bill their full backing. This may be the one chance that we have in this generation to do something very specific and targeted to stop the tide of degradation against women that is flooding across the globe. This is the bit that we can do. Please back the Bill and back the victims of human trafficking.

834. **The Chairperson**: Thank you very much.

5 December 2013

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr Seán Lynch
Ms Rosaleen McCorley
Mr Jim Wells

Witnesses:

Mr Poots	*Minister of Health, Social Services and Public Safety*
Ms Eilís McDaniel	*Department of Health, Social Services and Public Safety*

835. **The Chairperson**: The area for discussion now is the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. The session will be recorded by Hansard, and the report will be published in due course. Minister, the clauses that are relevant to you are clauses 10, 12 and 16. That is not to preclude members from raising issues about other aspects of the Bill, but that is what we are here to focus on primarily. I am pleased that the Minister and Eilís McDaniel have been able to join the Committee. Minister, I will hand over to you to outline your Department's approach, after which members will have some questions.

836. **Mr Poots (The Minister of Health, Social Services and Public Safety)**: Thank you, Chair. If it meets with your satisfaction, I will cover various issues in a speech of about 10 minutes, and I will then be happy to take questions. I thank the Committee for the invitation to attend this afternoon's session and for the opportunity to give evidence on the clauses of Lord Morrow's Bill for which my Department has responsibility or part responsibility.

837. I will start by saying that I am fully supportive of the intention behind the Bill. I have already conveyed that in correspondence to Lord Morrow and to the Justice Committee. I also met Lord Morrow recently to discuss his Bill, and my officials provided him with further advice following that meeting. On the basis that human trafficking is a particularly vile criminal act, lead responsibility for the law as it relates to it is a matter for the Minister of Justice. In the main, my responsibility relates to the immediate and long-term protection needs of victims of human trafficking, both children and adults, through the provision of health and social care services.

838. A small number of clauses in Lord Morrow's Bill — clauses 3, 10, 12, 16 and 17 — relate to matters that are either relevant to my Department or within my gift as Health Minister to deliver either wholly or in part. As indicated, although we are supportive of what Lord Morrow is seeking to achieve — improved protections for victims of human trafficking in Northern Ireland — we have some minor reservations about the Bill. Of the five clauses that have relevance to my Department, I have indicated to Lord Morrow that only one, the clause that establishes a Northern Ireland rapporteur, gives me some cause for concern.

839. I have indicated that my opposition to that clause is solely on the basis that our current system has a range of checks and balances, as well as scrutiny and challenge mechanisms, already built in to it. Assembly Committees are part of that scrutiny and challenge system, as are the Assembly Ombudsman and a number of commissions and commissioners. Regulation and inspection bodies, of which there are many in the health and social care sector, also perform scrutiny and challenge functions. It is my view that an independent rapporteur would add a further and unnecessary layer of

bureaucracy. Despite recent calls for an independent health regulator, I think that we already have sufficient mechanisms in place to hold us to account on how we respond to the needs of victims of human trafficking, both currently and into the future.

840. Clauses 3 and 17 provide definitions of both a child and vulnerable adult. I am content with the definition of a child. It is consistent with the extant children's legislation. I have offered Lord Morrow advice on the definition of the term "vulnerable adult". A number of definitions are available, both statutory and non-statutory, and I intend to write to Lord Morrow to support him further on this matter.

841. Clause 10 seeks to provide assistance and support to victims of human trafficking. It also seeks to provide assistance and support to the family of a child who is identified as a victim on the condition that they are resident in Northern Ireland and are not suspected to have committed a human trafficking offence. The provision of assistance and support to a child victim is absolutely not an issue. Any child who is suspected of having being trafficked would be regarded as a child in need of care and protection under the Children (Northern Ireland) Order 1995, and that would extend to a family member of a child victim if that family member is a child.

842. Under article 18 of the children order, health and social care trusts are already required to safeguard and promote the welfare of children in need by providing them with a range of social care services. Where a trust is concerned that a child is suffering or is likely to suffer significant harm, it is also under a duty to make enquiries to help it to decide what action is needed to safeguard the child or to promote his or her welfare.

843. Finally, any child to whom a trust provides accommodation for more than 24 hours or for whom it seeks a care order through the courts becomes looked after by the trust. That triggers a range of children-in-care duties with which the trust must comply. Any child who is taken into the care of a health and social care trust is deemed ordinarily resident in Northern Ireland. In any case, the Nationality, Immigration and Asylum Act 2002 does not prevent support or assistance to children. My Department is drafting new regulations that will provide that healthcare services will be provided to any child not ordinarily resident in Northern Ireland who is taken into the care of a health and social care trust.

844. The point that I am making is that what Lord Morrow is seeking to achieve in assistance and support for child victims of human trafficking is in keeping with what the law already requires or provides for. What the Bill does is helpfully put it beyond doubt. Assistance and support to adult victims of human trafficking is infinitely more complex. Help and support are available to adult victims who enter the national referral mechanism (NRM) during what is referred to as the recovery and reflection period, which lasts for 45 days. That is provided by Migrant Help and Women's Aid under contract with the Department of Justice. During that period, those organisations will arrange for victims' health and social care needs to be met. Beyond the NRM entitlement to health and social care, assistance and support for such persons in Northern Ireland can remain intensely complicated and are linked to a person's immigration status.

845. As I indicated, my Department is drafting regulations that, when made, will provide that secondary healthcare services will be made available at no charge during the recovery and reflection period in circumstances where there are reasonable grounds to believe that an individual is a victim of human trafficking. In addition, those services will be provided in circumstances where it is confirmed that the individual is a victim of human trafficking.

846. Entitlement for social care provision for suspected or confirmed adult victims of human trafficking or, indeed, the adult family members of a child victim, is determined according to various factors,

including the person's immigration status, schedule 3 to the Nationality, Immigration and Asylum Act 2002, European Convention on Human Rights (ECHR) considerations and ordinarily resident status.

847. Those are some of the issues on how the clauses in Lord Morrow's Bill on support and assistance are drafted. However, with some re-drafting, they could bring some clarity to an area that, in legal terms, is both complicated and complex.

848. The final clause of relevance to my Department is clause 12. That specifies that each child who might be a victim of human trafficking shall have a child-trafficking guardian appointed to them. I am not opposed to the concept of a child-trafficking guardian or to the responsibilities of the guardian as specified in Lord Morrow's Bill. The guardian is essentially an advocate for the child on the assumption that a child victim of human trafficking in Northern Ireland is a child in need or, indeed, looked after. I have proposed to Lord Morrow that the duty to appoint a child-trafficking guardian should fall to the health and social care trusts in place of the Department. I have also suggested that the circumstances in which a guardian is appointed should be a matter for regulations that my Department brings forward. Apart from those few suggestions, I am generally content with clause 12.

849. That is the extent of what I have to say to the Committee on Lord Morrow's Bill. However, one final point is that my Department, with the Department of Justice, is in the process of developing an adult safeguarding policy that will clearly identify adult victims of human trafficking as adults who need protective responses.

850. **The Chairperson**: Minister, thank you very much for your evidence. Members will have a number of questions. You said that Lord Morrow's Bill puts "beyond doubt" the child protection that is being provided. Is it preferable that that support for victims of human trafficking and the entitlements that vulnerable victims should be afforded are outlined specifically in legislation?

851. **Mr Poots**: My suspicion is that it is probably not best placed in legislation. We are required to deal with whatever the legislation brings forward, and various Departments will respond to whatever legislation is in place. I think that, as time passes, there needs to be flexibility to identify how best to deal with these things. Often, if something is written into legislation, it becomes very inflexible. So, whether this happens through a process of producing guidelines or identifying best practice, we can do courses of work to ensure that the legislation is given due regard and is upheld. However, I do not think that we need to be as specific in legislation where that is concerned.

852. **The Chairperson**: Is that where you indicated that your Department is looking at bringing forward regulations to provide support for those who are identified as rescued? Where in the Department is the piece of work to bring forward those regulations?

853. **Ms Eilís McDaniel (Department of Health, Social Services and Public Safety)**: The regulations will be made in the not too distant future. I think that they may have had a committee hearing this week, so they should be made before the end of this year.

854. **Mr Anderson**: Thank you, Minister, for coming along today. Clause 12 concerns child trafficking guardians. You think that it may be problematic, but do you generally agree with the clause?

855. **Mr Poots**: Yes.

856. **Mr Anderson**: According to an answer that was given to an Assembly question, between January 2009 and September 2012, three trafficked children in Northern Ireland went missing. Do you agree that that is a matter of real concern?

857. **Mr Poots**: It is always a matter of concern when the welfare of children is being questioned. If three children who have been identified as trafficked

children have gone missing from the system, we do not know what their welfare is. As we look to the future and become aware of children and vulnerable adults who have been trafficked, we see that a real duty of care falls on us. Part of that duty of care will be in knowing where those children are and that they are in safety. Very often, those children will not be in safety, and very often, people who traffic others will start using such children long before they are adults for a whole variety of reasons and purposes, some of which are vile in nature. Consequently, there is a real duty on us to respond to those circumstances.

858. **Mr Anderson**: On the back of that, do you further agree that the introduction of a child trafficking guardian in Northern Ireland could help to ensure that trafficked children do not go missing in future?

859. **Mr Poots**: Again, that provision is wholly compliant with the responsibilities that we already have. Very often, where we have vulnerable children, we will be looking to appoint an advocate or guardian. Sometimes, parents do not take responsibility for the child in the way that they should. So, in cases involving children who have been trafficked, we are supportive of having a guardian to take care of that child's needs, to identify that the right things are being done for that child and to ensure that the law is being upheld in the care of that child.

860. **Mr Wells**: You say that the only real difference that you have with Lord Morrow concerns the appointment of a rapporteur. Presumably, you had discussions with Lord Morrow on that during your consultation. What was his reaction to your concerns?

861. **Mr Poots**: I think that he will consider it. It is obviously a matter for the Assembly, so if the Assembly passes it, it passes it. I am of the view that we have quite a lot of commissioners, ombudspersons and so forth. So, I think that we sometimes need to roll back a little and identify needs and how best we can meet the needs of trafficked people. Given the numbers that are involved, I hope that we do not need a commissioner. I think that the numbers are considerably higher than we believe them to be or know them to be at the minute, but I do not think that we require a commissioner. There are a lot of legal responsibilities on us to ensure that all this is carried out correctly, including the cross-checks that exist in the House through various Committees, the Assembly Ombudsman and a range of other commissioners that currently exist.

862. **Mr Wells**: You are in charge of a vast Department, with around 70,000 equivalent staff and a budget of £4·65 billion. It could be argued that there are people in your Department whose job it is to deal with this issue. However, they have many other responsibilities. So, is there not some merit, even if on a part-time basis, to have someone whose job is to focus entirely on this issue, rather than on a myriad of other pressing matters?

863. **Mr Poots**: We tend to go into these things with good intentions, and very often they become another expensive layer of bureaucracy, which is probably our main concern. I think that people who have been caught up in trafficking need strong support and a powerful response. A lot of that will come from the police in the first instance, and a lot will relate to the Department of Justice.

864. For many people, however, health and social will be required to get involved. That is certainly the case when young people or vulnerable adults are involved. Another area where we need to be involved is when people who were trafficked are victims of abuse, whether it is physical or mental. Do we need a rapporteur to oversee all that? I am not convinced that we do, and I remain to be convinced of that element of the Bill.

865. **Ms McCorley**: Go raibh maith agat, a Chathaoirligh. Thank you for the presentation. It has been said at times that primary legislation can be restrictive and is sometimes not the best way to deal with serious issues that are ever-changing and developing. More

flexible legislation, such as secondary legislation, may be a better way to deal with this. Given that we are talking about the protection of children and child victims, do you have a view on that?

866. **Mr Poots**: You need primary legislation from somewhere to have the secondary legislation. Lord Morrow has brought something to the Assembly that will put us in a different place to the rest of the UK and, indeed, the Republic of Ireland. This type of legislation has been tried elsewhere. Very often in Assembly debates, people refer to the Scandinavian countries as exemplars of good practice. In this instance, he would want to follow the line of one particular Scandinavian country, Sweden, which has a liberal democracy and which would not be viewed as a conservative country. So, I think that the concept of it all is very interesting.

867. Human trafficking is an area in which we would do well to do considerably more. Even in the past couple of weeks, three people were identified in London, one of them from Northern Ireland. It is absolutely horrific that people were held prisoner in a capital city of 10 million people for 30 years. They were not isolated in some rural location. They were in a city of 10 million people yet were able to be held as prisoners and used as slaves.

868. I certainly think that the law as it stands is probably not strong enough. It is not punitive enough and does not have enough teeth to repel criminals who use people in the most vile and sickening ways to profiteer. The proposed legislation covers a range of issues and areas. Europe is widening, and we have accession countries coming in with many people from poor backgrounds, and we have Chinese triad gangs and so forth. There is something wrong in the first instance if we are not alert to the fact that the criminal world will see human exploitation as the gift that keeps giving. You can sell a batch of drugs only once, but you can sell the services of a human being, whatever those services are, over and over again. If we are alert to that but then say that we are not fussed about doing anything about it, I think that that is, frankly, an immoral position to take.

869. **Ms McDaniel**: On the point about flexibility, the Minister's recommendation was to take some of the provisions relating to the child trafficking guardian out of the Bill. That would make it possible to prescribe the circumstances in which a trafficking guardian would be appointed in secondary rather than primary legislation. Likewise, the responsibilities of a guardian are probably best placed in regulations rather than the Bill.

870. **Mr Elliott**: Thanks for the presentation. I have a quick query on clause 12. Clearly, a lot of that responsibility would lie with the Health Department. Are there any gaps in social services that could be closed to help to facilitate that process?

871. **Mr Poots**: We are always finding that there are gaps. We do not have a perfect system; we have a good system. Time keeps moving on, and circumstances change. We always need to identify where something different is happening in a particular area or field and respond to that. However, we have the ability to fill those gaps and deal with issues when they are identified. That work is always ongoing. Social services is delivering remarkably better results than it did in the past. Far greater numbers of children are identified as being at risk. That is not because things are markedly worse, although they may be a bit worse; it is because social services is doing its job better. It is very important that that continues.

872. We do not have a perfect system, but we have a system that is capable of responding to the needs identified to us. If this legislation were brought forward, we would have the ability to respond to it, albeit that it would create more work for us. Nonetheless, if it involves providing adequate protection for children in particular, we should be very pleased to do that work.

873. **Mr Elliott**: To follow up, is there a dedicated team in social services that

deals with trafficked children or young people, or does that feed into the rest of the process?

874. **Ms McDaniel**: In the Belfast Trust, for example, a fairly senior social worker has a dedicated human trafficking role. They deal with small numbers of children, but they have a dedicated role.

875. **The Chairperson**: Is that an increasing role, or is it diminishing?

876. **Ms McDaniel**: The numbers are still incredibly small. Using the published statistics for 2012 as an example, one of 15 victims was a minor. I think that the Minister is right that there is probably under-reporting, and some of it is not identified at all. However, we are well equipped at the minute to be able to respond to child victims of human trafficking in our health and social care trusts.

877. **Mr Poots**: If you look at the insidious nature of exploitation and the recent discovery of child sexual exploitation that has been taking place under our noses but not clearly evident to people, we can realistically believe that a significant amount of human trafficking that has taken place is unidentified at this stage. It could be people out on farms in the countryside, working in the backs of restaurants or other businesses, or being used in prostitution and child prostitution. All those things can be happening, but people are very good at covering their tracks. I hope that, with the legislation, we will certainly identify a lot more of it. I also hope that Northern Ireland will become very hostile to human trafficking; the most hostile place in these islands. That would be a good mark for Northern Ireland. I certainly hope that that is achieved from this legislation.

878. **The Chairperson**: Eilís, you mentioned that one case. Was that an internationally trafficked individual? Obviously, there is internal trafficking. The recent case that the Minister talked about involved children in care who were being moved about. That was regarded as trafficking but, obviously, they were indigenous to Northern Ireland. Did that case involve an international victim?

879. **Ms McDaniel**: I cannot say with absolute certainty that it was a child trafficked into Northern Ireland. One thing that I should clarify is that the figures I quoted were for referrals to the national referral mechanism, and not all referrals to the mechanism will be confirmed as victims of human trafficking.

880. **Mr McCartney**: Thank you both for your presentation. Minister, you raised a point about the case in London and the recent cases here. Do you think that the Bill or this type of legislation would have prevented either from happening?

881. **Mr Poots**: I do not think that anybody should have the notion that the Bill will eliminate human trafficking. It is a very lucrative and profitable business, and people will, therefore, take risks to engage in it. What I do think Bill can achieve is to make Northern Ireland the most hostile place on these islands for human trafficking. So, it may lead to some displacement, because those people will still want to make money. However, it is then for other countries to decide whether they want a very hostile regime to human trafficking.

882. I think that we can be absolutely certain that, as populations on these islands continue to grow, which they will — it is predicted that the GB population, for example, will grow to 80 million over the next few decades — there will be greater and greater opportunities for people to engage in human trafficking. Therefore, we need to have a stronger and stronger response to it to ensure that we substantially hamper such activities, if not totally eliminate the opportunities for them. I do not think that it will ever get to a point where we can stop it happening. I am not sure whether the legislation would have stopped it happening in those cases; it might not have. However, I certainly think that it will be a good weapon in the armoury of the very justifiable fight against human trafficking.

883. **Mr McCartney**: I know that the investigation into the situation here is ongoing, but do you think that a loophole in human trafficking legislation has been exploited as a result of those cases?

884. **Mr Poots**: Are you talking about the child sexual exploitation cases?

885. **Mr McCartney**: Yes, the local one.

886. **Mr Poots**: The single-child case as opposed to the CSE cases?

887. **Mr McCartney**: No, the recent one in which children had gone missing from care.

888. **Mr Poots**: That involves a number of different instances, so it is not one homogenous group. There were children who were probably well into their teens or advanced teens who were developing relationships with others who were in their late teens or early twenties. Some of those children did not perceive themselves as being exploited. It is child sexual exploitation, but, in the case of a 19-year-old and a 15-year-old, the 15-year-old may not perceive that to be the case. So we have that kind of issue. Others have been taken out, given drink and drugs and then taken to party houses. At those party houses, it is believed that there were cases of children being abused by others in a very degrading way. That is very clear exploitation. The scary thing about it is that we have identified potentially 22 cases of what we consider to be child sexual exploitation, but 80% of the children who are exploited are not in care. Being in care is not commensurate with exploitation, but being vulnerable is.

889. Where there are vulnerable people, there will be perpetrators who want to make use of those vulnerable people. When it comes to the issue of human trafficking, it is absolutely clear to us that a lot of people who come into these islands are looking for money and a better life. They need money, because they do not have any, so they often get picked up very quickly and put into situations that they can never extricate themselves from. It is absolutely incumbent upon us to ensure that we are alert to that, that we seek to act quickly where we can identify it and that we have better systems to identify where it is happening.

890. **Ms McDaniel**: It is important not to confuse child sexual exploitation with human trafficking. As strange as it may seem to Committee members, not every child who is sexually exploited is a victim of human trafficking. There is a distinction in some cases. There may be an overlap in others, but it is important to make the distinction.

891. **Ms McCorley**: Go raibh maith agat. There is an absolute distinction to be made between child exploitation and human trafficking, because many cases of exploitation do not involve human trafficking and vice versa. You can have human trafficking for other reasons, so they are not one and the same.

892. Minister, you spoke about the Scandinavian model and said that the Swedish model made that country more hostile for human trafficking. However, European statistics for 2008 to 2010 for the Scandinavian countries of Denmark, Norway, Sweden and Finland show that the number of reported victims of human trafficking increased by the greatest amount in Sweden. That just shows that you have to be cautious in making assumptions about what the impact of a law can be. You may have presumed that you had the least number of trafficked victims in Sweden because of the laws but that is not the case, so we just need to be cautious.

893. **Mr Poots**: Chair, in comments that I made earlier, I also referred to Northern Ireland, where vulnerable children have been identified. I indicated that that was not necessarily because there were more vulnerable children, but because we have a better identification process. Very often, when you take actions, statistics will get worse before they get better because the actions that you take will identify the problem better. It is all very well for us to sit back and say, "There were only 15 cases of human trafficking and exploitation in Northern Ireland. That's not bad. We don't need to deal with that." Anybody who thinks

that there were only 15 cases of human trafficking in Northern Ireland in the past year is bonkers. There were far, far more.

894. We can sit back and pretend that it does not exist and do nothing about it, or rise to the challenge and put ourselves in a much stronger place than other countries throughout Europe and other parts of the world because we will face more and more issues about human trafficking as our population grows. Let us be realistic about it. There is no point in shying away from the facts.

895. **The Chairperson**: You mentioned the national referral mechanism in respect of adult support. Are you able to highlight some of the issues that are presented where victims, whether adults or children, are identified as having been victims of human trafficking? Predominantly, it is people who are forced into sexual slavery, but it is not exclusive to that. What needs come with victims? What issues does your Department have to treat?

896. **Mr Poots**: In many respects, it stands to reason what the issues may be. Many of those people will have gotten into some sort of human trafficking because they were vulnerable in the first place and needed money or had become addicted to something. Perhaps the traffickers got them addicted to whatever it was in the first instance, so many people will have addiction problems, be it alcohol or drugs.

897. Many who were involved in the sex industry will have sexually transmitted infections, and the wounds and scars to show that they were in the sex industry because pimps do not tend to be pleasant people. Pimps tend to be evil, wicked bullies and will take whatever actions they need to take to drain as much money as possible out of the person they are exploiting. If any resistance was shown, those who were engaged in prostitution will bear the scars of that. There are a lot of cases of women who have been both physically and mentally scarred, and damaged as a consequence. They need support thereafter, and we are very often left to pick up the pieces.

898. A significant course of work needs to be done to identify people who come out of human trafficking and prostitution. There is certainly more that we can do, and give consideration to in providing care and support for such individuals. It is very important that, in closing a gap in respect of people who are in prostitution, we provide support and care for the people involved and ensure that they have the best opportunities to move on to something different in life thereafter.

899. **The Chairperson**: Women's Aid was here last week. It said that, in the past four years, it has dealt with 47 victims of human trafficking who were then involved in sexual slavery. Women's Aid indicated that those victims were presenting with rape, broken bones and quite a number of other issues. Would your Department be able to quantify figures for how much it is costing the health service to deal with those associated issues?

900. **Mr Poots**: I am not sure whether we could. I know that Women's Aid is involved with the NRM; it is one of the leads on that. I would not dispute Women's Aid's figures in any way, shape or form.

901. **Ms McDaniel**: We could look at that. To get some average cost of provision, we could look at all 47 cases to see what kind of health and social care services they were provided with.

902. **The Chairperson**: Minister, I presume that, from the Health Department's point of view, you would say that prevention is better than cure in dealing with this problem. I know that it is not exclusive to your Department. There is an element of the Bill that is about seeing what support can be provided. However, at its heart, it is also clearly asking how we can prevent this from happening. Is that something in the Bill that you see as of merit in respect of prevention?

903. Maybe you cannot comment, but there is the case of the children in care, and you

mentioned others. One clause relates to the criminalisation of the payment for sexual services, which can take a number of forms beyond the financial. A payment could come in the form of a gift or something else. That will not relate solely to victims of human trafficking; it is applicable across the board. It will relate to every citizen in Northern Ireland or anyone who comes to Northern Ireland. Do you see that clause helping to prevent people from ever being made victims?

904. **Mr Poots**: Some people might operate on the notion that sexual services is some world in which everything is consensual and people get paid for supplying something. It is not quite like that. In most cases, it is not really consensual. People have been dragged into prostitution one way or another. We have many school visits here. If you asked the children to put up their hands and tell you what they want to do in life, you will hear a whole range of things. I suspect that precious few children will put up their hand and say, "I would like to be a prostitute when I grow up". They would not even say that privately. It is not something that people aspire to be.

905. The truth is that people are generally taken into prostitution against their will. In most instances, the person who provides the service gets minuscule amounts of money. The money usually goes to a pimp or someone who organises it. It is interesting that opposition is coming from people who profit from it; I find that wholly repellent. That is certainly a significant element of it. This is about money and people taking money from others for a service that they do not provide. The person who provides the service does not get the benefit. Let us nail that issue when it comes to the sex industry: it is about people exploiting others to make large amounts of money for themselves.

906. It is absolutely appalling that young girls from eastern Europe and many other places and, indeed, girls from here end up in Northern Ireland, spending their life in a small room being given some alcohol and a little food while someone else makes thousands and thousands of pounds. If the demand does not exist or is reduced, suppliers will not make as much money out of it, and, consequently, it will not be as desirable a business to carry on in Northern Ireland. That is where the logic of the Bill comes in. If we reduce the demand, there will be less requirement for supply; if there less requirement for supply, there will automatically be a dramatic effect on the number of people who are abused in those circumstances.

907. **The Chairperson**: OK, Minister. No other member has indicated that they want to ask a question. Thank you and Eilís very much for coming to the Committee and giving of your time.

908. **Mr Poots**: Thank you.

9 January 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Ms Sarah Benson *Ruhama*
Ms Gerardine Rowley

909. **The Chairperson**: I welcome formally to the meeting Sarah Benson, the chief executive officer of Ruhama, and Gerardine Rowley, its policy and communications manager. You are both very welcome. We appreciate your taking the time to come to us. Obviously, the Committee is looking into an important issue, and we are trying to gather as much information as we can. The meeting will be recorded by Hansard and published in due course. At this stage, I will hand over to you to outline the issues briefly. Afterwards, Committee members will have questions.

910. **Ms Sarah Benson (Ruhama)**: Thank you very much. Good afternoon. Firstly, I would like to thank the Committee for the opportunity to address you today. As you said, I am the CEO of Ruhama. I have been with the organisation for three and a half years. Prior to that, I worked for over a decade in the area of violence against women and with ethnic minorities. My colleague is Gerardine Rowley, our policy and communications manager. She has 15 years of front line experience with the organisation and four years' experience prior to that working with women in prostitution through a street outreach project in Belfast.

911. For those of you who are perhaps not familiar with us as an organisation, I will say a few words to introduce us. We have been operating for two and a half decades as a support service exclusively for women affected by prostitution. Our client group includes women who are currently actively involved in prostitution indoors and on the street; women exiting prostitution; women with a history of prostitution; and victims of trafficking for sexual exploitation. Owing to the highly mobile nature of the sex trade, where women move or are moved around the island of Ireland, our client group also includes women who have been affected by prostitution and sex trafficking in Northern Ireland. Our service is a holistic, person-centred, non-judgemental service that responds to women's individual needs, ranging from practical, educational and career-planning issues, as well as emergency-crisis situations, immigration, health, family, housing, legal and criminal justice issues. Women who are affected by prostitution and sex trafficking engage with us for a broad range of support. Some is very large and complex. Some is quite small and simple. In the course of working collaboratively with those women, we share not only their challenges but, fundamentally, their hopes, dreams, plans and successes.

912. I will give a sense of our output in 2012. In that year, we responded to 258 women, with our in-depth casework service responding to 170 women. We had 908 face-to-face contacts, over 13,000 phone calls and 5,200 text supports. We operate a street outreach service with a van that engages with women in street prostitution. It went out on 108 occasions and engaged with 62 women exclusively in a street situation. In addition, we assisted 26 other women with initial support. They either accessed follow-on services somewhere

else or did not go on to engage with our casework.

913. Before I continue, I want to acknowledge that I will refer throughout my remarks to women in prostitution. Although the vast majority of those in prostitution are women and girls, there is, however, a small number of men and a significant minority of transgender persons. Ruhama offers support services to any person identifying as having a female gender, including trans. Although our more comprehensive services do not extend to men, we will always attend to any person who presents needs and endeavour to identify appropriate support services. Although we continue to work with significant numbers of Irish women, it is important to note that the majority of those in the indoor sex trade, in particular, are migrant women. That is reflected by the fact that, in 2012, we worked with women of 32 different nationalities.

914. Ruhama believes firmly that prostitution is intrinsically harmful and violent to the women and girls involved. As well as the significant physical damage and risk, there is emotional and psychological harm. Being in prostitution can erode self-esteem and self-confidence. It can cause depression and symptoms of post-traumatic stress disorder. As well as the harm to each individual involved, there is the social, cultural and global impact — the damage to the social position and perception of women, both nationally and globally. If one woman's body is perceived as being for sale, the implication is that all women and girls are potentially for sale. That directly undermines the potential for gender equality. If we do not recognise the harm of prostitution and the very real challenges of getting out when one finds oneself in that life, as a society, we stop very far short of meeting the needs of those who need support.

915. Those who argue in favour of prostitution tend to take a very utopian view of the sex trade. They say, "Regulate it, and it will be OK. That will eliminate child prostitution and trafficking and make it safer for everybody involved". The reality, however, is that that is an utterly unattainable goal. Prostitution, in and of itself, is predicated on the availability of vulnerable young girls and the exploitation of the vulnerability of impoverished women, usually, in this context, migrant women, in order to ensure that the demand for sex for sale is met.

916. As a support service, we are completely non-judgemental of individual women's involvement in prostitution because we understand the complexities of entry and involvement. However, after 25 years of witnessing and hearing from women about their experiences and the awful challenges that they often face, it is just impossible not to judge the systems and structures and the other stakeholders who complete the picture. Pimps are not agents or managers: they are pimps, making money off the backs of others for high profits and at low risk to themselves. Buyers do not care about the reality of women and girls whom they buy — that has been well documented — because their focus is wholly selfish in these transactions.

917. The commercial sex trade across this island remains very active and highly organised. There are numerous criminal gangs organising and profiting from the prostitution and trafficking of vulnerable women and girls in urban and rural settings, and there is no regard for borders here. Separating trafficking from organised prostitution defies logic, given the mechanisms by which the sex trade operates. Victims of trafficking are advertised in the same places as all other forms of commercial sex trade, not in some separate corner of the internet that is restricted to trafficking. One clear example of that, which is in the public domain, is the Thomas Joseph Carroll case. T J Carroll was convicted of organising prostitution and associated crimes in 2010 in Cardiff. He ran brothels right across the island of Ireland, from Waterford to Newry to Enniskillen, in premises in which there were women who had been brutally trafficked alongside women who had responded to other forms

of recruitment. We have worked with women involved with Carroll who fit both of those categories. They were in the same buildings together, and they were advertised on the same escort websites. That is by no means the only example of this scenario of which we have direct experience.

918. A cohesive approach to organised prostitution is also the means by which perpetrators and victims of trafficking can be identified and assisted. The need to relate responses to sex trafficking with the issue of prostitution has been clearly recognised by the European Commission, with the EU anti-trafficking coordinator, Myria Vassiliadou, reiterating publicly, as recently as December 2013, the Commission's view that sex trafficking and prostitution are linked.

919. The 2011 EU directive on trafficking calls on states to tackle demand. Although criminalising the purchase of services from a victim of trafficking in relation to labour or domestic servitude may be an effective deterrent and practically policeable, the offence in relation to sex trafficking simply does not work. Finland was the first to enact such a law, which is similar to that which is currently in place in Northern Ireland. Last year, Finland independently evaluated that law and determined that it had been an absolute failure in tackling sex trafficking. The Finnish Minister of Justice has called for a change to enact legislation similar to that which was enacted in Sweden.

920. We talk a lot about the Swedish model, but this is actually about examining the Swedish example. We believe that each jurisdiction needs to develop its own model. Ruhama believes that there is scope to create an environment in Northern Ireland that is hostile to those who are criminally organising and truly profiting from prostitution while recognising and ensuring that those who nonetheless find themselves in prostitution are supported and are not criminalised.

921. There is no human right to buy sex. Sex buyers are not a vulnerable group whose rights need protecting in that regard. More importantly, the minority — because it is a minority — of men who buy sex drive a large and profitable criminal trade. If we target the sex buyer, that not only hits at the profit base of organised crime but sends a clear message that buying sex is not socially acceptable. Increasingly, the sex trade is becoming normalised, and a message like that would challenge and give a clear indication that it is not a casual, harmless transaction. There are direct and sometimes disastrous human consequences.

922. We are not talking about an offence to lock men up and throw away the key, but rather one that sends a strong social signal in just the same way that we enact legislation on drink-driving or speeding. The law is needed in order to protect people and minimise the collateral damage of the behaviour of a few.

923. There are sometimes criticisms of the Swedish example. However, having visited Sweden, and from our ongoing contact with front line support providers there, we would refute those criticisms. No one is saying that prostitution and trafficking can be wholly eradicated, but the Swedes enacted a law that recognised the harm not only to those in the sex trade but to society and, particularly, to equality between men and women. The Swedes enacted a law to try to minimise that harm. The sex trade has shrunk, with street prostitution halving, and, while the internet has been responsible for some indoor prostitution, as it has across the entire global north, there is no evidence to suggest that those who were on-street simply moved indoors. Indoor prostitution is lower there than in neighbouring countries. Further, police and support services alike report that some women are actually more willing to report harm as they know that they will not be criminalised, and some report even using the fact that the buyer will be criminalised as leverage in dangerous situations to stop buyers perpetrating harm.

924. Rather than focusing on the often spurious and unsubstantiated comments on the failure of that example, we feel that it is more constructive to examine the calamitous failure of the states that took a different approach and tried to regulate the sex trade. The call to legalise or regulate prostitution can sometimes come from a very genuine concern for the welfare of the women involved. The assumption is that, if prostitution can be constructed as work, that will thereby lessen the threat of harm and stigmatisation and instances of trafficking. Others making that argument, however, are promoters of the sex trade — pimps, procurers and traffickers. They have a vested interest in promoting that model of legislation because the benefits for them would be enormous. They would no longer be considered criminals but would become legitimate business men and women.

925. The evidence from jurisdictions where regulation and legalisation have been in place for over a decade demonstrates that aspirations to make prostitution a safe, legitimate form of work for women were ill founded. In Germany, an extensive evaluation published in 2007 indicates that there is no evidence that women are safer. Only a tiny number of women have accessed health insurance or registered as sex workers. The illegal sector continues to grow and profit, and the people who have benefited most are the organisers and owners of the businesses. In the Netherlands, extensive evaluation of the industry has found that legalisation has not resulted in any more safety for women but rather in a massive legal and illegal trade in migrant women and girls. Prostitution was decriminalised in New Zealand in 2003, and, after a decade of that form of legislation, there is evidence to show that it has some disturbing consequences for the women involved and has resulted in an increase in prostitution in at least some areas. One can safely draw the conclusion that when prostitution is considered as work, whether through legalisation, regularisation or decriminalisation of the stakeholders other than those who are in prostitution, it results in the normalising of the buying of sex and the sex trade increases, including sex trafficking.

926. The New Zealand Prostitution Law Review Committee (PLRC) noted that street prostitution in Auckland had doubled in just one year, with press reports and local support services suggesting even higher increases. Decriminalised prostitution in New Zealand not only made prostitution acceptable and encouraged men to buy sex but transformed prostitution into a more attractive option for young, poor women. In one of the PLRC's surveys, 25% of those involved in prostitution interviewed stated that they had entered the sex trade because it had been decriminalised.

927. For those in the sex trade, it is important that they receive the message that they are not criminalised and can seek health, emotional, practical and police support when needed. Exiting supports are also critical. In jurisdictions where the sex trade is decriminalised or legalised, those tend to fall away or be under-resourced or non-existent, because, if something is a normal job, why would you need to exit it? The other key objective must be to prevent exploitation in the first place, and laws that decriminalise the seller but hit at the demand that fuels the sex trade will also support that objective.

928. In summary, we support the enacting of the Morrow Bill, including clause 6, criminalising the buyers. Thank you. Do you have any questions?

929. **The Chairperson**: Sarah, thank you very much. Sydney Anderson has the first questions.

930. **Mr Anderson**: Thank you, Sarah and Gerardine, for coming to the Committee today and for giving us that detailed submission. I have a number of questions, Chair, if you will allow me. I will get through them as quickly as possible. In your submission, you outlined that you have been working with women in prostitution since 1989 in the

Republic of Ireland. Will you provide an overview of the work that you do in that area? How many women, on average, do you work with each year? You may have touched on some of that. What percentage of your clients who are involved in prostitution are voluntary or under the control or coercion of a pimp or trafficker? Can you break that down?

931. **Ms Benson**: We can break down the number of those who are trafficked and do not fit the narrow definition of trafficking. As to the women who might be associated with pimps, we do not have definitive information on that. A large number of the women we are supporting who are still actively involved in the sex trade would, particularly in the indoor arena. I am speaking off the top of my head, so I will let Gerardine respond on the breakdown of those who are trafficked and not trafficked of the 258 women whom we worked with last year.

932. **Ms Gerardine Rowley (Ruhama)**: Overall, in 25 years, Ruhama has certainly worked with well over 2,000 women. When Ruhama was set up 25 years ago, prostitution was predominantly based in the major urban regions such as Belfast, Dublin, Galway, Cork and Limerick on the island of Ireland. However, over the years, particularly over the past decade, we have seen a huge increase in prostitution. Because of the internet and because of less border control across Europe and on our own island, we have seen huge mobility in the sex trade. Due to that — our figures show this — the majority of women we have worked with in our services over the past number of years are foreign women who come from countries in eastern Europe, South America and Africa. It is very mobile, so we work with women who are located in and have been moved around Northern Ireland, and we have worked with victims of trafficking who were based in Northern Ireland.

933. Last year, we worked with 170 women in casework. Overall, we worked with 258 women. That is just an example. Each year, we work with well over 200 women on average. Last year, we worked with a record number of women — 258. We have a street outreach programme still. The beginning of Ruhama was a street outreach programme in Dublin. That continues for women in street-based prostitution. I worked in the 1990s for four years in Belfast in a street outreach project. Even then, most prostitution in Belfast was street-based. In Belfast and throughout the island of Ireland, prostitution is now much more indoors. Again, the introduction of telecommunications has very much facilitated that. There is much more organised prostitution and trafficking. The majority of women we work with are in indoor prostitution. Out of the 258 women we provided a service to last year, 170 were in our casework section, which means that they were getting emotional and very practical support. Perhaps they were helped with advocacy. We help quite a lot of women from other countries with their residency. We help women who are still in prostitution. Women who access our service do not necessarily need to leave prostitution. We work with anyone affected by prostitution. The fact that we have been around for 25 years means that, sometimes, women who have a history of prostitution also come to us. Basically, we work with women on whatever their presenting needs are. Perhaps sometimes they need health checks. We accompany them and help them to access health services. They sometimes need legal assistance. We are the only project on the island of Ireland that provides clear exiting programmes. We have clear programmes for women who say that they want to get out of prostitution. One support programme and route out of prostitution is certainly education and development programmes. We have run those since the mid-1990s. Many women find themselves in prostitution due to lack of options and poverty. Often, education and training not only gives women a certificate and perhaps training and education but it empowers them and builds their self-esteem and confidence. We have a range of personal development programmes, training and education.

934. We also help women who may need accommodation. The way that prostitution is organised today means that many women live in the brothels. The pimps or traffickers provide the accommodation, and the women are moved around. If they are to leave prostitution or to get away from a trafficker, they need accommodation. We have a resettlement worker, and we help women to access perhaps social welfare benefits and to get counselling. That is just touching on just some of our services. We have a broad range of services. We have counsellors. Of the 258 women we worked with last year, 71 were victims of sex trafficking. As Sarah mentioned in her presentation, the 258 women represented 32 nationalities.

935. We provide a lot of face-to-face work. That is time-consuming. We also give support over the phone to women. If they are still involved in prostitution, they may not be able to travel to Dublin, so we try to help women to access their services locally in the community, wherever they are. Although there are some women in prostitution in Ireland who are independent and are not wishing to be controlled by any pimp or trafficker, they are a minority. Women we are aware of who are currently active in indoor prostitution tell us that that category of women in the sex trade is around 10%. That is an estimate. The majority of women in the sex trade are controlled by a third party. Even the 10% of women who are trying to remain independent and are just there for themselves in indoor prostitution find it extremely difficult. Women often contact us to tell us that they have received threats. Perhaps they are moving from Dublin to some place like Cavan — I am just throwing that out as name; perhaps it is Enniskillen or wherever. They say that, when they arrive in a town, they get a phone call or a visit from someone who threatens them and says, "If you are going to come here, you will have to pay us money".

936. There are other people, perhaps landlords, who exploit women and take money. There are also some people who profit from women in prostitution by subletting premises to women and taking money from them. However, it is not just taking money. There is intimidation, and threats and violence are carried out. It is a very violent world. We say, as Sarah said in her presentation, that you cannot separate sex trafficking from prostitution, because it is within the sex trade that trafficking occurs. Some pimps have women who are victims of trafficking in a brothel with women who may not fit that narrow definition. They are impossible to separate. I hope that that answers some of your question.

937. **Mr Anderson**: Thank you. You definitely gave an in-depth overview. How much money, on average, does a person in prostitution in, say, the Republic make from the sale of sex? Do you have any reason to believe that that figure would be lower or higher in Northern Ireland? I am asking you for facts and figures, although you may not have them.

938. **Ms Rowley**: It depends on whether a woman has access to the money. We know women who may have 10 or more clients a day, so a lot of money passes through their hands. However, they may have to pay for the premises and give money to landlords who are exploiting them in the sex trade by charging inflated rents. They may be paying and being exploited by those landlords. They may have a pimp. Trafficking is the highest end of the exploitation that is happening in the sex trade, but there is lots of exploitation happening to the women. Women may have to hand over money to those who advertise prostitution. It really depends on whether she is being controlled and what that level of control is. Through our conversations with women, we are a support service and provide social care. We deal with women's presenting needs. We do not query them on how much they earn; that is not our role. However, for those who profit from prostitution, there are huge profits.

939. **Ms Benson**: If you are looking at the baseline of the going rates for the purchase of sex, notwithstanding how

that money is distributed after it is handed over, you would be talking about, in the indoor sex trade, in the region of £80 to £100 for half an hour and £180 for an hour; it really depends. You can actually check online. However, as Gerardine said, how that money is ultimately distributed once it is handed over really depends. For on-street prostitution, the figures are far lower.

940. **Ms Rowley**: I will give you an example of one particular case. If a woman is highly controlled, the people who control her want to make as much money out of that woman as possible. Often, the women who are most controlled will end up having to have many men buy them a day. If a woman is more independent, she can pick and choose. If she wants only one client, she can do so. One case comes to mind. I know a woman who was a victim of trafficking. She handed over €8,000 a week to her trafficker and her pimp — she had to divide the money between the two — and was handed back €20.You cannot even call that work; that woman was exploited as a victim of trafficking in prostitution on both sides of the border.

941. We have heard from investigations carried out on some victims of trafficking, and, when you look across Europe, you find that the price of sex on the island of Ireland is one of the highest. So, there is huge profit to be made by pimps and traffickers on the island of Ireland. Compared with other countries in Europe, it is the most profitable. Obviously, we are an attraction to criminals, and that is why, I suppose, we need to make it a cold climate for those who profit from prostitution. We need to have deterrents, and that is why we support clause 6 so much. It is a deterrent to buyers. It will shrink the market and will make this not such an attractive place for pimps and traffickers.

942. Obviously, we know that not only have we Irish pimps and traffickers operating on the island of Ireland, such as the case of Thomas Joseph Carroll, but it is no longer a national issue. It is an international criminal network. There are gangs living outside the jurisdictions but running the sex trade on the island of Ireland and threatening women very effectively. We have seen women terrified by the phone calls that they got because they knew that violence would be carried out if they did not do what they were told.

943. **Mr Anderson**: You mentioned pimps and the money that they are making in relation to prostitution. You also work, given the mobile nature of this trade, North and South. What is your experience? Is it common for women to be controlled by pimps moving from North to South or vice versa in this trade? How much do you see that happening? Is it increasing in Northern Ireland?

944. **Ms Benson**: We have very close contact with the guards, but we have also worked with the PSNI in some cases. We do not have categorical figures for the numbers operating on both sides of the border. What I would say is that there is absolutely no regard for the border. That also goes for anybody involved in the trade. We have a completely open border. We drove up here today. So, there is no regard for protocol whatsoever. We are definitively aware of cases where somebody may have started out operating in Dublin and perhaps Kildare and other areas and is operating in the likes of Belfast and other jurisdictions as well. The PSNI and gardaí are aware of that happening. Definitively, we can say that it is happening right now, but I could not give you exact numbers.

945. As Gerardine said, there is a large degree of criminal organisation, but you are not talking about one, two or even three big gangs; you are talking about dozens and dozens, including some very large, transnational operations extending from eastern Europe or Africa, where you have operations running across different countries. We have worked with women who may have been trafficked in a number of jurisdictions before they ended up in Ireland. Then there are some quite small, opportunistic operations, because we are considered a very lucrative market. The reason is

that in jurisdictions such as Germany you have — to use very bald economic terms — an absolutely saturated market because the thing has been legalised there. So, there is a very low-risk, high-gain situation here. It is rarely just prostitution that the organisers are involved in. They may use prostitution as a mechanism for money laundering. They may also be involved in drugs, and yet it is actually a lower risk than running drugs. So we are talking about quite a complex network. It is disparate and transnational, and it runs right across the island.

946. **Mr Anderson**: Gerardine, thank you for that. Can I ask a few more questions, Chair?

947. **The Chairperson**: Are there other members who wish to speak at this stage? Ms McCorley and Mr Wells have indicated that they want to speak. I will come back to you, Mr Anderson, after I have brought in a few more members.

948. **Ms McCorley**: Go raibh maith agat, a Chathaoirligh. Thank you for the presentation. As you know, we have laws in place to address the whole human trafficking subject. You outlined that, and we hope that those laws would be followed to ensure the maximum outcome in dealing with trafficking. You specifically outlined clause 6, and it makes one new aspect of law. Given the circumstances that lead people, whether it is men or women, into prostitution, how will the Bill address the issues that affect those people? If this were to be enacted, what way would it leave those people the following day? I do not believe that the case has been proven that this will deter people from human trafficking, so what would change for people if this law were enacted? How would it impact on them?

949. **Ms Benson**: I mentioned the existing law, where there is a criminal offence of the purchase of a victim of trafficking. I know that it is a strict liability offence. That is an offence that carries, first, potential life imprisonment. In our observation, that makes it more problematic to police because it has to be committed with a victim of human trafficking. You must, therefore, prove categorically a case of human trafficking, and, because a life sentence is attached to that offence, the burden of proof on the state and on the police will be extremely high. Also, given the complexities of the sex trade and the difficulty in identifying a victim of trafficking in the context of the sex trade, we see that as an unworkable law because the burden of proof is too high to prove that someone is definitively a victim of trafficking without having the trafficker and the whole pathway. It is not an effective deterrent, and I understand that, to date, there have been no convictions for that, although I stand to be corrected on that. As I said, Finland was the first country to enact the same legislation, and it has now determined on independent evaluation that it has, likewise, been completely ineffective.

950. If you have instead a much lower summary or similar offence of the purchase of sex to act as a deterrent, you know that, at best, you may have a cohort of very vulnerable individuals and, at worst, the victim of trafficking in the situation. It is entirely fuelled by the demand to buy sex, which, as I said, is not a human right but an indulgence on the part of a minority of individuals. That immediately hits out at the incentive for those who organise prostitution to view this market as one to bring women into. Women are being brought in. There are very few Irish women, proportionately, in the sex trade, so there are pathways that have been created because there are opportunities here. So, pragmatically, you hit the customer base of organised crime. It also creates an offence that is far easier to police, because the burden of proof and the penalty, therefore, are much lower. It is not about locking up people and throwing away the key for life. It is about simply creating a disincentive to do something that has the potential to be extraordinarily harmful to another human being.

951. At the same time, as I think we said, it is important that, for people in the sex trade, there are health services. I understand from having had a look at and having had some contacts with organisations in the North that there are existing health services. There are sexual health services available for instance, and there are support services there. We would really welcome seeing the development of more consolidated services that actually recognise people in prostitution as vulnerable persons and, therefore, support exiting where that is something that somebody wants to do. For all those reasons, we see this as a positive step forward to hit trade but also, critically, to reduce the continued and increasing numbers that are coming into the sex trade. If we are not seen as a lucrative jurisdiction, the incentive goes.

952. I will give you an example. I worked on the case of a very young person, a teenager over 18, who had been trafficked from an eastern European jurisdiction. She had been a waitress, so she had a job. She was very well educated, but she had a vulnerability in that she had been isolated from her family. Somebody chatted her up in that restaurant over a period of time and presented her with an opportunity to come here to work as a childminder and have a bit of an adventure. After four days of fun and being out in the pub, she found herself up in Sligo, trafficked. Very luckily, due to the vigilance of reception staff in the hotel, she was recovered and returned. I would like to see a situation in which an opportunistic criminal cannot chat up a waitress in a particular eastern European country.

953. **Ms Rowley**: We hope that the police would follow the Swedish example in policing clause 6 and that it would be policed in the context of organised prostitution. Police would follow the places where it is known, through surveillance and evidence, and where there is an organised network. The buyers are criminalised, and that acts as a deterrent, which will help women who find themselves in situations where they are controlled by organised criminals. Not just us but research internationally estimate that 90% of women in the sex trade want to leave but often cannot see a way out. Many are entrenched, groomed or are in some way held and intimidated by criminal gangs. If the trade is reduced and policed in the context of organised prostitution and if exiting support services are put in place, women who find themselves trapped can be helped, and this can be positive.

954. We would certainly welcome a policing approach that does not criminalise women who find themselves in the sex trade. To do so further marginalises women because it gives them a criminal record and allows the real criminals to get off the hook. So, we hope that this would be policed and that the impact would be on the organisers of prostitution and not the women themselves. We would be happy if, hopefully, along with that, support is put in place for those who want to get out.

955. **Ms McCorley**: I take your points, but I do not see any evidence here to suggest that the comprehensive support structures that were put in place in Sweden to assist women will be put in place here. The other bit that remains unconvincing for me is that I am not sure that the people involved in the sorts of crimes that you talked about — organised prostitution and trafficking — would be deterred by a law that criminalises paying for sex. They are already involved in very serious criminality, which makes me ask why they would be concerned.

956. **Ms Rowley**: They will not have buyers. It is like any business: if you have no customers, your business goes bust. We have seen for ourselves that buyers talk to one another on internet forums, under pseudonyms of course. Because there is a lot of discussion — not just in both jurisdictions in Ireland but in France and in many other countries that are considering these laws — we see buyers talking to one another and saying, "If this law is coming in, that is me finished. I have too much to lose". The profile of the average buyer is that

of a middle-class man with a good job, a relationship and a family. For most, it is not the fine or being thrown in jail that worries them; it is getting caught that is the deterrent. This is like any business. Frame it within that. We know that it is like the drugs business and everything else: if there are no buyers, there is no business, you have no market and there is no profit.

957. **Ms McCorley**: If that were the case, OK. However, when we were in Sweden, we were presented with evidence that people working in the sex trade said that the number of buyers had not reduced and that, in fact, when they ran an advertisement for 18-year-olds, they were inundated by thousands of requests from men wishing to make a purchase. To me, the evidence is inconclusive. You can find evidence to support any case. Given all of that, do you not think that we should treat prostitution separately here rather than as a single clause in a human trafficking Bill? Although the two issues may be linked — in fact, they are — they are still separate issues, and I believe that we should treat them separately.

958. **Ms Benson**: We disagree. I will not comment too much because I know that our colleagues from the Turn Off The Red Light campaign will also give evidence, but, in relation to combating sex trafficking, the fact is that you have to look at the laws relating to prostitution. If you, on the one hand, take the position — I am not suggesting that you are taking this position, and I understand that Sinn Féin also endorses the Turn Off The Red Light campaign — that prostitution is a job, that it is work, that all of those things are in place, you immediately create a disparity in how you might tackle sex trafficking.

959. If you are going to regulate an environment where there is definitively massive exploitation, with one of the gravest human rights violations occurring, you will create a scenario where it is more difficult to police. For example, in jurisdictions where it has been regulated, the police no longer have the authority to enter premises because they are legitimate businesses and the police must already have proof. Health services can only go in with the approval and agreement of the business owners, and we have seen situations in the likes of Victoria in Australia where health service providers go in but are required not to make any report of potential vulnerability of individuals who they think might be minors, in the interests of providing harm reduction healthcare. Harm reduction healthcare is critical, but if that is the trade-off, it is not the way to go.

960. You must look at prostitution as an environment where exploitation fundamentally occurs. It is predicated on a disparate power dynamic: you have vulnerable individuals who commonly do not have other viable choices available to them, are without family supports and are often carrying debt; and you have individuals who are buying sex and are simply using disposable income to meet what they consider to be a need. It is not a right. If sex trafficking is occurring in that harmful environment, it is incumbent on the state to look at the entire context as harmful and to legislate.

961. It really depends on what you want to achieve. If you want to foster prostitution, that is the way to go, but not if you want to reduce the trade and socially recognise that you have a vulnerable cohort who also need support, assistance and resources. In the Netherlands, nearly all funding for exiting models was cut after they introduced the legal regime. It really depends what you want. We are giving our view on that, but we are categorical that you have to look at the two together.

962. **Ms McCorley**: In terms of prostitution, we probably need to gather the evidence to look at what the picture is here in the North. We do not actually have a clear picture, and we need that information before we proceed.

963. **Ms Rowley**: We have worked with some women who entered the sex trade because of poverty or a particular situation of crisis or vulnerability and wanted to be independent but fell victim

to traffickers. Vice versa, we had women who got away from the traffickers but, because the social supports were not enough, ended up in prostitution for themselves for a length of time. The line is very dim; it is not clear cut. Trafficking and prostitution have to be addressed together. That is our experience of women who are in that situation.

964. **Ms McCorley**: That is a contested view.

965. **Mr McCartney**: We are tasked with bringing in a law, and we want to be satisfied that it will do what we desire it to. The law has been in place in Sweden since 1999, and clear evidence that it has stopped the sex trade in Sweden is difficult to find. You can say, in the logic of tackling demand, that if you do away with demand there will be no supply. It is the perfect theory. However, in the place that is saying, until it is examined, that they had nearly done away with it by criminalising the purchase, that does not seem to have been substantiated 14 years on.

966. **Ms Benson**: I do not think anyone has made the claim that prostitution would be completed eradicated — or trafficking, unfortunately. In just the same way as we legislate for rape, murder, drink-driving and theft, human beings, sadly, are deeply flawed, and there will always be those who seek to exploit vulnerability and have little regard for the law. The fact is that you need to have a law to at least set a benchmark and a standard by which you want your society to have due regard and care for vulnerable individuals.

967. There is evidence, particularly when compared with other jurisdictions, that the sex trade in Sweden is very small. Likewise, at the same time, you have an absolutely critical normative effect. At the time that the law was enacted there was, I think, approximately 45% support for the law. Now, there is over 70% support for the law, and among younger people it is over 80%. There is an entire generation who have grown up with a law in place that says that this is incompatible with equality and is exploitative. Those are the other positive knock-on effects that you have. Nobody is saying that you will get rid, but I think that there is evidence.

968. Having been to Sweden and having met the police there — we are in regular contact with the support services there — we have a very clear view that, if you shrink the trade enough, the police can be resourced to try to effectively combat the persistent criminality that prevails. In the other jurisdictions where there is a legal and regulated trade, the police say that they cannot manage and, equally, there is a completely parallel and unquantified but estimated to be much larger illegal trade. The police are just not at the races in trying to tackle it in jurisdictions where it has been regulated.

969. What we are saying is that it is highly pragmatic to try to minimise the degree of exploitation so that the police, with the resources they have, can effectively target it. I find it curious that sometimes it gets thrown out that Sweden has had a successful trafficking case. We in the Republic of Ireland have not had a conviction under our legislation on trafficking. They had it because they are effectively resourced to police the trade that is there, and the trade is not so big that they cannot do it. I suppose that, pragmatically, we would say that there is evidence that it is effective in that respect.

970. **Mr McCartney**: It does not come at you. Even reading through your submission, there is nothing to say that, at one time in Sweden, this was the size of the trade, and now it is this size. The only reference is to a social worker in an outreach service. Reading her commentary, I think that there is an acceptance that it is at least the same, if not — from the evidence that she has given, I do not read that it has made a massive change in Stockholm.

971. **Ms Benson**: The police have said that it has shrunk. They have also said that they have wire-tap evidence to indicate that traffickers are literally saying that Sweden is a real hassle —

972. **Ms Rowley**: So do not go there.

973. **Ms Benson**: So do not go there. Of course, you may have some who persist in it. Our submission was not solely about making the case for Sweden. Rather, we took the approach that, as a front line service operating on the island of Ireland, we would share our experience and allude to it. As I said, it is not for any jurisdiction to literally parachute in the legislation of another jurisdiction. However, it should take a position as to what approach it would like to take and what outcomes it would like to see, and legislate according to the jurisdiction.

974. **Mr Wells**: We were in Sweden and had a very intensive session with the Swedish authorities. They answered this very well. The point that keeps coming up time after time is that clause 6 will drive prostitution underground, will make women more vulnerable and will make the authorities less able to find out if there is abuse, trafficking or whatever. We hate to keep asking that question, but it seems that that is the main plank of the argument of those who oppose the Bill. I know that you have been asked this question by me before in a different jurisdiction, but what is your view on that?

975. **Ms Benson**: I suppose that the definitive point is that, to a certain degree, prostitution will always be underground. It will never not be associated with criminality. You are never going to have a utopian situation where prostitution is run by former car salesmen and florists. It is always going to be run by the people who are running it illegally in the first place. So, it is always going to have a degree of operating in the shadows. Also, in any jurisdiction, prostitution has a degree of stigma attached to it, and that includes jurisdictions where attempts have been made to regulate it. It will always happen quietly in certain corners and places. However, it is demand-driven, and it is a market. Therefore, if buyers can find those who they wish to access in prostitution, it is quite pragmatic and practical to say that the police with the correct resources, and others who seek to look, will find it. It is never going to be above ground, so to speak, but legislating in this fashion is not going to drive it any further underground. It is already very difficult, in certain categories, to identify and access where prostitution is happening. What you need to do is try to shrink the trade to allow better-focused resources to try to target the small trade that is there. I am risking being repetitive, but in jurisdictions where it is regulated, it is recognised that they have an entire parallel illegal trade and have no idea what is going on in that.

976. **Mr Wells**: There is a more subtle variation of that argument. If you make it illegal to purchase sexual services, the men — of course, unfortunately, the vast majority of people here are men — are much less likely to report apparently trafficked women or women who are being abused or neglected. Up until now, those men have felt reasonably free to come forward and give their evidence to the police because they themselves are unlikely to be criminalised. Under clause 6, they would automatically leave themselves open for prosecution if they came forward with that information.

977. **Ms Rowley**: They can still do it.

978. **Ms Benson**: Crimestoppers: it is 1-800 —

979. **Ms Rowley**: We get people contacting us anonymously. All we need and all the police need is the information. Clause 6 talks about a summary offence. In the Republic of Ireland, under the Criminal Law (Human Trafficking) Act 2008, it is a criminal offence to buy sex from a trafficked woman, yet we have witnessed buyers who have contacted either ourselves or gardaí. There are ways and means by which that buyer is never identified or found. It does not stop them. However, very few buyers actually report. There are some who report concerns that the girls are young or look upset, but the percentage who do that, compared with the percentage of men who have bought that same women, is not huge. We work with women who are victims of trafficking, and maybe one man has tried to help them get away,

but they had to have sex with 20 men a day who did not mind the fact that they were cold, tired, crying and totally non-interested. We even see reviews on the escort site that give out if a woman is not enjoying it, is just very functional or looks young.

980. Some men see the indicators and do not report. They are not the big priority area of reporting, identifying and finding victims of trafficking anyway. Those who may look into the eyes of a woman or really care and see that here is a woman who could be in need can still report. We see it happen. People contact Ruhama. We have had men who contact Ruhama, and we pass that information on to the guards. We know that people contact Crimestoppers or whatever. We must remember the transaction. For a lot of buyers, they are buying sex; they are buying a service. From what we understand from listening to the women, they come in and buy a service and most of them do not really care. If one really cared, the indicators for some women would be screaming at you. They do not really care. In our experience and from the evidence shown, buyers are not the big cohort that is going to identify victims of trafficking.

981. **Ms Benson**: I think that we put a few examples in the appendix, just to show the lack of compassion on the part of some buyers, where all they had to do was pick up the phone anonymously and say, "I think this person is in trouble". Instead, they actually gave a bad review to warn other sex buyers that they might not have a good time with this person. To give another example, while on the one hand sometimes those who are trafficked fit the very stereotypical picture of somebody who is in a state of distress or has been quite clearly coerced or may have evidence of physical abuse, there is a large cohort that does not, because the mechanisms of trafficking vary, can be quite subtle and can be more around the degree of threat or debt that is being levelled against women. To give you an example in relation to buyers, in one case, which was prosecuted outside this jurisdiction, there was a very large, comprehensive criminal network that included trafficking and organised prostitution that operated, among other jurisdictions, in Ireland. One of the women, who was the most reviewed woman on the main escort website, turned out to be a victim of trafficking and coercion as a part of that gang. She was the most reviewed woman, so she had seen countless men. The hand-wringing and self-pity and guilt expressed on the forums thereafter was fascinating: "Oh, I never knew"; "If I had known". Yet, interestingly, knowing that they had bought a victim of sex trafficking and had not known and had not had the means because she presented such a clear facade as being an independent sex worker, the majority of those guys are still buying sex and still posting reviews. So, I question the degree of self-reflection or care on the part of sex buyers. As Gerardine said, they are not going to represent the largest cohort.

982. **Ms Rowley**: Anyone can set up an anonymous e-mail account, send an e-mail and report something and then close it down. We get those e-mails, and we know that other people do too.

983. **Mr Wells**: You described the average purchaser of sex as being middle-class, often married or with a partner and with a family, but some in the industry tell us that they have a social service where they provide a sexual service to severely disabled people or people with learning difficulties who are unlikely to ever find a partner in life or get married. Therefore, it is a social service that is meeting a need. From your evidence, have you found many sex workers who are providing for that need?

984. **Ms Benson**: No. I have asked because this has come up before. It is critical, and I think that it is of great benefit, that the Committee is going to hear from not only those who are actively involved in the sex trade currently but from those who are survivors, because they have an extraordinarily valuable voice and insight to lend to this. I have spoken to quite a few women who have exited and asked them that very direct

question: "In the number of years that you have been in prostitution, how many men with a disability have you seen?". I recall one woman, who was in for seven years, saying, "maybe twice", but, once, the guy was just on crutches, because she thinks that he broke his leg or something like that. So, you are talking about a very tiny cohort.

985. I spoke to a disability activist not that long ago in relation to that very question, and, as a disabled man who is an activist in the field regarding support and rights for those living with disabilities, he felt that it was deeply insulting to people with disabilities to argue that there are certain people who are never going to get it any other way, because it is suggesting that it is not possible for some people who live with a disability to foster meaningful relationships and intimacy with others.

986. Another project that I contacted paid for somebody with a disability to travel out of this jurisdiction, interestingly, to have paid sex because he was a virgin, but he came back and complained that the woman would not kiss him. They said that it was about the sex, but it was not; it was about the intimacy. You just cannot buy intimacy. Human companionship and all those things are extremely valuable to foster a sense of culture in society and self-esteem, but buying sex is an illusion of that, and it does not create a fulfilling intimacy because it is a transaction that involves money. The key thing is that I feel that this tends to be thrown out as a red herring. It is such a tiny cohort of individuals.

987. **Mr Wells**: Finally, it is useful that you are here because you have experience of Northern Ireland and the Republic. What would be the implications if Northern Ireland were to go down this route and accepted the entire Bill, including clause 6, and the Irish Republic did not do so?

988. **Ms Benson**: I think that quite a few men from the North might be trucking down to Dublin, and that would be a matter for the authorities in that jurisdiction to deal with. We would like to see this extraordinary opportunity for both jurisdictions to act in tandem, as it were, notwithstanding the fact that they are different pieces of legislation to create a strong all-Ireland message and approach to this issue.

989. **Mr Wells**: Are we anywhere near that in the Republic?

990. **Ms Benson**: The joint Oireachtas Committee in Dublin published a unanimous recommendation to enact legislation to criminalise the purchase of sex.

991. **Mr Wells**: Did that include all parties?

992. **Ms Benson**: That is a unanimous cross-party recommendation.

993. **Mr Wells**: Did that include Sinn Féin?

994. **Ms Benson**: Yes.

995. **Ms Rowley**: If you want to hear the voice of buyers in the forums that buyers write on, when they heard particularly about the Republic of Ireland considering this, they were saying, "That is me, I am heading to Newry". That is the reality. If one jurisdiction brings it in, it will move the trade, and it will move those who profit and organise the trade.

996. **Mr Elliott**: Thank you very much for your presentation. I have a query around the proposal to decriminalise sex for the person. Do you see that being abused in any way, or attempts being made to abuse it, particularly in the sense that people would indicate that they are forced into selling sex?

997. **Ms Benson**: Sorry.

998. **Mr Elliott**: I am wondering, if you decriminalise the issue of selling sex, whether that could be abused in any sense? It is just a question.

999. **Ms Benson**: I do not envisage that, because, generally speaking, those who are involved in prostitution tend to be extraordinarily discreet in their actions. Interestingly, the question "Is there potential for blackmail, or anything like that?" came up in the hearings of the Joint Committee of the Oireachtas. Our experience is that that would never

be the case. The one area where we have seen evidence that somebody might have been seeking to exploit that avenue was in the case of the pimp Tony Linnane. He had cameras in —

1000. **Ms Rowley**: This happened in Cork.

1001. **Ms Benson**: He had cameras in smoke detectors, plugs and things like that. He was monitoring and recording everything, which gave him scope to blackmail not only the women but the buyers. What is important in relation to that is to consider that. We have had the experience. We have a refer relationship with the women's prison in Dublin. We have gone in and met a woman who is in on a conviction of brothel keeping. She was a victim of trafficking. So, it is absolutely critical that those in prostitution are not criminalised, because you are, potentially, criminalising somebody for the worst kind of exploitation. So, I do not see —

1002. **Ms Rowley**: The entry into prostitution of most women who find themselves in prostitution is against a backdrop of, perhaps, poverty, debt, abuse or some position of vulnerability. If they are criminalised when in prostitution, it only further marginalises the women. It also gets the criminals off the hook. There is an easy supply of women for pimps and traffickers, and we have seen situations where women were arrested, sometimes —

1003. **Mr Elliott**: Sorry. If you decriminalise it, will there not be an easier flow of women available?

1004. **Ms Rowley**: No, if the woman is arrested and charged, what happens in the Republic of Ireland, quite a lot of times, is that they are asked to leave the country, and there goes the evidence. It also breaks the relationship of trust with a woman in prostitution and the law enforcement agency, because they are afraid to come forward. If she feels that she will not be criminalised, law enforcement agencies are much more likely to get intelligence. We know that for a fact, because, in a number of operations by an Garda Síochána, they have taken the approach of not criminalising women in prostitution, particularly street prostitution. We had an operation in Dublin's north inner city and one in Limerick. The result is that the gardaí get a lot of intelligence and women begin to trust. If you want to catch the big fish, the focus is there.

1005. For the past three years, Ruhama has been involved in Garda training. We also train the PSNI in policing prostitution and being sensitive to the needs of women. We are very delighted that, at a senior level, an Garda Síochána is mandating an approach very much not to arrest or criminalise women. In practice, that does not always work out, and, I suppose, we are still working with the gardaí to influence a policy in which women who are in the sex trade are not criminalised. It does not help the issue of organised prostitution and sex trafficking.

1006. **Ms Benson**: Nor does it incentivise women to go into prostitution. I think that it is the exact opposite, as in jurisdictions where not only those in prostitution but the whole structure and systems have been decriminalised. I mentioned the situation in New Zealand where 25% of those interviewed said that they had entered because it had become decriminalised. Therefore, it was more normalised.

1007. **The Chairperson**: When I went to Sweden, they indicated that, before their law, around 2,000 Swedish women were involved in prostitution. Now, there are 500. That was a mark of the reduction that had taken place. One of the other points made was that, because the women involved were not criminalised any more, when an individual who had purchased sex was identified, over 90% of the women involved provided a witness statement, which could be used to secure a conviction. To me, that was a demonstration of a change in the system when you build up the relationship and the trust. Would that be applicable here in this jurisdiction? Would that change facilitate women to

feel at liberty to provide evidence rather than face prosecution?

1008. **Ms Rowley**: Yes. In practice, it is happening in some districts in the Republic of Ireland. We certainly know that there is a particular unit dealing with organised prostitution, and, because its focus is organised prostitution, its strategy and approach is not in any way to criminalise those who find themselves working as prostitutes. It is often lazy policing — I do not like saying that, because there are fantastic officers, we know, in both jurisdictions, policing daily — but, when a police officer enters a brothel, I suppose, the easy targets for arrest are the women who are found there. I lived in south Belfast, in the red light district, and I know what it is like for residents to have prostitution on their doorstep. It is not comfortable. In practice, often residents complain that prostitution is happening in the apartment beside them or on the street and they have their children to think about. Police officers are busy, and they have a lot of areas to police. They go into a brothel, and the person they see is the woman in front of them. They arrest her and close up the brothel — job done.

1009. From our conversations with senior members of an Garda Síochána and the PSNI, we recommend that the focus needs to be much more on the organised crime. Arresting and prosecuting those women is not the answer; it is going after the major players. Criminalising the soft target is not helpful. You lose the evidence. We know women who were told to leave the country. Months later, investigations uncovered that those women have been victims of serious crime but have gone back home, and nobody knows where they are.

1010. **The Chairperson**: There has been some commentary from the police that, if we were to change the law, it would make it more difficult for them to tackle the problem. What has been the attitude of an Garda Síochána to the move that the change in the law would present there? Are they indicating that they would not be able to effectively police this?

1011. **Ms Benson**: I want to be careful, because the gardaí have not given a formal position. We work very positively at a high level with an Garda Síochána. The critical thing is that there has been a real sea change in the last five years at least to take a more compassionate regard for those in the sex trade. It is the signal that, rather than treating it as a public order offence or simply shutting it down and moving them on, they are looking at it in a broader fashion and that their objective is to tackle organised crime. There is an issue of resourcing. It would be helpful if they were to continue to work, as some are, on building relationships with those who are active in prostitution through what we call welfare visits and that kind of thing.

1012. We have conversations with the gardaí. We have had some very positive commentary to the extent that individuals — I want to be clear that I am not stating a gardaí position — have said that they recognise that the degree of organised crime that is prevalent would be hit by such a move just from the immediate deterrent of creating a piece of law. There is a cohort of buyers who just do not want to break the law, and that is it. That has been acknowledged by individuals, but they do not have a policy.

1013. Having spoken and met with Swedish and Norwegian police — particularly the Swedish police — I think it is interesting to note that the Swedish police thought that it would not work and thought that it would be really difficult. They were quite opposed to it. At the end of the day, the police are there to enforce the law as it stands and to find mechanisms to adapt and work around that. That has proved effective. One of the greatest advocates of that legislation now is one of the police inspectors in the Swedish prostitution unit. He would say that he just did not see it working at all in the first instance. The proof is in the trying of it.

1014. The Chairperson: I will wrap this up, as I am conscious that we have other sessions. Mr Lynch will ask the final question of this session.

1015. Mr Lynch: Thanks, Chair. I have just a quick question. You said that very few Irish women are involved in the trade. How many are involved in the trade throughout the island of Ireland? What is the make-up?

1016. Ms Rowley: It is hard to give a definite figure because women can be in prostitution for a couple of days a week or a couple of months. It is a transient population. Monica O'Connor, who, I know, will be part of the next presentation, will probably talk more about that because she was one of the researchers for a piece of research that was carried out a couple of years ago by the Immigrant Council of Ireland in partnership with us and the women's health service. They estimated that, on any one day, there were up to 1,000 women for sale on the island of Ireland. Monica may be able to elaborate on that.

1017. **The Chairperson**: OK. Thank you both very much for coming to the Committee. We appreciate it.

9 January 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

Witnesses:

Mr John Cunningham — *Turn Off The Red Light*
Ms Claire Mahon
Ms Monica O'Connor
Mr Jerry O'Connor

1018. **The Chairperson**: I formally welcome the team from Turn Off The Red Light: Claire Mahon, president of the Irish Nurses and Midwives Organisation; Monica O'Connor, researcher and activist on trafficking and sexual exploitation; John Cunningham, chair of the board of the Immigrant Council of Ireland; and Jerry O'Connor, communications manager of the Immigrant Council of Ireland. You are all very welcome. We appreciate you taking the time to help us in our deliberations on this issue. I will hand over to you, and then, I am sure, members will have questions.

1019. **Mr John Cunningham (Turn Off The Red Light)**: Thank you, Chair. On behalf of the Turn Off The Red Light campaign, I thank you and members of the Committee for having us here today.

1020. As I was sitting at the back, what struck me immediately was that it is a great point of progress, as far as I am concerned, that this conversation is taking place at all. I looked back at when we started our involvement in the process. Let me tell you that we had more questions than we had answers. It has taken us quite a journey to get the point where there is, I suppose, a coordinated sense of what we are doing right now.

1021. I am chair of the Immigrant Council of Ireland. We are an NGO that defends the rights and entitlements of immigrants living in Ireland. As part of our ongoing service delivery, we were identifying, over time, women and girls as young as 14 who had been trafficked into Ireland for the sex trade. At the time, when we looked to see what we could do about that, we lived in an environment where there was an absolute denial that trafficking was taking place and where it was seen as something of a myth. We carried out a very important piece of independent research that definitively proved that trafficking did take place and that it was linked directly to the sex trade and criminality. As a result of that, an awful lot of developments have taken place since.

1022. The Turn Off The Red Light campaign is a coalition of over 68 organisations. I suppose that what is really quite extraordinary in that context is that the 68 organisations represent over 1·6 million people living in the South. They are from the unions, farming organisations, youth organisations, other NGOs, business representatives, the trade union movement, academics and human rights. It is a very broad church. The figure of 1·6 million gives us great encouragement with regard to the work that we do. Certainly, from a political point of view, in the South, having an organisation that represents 1·6 million people gets attention.

1023. To create the context, it is really important to mention that the Turn Off The Red Light campaign put forward the recommendation to criminalise men who buy sex, because the belief was that the demand was the way in which to deal with it. Again, we have had so many detailed debates in trying to get our heads around whether this is the

right thing to do and whether any other options are available to us. We believe that, fundamentally, it is the right thing to do.

1024. We have secured unanimous backing from the cross-party Oireachtas Committee on Justice, Defence and Equality. We have recommended to the Minister for Justice and Equality that this law be enacted. That recommendation has been passed to the Dáil, and Minister Shatter is currently reviewing that piece of legislation.

1025. We have the four parties — Sinn Féin, Labour, Fianna Fáil and Fine Gael — in direct support of what we are doing. Three of those parties — Sinn Féin, Labour and Fianna Fáil — have signed up to the constitutional support of their own parliamentary parties at their own party conferences. We have the support of 22 local councils across Ireland. That gives us a sense that we have a very broad level of support for what we are trying to do.

1026. It is really important today that the Committee gets to ask as many questions as possible. Our colleagues from Ruhama have given a very clear view of a lot of the issues. I would like to spark that conversation by inviting Monica O'Connor to give an insight into her experience and her work to date. That will inform the discussion so that we get the best out of it.

1027. **Ms Monica O'Connor (Turn Off The Red Light)**: Sarah and Gerardine have covered a lot of the broader issues, but I was struck by the discussion about research and evidence. My background is that I have spent the past seven years researching and looking at the evidence, and I took your point about what constitutes the research base and the evidence out there. Briefly, I wanted to go back to the core issue in relation to evidence of the different policy and legislative approaches to prostitution and trafficking for sexual exploitation.

1028. At this stage, we are 10 years on. We have overwhelming evidence and research that indicates two very different approaches and the failure and effectiveness of both of them. This is a unique opportunity. We have a unique opportunity in Ireland now, in these two jurisdictions, to learn from that evidence.

1029. The first approach is to see a rigid demarcation between trafficking for sexual exploitation and prostitution and arguing that they are two separate issues and that we should not have an integrated Bill, as you are suggesting here with clause 6. It is based on the assumption that the state differentiates between a legitimate demand to have women and girls available for sex and for sale, on the one hand, as opposed to those who are trafficked into the country.

1030. Very clearly, that approach has been implemented most in the Netherlands. That was the approach that they took 10 years ago. They took the idea of desirable prostitution; their law states that there is a need to differentiate between desirable and undesirable prostitution. By undesirable, they believed — these are a lot of the arguments that come up from a sex worker's perspective — that you can create a rigid demarcation between coercion and force, pimping, children, underage, organised crime and, in particular, trafficking, and that you can, in some way, police and regulate a sector such as the sex sector in such a way that that approach, from a policy and legislative perspective, works and is effective. On the one hand, for example, in the Netherlands, there is very strong anti-trafficking legislation and massive infrastructure to tackle trafficking, coercion and pimping. On the other hand, therefore, there is a very clear legal regime.

1031. I will give some of the figures that have resulted, based on the evaluation commissioned by the Dutch Government and carried out by A L Daalder in 2007. That is the evidence that we need to be looking at, not just the Swedish approach. This is where we are headed in the South. There is a regime of tolerance for prostitution on the one hand and, on the other hand, very strong anti-trafficking measures which, in fact,

are totally ineffective, as we have seen, and as Sarah has said.

1032. Where are they now in Holland, 10 years on? I will just give you an indication of what is happening in some sectors. In the legal sector, there are now 25,000 people in prostitution in Holland, primarily women and very young women. The national rapporteur on trafficking and the evaluators have both said that they have no estimates of the numbers in the illegal sector, and the police would agree with that. In the illegal sector, there are non-location-bound premises, escort agencies and internet prostitution, none of which is being policed. In fact, the Dutch police would say that it is not policeable. What about trafficking? For those 10 years, the Dutch figures are overwhelming. They are identifying between 900 and 1,000 victims of trafficking a year. That is the case, given that they have no policing of the illegal sector. Pimping is widespread. Remember that there is always a relationship between the legal sector and the illegal sector. One of the worrying things that the research shows is that you have 18-year-old girls, for example, going to the legal brothels with their birth certificates on their eighteenth birthday to enter the brothel. Obviously, the evaluators and researchers know that those girls did not suddenly appear and that they have been in prostitution for many years in the illegal sector.

1033. A lot of the concerns in Holland about that, which I accept, are about women's health and well-being. That was part of the rationale, where people said, "Well, we can police the sector". I think that academics and researchers in Holland are very clear that it is not a sector that is amenable or open to regulation. It is not a sector that is going to allow inspection. Actually, the mental health indicators in Holland are now far lower for women in prostitution than they were prior to the legislation. As Sarah said, only 6% of the municipalities in the Netherlands have actually implemented the exit routes.

1034. It is always worth looking at where we would be heading without this law. I was part of the research in the South, and, as Sarah said, at this stage, we are talking of at least 1,000 women in prostitution. We have very robust legislation on trafficking, and we have not a single effective prosecution for many areas of that prostitution law. So far, we have had 16. Having spoken to the Department of Justice even a couple of months ago, I would say that the vast majority of those cases under the trafficking law could have been prosecuted under the child sexual exploitation Act of 2000 and other sexual offences Acts. He would say that we probably have between one and three cases on that, and that is with a massive infrastructure of trafficking legislation with all the intentions, as you said, of putting in a very strong, robust piece of legislation. It is ineffective in tackling the demand, as we talked about.

1035. So, what is another approach? I will mention some figures for Sweden, because people have been asking whether the evidence is there. The evidence, as you said, Chair, is that, of a population of nine million, 600 women in Sweden are in prostitution. That is the evidence from academics, researchers and the figures from Eurostat. It is not an opinion. I think there are a lot of opinions on the issue, but I strongly urge people to look at the evidence. Compare those figures with Denmark, which has a population of 5·6 million. You will see that 5,500 women are visible in prostitution. In Norway there are over 3,000 people in prostitution. So, if you do comparative figures across the Scandinavian and Nordic countries, you very clearly see further evidence of the effectiveness of the Swedish approach.

1036. I will draw your attention to two other papers that I think would be helpful to the Committee. The International Labour Organization has just published two papers by economists that clearly demonstrate one very simple fact. There is a direct correlation between scale and percentage. In other words, the more you allow the sex industry to grow, the

bigger the scale of trafficking. It is very simple. The paper is not simple; it is an economic paper that worked out all the correlations and figures. However, the International Labour Organization does not take a position on prostitution. Those are two independent papers, both of which say that, if you allow the sex industry to grow, you allow trafficking for sexual exploitation to grow. It is very simple in that sense.

1037. Finally, where the role of the state is concerned, I think that one of the difficulties in trying to separate prostitution and trafficking is that you are focusing the responsibility of the state to protect the human rights of a certain group of women and girls. You are saying, in effect, with the legislation on trafficking in the South, that it is illegal and unacceptable to buy those girls and women, but, by introducing legislation that leaves out a clause 6 and does not introduce a specific clause that addresses prostitution, you imply — for the first time in the South we now have it enshrined in law — that it is all right and legal to buy sex from all those girls and women. I have interviewed Irish women, migrant women and trafficked women in prostitution. I have interviewed more than 30 women over the past few years, and I have to say that differentiating the level of violation of bodily and sexual integrity in terms of state responsibility across those girls and those women is really unacceptable. I interviewed young Irish homeless girls and women who had been in it since they were 15 and young women from Moldova and Nigeria. From my perspective as a researcher who has examined a lot of the different state structures, I think that the responsibility of the state is to address all that and not just to differentiate between voluntariness and consent. I have ample reports in evidence from research, but I would stress that we are 10 years on from 2000, as we have evaluations, research and a body of evidence that indicates all those things to us.

1038. **The Chairperson**: I will pick that point up. Are men here not different from those in Sweden?

1039. **Ms M O'Connor**: Are men different in the South or the North?

1040. **The Chairperson**: In both jurisdictions. We are probably not too dissimilar to people in the Irish Republic here in Northern Ireland.

1041. **Ms M O'Connor**: I am not sure how to answer that question. I have a 34-year-old son who has a couple of very good Swedish friends, and he says that, over the past 10 years, there has been a shift. I will come to men from the North and South. We have to remember that the primary role of the Swedish law was declarative and normative; its primary role was not punitive. It was saying to young men that it is not acceptable to buy a girl or woman but that it is acceptable to negotiate adult consensual sex. So, in a sense, that has permeated society much more than the punitive aspect, although that is absolutely essential because it is a deterrent. However, we can change minds through the law. Men in the North and South are not different. The figures internationally demonstrate that the more the industry grows and becomes normative, the more men and young men will see it as more acceptable to buy. So if you allow the industry to grow in the North and the South as it has, it becomes more normative and more acceptable, yes.

1042. **Mr Wells**: I am intrigued about how all-embracing your organisation is in the Republic. You say that you have the full support of all the mainstream political parties. When you say that, do you mean that they have membership of Turn Off The Red Light?

1043. **Mr Jerry O'Connor (Turn Off The Red Light)**: In three of the political parties — Fianna Fáil, Labour and Sinn Féin — delegates have passed motions at their conferences, and Fine Gael members of the Justice Committee have unanimously backed the recommendation for the law. The only reason that there has

not been a vote in Fine Gael is that an opportunity has not arisen. There is an ard-fheis planned ahead of the local and European elections, and it is our intention to have a motion then.

1044. **Mr Wells**: Were all the main parties represented on the Oireachtas Committee —

1045. **Mr J O'Connor**: Yes, and independents.

1046. **Mr Wells**: There were no abstentions.

1047. **Mr J O'Connor**: No, it was unanimously agreed by independents and members of parties.

1048. **Mr Wells**: I suspect that we will not have the same consensus up here, but it is intriguing that parties on both sides of the border may have a different view depending on what side of the border they are on.

1049. **Mr J O'Connor**: I am sure that the members of the Committee in the South will sympathise with the body of work that you have to do. It reached its decision on the back of 800 written submissions and six months of hearings.

1050. **Mr Wells**: One of the arguments put forward is that a classic way of getting rid of something is through more research. We need a Committee to collect the stats. We cannot introduce such a sweeping change in legislation without hard facts, studies and long-term investigations. Was that the view of any of the mainstream parties in the Republic before they backed the Turn Off The Red Light campaign?

1051. **Mr J O'Connor**: The Turn Off The Red Light campaign did not go per se to the oral hearings in the South; members were invited individually. I can only speak for the Immigrant Council, which made its submission, and that issue did not arise.

1052. **Ms M O'Connor**: As far as research is concerned, I would worry that this is a way to kick to touch. I am a real believer in research and I am committed to it, but I think that it can be a failure to act and a failure of courage. There is ample evidence, and I think that it comes back to the question of whether we are saying that we need 10 more years of research or whether we are willing to look at the evidence that is there. I agree, I think that it is really helpful to get a good presentation of the evidence that is there.

1053. I think that the effectiveness of different legislative frameworks is critical for the deliberations in the South. I addressed the Oireachtas joint Committee and the Senate in the South and, in both cases, it was critical that all members had access to the body of evidence that exists. It gave them the confidence that this law is implementable, effective and workable. I think that without that evidence, people can feel unsure. One of the things they say is that they need more research, whereas I think that we should gather that evidence first.

1054. **Mr Wells**: Did any of the main political parties raise as an issue, when they were supporting you at any stage, that more research was needed?

1055. **Ms M O'Connor**: No.

1056. **Mr J O'Connor**: Certainly, not in any forum in which I was involved, no.

1057. **Mr Wells**: To lead on from the Chair's point, could it be that Northern Ireland is such a radically different part of Ireland, in the behaviour of those who purchase sex, pimps, and those in the sex trade, that you would require that research before you could implement something that is acceptable in the Republic but may not be seen as being so in the North?

1058. **Ms M O'Connor**: It is the same question that you asked at the beginning about whether there is a difference. The sad thing is that the research is almost universally consistent in relation to buying. It is indiscriminate. For example, I did research on times; and it is lunchtime and after work, primarily in the financial sectors in the South. Those are the figures. It is mostly, as Sarah said, middle-class professionals. We have 10 studies of demands and buyers in Europe and I can cite all of them. They are very consistent. There are global studies and I have read them all. They are absolutely consistent. I doubt

that they are going to be very different in the North; they are saying that it is the professional class. The more the industry grows, the more normative it is, the more younger men will buy. They are indiscriminate in relation to whether women are trafficked, coerced, pimped or independent. There is a huge level of dangerous unprotected sexual activity that is very dangerous for young women's health.

1059. The other thing is that I have studied 1,000 reviewers' posts on the internet, which are universal. In other words, they are about sexual gratification and show very little concern. They are very dehumanising and objectifying in relation to young women. I have drawn together some of this research that shows all the common factors across the countries and I do not believe that the North would be that different.

1060. **Mr Wells**: I will ask a question that troubles me, and the point has been raised. I suppose I am playing devil's advocate to some extent, but some of these women are from terribly poor parts of the world — Moldova, Nigeria, Cambodia or Vietnam — and the choice for them is not between a perfect life and a poor life. The choice is between a pretty wretched life and an absolutely awful life. So, for these women, prostitution in Ireland, North and South, is a way out of abject poverty. We are not saying that the next step up is anything but pretty awful as well, but it is better in the sense that they have more money and they have got accommodation and whatever. Is there an argument that at least that form of prostitution offers a way out of a completely wretched life back at home?

1061. **Ms M O'Connor**: First, I do not believe, and we do not believe, that prostitution is a solution to women's poverty. It is not a solution to migrant women or Irish women's poverty. There are very few longitudinal studies, but there is one major study that clearly demonstrates — I have interviewed over 30 women, and this is also my experience — that women are impoverished after prostitution. Prostitution does not solve impoverishment.

1062. Secondly, on top of that, they have lost probably 10 years. This study, the De Riviere study, is over a period of five years subsequent to women leaving prostitution. It is a very interesting study because it tracks all the years that normally young women would be in school, in education and achieving skills and training for the education, training and work market. They lose all those years in prostitution. Remember that it is a young woman's market, with very few women remaining in prostitution over the age of 35 or 40. They have therefore lost those years.

1063. The third issue is mental health, the fourth is sexual and physical violence, and the fifth is complex trauma. The reviewer looked at those five key indicators. In her study, she clearly indicates that it is not only not a route out of poverty but a route into more impoverishment. When you, like Ruhama said, meet women who have been in prostitution for 10 or 15 years, it is clear that the notion that it is a lucrative job that, in one way, provides an exit from poverty is a dangerous myth. Furthermore, I have identified women from Benin, Moldova and other places that are highly impoverished. Of course we need to address women's poverty, the feminisation of poverty and gender inequality in those countries. However, what has happened in, say, Holland or other countries, or along the borders of Germany with Czechoslovakia and non-accession countries, is a critical issue that needs to be addressed. The industry is drawing in impoverished women. I spoke to the Lithuanian Minister of the Interior, who told me, "You don't need to coerce our young women into the sex industries of the western countries". The glamorous image that prostitution will give them a route out of poverty has been created.

1064. It is a very good question that you ask. Again, the evidence needs to be clear on the long-term outcomes for women.

1065. **Mr Wells**: Clause 6 is intended to reduce the amount of trade for those types of women. However, there is also an argument that it will reduce the trade for those who have made an independent, free-willed decision to become prostitutes, particularly at the upper end of the market. They would argue that they enjoy their lifestyle and that they become wealthy. There are stories of women charging £1,000 a night around top-class hotels in London. On the web, they indicate that they are perfectly happy. Why therefore should you use the clause 6 hammer to crack a nut when there are a lot of women who are not trafficked and are not looking out of the industry? Why should their career, if you call it that, be taken away from them simply to tackle the lower end of the market?

1066. **Ms M O'Connor**: I seriously dispute, from my interviews and research, the notion of a high end and a low end. I will give you an example of a young woman from Brazil whom we interviewed during the research. She was in the top end of the market. What happened to her is very typical. At that end of the market, as opposed to buying her for an hour, men paid €400 to have her for a night, and there were no boundaries whatsoever. She had been in the South for six weeks. She had been a university student in Brazil. She was offered a year to work as an entertainer in Ireland because it would fund her entirely for university/college. We met her after six weeks. She had not been in the one apartment any longer than three days. She was seriously distraught and distressed. She had no memory of the number of men who had bought her.

1067. That is the top end of the market that we are talking about, so let us be clear first that there are different markets. For example, I went to some of the apartments in the financial sector. They might be considered to be somewhere at the top end of the market because the money is higher. However, some of the women whom I interviewed said that they would rather be on the street, because there you are bought for one thing and then it is over. In the former case, you are in an apartment, you are naked, they walk in, they decide, and they have you for that length of time. As one woman said to me, the level of power for the man and the level of isolation for her in that situation were greater at that top end of the market than at the lower end. The assumptions in the research that street prostitution is more violent than indoor prostitution are not borne out any more. Some studies show that sexual violence and the number of unwanted sexual acts increases. We should be careful around the language used.

1068. Are there women who claim that prostitution is fine? Of course there are. It is not the role of the state to protect men's right to buy that particular group of women. They are a tiny minority. The second thing about them is that what they say is a snapshot in time. Two of the women whom I interviewed said that, at one stage, that is what they would have said if anyone had asked them. Five years on, after serious drug addiction problems and being absolutely violated and gang raped in one of the apartment blocks, suddenly and very rapidly, all the gloss and glamour that there appears to be within the sex industry has disappeared.

1069. So, yes, I have interviewed women who, at a different time in their life, may have fitted that profile. However, as Sarah said, survivors have a very particular level of knowledge. Between them, the seven women who I interviewed last year have been in the sex industry in the South for 50 years. That gives you some idea of the level of knowledge and incredible contribution that those women have to make to our knowledge. I am hugely respectful of any woman's choice, and I argue very strongly about choice. However, I think that constrained and circumscribed choice is what we should be looking at.

1070. **The Chairperson**: I just want to get a little bit more clarity in my mind about the campaign in the South. There are recommendations for the criminalisation of the purchase of sexual services. If

the proposal here was to be brought forward in the Dáil, would you expect the parties there to support it? If the same Bill were to come forward in the Dáil —

1071. **Mr J O'Connor**: That has happened in microcosm at the Oireachtas Justice Committee, at which all parties and people of no parties are represented. The decision there was unanimous, so we work on that assumption. We have also had 22 debates at local council level including in most of the major cities — certainly in Waterford, Cork, Galway and Limerick — where votes have been passed with the support of the major parties.

1072. **The Chairperson**: The argument that I have heard is that one of the reasons to oppose this is that we are conflating prostitution and human trafficking and we should have two separate Bills. I do not know if, even then, we would get the support. However, the argument is being made that we should have two separate Bills, that this Bill is confusing two separate issues and that we should not be doing that. Do you believe that the argument that this Bill is confusing two issues would be sustained among the political parties in the Dáil?

1073. **Mr J O'Connor**: That is not the recommendation of the Justice Committee. We can speak only to that.

1074. **Ms M O'Connor**: The Joint Oireachtas Justice Committee went to Sweden for three days. One of the reasons for that was to answer all those questions. There is no doubt that, within the report, the Committee has accepted unequivocally that it is not effective to separate trafficking and prostitution. Fundamentally, I think that you are right. That is a core issue that had to be addressed by the Committee. As Jerry said, there were endless consultations with the Committee. It looked at all the evidence, and, basically, the decision was that you cannot address trafficking effectively without addressing prostitution.

1075. **The Chairperson**: We are meeting with the Joint Oireachtas Committee in the next couple of weeks, so we will be able to continue that conversation with it.

1076. **Ms McCorley**: Go raibh maith agat, a Chathaoirligh. Thanks for the presentation. Much is being made of the Oireachtas Committee's decision. However, that decision was made after 800 submissions. It was a very extensive piece of work. The Oireachtas Committee did go to Sweden, but it did not speak to anyone who works in the sex business or anybody who is not part of the government side of things. That was a flaw in its research. We went to Sweden recently and spoke to both sides of the argument. That was invaluable because it presented us with a much fuller picture.

1077. I am not opposed to legislation. I am opposed to bad legislation. We are in this role here in the North to make legislation. We have to make the best and most informed legislation that we can. I do not think that part of that is to just lift pieces of work and evidence from other places. Where would that end? How would you ever arrive at a solution, decision or agreement? You would always find somewhere else to lift evidence from. We know about research and all of that. We, in the North, need to satisfy ourselves that what we are going to enact is something that applies to the North. That is my reason for saying that we need a very clear evidence-based position before we can move on making legislation. With respect to clause 6, what impact will it have on those who are independent of gangsters, criminals gangs and human traffickers, the people who work independently and who do not have any desire to exit or who feel that they want to stay in the sex industry? How will it impact on them?

1078. **Ms M O'Connor**: The Department of Justice had a conference in which sex workers from Sweden were, specifically, represented. Pye Jakobsson was in Dublin. It was not that they did not consult people in Sweden who had a different position. Just to clarify that: it was not that they ignored those positions; they heard those positions. David Stanton was at that conference;

he is the Chair of the Committee. I just wanted to correct that.

1079. In relation to clause 6, it is a fundamental flaw to think that you can separate coercion, children, pimping and trafficking in the prostitution sector, and that, somewhere within that, you will find this group of women who are independent. What I said about the women who I think might have fitted that profile at a certain time in their lives was, maybe, not very clear. Some of them — all of them in fact — were in prostitution from when they were teenagers.

1080. The entry route is not that someone suddenly wakes up one morning on their 18th birthday and, instead of going into college or a lovely job, becomes an independent sex worker. That is a rare occasion, and I think that most people accept that. The coercive circumstances in which entry into prostitution occurs is actually very similar, regardless of the point at which you are actually looking at women in the industry. So, the supply and the coercive circumstances apply across the board and are, really, a combination of poverty, socio-economic issues and personal factors, particularly child sexual abuse in childhood. Those core issues go across all the research on entry.

1081. Once women are in there, as Sarah said, some, of course, will try to remain independent and can do so, sometimes, for a period of time. However, having interviewed survivors who fitted that profile at a certain time, I know that it was a very brief time, in their time as a prostitute, before something happened to them. It is a very dangerous occupation.

1082. I was just talking about women in general, creating safety in relation to unknown locations. I will give you an example of one woman who fitted that profile. She decided to do a party in one of the new apartment blocks in Dublin. In those two hours, her life was changed by what happened to her at that party. Another woman went to Connemara in the west of Ireland and was sitting in a house there, and two men arrived. One has to remember, when one is talking about this tiny group of independent women, that we are also talking about women who are still operating within that environment, which creates huge risk. I urge people to look at the risk environment and not just at a tiny group of women.

1083. What does clause 6 do? Very clearly, it addresses demand, and that is what you are talking about. We are trying to address demand to reduce the number of women who are drawn into the industry. It is a preventative measure, a deterrent and a declarative measure. That is what it is. In relation to women, I could not agree more about the need for services. One thing that is presented a little bit in opposition is the opposition between exit routes and, for example, sexual health clinics. We have not found that in the South. There is actually great cooperation between the sexual health clinic, where women who are in prostitution remain in prostitution, and with exit routes that Ruhama provides. Similarly in Sweden, it is not that they have stopped working with women who are still in prostitution and say that they are choosing to do so; but there will come a time, very quickly, when they will want to exit. I say to you that it is not an either/or situation. I totally support harm reduction, health clinics and sexual health clinics, running parallel, clearly, with opportunities to exit.

(The Chairperson [Mr Givan] in the Chair)

1084. **The Chairperson**: Thank you.

1085. **Mr Dickson**: Thank you for your presentation on what is a very difficult subject area. The Swedish National Rapporteur said in 2010 that, according to the Swedish police:

"it is clear that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers considering establishing themselves in Sweden."

1086. It is clearly seen as a barrier. Yet, a month later, the National Police Board in Sweden said:

"Serious organized crime, including prostitution and trafficking, has increased in strength, power and complexity during the

past decade. It constitutes a serious social problem in Sweden and organized crime makes large amounts of money from the exploitation and trafficking of people under slave-like conditions."

1087. That is two completely different perspectives from the same people.

1088. **Ms M O'Connor**: I do not see that those are two completely different perspectives. I think that the Swedish approach is put up there as if it is perfect, as Sarah said. Of course there is prostitution in Sweden. There is also trafficking in Sweden. I think that where Sweden comes out of this differently —

1089. **Mr Dickson**: Is that not where we are in danger of confusing the two?

1090. **Ms M O'Connor**: No. I think, very clearly, you need the comparative figures. The comparative figures are tiny in comparison with, first, the very big sex-industry countries such as the Netherlands and Germany. Even if you compare them with their Nordic neighbours, you see that the Swedes are saying that it is a reduction issue. Of course the police there are still fighting organised crime. They are definitely doing that.

1091. **Mr Dickson**: How do we know that it has reduced? They have not produced any figures since 2007.

1092. **Ms M O'Connor**: I have a whole list of figures here from International Labour Organization researchers.

1093. **Mr Dickson**: The Swedish National Police Board has not produced any figures since 2007.

1094. **Ms M O'Connor**: On what?

1095. **Mr Dickson**: On prostitution. There are no published figures. It ceased giving statistics in 2007.

1096. **Ms M O'Connor**: I have just read the two police reports of 2010 and 2011, and I think that there is a bit of confusion about the reports.

1097. **Mr Dickson**: The figures are zero, zero and a question mark against 2010.

1098. **Ms M O'Connor**: I will send you the two reports if you like. Kajsa Wahlberg, the National Rapporteur, says that you need to look at all of the figures on buying, procuring, pimping, aggravated pimping, trafficking, coercion and rape. I am not sure why someone would say that there are no figures, because I have just looked at them. They are small compared with other countries such as the Netherlands, where there are 900 or 1,000 victims of trafficking. You are talking about maybe four cases.

1099. **Mr Dickson**: It peaked at 11 in 2006 and dropped to two in 2007.

1100. **Ms M O'Connor**: The numbers are tiny on trafficking, but, if you look at the figures on pimping, aggravated pimping, coercion and procuring and at the figures that have been published on buying and the purchase of sex, you get a much broader picture of the industry and the prosecution mechanisms. So, yes, the figures are very tiny compared with other countries.

1101. **Mr Dickson**: On the matter of migrant workers who are trafficked in, part of the whole process in Sweden has been to tell us that this has been a very strongly feminist agenda to protect women who have been violated as a result of this. Why then has Sweden, under its Aliens Act, not decriminalised prostitution for every woman who comes into Sweden? Only Swedish nationals are entitled to protection under the Swedish model, so, for all migrants and people coming in, it is illegal to provide sexual services. It is unlawful for any alien to provide sexual services in Sweden. So, it is not as universal as people may think it is or as it is presented. In fact, it is arguably anti-immigrant in the sense that immigrants who are coming in are effectively deported. So, they are getting rid of the problem but not resolving the problem with the human being who actually has the problem.

1102. **Ms M O'Connor**: Now you are bringing up the whole issue of immigration, and, obviously, it intersects. The issue of immigration and legal status is a huge issue.

1103. **Mr Dickson**: If you are going to decriminalise it, surely you should decriminalise it for everyone.

1104. **Ms M O'Connor**: I am coming to that. It is exactly the same in Holland: it relates to legal status and entry into the country. We must be careful not to collate the two issues. In the South, the Immigrant Council has been a prime advocate of migrants' rights, and that is critical. I agree with you in relation to Sweden and every other European country. We need to look at migrants' rights. However, the Immigrant Council has been absolutely clear: we do not want legal permits for migrant women to enter the sex industry, which is what the Netherlands is advocating. It advocates that we give migrant women legal status and permission to enter the state; however, it is not giving migrant women permission to enter the state for any other areas. The Immigrant Council is clear that we need to monitor the effectiveness and in relation to deportations.

1105. **Mr Dickson**: Any bill has to tackle that issue. Otherwise, it has no benefit for the immigrant because they are treated completely differently from the indigenous sex worker or prostitute in those circumstances. That would be an inherent failure in the Bill if it were to progress; it is, perhaps, a radical argument. I am not suggesting that you give, in effect, a licence to people to come into the country, but we have to have some mechanism. If we are to say to the provider of the service that they will not be criminalised as a result of this, we have to tackle that issue as equally and fairly for the immigrant as for everyone else.

1106. **Ms M O'Connor**: Yes. A huge part of the recommendations that we made in the research was that the undocumented status be regularised for all migrant women who have been sexually exploited in the destination country and that they be afforded the same protection as trafficked victims. We give a very limited number of women recovery and reflection periods, even where there are cases of trafficking. I completely agree with you about "fortress Europe" in relation to those migrant women's rights. It is important to separate the issue of women entering the country to be in prostitution and being careful about that and the protection of migrants' rights and their undocumented status. I could not agree more, and I believe that when a brothel is raided, for example, we should look at those women as sexually exploited in Ireland and at their undocumented status, which, for the most part, they are. Eighty-seven per cent of the women that we looked at were migrants.

1107. **Mr Dickson**: It is a question of how we treat the modern slave. The best way of treating the modern slave is not necessarily to deport them.

1108. **Ms M O'Connor**: Absolutely, I am 100% with you on that.

1109. **Mr McCartney**: Thank you very much for your presentation. I was struck by what John said, which was that when you started the process you had more questions than answers. That is how all of us come at it. Our party colleagues are comfortable with our interrogating the legislation to get the best law, just as the Oireachtas Justice Committee received 800 submissions before it formed its view. That is how we should all approach it, rather than having the blind approach that you think that it is right and forget about what other people have to say. It is with that in mind that I will ask a couple of questions.

1110. Was the Oireachtas Committee report based on a single-issue agenda or did it recommend that there should be services to back up and support tackling this issue?

1111. **Ms M O'Connor**: Absolutely, yes. It fully supports what you said earlier that the Swedish law was, as I said, declarative and normative and came with a package of services. It is not in the law as such, but certainly the joint Oireachtas Committee includes that, yes.

1112. **Mr McCartney**: Do you feel that the Bill, as presented to us, provides enough

service and back-up to achieve its intended consequences?

1113. **Ms M O'Connor**: Yes. You should demand that infrastructure. Services demand resourcing, and any legislation should come with that. I do not necessarily think that it will be in the Bill any more than it is in the Bill as presented. In fact, the wording of an Act on the purchase of sex is tiny; it is a simple piece of legislation. In Swedish law, the package of services comes with that, but I do not think that the wording will be in your Act.

1114. **Mr McCartney**: No, but there can be a tendency, perhaps, to think that you will end your problems merely by outlawing or banning the purchase of sex. It can be reduced to a belief that we can sit back in our comfortable chairs and bring in legislation that will end prostitution and trafficking all over the world. Sometimes, that is how this presented.

1115. It is very interesting that in Sweden — this is in the report that you supplied to the Committee — most of those who are arrested and convicted do not see a court. It is dealt with behind closed doors, and a fine is imposed. The police have said that they could arrest more and that the deterrent is not enough. That makes me wonder. You may have this sort of thing and feel that it is enough, but if other things are not running alongside it, you are deluding yourself that you will achieve the intended consequence.

1116. **Ms M O'Connor**: I agree with all of that. On your comment about the importance of a law being only one mechanism, I know that Sarah mentioned the drink-driving law. What I will say about law as a deterrent is that we had education campaigns and so many resources in the South for drink-driving, yet not one thing changed. The first thing that led to change was the introduction of a law on penalty points.

1117. The Swedish law was originally a declarative and normative law, yes. On arrests there, there have not been prison sentences. It is mostly summary fines, and most people admit to it. From the Swedish perspective, that is a success. The country has a rehabilitative justice system and is not into trying to put people in prison for this. Therefore, from Sweden's perspective, someone getting a summary fine is a deterrent. That is it.

1118. Legislation absolutely should be introduced with a package, and I completely agree that its implementation should be reviewed and researched. All those things are for you to ensure. Having spent a good bit of time with the police in Sweden, I know that the law gives a clear mandate to the police that those women are not criminals. They are victims of sexual exploitation and deserve respectful treatment. It changes the mind of police on their role and on women in prostitution. I certainly felt that working with them and with the services there. Their mindset as police officers is to protect the person who is in prostitution and to prosecute everything that surrounds it that creates that exploitation.

1119. I was not naive. I asked a million questions, often hard questions.

1120. **Mr McCartney**: Of course.

1121. **Ms M O'Connor**: I have a background working in a refuge and in services, so I completely agree with you about that.

1122. **Mr McCartney**: One of the things that came up — I think that it was mentioned today — is that an Garda Síochána has not supported this.

1123. **Mr J O'Connor**: The gardaí are not allowed to give a view on policy. However, gardaí representatives testified before the Oireachtas Committee. It is not for me to speak for them, but, in summary, when they talked about the levels of prostitution, they spoke about 800 women in the South being involved every day. They also said that, quite clearly, prostitution in the South is run by organised crime and by domestic and foreign gangs. However, they did not give a view and, indeed, are restricted from giving a view on policy.

1124. **Mr McCartney**: One of the things in the report by the Swedish Government is that, in Sweden, there was a tendency to allow the law to be broken before intervening. I think that Monica referred to the number of underage girls who are involved, yet we do not see convictions, perhaps not for people paying for sexual services but certainly for people who are guilty of an offence.

1125. The Department has told us that there are enough laws in and around the issue to tackle it. People contend, quite rightly from their point of view, that another law will give us something else on the menu to ensure that we get the intended result. However, if there is not the intent from the people who should be doing this, we could introduce a piece of legislation and sit back and be content, yet there would be no guarantee.

1126. I am not sure what the figure of 600 prostitutes means. Is that the number of prostitutes in Sweden who are Swedish nationals or is it the total number of prostitutes in Sweden?

1127. **Ms M O'Connor**: It is the total.

1128. **Mr McCartney**: OK.

1129. **Mr Cunningham**: I often get distracted by the Swedish model or the Dutch model. At this stage, we have gone through a process and, as part of our learning, have said that we should perhaps stop trying to replicate what has been done there. If we get to a fundamental point of belief that we want to change the system and we know why, between us we know what the implications are. If it is talked through and thrashed out, we will understand what is required from the point of view of services, law and rehabilitation.

1130. The Swedish model, in one respect, has been a great advantage and a great burden to the whole debate. As we have seen today, there is much information coming from all sides. Some is validated and some is not. I suggest that, at the end of the process that you are going through now as you learn, gather the information and understand it, you should draw breath, step back a bit and say, "Look, we know what we want to do, and we understand how the system works in government. What do we need to do to ensure that a holistic, complete approach is in place?" Do not get distracted with what has gone wrong elsewhere. All I know is that I have got to a point now in my education in this process where I do not want to live in a country where it is regarded as OK to buy a woman or a girl. In that process, I have formed a view about, at a very basic level, what I think and what I believe in.

1131. Through my education, again, to the work that Monica has done — when we started the process, we got involved as an organisation with the Immigrant Council because of trafficking. Nobody around the table is going to say that trafficking is good or right. Everybody is in agreement about that. When the debate opened into prostitution, it went in so many different directions. I certainly had no experience or exposure to prostitution previously. I would have had very antiquated views about consenting adults and everything else. As I am now educated and have understood the process, I am very clear in my mind as to why we, as an organisation, are involved and committed to this, why we have gone to the bother of creating a coalition of 68 organisations, and why we have tormented ourselves dealing with every political party in the country. It has been an uphill battle. It is a great achievement for the campaign and all the members that we have such unanimous support. I am not suggesting that it was easy or that you will necessarily get there yourselves, but the point is that we have to strip back to the facts and the basics and ask ourselves those fundamental questions. Do not get distracted.

1132. The power of the information that Monica shared today being put into a four-page document highlighting the key outputs or research will be very helpful for everybody. We have all gone through the process. Even if there is a particular issue, you go on the internet

and you start going through sites such as the United Nations. At the end of the evening, you are demented; you do not know what is right or wrong. That is the purpose of the discussion and debate. I suspect that it will be very interesting when you meet the Oireachtas joint Committee from the South. It has had 800 written and verbal submissions. There will be great learning from that. You should not get distracted or too caught up in even the minutiae. What, fundamentally, do you want to do?

1133. I have one other comment that is very interesting for us. You think about the work that has been done North and South with regard to our economy, the culture, and developing and presenting ourselves for foreign direct investment. What struck me in one of the early stages of the discussion in Europe was that Ireland — the South — was being seen as becoming potentially the red light centre of Europe. It was a comment that was passed. You think that, if that is because our legislation makes it easy for traffickers to get people in and Ireland is being used as a place for trafficking women into the North and the rest of Europe and everything else, that was certainly, from a political and economic point of view, a brand that you did not want to have yourself associated with. Much more importantly, it would be fantastic, in one respect, if we, North and South, could find a form of words or a presentation of some sense of an all-island view of this. That would send out an extraordinarily powerful message to the rest of the world. I was recently at a foreign direct investment conference with the IDA and Enterprise Ireland in Dublin. It is extraordinary how important these social issues are for international organisations when they look into a country. Both the North and the South have the ability and capacity to make a very clear, strong and progressive statement that might mean that we are at the cutting edge in a European and possibly global context with regard to this issue. It is an opportunity that we cannot miss.

1134. Coming back to your point, we do not want to get it wrong. We might not get it 100% right. When we started the debate back in 2009, I had people approaching me saying, "John, don't go there. This is an issue that we don't want discussed. Leave it as it is, OK?".We had to fight very hard to get that debate going. We have now got to the point where we have made, I suppose, extraordinary progress in one context. It is an opportunity that we cannot miss.

1135. **Ms Mahon**: On behalf of the trade unions that are involved in the South — and, indeed, the North, because our position has been endorsed at the biennial conference of the Irish Congress of Trade Unions, which was held here in the North, and at the National Women's Council, which is also a North/South initiative. On behalf of the INMO, I want to say that, again, it is easy to look at women in the sex trade as workers. As a trade unionist, the day that someone tells me that sex workers will be unionised and given legislative entitlements as workers, perhaps I might change my opinion. I certainly do not ever see that as being a prospect for the majority of women. We can all focus on the very minority who might be there by choice. I would say, however, that the majority of those women cannot be classed as workers, either immigrant or Irish. They cannot be classed as workers. They are not given rights and entitlements. They are not given rights to any sort of annual leave, sick pay or sick leave, so we cannot class them as workers. I think that every trade unionist would agree with that. I know that that was spoken about very strongly at both the North and South conferences and the National Women's Council. As you know, those movements are an Ireland group that we are talking about. From the healthcare point of view and the social point of view, we have to be very cognisant of the impact on healthcare for those women that is created in our society and the knock-on effect of that. Some people will try to say that it is about their rights and trying to improve their health and safety. That is not true. It is not about their rights or health and

safety: it is purely a means to make money. Most of that money is controlled by pimps and the men who control the industry.

1136. **Mr Elliott**: Thanks very much for that. I have one, slightly different question. I noticed in your presentation that you talked about the limited time frame for the requirement for proof of coercion. What would you like to see it extended to? You were obviously indicating that the time frame was insufficient.

1137. **Ms M O'Connor**: I am not sure that I understand the question. The limited time frame in relation to —

1138. **Mr Elliott**: You say here that:

"While the Policing and Crime Act of 2009 was a welcome advance in Northern Ireland's anti-trafficking legislation its impact has been limited by the requirement of proof of coercion within a very limited timeframe."

1139. Obviously you are saying that the time frame is insufficient. It is on page 2 of your submission.

1140. Ms M O'Connor: OK. Sorry; I thought that you meant that I had spoken of it today. Proof of coercion within a very limited timeframe — well, I think that it is actually exactly the same as in the South. What we have in the South is a huge infrastructure with regard to trafficking and crimes that are related to it. I am not sure that I am an expert in relation to this. That is a completely different debate. I am not a solicitor, and I am not actually fully aware of the implications of that, so I would prefer not to answer it, actually.

1141. Mr Cunningham: We will come back to you on that.

1142. Ms M O'Connor: I will come back to you, yes. It is just that we have nobody from the legal —

1143. Mr J O'Connor: The person on that side is not with us today. With the Chair's permission, we are happy to follow that up either by email or by making that person available.

1144. Mr Wells: I have one final question. Are you aware of an alternative campaign called the Turn Off The Blue Light campaign? If so, have you any idea of who is actually behind it?

1145. Mr J O'Connor: We are aware of the existence of its website. Apart from that, we are not aware of an awful lot else.

1146. Mr Wells: You have no evidence, for instance, that that campaign is linked to or controlled by those who are involved in the sex trade?

1147. Ms M O'Connor: The very simple answer is yes, without libelling oneself. I think that there are very clear links with the sex trade and with a very well known pimp and organiser. So, yes is the simple answer. Are there genuine concerns from other organisations? Yes. Does the Turn Off The Blue Light campaign represent them? No.

1148. Mr Wells: We have privileges in this Committee, and I believe that Mr Peter McCormick is the person in charge of Turn Off The Blue Light campaign. Are you in a position to confirm that?

1149. Ms M O'Connor: Yes.

1150. The Chairperson: Thank you very much for coming to the Committee. I was struck, John, by your comments about an all-Ireland message. As a unionist, I would love to have an all-Ireland message on this. I have the advantage of only six counties to consult colleagues. Others have 32 counties, and one would have hoped that they could be better informed on the issue. Certainly, I would like there to be a united approach in how we deal with the matter, because, whatever jurisdiction decides to go first on it, there will have implications for the other. I do not want us to be left behind here in Northern Ireland. Thank you very much for coming to the Committee.

1151. **Mr Cunningham**: It is great to have the dialogue and the engagement. It is often very difficult to get the balance of information right, so whatever can be done with that continued engagement going forward would be very helpful. We

are certainly happy to share with you our knowledge, research and insight, limited though they might be, to help with the process that you are going through. As I said, we have been here, so we know that it is difficult and challenging, and we may have something to bring to the parties. So, we are happy to participate. Thank you.

9 January 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Ms Laura Lee *International Union of Sex Workers*

1152. **The Chairperson**: I welcome to the meeting Laura Lee from the International Union of Sex Workers. As before, we appreciate your taking the time to come here to help us as we deliberate on these important issues. As with the other sessions, this one will be recorded by Hansard and published in due course. I will now hand over to you, and I am sure that members will have some questions.

1153. **Ms Laura Lee (International Union of Sex Workers)**: Mr Chairperson and Committee, thank you very much for having me; it is a pleasure to be here. Let me begin by saying that, obviously, I am Irish; I am from Dublin originally. I have been working in the sex industry now for 20 years in various capacities. I have worked all over the country in the South and, indeed, up here in the North. So, I am speaking from a base of vast experience.

1154. In all my time working as a sex worker, I have never come across a woman whom I would have deemed to have been coerced or trafficked in any way. I have certainly come across some women who have been working in desperate circumstances; there is no doubt about that. However, if we are looking at the strict legal definition of trafficking, then no, I have not.

1155. Turning to the legal definition of trafficking, as things stand, if I am in Belfast for two to three days and it is particularly busy or buoyant, and I place a call back home to Scotland and say to one of my pals, "Come on out to Belfast, it is quite busy; I'll just buy the air fare for you online", I am, therefore, deemed to have trafficked her into the country. The fact that I do not make any money from anything that she does is immaterial. So, I think that we need to look very closely at the statistics when they are being mooted.

1156. As far as I am concerned, the Swedish model has been very problematic. The single biggest problem that you have here in Ireland is stigma. It is huge around the sex industry and is still very big. I want to tell you about a lady in Sweden call Petite Jasmine. She was an activist, like me, with the Rose Alliance, and, like me, she was a mother and by all accounts a very beautiful person. The Swedish authorities refused to believe that she could possibly enjoy her job in sex work, because they accused her of having what they call false consciousness, meaning that she had some form of post-traumatic stress disorder (PTSD). They took her children from her and awarded their custody to her abusive ex-partner, who went on to stab her to death. That is the reality of the Swedish model. We all mourned for Jasmine last year when that happened.

1157. I can remember in my time the murder of Belinda Pereira in Dublin, who suffered a terrible death with a claw hammer. She worked in the same apartment that I did. That murder should never, ever have happened. So, we should be looking at what Canada has just done, which is to decriminalise the sex industry. In Canada, women can now work together for safety, and they can go to the police

and freely admit that they are working together for safety. We talked briefly earlier about some of the clients making reports on girls that they might deem as being frightened or coerced. They most certainly do. It really galls me to see my clients being painted, as they usually are in the press, as some sort of uncontrollable animals. Some of my clients have been with me for years and have become dear friends, apart from anything else. Yes, of course, they would report it if they saw a woman who was suffering. Indeed, I have done reports on their behalf on a third-party basis as well.

1158. I also remember when the body of Sinéad Kelly was found by the canal in Dublin. That also should never have happened. If the Swedish model is introduced in any way, shape or form in the North or in the South of Ireland, the state will have blood on its hands. That is a very strong statement to make, but it happens to be entirely true.

1159. I can say in all honesty that, in over 20 years of sex work, I have only ever felt in fear of my life once and that was when I was caught up in a bank raid.

1160. We know that the evidence is clear. The United Nations has called for complete decriminalisation because it is aware that the further away you push sex workers, the harder it is to reach the most vulnerable. Let us be clear: there are vulnerable people in sex work. I am not going to deny that for a minute, but there are vulnerable people in many other industries as well.

1161. We need to separate sex work and trafficking. We absolutely need to draw a distinction between the two because trafficking happens for a variety of reasons. It happens for domestic servitude, cockle-picking and all sorts of reasons, not just sex work. To be clear, I am not pro-sex industry. I am aware that my job is not suitable for many people for many different reasons. However, I am pro-individual's rights and pro-sex workers' rights. I believe — it was touched on earlier — that we should be entitled to the same labour rights as everybody else. It is only in moving towards that that we will, finally, strip down the stigma attached to sex work.

1162. In my experience, which is vast, I know that, last year, Turn Off The Red Light was saying that something like 19 children were trafficked in 2012 to the Republic of Ireland for the sex industry. On the face of it, that sounds absolutely appalling, and as a mother I would be apoplectic with rage. The truth, however, is that it was nothing to do with prostitution. Yes, they were trafficked in, but they were used for other things entirely that were nothing to do with the sex trade. It was Minister Alan Shatter himself who released that information in December 2013 in his report. Minister Shatter, to my mind, is only too well aware of the differences between trafficking and sex work. He can see the difference, and I do not honestly believe that this law will be enacted in the Republic of Ireland, despite what other people might say.

1163. That is all that I want to say for now. I am sure that you will have plenty of questions for me, which I will be very happy to answer.

1164. **The Chairperson**: Thank you very much, Laura, for that. I want to establish the extent of who you claim to represent. It would be useful to know what the membership of the International Union of Sex Workers is. You have talked about your vast experience, but how many people would you purport to speak for in that union?

1165. **Ms Lee**: I have found myself in the position — I do not know whether you would call it fortunate or unfortunate — of becoming the voice for sex workers in Ireland. That is because of stigma that I experienced myself. In that regard, you could say that I speak for the vast majority of them, because I know, from speaking to sex workers myself, that they do not want this law brought in. They are afraid, because they know the damage that it will do.

1166. There was one other thing that I wanted to mention. We talked about the actions

of the police in Sweden. I am aware that the Swedish police will actually target sex workers who work from their home because it is easy pickings to get convictions against the buyers. They will literally sit outside a property and arrest each buyer as they come back out. The result of that is that, sometimes, the landlord will establish that he has a sex worker living in his property. Before that, he might not have had a clue because, nine times out of 10, we are very discreet and you would never know. Ultimately, the sex worker is then rendered homeless. If that is how we purport to protect vulnerable women, I am pretty much lost for words.

1167. Somebody said that they did not want to be part of a country that says that it is OK to buy sex; I do not want to be part of a country that denies me my right to feed my family and pay my bills. That is what it comes down to. I am not a particularly stupid woman. I am working on my second degree. I am really just a perpetual student, if I am being honest. They talk about prostitution as violence against women, but I think I would recognise an act of violence being done to me over such a long time. I do not think I am alone in that assertion.

1168. **The Chairperson**: Obviously, if you are doing your second degree, you are an intelligent woman, but I want to go back to my question. You say that you speak for the vast majority. I am trying to quantify that. Can you tell me how many sex workers you purport to speak for?

1169. **Ms Lee**: In the UK, because it is such a clandestine industry in some regards, statistics are hard to come by, but the estimates are that there are 80,000 sex workers in the UK. That is across the broad spectrum and includes webcam strippers etc.

1170. **The Chairperson**: Are they are all members of your international union?

1171. **Ms Lee**: No, they are not.

1172. **The Chairperson**: So, how many members does the International Union of Sex Workers have?

1173. **Ms Lee**: I am not entirely sure about that. I would have to look that up and come back to you.

1174. **The Chairperson**: It is just that you said that you speak for the vast majority.

1175. **Ms Lee**: Yes.

1176. **The Chairperson**: I am trying to establish the credibility of the organisation that you purport to represent. That is important, because, obviously, we will refer to this evidence session, and we need to know that what you have said comes from a credible organisation. So, how many members are there in the International Union of Sex Workers?

1177. **Ms Lee**: I would need to check that out and come back to you.

1178. **The Chairperson**: OK. How many of them are from Northern Ireland?

1179. **Ms Lee**: Good question. I honestly do not know, but I will find out for you.

1180. **The Chairperson**: OK. So, you do not know those answers.

1181. In your opening remarks, you referred to a client. Do you arrange for women and clients in Northern Ireland to engage in sex? Is that part of your role?

1182. **Ms Lee**: No. I am solely independent. I just run my own diary.

1183. **The Chairperson**: OK. So, you are not involved in setting up appointments for clients and other women in Northern Ireland.

1184. **Ms Lee**: No.

1185. **The Chairperson**: But you do come here yourself.

1186. **Ms Lee**: I do, yes. Once a month.

1187. **Mr Wells**: Is Laura Lee your real name?

1188. **Ms Lee**: No, it is not. It is my working name.

1189. **Mr Wells**: It is a bit difficult to put a great degree of reliability on your evidence if we do not know your identity.

1190. **Ms Lee**: You are welcome to my real name if you wish.

1191. **Mr Wells**: Are you prepared to release that?

1192. **Ms Lee**: Yes, I am. It is Antoinette Cosgrave.

1193. **Mr Wells**: OK. Thank you for that.

1194. Are there any pimps or those who profit from organising sexual services in your International Union of Sex Workers?

1195. **Ms Lee**: Some of the members are managers, yes.

1196. **Mr Wells**: So, they are pimps.

1197. **Ms Lee**: Well, if you want to use that term, yes.

1198. **Mr Wells**: So, it is not just a union of sex workers; it is also those who control sex workers.

1199. **Ms Lee**: Yes.

1200. **Mr Wells**: Who make large amounts of money and control the lives of sex workers.

1201. **Ms Lee**: I cannot comment on how much money anybody else makes.

1202. **Mr Wells**: Would one of those be a Mr Douglas Fox?

1203. **Ms Lee**: Yes.

1204. **Mr Wells**: Are you aware of Mr Douglas Fox's operations in the north of England?

1205. **Ms Lee**: I am, yes.

1206. **Mr Wells**: Are you aware that he controls one of the largest escort websites in the United Kingdom?

1207. **Ms Lee**: I was not aware of that, no.

1208. **Mr Wells**: He said in 'The Northern Echo' that he and his civil partner were indeed controlling a website that sells the services of prostitutes.

1209. **Ms Lee**: OK. I was aware that Douglas's partner is involved in the management of an escort agency, but that is about as much as I knew.

1210. **Mr Wells**: Again, following up the questions of Mr Givan, I am trying to work out exactly where you are coming from. You are from an organisation that represents the sex industry, including those, like Mr Fox, who make vast amounts of money from selling females for sexual services.

1211. **Ms Lee**: Stepping aside from that, I speak more for myself as an Irish sex worker and from my own experiences. That is what is crucial here.

1212. **Mr Wells**: If one of your main supporters and funders is someone who has acknowledged that he runs a website selling sexual services, selling thousands of women every year, clearly that indicates a slightly different angle on what the International Union of Sex Workers means.

1213. **Ms Lee**: I just do not see how that could undermine my personal credibility.

1214. **Mr Wells**: How it would undermine it, Ms Lee — Ms Cosgrave — is that, clearly, if those who support and perhaps fund your union have an incredibly high vested interest in selling the sexual services of women, you are not a union representing the ordinary woman on the street or in the flat; you are representing an organisation that makes vast amounts of money out of the sale of women.

1215. **Ms Lee**: I do not work just with the International Union of Sex Workers; I also work with SCOT-PEP in Edinburgh. I work with a lot of people. My aim is not to protect any financial interest at all; my aim is to save lives here.

1216. **Mr Wells**: You made the extraordinary comment that you had never met a woman who had been trafficked or coerced into the sale of sexual services.

1217. **Ms Lee**: Yes, that is right.

1218. **Mr Wells**: I have to say that, in all the arguments that every organisation has made against clause 6, that is the first time that anyone has said that. Yet, the PSNI, in its most recent figures, said that even it, which is not the strongest and most strident supporter of the

Bill, is aware that there were 50 or 60 victims of trafficking for sexual services in Northern Ireland. Does it have that totally wrong? Is there no one out there being coerced into providing sexual services?

1219. **Ms Lee**: No, I am not saying that for one moment. However, obviously as an independent operator, I can say that there are very few other sex workers with whom I would come into contact on a regular basis. I do not work in a brothel.

1220. **Mr Wells**: So, you are saying that it is not that they are not out there, it is just that you have not encountered them.

1221. **Ms Lee**: I acknowledge that there is a problem, but I do not think that it is as widespread as is being reported.

1222. **Mr Wells**: So, do you accept that there are hundreds, if not thousands, of young women in the United Kingdom and the Irish Republic who have been brought in for the sale of sexual services, some of whom have been trafficked, some induced and some of their own free will?

1223. **Ms Lee**: Yes, that is a fair thing to say.

1224. **Mr Wells**: So, there is trafficking and there is coercion?

1225. **Ms Lee**: There is, yes.

1226. **Mr Wells**: You quite rightly pointed out the tragedy of Petite Jasmine. That is a very sad case, and we are aware of it. It happened in Sweden, and, since 1998, it is the only example of a prostitute in Sweden being killed. In Holland in the same period — of course, as you know, prostitution in Holland has been entirely legalised and is controlled — there have been 127 murders of prostitutes. Given those statistics, why would prostitutes be safer if you made it totally legal?

1227. **Ms Lee**: Given those statistics, I can see what you mean, but, as things stand, we enjoy a very open relationship with the police. I would have no qualms whatsoever about going forward to tell the police about any concerns that I had. Were this law to go through, it would drive us further away from the police. That is my big concern.

1228. **Mr Wells**: You say that, and there is this view that, if we introduced clause 6, we would have a situation where clients would be less likely to report examples of abuse and trafficking or, perhaps, women being held under control without their consent. Does that actually happen? Are your clients regularly contacting the police to say that they had been with a certain woman who looked distressed or looked as though she had been trafficked? Does that happen?

1229. **Ms Lee**: Yes, it does happen, absolutely. I have seen it myself on several occasions. The other thing that you must bear in mind is that it is not just the clients but we, the sex workers, who will report things that are untoward. We are quite self-regulatory in some respects. For instance, if I got wind of an underage girl working for a particular brothel, I would report it straight away.

1230. **Mr Wells**: Right. You say that prostitution would be driven underground if clause 6 were enacted. How would a client make contact with a prostitute if prostitution had been driven underground? How would that physically be possible? If the client can make contact with the prostitute, why would the police not be able to make the same contact?

1231. **Ms Lee**: You find now that there are flats that are known to the police. The police know where they are and who works where; that is their job. If the law were to change, the situation would become more fluid and the women who so badly need our help would be moved an awful lot more frequently to avoid detection. That is the sad downside to it, really.

1232. **Mr Wells**: So, you are saying that, again, although there is absolutely no evidence of it happening in Sweden, you believe that it would happen in Ireland?

1233. **Ms Lee**: Yes, I do.

1234. **Mr Wells**: You are answering the questions a bit more quickly than I

expected. Go ahead, Chairperson, I will come back.

1235. **The Chairperson**: You made a point that I wanted to pick up on. You made a very strong statement: you said that, if we bring this law in, we will have blood on our hands.

1236. **Ms Lee**: Yes.

1237. **The Chairperson**: Mr Wells outlined the figures relating to the Swedish model. Compared with the situation in Holland, which has legalised prostitution, there has been one death, which was tragic, in Sweden in the past 25 years. How, then, would we have blood on our hands if we tried to bring into being what the Swedish model has achieved?

1238. **Ms Lee**: Because I firmly believe that you are targeting the wrong — with the greatest respect, that came out completely wrong. I think that what you are doing is targeting the wrong group of people. You are targeting the buyers of what is, for the most part, consensual sex, but those you want to target are the traffickers. What I would love to see happen in the North and South of Ireland is the introduction of a charge of aggravated trafficking, so that we sent out a clear message to these people that we, as an industry, will not tolerate abuses of sex workers like that, and certainly not as a state either, but that we acknowledge that there are some people who voluntarily go into the industry and we will protect those people.

1239. **The Chairperson**: So we would not have blood on our hands?

1240. **Ms Lee**: Yes

1241. **The Chairperson**: I am glad that you have clarified that. Sorry, Mr Wells.

1242. **Mr Wells**: I am back on train. David McIlveen, who is one of our MLAs and a Policing Board member, asked the PSNI for its assessment of the scale of the issue in Northern Ireland, and in response it said that £30 million profit is made per year through prostitution in Northern Ireland. Where is that money going?

1243. **Ms Lee**: Certainly not into my bank account. It is a lot of money.

1244. **Mr Wells**: From your experience and that of your members, what percentage of that will go to the individual women, as opposed to the gangs and the agents who control them?

1245. **Ms Lee**: Generally, I think the breakdown with agents tends to be one third to two thirds, but it has been so long since I worked for an agency that that may not be correct. I have been independent for years. With respect to labour, you were talking about how you cannot possibly call sex work work, but it is really. I pay my taxes and my national insurance and have done so for years.

1246. **Mr Wells**: In a local newspaper, you stated that the International Union of Sex Workers was “largely disbanded”. Was that properly quoted?

1247. **Ms Lee**: I do not think that that is a fair quotation whatsoever. What I was trying to get at is that we are gathering strength again, certainly in the UK, because Mary Honeyball MEP is starting to look into the Swedish model there as well.

1248. **Mr Wells**: Again, in the same article, you said that your father was very supportive of you in your career.

1249. **Ms Lee**: Yes

1250. **Mr Wells**: Would you suggest that a son or daughter should become involved in that career?

1251. **Ms Lee**: I have a daughter, who is the centre of my world. I would rather that she — I will just explain if you will let me finish. I would rather that she did not get into the sex industry, because she is very soft. I have brought her up in a protective bubble, which is my fault entirely. However, I would rather that my daughter grew up in a country where sex workers were free of stigma and which did not discriminate against them. That would be my preference.

1252. **Mr Wells**: If your daughter was to announce some day, having seen your lifestyle and the work that you have done, that she was perfectly content to go into the sex trade, would you encourage her?

1253. **Ms Lee**: I would try to dissuade her, but, at the end of the day, I am her mother and I love her, regardless of what she does.

1254. **Mr Wells**: You would try to dissuade her, but you regard this as just like any other job. It is a career, a profession.

1255. **Ms Lee**: No. I did say expressly that it is not for everybody, and I am totally aware of that.

1256. **Mr Wells**: So, like most people, you would be quite shocked if your daughter told you that she was going into this trade.

1257. **Ms Lee**: Well, I would be quite surprised, I guess, yes.

1258. **Mr Wells**: Yes, I think that most of us would. Thank you, Mr Chairman.

1259. **The Chairperson**: You also had an interview in the 'News Letter' in November 2013. Let me just quote what you said:

"Last month I opened my hotel room door, and I have got a personal attack alarm in my hand, and this guy was at my door. He was 6'4" with a shaven head and covered in the Union Jack tattoos. I thought 'Oh my God, I have had it!'."

1260. Do you always carry a personal alarm?

1261. **Ms Lee**: Yes, I do, nine times out of 10. I have one in my suitcase.

1262. **The Chairperson**: Why would you do that, if the only time that you have ever been in fear was during a bank robbery?

1263. **Ms Lee**: It is just added protection. At the end of the day, I am a woman on my own, and it just makes sense to me to have some form of backup.

1264. **The Chairperson**: Have you ever been subjected to an attack?

1265. **Ms Lee**: I have never had to use the alarm, no.

1266. **The Chairperson**: Have you ever been subjected to a physical attack from one of your clients, or have any of the sex workers that you know been subjected to physical attack?

1267. **Ms Lee**: It happens. I, personally, have not, but, yes, it does happen. In some of the forums on the internet, you will see that warnings go up, as we, the sex workers, warn one another about problematic clients. I read about some of the attacks that happen.

1268. **The Chairperson**: Your father also said to you that he was concerned that you would "fall foul of paramilitaries" in Northern Ireland. Why did he say that?

1269. **Ms Lee**: He was worried for my personal safety because I have become quite an outspoken campaigner. He was worried that some people who, I suppose, would be less open to my views might take exception to what I say. He is my dad; he is going to worry.

1270. **The Chairperson**: Why would paramilitaries be a particular concern?

1271. **Ms Lee**: I do not know why he said that. That is a direct quotation, though.

1272. **The Chairperson**: I thought that it was an interesting remark that he was concerned about paramilitaries.

1273. **Ms Lee**: I do not know why they would be particularly interested in what I am doing either, but there you are.

1274. **The Chairperson**: You also said in that interview that you would be upset if your partner or husband bought sex from an escort. Why is that?

1275. **Ms Lee**: Gosh, I do not even remember saying that to be honest. If you have an interesting, varied and spicy relationship at home, there is no reason for them to go elsewhere, is there?

1276. **The Chairperson**: Do you think that it is appropriate for people who are in committed relationships to go to an escort?

1277. **Ms Lee**: When clients come to see me, they sometimes tell me that they are

married and sometimes tell me that they are not. I never know if they are telling the truth or not, and, to be honest, it is not my business to ask. I take them absolutely at face value.

1278. **Ms McCorley**: Go raibh maith agat arís, a Chathaoirligh. Thanks for the presentation. When we were in Sweden, we were told that, as a result of the law in Sweden, there had been negative impacts for people who work in the sex industry. You referred to what you think the implications of this law might be, but do you want to add anything further on what you think the effects might be on people who work in the sex industry?

1279. **Ms Lee**: I think that it would increase stigma a hell of a lot if it is further criminalised, and that can only be a very bad thing. It will prevent sex workers from reaching out for support and help as well. I want to touch very briefly on my work with disabled individuals. I am registered with what we call the Tender Loving Care website in the UK, and a large degree of my work now is dealing with disabled guys and, indeed, terminally ill guys. That is not just something that we throw out there to try to further our cause; it is very real. I work with a lot of those people, and I feel very privileged to be able to bring that pleasure into their life for a short time.

1280. **The Chairperson**: How would decriminalising the sex worker and criminalising the purchaser result in further stigmatisation of the sex worker?

1281. **Ms Lee**: The number of people in the UK who already think that it is illegal is frightening. People just do not know the law, and I find that to be the case time and again when I go into interviews. If you criminalise the purchaser, you are effectively saying that the whole transaction is illegal and, therefore, it puts an onus back on the sex worker as well. It is not just the buyer who will be affected; it will be the sex worker as well.

1282. **The Chairperson**: In our country, it is often the sex worker and not the purchaser who is prosecuted. This Bill puts the focus on the purchaser and is there to support the sex worker. It decriminalises the sex worker. Maybe I am wrong about the stigmatisation, but, when we were in Sweden and we asked the question about stigmatisation, it was the sex workers who often felt more empowered. They felt more capable of being in a position to protect themselves because they were able to go to the police about violent individuals. They were never going to face prosecution, but the person who had carried that out and had purchased the sex or whatever service from them were the ones whom the law was going to come down on. I find it difficult to understand the argument that this would further stigmatise the sex worker when, in fact, it should do the opposite.

1283. **Ms Lee**: Canada, for example, has decriminalised it on the basis that it has acknowledged that sex worker rights are human rights and should be viewed as such in their constitution. That is a huge step forward and would lead to greater acceptance in the mind of Joe Public of the whole issue of sex work.

1284. **The Chairperson**: Yes, but some of us do not need any research or any evidence. For some of us, the very principle of purchasing sex from a woman is sexual violence, full stop. That is a principled position, and some people do not need to have an evidence base to come to the conclusion that men are currently empowered to continue to subject that type of activity upon women. If you are in favour of equality, which I am, then this is about making sure that there is gender equality, and, in my view, there currently is no equality. Men continue to be empowered to allow their own sexual gratification to be inflicted on women.

1285. **Ms Lee**: In terms of gender equality, I feel empowered as a woman to support myself through university, support my family, pay my bills and see my way through life. My clients treat me with the utmost respect, because I absolutely insist on it. To be flippant for a moment, as a 5-foot-9-inch dominatrix, I think

that, if anyone is inflicting anything on anyone, it is on the clients.

1286. **The Chairperson**: Address how you change the attitude of society. I had a discussion with a group of students here in Stormont, and one of the questions that I was asked was about criminalising paying for sexual services. The young fellow, who was about 15, said that it should be a woman's right if they wanted to sell their body and it should be a man's right to be able to buy their body. A girl of a similar age was aghast and disgusted and said, "My body is not for sale". She had a different opinion from that of the boy. Sadly, my experience of society is that it is often the fellows who brag about how many times they have got it from such and such. Society often looks at the promiscuous girl as a slut, whereas the man is almost held up as a hero and legend. There is a societal problem. Would this law not help to address that societal issue?

1287. **Ms Lee**: I do not think so. I view sex workers' rights in the same way as, for example, those of homosexuals. As a society, we have come so far in recognising the rights of gay people to cohabit or adopt. I just do not see why sex workers' rights lag so far behind. Hopefully, we will catch up. It is about a societal change; you are absolutely right. It is painfully slow, but we are getting there.

1288. **The Chairperson**: How many homosexuals have ever said to you that they believe that we should not change the law in Northern Ireland? You are equating sex workers' rights with issues around homosexuals. On what basis do you make that assertion?

1289. **Ms Lee**: I am saying that because homosexuals as a group were discriminated against for a long time as well, and there are a lot of myths. For example, where I come from, when I was growing up, homosexuals were placed in the same category, in the minds of some people, as paedophiles. They were just thought of as strange men. It is a horrible thing to say, but it is entirely true. Now, of course, we are far more enlightened as a society, and we know that that is just not the case. That is where we are with sex workers, I think. People have a stereotypical image of what we are like, but I am not a drug addict, and I do not have a pimp. I do my job because I choose to do it and I enjoy it. It is about trying to break down that stereotype.

1290. **The Chairperson**: What you are not saying is that all homosexuals support the rights of prostitution. You are not saying that.

1291. **Ms Lee**: No, I was merely drawing a similarity between the two groups.

1292. **The Chairperson**: I appreciate that.

1293. **Mr Dickson**: Thank you for your very honest and open presentation. I want to query one area with you in relation to the union. I am aware that the International Union of Sex Workers is affiliated to the GMB trade union, which in turn is affiliated to the Trades Union Congress (TUC) and the Irish Congress of Trade Unions (ICTU). ICTU supports the Turn Off The Red Light campaign and would probably not be particularly supportive of some of the views that you have expressed. How has the GMB dealt with that?

1294. **Ms Lee**: The GMB, to my knowledge, now has a separate sex work branch based in London, so it has made its stance on that fairly clear. Apart from that, I am not terribly well versed on the GMB, I must be honest.

1295. **Mr Elliott**: Thank you for that. In your written submission you make four bullet points about the Swedish model. It is very difficult to ask you if there is no evidence, because you cannot demonstrate that; only they can demonstrate the opposite. However, in the last two points you indicate that there is evidence of an increase in danger to sex workers through more dangerous forms of work and less opportunity to screen clients. Can you explain that a bit further?

1296. **Ms Lee**: Certainly. That is primarily in relation to street sex work. Because the

buyers are now deemed criminals, the sex worker has less of an opportunity to assess her client when he pulls up to the kerb. It is a split-second thing. She is just into the car and gone, whereas, before, sex workers reported that they took their time to see whether there was a smell of alcohol or to assess the guy in some way. Now it is into the car and off. In that regard, they have less protection.

1297. **Mr Elliott**: OK, so it is mainly for street workers.

1298. **Ms Lee**: Yes.

1299. **Mr Anderson**: The Chair asked about the safety aspect and your carrying a personal alarm. Would you not say that you are overstating that prostitution is a safe industry when it is probably not? As the Chair touched on, if you are so sure, why do you carry the personal alarm around? I know that people are encouraged to protect themselves, but what I am trying to get at is this: are you trying to say that prostitution and the sex trade is no less safe than any other?

1300. **Ms Lee**: It also depends on which area of the sex industry you work in. At my end of the industry, attacks are incredibly rare, thank goodness. The personal attack alarm was a gift from a client, who insisted that I bring it with me because he cares.

1301. **Mr Anderson**: So, you agree that it is dependent on what area or sphere of this you work in and that there could be serious safety issues.

1302. **Ms Lee**: There could be; absolutely. However, I also worked for a bank where I was hauled across the counter by my bow tie because —

1303. **Mr Anderson**: You claim that, through this union, you represent all the workers. We are not sure what the numbers are, and we are trying to find that out. However, you say that it is different at different levels, that there are safer levels and that you work at a safer level.

1304. **Ms Lee**: Yes, I would say that that is a fair statement.

1305. **Mr Anderson**: Would you agree that there are serious issues regarding the safety of young women and, indeed, all women or anyone in that industry?

1306. **Ms Lee**: I imagine that there are safety issues for young women in many industries, of course.

1307. **Mr Anderson**: You say “many industries”, but would you not say that this industry has a greater probability of being less safe than others? Are you trying to put this on the same level as another industry that could be less safe?

1308. **Ms Lee**: No, it is not that. It really depends on what way you work. If you work in a brothel and you have other sex workers there to help keep you safe, obviously that will be safer than working on your own in a hotel room. If you are asking me whether it is an inherently dangerous industry, I would say, “No, I do not think so”. Yes, attacks happen, but attacks happen all the time elsewhere.

1309. **Mr Anderson**: Would you say that you are not portraying it as a safe industry in which to work?

1310. **Ms Lee**: Speaking for myself, I have found it to be incredibly safe. I have never had any concerns for my personal safety.

1311. **Mr Wells**: I have a couple of final questions. You say that you model your life on and are inspired by Cynthia Payne. Some of us remember Ms Payne. She was convicted of exploiting women in the sex trade. Why would you want to hero worship someone with such an unsavoury past?

1312. **Ms Lee**: I would not say “hero worship”; that is a very strong term. I remember reading about her when I was younger. She ran a house of, if you like, ill repute, and you may remember the luncheon voucher parties etc that she got done for in the end. However, the one thing that struck me about her was that she was terribly matriarchal. She really cared about her clients, and she really cared about her girls. I have since met a lady

who worked for her who can back that up. To me, she just came across as quite a caring individual; that is what I liked.

1313. **Mr Wells**: This is a safe industry in which 127 women have been murdered in Holland. This is the same industry. All those women were prostitutes in legal brothels.

1314. **Ms Lee**: Yes.

1315. **Mr Wells**: And you are saying that it is safe.

1316. **Ms Lee**: Well, my experience has been that —

1317. **Mr Wells**: Yet it is unsafe in Sweden, where one has died in 15 years. Do you remember the website lovelylauralee.co.uk?

1318. **Ms Lee**: Yes, that is my work website.

1319. **Mr Wells**: On that website, you make frequent mention of pimps whom you know.

1320. **Ms Lee**: Right.

1321. **Mr Wells**: How many pimps do you know?

1322. **Ms Lee**: Are you referring to my blog now?

1323. **Mr Wells**: Yes.

1324. **Ms Lee**: Oh right, OK.

1325. **Mr Wells**: How many pimps do you know?

1326. **Ms Lee**: Gosh, I do not know. From speaking to them online, I know quite a few people who run flats, parlours or whatnot.

1327. **Mr Wells**: So, people who control prostitution. That is a criminal offence in the UK.

1328. **Ms Lee**: Yes.

1329. **Mr Wells**: How many of those people have you reported to the authorities?

1330. **Ms Lee**: In some regards, it is about women working together for safety; it is more like a cooperative. They work alternate days in a flat. Strictly speaking, under the current law, that constitutes a brothel. Even though they may never meet but work alternate days, that is a brothel. Bizarrely, both women can be convicted for pimping each other.

1331. **Mr Wells**: I am talking about one person who reportedly earned £80,000 a month pimping women in England. Would you say that that fell into that category?

1332. **Ms Lee**: No. That is obviously entirely different.

1333. **Mr Wells**: Presumably, you reported him to the police.

1334. **Ms Lee**: No.

1335. **Mr Wells**: These are all hims rather than hers.

1336. In your blog, you mention hes, hims and males who are controlling it. How many have you reported to the police?

1337. **Ms Lee**: I have not reported anyone to the police.

1338. **Mr Wells**: You have not, even though, under GB legislation, that is a criminal act.

1339. **Ms Lee**: Yes.

1340. **Mr Wells**: That again emphasises the link between your union and those who make vast amounts from trading women for sex.

1341. **Ms Lee**: I do not think that that is a particularly fair thing to say. I am speaking more about my own experiences as an Irish sex worker. I have very little contact with those whom you are talking about.

1342. **Mr Wells**: You mention them frequently enough on your blog. Maybe you have not got around to reporting them to the guards or the PSNI.

1343. **The Chairperson**: You said earlier that you feel privileged to have brought joy into the lives of people with disabilities. Do you charge them?

1344. **Ms Lee**: Yes, but I do a discounted rate.

1345. **The Chairperson**: You do a discounted rate.

1346. **Ms Lee**: Yes.

1347. **The Chairperson**: Would you not rather do it for free?

1348. **Ms Lee**: I do not know anybody who works for free.

1349. **The Chairperson**: These are people with disabilities. If it is such a privilege and you want to bring joy into their life, why would you exploit a disabled individual and make them pay?

1350. **Ms Lee**: It is not about exploiting anybody. They contact me, not the other way around.

1351. **The Chairperson**: And you offer them a discount.

1352. **Ms Lee**: Of course. In charging a fee, you also have to maintain your boundaries.

1353. **The Chairperson**: What is the discounted rate for someone who is disabled?

1354. **Ms Lee**: It depends. Usually it is about one third off or something like that.

1355. **The Chairperson**: Going by the rates that you publish on your website, for one hour it is £150. Is that correct?

1356. **Ms Lee**: Yes.

1357. **The Chairperson**: And I think that two weeks is £8,500.

1358. **Ms Lee**: Yes.

1359. **The Chairperson**: So you would give a disabled person a third off any of those fees.

1360. **Ms Lee**: Yes.

1361. **The Chairperson**: So, of the £150 you would charge £100.

1362. **Ms Lee**: It would depend on his individual circumstances, such as how long it would take me to travel to see him etc.

1363. **The Chairperson**: So, you are charging a disabled, vulnerable person £100.

1364. **Ms Lee**: Again, I do not target these people; they come to me because they have decided that it is something that they want to do.

1365. **The Chairperson**: How do you find out that they are disabled? Do they need to bring a letter from their GP?

1366. **Ms Lee**: No. They tell me expressly through e-mail correspondence.

1367. **The Chairperson**: How do you verify that? Obviously, people will now know that you provide a third off your normal rates. How can you be sure that everyone who contacts you herein will not say that they are disabled? Are you just going to give everybody the discount?

1368. **Ms Lee**: It is usually fairly obvious. Some of the guys I see are basically bed-bound. There is no disputing it, really.

1369. **The Chairperson**: This is my final question. Unless any other members want to make any comments, this will complete the session.

1370. You have obviously painted the picture that you have never been subjected to any violence and that you enjoy your work. Do you think that we should protect your right or, let us go further, that we should legalise the sex trade in Northern Ireland so that your right can be protected? Is that something that we should do, given the knowledge that we have from the PSNI that the majority of people who are trafficked into Northern Ireland are brought in for sexual slavery and that women and girls are subjected to gang rape and suffer the most intolerable sexual, physical and mental abuse? Indeed, the report by the Irish Medical Organisation's report on the health consequences for those who are involved in the industry indicates that someone who is involved in the trade is twelve times more likely to die early than someone else in society. Do you believe that your rights should override all those other issues that come with the sex industry?

1371. **Ms Lee**: I believe that, if two consenting adults come together to have sex behind closed doors, whether or not money changes hands, the state should not intervene. Where the state should intervene is where there is harm to the buyer, the seller or anybody in between.

I would never, ever advocate any form of violence or the horrible things that you spoke about, such as gang rape — of course not. However, I think that you should protect our rights as workers and that you should obviously also protect the most vulnerable.

1372. **The Chairperson**: What if the state's most effective way to protect those who are being subjected to that type of violent physical abuse is to criminalise the purchase of sexual services? If that is the best way to protect those who suffer that type of abuse, is it not the right thing for the state to do?

1373. **Ms Lee**: I do not believe that it is the best way to protect those who are really suffering. I believe that the best way forward is to create some form of joint committee that sex workers can get on board with and through which they can work with the police. That committee could then actively make sure that those people are working of their own volition and are quite safe.

1374. **The Chairperson**: Laura — or Antoinette — thank you very much for taking the time to come and see us at the Committee. We appreciate the time that you have given us.

1375. **Ms Lee**: Thank you.

16 January 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Dr Neil Jarman	*Joseph Rowntree*
Mr Frank Soodeen	*Foundation (JRF)*

1376. **The Chairperson**: I formally welcome Frank Soodeen, senior public affairs manager from the Joseph Rowntree Foundation (JRF) and Neil Jarman, director of the Institute for Conflict Research (ICR). I hope that I have got your names correct. You are very welcome to the Committee meeting. It will be reported by Hansard and published in due course. I will hand over to you to initially give us a brief outline of your submission and then members will, I am sure, have some questions.

1377. **Mr Frank Soodeen (Joseph Rowntree Foundation)**: Thank you, Chairman, we are delighted to be here and thank you for the invitation. For those who are not aware of the JRF, it is a social policy charity with a mission to address the root causes of poverty and injustice across the United Kingdom. We do that through a programme of research and development, and one of the things that we have focused on for several years is forced labour. We have been slowly amassing, through a process of commissioning, what I think is today the largest continuous programme of study into the issue in the United Kingdom.

1378. Our interest in Lord Morrow's Bill arises from the fact that one of the central themes of our research has been what we call a justice gap in relation to forced labour, labour exploitation and trafficking for labour exploitation. We will talk in due course about a number of issues that feed that into that.

1379. Lord Morrow's Bill obviously sits alongside a trafficking Bill that is working its way through the Scottish Parliament, and I heard mention earlier of the draft modern slavery Bill that is being considered at Westminster. Our initial perceptions of Lord Morrow's Bill are that it does a number of things that we like. First, it recognises that there is a resources issue concerning the effective prosecution of existing law; secondly, it sets out the law around trafficking for labour exploitation more clearly for agencies; and, thirdly, it extends protections to victims of trafficking for labour exploitation to afford them the kinds of support that are available to other victims of exploitation.

1380. Partly arising, I think, as a symptom of the confusion around definitions and so on, the Bill does not necessarily address the need for support and compensation for victims of forced labour who may not have been trafficked. That absence is a common theme in all the legislation currently being considered across the jurisdictions, a point that we are making to all the relevant Parliaments.

1381. So, that is kind of a top-line view. Neil is one of the people whom we have commissioned to look at the issue in Northern Ireland in depth, and he will make more detailed comments.

1382. **Dr Neil Jarman (Institute for Conflict Research)**: Thanks, Frank. As part of the Joseph Rowntree programme, ICR led a consortium that did a piece of research that looked at forced labour in Northern Ireland. That work was completed in 2010. We are currently doing a small review update on the issue for the JRF,

which just happens to coincide nicely with discussions on the draft legislation. As Frank mentioned, we have nothing to say at this stage about clause 6 of the legislation. We are focusing purely on issues relating to forced labour.

1383. One of the benefits of the legislation that we see is that it starts to make links between forced labour and human trafficking. However, it also keeps them separate. A lot of the time, we find that forced labour tends to get a bit obscured by trafficking. Also, at times, there is considerable overlap between the two issues. They are distinct. There are elements of forced labour that do not involve trafficking, and there are elements of trafficking that do not necessarily involve forced labour in the way in which we are talking about it. So, it is important to keep the two issues separate.

1384. As regards the research that we have been doing fairly recently, there seems to be increasing recognition among statutory agencies and organisations that work on forced labour in Northern Ireland that there is a problem here. It is more of a problem than was recognised, perhaps, a few years ago. It is moving more towards being on par with trafficking for sexual exploitation, for example. So, there is an issue about recognition. It is very difficult to identify it in case studies, for a variety of reasons. In the 2010-11 report, we saw that some of the main areas involved were the fishing and mushroom-picking industries, particularly among some of the Roma community in Northern Ireland. At present, we are seeing some other areas emerging. Fruit picking, in the agriculture industry, has been identified in some locations. Roma people are being employed as casual labour for things such as recycling. There are also issues with shellfish collecting in some parts of Northern Ireland, and there are still ongoing issues in the fishing industry. So, we are seeing some areas in which there have been recurrent patterns over a number of years and some where people are identifying patterns that they had not identified before, which does not mean that they were not there previously: we had just not noticed them.

1385. There also seems to be a cross-border issue, particularly where gangmasters are based in one jurisdiction and the work that they are bringing people to do is in the other. This creates problems for enforcement and identification. It is one of the things that have always been identified as being specific to Northern Ireland in the UK context. Northern Ireland is the only part of the UK that has a land border with another jurisdiction. This means that when it comes to looking at forced labour, Northern Ireland, perhaps, has distinctive elements that do not apply in Scotland, England and Wales.

1386. With regard to responding, we are pleased to see that clause 7 looks at effective responding and highlights issues such as training. One issue that we have noted is the lack of awareness of forced labour. Perhaps people are picking up on some aspects of employment, such as mistreatment or abuse, but not necessarily in a way that looks at it as forced labour; or they are looking at approaches for trafficking, but because there is not a clear indication of it, they are not recognising the forced labour aspect. We are also aware that there is an intelligence gap with regard to agencies being able or willing to share information that would enable the right agency to make the most effective response to the situation. We have also identified the need for better responses to be enabled for cross-border co-operation. Perhaps, that is not within the remit of the legislation. However, in operating any legislation — in particular, with regard to clause 7 — we would need to think about the cross-border dimension. Also, with regard to clause 16, on the special rapporteur, there is, perhaps, a need for any rapporteur to be able to think about the cross-border dimension in particular.

1387. Finally, with regard to victims, there appears to be a particular difficulty for victims of forced labour to be able to secure an effective response. The

current employment regulations and the work in appealing through tribunals are particularly challenging and difficult in the time frame involved due to the lack of legal aid for victims of forced labour. We are aware that the Department of Justice has identified that item within its trafficking action plan, but we think that the issues in the Bill relating to the need to support the victims of trafficking should be extended to include victims of trafficking and forced labour.

1388. We will leave it at that.

1389. **The Chairperson**: Thank you very much, gentlemen.

1390. **Mr Anderson**: Thank you, Neil, for your presentation.

1391. You highlighted and identified the increasing problem of forced labour in Northern Ireland. In your submission you recommend that the assistance support measures in clause 10 of Lord Morrow's Bill should be made available to all victims of forced labour, not only those who have been trafficked. From your research, can you tell us what proportion of people in forced labour in Northern Ireland have not been trafficked? Do you have any such data?

1392. **Dr Jarman**: It is difficult to say. Some people fall within the definition of trafficking in so far as there may have been some element of coercion or deception in them coming here. Some people have perhaps moved into that area as a result of being here legally but then, through being put out of work, visa problems or losing their visa, they have chosen to stay here and have moved into that area. So, there are some who would not fall within the classical definition of trafficking.

1393. Numbers are small. One issue is that, at the moment, there is a lack of effective data to unpack the numbers. I understand that the Organised Crime Task Force is looking at UK-wide data to open up the Northern Ireland data to try to give us some details. At the moment, the detail is just not given. The number of people is given, but the data do not even give which industry they have been working in, so it is limited. We do not have some information. It is not there yet.

1394. **Mr Anderson**: You talked about assistance and support measures. How many people do you estimate would be eligible for assistance each year?

1395. **Dr Jarman**: When we did the piece of work in 2010, we found that people were identifying themselves as victims of forced labour only when they were seeking to leave the jurisdiction. They stayed in a working environment for as long as they felt that it was reasonably possible to do so. At some stage, that became impractical. Often, it was then a matter of departing, saying that: "We have done as much as we can. We are not going to seek legal redress, as we do not feel able to, and the few people who did, did not get very far with it." The tribunal process was taking too long for people to hang around. So, I am not sure that there would necessarily be very large numbers of victims, but it might enable those victims who want to stay in Northern Ireland and feel there is a possibility for effective recompense and response to their plight. That in turn might highlight the issues and encourage other people to go public on the problem. I do not suspect that it is going to be huge numbers though.

1396. **Mr Anderson**: Also, on support and assistance, you are probably aware that immigration is a reserved matter and that the Assembly could not create any right to remain. What proportion — sorry; I keep asking about figures — of victims of forced labour who have not been trafficked fall into the category of not having a valid visa or resident permit?

1397. **Dr Jarman**: Again, we are talking about small numbers. In that situation —

1398. **Mr Anderson**: You say "small numbers". What do you mean by small?

1399. **Dr Jarman**: So far, the numbers identified by the Organised Crime Task Force in forced labour have been fewer than 10 on an annual basis. We are not sure how far that is a clear assessment of the total number of people. However,

the number coming through to the Criminal Justice Agency is small.

1400. **Mr Anderson**: Do you have any ideas about how we could assist those victims?

1401. **Dr Jarman**: Rather than trying to work out whether they were victims of trafficking before that assistance could kick in, if you accept them as being a victim of forced labour, that opens up the option for them to be treated in the same way as victims of trafficking with the right levels of support, the ability to stay, levels of assistance to return to their home country if they want to and an ability to support the criminal justice system in pursuing the employers or gangmasters. That is what we are looking for, which is why we are saying that the remit should be expanded to include victims of trafficking and victims of forced labour, without assuming that they have to be victims of forced labour through trafficking.

1402. **Mr Soodeen**: On the point about support for the victims of forced labour, one of the other messages to come out of a programme of research is that forced labour is at one end of a spectrum. You also have decent work at the other end, and there are gradations of labour exploitation that sit across the entire span. We mentioned the justice gap earlier, and one of the causal factors is that we have a regulatory system that is very low in interventions in the employment market. It is fairly light-touch, so when we think about how one can provide support for people who are suffering from extreme labour exploitation or forced labour, it is not necessarily just a case of thinking about the numbers that might come through the specific enforcement system. It is also about how we are able to strengthen the kinds of measures and support that already exist to identify people who are in difficult circumstances and encourage them to come forward. Furthermore, we need to encourage those people who might be dealing with them, whether they are non-governmental organisations (NGOs), trade unions, or whatever, to share data and information with enforcement agencies in particularly egregious cases.

1403. On Neil's point about the numbers being small from a criminal enforcement perspective, yes they are, but there is also the question of how you squeeze down on the level of labour exploitation. There are a number of ancillary things that you can do around that that would not necessarily lead to a huge deluge in the criminal justice system but would lead to better outcomes for the people who are suffering.

1404. **Mr Anderson**: What role do you see for employers in the business and commercial sector in addressing the problem of forced labour?

1405. **Mr Soodeen**: I think that it is really important to understand that there is a legal response, but it goes far beyond that. It is also for businesses, trade bodies and individual consumers to address. One of the things that we are trying to encourage off the back of our research is that businesses look very closely at their supply chains. We know that criminal cases of forced labour interact with "legitimate" areas of the economy and different parts of the supply chain. It requires UK businesses to understand where those interactions lie, and where we take the message next is to be a big focus for JRF in 2014. We are doing a lot of work with the Parliaments, but this absolutely has to be about working with businesses and trade bodies, getting them to use their corporate social responsibility (CSR) agendas where possible and getting them to try to mobilise the public to get interested in this in a similar way as it did the Fair Trade movement, and so on.

1406. **Dr Jarman**: One thing that I have found out from the research is that people are saying that in some of the areas in which if not forced labour but problematic exploitation was taking place, the situation has improved, and not purely through enforcement but through a number of factors. For example, in some ways, in the meat processing industry, where some complaints were raised previously,

people are saying that the direct employment of workers rather than employment through an agency chain has led to some improvements. Some of the light that was shone on the mushroom industry has led the supermarkets and some of the larger providers to tidy up their act and improve workers' situation. As the issue starts to be raised across the production line, including in purchasing areas for supermarkets and the trade union movement, and as some of the migrant workers themselves become more established here, we hear about the capacity to engage increasing. People are raising issues in a way that they were not a few years ago. In some areas, the situation is improving. The problem is that there is a vulnerable core group of people who perhaps are very much on the margins socially, legally and economically, and they are the ones who are really being squeezed.

1407. **Mr Anderson**: Do you think that the issues that we are talking about here with employers and businesses could be reflected in the Bill in some way to strengthen it?

1408. **Dr Jarman**: In clause 7, as to how we respond to the issue, it needs to be made clear that it is not just a criminal justice response but a wider social one that is required. There is a need to ensure that you bring in a wider range of agencies. There are issues around some of the bodies with responsibility for employment regulation. I have heard that it is all quite fragmentary and not very well connected. People will go in because they have responsibility for x but do not look at issues around y and do not pass information on to other agencies. We need to look at how the different agencies link up, whether they be criminal justice and/or employment regulation bodies or whatever. Again, that would bring in employers. For example, Business in the Community (BITC) was very proactive on the integration of migrant workers from around 2003 until 2007. There is a willingness among some sections of the business community to engage on the issues.

1409. **Mr Anderson**: I have heard that a consistent problem on the subject of forced labour is the existence of a continuum between employment conditions that are in some way exploitative and what might be called slavery. Will you outline, from your clearly extensive experience in the area, what you see as the difference between the two?

1410. **Dr Jarman**: There are levels of exploitation across the employment spectrum. There may be relatively minor things such as not paying correct overtime rates or not making holiday payments. That can increase until you reach a point of a legal definition of the term "forced labour", which may include holding documents, not paying money, overcharging people for additional services such as housing, threats, coercion, and so on. Everybody acknowledges that, between those two poles, there is a grey area where you cross over into a form of what is considered to be forced labour. However, the exact point on the spectrum at which you cross over from serious exploitation into forced labour and modern slavery is not clearly defined, and I do not think that it can ever be clearly defined. It depends on a variety of factors kicking in in the specific context.

1411. **Mr Anderson**: Have you an idea how we as legislators should try to tackle the two issues?

1412. **Dr Jarman**: The International Labour Organization (ILO) gives indicators around what forced labour is. Going back to clause 7, I believe that there is a need for information out there, particularly for the police, in order to ensure that all officers are more aware of the various factors that can be seen to constitute forced labour. Similarly, various agencies with employment responsibilities need to be aware of the issues and be looking for them. Clause 2 contains something of a definition of slavery offences. Linking those and making some reference to the ILO

position might be another point that you can make. However, a lot of this is down to the capacity of those on the ground who are going to investigate and about making sure that they know what they are looking at and recognise that it is a serious offence.

1413. **Mr Soodeen**: On your specific point about legislation — it is important to do justice to Lord Morrow's work — one of the biggest problems for enforcement agencies has been that a lot of the existing legislation is scattered across, for instance, immigration law and the Coroners and Justice Act 2009. We need a clear Bill with a clear definition. The relationship between legislation and action, and how that is mediated through money and resources, is always interesting. However, even having a clearly defined Bill would represent an advance, albeit a small one.

1414. **Mr Anderson**: May I ask an overall question? What additional measures would you like to see added to the Bill to strengthen the approach that we take to forced labour in Northern Ireland?

1415. **Dr Jarman**: We made the point that, for references to victims of trafficking, as in the first couple of clauses, which talk about human trafficking and slavery offences, we would like to see human trafficking and slavery offences run through the headlines of all the offences there so that there is not a difference between human trafficking offences here and forced labour or slavery offences. That would mean that the latter are not seen as lesser offences for which the victims do not merit the same level of support.

1416. Clause 7, which is around resourcing an investigation, could flag issues such as intelligence-sharing on a specific issue. Highlighting the need to address cross-border dimensions could be another element that is revised or included in the clause. The cross-border element is an important dimension because of its uniqueness in the Northern Ireland situation.

1417. The only other point that I will flag up — this was not included in the Joseph Rowntree Foundation submission — relates to the UK Government's draft Modern Slavery Bill, which you heard about in a previous discussion on sentencing levels. Under the draft Bill, the Government have highlighted the importance of treating modern-day slavery as a very serious offence and raised the sentences for trafficking and exploitation for forced labour to life sentences. To my mind, if Northern Ireland has a minimum tariff of two years, there is something of a discrepancy between the two jurisdictions, and I think that you might need to reflect on that. If the British Government are pushing through a higher level of tariff and seriousness for England and Wales, that perhaps needs to be considered for here, too.

1418. **Mr Anderson**: Is that something that you would like to see?

1419. **Dr Jarman**: It needs to be recognised that modern slavery is a serious offence. I think that it would be an anomaly to have in the UK two very different sentence levels for the same sorts of offences.

1420. **Mr Soodeen**: To add to that, again going back to the Bill, JRF has an equivocal attitude to the provisions on, for instance, the rapporteur, because we think that, although it is useful to inject political accountability at one level, you also need operational coordination. On the point about there being existing legislation and regulation, it is about using that properly.

1421. The term "joined-up government" is overused, but, to give an example, Westminster's announcement last week about a renewed campaign on the enforcement of the national minimum wage very much directly intersects with what we are discussing. On Neil's point about things such as indicators, it is really only by pursuing those lines as much as possible and understanding how they fit together that you get a better sense of the true scale of the

problem and are then able to make a difference.

1422. **Dr Jarman**: We have the beginnings of structures to respond to some of the issues, through by bringing people together. For example, we have the Organised Crime Task Force and the Northern Ireland Strategic Migration Partnership (NISMP). Therefore, I think that we can build on what we have.

1423. **Mr Anderson**: Thank you, gentlemen.

1424. **The Chairperson**: Ms McCorley is next.

1425. **Ms McCorley**: My question has already been asked.

1426. **The Chairperson**: Great.

1427. **Mr Humphrey**: Thank you both very much for your presentation. Neil, I think that you said that you were steering clear of saying anything, or were not willing to say anything, about clause 6. Why?

1428. **Dr Jarman**: Because the presentation is based on the research that we have done, and that research has been into forced labour. JRF is coming from the basis of an evidence-based presentation, and our assessment is based on that.

1429. **Mr Humphrey**: It is nothing to do with the —

1430. **Dr Jarman**: No.

1431. **Mr Soodeen**: We just do not have anything on it.

1432. **Mr Humphrey**: I just wanted clarification.

1433. **Dr Jarman**: I have read the debates from the Chamber — there have been plenty — and I felt that more light needed to be shone on the issue of forced labour.

1434. **Mr Humphrey**: You mention the cross-border element and, obviously, the weakness of the UK's position because of the land border with the Republic. Frank, on the movement of people and their being trafficked against their will, will you make your report known and give a copy to the Irish authorities?

1435. **Mr Soodeen**: That is a really interesting question. We have always operated within the boundaries of the United Kingdom, so that has not come up, I am afraid. Going back to Neil's point on the specific relationship that exists here, I can say that the research is there, and it is there to be used by policymakers and officials. We hope that you will show it —

1436. **Mr Humphrey**: Will you make it available only if the Irish authorities ask you? You will not proactively send a copy to them.

1437. **Mr Soodeen**: We could easily do so. Everything is available publicly on our website, and that could be promoted globally.

1438. **Mr Humphrey**: That would be useful, because it is an issue that faces both jurisdictions, and the border means nothing to those who are being abused and trafficked.

1439. **Dr Jarman**: When we did the report in 2010-11, we looked at that issue. People thought that there was an issue there but could not identify it. They now seem to be able to identify something. I have been talking to people working in the NGO sector in Dublin, and I know that they have been pushing for a better legislative response from the Government, so it may be something that we will have to have a —

1440. **Mr Humphrey**: That would be useful.

1441. You talked about the small number, Neil, and the belief is that, for forced labour, there are fewer than 10 cases annually.

1442. **Dr Jarman**: That is the official figure at the moment.

1443. **Mr Humphrey**: That is the point. Those are official figures, but it is such a clandestine industry that no one really knows. Those of us who were in Stockholm in December are aware that, for example, young women who were being abused and forced into prostitution who came from Romania were being managed from Bucharest. It is very difficult for the Swedish police to trace and track people when the root of

the evil is in Romania. Given the nature of this illicit industry, do you agree with me that perhaps the low figures are much higher because of a lack of bona fide, robust information and statistics?

1444. **Mr Soodeen**: I cannot make a supposition about the Northern Ireland figures specifically, but we commissioned Alistair Geddes, who is a human geographer at the University of Dundee, to attempt to come to a reasoned conclusion about roughly the scale of the problem of trafficking for labour exploitation by looking at the official figures and thinking about all the other proxy data sources that we had. Other people have done that before — for example, the Work and Pensions Committee in the UK Parliament — and came roughly to a safe level. The official figures were probably around 10% to 15% of the real figure, so, for the UK, Alistair Geddes arrived at a figure of around 3,500 people. That comes with a lot of different caveats applied, but we stand by the conclusion that the problem across the UK as a whole runs into the thousands.

1445. **Mr Humphrey**: Neil, we are going to hear from the Department of Justice later, but its draft consultation states that, from the evidence available, it appears that the level of human trafficking and slavery in Northern Ireland is lower than in neighbouring jurisdictions. In your experience, and given the work that you have just finished, is that your view?

1446. **Dr Jarman**: I have not looked at levels in comparative terms. What I will say is that I do think that there is probably more of it than is currently acknowledged, and in diversity of forms. We have started to see small numbers of children being trafficked into Northern Ireland, including for forced labour, and that did not really register as an issue two or three years ago. The more that we dig, the more that we acknowledge it and the more that we direct people to look at it, the more that we will recognise that it exists. Another reason that there is probably more of it than we think is that, as you open up the cross-border dimension, people coming into Dublin can see it as a route into the UK, and vice versa. When people first started talking about trafficking for sexual exploitation, the response was almost that none of that was happening here. However, as soon as we started looking at it, we recognised that it was happening and that it was a growing problem. I suspect that it is the same with forced labour.

1447. **Mr Wells**: I think that you are the only group that does not mention clause 6, in all the scores of groups that have contacted us. I think that we are well covered on that aspect of the legislation. However, I want to ask you this one question: do you not consider a woman who is trafficked into Northern Ireland for the purposes of prostitution to be someone who is being forced to work, and, therefore, does that person not fall into the category that you are concerned with?

1448. **Dr Jarman**: The Joseph Rowntree programme explicitly excluded exploitation for sexual purposes from its remit partly because there was a lot of work being done on that, and it was seen to be the main focus of the work, and partly because there was a need to look at exploitation for labour purposes other than sexual. Therefore, yes, it is a form of labour exploitation, but it is a distinctive form, and the Joseph Rowntree Foundation does not, as far as I am concerned, have an evidence base to engage with that issue. As you say, there are plenty of other people who are prepared to talk about it.

1449. **Mr Wells**: For obvious reasons, I read your report with particular reference to the fishing industry. It is an issue of concern for me. You cited the 2008 issue, in which I was involved, about the Filipino workers who left Northern Ireland. They were treated dreadfully. They were getting $525 a month to work in incredibly difficult conditions. They were sleeping on the boat between Christmas and New Year's Day in dreadful conditions and with no heat. I telephoned some of those gentlemen in the Philippines, and four of them were making every effort that they could

to get back to Kilkeel to do exactly the same. I asked them why, and they said that they accepted that, by UK standards, they were being treated very poorly but that, by Filipino standards, $525 a month was an absolute fortune. They felt that it was the only way in which they could earn money to sustain their families in Manila. How does it constitute trafficking or forced labour, if the men want to come back?

1450. **Mr Soodeen**: This goes back to definitions, and one of the important things about the definition of the term "forced labour" is that it is maintaining someone in a situation at work in which they are under threat or penalty that they did not agree to voluntarily. Therefore, it is the difference between a group of workers who are being underpaid and exploited — you might argue that that is just a "force of globalisation" issue. However, it applies particularly in cases in which you brought them in on a different deal and are using their vulnerability and the threat of force, or are withholding documents, and so on, to impose something on them that they have not signed up to. That is an instance of forced labour.

1451. **Mr Wells**: You do not see someone who wishes to come back, albeit to be treated to a standard that is unacceptable in a Northern Ireland or UK context, as trafficking or forced labour?

1452. **Mr Soodeen**: It is interesting, because it could be trafficking for labour exploitation, as opposed to trafficking for forced labour. That goes back to Neil's point, which is that, on the spectrum, there is an enormous grey area, and that is one of the reasons that enforcement is so difficult.

1453. **Dr Jarman**: Often it is difficult to identify people and get them to come forward, and the problem is the argument that you make, which is that the money is better or the conditions are no worse than they would be working in another area. A person working in one of the enforcement agencies said to me that the point is that this is the UK, in which there are other terms and conditions, employment laws and regulations that people have to abide by. Therefore, it does not really matter. The fact is that laws or employment regulations are not being adhered to and people are being exploited, even if they are apparently willing to be exploited.

1454. **Mr Wells**: I raised this point last week, and it is worth asking again. It is a question that troubles me. Some of the people who are being trafficked come from dreadfully poor countries, such as Vietnam and Moldova, where conditions are absolutely awful. The choice for many of those people is between absolutely appalling conditions or wretched conditions. In other words, even though they are being badly treated and trafficked in the UK, they are better off materially than they would be back at home. Those are the sorts of choices that such people are making, and we are trying to impose a Western white man's view of things — an Anglo-Saxon view of things — on people who, by our standards, are wretchedly poor. No matter how badly treated they are in the UK, they are still better off. How do you deal with that?

1455. **Dr Jarman**: Were you to ask them a slightly different question about whether they would prefer to be paid a national minimum wage, offered housing that met certain standards for heat and have sufficient food to live on — as Frank said, decent employment conditions — or working in the conditions that you have described, they would probably say that they would prefer the former. It comes down to something like that continuum, where the conditions in their home jurisdiction may be poor, and, as such, they are prepared to accept something better. We should at the very least aspire to the same sorts of conditions that we would expect for everybody from a UK background.

1456. **Mr Soodeen**: There is a further dimension to that. One of the reasons that JRF got into this issue in the first place, which goes back to our core mission of addressing poverty and injustice, was a recognition that forced

labour can, at the more vulnerable end of the labour market, act as a further downward drag.

1457. You asked why we should be concerned. Yes, there is an issue about people's choice and autonomy, but when it comes to the way in which we run our own society, what we think the standards are and what the opportunities are that we want to make available, we have to recognise that there is an interplay between a permissive attitude — what we call the pro-employer attitude — and the pro-worker attitude that would not just affect those individuals but inevitably have a knock-on effect on what people who were born and raised here can access.

1458. **Mr Wells**: That is a very good answer, which will probably be quoted in the Chamber at some stage. That is very helpful.

1459. Finally, are you saying that you support the entire Bill with the tweaks that you have suggested? Are you happy with the concept and willing to support it?

1460. **Mr Soodeen**: Yes. We think that it takes us further than where we are. Obviously, it does not do everything that we want it to do. No piece of legislation can.

1461. **Mr Wells**: Since you made your submission, the Government on the mainland have published the draft Modern Slavery Bill. Would you have changed any of your submission to us had you been aware at the time of that legislation?

1462. **Mr Soodeen**: No. The omissions that we refer to in this Bill are largely omissions that continue to exist in the draft Modern Slavery Bill. In fact, when that Bill is presented to the Joint Select Committee, we will make exactly the same points to it around how to extend protection to victims of forced labour who are not necessarily victims of trafficking.

1463. **Mr Wells**: You may not be aware — we got this only this morning — that agreements have been reached between Lord Morrow and the Minister of Justice on certain technical issues, and that has moved things forward. That is hot off the press.

1464. **The Chairperson**: Finally, when we were in Sweden, there was an indication from the Stockholm authorities that people who had been trafficked into forced labour were being forced to engage in fruit picking and that type of activity but increasingly were also being used for sexual exploitation. In your work, have you identified that that mix of forced labour is taking place across a range of different activities that falls into the category of sexual exploitation?

1465. **Dr Jarman**: I have not come across that, nor has anyone raised it with me at this stage.

1466. **Mr Soodeen**: We have not come across the sexual exploitation side of that. It goes back to the point that we made in our submission about whether you can use your own good offices to push for the extension of the Gangmasters Licensing Authority (GLA) remit. We have evidence that as you press down on one area it pops up somewhere else, so we need to have something about how we make sure that our agency is responsive to what is a very changing landscape.

1467. **The Chairperson**: Do you think that it would be practical and beneficial to have separate arrangements in Northern Ireland in the form of additional powers?

1468. **Mr Soodeen**: Our understanding of the law is not necessarily that that is possible. We are asking that Lord Morrow and you all, with your own lobbying power and relationships with the UK Government, make the point that there are a whole number of instances in industries in which modern slavery is being identified, whether it is in construction or in hospitality care and catering, which the GLA currently does not cover. Again, that might be a way to make headway.

1469. **The Chairperson**: Do you want to follow up on that point, Mr Humphrey?

1470. **Mr Humphrey**: You made the point about pressure being applied and the

problem reappearing elsewhere. That is exactly why it would be useful for your piece of work to be given to the Irish authorities. You are talking about an intra-UK context, but, if pressure is applied in Newry, it can manifest itself in Dublin and vice versa. We are two member states in the European Union. The protection of workers is crucial. We do not want to be the soft underbelly for this issue if the Republic, for example, brings in legislation that is more stringent and tougher than ours or vice versa. We need to tighten up on that issue.

1471. **The Chairperson**: Thank you both very much for coming to the Committee. It has been very helpful for us.

16 January 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

Witnesses:

Ms Leanne Cochrane	*Northern Ireland Human Rights Commission*
Dr David Russell	

1472. **The Chairperson**: I formally welcome to the Committee the witnesses from the Northern Ireland Human Rights Commission: Dr David Russell, the deputy director; and Leanne Cochrane, who is a researcher. Thank you for taking the time to come to talk to us. The session will be recorded by Hansard and published in due course. I invite you to make some opening comments, and I am sure that members will have some questions. I hand over to you.

1473. **Dr David Russell (Northern Ireland Human Rights Commission)**: Thank you, Mr Chairman. The Northern Ireland Human Rights Commission welcomes and is grateful for the opportunity to provide evidence to the Committee. The commission does so pursuant to its statutory duty under section 69(4) of the Northern Ireland Act to advise the Assembly whether a Bill is compatible with human rights.

1474. As you will know, the commission has provided written advice to the Committee on relevant obligations in international human rights treaties ratified by the United Kingdom. In addition, we have directed the Committee to a number of soft law standards on human trafficking that may be of strong persuasive value in your deliberations.

1475. In advance of the Bill being introduced to the Assembly, the commission also provided advice to Lord Morrow. The commission is generally welcoming of the proposed legislation, to the extent that its purpose is to protect some of the most vulnerable members of our society. Moreover, it appears to do so by attempting to harmonise existing domestic laws and increase the level of protection for victims.

1476. To assist the Committee, I want to highlight some of the issues contained in the commission's submission rather than going through it verbatim: first, on the issue of human trafficking; and, secondly, on paying for a person's sexual services. The commission notes that the proposed sentencing of those prosecuted for human trafficking offences is a minimum of two years. Importantly, however, clause 4 provides for judicial discretion. This removes any risk of a blanket approach that would have run counter to human rights law and the requirement for proportionate sanctions and consideration of cases on an individual basis. On a related matter however, the commission advises that there is a need for the Bill to recognise the difference between adult and child offenders. In accordance with the UN Convention on the Rights of the Child (UNCRC), those under the age of 18 must be assured lesser culpability, and any sanction should be premised on the evolving capacity of the child and recognition that imprisonment should be a measure of last resort.

1477. Clause 8 suggests that victims will not be prosecuted if they have committed a criminal act as a direct consequence of trafficking. The commission advises that this should indeed be a strong presumption. However, victims of criminal offences, including those

committed by persons who have been trafficked, are, under human rights law, required to be guaranteed an effective remedy. There is a tension, therefore, in the proposal that we suggest be scrutinised by the Committee. The commission advises that, at the very least, any suggestion of blanket immunity for offenders should be removed.

1478. On clause 12, which seeks to establish a child trafficking guardian, the commission notes that the Council of Europe group of experts stated:

"a system of guardianship is essential to ensure the children's protection and rehabilitation, assist in severing links with traffickers and minimise the risk of children going missing."

1479. Speaking in the context of the United Kingdom as a whole, this group of experts also noted:

"a social worker or a voluntary advocate fall short of providing a legal guardian who can act independently with authority and uphold the child's best interests."

1480. The commission advises that the Committee scrutinise the current provision for unaccompanied children and examine, in particular, whether the critical independence aspect of the guardianship role is being met.

1481. On paying for the sexual services of a person and, more specifically, the subject of prostitution, the commission's advice is that the criminalisation of that activity is neither required nor prohibited by international human rights treaties. However, the commission reminds the Committee that the protection of vulnerable persons should be a matter of priority when addressing the question of what might be a reasonable and proportionate interference with the rights of others: for example, the extent to which the right to a private life may be interfered with by the Bill must be considered in light of the duty on the state to protect those who are forced into prostitution. In that regard, members may already be aware that, in 2012, the UN Committee for the Elimination of Discrimination against Women (CEDAW) welcomed the criminalisation of paying for prostitution in Norway. That law is not dissimilar to what is being proposed in the Bill. Crucially, the UN also advised on the need to study the effects of the new Norwegian law. Therefore, the commission welcomes the inclusion of a similar requirement to monitor impact in clause 6(6).

1482. One matter in the draft that is of serious concern to the commission is the fact that it does not extend criminalisation to include paying for the sexual services of a child. There may be a view that this issue is already addressed through the law in article 37 of the Sexual Offences (Northern Ireland) Order 2008. However, the commission today advises that the current legislation concerning children is, in its view, inadequate. It is an offence to pay for the sexual services of a child between the ages of 13 and 18 if the purchaser does not reasonably believe that the child is 18 or over. It is currently for the prosecution to prove that the purchaser does not reasonably believe that the child is 18 or over. It is, therefore, the case that the prosecution must prove beyond reasonable doubt that the purchaser did not reasonably believe that the child was over 18.

1483. Last July, CEDAW recommended to the UK Government that they revise their legislation by shifting the burden of proof from the prosecution to the purchaser of sexual services. The commission advises the Committee that, if clause 6 is implemented in its current form, it will be easier to penalise persons who pay for sex with adults than those who pay for sex with children. In the commission's view, children must be protected by the provisions of the Bill.

1484. Finally, the commission advises the Committee that the United Kingdom will be examined on the fulfilment of its obligations under the UN optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in June this year. The Bill provides a timely opportunity and will no doubt be considered by the United Nations with

regard to how Northern Ireland is moving forward to protect its children.

1485. **The Chairperson**: Thank you very much. It is timely that you are here. We got letters from Lord Morrow and the Minister regarding the minimum custodial sentences applying to children. There will be an amendment now to make sure that that is not the case; so, there have been some developments on that particular issue that I am sure the commission will welcome.

1486. **Mr Wells**: I am trying to tie you in. Are you in favour of clause 6? You seem to dance around it. You said that it is not necessary but it could not be prevented. You are the guardians of human rights. Do you believe it is right for anybody to have the right to buy sexual services from an adult or a child?

1487. **Dr Russell**: I am going to dance around it slightly again, but I will do my best to answer it directly.

1488. **Mr Wells**: Why, as the Human Rights Commission, are you dancing around it at all?

1489. **Dr Russell**: The commission will only premise its advice on what is available in the international treaties. I was clear from the off that there is no requirement in international law to criminalise or not criminalise the purchasing of sex from an adult. There is clearly the requirement in the instance of children. However, what the commission is saying is that we recognise that one of the primary driving purposes of the Bill is to protect vulnerable people, and we look to other international examples of what has happened in other countries, most notably the case of Norway, where international committees such as CEDAW have actually welcomed the criminalisation of the purchasing of sex. So, there is no human right one way or the other. The protection of vulnerable people is welcomed, in principle, and therefore the commission's view is that, that being the priority of the Bill, we welcome its thrust.

1490. **Mr Wells**: So, you do support clause 6.

1491. **Dr Russell**: Yes, we think that the principle of clause 6 is welcome.

1492. **Mr Wells**: As you know, since you made your submission, the Government at Westminster have introduced a draft modern slavery Bill. For all sorts of reasons, that has major implications for Lord Morrow's Bill. You recommended in your submission that clause 1 should be amended to reflect the international definition of trafficked human beings. If the definition that appears in the draft modern slavery Bill were transposed into Lord Morrow's Bill, what would your view be then?

1493. **Ms Leanne Cochrane (Northern Ireland Human Rights Commission)**: Do you have the definition that is in the draft Modern Slavery Bill?

1494. **Mr Wells**: I do not have it before me yet, but I am advised that there is a definition in it.

1495. **Ms L Cochrane**: Is it the definition of the international standards?

1496. **Mr Wells**: I do not know. I could soon look that up for you.

1497. **Ms L Cochrane**: We have not considered it yet, because it does not apply to Northern Ireland.

1498. **Mr Wells**: I think that is a reasonable response, given the fact that it has come very late in the day for us. It would be interesting if you would have a look at that to see if that changes your submission on clause 1. My next question is also on that same Bill, which has a different definition of trafficking. Again, presumably you have not had a chance see whether you would amend your submission on that either.

1499. **Dr Russell**: Let us assume that it does reflect the international standard and that it is brought into force in Northern Ireland and captured in the current Bill. Then, the commission would, of course, welcome it. What the international treaty bodies have called for is the harmonisation of domestic legislation with the international standard. The top end of the Bill is obviously quite complex

around definitions, because it pulls in a number of pieces of legislation that are already in place. If the answer to your question, when we go back to it, is that, for example, it reflects the EU trafficking directive, then yes, the commission would be in favour of it.

1500. **Mr Wells**: I thought you might have alluded to this in your presentation, but you did not do so. The Department of Justice, which has been lukewarm about the Bill from the word "Go" — let us be honest about it — and some parties in the Assembly oppose clause 4 because it sets a minimum sentence. They believe that that would fetter judicial discretion. Why do you believe that clause 4, as presently worded, would uphold the ability of judges to apply proportionate sentences as well as keeping within human rights standards?

1501. **Ms L Cochrane**: We gave extensive advice on clause 4 in our written submission. For us, the fact that clause 4 contains an exception allows for judicial discretion. In the light of that, we did not take an objection to clause 4 other than it did not explicitly articulate the different culpability of children.

1502. **Mr Wells**: So, you are content that clause 4, as worded, does meet international human rights standards.

1503. **Dr Russell**: It allows for a reflection of the severity of the offence. As we said in the opening statement, it allows for judicial discretion, because exceptional circumstances are written into clause 4. Our only concern with the clause is that it does not distinguish between children and adults as offenders.

1504. **Mr Wells**: The vast majority of submissions on this legislation have been on clause 6. At the last hearing a week ago we had three hours of amendments, and not one line of it was on anything but clause 6. Clearly, it is the contentious issue. However, I seem to get from your submission that you do not see anything inherent in the banning of the purchase of sexual services from a prostitute, or let us assume it is adults in this case, that contravenes any international human rights convention.

1505. **Dr Russell**: No, quite the contrary; if I was not clear from the off, I will try to say it now. To the extent that the purposes of that clause, and the Bill as a whole, is to protect vulnerable people, including those forced into prostitution, the question is whether it is reasonable and proportionate therefore for the state to criminalise that activity. In the commission's view, protecting vulnerable people has to be the priority. We are talking about trafficked persons, women and girls who are extremely vulnerable, and that should be the priority. Our general position is that we welcome clause 6.

1506. **Mr Wells**: What if the person is not vulnerable or trafficked? We had a representative from the International Union of Sex Workers here last week, and she said that she was perfectly happy to sell her services. How does that fall into your definition?

1507. **Dr Russell**: That may well be, but the question is whether it is reasonable and proportionate for the state, in order to protect the rights of the most vulnerable members of society, to restrict the rights of others. In the commission's view, those who are vulnerable should be the priority in this instance.

1508. **Mr Wells**: I agree on that, but you mentioned the right to private life. You do not see any conflict there. Someone may argue, "I have a right to exercise my right in my private life to buy the services of a prostitute, particularly if it is not a vulnerable person". That does not impinge that particular right under the European convention.

1509. **Dr Russell**: It certainly interferes with the right to private life — there is no denying that — but the question is whether it is reasonable and proportionate to do so. In the commission's view, it would be reasonable and proportionate to do so given the gravity of the offences being committed against vulnerable people.

1510. **Mr Wells**: I may come back later on, Mr Chairman, but that is fine.

1511. **Ms McCorley**: Go raibh maith agat, a Chathaoirligh. Thanks for the presentation. I want you to talk a bit more about the impact on children because these would be matters of grave concern. What further measures need to be taken to safeguard the rights of children?

1512. **Ms L Cochrane**: There are two issues, really. First, there is article 37 of the Sexual Offences Order, which David alluded to. Paying for the sexual services of a child is criminalised, but if the child is over 13 and under 18 the prosecution must first prove that the purchaser did not reasonably believe that the child was over 18. That is a very high burden of proof and CEDAW called that into question and asked that the burden of proof be shifted so that it would become a defence that the defendant, the purchaser, would have to prove.

1513. The second issue is that, if Lord Morrow's Bill passes in its current form, you will create the circumstance where it is easier to prosecute purchasers of sex with adults, because there is no mens rea, if you like, attached to that provision, than it is to prosecute the purchase of sex with children over 13 and under 18, because, first of all, the prosecution must prove that high threshold. That would have to be amended if the Bill goes forward.

1514. **Ms McCorley**: Do you believe that that could be easily done, that a form of words could be found that would provide that safeguard?

1515. **Dr Russell**: It is quite interesting. In the initial consultation by Lord Morrow on the draft Bill, it applied to everyone. It is only since it was introduced in the Assembly that the Bill was changed to apply to only those over the age of 18. The original draft went some way towards addressing the issue. There is some complexity about it in that the same issue, the burden of proof, is found in a number of pieces of legislation; but we do not see any difficulty with drafting the current legislation in order to shift the burden of proof. I am not a legislative draftsman, but I assume that it would be simple to draft a clause that could be introduced.

1516. **Ms L Cochrane**: We are not talking about statutory rape or anything like that; we are talking about child prostitution, and the international standards are very clear. There is a Council of Europe Convention in relation to criminalising the prostitution of children. Obviously, the laws that we have that also criminalise it have to be effective. That is what is really being called into question.

1517. **Dr Russell**: The other thing that I said in my opening statement is that this Bill is extremely timely. The United Kingdom will be examined for the first time on the option of a protocol on child prostitution, and the commission's view is that a proactive measure such as this to protect children in the jurisdiction would be looked upon favourably by the UN. No doubt the United Nations Committee will want to consider the issue given that this is in passage at the minute.

1518. **The Chairperson**: Can you elaborate a little bit more about the immunity aspect in clause 8? In Lord Morrow's Bill currently, if you are the individual selling the services you would be immune from prosecution. Can you elaborate more on the Human Rights Commission's position on that?

1519. **Dr Russell**: Clause 8 deals directly with a person who has been trafficked having immunity from prosecution if they commit a criminal offence that is directly associated with the trafficking offence. Looking at the international standards, the best way that I can put this is to say that there is strong, persuasive value as to why you would want to do this given the vulnerability of trafficked persons. The commission is extremely mindful that, although what is being talked about here is regardless of whether someone has been trafficked or not, there is another victim as a result of the criminal offence that has been committed. They

also have rights, including the right to an effective remedy.

1520. Although there may be a desire, on behalf of the Assembly, to allow a clause that would have that strong, persuasive value, given the vulnerability of trafficked victims; as a direct consequence of trafficking, who knows what sort of offence may have been committed? It could be anything from theft to murder, and, as the Bill is currently drafted, the gravity of the offences that could fall within its remit are not captured, in the Commission's view. Our concern is that there should not be blanket immunity from prosecution for trafficked victims, but that we should recognise their vulnerability and that they might be forced into committing certain criminal offences. However, there should certainly be a mind to protect the victims of these criminal offences as well.

1521. **The Chairperson**: So, there is merit in trying to find something in legislation that recognises the benefits of the non-prosecution of the victim if a form of words can be found?

1522. **Dr Russell**: It would be the non-prosecution of the offender, if the offender was a trafficked person and if the criminal offence was as a direct consequence of them being trafficked. However, as I said, this needs to be balanced against the right to an effective remedy for the victim of that crime.

1523. **The Chairperson**: OK. Any other members?

1524. **Mr Elliott**: Chair, just on that point; that is a quite interesting analysis, David. I am concerned about this, as drafted, being abused by people who indicated that they were being trafficked but may not have been trafficked. Do you see any difficulties with that aspect?

1525. **Dr Russell**: You raise a hypothetical scenario, but it is not a lot different to the one that I have just raised about the different types of offence. We have not looked at it in any detail. It would be interesting to know, for example, what the Public Prosecution Service's view might be of something like this. A degree of discretion should be afforded to the Public Prosecution Service regarding which criminal offences it does or does not pursue. I can only repeat that the commission is concerned by the concept of blanket immunity for trafficked victims from being prosecuted for criminal offences. Anything that suggests a blanket approach generally raises a human rights flag; in this instance, it would concern the rights of the victims of the criminal offence.

1526. **Mr Elliott**: I think than you are saying that the general principle of what is suggested is OK but it needs amending to ensure that it is not abused.

1527. **Dr Russell**: Exactly.

1528. **The Chairperson**: Members have no other questions. Thank you very much for coming to the Committee. We appreciate it.

30 January 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr William Humphrey
Mr Alban Maginness
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Ms Rachel Moran *SPACE International*

1529. **The Chairperson**: I formally welcome Ms Rachel Moran to the meeting. She is a founding member and European coordinator of SPACE International. This meeting, as with others on the Bill, will be recorded by Hansard and published in due course. I will hand over to you to make some opening comments. If we can try to contain that to around 10 minutes, that would be helpful, and members will then have questions for you. Ms Moran, thank you very much for attending.

1530. **Ms Rachel Moran (SPACE International)**: I am the European coordinator of a group called SPACE International. SPACE stands for Survivors of Prostitution-Abuse Calling for Enlightenment. All the women in our group have lived through prostitution and are committed to the abolition of the sex trade, which we know to be simply compensated sexual abuse. There are 17 members in our group, and it spans five countries, which are Ireland, the UK, the USA, Denmark and France. We also have close working links with women in Australia, South America and Canada. It is worth pointing out that we are far from the only survivors group. Abolitionist groups made up of formerly prostituted and sex-trafficked persons are springing up all over the globe, and some of them are much larger than our group.

1531. A shift is taking place in the world. In recent years, different countries have been coming down on one side or the other, and let me be clear when I tell you that there is no middle ground. You will, during your deliberations, doubtless be presented with the idea of New Zealand's total decriminalisation model as some kind of Utopia. If it is a Utopia for anyone, it is the punters and the pimps. It is not a utopian experience for any woman to have her body reduced to the status of a living commodity for the benefit of a sex-buying man. It never has been and it never will be, and, if it were even possible that it could be, we might have saved ourselves the years that we spent blocking out those experiences with alcohol and drugs, just as each of us might have saved ourselves countless hours in the aftermath spent sitting in a therapist's office. As a good friend of mine once queried, "If their orgasms are so harmless, why did I need years of therapy to get over them?". Far from being some kind of middle ground, New Zealand is simply a free-for-all where prostitution has been socially sanitised and, as an obvious consequence, the demand for it has risen. When any government sanctions prostitution as socially tolerable and above-board behaviour for men, demand will rise. That has been proven in the Australian states where it has been legalised, and in Holland, Germany and every other country, state and county where men are told that it is OK to buy sexual access to women's bodies. Of course, in response to the inevitable rise in demand, there is the inevitable rise in supply, and the number of brothels and women exploited in them rise, exponentially in many cases. Demand dictates supply. It is simple economics.

1532. What you will not be told by the proponents of the decriminalisation model is that many New Zealand citizens have had enough of it and are calling for a change in the law to make

the purchase of sexual services illegal. Some of those citizens are formerly prostituted women, and the Government there have put together a committee to consider the public backlash against the law. I will read a short excerpt from a report written in relation to that:

"Former prostitutes and their advocates are calling for clients of sex workers to be prosecuted, saying the decriminalisation of the industry has failed them.

Freedom from Sexual Exploitation director Elizabeth Subritzky told Parliament's justice and electoral committee the only solution to the damage that prostitution caused, and the violence it created, was to prosecute buyers of sexual services through a reform of prostitution laws.

The Prostitution Reform Act decriminalised brothels, escort agencies, and soliciting when it narrowly passed into law by one vote in 2003.

The act not only encouraged more men to buy sex, but transformed prostitution into an acceptable, even attractive job for young, poor women in New Zealand, Subritzky said."

1533. Committee chairman Scott Simpson said the committee would consider the petition and release a report next year.

1534. The proposed Bill concerns itself with human trafficking, and we are well aware that the contentious element is clause 6, which criminalises demand for paid sex. Obviously, it is prudent to take a look at the effects of similar legislation that is in operation elsewhere. The purchase of sex has been criminalised in Sweden for 15 years but, in almost half that time, in 2007, Jonas Trolle, an inspector with the Stockholm police prostitution unit, said:

"we have significantly less prostitution than our neighbouring countries ... We only have between 105 and 130 women — both on the Internet and on the street — active (in prostitution) in Stockholm today. In Oslo [in neighbouring Norway], it is 5,000."

1535. Another relevant aspect of the ban is the reduction in the number of foreign women being trafficked into Sweden for sex. The Swedish Government estimate that, in the past few years, only 200 to 400 women and girls have been trafficked each year into Sweden for prostitution, while, in neighbouring Finland, that number is 15,000 to 17,000. Those figures speak for themselves, and I should not need to add a lot to them, but if anyone is unmoved by them, they might want to compare the murder statistics between Sweden and Holland in recent years, which stand at one versus more than 170.

1536. Let me state that it is not possible to defend prostitution without defending all the harm and damage it causes. Therefore, it is not possible to be pro-women in prostitution but not pro-prostitution, as some argue for upholding the sex trade. Nor is it possible that prostitution could be harmful in some cases and not in others. The harm and damage of prostitution is not open to subjective interpretation; it is an objective reality.

1537. The universal harm of prostitution is very often unwittingly acknowledged by prostitution's proponents. Very often, I have heard those who propose that prostitution is a choice state that sex trafficking is a horrific crime against humanity. They are right, but they never explain why and how, if prostitution is not intrinsically damaging, being forced into it should be so horrific. What if women were kidnapped and forced to work as hairdressers, secretaries or florists? Would the proponents of prostitution consider that a horrific crime against humanity on a par with sex trafficking? No, they would not. The mantra that prostitution is ordinary work is simply a lie, and we all know it.

1538. It is not some sort of arbitrary coincidence that prostitution weighs most heavily on women and girls. The truth, which remains obvious, regardless of the absolutely endless efforts to obscure it, is that prostitution is a highly gendered form of oppression. The truth is that women had to fight for the vote. We had to fight for contraception. Now, we have to fight for freedom from commercial sexual exploitation. Underpinning all those battles is one

fight: the fight to be recognised as fully human.

1539. Other groups are damaged by prostitution. Because the harm falls most heavily on prostituted women, people pay scant attention to the others, but they should. The truth is that prostitution is harmful to society generally, so of course it is harmful to all those within it. There are women up and down this island whose husbands are buying sex, week in and week out. Those women are left to deal with damaged marriages and, in some cases, irreparably damaged physical health, yet those women — the wives and partners of sex-buying men — are rarely seen to merit a mention. When they are occasionally mentioned, the proponents of prostitution conveniently sidestep their very real dilemmas and their right to live their life free of prostitution's poisonous intrusion. I have been personally contacted by some of those women and listened to what they had to say about destroyed marriages and shattered families. It is only right that we give voice to their position and the damage that prostitution has been responsible for in their lives. Please know also that they are very aware of how almost invisible they have been thus far in this debate, which only adds insult to injury.

1540. There are some who state that some disabled men need to use prostituted women for the sake of their health. That bizarre statement confuses wants with needs. It also endorses and encourages the categorisation of women into classes, some of whom must submit themselves to unwanted sex or face poverty. That argument, at the same time, pits one marginalised group — the disabled — against another — the prostituted — and insists that one has a right to use the other for the sake of their health. For the sake of our health, women need not be forced into a class that submits itself to unwanted sex, not for the benefit of the disabled or anyone else. Members of SPACE International know this because we have lived it. We are just glad that there are others who do not need to have lived it to know it. We fervently hope that we will be able to number the Members of this Assembly among them.

1541. Unfortunately, there are some who have not lived through prostitution and arrive at suppositions about the essence of it, which, in whole or in part, invert, ignore and deny its degrading nature. Those who have theorised these ideas into being feel entitled to regurgitate their hypotheses back to us as though they were facts. Being told that prostitution is suitable work by someone who thinks that they are book-learned enough to educate us about it is simply insulting. It is also wildly inappropriate. I wrote my thesis on Holocaust memoirs. That never gave me the impression that I had the right to dissect the nature of the death camps for those who had survived them.

1542. Any of you — I imagine that it is most if not all of you — who have lived through the worst of the Troubles will be able to relate to the sense of insult that I am talking about. Imagine that someone from the Republic of Ireland, England, Scotland or Wales studied the recent history of Northern Ireland and came here to educate you about it. That is what those of us who have lived prostitution are up against every day. We experience that negation of our lived experience from those in the medical profession, academia and, most bizarrely, from some in the human rights community who do not seem to recognise that women's rights are human rights. We find that most bizarre, because their position is at odds with several key UN human rights instruments, including the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which holds that:

"prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person".

1543. Article 6 of the 1979 Convention on the Elimination of All Forms

of Discrimination against Women articulates a similar position. The 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons similarly views prostitution as trafficking when it occurs under certain circumstances. The protocol also discourages the demand for commercial sexual exploitation.

1544. With regard to Lord Morrow's proposed Bill, I think that the Assembly needs to pay special heed to the 1979 convention, which obligates state parties to take all appropriate measures, including legislation, to suppress all forms of trafficking women and the exploitation of trafficked women. It has already been proven that legislation such as that proposed here suppresses trafficking in women. I do not know whether politicians here travelled to Sweden to speak to Swedish politicians, police and those who provide services for prostituted persons. If they have not, I urge that a cross-party Committee go there and see for themselves how the law is working. I met Swedish police twice to discuss this, and I travelled to Norway twice also. I am utterly convinced that this law is the only reasonable way to proceed. I say that for many reasons, not least of which is the normative effect at play here. A whole generation of young people has now grown up in a Sweden where purchasing the body of someone else to satiate yourself on is regarded as simply shameful, and so it should be.

1545. There are those, though, in our currently less enlightened part of the world who view prostitution as some sort of public service. Let me suggest that, if prostitution is a necessary public service, perhaps we should introduce a lottery-style system that would function much like jury duty, whereby the women of this island take their turn to sexually satiate sex-buying men. Every woman would be expected to undertake her civic duty and open her legs for any man who decides he has the need and the right to lie down between them, and every man would have to see his daughters, sisters, mother and wife being so used. If anyone in this room feels the queasy, oily sensation of revulsion that that suggestion ought to provoke, let me directly assert that, regardless of what position you currently hold or what you have come here to argue, you understand the noxious and abusive nature of prostitution. You do: you just felt it.

1546. That is the end of my statement. I am happy to answer your questions.

1547. **The Chairperson**: Rachel, thank you very much for those comments. I just want to get a bit more of an insight into who you are as an individual. Obviously, you have written a book, 'Paid For: My Journey Through Prostitution'. At what stage in your life did you get involved in prostitution and why?

1548. **Ms Moran**: I got involved in prostitution in August 1991, after leaving home 18 months previously. I spent those 18 months in intermittent residential care home placements, B&Bs and every type of residential care out there. I was moved consistently because that is how the system operated in Dublin at that time. During those 18 months, I was homeless for stretches of time ranging from a couple of weeks to a couple of months, and I knew that I just could not face that again. So, when I met a young man in his early twenties who came up with the idea of how I could provide for myself, I really did not have any options beyond that or going back to homelessness, and I was actually homeless at that time. Of course, what I did not know then was that I would be providing much more for him than for me. From that point, I spent seven years in prostitution. When I got out of prostitution at 22, I was no better off financially than I had been when I went into it. The only difference was that I had a roof over my head. I also had a chronic cocaine addiction. I returned to education two years later, at 24. I did well at the post leaving certificate (PLC) college that I attended and, the following year, I went on to secure a place on the journalism degree programme at Dublin City University. It was shortly thereafter, in, I think, second year, when I began to write that book.

1549. **The Chairperson**: It is a remarkable story. As someone who was involved in prostitution for that period and who is now a very strong advocate on behalf of survivors, you are supportive of Lord Morrow's Bill. What have been the consequences for you of being so outspoken and articulate in voicing your views on prostitution?

1550. **Ms Moran**: The first thing that happened to me was that, within a week or 10 days of my 'Late Late Show' appearance, which was timed for the day the book was released, I had my front door hammered down by grown men who shouted that they were looking for Rachel Moran. I was not home at the time. My family were there — my brother and son. That went on for two consecutive days, and they were terrified. They said that there was an extremely aggressive manner and it was obvious that somebody wanted to hurt me. So, I had to involve the guards. They put the house under surveillance for about a week after that. It was a very frightening time.

1551. I have had a lot of support from the Irish people. I have had a lot of goodwill. I have also had some really disgusting experiences, the worst of which, besides having those strangers at my door, was the time, several months back, when I was walking through a tunnel near my home. About five young men in their early or mid-20s followed me into the tunnel, laughing and joking about how much fun it would be to gang rape me. They were saying, "She's a prostitute. Get stuck into her" and that type of talk. That should give women in prostitution a perfectly clear view of the degradation that they are marked out for.

1552. **Mr A Maginness**: Rachel, that was a very powerful statement and I thank you for it. You said that you thought legislation of this kind — the criminalisation of the purchase of sexual services — would have a normative effect. Will you expand a little on that? In your letter to us, you talked about other legislation that had had similar effects in changing attitudes and values, for example towards drink-driving, indoor smoking and so forth. Would you like to expand on that point?

1553. **Ms Moran**: Sure. I am 37, and I remember that, when I was a child, in my teens and in my early 20s, the idea of getting into a car and driving home, zigzagging all the way, drunk out of your mind, was considered highly amusing. It was simply laughed at. It has been really only in the past generation — the past 10 or 15 years — that it has come full circle with legislation in the Republic to the point where doing that is an absolute disgrace. Were a person to get into a car drunk and drive home in that condition, they would keep it to themselves; they certainly would not discuss it in public. It is similar as far as smoking is concerned. You simply do not smoke in a workplace now; you would not even consider it. To just light up in a pub or anywhere else, with no regard for anyone, would be considered extremely ignorant, arrogant and all other things negative.

1554. My point in the notes that I sent was that legislation drives human behaviour. It is the one sure thing that will change and shape social attitudes, along with behaviour. That is what the law exists for in the first place, and it is working in Sweden, Norway and Iceland — it absolutely is. In Sweden, a person who pays for sex would be considered very desperate. It would be considered that a man is challenging his own masculinity if he had to pay for sex, and that is exactly how it should be because that — along, of course, with a lot of other extremely damaging behaviours — is what he is doing. The normative effect of this law will be absolutely huge. It is very curious and interesting to me that it has been shown that a majority of the older population in Sweden — people in their 50s, 60s and 70s — support the law but not in the same vast majority of 80% plus that young people do. Teenagers and younger people have grown up with the law. This is the way that it has always been for them. That is the world now, as they understand it.

1555. **Mr A Maginness**: An argument has been put forward by those who are, in

real terms, against clause 6, which is that prostitution is a choice for women. I know that you say it is not a choice for women. There is an argument that at least some women — a significant minority — go into prostitution, make that choice for themselves and do well in that context. I suppose that you might call it the "happy hooker" argument. What is your view on that?

1556. **Ms Moran**: I have a couple of views on that. The first is that, in seven years, across every aspect of the sex trade — I am not proud to say it, but I was everywhere on the spectrum — I never met a woman who would fit that profile. I never met a woman who went into prostitution in a circumstance where she was choosing from a range of viable options. People talk about choice, but they really should talk about viable choice, because there is a difference.

1557. I am not a legislator — you are — but I am sure that it is perfectly obvious to everyone around this table that, if you are going to legislate, it has to be for the majority. You cannot legislate for the 1% or the 2% or even the 20%, which, believe me, it is not. You cannot legislate for the minority. I do not think I have ever seen an example of legislation that is geared towards a minority anywhere on Earth. It makes no sense.

1558. **Mr McCartney**: Thank you very much for your presentation, Rachel. We met you before Christmas, and I received a copy of your book, for which I thank you. Obviously, your testimony is very powerful and it is your own very traumatic experience, so I want to be careful about the sensitivities of the issues. However, we have received and will receive evidence in which people have contended that the process of criminalisation to date has not tackled prostitution, but, in fact, has driven it further underground and made women more vulnerable. How do you feel that clause 6 will, if you like, buck that trend or prevent it from happening?

1559. **Ms Moran**: First, of course you are going to hear those types of testimonies from people who do not want this law in place. The evidence from the Swedish police force shows consistently that sex trafficking is down massively. I have met Simon Hagström from the Stockholm police prostitution unit and listened to him deliver presentations about what is going on over there. I also listened to a German police officer when I was in Brussels in recent months. That man was practically wringing his hands at the situation in Germany, which is completely unrestrained and totally out of control. There are too many young eastern European teenagers and young women to count. They do not have a clue what to do over there. I am quite sure that the countries where matters are totally out of control, and they are, will, eventually, end up having to look at the Nordic model. There is already talk about that among politicians in Holland, of all places, which really should say it all.

1560. The bald fact is that people are always going to refute the evidence when it does not suit their argument. You are going to hear a lot of that, and my advice, as I said, is to get over to those countries and check them out for yourselves. By all means, visit Germany and Holland as well if a fair comparison and balance is what you are looking for. That would be a good idea.

1561. **Mr McCartney**: I was not among the Committee members who went to Sweden, but my party colleague, Rosaleen, who is not here today, provided us with an account of that visit. It is interesting that some people say that, although sex trafficking has reduced under the Swedish model, the demand for sexual services has not.

1562. **Ms Moran**: The demand for sexual services most certainly has dropped in Sweden.

1563. **Mr McCartney**: That is the area of contention. Some say that it has, and some say that it has not.

1564. **Ms Moran**: Of course people will say that the demand has not dropped, but the reality is that, when men know that the act of purchasing sex

is criminalised, they know that they already have one foot in a jail cell. Even if we did not have the statistics, which we do, it would only stand to common sense and reason that men would be reluctant and less likely to purchase sex if it were criminalised. It is nonsense for anyone to say that there is no drop in sex purchase in Sweden when, consistently all over the globe, evidence has been collected from punters. It is worth looking into the Boston study, in which 101 or 102 sex-buying men were interviewed. They overwhelmingly said that what would stop them buying sex in Boston would be if they were liable to get a criminal conviction or end up on the sex offenders register. It makes no sense to pretend that that does not have an effect on the behaviour of sex-buying men.

1565. **Mr McCartney**: In your book, you talk about the many women who have been coerced and trafficked. There is very good law on coercion and on sex trafficking, but it does not seem to be employed. Have you any view on that, and why do you think that, if this law were brought in, it would be pursued with any more rigour, given the obvious failure at present?

1566. **Ms Moran**: There are a lot of factors, some of which are outside my understanding, for why the current laws are not more effectively employed. Ruhama gave a presentation here recently, and I am curious about whether its representatives were asked the same question. I remember having a discussion with Sarah Benson, and she talked about the legalities and trafficking having such a heavy penalty attached to it. I think that she said that it carried a life sentence, which in some way impeded the police in carrying out their duties. I am sure that it is broader than that, but that is my understanding.

1567. **Mr Anderson**: Thank you, Rachel, for coming along to the Committee today and for your powerful presentation. The Chair mentioned your book, 'Paid For: My Journey through Prostitution', in which you talk about drug and alcohol abuse being endemic. I know that substances can be used to numb the awful feelings that people experience having sexual activity. How common is drug addiction for people who work in prostitution?

1568. **Ms Moran**: It is absolutely rampant. However, one thing that is misrepresented or wrongly characterised in the media is the idea that it is about young heroin-addicted girls going onto the street and that being the main entry route into prostitution for young women as far as drug abuse is concerned. I saw that — it most definitely exists — but it was much more common for me to see women who did not have drug addictions in the first instance go on to develop them in prostitution. I was one of those women.

1569. **Mr Anderson**: It is interesting that you use the term "rampant". That tells a story in itself.

1570. **Ms Moran**: Yes, it is absolutely rampant. As I said, I worked indoors and outdoors, and, when I was indoors, I worked in massage parlours and escort agencies — the whole nine yards. The manner in which women abuse drugs and the types of drugs that they abuse shift as the spectrum shifts. In escort prostitution, most of us were cocaine addicts. Not too much heroin was done at that end of the market. I have always found that to be a very curious thing. I suppose it is the same as any other part of society really, in that sense.

1571. **Mr Anderson**: You also talked about being happy early on in prostitution as being simply unrealistic. A few weeks ago, a lady who gave evidence to the Committee said that she actually enjoyed working in prostitution. How do you respond to those claims?

1572. **Ms Moran**: I would ask her where women like her were hiding when I was on the game.

1573. **Mr Anderson**: You simply did not see that. You were just unhappy in prostitution.

1574. **Ms Moran**: While I was there, I never met a woman who told me that she

was happy in prostitution. We might have tried to pull the wool over other people's eyes, and we did, but we did not play those games with each other. As I said in the book, some lies are embarrassingly obvious.

1575. **Mr Anderson**: You would say that they were putting on a good face.

1576. **Ms Moran**: Yes. I did that myself when I was interviewed at about 16 or 17 years of age. I certainly did not want to tell a reporter whom I did not know from Adam the most painful aspects of my life that I had to deal with every day. I did not want to reveal that.

1577. **Mr Anderson**: You also said that prostitutes encounter violence as a matter of routine. That is a generality. Could you, for the Committee, elaborate on that?

1578. **Ms Moran**: First of all, prostitution is violence, and that is something that the world needs to wake up to. It is violence in and of itself. There is also the threat of physical violence, which is ever present and never goes away. When you are in a situation where your body is being used by somebody else to satiate their sexual desires, if you do not do what they say, then, in their mind, you are not delivering the goods. Those situations can turn deadly dangerous very quickly. However, the predominant violence that a woman is under in prostitution is the threat of violence and having to continually go along with things that she does not want to do and that are outside the contractual agreement that she has made. In that moment for that period of time, her autonomy has gone because she has sold it. That, itself, is an act of violence. Then, of course, the physical acts of violence are an occupational hazard. That is how you view it.

1579. **Mr Anderson**: As a follow-on to the subject of violence, there are those who suggest that criminalising the purchase of sexual services would make prostitution more dangerous. What are your thoughts on that?

1580. **Ms Moran**: A report was released in Norway a couple of years ago by a group that delivers front line services to women in prostitution. That group was called the Pro Sentret. The study found that violent battery and rape had dropped significantly, but the hair-pulling and name-calling had risen significantly. It released a public statement to say that violence in prostitution had gone up. I do not know whether that makes sense to anyone around the table, but it certainly does not make sense to me. Women's groups and human rights groups in Norway immediately refuted that, rightly so, and the Pro Sentret was forced into a public retraction of its own statement, which was based on its own statistics. It is simply not true that violence goes up. Like I said, if the man already knows that he is on the wrong side of the law, he is less likely to start knocking lumps out of her.

1581. **Mr Anderson**: I have one final question. What type of people buy sex? Are they men who treat you well; are they men who already have a wife or partner and suchlike? Is thinking about your welfare an exception to the rule?

1582. **Ms Moran**: Could you repeat the last question?

1583. **Mr Anderson**: Would they be an exception or would they, in some way, show some kindness towards their client?

1584. **Ms Moran**: You have to bring it back to the fact that prostitution is an act of violence in itself. It does not matter how gentle a man is, and it does not matter how nice he is. If he is putting his penis inside you for money, that is a violation. It feels like a violation; it is experienced and lived as a violation. The fact that you have 50 quid or 250 quid in your purse does nothing to erase that. In fact, in a way, the money is actually the crueller aspect of the contract because it puts a sense of culpability on you. Almost no woman is prepared to stand up in public and discuss and describe what that is like. There is a reason why women have been silent for so long: it

is exactly that shame and pain that has kept us quiet.

1585. You also asked about the type of men. When I was in prostitution throughout the 1990s, the men who bought me were usually three or four times my age. As I said, I started at 15 years old. By the time I was 16, I had a regular punter who was 83 years old. Certainly, sometimes you would meet men who were so ignorant that they did not understand the nature and depth of what you were going through. That I will concede: it is true. However, it does not make it any less traumatic when you are the person in the situation. There are men who buy sex from prostitutes to play out their misogynistic, women-hating fantasies on your body. I have had that experience so many times. It is a wonder that I can sit here and discuss it. However, it is the truth. What people do not understand — you can forgive them for that because they would have no way of understanding — is the type of interactions that you deal with every day in prostitution.

1586. I had one punter who used to love to rip at my nipples with his teeth. I was 16 years of age at the time. I absolutely hated and despised that man. However, sometimes, if you were on the corner for an hour in the winter, in the cold, and he came along, you would take what you could get. Many years later, long after I got out of prostitution, I picked up a newspaper one day and saw that he had been convicted of physically ripping off a prostituted woman's nipples with his teeth. The kick that he got the whole time — the fantasy that he came very close to playing out with me — was something that I always knew was in him. Nobody would have believed me, but the evidence ended up in the papers eventually. Those are the people you have to deal with in prostitution. Your body is just some kind of living thing with a pulse that they use to play out their fantasies. They could have gone into a sex shop and bought a blow-up doll that happened to have a heartbeat and a pulse. That is all you are to them, nothing more.

1587. **Mr Anderson**: Thank you, Rachel.

1588. **Mr Wells**: I have to say, Rachel, that you would need a strong stomach to read your book. I am sure that you will agree that it is pretty horrific. It is not easy to go through it. It is very revealing.

1589. I ask these questions because I have to and for no other reason. There is a chain of thought — we heard this in Sweden — that prostitutes provide a service to the severely disabled and those with learning impairment and that the only chance they have of having a physical sexual relationship is to buy it from a prostitute. You have already referred to that. In your experience and time in prostitution, was that a common issue?

1590. **Ms Moran**: In seven years of prostitution, I had one disabled punter. I am not likely to forget him. I was either 16 or 17 years old at the time. I know that because I was working on Waterloo Road. It was in the run-up to the 1993 legislation coming in. I have always remembered that man because we went into an underground car park that was barely lit because there were slats at the side where the street lights were throwing in shafts of light. I knew that he had some kind of unusual arrangement going on with the car that he was driving. I did not pay too much heed to that until we got out of the car. He had a set of crutches that he needed to walk. What I will never forget as long as I live is the experience of kneeling in front of this man, who was leaning up against the wall, and he dropped his trousers while I was kneeling at eye level to his groin area. He had the most twisted, deformed, distorted legs that I had ever seen or imagined. We talked about it afterwards, and he told me that he contracted polio when he was a baby when his parents had been abroad somewhere. I think that he said that his father worked in India when he was young. The man was in his late 60s. I will never forget the fright that I got and the fear because I had never seen such a deformity. It happened in an underground car park in the dead of night. That is the absolute extent of

men with disabilities that I had to deal with in prostitution. There is a lot that I could say about that. Like I said in our statement, it defies logic that one marginalised group should be allowed to use the other for the sake of their health.

1591. **Mr Wells**: We also heard from a representative from the International Union of Sex Workers (IUSW), who said that she had encountered very few pimps or those who control prostitution. Her view is that the vast majority of prostitutes are free agents operating willingly and earning money. They might have had a pretty wretched upbringing and this was the only form of income that they could have. In your experience, are pimps active in the Irish Republic?

1592. **Ms Moran**: First of all, let me say that it is amusing to hear a statement like that repeated to me from someone representing the IUSW because it is known, in our terminology, as the pimps' union. It is funny that someone from what we call the pimps' union would tell you that there are not that many pimps around. It gets that reputation because it is littered with pimps. Are there many pimps around? There are clusters of small organised gangs, and I was told that by the head of the trafficking unit in Dublin. A lot of them are foreign, and a lot of them are home-grown. They are Albanian, Romanian, African. They are from all over the place — the whole nine yards. Rather than having two or three big pimping cartels, we have hundreds of smaller operations that have six, eight, 10 or 12 women working for them.

1593. I will be careful what I say because I do not want to give out too much of somebody else's personal business, but, when I arrived in Belfast this morning, I met a young woman who was trafficked into this country and sold from gang to gang. I will meet her again when I leave here, and I am staying in Belfast tonight. The girl got in touch with me recently. She has a lot to talk about and a lot to work through. I wish that she was sitting beside me now because, if you want to hear about pimps, she would be the right person to talk to.

1594. **Mr Wells**: Finally, we will hear later from academics who have carried out research into this issue. Have they interviewed people like you who have come out of the industry and have quite a shocking tale to tell?

1595. **Ms Moran**: That depends on the academics. Some have a pro-lobby line and go out of their way to prove it and talk to the right people in order to be able to do that. That is very common. Unfortunately, for us abolitionist survivors, a good 90% of academics not only on this island but all over the place take a pro-lobby position. My feeling on that is that it is simply fashionable.

1596. **Mr Wells**: For instance, has Queen's University or Amnesty International talked to you?

1597. **Ms Moran**: No, not at all.

1598. **Mr Wells**: Yet you would be seen as one of the most high-profile survivors of this trade.

1599. **Ms Moran**: They would not dream of coming near me; I would not tell them what they want to hear.

1600. **Mr McGlone**: Thanks very much for coming along and being so open and candid with us. A lot of what you said has been prefaced by something being mandatory or compulsory and a compulsion to do this and having to do this and that. For the average person, where does that compulsion come from in all cases? We have heard about what is referred to loosely as the sex trade. We have also heard the other issues of some people who say that it is a life choice or a career choice. Could you put that to bed for us, please? Maybe that is the wrong analogy: could you explain to us where that compulsion comes from? In other words, when there is no choice — or is there any choice? You reached a point at which you made a choice, and you were successful in making it. You are now the product of that. You are extremely articulate and made the correct choice at that point for fear of the place that you had wound up in. Can you explain how that compulsion or force exists and the absence or lack

of choice for people to do what they can with their lives and the lifestyle choices that they make?

1601. **Ms Moran**: Let me first clarify that it is not compulsion that I am talking about; it is coercion. Coercion is rather like a string of beads: one leads to the next. By the time I was only one day in prostitution, I felt so dirty and so sullied that I could not imagine being the girl I had been the day before. After a couple of years have gone by, you have no education and no way of recommending yourself to an employer. You have no work experience. You have nobody in the sphere of normal life. By the time I got out of prostitution, I basically had to throw my address book in the bin because everybody surrounding me was prostituting, selling drugs, couriering drugs or selling drugs to women in prostitution. I knew several pimps. The people who surrounded me and those I ended up in the midst of because of the direction in which my life had gone never discussed the things that happen in normal situations. When I got out of prostitution, for example, as I said in my book, I had never heard the term "mature student". I simply did not know that, if you did not have your leaving certificate, you had any chance in life. I did not even have my inter cert, never mind my leaving cert, because I had been expelled from school at the age of 14. These are the things that happen: you get thrown out of a hostel, expelled from school and are out on the street, and you meet a man who is clearly exploitative, manipulative and knows what he is doing. You are five, six or seven years younger than he is, and you do not know what you are doing. I have seen that story play out far too many times to put a number on.

1602. **Mr McGlone**: You are telling us that that is a consistent pattern of abuse, backgrounds and associations with drugs in all cases. You are saying that people do not, as some might allege, choose that avenue?

1603. **Ms Moran**: I did not say that the pattern that I saw around me most commonly, and the one that I lived, was absolutely exclusive. I said that prostitution is riddled with it, and it is. As I stated about women who say that they are happy, it is their choice, they want to continue doing it and do not want the law to impede them in any way, I say that we do not make legislation for the minority.

1604. **Mr McGlone**: Also, it is not just women?

1605. **Ms Moran**: It is predominantly women and girls, but some men and boys and transgender persons are involved. However, I have to say that, in the seven years that I was in prostitution, those figures were absolutely tiny. They may be somewhat higher today. There have been shifts and changes, especially in the Republic, in the way in which prostitution operates for various reasons, including the Celtic tiger economy, and also the virtual nature of prostitution today. It has gone online. That was not the case when I was in prostitution. I got out in the year that all the online business began.

1606. **Mr Dickson**: Thank you very much for the information and the very personal way in which you described it to us. Patsy asked you about the number of men involved. Have you any sense, from your experience, of the number of women who are, according to the law, trafficked into prostitution and those who are not trafficked in Ireland? How many people have you met along the way who have been trafficked? Does your organisation count the numbers trafficked, as opposed to those who are, for the sake of argument, voluntarily in prostitution?

1607. **Ms Moran**: We have no way of counting in that manner. The reality is that —

1608. **Mr Dickson**: What is your perception or experience of that?

1609. **Ms Moran**: You would have to define for me exactly what you mean by trafficking. People have different interpretations of the term.

1610. **Mr Dickson**: There is a legal determination of trafficking. I am talking

about those people who, in the eyes of the law, are forced into prostitution.

1611. **Ms Moran**: I understand that but —

1612. **Mr Dickson**: I am just trying to get an idea of the balance of numbers.

1613. **Ms Moran**: The agencies that deal with the issue such as Ruhama — as far as I am aware, you do not have an equivalent up here — and the gardaí would be better people to ask for the figures. However, I do know that a massive number of women come into this country from very impoverished countries in South America and elsewhere who are led to believe that —

1614. **Mr Dickson**: That they are coming to other types of work.

1615. **Ms Moran**: No, I was about to say that they are led to believe that the shape and face of the sex trade that they are about to enter into is very different to what it actually is. I have heard of a lot of cases of women who have been told, "You will go in here, and you will have to see a few men each week. You will be able to do your English language classes, your computer courses and all of that". They then find themselves in their brothel servicing eight, nine or 10 men a day, seven days a week. That is not trafficking by the legal definition, but is it fair and just? We should ask that question.

1616. **Mr Dickson**: Have you seen trafficked people, who are in enforced prostitution and effectively locked up, coming in and essentially interfering in the patch that you had when you were operating?

1617. **Ms Moran**: I learn most of what I know about trafficking from the women who are out of prostitution only a couple of years. I am out of prostitution for 15 years. As I said, with the boom in the Republic of Ireland, there were massive shifts in prostitution. The influx of trafficked women was one of those.

1618. **Mr Dickson**: Clause 6 proposes what is described as the Swedish model, whereby the buyer of the service is criminalised. Should we not close that circle completely? You cannot expect us to believe that all prostitutes are innocent and all buyers are guilty. Maybe all buyers are guilty; certainly, under the Swedish model, they are. Should we not close the circle and make the total process a criminal process? In other words, should we not criminalise those who sell the service as well as those who buy the service?

1619. **Ms Moran**: I do not believe so, and I will tell you why. There are many reasons why I do not believe that. If I were to concede that we ought to do that, I would have to concede that I was deserving of being arrested the moment that I turned 18 years of age when, at that point, I had spent three years being abused as a minor, day in and day out, by the men of Ireland. What exactly would have happened on my eighteenth birthday? Would some magical fairy have come along and sprinkled sexual abuse fairy dust on my head so that I was transformed from an abused minor into a criminal? That makes no sense. I do not believe that anybody should be criminalised for their own exploitation.

1620. **Mr Dickson**: That is interesting. Thank you.

1621. **The Chairperson**: There are no other questions. Rachel, thank you very much. It has probably been one of the most difficult evidence sessions that we have heard in a long time, but you were right to speak so candidly. I certainly appreciate the evidence that you have given to the Committee. I think that you are an incredibly brave woman, and I thank you for coming to the Committee to help members to get an understanding of what goes on. Thank you very much.

1622. **Ms Moran**: Thank you for listening to me.

30 January 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Alban Maginness
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Mr Peter Bunting	*Irish Congress of Trade Unions*
Ms Pamela Dooley	
Ms Clare Moore	

1623. **The Chairperson**: Let me formally welcome Peter Bunting, assistant general secretary; Clare Moore, equality officer; and Pamela Dooley, chair of the Northern Ireland Committee of the Irish Congress of Trade Unions (ICTU). You are very welcome to the meeting. As with the previous session, this will be recorded by Hansard and the transcript published in due course. I will hand over to you to make an initial opening statement, and then, I am sure, members will have questions.

1624. **Ms Pamela Dooley (Irish Congress of Trade Unions)**: Chair and Committee members, Clare will read a short statement. Following that, I will tell two short stories of my experience in Northern Ireland. The three of us will then be happy to answer questions.

1625. **Ms Clare Moore (Irish Congress of Trade Unions)**: Thanks very much, Pamela, and thanks to the Chair and members. The Irish Congress of Trade Unions represents 775,000 workers, 51% of whom are women. In Northern Ireland, our membership extends to 220,000 workers across public and private sector workplaces.

1626. Human trafficking is a form of slavery involving the exploitation of women, men and children for the purposes of prostitution, sexual exploitation, forced labour or services or domestic servitude. Congress welcomes the Human Trafficking and Exploitation Bill and its purpose to tackle more effectively human trafficking and exploitation in Northern Ireland. We believe that the Bill does so in a number of ways, including strengthening protection for people in a vulnerable position and, in clause 6, criminalising the purchase of sex in Northern Ireland.

1627. We understand that the Bill is intended to protect victims from all forms of trafficking and forced labour. We welcome the fact that it offers a broad interpretation of victims, including victims of trafficking and slavery offences, and explicitly clarifies the definition of trafficking for labour exploitation to include forced begging and criminality. We acknowledge that not all trafficked persons are trafficked for the purpose of sexual exploitation, although we understand that most trafficking in Northern Ireland is for that purpose.

1628. The International Labour Organisation estimates that one out of every five forced labourers in the world is a trafficked person and further estimates that the minimum number of people in forced labour as a result of trafficking at any one time is 2·45 million, with about one in every three trafficked for the purposes of labour exploitation. More than 80% of all trafficked people are women and girls. Where trafficking takes place for sexual exploitation, that figure increases to 90%.

1629. The issues that the Bill addresses have been firmly on the agenda of the Irish Congress of Trade Unions since the passing of a motion at our ICTU women's conference in 2010.

In summary, the motion recognised that the trafficking of women and girls for sexual exploitation is a modern form of slavery and that an industry that severely harms women is a tangible form of human rights abuse. It further recognised that victims of trafficking have not made a free choice. Importantly, the motion committed congress to be part of developing effective and appropriate responses, recognising that the sex industry would not exist if there were no demand from men who buy sex. The motion urged learning from countries that have established good practice for dealing with sex trafficking, including criminalising the purchase of sex and decriminalising the selling of sex.

1630. Since unanimously passing the motion, the Irish Congress of Trade Unions has become an active member of the Turn Off the Red Light campaign, and we invited the campaign to address our biennial conference in 2011. The leadership of ICTU has spoken publicly in support of the Turn Off the Red Light campaign on many occasions. On one such occasion, general secretary, David Begg, stated:

"Having legislation in place that says we, as a society, do not believe it is acceptable for someone to buy another's body for sexual gratification, exploiting the poverty, past history of abuse or limited life choices of the person being bought, would send a very clear message that we are a society committed to equality."

1631. That was the context for congress consideration of our response to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. The response, which we submitted to the Justice Committee, was endorsed by both the ICTU women's committee and the Northern Ireland committee of the Irish Congress of Trade Unions. In putting on record our support for the Bill, we are pleased to join many other civil society organisations, including the Women's Resource and Development Agency, the Women's Aid Federation Northern Ireland and the Northern Ireland Women's European Platform.

1632. Recently, members of the women's rights committee of the European Commission agreed that the best way to combat the trafficking of women and girls for sexual exploitation is the so-called Nordic model, which criminalises sex buyers but not the women and girls who engage in prostitution. We agree with its views that prostitution is a violation of women's human rights and is a form of violence against women. We have also noted developments across Europe, including from members of the European Parliament who, joined by more than 200 civil society organisations, including the European Women's Lobby, have issued a call to Brussels in a campaign called Together for a Europe Free from Prostitution. They state their belief that European policies on trafficking will not achieve results as long as the impunity of procurers and sex buyers is not addressed.

1633. We note the recent publication of 'Human Trafficking and Slavery: Strengthening Northern Ireland's Response' consultation by the Department of Justice. Although we have not yet had an opportunity to consider the proposals fully, we believe that it is a positive step forward that the Justice Minister and Lord Morrow have given indications that they are working together to find areas of common agreement. We hope that that will present an opportunity for Northern Ireland to have extremely robust legislation on human trafficking and slavery.

1634. We understand that one of the most contested parts of the Bill has been clause 6, which calls for the criminalisation of the purchaser of sex. We have also heard the contention that the two issues of trafficking and prostitution cannot be conflated or dealt with adequately in one Bill. However, congress believes that demand for prostitution feeds trafficking, that the two issues are inextricably linked and that, to tackle trafficking, the demand for bought sex must also be tackled.

Many of the women involved in the sex industry had no real choice. Poverty and life circumstances combined with deception and exploitation are evident in many of their stories. We believe that for, most of those involved, prostitution is rooted in poverty, marginalisation and desperation and linked histories of abuse and violence. The trade union movement has fought for many years for decent work for all and, in that regard, we agree with Nelson Mandela, who said that decent work is about the right not only to survive but to prosper. The International Labour Organisation recently produced research that indicates that if you allow the sex industry to grow, you also allow trafficking for sexual exploitation to grow. Therefore, we support clause 6, which specifically legislates for the criminalisation of the purchaser of sex as a measure to discourage demand.

1635. Congress believes that measures to support people who want to find a way out of prostitution are vital, and we strongly urge that clear mechanisms of support such as education, training and counselling be laid down and that appropriate resources be allocated. Victims of all forms of exploitation must be able to seek help without fear of criminalisation, marginalisation or deportation. We support measures such as those introduced in Italy that identify trafficked people and other forced labourers as victims of crime rather than illegal immigrants. Measures that permit trafficked people to regularise their status, whether temporarily or permanently, in the country in which they have been exploited will encourage them to come forward to testify against traffickers because it removes the danger of immediate deportation.

1636. We are concerned to hear the remarks of the Council of Europe's group of experts on action on trafficking regarding information that victims of trafficking have been arrested, prosecuted and convicted on immigration or other offences. We support the call for authorities to step up their efforts to adopt a victim-centred approach and ensure that potential victims of trafficking are not punished for immigration-related offences. We hope that the Bill and the recent Department of Justice consultation will offer the opportunity for Northern Ireland to adopt such an approach.

1637. Congress is a broad organisation that represents more than three quarters of a million people on this island. The decisions that shape our policy are debated vigorously and democratically at committee stage and through delegate conferences. We welcome the wide debate that the Bill has initiated and commend the Committee for its vigorous approach in interrogating the issues. The Bill covers issues that congress has considered and debated, internally and externally, for four years. We are clear that, in speaking in support of the Bill, we represent the majority view of our 775,000 members.

1638. **Ms Dooley**: Thanks Clare. I am going to tell you a short story. On a Friday afternoon, I got a phone call in my office. It was from one of our members who lived in the flats across from the Royal Victoria Hospital. She said, "I have a woman with me who is calling for help. She can't speak our language other than to say the word 'help'." I went straight to the apartments to find a middle-aged woman standing with two of our members in the middle of the courtyard. She was from India.

1639. When we got the story from her it was that she had been here for between three and five years. She was working for, would you believe, a consultant paediatrician who lived in one of the apartments and had five children. This woman had not been allowed out of the house. She had not been given any wages. She had spent three to five years — she did not know how long she had been there — looking after the children, cleaning the house and was locked into the place where she lived. She was known by the family as an untouchable because she was from a different, and what they considered a lower, sect than they were. She had no papers and was in the country illegally. She had nowhere

to go, knew nobody and was living under those circumstances. That is what I call being trafficked. It was not about sex or prostitution; it was about using another human being as a slave.

1640. The police were brought in and were very good and reasonable with us. Ultimately, the chief executive of the Belfast Trust stepped in and we got somewhere for the woman to live and be fed. She had no money; she had nothing, and we fought to get her the wages that she was owed. That is what I call trafficking. What could such a woman do?

1641. I have a second short story. I do work in the women's prison and have come across women who have been trafficked as prostitutes. One woman was probably about 19. In the cell with her was her 10-month-old child. She had had the child to her pimp. She did not know that she was in Northern Ireland — she had never heard of Northern Ireland. She did not know that she was coming here to sell sex. That woman was to be deported, put on a plane to another country and then the whole cycle would start over again.

1642. I would like to think that we in Northern Ireland would treat people a little differently from how others treat them. I would like to think that we are human beings who would at least look after and ensure that people such as that 19-year-old, who have never had a chance for anything, would be given a chance and not just be stuck on a plane to be consigned to a life that, for the next 20 years, would be a repeat of the same. I think more of our people than to believe that they would do that.

1643. **The Chairperson**: Thank you very much. We will move on to questions.

1644. **Mr Humphrey**: Thank you very much for your presentation. I nearly thought that there was going to be something earth-shattering, Clare, and that you were going to agree with Nelson McCausland. *[Laughter.]*

1645. **A Member**: That would never happen.

1646. **Mr Humphrey**: I agree absolutely that prostitution is a modern form of slavery. As representatives of the trade union movement, do you believe prostitution to be a valid form of work?

1647. **Mr Peter Bunting (Irish Congress of Trade Unions)**: The clear answer to that, which I think you got from the previous witness as well, is that it is really about exploitation. It is very simple. We could not conceive it to be a valid description of work.

1648. **Ms Moore**: Some of the European statistics say that 60% to 80% of so-called workers in prostitution experience regular physical and/or sexual abuse. As Peter said, we could not say that that is a valid form of work.

1649. **Mr Humphrey**: In your submission you state that you:

"endorse the call made by the Women's Aid Federation NI for support systems to be put in place to enable women and children to get routes out of sexual exploitation".

1650. How crucial do you think the introduction of such services is in Northern Ireland?

1651. **Ms Moore**: The introduction of such services is vital. We work closely with Women's Aid and value the work that it does, but its resources are extremely limited, so congress supports the call for adequate resources to help women, girls and other people who are exploited to receive those support mechanisms.

1652. **Ms Dooley**: If you are talking about money, you could use the money from confiscated goods to set up a victims' trust fund to support some of those people.

1653. **Mr Humphrey**: It has been suggested in some quarters that it would be better if clause 6 of the Human Trafficking Bill, which criminalises the purchase of sex, solely considered prostitution rather than considering human trafficking and prostitution together. What do you think of that argument? How do you separate them?

1654. **Mr Bunting**: On the issue of the purveyor of sex being criminalised, there

was a very good example of how that would put some people off. In Limerick last year, five or six farmers from the area were convicted of purchasing sex in a brothel. I have no doubt that it will be a long time before any of those who were convicted — and who were named and shamed, to a certain extent, across the media in the Republic of Ireland — will seek further services in a brothel. We believe that such actions will help women who are being exploited.

1655. Having heard some of the questions, I assume that some people think that it will drive crime underground. Crime and prostitution are already underground in many circumstances anyway. I believe that, one way or another, even if you legalise it, it will become part of gang control anyway. That is what we believe will happen in one way or another, and it would just contribute to the further demonisation and exploitation of women. We are all for criminalising the purchaser of sex. One of my colleagues would probably be better placed to deal with human trafficking than I am.

1656. **Ms Moore**: As we said in our statement, we believe that human trafficking and prostitution are linked and that, if there is a demand for the sex industry, we will have mostly women and girls trafficked to meet it. That is our contention.

1657. **Mr Humphrey**: OK. Finally, some organisations and political parties in Northern Ireland have argued that the article 64A created by the Policing and Crime Act 2009 — which makes it an offence to pay for sexual services from someone who has been coerced — is enough to tackle the problem. Your submission suggests that you do not believe that that goes far enough. Why is that?

1658. **Ms Dooley**: It is not working; they are still on the streets.

1659. **Mr Bunting**: They are still on the streets, and people are openly purchasing sex. Two or three years ago around the Markets and Adelaide Street brothels were openly operating, and the police seemed inhibited from doing anything.

1660. You have to have confidence in the PSNI carrying out the law. It is not just about looking after women: there are pimps' gangs involved, and we need to stamp those out. It is illegal activity. We believe in the justice system, in law and order, in a peaceful and just society; we want to end the exploitation of any worker, and that means that the law needs to be strengthened. If so, perhaps you might ask the police whether they need the law strengthened. You do not read about people being prosecuted for those acts on a daily basis in the media. As the previous witness said, if the law was there, it could deter people from engaging in this activity.

1661. **Mr Humphrey**: I entirely agree with the point that you made earlier about the argument that it would be driven underground being a really weak one, because the assertion that you make is that it currently is underground.

1662. **Mr A Maginness**: Thank you for your contribution, which was extremely clear and representative of a wide section of workers in this country, as was democratically expressed at congress. We are grateful for your coming along and the authority with which you speak on behalf of workers.

1663. Mr Humphrey asked all the best questions, but in relation to the aftermath of human trafficking, whether it be women, or sometimes children and men, for sexual exploitation, but also those who, as Pamela described, are in forced labour: what do we do with the victims? We can have all the laws that we want, but, at the end of the day, we have women and men who have been brought to this country under false pretences, who have been enslaved and then they are discovered: what do we do? If we send them back to the countries from which they came, we are sending them back perhaps to danger, and we are certainly not doing them a service. What do we do?

1664. **Ms Dooley**: Somebody somewhere gave Rachel a chance to get out of prostitution and to do what she has done. There has to have been a

chance somewhere. Most, although I am not saying all, the women in those circumstances, given the chance, could change their lives. It is about how you give them that chance. What do you do to give them a chance?

1665. **Mr A Maginness**: If a person has been brought into the country illegally, they are, de jure, illegal immigrants and could be deported at any time. Should we not have some tolerance?

1666. **Mr Bunting**: I thought that we dealt with that in our submission. We think that there should be an attempt to integrate those people into Northern Ireland society, because deporting them is to send them back to the poverty and exploitation that they came from. There should be addiction counselling if necessary, training, education and then integration into Northern Ireland society.

1667. **Ms Moore**: As Pamela and Peter said, we should look at them as victims of crime rather than as illegal immigrants.

1668. **Mr McCartney**: Thank you very much for your evidence and its clarity. Laws are in place North and South to deal with the problem, but we have not dealt with it. You have to satisfy yourself that any piece of legislation that you bring in is adequate. Peter talked about the situation in Limerick. There is no law that outlaws the purchasing of sex, yet the law that was used in that instance was adequate. Why is it not employed more? That is my first port of call; will the law have the intended effect?

1669. People talk about the deterrent and say that laws sometime force behaviour. However, that is not an adequate reason to enact a law. People might say that it is a good idea to have a law that prohibits things in order to deter someone from doing them, but that might not be enough. Do you have anything to say about that?

1670. **Mr Bunting**: It is difficult to know where you are coming from, Raymond. Equally, you could ask whether you should legislate and, if not, whether you are legislating for the exploitation of women and kids in the main. I am certain that we would not be up for that.

1671. There are different gradations in where you come from. However, we maintain that you need strong legislation enforced by the relevant authorities. That is crucial. You could not listen to the previous witness, walk out of the room and say, "Hunky-dory, we won't do anything about it." If that testimony was not heart-wrenching and emotive to all of us who heard it, we are in the wrong place. It is up to you people to enact legislation that is robust enough to defeat the gangsterism, the human trafficking, the exploitation and the pimps who dominate that sector of our society. That is what is needed.

1672. We are very strong on this. One of the reasons is that I am a man. I am looking at the gender balance of the Committee, and it is not great. I do not know whose fault that is, however —

1673. **The Chairperson**: All the Committee staff keep us right. Do not worry.

1674. **Mr Bunting**: Lucky enough. They have a gender balance problem as well, by the way, but we will not deal with that.

1675. In all seriousness, the Criminal Assets Bureau (CAB) has come up with a solution — it is CAB in the Republic and the Assets Recovery Agency (ARA) here. That is a way of funding some of the training, the housing and the schemes. If there is a will, there is a way.

1676. I know that it is probably the oldest profession in the world — we hear that in the biblical sense — but we need to bring in stringent legislation to stop this exploitation, greed and all the rest. I do not want to get too moralistic, because I will be very close to my friends in the DUP to my left; not politically left, but the left-hand side of the table. It is a very serious matter, and I again refer to the testimony of the previous witness. No person having heard that could walk out of here and say that they are not going to introduce stringent legislation. We have to do something to stop it. It is rooted in criminality, personal

aggrandisement and gain to the detriment of women and children.

1677. **Ms Dooley**: There is good legislation in the UN, the Council of Europe and the EU. I ask you to get your legal people to look at those laws and take what is good in them and put it into our law in Northern Ireland.

1678. **Mr McCartney**: Peter said that we should listen to Rachel's testimony. It is there; I have met her and have read the book. However, you want what you do to have the intended effect. The easy thing for us all to do is to have a law and then sit back and cover ourselves in glory without thinking about the consequences. That is what we have to satisfy ourselves of. At times, the debate can be presented as those who are for the law saying that those who oppose it have an ulterior motive and never the twain shall meet.

1679. **Mr Wells**: That is right.

1680. **Mr McCartney**: Jim says, "That is right". That sums it up. Academics report that 110 people have been arrested in Sweden, three quarters of whom were never charged, because —

1681. **Mr Wells**: Seven hundred. You have been there, Raymond. We were told that it was 700 when we were in Sweden.

1682. **Mr McCartney**: That is precisely the point that I am making: there can be two versions of this. Some people say that the conviction rate is not very high and that, where it is high, it is done in a summary way. In other words, it does not go to open court; it is done behind closed doors, so no one beyond the arrestee and the investigators know it has happened. That is what you are weighing up. The last thing that we want to do, from our point of view, is bring in legislation and, five years down the road, we are back together saying, "That wasn't good enough. We missed this and we overlooked that. At the time, we covered ourselves in a sense of glory, but we didn't tackle the issue properly".

1683. **Ms Moore**: We referred to that in our statement; we commend the Committee for the vigorousness with which you have interrogated these issues. You are absolutely right that it needs to be looked at extremely carefully. Congress has looked at it extremely carefully as well. One of the reasons why we have come here today is to state very publicly our support for clause 6. I am not an expert by any means, but we have looked at some of the Swedish research. I know that there are different figures. We have also looked at some of the research coming out of Holland. Having deregulated the sex industry, they are having huge problems coming out of that. It is important that we look at the evidence from Sweden, but also that we look at the evidence from the Netherlands.

1684. **Mr McCartney**: Do you think that the Bill's provision for support services is adequate?

1685. **Ms Moore**: I guess that we never really think that support services are adequate. We endorse very comprehensive support services and resources being allocated.

1686. **Mr McCartney**: I was interested, Pamela, in your story about the consultant paediatrician. Was that person charged under criminal law?

1687. **Ms Dooley**: She took herself off across the water very quickly.

1688. **Mr Bunting**: It is another angle in dealing with human trafficking. It was certainly very big in Dublin; during the Celtic tiger, all the Dublin 4-ites would adjourn to their coffee and leave their nanny outside the door with a pram. There was huge exploitation going on. At one stage, they were talking about bringing in legislation that would have empowered the inspectorate to go into these houses where domestic servants were being used and abused and exploited as a reference point as well. The contract between the master and the servant was blatantly abused, and those people were imprisoned, in many stages, and not paid properly. It was well in excess of the normal weekly working.

There is something in that that you may wish to chat about as well.

1689. **Mr McCartney**: That is one of the issues. Read the Oireachtas report: they have that sort of view of whether these two issues should be put together. You see it here, and clause 6 possibly highlights that to a degree, but it nearly looks as though we are concentrating on one aspect of human trafficking. In other words, if we cracked this particular end of it, human trafficking disappears. There is no legislation or clause 6 saying, "What do you do with someone who trafficks people for forced labour?". There does not seem to be the same —

1690. **Mr Bunting**: We have examples of those around the border counties with the gangmaster legislation, but we do not have anybody in Northern Ireland who is empowered to be the inspectorate of that. We have somebody associated with Scotland who is our chief inspector. We have anecdotal evidence of massive exploitation and human trafficking into the mushroom sector around a lot of the border counties. There are here today, and they are down in the Republic tomorrow. They are in the Republic tomorrow, and they are back in Northern Ireland the next day. We need to deal with that in human trafficking as well.

1691. **Mr Elliott**: Thanks very much for your presentation. I note your comments, Peter, about your belief that the Committee does not have a great balance. Anyway, that is how it is.

1692. **Mr McCartney**: Rosaleen is absent today.

1693. **Mr Elliott**: You focused quite a lot on support services and integration. Can you put a wee bit more detail on it? By and large, we all support greater support services, but to manage that — can you put some detail on that? It is particularly, Pamela, your issue about the integration of the people, mainly the sex workers. Obviously I take Peter's point about there being human trafficking and exploitation in other industries as well. We cannot ignore that. Clearly, that is important if you want to reintegrate, or integrate, them into society. Will you put some detail on that?

1694. **Ms Dooley**: That is quite a difficult one, because organisations like NICEM and STEP are dependent on funding from different Departments, the lottery et cetera. Funnily enough, I was in NICEM this morning having a discussion on its immigration project, for which the money has just run out. The discussion was about them sitting with 700 cases.

1695. **Mr Elliott**: Having 700 cases of —

1696. **Ms Dooley**: Immigration. It all runs into the same thing. There is no money: it is gone. Anybody who comes in with a new case will have to be told no, and NICEM is going to have to try to farm out what it has to other organisations.

1697. Where is that cost going to end up? It will go straight back to DSD or OFMDFM, because when NICEM is not picking it up it has to go somewhere. Therefore, we are a little bit short-sighted, because we are talking about people who do not speak the language, have difficult problems, are homeless and cannot fill in forms. Those people end up on the street, and the problem ends up back with you in a different guise. So, somewhere along the line, we need some sort of joined-up thinking that looks at the issues as a whole, as opposed to a little bit of money here for that that runs out, and a little bit of money somewhere else. This is what we are talking about today — about the victims — so we are talking about a little bit of money for the victims. Somewhere along the line, it needs to be properly funded.

1698. **Mr Elliott**: Should central government take a lead on this and be more proactive? Is that what you are saying?

1699. **Ms Dooley**: Yes.

1700. **Mr Bunting**: We are certainly saying that there are immigrant populations across Northern Ireland. Some of them come to media interest, and others do not. The interesting thing would be some form of a working group between DEL, for

training et cetera, and Health for social work, addiction counselling and issues like that. A joint group there could be charged with funding and looking after those people who have unfortunately fallen into this exploitative sector of society.

1701. **Mr Elliott**: Would you like to give all of them the option of being integrated into this society?

1702. **Ms Dooley**: That is a big question.

1703. **Mr Bunting**: I do not know who "all of them" are. Sometimes when you say "all of them", Tom, we can get lost in the fact that there may be thousands. Do you know what I mean? The other idea is that it becomes a trail: come to Northern Ireland and get integrated. So, you need to be quite tight in one sense about that would happen. I am not really sure, and I have not thought out the solution to that particular question, to be perfectly honest with you.

1704. **Mr Elliott**: That is why I ask you for some detail, to be fair.

1705. **Mr Bunting**: I do not have those minutiae. We are only doing the broad thrust here within the parameters of the time we are allowed. Maybe the academics who will be addressing you later will have more detail, if their research was Northern Ireland-based, about the numbers involved. If there are less than 100 per year, we should certainly be able to finance their integration into society.

1706. **Mr Elliott**: I am sure that it is not, if Pamela is saying there are 700 cases of immigration.

1707. **Mr Bunting**: That is the number of people who are looking for citizenship.

1708. **Ms Dooley**: That is a slightly different issue. Helping the victims of human trafficking is a different issue to helping people who are experiencing immigration issues.

1709. **Mr Elliott**: I assume that you will not have an answer for my next question. Are there any costings for it?

1710. **Mr Bunting**: Certainly not, Tom.

1711. **Mr Elliott**: Just finally, I notice from your written submission that you are a member of the Red Light campaign. So, I assume that there is nothing in the Bill that are at odds with the Red Light campaign on.

1712. **Ms Moore**: There is nothing that we are at odds with the Turn Off the Red Light campaign.

1713. **Mr Elliott**: The Turn Off the Red Light campaign, sorry, yes.

1714. **Ms Moore**: No. We have looked at the evidence that the Turn Off the Red Light campaign presented to the Committee, and we support the aims of that campaign, which very much focus on clause 6, obviously.

1715. **Mr Elliott**: Finally, there is an issue around what is basically a broad-based amnesty in clause 8. Have you any views on that?

1716. **Ms Moore**: This is where there is no prosecution for victims of human trafficking. We have not fully concluded on that. We understand that the Law Centre has some reservations, but congress has not considered that completely. I think that I will reserve judgement on that clause.

1717. **The Chairperson**: Finally, and briefly, please, Mr Wells.

1718. **Mr Wells**: Peter, you and I have known each other since, at least, the Boer war. You never say "Never" in politics, but I never thought I would say this: for the first time in my life, I have actually agreed with every word that the Irish Congress of Trade Unions has said.

1719. **Mr Bunting**: That is progress, Jim, on your part.

1720. **Mr Wells**: What is even more progress, Peter, is that you quoted from the Bible. That is a first.

1721. **Mr Bunting**: We had a conversation about this before, comrade.

1722. **Mr Wells**: We did, about 50 years ago. Can I just clarify something? The

International Union of Sex Workers, which gave us evidence two weeks ago, is a member of the GMB, and the GMB is a member of the Irish Congress of Trade Unions. Does that mean, de facto, that the International Union of Sex Workers — a group with prostitutes and pimps in it — is actually a member of your organisation?

1723. **Mr Bunting**: That is correct, although, I am not so sure that they have members on the island of Ireland, by the way. My difficulty is that they are certainly based in London. I remember that I spoke at a May Day rally in London many moons ago, and they were there with a banner etc. I am not so sure that they are a vibrant, working organisation in Northern Ireland. As I understand it, the GMB primarily represents workers in Northern Ireland, so I think that it would probably have a number of members from the boilermakers and vat makers in Guinness in Dublin. Even allowing for that, if it has members from this branch of its union, this is the trade union movement. It is a bit like the coalition Government, Jim. We sit and we challenge; we discuss our policies. Sometimes people lose out on the policies, and sometimes they win. The policy is agreed in a democratic nature, and that becomes the policy of congress, and that is the policy for all trade unions.

1724. **Mr Wells**: It strikes me as somewhat odd that an organisation that quite openly deals in the type of trade that you and I would find so obnoxious is actually allowed —

1725. **Ms Dooley**: OK, can I answer that? As a trade unionist, as chair of the Northern Ireland committee and as a woman, may I say that, if I came across a group of prostitutes on the streets of Belfast who needed organised, looked after and supported, I would be the first one to do it. I would not ask the moral question, "Oh my goodness, should they be doing this or should they not?". If they needed support and help, that is what I would give them as a trade unionist.

1726. **Mr Bunting**: If they are being exploited, you represent them. I know that there is a bit of hair-splitting on this, but Pamela is right. We represent workers in all sorts of industries — some you might disagree with and some I might disagree with — but we represent them. We represent senior civil servants. Some people might have a problem with that, and some people may not. I do not, but all workers are workers. The interesting thing about it is, if we can improve their lot and if we can represent them here in this Building by putting forward ideas that come from them, we are doing the right thing.

1727. The other point is this: I was quite interested and enthused by looking at the banner in London. When I asked the question, it was a range of people. There were people from lap dancing clubs who may not do what other people do. There are different aspects of it. Anyway, the GMB —

1728. **Mr Wells**: You are trying to avoid an awkward question that is coming.

1729. **Mr Bunting**: No, listen: the policy of the Irish Congress of Trade Unions, as been decided through a democratic vote, is what is written in front of you.

1730. **Mr Wells**: What other union has its employers in the union as well as its workers? At this meeting two weeks ago, we were told that pimps are members of the International Union of Sex Workers. How unusual is that?

1731. **Mr Bunting**: It is terribly unusual, and, again, I did not hear that. I would have difficulties if gangsters were running and were part of the trade union movement — full stop.

1732. **Mr Wells**: I have checked the record.

1733. **Mr Bunting**: I will check the record. I want to make it clear that there are rules and regulations in all trade unions and the line is that conduct that is inimical to the interests of the members allows —

1734. **Mr Wells**: Laura Lee confirmed that Douglas Fox, who was one of the leading

pimps in the north-east of England, was a member of the International Union of Sex Workers.

1735. **Mr Bunting**: He was not in the Irish Congress of Trade Unions.

1736. **Ms Moore**: I am aware of that evidence. I read it this morning, and I noted that. GMB has membership on all Congress subcommittees, including the ICTU women's committee, which has vigorously debated this issue. So, the opportunity for it to raise those issues and to represent that particular section of its membership is there if it wishes.

1737. **Mr Bunting**: I have my doubts about pimps, to be fair.

1738. **The Chairperson**: I have a final question, and you sort of touched on it earlier. Some people will categorise people's positions as being on the left or as being a social conservative who is motivated by religion. Lord Morrow has always characterised this as social justice and has never mentioned religion as the motivation behind this. From the perspective of the Irish Congress of Trade Unions, what is the motivation behind supporting clause 6?

1739. **Mr Bunting**: It is to stop the exploitation of women. It is a social justice issue. It is a rights-based issue as well. People should have the right to determine their own future. Nobody who is compos mentis decides that they want to be exploited.

1740. **The Chairperson**: I thank you all very much for coming to the Committee and giving us your time.

30 January 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Tom Elliott
Mr William Humphrey
Mr Alban Maginness
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Dr Graham Ellison	*Queen's University*
Dr Susann Huschke	*Belfast*

1741. **The Chairperson**: I formally welcome to the meeting Dr Graham Ellison, who is a postgraduate research coordinator, and Dr Susann Huschke, who is a visiting fellow from Queen's University in Belfast. As before, this meeting will be recorded by Hansard and will be published in due course. I hand over to you to make some opening statements. Members will then have some questions.

1742. **Dr Graham Ellison (Queen's University Belfast)**: Thank you, Chair. I hope that everyone can hear me. I have a very soft voice, so I will try to shout. First, I thank the Committee for allowing my colleague and I to provide oral evidence. I am very mindful of the difficult task that the Committee is undertaking, and I am also mindful that, at times, individual members may feel bamboozled by claims and counterclaims that are made by all parties to these debates. I am also conscious that members of this Committee have asked very pertinent and relevant questions on some of these issues, and I hope that what I and my colleague say will assist the Committee in its deliberations.

1743. Before I begin, I commend Lord Morrow for bringing the issue of human trafficking into the public spotlight. Indeed, there are many aspects of his proposed Bill that I am in agreement with. Nevertheless, I also feel that, based on my current research, there are a number of issues in the Bill that have been oversimplified and which need further scrutiny and consideration. Some of these concerns have already been raised by the PSNI, the Public Prosecution Service and others, so I will confine the bulk of my remarks to clause 6.

1744. I will give a bit of background to the Committee about where I am coming from and why I am here. Currently, I am the lead researcher on a project funded by the British Academy and the Leverhulme Trust. This investigates the regulation of prostitution or sex work in four EU cities that have very, very different legal and regulatory frameworks in place. My co-researcher is based in the United States and the project consultant is based in Sweden. The cities in the study include Berlin, Prague, Manchester and Belfast. One of the aims of the study — but not the only aim — is to assess the regulation of prostitution in the light of the so-called Swedish system. You will notice that I do not use the word "model", and I will explain that later.

1745. In each city, we have adopted a similar methodology. We have investigated many aspects of prostitution, including on-street and off-street. We have looked at lap-dancing clubs, brothels, bars and massage parlours. We have spoken to police and politicians in each city as well as local government officials, health and outreach workers, business owners, sex-worker activists and anti-trafficking organisations, as well as a small sample of sex workers — again, including those who work on street and those who work off street. We have also spoken to representatives of the new trade union for sex workers established in Germany, called Sexwork Deutschland. This group campaigns for better working conditions for those involved in the industry. We have also, and I suppose, unusually,

examined the male sex work sector in each city, where males provide sexual services to other men and to women. In this respect, I am somewhat curious as to why abolitionist groups depict prostitution as violence against women, given the prevalence of male sex work in each city.

1746. Here are some of the issues arising from the research. The first general point that I would like to make is that it is impossible, in my view, to generalise about prostitution or sex work between jurisdictions or, indeed, very often, within the same jurisdiction. This can be seen even on a city-by-city basis within the United Kingdom, where differences are in evidence. This suggests to me that we need a local policy framework, and I emphasise the word "local". I am deeply sceptical about importing a particular model or system from Scandinavia to Northern Ireland, which, to my mind, has very different circumstances and characteristics. I will return to that point shortly.

1747. Few organisations, and the minority of those to which we spoke in connection with the study, viewed prostitution and trafficking to be the same issue. Indeed, one of the most prominent anti-trafficking organisations in Europe acknowledged that, although trafficking for sexual exploitation was an issue, not everyone selling commercial sex was trafficked into the sector. I am not going to discuss trafficking at length; my colleague will say a few more words about that. Suffice to say that trafficking is best seen on a continuum, ranging from the violently coercive, at one extreme, to those situations where individuals are complicit in their own trafficking, at the other.

1748. The explanatory and financial memorandum to Lord Morrow's Bill states that one of the objectives is "tackling the demand for trafficking", but the focus of the Bill is specifically on trafficking for sexual exploitation, through clause 6. However, as the Joseph Rowntree Foundation has documented, trafficking exists across a range of sectors in Northern Ireland, including seasonal agriculture and fishing. Indeed, I go further and suggest that, if the Bill really wanted to put a dent in trafficking, it should call for the enforcement of the minimum wage in the sectors I have just mentioned. A recent Home Office research report at the end of last year noted that sexual exploitation accounted for around a third of victims identified by the UK Human Trafficking Centre, with the remaining 70% concerning various forms of labour exploitation in a range of sectors.

1749. Prostitution involves the selling of commercial sex, obviously. However, if doing this project has taught me one thing, it is that it is impossible to generalise about any aspect of commercial sexual activity. Huge differences are apparent between the on-street and the off-street sectors, and we have extremes from the high-end escort sector to the street worker with drug-dependency issues and other social problems. For that latter group, selling sex is a symptom, not a cause, of other problems in their lives. However, a larger cohort, somewhere in the middle, are those men and women who see commercial sex as the best way of earning money or providing for their families in the circumstances. Some enjoy what they do; some do not, but do it anyway. Here, selling sex is often transient and opportunistic. However, we should be clear that the experiences of these groups are all different and impossible to generalise from one sector to the other. Unfortunately, many abolitionist groups and organisations do generalise. They generalise in two ways. First, a small number of women — no men, as far as I am aware — have written books that often graphically illustrate their very negative experiences as sex workers. Those narrative accounts are valid and important and are perhaps reflective of a reality as the person saw it. I have no wish to undermine anything that is said or written, but — this is an important "but" — those accounts represent one opinion. Is there any sense in which that opinion should be viewed or valued more enthusiastically than that of

someone who has a different view? Dr Brooke Magnanti wrote positively about her experiences as a sex worker in her blog 'Belle de Jour: Diary of a London Call Girl'. However, her account is not privileged in the abolitionist discourse. Is her view somehow less valid? How are we to mediate between the competing versions of experience?

1750. Secondly, abolitionists generalise in other ways, too. They generalise from the very narrow street-based sector to the entire arena of commercial sex. However, in practice, the street-based sector is relatively small, representing only 10% to 15% of the total sex worker population. What has happened is that the experiences of that relatively small cohort are being extrapolated to sex workers writ large. However, that is where the problem lies. Abolitionist groups often cherry-pick and distort studies in ways that the authors did not intend.

1751. One common claim, for example, is that prostituted women — their term — die younger. However, when you look at some of the cited studies, you find that they are epidemiological studies of street-based sex workers with heroin addictions and other problems. Of course intravenously injecting drugs is incredibly risky, and of course people with such addictions are more likely to die at an earlier age. However, it makes no sense to generalise from that sector to independent escorts who do not experience any of those problems. Indeed, even prominent abolitionists such as Melissa Farley grudgingly admit that the indoor sector is safer and poses fewer problems than its on-street counterpart.

1752. Other claims that I dispute surround around the age of entry into prostitution. For the record, the median age for the group of Irish-based off-street workers that I studied was 26. Therefore, what clause 6 in the Bill effectively does is homogenise a range of experiences about sex worker prostitution that is simply too divergent to introduce blanket legislation for.

1753. Thirdly, the Swedish or Nordic system has been wheeled out and held up as a panacea against trafficking, and its proponents have made many grand claims. I can perhaps hear some Committee members groan when I mention Sweden. However, Sweden deserves a mention if only because of the undue attention that it has received in these debates. I am sceptical of many of the claims made in support of the Swedish system.

1754. We need to be clear that the Swedish system was never — I emphasise "never" — designed to tackle human trafficking. Rather, it was driven by a number of prominent Swedish feminist activists at a particular point in Swedish history as a way of enhancing female equality in opposition to what they saw as patriarchy. Indeed, some of the proponents of the Swedish system take the debate to a level that I am sure some Committee members may not wish to go. I am happy to elaborate on that later if you wish, but I will not say anything about it at the minute.

1755. A lot has been said about Sweden, much of which is based on conflicting research or comes from official Swedish sources that have a particular interest in promoting the system. In a sense, the Swedish debate is something of a red herring. Northern Ireland is not Sweden and is, in fact, nothing like it. Even if we were to take the Swedish system at face value, it is still difficult to find conclusive evidence that prostitution has declined in Sweden. Indeed, a Swedish report from 2012 suggests that trafficking into the country continues to be a problem. I have spoken to representatives of online escort agencies who tell me that Sweden and Norway are fast-expanding and lucrative markets for their industry.

1756. Similarly, a recent article on the Swedish system noted that, in 2009, the Swedish Government reported 90 massage parlours offering sexual services in Stockholm. By 2012, that had risen to 250 in the city and 450 throughout the country. Even the street-based scene, which has admittedly declined in Sweden because of the

Internet, as it has done everywhere else, is blossoming again, mainly filled by economic migrants. However, those women, who have few rights and no resident status, are often pushed into the underground sex economy and are far more likely to be exploited and abused.

1757. I believe that the premise of the Nordic model, with its term "asymmetric criminalisation", where you criminalise the client not the seller, does not work in practice. In my view, it is impossible to criminalise only one actor in an exchange relationship. Researchers such as Dr Jay Levy have conducted detailed empirical studies in Sweden and found that, rather than get rid of prostitution, all that the legislation has done is push it to out-of-the-way locations where the risks to sex workers are more severe. He notes that a raft of legislation, from antisocial/nuisance orders to deportation under the Aliens Act (2005:716), is used against economic migrants who sell sex. Furthermore, enforcement of the law in Sweden has been patchy, as can be seen both in policing and in conviction rates in the courts. A study by Professor Don Kulick noted that, for evidential reasons, the majority of charges are dropped. Even if cases go to trial, the majority end up being dismissed. Professor Kulick suggests that the legislation has had such an impact on police resources in Sweden that, in the majority of cases, it is simply not worth the police's time to pursue the activity. Likewise, I am tempted to wonder whether, in Northern Ireland, with the huge challenges that face the PSNI from dissident republican activity, contested marches and flag protests, that is the best use of the policing budget.

1758. I am mindful of suggesting to a group of politicians that something is "politically courageous", to borrow the doublespeak of Sir Humphrey Appleby of 'Yes Minister'. Yet, in a sense, some aspects of the Bill are untested, and we simply do not know what the downstream consequences might be. I say that because one of my main research areas relates to what is called policy transfer: the effects of transferring policies from one jurisdiction to another, particularly between those with very different characteristics. Through my research, I am aware that, owing to differences in political cultures, diverse histories and local circumstances, very few policies are ever successfully translated. Indeed, most policies get lost in translation and have unanticipated or negative outcomes. It is the downstream consequences of clause 6 in particular that I respectfully ask Committee members to think long and hard about.

1759. What might, for example, be the consequences of driving prostitution further underground — even more underground than it may be at present — away from those areas where the police know that it is occurring? Might some sex workers feel that they need to appoint middle men to manage and set up bookings with their clients? Might that, in turn, create an opportunity for organised criminals and, indeed, paramilitary organisations to muscle in on the sector? What would be the political fallout, for example, if it transpired that a police officer had been lured to his or her death investigating an anonymous tip-off about prostitution in some derelict industrial park in the city? I sincerely hope that that never happens. If it does, the political consequences will be severe.

1760. It is one thing talking about importing a model; it is quite a different thing and, in my view, much more important to think about what the downstream consequences of doing so might be. What Northern Ireland needs is a local solution to a locally identified problem. I suggest that that could be achieved through existing legislative provision and better links and cooperation between the statutory authorities. In fact, some of what is currently practised in Manchester, England, might be a good starting point. A police officer told me when I was there that there can be no best practice ever when dealing with commercial sex, but that, in his view, there was certainly better practice.

1761. I am coming to the end of my little speech. Fourthly, I suggest in my written evidence that, for Northern Ireland, clause 6 is the equivalent of taking a sledgehammer to crack a nut. As far as I can tell, demand for paid sex is relatively low and, based on Ruhama's figures, certainly no worse than in Sweden. There has been only one prevalent study of men who purchase sex in Northern Ireland. From the sample of 540 men, just under 9% admitted to purchasing sex on at least one occasion. However, two thirds of the group said that the encounter occurred outside Northern Ireland while they were on holiday and under the influence of alcohol. Similarly, I do not believe that there is a particularly large or visible commercial sexual services sector in the jurisdiction, nor do I believe the cited figures for the money allegedly spent on it. I have read newspaper reports that there may be thousands, if not tens of thousands, of people involved in selling sex in Northern Ireland and that the industry is worth around £30 million a year. I have even seen a figure of £50 million a year quoted. Given that Northern Ireland is in the economic doldrums, where are all of these men getting the money?

1762. Comparatively, the social problems surrounding prostitution in the larger cities here are not as prevalent as elsewhere: for example, in London, Glasgow, Birmingham, Manchester or even Dublin. There are few public complaints and none since 2003. There have been only two prosecutions for trafficking for sexual exploitation, although I am really dubious about one of them. The street sector in Belfast in particular is minuscule and located in a mainly non-residential area. The pragmatist in me would suggest that we do not rock the boat. The situation as it stands can be managed by interagency cooperation to help those individuals who want help to exit. The PSNI have enough resources and legal powers to deal with coerced prostitution, and if the victim elements of this Bill are passed, then that is a benefit, too.

1763. Finally, I want to emphasise to the Committee that there is no way prostitution will be abolished or curbed. To believe or to suggest otherwise flies in the face of all the evidence. With or without this Bill, the selling of sex will exist and will continue to exist. Every attempt at abolishing or legislating against prostitution has failed throughout history, and I could make the same points about the illegal drugs trade.

1764. To conclude, for those Committee members who may be morally opposed to prostitution, there is, in fact, a way out. As politicians, you need to weight up the consequences of a piece of legislation and whether it may cause more harm than the activities such legislation is designed to prevent. In this sense, you can be opposed to prostitution but believe that a harm reduction approach based on regulation and interagency cooperation is the least worst option in the circumstances. That is all I wish to say, and I would like to thank the Committee for its patience.

1765. **The Chairperson**: Thank you.

1766. **Dr Susann Huschke (Queen's University Belfast)**: I am also thankful for the opportunity to talk to you today. I welcome the debate that this Bill has inspired, but I would like to present some of my concerns, particularly about clause 6. I will not talk for more than 10 minutes, so please try to bear with me.

1767. I am a visiting fellow at Queen's University Belfast. I am trained as an anthropologist. My PhD research focused on illegal migration and health in Germany. At the moment, I am conducting a study on sex work in Northern Ireland that focuses particularly on the subjective experiences of people selling sex, for example, regarding emotional well-being, stigma and personal safety. For this study, I have so far interviewed a small number of sex workers as well as service providers and other experts in this field. I also just recently conducted an online survey that targeted people selling sex in Northern Ireland, other

parts of the UK and the Republic of Ireland. That survey was just completed within the last few weeks, so that is why it is not in the written evidence that I sent to the Committee. My research project is ongoing, and the points that I wish to make today are based on preliminary results.

1768. I would like to stress here that one of the baseline assumptions of my research is that the perspectives of sex workers are a valid source of evidence on these issues. I do not agree with approaches that, for example, argue that women, men and transgender persons selling sexual services simply do not realise that they are being abused and exploited, that their own assessment of their situation is based on false consciousness and that they need researchers, service providers or politicians to tell them what they really feel and experience.

1769. I appreciate the difficult task that lies before the Committee members to get a comprehensive overview of the research evidence that exists on prostitution and trafficking, and to compare and critically reflect on the possible policy solutions. However, I am concerned about the ways in which evidence has been used in this debate. Dr Ellison has already presented examples for the abuse and misrepresentation of evidence. I would like to add another example to make this point more explicit.

1770. One of the main arguments of those in favour of this Bill and the criminalisation of clients is that sex work, from their point of view, always constitutes violence and abuse. They support this claim, for example, by arguing that the majority of sex workers started selling sex when they were underage. This argument is explicitly presented, for example, on the website of the Turn Off the Red Light campaign, which also presented evidence here in one of its 10 facts about prostitution. It states that prostitution is not an issue of choice because 75% of women in prostitution became involved when they were children, so, under 18. The website cites as a source a conference paper by Professor Margaret Melrose from 2002. I read the original paper and learned that Professor Melrose's research specifically investigated child prostitution in Britain, therefore, she recruited participants who had started selling sex before the age of 18, that is, who had experienced child sexual exploitation. So, the 75% is not based on a representative study of the entire industry. I also emailed Professor Melrose to ask her about this rather distorted use of her study, and she replied to me saying:

"The findings were never intended to suggest that 75% of all women involved in sex work become or became involved before they were 18, only those included in the study, and as we were looking at adult women who had become involved before they were 18, this is hardly surprising. I am aware that the work has been used by those who argue that all sex work is violence against women. It is not a position I adhere to myself."

1771. Let me be very clear. I am not saying that there are no young people in the sex industry who are being exploited and abused; all that I am saying is that I would like to see more of a critical engagement with the sources and evidence employed in the debate.

1772. At the beginning I said that one of the assumptions that guides my research is that sex workers themselves need to be heard in the debate, so I would now like to present some more of the results of my research. The online survey was distributed via various websites that people use to advertise sexual services in Northern Ireland and the Republic of Ireland, as well as in the rest of the UK. I received 104 replies, although not all the respondents answered all the questions. As Dr Ellison pointed out, whether someone works on the street, in an apartment or in a hotel can make a huge difference. Most studies cited in the debate focus on street-based sex work. At the same time, we know that the Internet now plays a major role in the sex industry, so an online survey has the advantage of targeting a sector of the sex industry that is often excluded from studies, that is, Internet-based sex work.

1773. To provide a counterexample for the flawed statistic cited above, in the responses to the survey, only one of 80 people who answered the question said that they started selling sex before the age of 18. The majority of them started between 18 and 35, and some even started doing sex work at the age of 40 or 50. My study, like many others before it, shows that there are many different reasons why people start selling sex. The main question that many in the room may have in mind is whether those people were at any stage forced, tricked or coerced into selling sex against their will; that is, were they trafficked? Two of the respondents to the survey said that, yes, they were forced against their will at some stage during their time as a sex worker. That is two people too many, but it is not the majority of sex workers.

1774. So, what is it that leads people to start selling sex if they are not forced to do so? Many respondents to the survey said that they liked the flexibility and being self-employed. For example, one respondent wrote:

"It's supremely flexible. No other job could allow me to care for my mother, who has Alzheimer's, and provide a comfortable home for my family within the few hours I have available to work."

1775. The most common reply, however, was that it allows people to be financially independent. I asked people to estimate how much they earn in a week from sex work. The replies show that the income range is rather wide in the sex industry. It ranged from about £100 a week to more than £1,000 a week. I also asked people how much that is compared with what they earned in other jobs before, because that is a relevant thing to think about. Some 90% said that it was more than they earned in whatever kind of work they were doing before sex work. So, it allows people to pay their bills, but, on top of that, the money is used to save up, pay off debts, pay for education and, most commonly, to provide financially for family members. As one Hungarian respondent put it:

"It allows me to provide a future for my children".

1776. That also relates to my previous research on undocumented or illegal migration. It is important to keep in mind that the vast majority of economic migrants, including mobile sex workers, move to another country to earn money not just for themselves but for their partners, children, parents and siblings.

1777. What are the consequences for sex workers of criminalising clients? I am now going to read you several replies from sex workers, as that is really the core of the debate. They are the ones who deal with those clients on a regular basis. These are all individual quotes from the survey:

"It won't change. You'd just drive it underground where it would be more dangerous".

"It won't make much of difference really because so many people haven't a clue about the law as it stands."

"It would mean that good, responsible, polite clients would be less likely to book me."

"I don't think the unpleasant ones would care, and the robbers and rapists are already criminals anyway".

"Clients would become more nervous, more willing to deal with a third party."

1778. The third party mentioned in the final quote would be, for example, a pimp.

1779. I also asked how the law would change the situation for those who sell sex, and some of the responses were as follows:

"The safety of escorts would be affected, as they would feel the need to reduce their rates

in order to get business."

"Sex workers would be pressurised to accept more difficult and dangerous clients in order to earn similar money."

"We would have to go underground as we would try and protect our clients so they do not get arrested."

"It would make things much worse than they are already. It would create more crime and crime-run sex rings, and drive it further underground."

"It would increase stigma."

1780. Only one out of 60 replies stated that this legislation would make things safer for sex workers. None of the people who replied to the survey was in support of the Bill. All the other respondents felt that it would not change anything or, if it did, it would be for the worse.

1781. Let us assume for a moment that the criminalisation of clients would drive away the good clients and leave the bad. Even if that were the case, fewer clients would not actually mean less sex work, let alone less trafficking. The opposite is true. As I said earlier, sex work generates income that sex workers, particularly migrant sex workers, rely on. They cannot simply stop selling sex and return to a great well-paid job in their home country. That is not the reality of labour migration, and many of the British and Irish sex workers probably also do not have a lucrative job outside the sex industry waiting for them, as a comparison between their current income and income earned before sex work shows. Sex workers may have to reduce their rates and, therefore, would have to work more to earn the same: that is, take on more clients. They would start working in more dangerous settings, such as on the street, to make a living; engage in unsafe practices, such as not using condoms, because that often pays better; or they would have to collaborate with third parties, who would help them to find clients rather than work independently. That opens the door to exploitation, and indeed, organised crime and trafficking. Again, that relates to what we know about undocumented migration. People who can move from one country to another legally, like me for example, do not need the services of traffickers and are less vulnerable to exploitation. However, those who are excluded from legal labour migration, yet desperate enough to get out of their home country because of economic hardships, are the ones who end up relying on organised crime to facilitate their migration project. Similarly, the fewer options that sex workers have, the more marginalised and stigmatised they become, the less power they have to determine the circumstances in which they work, and the more likely they are to be exploited and abused.

1782. One last point that I would like to make is that the responses also addressed the issue of stigma, something that I have already highlighted in my written submission. When the respondents were asked about the negative aspects of their job — "What do you not like about doing sex work?" — the main replies were: "the stigma"; and "having to hide what you do and be worried about being exposed", especially for British and Irish local sex workers. It was not the sex itself, the emotional damage or feeling abused — although some people did state that too. The view that criminalisation of the clients would harm sex workers is even shared by people whose experience of sex work was not all sunshine and roses. One of the people whom I interviewed in person was a woman who had sold sex in Belfast city centre for seven years. She looked back on her experience with mixed feelings and recognised that it was harmful to her emotional well-being in some ways. However, she also said that she did not approve of clause 6. She said:

"All that it would do is push it underground, make it a deeper darker secret, add to the stigma, add to the taboo, make it more seedy than it already is. If they wanted to truly stop prostitution, especially streetwalking, they need to decriminalise it and they need to be more helpful and more attentive to the needs of the people who actually do it."

1783. Thank you very much for your attention.

1784. **The Chairperson**: Thank you for your statements.

1785. **Mr Wells**: Dr Ellison, do you remember writing an e-mail to an academic on 13 September 2013?

1786. **Dr Ellison**: No.

1787. **Mr Wells**: I will remind you of what you said in that e-mail. This is in reference to clause 6.

"Why have you hooked yourself up to that lot in the DUP? Have you any idea where

they stand for in terms of social issues around women's rights generally, women's reproductive rights, gay and lesbian issues, and so forth? In terms of gay and lesbian politics that I have an interest in, they are one of the most repressive and socially backward parties you can imagine."

1788. The next word I will not use because it is deeply offensive and it is a swear word.

"Who knows how many gays and lesbian young people in Northern Ireland have committed suicide because of this bloody party? I can also remember not long ago, five or six years, that the party, i.e., the DUP, was claiming that rape within marriage was impossible. They are simply latching onto this idea about sex, that it is grounded in biblical teaching and not in feminist theory."

1789. Dr Ellison, I put it to you that your opposition to this clause in this Bill is more because of your prejudice against the DUP than —

1790. **Dr Ellison**: Actually, it is nothing of the sort.

1791. **Mr Wells**: Did you say that?

1792. **Dr Ellison**: Yes, and the person you are talking about is Ms Gunilla Ekberg, presumably.

1793. **Mr Wells**: That is your phrase, not mine.

1794. **Dr Ellison**: It can go on the record that that is the person I wrote to because I felt that I wanted to clarify a number of the issues that she and I were in sympathy with.

1795. **Mr Wells**: So, you have no objection to the entire email being published. There is more to come.

1796. **Dr Ellison**: You have obviously got your hands on it —

1797. **Mr Wells**: It has been referred to Queen's University in a formal complaint against you. That is where it is.

1798. **Dr Ellison**: That is fine.

1799. **Mr Wells**: So, that is your view on the DUP. Give me examples of —

1800. **The Chairperson**: Mr Wells, before you go on, do you think it is normal, Dr Ellison, to contact witnesses once they have given evidence and give them that level of abuse?

1801. **Dr Ellison**: I would not say that it was abuse. I was trying to reason with her.

1802. **The Chairperson**: You do not regard the content of that email as abusive.

1803. **Dr Ellison**: Not particularly, no.

1804. **The Chairperson**: OK.

1805. **Dr Ellison**: Excuse me, Mr Givan. What do you mean, given evidence? She had, in fact, given evidence, so I am not sure what —

1806. **The Chairperson**: My point, and I put it to you again, is whether you think it is acceptable to contact witnesses once they have given evidence and give them the type of abuse that is contained in that email.

1807. **Dr Ellison**: As I said, I thought that I was trying to reason with her. There are a number of issues that I feel strongly about. I thought that I could maybe, if you like, talk her round. There are a number of fundamental issues on which she and the DUP do not agree. You may agree on the criminalisation of the payment for sex, but there are other issues on which you do not agree.

1808. **The Chairperson**: But it is your view that the DUP is a party that claims rape within marriage is —

1809. **Dr Ellison**: That point was made about six years ago. It is written down somewhere.

1810. **The Chairperson**: So, that is a view you hold: that the DUP —

1811. **Dr Ellison**: Someone in the DUP said that rape within marriage was not possible.

1812. **The Chairperson**: How many people am I responsible for killing?

1813. **Dr Ellison**: What do you mean?

1814. **The Chairperson**: Your email stated:

"Who knows how many gay and lesbian young people in Northern Ireland have committed suicide because of this bloody party."

1815. **Dr Ellison**: A lot of gay and lesbian young people in Northern Ireland have committed suicide because of issues around their sexuality, and your party is firmly opposed to those.

1816. **The Chairperson**: No, that is not what you said. You said:

"because of this bloody party".

1817. **Dr Ellison**: Yes, because of the stance that your party takes on the issues.

1818. **The Chairperson**: How many people am I responsible for killing?

1819. **Dr Ellison**: Excuse me, Chair. If we are bringing Ms Ekberg into this, why not spill the whole story?

1820. **Mr Wells**: We will. We will publish the whole story.

1821. **Dr Ellison**: All of it?

1822. **Mr Wells**: We will. We have it here. You will not be very pleased.

1823. **Dr Ellison**: Sorry, I do not know what you are talking about.

1824. **Mr Wells**: There is more in the email, and it is all derogatory against the DUP.

1825. **Dr Huschke**: Can I say something? I am not from here, and obviously I am not involved in the local politics. What I find interesting in the debate is that I just presented evidence from 100 sex workers, some of whom work in Northern Ireland, on what they feel the Bill would do, but here we are talking about —

1826. **The Chairperson**: Dr Huschke, please be reassured that I will come to you shortly.

1827. **Dr Huschke**: I just want to say that —

1828. **The Chairperson**: What is important is that we establish the integrity of the individuals in front of us and the motivation behind what is being said. Mr Wells has brought to the attention of the Committee and the public something that I believe is material to people's consideration of what Dr Ellison has submitted to the Committee. We will certainly come to your evidence later in the —

1829. **Dr Huschke**: Or also Dr Ellison's. We both have research.

1830. **Mr Wells**: We will come to your survey later on with further information. Of that, I can assure you.

1831. **Dr Huschke**: I look forward to that.

1832. **Mr Wells**: Dr Ellison, I think that totally undermines the validity of your position.

1833. **Dr Ellison**: I do not, Mr Wells. My view may not be shared by you or some other members on the Committee, but I think that there is an element of a moral crusade behind the Bill. I come from a tradition of Presbyterianism and would like to see a separation of church and state and to maintain that. I suppose my point is that there is an organisation driving the Bill — I am not necessarily sure how much of it is to do with Lord Morrow — and that really has not been discussed, in my view.

1834. **Mr Wells**: It is Lord Morrow, who is a member of the DUP. It is also Women's Aid, the Irish Congress of Trade Unions and the Human Rights Commission. Are they all on a moral crusade, Mr Ellison?

1835. **Dr Ellison**: Excuse me, Mr Wells. The Bill has been driven by a particular organisation that sat alongside Lord Morrow when he gave evidence.

1836. I would like to go back to Ms Ekberg, because you have repeated only part of her position. Are you aware of what her other position is?

1837. **Mr Wells**: We had her here giving evidence.

1838. **Dr Ellison**: Yes, but you have not asked her what the rest of her position is.

1839. **Mr Wells**: Tell us.

1840. **Dr Ellison**: Two things. Ms Ekberg was co-executive director of the coalition against trafficking in women along with Professor Sheila Jeffreys. Are you aware of that?

1841. **Mr Wells**: Yes.

1842. **Dr Ellison**: Professor Jeffreys has a particular stance on prostitution that I do not think would be shared by very many members of this Committee. It is basically that all heterosexual sex between husband and wife is a form of prostitution and that the biggest site of prostitution is in the family. Professor Jeffreys and Ms Ekberg sat at this Committee. In the introduction to Professor Jeffreys's book, 'The Industrial Vagina', she makes a glowing acknowledgement of Ms Ekberg's contribution to her thought and whatever. So, let us put all that in the public domain as well. Is that something that your party supports: undermining the family and undermining relationships between husband and wife?

1843. **Mr Wells**: We have questioned Ms Ekberg and are very clear on her position. The position of someone —

1844. **Dr Ellison**: But, to my knowledge, she has never discussed that in public. Have you also discussed with her the issue of ROKS in Sweden in 2005?

1845. **Mr Wells**: What is ROKS?

1846. **Dr Ellison**: It is the largest rescue organisation in Sweden that deals with female victims of prostitution or whatever.

1847. **Mr Wells**: You still have not answered this question: how many people is the DUP responsible for the death of, because of our stance on family values?

1848. **Dr Ellison**: Obviously I cannot answer that, Mr Wells. I believe firmly that your stance on gay and lesbian issues —

1849. **Mr Wells**: Has led to the deaths of gays and lesbians. The DUP has murdered gays and lesbians.

1850. **Dr Ellison**: It certainly has not contributed to young gay and lesbian people having a very easy lifestyle.

1851. **Mr Wells**: If that is your sincerely held view, and the proposer of the Bill is a very prominent member, indeed the chairman, of the DUP, then that taints your view. As I said, we will let the public make up their mind on that.

1852. I want to talk about the survey. I have seen the survey. I have seen a leading pimp encourage his workers to complete the survey; I have seen the Internet trail on Twitter. How do you know that this survey of 100 sex workers, which is a very small proportion of the total number of sex workers, was genuinely filled in by sex workers and not by their pimps or owners, or in the presence of their owners? How representative is it of the genuine —

1853. **Dr Huschke**: Who is this pimp?

1854. **Mr Wells**: I am not going to name the pimp, I can assure you. However, I followed the trail on Twitter and saw a leading activist, who promotes prostitution and gets substantial income from it, encourage his prostitutes to fill in that form. How representative is it of genuine prostitution? Is it simply the pimps, once again, using the prostitutes as mouthpieces?

1855. **Mr McCartney**: How do we know that? How can we validate that?

1856. **Mr Wells**: You can follow it on Twitter.

1857. **Dr Huschke**: The way that online surveys work is that you create an online survey and then you contact people who can forward it to other people.

1858. **Mr Wells**: Which they did.

1859. **Dr Huschke**: Yes. So, you do not have control over who forwards it to whom; I agree with that. If it was the case that whoever you are talking about pushed it as a survey for his or her employees, or the persons that they abused or whatever, to fill out, that was obviously not my intent. It was spread to several different websites and through different approaches. This is not the only way that it was spread around.

1860. **Mr Wells**: All I have seen is a prominent pimp urging his prostitutes to complete your form.

1861. **Dr Huschke**: Yes, and the reason that that is all that you have seen is that that

is public and on Twitter. The other way to post an online survey is to go through the websites where people advertise for sex work. It will then be posted on the internal forums that cannot be accessed — neither by me nor by you, I suppose — unless you are a registered member of that community. So, you cannot access those ways of spreading the survey. You can access only Twitter.

1862. OK; let us get back to your question. How do I know that not all the 104 replies were actually from sex workers whose pimps were sitting behind them and forcing them to click this? Is that your question; yes?

1863. **Mr Wells**: Yes.

1864. **Dr Huschke**: I do not know that.

1865. **Mr Wells**: Equally, if you were a sex worker who got an email from your pimp saying, "Whatever you do, fill it in and send it back to the good doctor at Queen's", how do you think that that would be representative of sex workers generally? When the pimp knows that they are filling it in, how is that representative?

1866. **Dr Huschke**: I find these speculations about how people filled out the survey very much not supported by evidence and by how research works. Let me just say one thing: one way of making sure that the survey is not filled out by the same person is to look at the IP addresses. All the IP addresses were different. They were also usually British and Irish IP addresses, not proxy service from other countries. That is one way of making sure that it was not all filled out by the one person. In this case, 104 different computers with different IP addresses were used.

1867. **Mr Wells**: I got access to that survey. I could have filled it in.

1868. **Dr Huschke**: You could have, yes.

1869. **Mr Wells**: For obvious reasons, because of my position, I did not. However, I could have filled it in. I could have put in a glowing reference for the prostitution industry in Northern Ireland.

1870. **Dr Huschke**: But so could anyone who is in favour of the Bill or thinks that sex work is exploitation and abuse. All those people could have filled it out too. I would actually invite any sex worker who supports the Bill and supports criminalisation to fill out the survey, because I would like to hear those opinions too. However, there was none of that in the survey.

1871. **Mr Wells**: Surely, in academia, what you should have done is approach a random sample of, say, 300 sex workers and interview them personally.

1872. **Dr Huschke**: And how would you do that? It is impossible.

1873. **Mr Wells**: Because their pimps would intervene; that is why you cannot do it.

1874. **Dr Huschke**: No, it is impossible, first, because there is no representative sample in sex work because we do not know the number of people in the sex industry. Nobody knows the exact number. Something can be representative of something only if you know what it is representative of. There are no representative studies. It is impossible, because at least part of the sex industry is underground and cannot be known; that is number one.

1875. Number two is, yes, I do think that research is very difficult in this setting. It is very important to use different methods and go in different ways to make sure that you are not getting just one side of the story. I absolutely agree with that, and I did that. A survey is not the only thing that I did, and also I have also not finished my study, which is why I have not published anything on it yet. Those are two things.

1876. The other thing that I would like to say in this regard is that I really appreciate how critical you are of my study.

1877. **Mr Wells**: Very critical.

1878. **Dr Huschke**: It is really important to be critical of all the evidence presented. However, I find it curious that, when other studies and evidence is presented, a lot of the time we do not ask who

are the people who took part in the study — for example, all the studies that come from service providers and NGOs that interview their clients. Let us say that it is an organisation that provides services to women who have experienced exploitation, physical abuse or trafficking. Logically, all the people who reply to that question, survey or whatever will be people with that experience. If you take as a sample people who go to Alcoholics Anonymous and realise that 100% of those people are alcoholics, it would not make sense to then say that all the men in this country are alcoholics. You have to look at who is included in the survey. That goes for my research and for every other kind of study.

1879. **Mr Wells**: Where your research falls down flat on its face is that you did not interview any women, like Rachel Moran, who had come out of the sex industry and have a very different tale —

1880. **Dr Huschke**: That is not true.

1881. **Mr Wells**: She told us that none of the academics have approached her.

1882. **Dr Huschke**: I did not interview her.

1883. **Dr Ellison**: Mr Wells, I am two thirds of the way through my study. I have interviewed women and, indeed, men who did not necessarily like doing what they did.

1884. **Mr Wells**: And you found only one women who felt that she had been coerced into —

1885. **Dr Ellison**: No; that came from Dr Huschke.

1886. **Dr Huschke**: Obviously you were already so distressed earlier that you were not listening to the last example in my presentation.

1887. **Mr Wells**: I was not distressed at all. There is more to come.

1888. **Dr Huschke**: That example is of a woman who worked in Belfast city centre — so, street-based sex work — for seven years and did not like her experience. She said that it was not the best time of her life and that she would not want to do it again. However, she also said that criminalisation would not help them, and she is opposed to it. So, it is not true that I have not talked to anyone who — I have also talked to three organisations that work with victims of human trafficking. So, it is not a blind spot.

1889. **Dr Ellison**: I think that the landscape of sexual commerce, not just in Northern Ireland but in general, is much more complex than you are implying. I also take exception to your use of the word "pimp". I am not sure that it is terribly helpful. I think that it is a bit sensationalist. I have spoken to people in various other jurisdictions — I am not sure why you are smiling, because I do think —

1890. **Mr Wells**: It is because I have never found anyone prepared to argue that there is no such thing as a pimp.

1891. **Dr Ellison**: I did not say that. I said that I think your use of the term oversimplifies a very complex range of issues. Sisters, brothers, mothers, uncles, or whatever are —

1892. **Mr Wells**: Both of you rubbished —

1893. **Dr Ellison**: Mr Wells, do you answer your own phone? If I were to call you on my mobile phone at your office, would you answer your own phone?

1894. **Mr Wells**: I frequently do; yes.

1895. **Dr Ellison**: OK, so I would get straight through to your office. Do you keep your own diary or calendar?

1896. **Mr Wells**: No.

1897. **Dr Ellison**: So, you have a PA to do that.

1898. **Mr Wells**: Yes.

1899. **Dr Ellison**: Many sex workers keep a PA. Whether you say that that is a pimp, a manager, or whatever, that is what they do. Other sex workers keep a manager basically to protect them against violence. I spoke to someone in Washington last week who employs someone. She pays someone $800

a month, I think it was, to screen her calls, field her calls, do credit checks on clients or whatever simply because she does not want to turn up at a hotel and get attacked.

1900. Whether you say that the person is a pimp, a manager, or whatever, I think that you are talking about very different activities. I agree that in some circumstances women and men are violently coerced into this horrible activity. At the other end of the scale, and for a large chunk of people in the middle, that does not necessarily happen.

1901. **Mr Wells**: You rubbished the claim that sex workers live, on average, considerably shorter lives.

1902. **Dr Ellison**: You are generalising from a street-based sample to —

1903. **Mr Wells**: OK, but they do, because in Holland, the Dutch model, which you favour —

1904. **Dr Ellison**: I have been searching —

1905. **Mr Wells**: One hundred and twenty-seven women — prostitutes — have been murdered.

1906. **Dr Ellison**: Mr Wells, I have been searching. I was here at the last hearing.

1907. **Mr Wells**: Would you accept that figure?

1908. **Dr Ellison**: No; I do not. I have searched high and low. I have emailed the Dutch authorities, and I have emailed the Swedish authorities, and they can give me no indication of where that figure came from. If you want to provide me with the source.

1909. **Mr Wells**: I can send you the front page of the Dutch newspaper that quotes that 127 women have been murdered.

1910. **Dr Ellison**: OK. I have seen that, but those figures date from 30 years ago —

1911. **Mr Wells**: Over 30 years; that is right.

1912. **Dr Ellison**: That is 20 years before the 2000 Act.

1913. **Mr Wells**: Yes, and there have been 85 since that. If this is the model that —

1914. **Dr Ellison**: There is no official government report that I can find that acknowledges those figures. So, if you send me the link — . OK, we can agree to disagree on that.

1915. **Mr Wells**: You are saying that this model protects openness and legalisation, making it entirely —

1916. **Dr Ellison**: What model?

1917. **Mr Wells**: The Dutch model.

1918. **Dr Ellison**: I was not talking about the Dutch model.

1919. **Mr Wells**: You discussed the Swedish, the Norwegian and the Icelandic model

1920. **Dr Ellison**: They are different models. It is a completely different system.

1921. **The Chairperson**: If we could get to questions and answers without cutting across each other.

1922. **Dr Ellison**: I am sorry, Mr Givan.

1923. **Mr McGlone**: Good idea, Chair.

1924. **Mr Wells**: You say that you are in favour of legalisation —

1925. **Dr Ellison**: No, I did not say that.

1926. **Mr Wells**: Have you been advising Amnesty International on this issue?

1927. **Dr Ellison**: No.

1928. **Mr Wells**: You said in an article in the 'News Letter' that human trafficking was really a myth. That interview was recorded, of course, and we can have access to that. This is in spite of the fact that the police, who are no great supporters of this Bill, would not suggest for one moment that trafficking in Northern Ireland in sexual services is a myth.

1929. **Dr Ellison**: I think that I was referring to a study based in England called Operation Pentameter 2. It was the largest police operation in UK history. It cost £55 million and involved all police forces in the United Kingdom.

They did not find any victims of human trafficking for sexual exploitation. So, in the context of that, you might say that human trafficking is a myth.

1930. Of course, people are trafficked. I argue strongly, as I said in my opening remarks, Mr Wells, that I think that human trafficking for labour exploitation is more prevalent than for sexual exploitation. I think that the reason why we might have more of the latter in Northern Ireland is because people like you have focused more on sexual exploitation. That has driven the police to focus more on that. Therefore, when they are looking for something, they are actually finding it. I am not in favour of legalisation; I am in favour of a regulated model.

1931. Mr Wells, I am not sure who has been doing all this research for you. It is brilliant. I wish I could employ someone like that.

1932. **The Chairperson**: Keep those remarks, and just respond to the questions.

1933. **Mr Wells**: I do not employ anybody. People spontaneously give me the facts.

1934. You do not seem to like the word "pimp".

1935. **Dr Ellison**: I think that it is sensationalist. I do not think that it reflects the reality of people's relationships.

1936. **Mr Wells**: Can we use the phrase, "those who control women providing sexual services"? The guards in the Irish Republic —

1937. **Dr Ellison**: Some women are controlling women.

1938. **Mr Wells**: The guards in the Irish Republic say that 400 are moved every week from house to house in the Irish Republic in order to provide men with a new sexual service.

1939. **Dr Ellison**: That is very odd, because when I phoned the guards in relation to a recent piece of research about sex work, they could give me no idea about any figures.

1940. **Mr Wells**: So you did not see the 'Prime Time' programme on RTÉ

1941. **Dr Ellison**: I did; I saw it the other night, yes.

1942. **Mr Wells**: The 'Prime Time' programme revealed a whole cadre of women being moved weekly because men were demanding fresh partners. Therefore, a woman could be moved from Athlone to Dublin to Dundalk to Wexford every week to provide men with new experiences. Is that going on?

1943. **Dr Ellison**: Yes, people can be moved; people can be driven. I am also aware of people driving themselves or taking the train to come to Belfast and go back to Dublin or whatever. In fact, I spoke to a Romanian sex worker last night simply to find out the dynamics of the Romanian trade, if you like.

1944. **Mr Wells**: And those women are in total control of their lives; they are making a lifestyle choice; they are being moved forcibly week after week —

1945. **Dr Ellison**: Yes, Mr Wells. To be fair to you, you have raised a very good point several times about moving from a bad place to a worse place, if you remember that quote.

1946. **Mr Wells**: I thought that question, which was devil's advocate, was very well dealt with by those —

1947. **Dr Ellison**: Obviously, it was a devil's advocate question, but I thought that it was a good question. If you are living in Timisoara or a small village somewhere, earning €2 a day or whatever, there is a certain seduction or attraction about moving to another place if you could earn much more money to pay for your kid to go through school, to pay for your elderly parents or whatever. It is the dynamics of poverty and immigration. That is where this thing is really sitting.

1948. **Mr Wells**: In an article in the newspaper, the police quoted this dreadful case of the woman locked in a room, not knowing where she was and having to service 20 clients a day. Her fingernails were found on the wall as

she desperately tried to claw her way out. That woman has disappeared. You compared those to the marks made by your cat.

1949. **Dr Ellison**: Mr Wells, I am glad that you have brought me up here from Queens to talk about my cat —

1950. **Mr Wells**: Do you think —

1951. **Dr Ellison**: — I really, really am, and I hope that the taxpayers listening to this are wondering whether they are getting value for money or whatever. Can I explain the context of that?

1952. **Mr Wells**: Yes, certainly.

1953. **Dr Ellison**: It was during an interview, and the interviewer — the journalist — did not give any background as to what was happening and produced a photocopied piece of paper. He showed me a photocopy of a photocopy in greyscale, not even colour, and said, "What do you think of this? This is evidence of human trafficking." I said, "It looks like a door", and that is what the photograph was; it was of a door with a couple of scratch marks on it. So, I said to the journalist, "I am not really sure what to make of this; I cannot say this is definitive evidence of human trafficking. You could come to my house and my cat Felix, the bigger of the two, will jump up the door and scratch it, so there are scratch marks on the door.". Of course I was not trying to belittle what had happened. I did not know, in fact, what had happened.

1954. **Mr Wells**: The PSNI told 'Spotlight' in 2012 that there were 170 sex workers in Northern Ireland and 50 or 60 of them were victims of trafficking. Are those statistics correct?

1955. **Dr Ellison**: Sorry; could you say that again?

1956. **Mr Wells**: That there are 170 sex workers in Northern Ireland and between 50 and 60 of them are victims of trafficking. Do you believe those stats are credible?

1957. **Dr Ellison**: Sorry, I have my own figures here. Why, for example, do you not ask me how many sex workers I think there are in Belfast, instead of —

1958. **Mr Wells**: Do you accept that there could be —

1959. **Dr Ellison**: I accept the PSNI's statistics for the numbers of sex workers, and they have told me that it is between 40 and 100.

1960. **Mr Wells**: Do you accept their figures for those who are trafficked?

1961. **Dr Ellison**: I accept the figures from the National Referral Mechanism (NRM).

1962. **Mr Wells**: But if there are 50 to 60 women, and they mainly all are women, locked in various flats and basements throughout Northern Ireland servicing large numbers of men —

1963. **Dr Ellison**: We do not know that they are locked in various flats and basements. Where is that coming from?

1964. **Mr Wells**: Those who have been rescued certainly have that story. So you are saying that this is a myth, that this is not going on?

1965. **Dr Ellison**: No, I am not saying that it is a myth. I am saying that I believe the National Referral Mechanism statistics, which is all you, Mr Wells, or, indeed, I have to work from.

1966. **Mr Wells**: I think that the police should be fairly good —

1967. **Dr Ellison**: I am afraid that the police are the people who feed into the NRM, so if they are NRM statistics, then fine.

1968. **Mr Wells**: Do you not think that it is worth introducing legislation to protect those 50 or 60 women?

1969. **Dr Ellison**: No. My point is this: what are the consequences for the majority of people who are not trafficked? Indeed, as I said, the PSNI does not want this law. It has said so publicly, and you and your party have gone on record to criticise the police for the stance that they have taken. They are the people who deal with the issue every day, so, as far as I am concerned, they should be left to get on with their job. I am not

at all convinced that we need this. As I have said, the consequences of the Act, in my opinion, could be far worse than what it is designed to prevent in the first place.

1970. **Mr Wells**: As part of your research, have you had any contact with the International Union of Sex Workers or Escort Ireland?

1971. **Dr Ellison**: No.

1972. **Mr Wells**: So you do not know Ms Lee?

1973. **Dr Ellison**: Ms?

1974. **Mr Wells**: Ms Laura Lee.

1975. **Dr Ellison**: I saw her here at the Committee hearing.

1976. **Mr Wells**: And you have had no contact at all with Peter McCormick, or his son, from Escort Ireland?

1977. **Dr Ellison**: I have no idea who that is; I am sorry.

1978. **Mr Wells**: Right. Have I a right to buy the sexual services of any woman I choose?

1979. **Dr Ellison**: I am not saying that you have a right to buy. I think that a person has a right to sell, or to do with their body what they want, by and large.

1980. **Mr Wells**: It does not matter how vulnerable that woman is, or whether she is a drug addict?

1981. **Dr Ellison**: Of course, and there is legislation in place to protect them. No one saying that this is going to be like a free-for-all. There is legislation in place to prevent the very activity that you are talking about. There is legislation in place to prevent children from buying cigarettes, taking drugs and alcohol or whatever. There is legislation in place, Mr Wells, to prevent people from paying for sex from vulnerable women and men. I am not sure what clause 6 does, over and above that.

1982. **Mr Wells**: Do you concede that I have a right — I hope that I would never be involved in anything like that — to buy sexual services and to use that woman in whatever way I want, provided that she is willing to do it?

1983. **Dr Ellison**: If the person, male or female, wants to enter into a private consensual arrangement. I have no interest at all, Mr Wells, in what you do in your bedroom. If you wanted to enter into that arrangement, fine.

1984. **Mr Wells**: Have I a right to buy her kidney if she consents?

1985. **Dr Ellison**: No.

1986. **Mr Wells**: Why?

1987. **Dr Ellison**: Because that will probably cause — There is legislation against that.

1988. **Mr Wells**: But in India I could —

1989. **Dr Ellison**: Mr Wells, this is —

1990. **Mr Wells**: In other words, is a woman of so little value that I have a right to purchase sexual services from her and a right to enforce my desires on her in return for payment?

1991. **Dr Ellison**: I said "consensual", Mr Wells. It is a negotiated arrangement between two grown-up people who can decide what they want to do in the privacy of their bedroom.

1992. **Mr Wells**: If that woman is in a brothel and controlled by powerful men, it is still all right for me —

1993. **Dr Ellison**: No, of course not. As I said, there is legislation in place currently to prevent that type of control.

1994. **Mr Wells**: And if that woman has been carted around Ireland and is staying in a different flat every week in order to provide sexual services —

1995. **Dr Ellison**: I say exactly the same thing, again: there is legislation in place to prevent the activity that you are talking about. If you go to Germany or wherever, Mr Wells, there are brothels — laufhäuser — where people sell sex. That is their job. You might not like it; I may not be that happy with it either, but that is the way it is.

1996. **Mr Wells**: If you had a daughter or a sister or a wife —

1997. **Dr Ellison**: This is —

1998. **Mr Wells**: — would you encourage them to be involved in the sex trade?

1999. **Dr Ellison**: I certainly would not encourage them to be in the sex trade. If they decided at some point in their life that that was something that they wanted to do, I guess I would have to live with it. I do not think that I would like it very much.

2000. **Mr Wells**: But if sexual services are viewed in the same way as being a cleaner or a cook or whatever, why not have it on the curriculum?

2001. **Dr Ellison**: Mr Wells, you have to understand that people sell sex for a thousand different reasons. There is no one reason. Some vulnerable women, who have no access to permanent jobs because they have kids to bring up or whatever, choose to do it because it is the best thing in the circumstances. They may not like it; they may like it, or whatever. I think that clause 6, in particular, will hit those women hardest.

2002. Mr Wells, if I could change the world, I would. I genuinely do — "agree" is maybe not the right word — think that you think you can, or something. If I thought that you were going to be successful in that, I would probably be sitting over there with you. This is such a mucky and messy business. People have tried to do this for centuries, and no one has ever managed it. You are not going to get rid of this. I think the best that you, as legislators, can do is manage it. That is the least worst option in the circumstances.

2003. **Mr McCartney**: Thank you very much. You might know what the Spanish Inquisition was like by the time you leave here today.

2004. **Mr McGlone**: Nothing like this.

2005. **Mr McCartney**: That is another day's work. I have said a couple of times that this is an issue that divides people. You have put together a very cogent argument, and I thank you for that. You have contributed, as have you, Susann, to this. What compelled you to do the research?

2006. **Dr Ellison**: It was about seven years ago when I was doing some work with the Czech police in Prague. They were looking at introducing a *[Inaudible.]* model. I was talking to an officer, and he said that they were having huge problems in the train station with pickpocketing and violence; basically, male sex sellers were coming in from outlying areas and were vandalising, stealing and robbing. He said, "If we can get them away from here and into there", and he pointed to a bar. That was my first foray into the regulation of sex work. The Czech police view was that the indoor sector is much safer and that it involves much fewer police resources and less time than the on-street sector. I have heard the same in Manchester.

2007. Some of you might think that Belfast is the biggest sex capital ever outside Bangkok or somewhere. It is not. Go to Manchester. There is an absolutely huge street scene. There are lots of women, mainly, and men with dependency issues. The police tell me, "What can we, as police, realistically do? We can arrest these women, arrest them, arrest them, arrest them. They go back on the street, so what we have is a harm-reduction approach. We have moved them to four or five streets in a non-residential area. We patrol the area regularly. We keep an eye out. We have a harm-reduction approach". There is a huge indoor sector in Manchester as well, but what the police officer was saying was that the last thing the Greater Manchester Police would want would be a clause 6. He said that that would displace all the on-street work to all the derelict industrial parks all over Manchester. He said, "We don't have the staffing, the manpower or the resources to police this. If we can contain it within three streets, we know where it's happening and we can keep an eye on it."

2008. **Mr McCartney**: If you read a piece of research when you are trying to promote an argument, it is easy to delete the part that does not suit. There have been a couple of examples of that. How can people satisfy themselves that, when they read the research that you have done, it is authentic?

2009. **Dr Huschke**: As I said earlier, that question needs to be asked about any sort of research. I welcome that question. I can speak for only my research. It is still ongoing. I am not done. I hope to do more interviews and talk to more people.

2010. There was criticism earlier that we have not talked to the other side or people who might not have the same view as the people who replied to the survey. As I said, that is not true. I have interviewed people who have different experiences and I have talked to organisations that have different approaches. It is not always that easy, especially when you work on something such as sex work. I have tried to interview Lord Morrow and CARE. I am interested in where it is coming from, what the perspective is, what is behind the Bill and what is the reasoning for people. I would really like to know that. I would love to talk to Rachel, if she wants to take part in the study, and anyone else. In this case, some of the people I would have liked to interview to get a more balanced view simply have no interest in taking part in research. That is one thing.

2011. If you read research and you are wondering whether it makes sense and whether it is believable, the first thing I would always recommend is to look at who is doing the research. There is a difference between somebody who is trained to do research and somebody who is not trained to or is, indeed, not actually doing research, which is the case for the very important personal experiences that have fed into this debate. I think that they are important. You have to look at it from the perspective of people who were involved in the sex industry, but that is not research; it is one person's subjective experience. If that were a research project, you would listen to that person but then also listen to 10 other people or 20 or whatever, depending on what it is that you are trying to do. So, that is one thing. I hope that, maybe in a year's time, I will be able to feel so satisfied about my research that I can publish it. It is just all ongoing.

2012. **Dr Ellison**: From my point of view, Mr McCartney, most of the project is not finished but most of the respondents have given permission to use their names and addresses, so anyone in doubt could cross-check that they had been interviewed or whatever. As Dr Huschke said, of all the main political parties here, I have only ever been unable to get one to speak to me.

2013. **Mr McCartney**: I do not want to put you in the position of being the defender or the promoter of something. However, it strikes me that people in organisations such as Turn off the Red Light and those in the trade union movement who gave our previous presentation are well-intentioned. They want to see human exploitation end and see clause 6 as a way of doing that. It is not your job to convince them, but what are they missing in supporting that clause?

2014. **Dr Huschke**: As I said at the beginning of my presentation, when I do interviews and research, I take seriously the person who has had the experience. If that is their experience, it is their experience. I am not going to come and say, "No, that wasn't your experience". I have asked people during interviews, "Why do you think this is a good idea? Have you never encountered a sex worker who actually said, 'No, I want to do this job because I am earning money at it?' Or, 'It may not be the best job I ever had, but I am earning money with it'." And I have had people reply to me, "Well, that's what they might feel now, but later on they will realise they were wrong and they will regret it and feel horrible about it". I think that it is paternalistic to say that a person does not know what they are feeling or thinking and they are wrong and later on will have my opinion. So, that, I think, is something that is

missing from, for example, the Turn off the Red Light campaign.

2015. **Dr Ellison**: I think, Mr McCartney, that some organisations in Turn off the Red Light engage with women and men — although not that many men; mainly women — who have serious problems. Their client base, if you like, is derived from people with drugs dependency issues — heroin, for example, in Dublin. So, in effect, what they know about prostitution is derived from a very small, selected sample, whereas the reality is that that is a snapshot of a particular group at a particular time, when the bigger picture is, in fact, that we do not know that much about it.

2016. That is why, in this study here, we purposely looked at indoor and outdoor, because we know virtually nothing about the indoor sex work sector. All the research has been done on a very small, street-based sector and extrapolated across. We know nothing, for example, about how online escort websites work. We know nothing about what drives them, how they recruit customers, how transactions are conducted and how safety is guaranteed. So, for example, what Women's Aid says is perfectly valid for the people that it deals with, because it comes into contact with marginalised women, mainly, with serious problems. However, you cannot generalise from that to everyone else, and that is why I keep repeating: what are the consequences of clause 6, in particular, for everyone else? We simply do not know. That is why I ask whether the consequences are worse than the initial problem. I think that in Northern Ireland — we should keep this local — we have a perfectly good infrastructure in place to deal with this via an interagency and statutory basis, as Manchester does. There is a model in Manchester that I would like to see implemented here.

2017. **Mr McCartney**: Others have referred to that in other meetings, but maybe not in front of the Committee. The argument is made that you should tackle the demand. There has to be an acceptance that there are women who are exploited.

2018. **Dr Ellison**: I do not think anyone is denying that, Mr McCartney.

2019. **Mr McCartney**: The argument is that, sometimes, laws by themselves can change people's behaviour and values.

2020. **Dr Ellison**: I think there is a normative element, and that was alluded to in one of the earlier presentations. However, we were talking about Sweden. I looked this up the other night: debates on gender inequality and so on have been going on in Sweden for nearly 50 years. In many respects, we still have not had that debate here. In Sweden, there may be more of a normative reluctance to buy sex, but my argument is that, for lots of different reasons, Sweden has seen very high levels of inward migration, particularly over the past 10 years. I think that there is demand for sex in Sweden, but my broader point is that I am just not convinced that this is in the best interests of the country. We are taking a model from a very different political, cultural and social climate — the Nordic region — and superimposing it on an area that, as you are all aware, has witnessed a very intense and violent political conflict for the past 35 years or so.

2021. **Dr Huschke**: I would like to add something about the issue of demand. The entire debate and the Bill itself is focused on demand. Yes, demand is part of the whole issue. Obviously, if there were no demand, there would be no sex work or trafficking. However, that is just one part of it. In my presentation, I tried to show why people are selling sexual services and, for migrant sex workers at least, the main reason is economic; they need the money. That is related to migration. Why do people migrate in the first place? It is because the situation wherever they come from is not providing what they need in their lives. If the Bill really did reduce the number of clients, it would still not solve the problem of the people who are selling sex because they need money but who do not have, in a lot of cases, the option to earn the same amount of money in their home country in another type of job. We should really be talking about migration, global inequality and

the reasons why people migrate in the first place to places like the UK, which is rich in comparison with lots of other places.

2022. **Dr Ellison**: Do not forget as well that Sweden has a hugely expensive welfare system. I have Swedish friends who pay, I think, 65% of their income in tax to fund that system. So, theoretically, people who want to exit prostitution in Sweden have that safety net to fall into. We simply do not have that here; it just does not exist.

2023. **Mr McCartney**: That gives the impression that, simply because you do not have a safety net, you do not do what you think is the right thing. Part of it may simply be down to migration but, as you said, we cannot tackle migration and let some other harmful practice continue. I do not think that is a compelling reason either.

2024. **Dr Ellison**: Yes, but, as I said, the legislative provision at the moment in the 2009 Act, under which it is already illegal to pay someone for non-consensual sex, is solid. That could be developed further, not necessarily in legislative terms, but there is a good argument for joining that to a more multi-agency approach, maybe even at Assembly level, for example.

2025. **Mr McCartney**: In any of your research, have you ever examined why the 2009 Act is not perhaps pursued as much as it could be?

2026. **Dr Ellison**: There are two reasons, Mr McCartney. The first is that it may be very difficult for the police to prosecute as it is difficult for them to obtain evidence. Mr Wells raised the issue of the photograph with me, and, as I said, it was not explained to me what that was at the time. If that is all the evidence there is and no victim is uncovered — the victim apparently went to live in England and did not want to pursue an investigation — that simply would not stand up in a court case. You need much more evidence than that to indicate trafficking. So there is a difficulty providing evidence.

2027. There is also a difficulty in getting witnesses to come forward. Some who come forward will be deported, particularly if they are migrants, so they go to ground. There is a complex issue around migration, residents' permits and evidence gathering.

2028. I think that the 2009 Act is solid. I would not argue that it needs to be changed.

2029. **Mr Elliott**: Thanks for your presentation. I want to ask you about a couple of areas and follow on from Mr McCartney's points. You said that you would like to see the Manchester model implemented. Will you give the Committee a wee bit of an explanation about that? I note that, in your written submission, you indicated:

"The Justice Committee could perhaps consider alternative regulatory approaches - as practiced in other UK cities".

2030. I assume that that is broadly what you are talking about. I suppose that the Justice Committee could follow up with a regulatory process, but that is normally done by the Department or through a private Member's Bill. However, irrespective of who does that, I understand your ideal. Will you explain the process that you are thinking about?

2031. **Dr Ellison**: I think that it was around 1997, Mr Elliott, that Manchester City Council recognised that it was having a problem, mainly with on-street prostitution. It developed what it called a prostitution strategy. Basically, what that means is that the city council dovetails with, I think, its environmental health department and its community safety unit, and it involves the local health trusts, sexual health outreach workers, representatives of sex workers organisations and the Greater Manchester Police. The council set up the Manchester Prostitution Forum, which meets periodically, perhaps every two months. The forum brings all the issues to the table and discusses, for example, whether underage sex workers have been discovered in a bar, a massage parlour or whatever. Basically, various groups tell each other what

they see around the selling of sex. That morphed into a prostitution strategy, which, again, is an interagency approach across a number of departments, and it favours a harm reduction approach rather than one of enforcement.

2032. **Mr Elliott**: How positive have the results been? Is there any real evidence that it has been successful?

2033. **Dr Ellison**: A police officer once said to me that there are better practices in this area but no best practices. They were probably aiming for a moderate improvement. They have managed to get the street sector contained in a non-residential area and identified very vulnerable children who were taken out and put into residential care or whatever. However, the officers whom I spoke to did not give me any indication that they saw trafficking for sexual exploitation as a problem in the city. They said that they had other problems but that that was not one of them. Some of the biggest problems they had were the illegal drugs market and the on-street sex sector, which I do not think, to be honest, that we have in Belfast.

2034. **Mr Elliott**: All that I am trying to say is that it has had limited positive results rather than it being a huge — *[Inaudible.]*

2035. **Dr Ellison**: You are never going to get hugely positive results. You are not going to abolish human trafficking as long as people can get on planes and boats.

2036. **Dr Huschke**: Or as long as they have no options to migrate legally. As a German national, I do not need traffickers to get to Northern Ireland. I can migrate legally.

2037. **Dr Ellison**: In spite of the rhetoric around trafficking for sexual exploitation, I think that we are starting at a very low point. We are not Prague, we are not Berlin, we are not Bangkok or whatever.

2038. **Mr Elliott**: We do not want to be there either.

2039. **Dr Ellison**: Exactly, of course. What could be done can be done within existing legislative provision.

2040. **Mr Elliott**: That brings me on to the other point. You said that the PSNI already has strong powers, and I assume that those are under the 2009 Act. How would you improve that, because, as we have heard from other presenters, there is not a huge amount of activity from that Act, and there is not a huge amount of people who are being convicted?

2041. **Dr Ellison**: Susan can come in here as well. Partly, Mr Elliott, it is to do with stigma in one area. Some sex workers who may feel exploited do not want to come forward because they think, "What is going to happen to me if I do?" Therefore, they will not give evidence in criminal trials and so on. So, it is about finding maybe a way of reducing that stigma to allow them to come forward, maybe by doing what the Italians do, which is to give people residence permits. That, again, creates its own political difficulties around immigration, and that is certainly something that is very topical at the moment.

2042. **Dr Huschke**: It is not just the sex workers — they are not sex workers but people who are victims of human trafficking — who are not daring to come forward. It is also about other people in the industry, especially other sex workers who might notice something. Something that came out of my research and which is talked about in Rachel Moran's book is the stigmatisation and mistreatment that sex workers fear that they will get when they go to the police. Or, in the case of Northern Ireland, local sex workers may worry that, if they go to the police, it will come out that they are a sex worker and that that will have negative consequences to them. So, there is a lot to be done on reducing the stigma and to provide some sort of safe space in the PSNI where people could come forward and either talk about cases that they have seen or bring up their own case. If they are migrant sex workers and are here without legal status, obviously, if all this will do will be

to have them deported to their country of origin, that is not an encouragement for people to come forward.

2043. **Dr Ellison**: I am certainly aware that a number of investigations and one of the prosecutions depended on the police having access to industry information. It was the information that they got from the sector that allowed that prosecution to go forward. Mr Wells was talking about Escort Ireland or whatever. I think that there is a huge risk in alienating that sector. It is not just me who has said that. Microsoft has a huge research centre now for trafficking and technology, and it will say that, because you are never going to abolish it or get rid of it or whatever, you need the sector on board to provide you with that information. I do not think that we need clause 6 on top of the 2009 Act. That is my position.

2044. **Mr McGlone**: I welcome a bit of calm discussion around this. It is always very useful. Two issues arose during the previous dialogue with you. One is that, Dr Ellison, you mentioned that there is organisation motivating this. Can we put that clearly on the record? Dr Ellison: It is Christian Action Research and Education (CARE).

2045. **Mr McGlone**: Thank you for that. Secondly, Mr Wells referred to a Twitter trail. Clearly, he threw that out there and expanded on it in some considerable detail without actually getting to the nub of it. For the rest of us who may wish to expand on our deliberations, it would be helpful, Chair, if we were to have that detail shared with us. It became, in his mind anyway, a good part of the discourse with yourself. It is important that that be shared with us.

2046. I will get on to the substance. These are issues that came up, not in any order of importance, during discussion of some of the more moderated comments. You raised an important issue. We heard earlier the experience of a girl who, through force of unfortunate circumstances, wound up in prostitution. You commented on how you mediate between experiences. I would reflect on that, if I were in your position. If a bad experience is one where a person has suffered abuse, violence or whatever, it is for us to incorporate that into law where we can and make sure that the law is enforced. Where someone claims that they have had a good experience with no abuse, that aspect of the law cannot be taken against them. So, it is not a case of mediating. It is a case of discerning that, where someone has been abused, the appropriate measures are taken to make sure that that abuse is stopped and the perpetrator brought before the courts and held to account. You may wish to reflect on that.

2047. **Dr Ellison**: Is that a question?

2048. **Mr McGlone**: No. You can comment on it if you want to expand on where you were coming from.

2049. **Dr Ellison**: All I was trying to say, Mr McGlone, is that there is a huge range of experiences in the selling of sex, as there is in politics or academia or whatever. I am just concerned that, traditionally, the people with bad experiences have been maybe best able to articulate their views; they write books and whatever. However, there is a silent majority who, I would almost say, nothing has happened to, but they do not feel that they can comment because of issues around stigma. I do not want to get into a dog wagging the tail thing —

2050. **Mr McGlone**: To emphasise the point, in case you did not pick it up well enough, if a person has had bad experiences resulting from illegal behaviour, that is why we are here. If people have been tortured and abused and so on, we are here to make sure that —

2051. **Dr Ellison**: But there is legislation in place, Mr McGlone, to deal with that.

2052. **Mr McGlone**: The phrase you used was "mediating between experiences". I do not think it is a case of mediation. It is a case of making sure that the appropriate law is brought about and that those responsible for criminal activity appear before the courts.

2053. **Dr Ellison**: I see where you are coming from, Mr McGlone, but I simply do not

think it is as simple as bad and good. There is a huge chunk of experience in the middle that may not necessarily be one or the other or may shift between the two. I am just very conscious of having laws based on a small number of people's bad experiences.

2054. **Mr McGlone**: All I was doing was giving you an opportunity to give your opinion.

2055. **Dr Ellison**: Sorry.

2056. **Mr McGlone**: I am not trying to put you in a box or anything.

2057. To extend it further, as it stands at the moment, the act of prostitution is the criminal act.

2058. **Dr Ellison**: Soliciting is.

2059. **Mr McGlone**: Yes. We have heard evidence previously that, if you took the foot off the pedal for prostitutes, the police may find it easier to gain evidence from those prostitutes, which would make prosecutions easier. Have you an opinion on whether one aspect of the law should be eased to obtain convictions of those who are buying the sex?

2060. **Dr Ellison**: The first issue is that selling sex is currently legal. So, unless Parliament passes a law to make that bit illegal —

2061. **Mr McGlone**: OK.

2062. **Dr Ellison**: That is one issue. Your second point relates to clause 6, the ending of —

2063. **Mr McGlone**: The criminal act of a person who actually acquires sex via a prostitute.

2064. **Dr Ellison**: I do not think that it has worked in Sweden to the extent that is has been alleged to have. It certainly has not worked in South Korea, the other jurisdiction where it has been applied. It is a bit of a mess there.

2065. **Mr McGlone**: That brings me to the next bit, and we have heard evidence. Some members went to Sweden and spoke to the police and authorities there, and they will have formed their own conclusions from that. I have spoken to some of the members who went to Sweden. Apparently some of the evidence gathered in Sweden has been as a consequence of phone-tapping. That takes us into a different field altogether, with human rights abuses and the sensitivities here in Northern Ireland, because there has been phone-tapping in the past in Northern Ireland, some legal and some quite illegal. Have you any views, evidence or research that shows whether any convictions were as a result of phone-tapping?

2066. **Dr Ellison**: I have read that the Swedish police say that the law was effective against trafficking because they heard two anonymous people having a phone conversation.

2067. **Mr McGlone**: Right.

2068. **Dr Ellison**: Realistically there is no way that that would stand up in any kind of court, and I would be looking for far stronger evidence than that. I think that the issue was raised before anyway. There have been so few prosecutions under the Act, comparatively speaking, for lots of evidential reasons: if the buyer says, "I did not buy", and the seller says, "I was not selling", that pushes the police into a whole evidence-gathering thing, and, as I say, most cases collapse.

2069. The idea that prostitution is gone in Sweden is just ridiculous. I have spoken to an online provider who could not be happier at the moment. They are raking it in. They said that the worst thing that the Swedes could do would be to decriminalise; it would put them out of business in the morning. So the more the Swedes tighten the laws, the more these companies are rolling in the dollars, pounds, krona or whatever.

2070. **Mr McGlone**: You touched on the policing resource, which is a big issue.

2071. **Dr Ellison**: Absolutely.

2072. **Mr McGlone**: Here in the North, we have our own not entirely unique problems. Some people insist on blocking streets, we have had flag protests, and we have

had other lunatics trying to explode bombs on the streets. That is a resource issue. You mentioned dissident activities, and probably other activities. Has any evidence been sourced of paramilitary involvement of any hue with the sex trade?

2073. **Dr Ellison**: No. I think that, historically, going back maybe 30 years, there was some evidence that some loyalist paramilitary organisations were involved. I have asked the PSNI repeatedly about this, and they tell me that there is no evidence.

2074. **Mr McGlone**: OK.

2075. **Dr Ellison**: I do not know whether that was the answer that you were expecting, but that was what they told me.

2076. **Mr McGlone**: I just did not know. I wanted to ask you because you drew me in that direction earlier when you referred to the resource implications.

2077. **Dr Ellison**: They said that there might be other groups, maybe one or two Chinese Triad gangs, that might be involved. The PSNI has no evidence of paramilitary involvement at the moment, which is not to say that there will not be, but there is none currently.

2078. **Mr McGlone**: OK. Thanks very much.

2079. **The Chairperson**: Dr Ellison, you said at the tail end that the more the laws are toughened in Sweden, the more money is made. Based on what evidence?

2080. **Dr Ellison**: Based on what companies told me about their business activities.

2081. **The Chairperson**: What companies?

2082. **Dr Ellison**: I am not telling you. I cannot say.

2083. **The Chairperson**: You cannot say.

2084. **Dr Ellison**: I cannot say. I would love to be able to say, Mr Givan, but I cannot say right now.

2085. **The Chairperson**: What is restricting you from saying it? Remember, you have privilege: you can say what you like in this Committee.

2086. **Mr McGlone**: Within reason.

2087. **Dr Ellison**: Yes, but research ethics apply. I can read the bit out to you if you like.

2088. **The Chairperson**: Yes, that would be great.

2089. **Dr Ellison**: Bear in mind that I am two thirds through the project. When I do the report, I will probably be in a position to say, but I cannot say at this time. I can read you the relevant bit.

2090. **The Chairperson**: Yes, that would be good.

2091. **Dr Ellison**: I am not sure whether the Committee understands how you do economic research, but you have to get ethics permission from your institution to do it. It is a very complex and convoluted process, and the UK Government set out requirements for what you are allowed to do. I had applied to the university ethics board, which states that:

"All specific identifying information (individuals, venues) that the research team uncovers in the course of the project will be treated as strictly confidential and will be securely stowed in a safe place. For example, the researchers will not convey the names of the bars they have observed to others, including other bar owners, the authorities, or other scholars."

2092. No interviewee will be informed of the identity of any other interviewee —

2093. **The Chairperson**: Sorry, Dr Ellison, you are reading out the reason why you cannot tell me.

2094. **Dr Ellison**: Yes.

2095. **The Chairperson**: I thought that you were going to read out the part of the research that your paper is based on.

2096. **Dr Ellison**: Sorry. It is based on a number of interviews that I carried out with online providers, who said that they have expanded into Sweden and Norway in the past two years. They also said — I have no reason to doubt them, although I will maybe check — that business was booming.

2097. **The Chairperson**: You have no reason to doubt the online suppliers, if that is the phrase that you want to use. However, the authorities in Sweden tell us that they are cracking down on organised crime, they are going after the money, they are being successful and their wiretaps of these international organisations are saying that Sweden is a very difficult and hostile environment.

2098. **Dr Ellison**: You and I could go on the Internet, and we would find that a printout of all the information about Sweden would probably fill this room. We could lay it all out and read it, and I think that, at the end of that process, neither of us would be in a position to say —

2099. **The Chairperson**: So, the Swedish police officer who told us that was lying; you disbelieve him.

2100. **Dr Ellison**: I did not say that.

2101. **The Chairperson**: You believe the online provider of the service, but you put a question mark over what the Swedish authorities tell us.

2102. **Dr Ellison**: I think that the Swedish authorities have an interest in promoting the system. I also know that Swedish police officers, when speaking off the record, are slightly more sceptical about the effects of the legislation than they are when talking on the record. You have to bear in mind that this is official Swedish Government policy. So, a Swedish police officer cannot really tell you that this is not working. Or, it may be that they can tell you that it is not necessarily working, but they certainly cannot tell you that they disagree with it. The same goes for social workers; they have to sort of buy in to the system. However, any cursory hunt around the Internet will reveal a huge online market for sex in Sweden and Norway. That is all that I am saying.

2103. **The Chairperson**: Earlier, you said that the PSNI is against clause 6 of Lord Morrow's Bill. Is that its corporate view?

2104. **Dr Ellison**: I cannot speak for the corporate —

2105. **The Chairperson**: You did earlier. You put out this sweeping statement that the PSNI is against Lord Morrow's clause 6.

2106. **Dr Ellison**: The officers who I have spoken to in the PSNI are against it, and I assume —

2107. **The Chairperson**: Do you want to correct your original, very sweeping statement?

2108. **Dr Ellison**: No. I am assuming that the officers who commented in the newspapers had their remarks sent upstairs to be sanctioned.

2109. **The Chairperson**: Is this the same officer who said that we should legalise prostitution — Superintendent Marshall?

2110. **Dr Ellison**: I am not sure which one that is.

2111. **Mr Wells**: Philip Marshall.

2112. **The Chairperson**: The one who said it in the newspaper was subsequently brought into line by his superiors, and the PSNI as an organisation then provided an official statement. That is just for the record, because, like you say, when people make sweeping statements, it is important to test the evidence.

2113. **Dr Ellison**: I do not think that he was making an argument for legalisation, surely.

2114. **The Chairperson**: Yes, he was. It was on the front page of the 'News Letter'. You can check your research, however.

2115. **Mr Humphrey**: Thank you both very much for your presentation. Dr Ellison, I am not doing this to trap you or to trip you up, but, during your evidence to the Committee, did you more or less suggest that section 64A of the 2009 Act was robust enough to deal with this issue?

2116. **Dr Ellison**: Yes. Do you mean paying for sex with a coerced or trafficked victim?

2117. **Mr Humphrey**: Yes.

2118. **Dr Ellison**: Yes, my opinion is that it could be done through that legislation plus other interagency activities that could be done by you and the Assembly

or perhaps be devolved. That is my position.

2119. **Mr Humphrey**: In part of your evidence, you used the term "do not rock the boat". I am confused, because you also said that prostitution will not be abolished or crushed.

2120. **Dr Ellison**: Yes.

2121. **Mr Humphrey**: That suggests to me that, if it will not be abolished or crushed, the law that you are talking about is not sufficient and is not robust enough to deal with the issue.

2122. **Dr Ellison**: I do not necessarily agree, Mr Humphrey, that prostitution equals trafficking. You know my position on that. At some level, of course —

2123. **Mr Humphrey**: I will come back to that point.

2124. **Dr Ellison**: I think that the legislation that you are talking about on trafficking is robust but can potentially be enhanced.

2125. It remains my view that you will never be able legislate against paying for sex. This law has not been tested before, Mr Humphrey. This will be the first test of it outside the Nordic region. It has gone to South Korea and has been debated in France and the Republic of Ireland, but it has not been implemented anywhere else.

2126. **Mr Humphrey**: I was one of the members of the Committee who travelled to Stockholm, and where I will agree with what you said is on it being driven underground.

2127. **Dr Ellison**: You do or do not agree?

2128. **Mr Humphrey**: I do. When we were there, we were told by the police that you can phone a number that is a Stockholm number found on a card in a phone box and that that will get you through to the service that you want. However, the number is not a Stockholm number but redirects to Bucharest. Therefore, it is driven underground. I therefore have sympathy for your argument from the point of view that laws will not deal with this. However, I do not believe that the law that you believe to be robust enough deals with it. That is my opinion, and yours will differ. We as a Committee have listened to a lot of evidence over the past number of months, and I honestly have to say that a lot of it suggests that it is driven underground. Therefore, getting reliable statistics is virtually impossible. You said yourself during your evidence that it is very difficult to get sex workers to come forward.

2129. **Dr Ellison**: Absolutely.

2130. **Mr Humphrey**: You also said that it can be worth between £30 million and £50 million to the economy.

2131. **Dr Ellison**: That is a figure that I have heard.

2132. **Mr Humphrey**: My point is that the variable between £30 million and £50 million is so huge that it proves that people will not come forward, proves that it is driven underground and proves, I put to you, Dr Ellison, that the law that exists at the moment is not robust enough to deal with the issue.

2133. **Dr Ellison**: Again, I will go back to what I said earlier, and perhaps Dr Huschke can comment as well. I accept that there is trafficking for sexual exploitation, for labour exploitation, or whatever, but I do not see all sexual commerce as involving trafficking, which is perhaps what you are implying.

2134. **Mr Humphrey**: I did not imply anything.

2135. **Dr Ellison**: OK, sorry. The law is potentially robust enough to deal with trafficking issues if it looks at other issues such as, for example, migration, immigration, and so on, and if it is embedded in a broader interagency framework. I quoted the figure of £30 million to £50 million because it was quoted in the Committee. That is the only reason that I mentioned that figure.

2136. **Dr Huschke**: Does that not refer to the sex industry as a whole?

2137. **Dr Ellison**: I think that it refers to the sex industry as a whole.

2138. **Mr Humphrey**: It is like trying to herd sheep.

2139. **Dr Ellison**: I agree with you, Mr Humphrey. I do not think that you can do that.

2140. **Mr Humphrey**: And therefore it cancels out, sorry. You made mention that you come from a Presbyterian background and so on. I take it that the point that you are trying to make is that you are individualistic. I, too, come from a Presbyterian background. I am a communicant member and committee member of my local Presbyterian church. However, I see no difficulty, and I do not call it moralising. I believe that it is my job as a legislator to stand up for the most vulnerable people in society. I am not here to change the world, as you put it. I am going to admit to being here to make Northern Ireland, and the city that I represent part of, a better place. To be honest with you, you have your view, I have mine and colleagues have theirs on Gunilla Ekberg's opinions and on other things. On this issue, I am with her, yes. Just before you come back at me, let me say that, on this issue, I am also with the Irish Congress of Trade Unions and the Northern Ireland Human Rights Commission, and I normally would not be. On this issue, I even share the opinion of most nationalist parties on this island, but it does not make me a United Irelander. The point is that it is my job — our job — to protect the most vulnerable, including a young lady — a teenager — who was trafficked from eastern Europe to Stockholm and who, the police told us, on one day had to service 33 clients in a bedroom. She gets no pay. She has to ask if she can have a drink or get a packet of cigarettes. She has no human rights and no protection, and she is living in appalling conditions. They showed us photographs of the room that she was living in.

2141. **Dr Ellison**: But why could not, Mr Humphrey —

2142. **The Chairperson**: Let Mr Humphrey finish, please.

2143. **Dr Ellison**: Sorry.

2144. **Mr Humphrey**: The point that I am making is that I believe that it is my job and it is incumbent upon me, us as a Committee, and this legislature, to ensure that — whether the young lady was trafficked here or is indigenous to Northern Ireland — we do not allow people to go through that sort of gross indecency and complete violation of human rights. She does not have any rights; she is living an existence. You know, they make tens of thousands of euros a month from that young lady, and she gets nothing. And I make no apology for trying to get laws to protect her and those like her. You may take the view that there are people outside that, but it is our job to protect the most vulnerable in this particular area, Dr Ellison, and that is what we are trying to do.

2145. **Dr Ellison**: I do not dispute what you are trying to do, Mr Humphrey. I was not saying that at all. All I am saying is that this Swedish law has been untested outside Sweden. I do not know what the knock-on consequences will be of introducing it in an environment that is unlike Sweden. We do not have the welfare state infrastructural support here. We are not very homogeneous; we have our little ethnic sectarian schisms and whatever. So it is my job as a researcher to think a bit outside the box about what the consequences of this might be. Might it make a situation better in some respects for some people? Might it make things much worse for many more in other respects? That is not to say that I disagree with what you are trying to do, but I just wonder whether, potentially, it could be done within the existing legislative framework, if that were tweaked, amended or whatever.

2146. **Mr Humphrey**: I accept your point. Just to finish, let me go back. You have talked about Sweden and Holland, which are two of the most liberal democracies on the globe. They deal with this in a very different way. In giving the benefit of the doubt — if that is the right term, and it is probably not — I believe that it is our job to go with the system

that prevents over 140 people being murdered, and people losing the most basic human rights. Yes, in Stockholm and Sweden, it is driven underground, but there is a crush on it and a check on it and a police presence and resource being applied. I do not think that police resource is an excuse not to deal with it. I appreciate the point that police resources are stretched. I go back to the start of my contribution: I genuinely do not believe that section 64A of the 2009 Policing and Crime Act, which deals with the issue of sexual services from someone who is being coerced, is enough to deal with it. That is why I support the Bill.

2147. **Mr Wells**: I have a few things. First, I have sent you the link to the Swedish newspaper that verifies that there have been 127 murders of women prostitutes —

2148. **Dr Ellison**: In Sweden?

2149. **Mr Wells**: — in the Netherlands in the past 30 years. That is a society in which, of course, prostitution, even before the reform of 2000, was very liberal.

2150. **Dr Ellison**: Would you like me to respond to your email?

2151. **Mr Wells**: Yes, certainly — when you get it.

2152. **Mr McCartney**: Be careful what you say in it.

2153. **Mr McGlone**: That is a given.

2154. **Mr Wells**: Secondly, I am about to send you the link with Mr Marshall's comments. He is the police superintendent who called for the liberalisation of the law in Northern Ireland. The only reason that I have not yet sent you the link about Dr Huschke is that I have to get the consent of the lady who sent it to me. Clearly, she is in a very vulnerable position. I cannot reveal her identity for very obvious reasons. That is where I got it from.

2155. The experts in the Building have said that there is no problem with falsifying, duplicating or changing IP addresses. That is very easily done. Therefore, indicating that you are dealing with the same people is the easiest thing in the world. They cannot do that if they do it on Apple Macs, but they can do it quite easily on ordinary computers.

2156. Dr Ellison, I looked up your website while you were speaking. You told us earlier that you had no connection with Amnesty International. Were you not an adviser to Amnesty International?

2157. **Dr Ellison**: Not as far as I know.

2158. **Mr Wells**: Well, why in your website does it say that you are? I have shown it to the Chairman. For some reason, that was taken down within the past week, but we did a photo snap of it. Why did you say —

2159. **Dr Ellison**: You will have to show me.

2160. **Mr Wells**: It says that you are the human trafficking and sexual exploitation adviser to Amnesty International. That is black and white: either you are or you are not, and yet you deny any connection.

2161. **Dr Ellison**: You can check with Amnesty International. I have never advised it on that.

2162. **Mr Wells**: That is a strange one.

2163. This is even more serious, and I ask both of you this: has either of you had any direct contact with Mr Peter McCormick or his sons?

2164. **Dr Ellison**: Absolutely not.

2165. **Mr Wells**: You have never heard of Mr Peter McCormick?

2166. **Dr Huschke**: I have never heard of his name.

2167. **Mr Wells**: You have never heard of him?

2168. **Dr Huschke**: No.

2169. **Mr Wells**: You have never heard of escortireland.ie or any similar phrase?

2170. **Dr Ellison**: I have heard of escortireland.ie.

2171. **Mr Wells**: Have you had any dealings with escortireland.ie?

2172. **Dr Ellison**: In what sense?

2173. **Mr Wells**: Did you co-author a paper with escortireland.ie or with anyone who controls it? Be very careful about how you answer that, because I have stuff before me that indicates otherwise. Have you had any contact with —

2174. **Dr Ellison**: I have not co-authored a paper with escortireland.ie. I have co-authored a paper based on escort.ie data. Is that what you mean?

2175. **Mr Wells**: What is escort.ie?

2176. **Dr Ellison**: Escortireland.ie?

2177. **Mr Wells**: What is it?

2178. **Dr Ellison**: It is an online web provider.

2179. **Mr Wells**: What does it provide?

2180. **Dr Ellison**: It advertises profiles for —

2181. **Mr Wells**: Prostitutes.

2182. **Mr Elliott**: For sex workers, yes. I am not sure what your point is.

2183. **Mr Wells**: Well —

2184. **Dr Ellison**: Excuse me. I was researching the indoor off-street online sex industry. I asked a number of providers to give me anonymised data, which they did. We then put that data on my computer. We loaded it up in SPSS, which is a statistical package. I was able to look at the ages of sex workers, the jurisdictions where they came from, the income they charged or whatever. I got raw data, and I used it —

2185. **Mr Wells**: From the largest prostitution website in Ireland, which controls the overwhelming majority of —

2186. **Dr Ellison**: Are you suggesting, Mr Wells, that I get it from a website with no profiles on it? Of course I would take it from the one that had the most clients.

2187. **Mr Wells**: The site makes €150,000 a month.

2188. **Dr Ellison**: What it makes is irrelevant to me. The fact is that I asked it for data. In fact, I did not even ask for the data. Is this Paul Maginn you are talking about?

2189. **Mr Wells**: I am talking about Peter McCormick and his son.

2190. **Dr Ellison**: I do not know Peter McCormick. I do not even know who his son is. I co-wrote a chapter, which, I guess is what you are talking about —

2191. **Mr Wells**: Yes.

2192. **Dr Ellison**: — with Paul Maginn. Is that what you are talking about?

2193. **Mr Wells**: Yes, but you told me earlier that you had never heard of Peter McCormick, who runs that site.

2194. **Dr Ellison**: I have not, no. I have never met Peter McCormick.

2195. **Mr Wells**: You said that you did not know him.

2196. **Dr Ellison**: I do not know him.

2197. **Mr Wells**: Right, but you have heard of him.

2198. **Dr Ellison**: Only because you talked about him last week.

2199. **Mr McGlone**: I have heard of the Dalai Lama, Chair. Do you know what I mean?

2200. **Mr Wells**: Yes, but as we will find out later, this is the main —

2201. **Dr Ellison**: Mr Wells, you are being slightly disingenuous here. I have heard of Peter McCormick.

2202. **Mr Wells**: We will move on.

2203. **Mr McCartney**: You are making a very bad job of a bad job.

2204. **Dr Ellison**: I have heard of Peter McCormick because you talked about him at the last hearing. I did not even know who he was until you talked about him.

2205. **Mr Wells**: You said that the Swedish model —

2206. **Dr Ellison**: Sorry, can I just clarify something? You are sitting looking at your computer there. I am not allowed to use my phone for some reason, so I cannot look at my own website. I have never been an adviser to Amnesty International; I do not know where

that came from. I do not know why the website was taken down. I know that Queen's is operating two websites now.

2207. **Mr Wells**: I will send it to you so that you can check.

2208. **Dr Ellison**: If you show it to me before I go out, I can —

2209. **Mr Wells**: I was about to do that, only it says here that the thing is going down for the last hour, unfortunately.

2210. **Dr Ellison**: I will check with Amnesty when it comes in and ask it. No, I have —

2211. **Mr Wells**: You said that the Swedish model had only been tested in Sweden, but the Swedish model has already been introduced in Norway and Iceland.

2212. **Dr Ellison**: No, I said that the Swedish model has only been introduced in the Nordic region. I can check my wording.

2213. **Mr Wells**: It is about to be introduced into France.

2214. **Dr Ellison**: No. It has to go to a vote in the upper Chamber.

2215. **Mr Wells**: It is going through the lower Chamber.

2216. **Dr Ellison**: The lower Chamber, sorry.

2217. **Mr Wells**: This is my final point. The phrase that you used about the DUP is extremely offensive.

2218. **Dr Ellison**: OK. I apologise for that.

2219. **Mr Wells**: That is good.

2220. **Dr Ellison**: But, can I maybe put a little bit of context on that as well?

2221. **Mr Wells**: OK.

2222. **Dr Ellison**: I have tried on, I do not know, about 20 different occasions — seeing that we are all keeping records of emails and stuff — to contact you and you, Mr Givan, way before this research started, asking for an interview in connection with the project. I have spoken to Lord Morrow's PA and to your press office. I have had no luck whatsoever in getting anyone from the party, nor, indeed, from CARE, to come to speak to me. So, I guess that maybe I was a bit frustrated. I was thinking, "Well, why will this party that is promoting this Bill, Act or whatever not speak to me?" Every other political party has. The DUP is the only party that has not. Then I was thinking, "When this report goes to the UK Government, which it will in September, I am going to be put in the really awkward position of saying, 'I have had the cooperation of all the political parties in the Assembly with the exception of, I guess, the biggest one'".

2223. **Mr Wells**: Dr Susann — I will call you — you remained very silent during my questioning about your links —

2224. **Dr Huschke**: I was just going to say something about that.

2225. **Mr Wells**: I think that you need to tell us exactly what is going on.

2226. **Dr Huschke**: We all agree that we need research on the sex industry and on human trafficking, and we all want to know how many people are involved in it, what is going on and who is doing what. We all agree, I suppose, that the online sector is a growing sector and is really important. We agree on that, right?

2227. **Mr Wells**: Right. Keep going.

2228. **Dr Huschke**: So, I am just wondering how you suggest you find out anything about the online sector without actually ever contacting any people in the online sector. I do not know this guy you were talking about. I have never heard of his name, and I certainly have not had any dealings with him. In order to get information about the online sector, yes, I emailed the email addresses that are visible on the websites of different companies that advertise in the online sector. If I am not supposed to do that for moral reasons or ethical reasons, how I am supposed to find out anything about the online industry?

2229. **Mr Wells**: Maybe you should have told us that when you were telling us about your research. Your main source of information is the main prostitution website in Ireland.

2230. **Dr Huschke**: I did say — it is probably on the record — that the way I got people to answer the survey was by having it posted on some of the websites; yes, of course.

2231. **Mr Wells**: That is where I saw it.

2232. **Dr Huschke**: I am sorry?

2233. **Mr Wells**: That is where I saw it. It was there.

2234. **Dr Ellison**: But, if you are doing research on the online sector, you have to —

2235. **Dr Huschke**: So, how are you going to find people if you are not using the online sector? I mean —

2236. **Dr Ellison**: You might not like it, Mr Wells, but people have to do research on this.

2237. **Mr Wells**: Right. I will finish with this. You have now admitted that you had direct links with the largest prostitution website in Ireland, and you have not met people like Rachel Moran.

2238. **Mr McGlone**: That is a big leap of faith there.

2239. **Mr Wells**: I am saying it.

2240. **Dr Huschke**: Rachel Moran is not the only one who can provide that kind of experience. I have talked to other people who have had a similar experience.

2241. **Dr Ellison**: I have not had direct links. I asked them; I did not even ask them. Paul Maginn, which I guess is what you are sitting there looking at, or were looking at — Escorts Ireland is a company. Of course, I have not written with a company. Paul, who is based in Australia — he is from Belfast — teaches at the University of Western Australia. He got anonymous data from them, which we loaded up into our own computers and ran some statistical packages on. I could tell you the ages of people and their nationalities. Would you not be more interested in listening to that? It would give you a better idea of who and what these people are.

2242. **The Chairperson**: Dr Ellison, I have heard what you have said about excusing why you would be so abusive to Gunilla Ekberg in your email. You may well be frustrated about the DUP and not having got a response. It certainly does not justify emailing a fellow academic —

2243. **Dr Ellison**: She is not an academic.

2244. **The Chairperson**: Well, again, you can run her down if you wish.

2245. **Dr Ellison**: I am not running her down, but where is she teaching?

2246. **The Chairperson**: You can continue in that train of thought if you want about that individual. One might say, "When you are in a hole, stop digging", but it never justifies the type of abuse that you sent to that individual via email. You can excuse it if you wish. It is not acceptable. Given the views that you hold about my party, why would I ever engage in any research that you would want to put forward, given the prejudicial views that you hold against my party?

2247. **Dr Ellison**: Obviously, not at this point in time, but I am sure I had asked your party long before the email. I think that the email was born out of frustration.

2248. **The Chairperson**: It is an offensive email —

2249. **Dr Ellison**: I do not —

2250. **The Chairperson**: I am not here to now get a response, because we have finished this session. It is an offensive, obnoxious email, and it prejudices the witness and testimony that you have given — in my opinion — because of the views that you have expressed about the party that I belong to, which gets the most votes of any other party in Northern Ireland. Therefore, you have not just offended that party; you have offended those people as well.

2251. However, people will be able to read your evidence and judge for themselves. I thank you both for coming to the Committee and giving up your time.

30 January 2014

Members present for all or part of the proceedings:

Mr Raymond McCartney (Deputy Chairperson)
Mr Tom Elliott
Mr William Humphrey
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Ms Lucy Smith *Ugly Mugs*

2252. **The Chairperson**: I welcome Lucy Smith, who is the manager of UglyMugs.ie. Like the previous sessions, this session will be recorded by Hansard and published in due course. You will have to excuse me; I am going to vacate the Chair. I hand over to the Deputy Chairman, who will conduct the remainder of the meeting.

2253. **Ms Lucy Smith (Ugly Mugs)**: I thank the Committee for inviting me here today. UglyMugs.ie is a sex worker safety scheme. The aim of the scheme is to improve the safety of sex workers and reduce crimes committed against them by bringing sex workers together to share information with each other about potential dangers. It is a free service available to all sex workers. It started out from a website Escort-Ireland.com. UglyMugs.ie was launched in 2009, although there were less-formal schemes before then. Last year, it became its own organisation, Safe IQ Limited, though it remains linked up with Escort-Ireland.com.

2254. It works in this way: when a sex worker encounters a bad person or other danger, they report it to UglyMugs.ie. They can do that by SMS, email, phone or an online form, and we can collect over 100 unique variables about each incident and the perpetrator or perpetrators involved. Each incident reported is reviewed by us and a warning to all sex workers is then published. Sex workers can also opt to subscribe to receive new warnings by email and/or SMS alert.

2255. Essentially, Ugly Mugs schemes are sex workers sharing information with each other to try to help each other stay safe. UglyMugs.ie utilises the latest technology, but the concept of sex workers helping each other is not new — it is probably as old as sex work itself. Indeed, in 1867, when journalist James Greenwood wrote about the Curragh wrens, a group of women who operated as prostitutes around the Curragh military camp in Kildare, one of the more interesting things that he noted was that, despite the poor conditions that the women lived in, they were well known for their generosity and kindness towards each other and for helping each other out in times of distress.

2256. The Curragh wrens were outcasts from society, but they had their own community support network. Things are not so different today perhaps. We lack support services for sex workers in Ireland, but we have our own support networks. UglyMugs.ie is a very successful scheme because we have a great community of sex workers. It provides sex workers with information that greatly improves their safety. It enables sex workers to be incredibly aware of specific offenders and more general offending trends.

2257. The real proof of its work is the fact that so many sex workers use it. We normally have about 800 active sex workers using UglyMugs.ie at any one time. Over 4,500 incidents have been reported to date. There have been over 60,000 discussion posts or comments on incidents. About half of reported incidents are crimes. We record both crimes and other incidents that are not crimes but that sex workers define as abuse. Examples of non-crime incidents are undercover journalists exposing

escorts, malicious time wasters or suspicious happenings where no crime has been committed but there is a worry about a potential danger.

2258. Speaking only of Northern Ireland and only of incidents that are crimes, we have recorded 171 such incidents over the past four years. That breaks down as 78 threatening or abusive communications; 62 incidents of in-person threatening or abusive behaviour; 14 incidents of assault; nine of sexual assault; 17 of robbery; six of impersonating police; three of stalking; nine of exploitation; four of blackmail; 14 of fraud, and 10 of criminal damage. Those figures do not add up to a total of 171, as some incidents involve multiple categories of crime.

2259. With me talking about violence and sex workers, I am sure that you want me to explain why sex workers sometimes experience violence and abuse. First, it is not normal for sex workers to experience violence. Sex worker Laura Lee recently spoke to this Committee about how she has never experienced violence in her 20 years of working as a sex worker. I know that many other sex workers would say the same thing. However, not all sex workers are the same. Not all sex workers have the same experience in sex work. Some sex workers do encounter violence in the course of their work.

2260. As a result of the work that I do, I have a much heightened awareness of violence against sex workers. Violence against sex workers is not rampant in Ireland. It is actually at quite a low level in comparison with the situation in many other countries. However, I am generally not the first to say that, because I do not feel that it is for me to be laid back. I take all violence against sex workers extremely seriously. I work extremely hard. I do everything that I possibly can to try to improve things and to try to prevent violence.

2261. Of course, encountering violence is not a phenomenon unique to sex work. Violence can and does happen in all sorts of work settings. I could not find any Northern Irish stats on work-related violence before coming here, but I can tell you that there were an estimated 643,000 incidents of work-related violence in England and Wales in 2011-12.

2262. Most clients are not abusive to sex workers. You can get abusive clients, but only a small minority of clients are abusive to sex workers. That is what a whole range of sex workers tell me again and again. I want to make that point, as there is a lot of dishonesty about this and demonisation of clients is not helpful. When we look at who is perpetrating violence against sex workers in Ireland, we see that it is criminals. The majority of those criminals are not clients, although many pose as clients in order to offend.

2263. What makes sex work different from other types of work is the stigma and the laws. In Northern Ireland, most sex work is indoor work. Indoor sex work has consistently been shown to be less dangerous than outdoor sex work. However, there are key factors in Northern Ireland that are known to increase violence against sex workers. First, there is extreme stigmatisation of sex workers. I cannot stress enough how harmful that is. There is so much hatred of sex workers, and that is really damaging to sex worker safety. There is also partial criminalisation, most notably in the brothel laws that force sex workers into the vulnerable position of having to be lone workers if they want to work legally. It is also the situation here that sex workers frequently feel unable to go the police, which, many offenders recognise, means there is a decreased risk of there being consequences of their offending if they target sex workers. Some research that we conducted last year indicated that 67% of Irish sex workers do not engage with the police when they are a victim of crime. They fear being judged or not being believed by police, that the police will not help them and that, if they report a crime, they will be investigated for prostitution-related offences, will

lose their accommodation or could be deported.

2264. There is so much that we can do to prevent the violence and abuse of sex workers in Northern Ireland. There are so many positive steps that we could take — simple measures that could make a huge difference. I am not talking about new laws. To have a PSNI sex work liaison office would be hugely helpful. To stop sending out the message that sex workers can be abused and instead publicly send out the message that crime against sex workers will not be tolerated would be hugely helpful. To bring crimes against sex workers into the existing hate crime system would do so much good; that has already been done very successfully in Liverpool. It is called the Merseyside model. Northern Ireland should also support the UK Network of Sex Work Projects (NSWP) national Ugly Mugs scheme.

2265. We have no independent research on indoor sex work in Ireland. There is no research in the South either. I know that there are claims of research down there, but it is all research that has either been paid for or carried out by people who are opposed to sex work. The 2009 Immigrant Council of Ireland report, which is the main report they cite, was funded by the Religious Sisters of Charity, the same order that founded the Immigrant Council of Ireland — sorry, correction, a member of that order founded the Immigrant Council of Ireland. The only two other organisations involved in the research were Ruhama, which is a joint project of the Good Shepherd Sisters and Sisters of Our Lady of Charity, and the HSE's women's health project, which is led by an extreme anti-sex work management, a woman who has said that harm reduction makes her sick to her stomach.

2266. Sex work in Northern Ireland has changed over the past 20 years. As in many parts of the world, outdoor sex work has declined and indoor, internet-advertised sex work is now the norm. Today, most sex workers in Ireland are not Irish. Most travel to work in different cities around Ireland and often around Europe and beyond. That is another change that has occurred in the past 20 years, but I do not think it is as big a change as it is made out to be sometimes. It has long been the way that sex workers frequently move around and prefer not to work in their local area.

2267. Historically, as far as I can tell, Northern Ireland has always had low levels of sex work. As a consequence, perhaps, there is not a lot of information available about the history of sex work in Northern Ireland. Dublin, however, had the Monto 100 years ago — reportedly the biggest red-light district in Europe until it was closed down in the 1920s. When reading about the Monto as it was 100 years ago, in historian Terry Fagan's work, one of the things I noticed was that the sex workers were reported to be primarily from rural Ireland or England, not locals. At the same time, newspapers in England were full of stories about the large number of Irish prostitutes in English cities such as Liverpool and London. The point I am trying to make is that the mobility of sex work that we see today is not actually a new thing. The opening up of the European borders, and the availability of cheap flights — Ryanair — has changed Ireland and today it is much easier, faster and cheaper to move great distances than it used to be.

2268. One thing you see if you look at the history of prostitution in Northern Ireland is that there was a big spike in the number of prostitution-related convictions that occurred from 1908 to 1914. That was the period of the white slave trade panic. That brings me to trafficking. "Trafficking" may be a very useful term in many regards, but in the context of sex work in Ireland I struggle with it. Trafficking is presented as a big new thing, but none of its components are actually new. All of the abuses that can be part of trafficking existed before we ever used the term "trafficking". Also, it can mean so many different things. Notably here, under UK law, there

is no requirement of force, coercion or deception for sex trafficking to occur. As a result, a huge range of things related to sex work can now be termed sex trafficking. I do not think that is greatly understood. I think that people imagine that the meaning of trafficking is the Palermo protocol meaning. People do not realise that none of those factors are required under the law here.

2269. The debate on trafficking in Northern Ireland is frequently sensationalist. Despite the complexity of trafficking, people often want to reduce it to one simple paradigm, that of modern-day slavery. I think we need to get real. Trafficking could be one sex worker buying her friend who is also a sex worker an airline ticket, or giving her friend who is also a sex worker a lift. That is not evil.

2270. Until recently, debates around sex work and sex trafficking have been framed in the absence of research. I welcome the Department of Justice's moves to address that. It is also important that the sex work community is included in the debate from now on. People talk about how one of the problems with the Swedish model is that we cannot know the impact of it because no research was conducted before it was introduced. There are people here who seem determined that Northern Ireland follows suit and that we implement the Swedish model in Northern Ireland without conducting any research, so then we do not know whether it is successful. I oppose the Swedish model because it harms people selling sex. It drives sex work further underground and creates more stigma and hate. It increases violence and abuse towards sex workers. Ironically, it increases the exploitation of sex workers, the very thing that advocates of it here argue it would reduce.

2271. We already have huge problems with hate in Ireland. A lot of hate has been generated in recent years, and there are consequences of that. More and more sex workers report to me things that indicate that the trafficking debate is encouraging crime — incidents like robbers telling them, "Sure, the money would go to your pimp if I did not take it" or "It is OK to sexually assault you; you are a sex worker and get raped every day anyway". Clients are not my area, but blackmailing of clients has also become an issue.

2272. The idea that the Swedish model brings with it decriminalisation or anything good for sex workers is the biggest lie. Swedish model advocates are absent in sex worker safety. Swedish model advocates are encouraging the Irish media to expose sex workers and alleged victims of trafficking. Tabloid newspapers are repeatedly publishing covertly taken photos — sometimes showing faces; sometimes showing nudity — of alleged sex workers or sex trafficking victims, sometimes along with their name and full address. The worst offender in that regard is Eamon Dillon of the 'Sunday World'. Ruhama gave him an award for his work here. The 'Sunday World' is not the only offender here. In Northern Ireland, the 'Sunday Life' deserves a dishonourable mention, too. The media abuse has become so bad that our research now suggests that sex workers fear journalists more than they fear violent criminals.

2273. Sex workers are regularly being prosecuted and sometimes jailed for working together. This is happening North and South. In the South of Ireland, the courts are frequently awarding the moneys found on sex workers to Ruhama. Women and men selling sex are getting criminal records and being publicly shamed. This is incompatible with the image that the Swedish model advocates portray of there being some sort of decriminalisation for sex workers. The Swedish model is all bad and no good for sex workers.

2274. Women's Aid in Northern Ireland says that all prostitution is slavery and all prostitution is rape. Like Ruhama, Women's Aid engages with very low numbers of women — 47 victims of trafficking in the past four years, according to the evidence it gave to this Committee. It does not distinguish, of course, between sex work and sex

trafficking. In its last annual report, Ruhama says that it has engaged with 63 new women. That is only a little over one a week. UglyMugs.ie works with hugely greater numbers of sex workers. Why is that? I would say that it is because UglyMugs.ie is a useful service that helps sex workers.

2275. Anti-sex work organisations often talk about how hard it is to engage with sex workers in Ireland. I would say that the problem there is that they offer very little, if any, useful help to sex workers and they bring with that a lot of hate that naturally repels sex workers from engaging with them. Reflecting on Women's Aid's evidence here and some of the things that they said about sex workers — for example, that all sex workers have mental health issues — I think that the way in which they speak about sex workers is horrific.

2276. Major resources are being directed at anti-trafficking efforts, and there are campaigns to include a wide range of people in those efforts, but the sex work community is being overlooked. If people are being trafficked into prostitution, the sex work community is uniquely well placed to combat that and highly motivated to want to do so. Sex workers care greatly about the well-being of other sex workers. They do not want trafficking; they want to stop trafficking. The sex work community is already doing that. Who do you think is helping the police to combat trafficking in Northern Ireland? It is the sex work community. But, while we are busy working against abuse, the anti-sex work community is running a massive hate campaign against us. We want to work against trafficking exploitation; we want sex workers to be able to conduct their work as safely as possible; we want sex workers to be able to engage with the police; but we are really struggling in the sex work community under the weight of the hate being rained down upon us by Swedish model advocates. It feels as though they just want to make it impossible for sex workers to be safe or to engage with the police or to have any support services.

2277. I thank you especially for inviting me here today, because we in the Irish sex work community face almost total exclusion. The Irish Justice Committee's recent review of prostitution legislation was an example of that. I have to say that I am upset by the way that Laura Lee was treated by some members of this Committee and by what was said about Turn Off The Blue Light, but I thank you for hearing me.

2278. **The Deputy Chairperson**: Thank you very much for that, Lucy. I will now open up the session for questions from members.

2279. **Mr Wells**: It is important that we establish the nature of UglyMugs.ie. I understand that your office is in London.

2280. **Ms Smith**: I do not have an office.

2281. **Mr Wells**: But you are based in London.

2282. **Ms Smith**: I do not want to answer any personal questions because of the security threats.

2283. **Mr Wells**: There are nine million people in London. I think that it will be reasonably safe for you to tell us where the office — not you, personally — is based.

2284. **Ms Smith**: There is no office for UglyMugs.ie.

2285. **Mr Wells**: OK, so there is no office. Who funds the work of UglyMugs.ie?

2286. **Ms Smith**: There is no funding. We do not have things like offices; it is a website.

2287. **Mr Wells**: You have a website, which is quite detailed. Who funds that?

2288. **Ms Smith**: A website, as you may know, is a very cheap thing to run. At the moment, I fund the website personally.

2289. **Mr Wells**: OK. Who is Audrey Rita Campbell?

2290. **Ms Smith**: I am aware of who that person is, but I do not wish to answer questions about her. If you have questions for her, you should invite her in.

2291. **Mr Wells**: Right. When you click on the link to the Ugly Mugs website, you are automatically redirected to Escort-Ireland.com. Why is that?

2292. **Ms Smith**: As I said in my statement, it is heavily linked up with Escort Ireland. There are two ways of getting in, but one way takes you straight to Escort Ireland.

2293. **Mr Wells**: So, an organisation that, you say, helps to protect sex industry workers and make them safer links straight to the largest prostitution ring in Ireland.

2294. **Ms Smith**: It is straight to Escort-Ireland.com. There is one way that you can go straight to Escort-Ireland.com.

2295. **Mr Wells**: Which is the largest prostitution ring in Ireland.

2296. **Ms Smith**: Well, those are your words, not mine. I am confirming that it is linked to that website.

2297. **Mr Wells**: At any given time on that site, there are 400 women advertised for sexual services. That is far and away the biggest sex ring in Ireland.

2298. **Ms Smith**: I do not know quite what you mean by the word "ring".

2299. **Mr Wells**: Well, they proudly boast that they can provide prostitutes from Letterkenny to Londonderry — maybe not quite like that. They have prostitutes in every county in Ireland, and at any given stage there are 400 women available for sexual services. That makes it easily the biggest prostitution ring in Ireland. Yet, when you link into your website, it sends you directly to that.

2300. **Ms Smith**: Yes, by one way of logging in.

2301. **Mr Wells**: So, in other words, you are directly linked to the purveyors of sexual services, no matter where you stand on that issue.

2302. **Ms Smith**: Yes, that was the second sentence in my statement.

2303. **Mr Wells**: So, we are actually talking to a group that is a voice for and the public face of a leading prostitution ring.

2304. **Ms Smith**: Well, I am not the voice or the public face of that website. I acknowledge fully and would be happy to talk to you about why it is linked to that website.

2305. **Mr Wells**: I ask that only because it is important to distinguish the fact that you are not just a group of fellow-minded sex workers who have got together to represent the best interests of your workers but a group that is inextricably linked to the largest prostitution ring in the country — the country being the Irish Republic, by the way, Mr Chairman. Do you understand where I am coming from on that? It is important that we establish the fact that you are not just a group of like-minded people who have concerns about the abuse of sex workers.

2306. **Ms Smith**: We will remain linked to that website so long as it is legally viable to do so. The reason for that is that we want to reach as many sex workers as possible and it is the most convenient way to reach sex workers, when they are accessing their advertising. They just plug in and get straight to Ugly Mugs, where they can see the warnings while they do normal things such as paying for advertising. It is an excellent way to reach sex workers.

2307. I am also helped out by Escort-Ireland.com staff. They help with Ugly Mugs. It is a much larger organisation than mine, and it has staff who speak different languages. I do not speak all those languages, so, when a sex worker has been attacked and she speaks only Polish, Escort-Ireland.com will help me because it has a Polish speaker. They will help me by talking to her and explaining to her the different things that we explain to people who have been attacked.

2308. **Mr Wells**: Do you know Mr Mark McCormick?

2309. **Ms Smith**: Again, I am not commenting on other people. If you want to bring them in, bring them in.

2310. **Mr Wells**: Well, I will put it to you that Mark McCormick is the son of Peter

McCormick, both of whom jointly run Escort-Ireland.com.

2311. **Ms Smith**: That is something that you are saying. It is certainly not something that I am saying.

2312. **Mr Wells**: It has been reported on RTE and in the 'Irish Independent' and 'The Irish Times'.

2313. **Ms Smith**: I have seen this with your statistics about the 127. You seem to think that everything you read in the newspapers is true.

2314. **Mr Wells**: Would you like me to send you the link about that?

2315. **Ms Smith**: I believe that these things are said in the media, but I am saying that you read many things in the media that are not true.

2316. **Mr Wells**: Both Mr Mark McCormick and Mr Peter McCormick have convictions in the Irish courts for prostitution.

2317. **Ms Smith**: As I said, I am not going to comment on other parties.

2318. **Mr Wells**: Until 12 August 2013, Audrey Rita Campbell was the sole owner of the domain entitled UglyMugs.ie. Is that the truth?

2319. **Ms Smith**: Yes. Ugly Mugs started out as a bolt-on to Escort-Ireland.com.

2320. **Mr Wells**: What is the relationship between Audrey Rita Campbell and Mr Peter McCormick?

2321. **Ms Smith**: I do not know why you are asking me these questions, when I have told you —

2322. **Mr Wells**: They are partners. They are long-term partners living together as man and wife. Why am I going down this route? If the owner of the domain that runs your site is the partner of the man who runs the leading organisation for prostitutes in Ireland, it draws into some doubt the neutrality of what you are telling us.

2323. **Ms Smith**: Well, draw your doubt, but I am not going to comment on those individuals.

2324. **Mr Wells**: We exchanged e-mails, you may recall.

2325. **Ms Smith**: Yes.

2326. **Mr Wells**: When I originally put the question to you about Mr Peter McCormick, you said that you had never heard of him.

2327. **Ms Smith**: I am not going to comment on that person.

2328. **Mr Wells**: And when I told you, you had then. The organisation that you are linked to transports 400 women a week around various parts of Ireland.

2329. **Ms Smith**: I really do not see the point of the question. I am not going to answer questions about Escort-Ireland.com. I am happy to talk about Ugly Mugs. I am happy even to talk about sex work generally in Ireland, but I am not going to answer question about Escort-Ireland.com.

2330. **Mr Wells**: I accept that. Let us not refer to the biggest prostitution website on professional prostitution in Ireland. As was shown on 'Prime Time' on RTÉ, 400 women are transported

2331. **Ms Smith**: That 'Prime Time' was a shocking programme, and I mean shockingly bad.

2332. **Mr Wells**: It was very shocking. I found it absolutely ghastly the way those women were treated by the Romanian gangmasters. Those women are moved around towns in Ireland, because the men who buy the services of prostitutes demand fresh material every week. I find that absolutely appalling. What is Ugly Mugs doing to stop the awful treatment of sex workers in the Irish Republic?

2333. **Ms Smith**: Would you like me to comment on the RTÉ programme?

2334. **Mr Wells**: Yes, certainly.

2335. **Ms Smith**: The RTÉ programme was basically sensationalised television. The man who made the RTÉ programme gave evidence to the Southern Irish Justice Committee. I was really interested when eventually someone asked him a

question about the figures and where he got his numbers from and so forth. He stated that, for operational reasons, he was not going to reveal how he came to those points. What I am saying is that it is not research that we can rely on. You can only understand research if you see how someone came to the figures.

2336. There was also huge abuse associated with that programme. What I mean is that it violated the privacy of so many sex workers. It also violated the privacy of Ugly Mugs when someone posed as a sex worker to get into Ugly Mugs. Ugly Mugs has a logging system, which logs when people have logged in. Sex workers were discussing how bad it was what RTÉ was doing to them — for a long time before the programme, it was known that RTÉ was out looking for people and trying to film them — and that person sat there and read the distress and abuse they were causing.

2337. I cannot remember his name, but, when the guy who made the programme — Paul something — gave evidence, he said that, for the course of a year of his research, he could not find one person who could tell him that they liked sex work. Do you not find that rather stunning, considering that you have found one person already? He is claiming that he had a massive team out there for a year and could not find one person.

2338. **Mr Wells**: What disturbed me was that, when I clicked on to UglyMugs.ie and was transferred to Escort Ireland, I was then asked to rate a series of women according to their sexual performance as if I had bought their services as a prostitute. When you go into that column, you find that hundreds and hundreds of men have rated those women, almost like slabs of meat. I cannot go into the gory details of what they write, because there are ladies present. However, each act that they performed was rated on a scale of one to 10, and that is linked directly to a site that is meant to be protecting the interests of prostitutes in the island of Ireland. Why is that?

2339. **Ms Smith**: As I have explained to you, we are about keeping sex workers safe. We are going to be everywhere that we can be that sex workers use and see.

2340. **Mr Wells**: Do you think that it helps sex workers that men are invited to go onto a website to rate their performance, basically as playthings or slabs of meat that you can abuse as you wish in return for payment? Does that provide the protection that Ugly Mugs is trying to create for its members?

2341. **Ms Smith**: My view on reviews generally is that they are a mixed thing. Some sex workers like reviews; they say that it gets them a lot of business and is great. Other sex workers do not like reviews. There are definitely some issues, as some sex workers do not like the reviews concept. A lot of websites allow sex workers to choose whether they receive reviews or not. I would certainly say that that should be a choice. People should not leave reviews —

2342. **Mr Wells**: None of the prostitutes on Escort-Ireland.com has any choice. They are all rated.

2343. **Ms Smith**: As I said, I am not going to comment about that website.

2344. **Mr Wells**: At the minute, I cannot get onto your website because I am immediately diverted to Escort-Ireland.com.

2345. **Ms Smith**: You are on the front end of the website. You are not on the back end. I do not know how many times you would like me to acknowledge that UglyMugs.ie links to Escort-Ireland.com.

2346. **Mr Wells**: I appreciate your honesty. It is very helpful. It is more forthcoming than I expected and certainly much more forthcoming than when we exchanged emails.

2347. If that is the case, how does it protect the interests of your members, who are members of Ugly Mugs, if they are portrayed unclothed and in extremely provocative positions on that site and men are asked to rate them according to their sexual performance?

2348. **Ms Smith**: As far as I know, Irish sex workers are not reporting any problems with review sites, because all of the Irish sites, as far as I know, allow sex workers to choose whether they receive reviews. So, if people do not want reviews, they simply say that they do not want reviews and people cannot leave reviews of them.

2349. **Mr Wells**: You have no conscience at all about the fact that men are asked to review, sometimes in the most derogatory and insulting terms, the performance of those women?

2350. **Ms Smith**: On the whole morality of sex work thing, I do not have a lot of views. I really do not.

2351. **Mr Wells**: You do not have any view on that. So, I have a right to buy the sexual services of any woman I choose?

2352. **Ms Smith**: Of course you do not have the right to buy any woman you choose. That is ridiculous. I am saying that on the matter of consensual sex between adults and money being exchanged, I do not have a strong moral position. If you want to say that you hate it, fine.

2353. **Mr Wells**: So, no matter how vulnerable a women is; how much she is perhaps addicted to drugs, solvents or alcohol; how clearly she is maybe of limited intelligence or has come from an extremely poor background and has had a very difficult upbringing, I have a right, if she consents, to buy her for whatever sexual service I deem appropriate?

2354. **Ms Smith**: That is not how sex work works. You have just said, "whatever sexual service I deem appropriate". You are talking about it in terms that make it sound as though the person is not choosing to sell you sex at all. Obviously in those circumstances —

2355. **Mr Wells**: Well, on the leading website, Escort-Ireland.com, there is a list of the sexual services that every woman is required to perform.

2356. **Ms Smith**: Again, you are using the word "required". It is a bizarre term. People think that everyone uses the word "escort" for some legal reason or because they are trying to create the pretence that it is all about dinner dates, or something. Personally, I like the word "escort" because I like the time and companionship concept. That is what it should be. I do not mean that sex should not take place. Certainly, all clients should understand that when you make a booking with a sex worker, you are paying only for her time and companionship. If there is anything that she or he does not want to do, you are not doing it.

2357. **Mr Wells**: How much companionship can you engender if the rate is for 35 minutes and that woman is changed every week as another squad of ladies is brought from another part of Ireland to fulfil the sexual desires of the same men? How do you develop companionship with a woman?

2358. **Ms Smith**: I was talking about companionship as the concept of what they are paying for. They do not pay for the sexual act. I agree with that concept. I think that it is a good one.

2359. **Mr Wells**: In Rachel Moran's book — I hope that you have read it, because it is a horrendous read — she does not seem to have had any experience of the need for companionship. It seems to have been a demand for raw sexual services as quickly as possible.

2360. **Ms Smith**: When I was talking about companionship, I meant that not all sex work involves sex. Some people do just want companionship or other services. I was not trying to make out that sex does not occur. I was saying that the structure in which it occurs is one in which the woman retains her consent. You cannot just do what you want with a sex worker. That is a nasty thing to say, and it is not true.

2361. **Mr Wells**: Having seen the list —

2362. **Ms Smith**: When you pay a sex worker, you are paying for her time and companionship. If she does not want to do something with you, she will not do it.

2363. **Mr Wells**: Having seen the list that is attached to each lady, there is very little that you cannot do, I have to say. There are certainly things there that I and, I am sure, other people in this room do not understand. It is very all-encompassing.

2364. The leading sex website in Ireland has a monthly income of €150,000. How much of that goes to your members as opposed to the persons — the father and son — who run it?

2365. **Ms Smith**: What do you mean by "members"?

2366. **Mr Wells**: I mean the members of Ugly Mugs. How much of that gets down to the actual prostitutes as opposed to those who control them?

2367. **Ms Smith**: I have absolutely no idea.

2368. **Mr Wells**: If you are seen as representing the genuine needs of sex workers, should you not try to find out how much of the pie they get?

2369. **Ms Smith**: I said that I am not going to comment on this website, but you are saying that a website is making money and asking how much of that money is going to the sex workers. I would have thought that the answer is none, because it is an advertising website, and the sex workers are paying it for advertising.

2370. **Mr Wells**: Yes, but the organisation is also setting up meetings with prostitutes, and then that money comes back to the organisation.

2371. **Ms Smith**: Right, you really need to get that organisation in and elaborate on that.

2372. **Mr Wells**: I think that I have that organisation in now.

2373. **Ms Smith**: Do you?

2374. **Mr Wells**: I do. That is why I am being particularly difficult. I hope that you do not regard me as being rude, but, really, I believe that we have the front person here for the largest escort website in Ireland.

2375. **Ms Smith**: You are entitled to your opinion, Mr Wells.

2376. **Mr Wells**: Yes, and I realise that you have been speaking from a prepared text. Certainly, had your view been that of a hard-pressed sex worker, some of whom are having a wretched time —

2377. **The Deputy Chairperson**: I think that, in fairness, all witnesses come with a prepared text.

2378. **Mr Wells**: Yes, that is a fair point. The vast amount of the information that I have about your organisation, you personally and Escort-Ireland.com all point to the one thing, which is that you are a spokesman for Escort Ireland, the largest prostitution website in Ireland. I put that to you.

2379. **Ms Smith**: I am saying that that is not true. You can hold your opinion.

2380. **Mr Wells**: You have not told us who is paying you and who is paying for your website.

2381. **Ms Smith**: I have told you that the Ugly Mugs website is very low cost and that I am paying for it personally.

2382. **Mr Wells**: So, who paid for you to fly over to Belfast?

2383. **Ms Smith**: I paid for myself.

2384. **Mr Wells**: So, all of this, you are paying for yourself. You are not being paid by any outside organisation.

2385. **Ms Smith**: I, as an individual, do other jobs because my Ugly Mugs work is not paid. I am not paid in relation to this work.

2386. **Mr Wells**: You do not have to answer this question: have you any direct connection with the sex industry?

2387. **Ms Smith**: I cannot answer that question because I do not really know what you mean by it.

2388. **The Deputy Chairperson**: In fairness to Lucy, she has said that she is here on behalf of Ugly Mugs. She has said that three or four times, and I think that you have made your point.

2389. **Mr Wells**: I am happy enough, Mr Chair.

2390. **Mr Elliott**: Thanks for the presentation. You have said in your written submission that a review of the prostitution legislation is required and that Northern Ireland should be looking towards Merseyside in the UK. You may have heard the academics talking about Manchester.

2391. **Ms Smith**: Yes.

2392. **Mr Elliott**: Where do you see the difference between what is provided in Merseyside and Manchester and, indeed, Northern Ireland?

2393. **Ms Smith**: Merseyside and Manchester are next to each other, and I think that they probably have quite a lot in common. Manchester does not have the Merseyside model, so to speak, where crimes against sex workers are treated as a hate crime. I can answer very clearly in the case of Northern Ireland. I would like that model here because I speak to sex workers every day, and I want sex workers to feel able to go to the police. So, when someone is being abused, whether it is exploitation-type abuse, which Mr Wells likes to focus on, or whether they have been robbed by a criminal gang or whatever it is, I want those people to be able to go to the police and get help. Right now, the vast majority will not, because they fear the consequences for them if they do.

2394. If we were to put crimes against sex workers into the hate-crime model, a number of things would happen. First, there would be a police liaison officer, which would mean that sex workers would not have to face going into a police station, walking up to the counter and saying, "I am a sex worker". That is a very intimidating thing to have to do. They would be able to ring an officer who was trained in this and understood it, and that would make it a lot easier for them to make that move and contact the police. It would also mean that offences against sex workers would start being recorded, which, currently, they are not, by and large, because they are not being reported. So, we would then have statistics, and we would know how often sex workers are being abused and what type of abuse is happening. There would be reviews. At the moment, people are just not considering sex work safety. It is not on the radar. If we were to put it in that system, we would give sex workers the ability to start having their safety taken seriously.

2395. **Mr Elliott**: In your experience and in your work, do you find prostitutes who have been trafficked coming to your organisation for help? If you do, what proportion of the number who come to you have been trafficked compared with those who, in my words, are prostitutes by choice?

2396. **Ms Smith**: Most sex workers identify as independent. That is certainly what they say to me. I believe them; I am not saying that that is just what they say to me. According to our research, about a third of sex workers have, at some point, worked for somebody else or have had some third-party involvement. I know a number of sex workers who, under the Northern Irish definition, technically could be trafficked. A lot of sex workers come from countries such as Romania, and they come with something like an agency arrangement. They choose to come, they want to come, and some of them are very happy. However, they could certainly fall into the definition of "trafficked". So, under this very wide UK definition, where there is no requirement to have been forced under law, I would say that the numbers that are trafficked are, by that definition, quite significant. People having been forced or coerced is rarer, although I have come in contact with it. It does happen, but it is not as usual.

2397. **Mr Elliott**: In your role, do you get requests from prostitutes who are trying to move out of that system to maybe lead a different life? If so, how many of those people come from other countries, and how many look to be integrated into local society?

2398. **Ms Smith**: I do not think that people come to me about that so much, because I focus more on the violence

and crime side of things. Sex workers certainly talk among one another, and some want to exit. That is a very valid thing. Not everyone's experience of sex work is good. I know many, many sex workers who do not want to be in sex work. They would like to do something else; they would like a better option. So, exiting services are definitely needed, and it would be great if, among other services, there were exiting services so that anyone in sex work who does not want to be there has the opportunity to leave. Sex work is not for everyone. For some people, it is a great job, but for others it is not.

2399. **Mr Humphrey**: Thank you very much for your evidence. I do not know whether you were in the room at the time, but where on protection of sex workers, particularly those who are coerced, I put this question to the witnesses from Queen's University: do you believe that this law is sufficiently robust to protect sex workers who are being coerced?

2400. **Ms Smith**: Yes, but I want these services put in place. I want the end of abuse do newspaper could do exposures of hate, and I also want the provision of police who are friendly and easy to contact. The lack of those services means that people who are being trafficked are being failed. So, I think that people who are being exploited are being failed by our systems. However, I do not think specifically that it is the law that is not strong enough; I think that the problem is that we do not have support services and that we are driving it underground. We are making prostitutes afraid to talk to or engage with people.

2401. **Mr Humphrey**: I am not trying to trip you up here, but can I ask you this: if the law is not strong enough, do you believe that it will be sporadic across the country, depending on the resources and attitude of the local police service?

2402. **Ms Smith**: I would go against the local police service concept. With local police, what we see again and again is that sometimes you will get a great response and at others you will get a poor response. So, it is inconsistent. I think that a specific office needs to be set up in the PSNI that deals with the abuse of sex workers, trafficking and so forth. I would not suggest that anyone experiencing problems contacts the local police; I suggest that they contact a direct office, which would then deal with it. I think that that would be better than having the local police involved. Response should not vary over the country, and everyone should be able to go to the one service. In a country such as Northern Ireland, which is quite a small jurisdiction, I think that that is very possible. It is not as though we are talking about a much bigger country such as the US, where you could not have something nationwide.

2403. **Mr Humphrey**: What we have, however, is a land border with another nation state, which means that abuse can obviously take place very easily between the jurisdictions. Indeed, that is why the Committee went to the Irish Republic. Every political party in the Irish Republic seems to take the view that something has to be done. We are concerned that Northern Ireland will become some sort of soft underbelly in human trafficking and the abuse of people and in the most basic human rights. I am genuinely concerned about that.

2404. In answer to Mr Wells, you said that men cannot buy sexual services.

2405. **Ms Smith**: I said that I like the word escort, because I like the concept of time and companionship, and the men who visit an escort are not paying for the actual service.

2406. **Mr Humphrey**: What is the difference between a man buying and, to repeat the term that you used, "a woman selling" her services?

2407. **Ms Smith**: Sorry, a woman selling sexual services.

2408. **Mr Humphrey**: Yes. What is the difference?

2409. **Ms Smith**: Between a man buying sexual services or —

2410. **Mr Humphrey**: The term "a man buying sexual services" is something that you are opposed to, and you were not content when Mr Wells used that term, but you did state that women could sell services. So, what is the difference?

2411. **Ms Smith**: I am just saying that those women or men have the choice. We are talking in male/female terms, which is a little bit strange, because we have a lot of transwomen sex workers in Ireland. We have a lot of male sex workers, too, but, if you want to talk in these terms for this purpose, it is fine. We will forget about that.

2412. I am saying that the person who is selling the sex should always have the choice. They should be able to choose yes or no.

2413. **Mr Humphrey**: I appreciate that, in your view, some of the people whom you have knowledge of, represent or have been a spokesperson for will not be of that view. However, I make the point again that it is our job as legislators to protect the most vulnerable people.

2414. **Ms Smith**: Yes.

2415. **Mr Humphrey**: With all due respect, I do not believe that the law that is there to protect those people is doing that. This problem is underground — it will not be driven underground, because it is underground already. We have to do all that we can to protect the most vulnerable people in society, including the young lady whom Pamela from the Irish Congress of Trade Unions talked about. She was from India and had no identity. We must also protect young ladies who are trafficked from China who have no identity, because, if they are a second-born child, they are not registered in their state. That is because it is against the law to have a second child and they have no rights at all given that, technically, they do not exist and, therefore, have no identity.

2416. I know that I am making extreme points and using extreme examples, but I am saying that laws have to be there to protect the most vulnerable people, and that is all that we are trying to do. Do you appreciate that?

2417. **Ms Smith**: I agree with a lot of what you said. A lot of what you said is the same thing that I want. I serve people who choose to sell sex and trafficking victims equally. I want all those people to have the best service. I want people who are being abused to be able to get help, and I am saying that the only thing that we seem to disagree about — we both want these people to be safe and not to be abused — is that you are saying that this law will do that, and I am saying that, in my experience, it will not do that. It will actually drive it further underground, and it would help if we could try to get rid of the stigma and allow these people to access services. In my opinion, that would provide better help. We want the same thing, but —

2418. **Mr Humphrey**: The difference is that I am not convinced that the law is doing what you believe it is doing, either in Northern Ireland or, I suspect, across the European Union, given the evidence that we heard during our visits to Stockholm and to the Irish Parliament in Dublin last week. Now, all that having been said, there are particular circumstances here. I believe that it is underground.

2419. **Ms Smith**: I agree that it is underground to an extent.

2420. **Mr Humphrey**: So, that means, in my view, that the law is not working. It is not protecting people. Another particular problem that we have in Northern Ireland are the paramilitary organisations, which have been linked to prostitution.

2421. **Ms Smith**: I have to say that I really have not come across any paramilitary links. I have seen that written down, but I really have not come across those links. Sex workers are sometimes attacked or robbed, with men turning up saying, "We are the IRA", and that sort of thing. We also have men who turn up and say, "We are the PSNI". A lot of people say this or that, but I have not seen any solid evidence of paramilitaries from either side being involved in sex

work in Northern Ireland. So, I cannot concur with that statement.

2422. **Mr Humphrey**: I picked up a number of times that you are opposed to the Swedish model. Why?

2423. **Ms Smith**: That is because, right now, I struggle to get sex workers to go to the police when they experience problems. They do not want to go to the police. They are fearful of the police. It is maybe not so much that they are fearful of the police but that they are fearful of being exposed as sex workers if they go to the police. If we have the Swedish model, it will be harder and harder to get people to engage with the police. I think that people have to be able to engage with the police to combat abuse. If we want to combat the serious criminality that you are talking about, we need people to be prepared to go to the police and to talk about what is going on. If I am struggling to get people to do that now, I do not know what will happen if things become even more difficult and if even fewer people are prepared to go to the police.

2424. I do not mean that as a criticism of the police. In my experience, the PSNI are actually quite good, and I have had more positive than negative feedback from sex workers about them. A lot of sex workers go to the police when they have a problem and they receive a good service. However, equally and for a variety of reasons, there are many sex workers who will not go to the police at all, no matter what happens.

2425. I also fear that, if we have a situation where clients are criminalised, as an obvious consequence, those clients will not be prepared to go to the police. Sex workers will also have to move around more, as they will be fearful of things such as losing their apartments and so forth. So, I think that we will have many fewer people who are prepared to engage with the police. The worst approach to dealing with serious criminality is to take away the options. I want to give people more opportunities to go to the police.

2426. **Mr Humphrey**: Surely decriminalising it will help them.

2427. **Ms Smith**: It will help who?

2428. **Mr Humphrey**: The prostitutes.

2429. **Ms Smith**: What decriminalisation are you offering in the Bill?

2430. **Mr Humphrey**: In the Swedish model, the emphasis has switched to the clients.

2431. **Ms Smith**: I think that that is actually a lie, as the Swedish model does not offer any decriminalisation. You are not offering any decriminalistion in your Bill.

2432. **Mr Wells**: We are. We offer it in clause 8.

2433. **Ms Smith**: Clause 8 offers immunity to people who have been trafficked or forced. What decriminalisation are you offering? Sorry, maybe I have misunderstood.

2434. **Mr Wells**: The proposal is that the person who buys the sex will be the criminal, not the person who sells it. Therefore, that puts that woman —

2435. **Ms Smith**: That is more criminalisation for the client. I asked what less criminalisation you are offering for sex workers.

2436. **Mr Wells**: The woman would not be prosecuted. The man would be prosecuted.

2437. **Ms Smith**: The woman is not currently prosecuted in an indoor setting, although she could be prosecuted if she was working with another woman, as that would be brothel keeping. So, I still fail to see what decriminalisation you are offering.

2438. **Mr Wells**: If there were several women in a room, there would be no prosecution.

2439. **Ms Smith**: If there were two women, that would be a brothel under the law.

2440. **Mr Wells**: That is the Swedish model.

2441. **Ms Smith**: No, the Swedish model — I am asking you where the

decriminalisation is. I can look at the Bill and say that maybe we are getting the Swedish model. What a shame it is that we will not get anything good if we get the Swedish model. What a shame it is that the idea of decriminalisation is empty. You are not giving anything to sex workers.

2442. **The Deputy Chairperson**: OK. Thank you. In those who you represent, do you see a difference between what some call off-street and on-street prostitution?

2443. **Ms Smith**: I work only with indoor sex workers. Ugly Mugs is open to anyone, including outdoor sex workers, but we do not have any outdoor sex workers registered to use for service. I am knowledgeable really only about indoor sex workers, not outdoor sex workers. I do not have the experience.

2444. You used the word "represent". However, the sex work community can speak for itself, and individual sex workers can speak for themselves. I do not see myself as a representative who speaks on behalf of sex workers. I speak on behalf of Ugly Mugs and the work that I do, but I do not claim to represent the views of every sex worker in the country.

2445. **The Deputy Chairperson**: When I said "represent" I meant broadly, rather than —

2446. **Ms Smith**: Yes. I just wanted to be clear that I had not been voted by —

2447. **The Deputy Chairperson**: Is there any particular reason why your organisation does not include what are called on-street workers?

2448. **Ms Smith**: Do you mean why uglymugs. ie does not?

2449. **Mr McCartney**: Yes.

2450. **Ms Smith**: It does include them, and we would love to include them. However, the reality is that outdoor sex workers are not registering and using the service. Our service is a web service and is based on phone numbers and email addresses. I am not saying that we do not have any outdoor sex workers, but a significant number have not registered to use the service. They are welcome to do so, but we have not had that experience.

2451. **The Deputy Chairperson**: In your opening statement, you mentioned that, in the North, Ugly Mugs reported 171 incidents. What was the follow-up in convictions?

2452. **Ms Smith**: The number will be very low, because a very low number report to the police. So, you are then looking at very low conviction rates for that.

2453. **The Deputy Chairperson**: I think that I picked you up saying that there were 14 assaults. Were there convictions for those? What is the process when you report an incident to the PSNI?

2454. **Ms Smith**: I do not report it to the PSNI unless the sex worker wants it reported to the PSNI.

2455. **The Deputy Chairperson**: Were those 14 incidents reported?

2456. **Ms Smith**: Most of them are not reported, no.

2457. **The Deputy Chairperson**: So, they are not logged independently.

2458. **Ms Smith**: No. The UK national Ugly Mugs scheme has a direct option to feed the intelligence into police databases. So, when you make a report to the national Ugly Mugs in the UK — it is the only place in the world where this is happening — the sex worker ticks a box automatically, and, if the sex worker agrees that the information can go to the police, it is automatically sent. It then goes into a police database that, for intelligence purposes, looks at serial and violent offenders. It also goes through the north-west regional hub, which acts as an intelligence hub and distributes the intelligence to officers in different regions. We do not have that facility. I can report it to the police only on an individual basis, because we do not have a direct link. We would be happy to have a direct link, but we do not.

2459. **The Deputy Chairperson**: Is there any time when the policing authorities from anywhere contact you and say that there

have been a high number of assaults and that we need to do more?

2460. **Ms Smith**: Yes. If someone is assaulted and goes to the police, the police might contact us and ask whether we have any information about it, because perhaps the offender has targeted multiple sex workers. So, yes, there are times when the police express concern about the safety of sex workers and make enquiries because they believe that something dangerous might be going on.

2461. **The Deputy Chairperson**: I have one final question. The text that was supplied to the Committee before you came to give your evidence mentions clause 6 and states:

"We oppose the criminalisation of the purchase of sex, as we would expect it to drive sex work further underground".

2462. On what basis do you make that contention?

2463. **Ms Smith**: I make it on the basis that it is quite underground currently. I think that it was Ruhama that said in its evidence session that clients can send an anonymous e-mail and can still report things to the police. I have a huge amount of experience of dealing with crimes against sex workers, and, in my experience, anonymous e-mails do not really help matters. In fact, a lot of loonies send anonymous e-mails. We really need people to be prepared to engage with police, and, if we get to the point where people will only send anonymous e-mails, we will have very poor intelligence. If we want people to engage with the police, we do not want them to be criminalised, because that discourages engagement with police. So, you are looking at less engagement with the police if you bring in more criminalisation. If you criminalise the clients, the knock-on effect is that it will drive sex work further underground.

2464. **The Deputy Chairperson**: That is the end of my questions. No other members have indicated that they want to ask a question. So, I thank you on behalf of the Committee for coming here today and giving your testimony.

30 January 2014

Members present for all or part of the proceedings:

Mr Raymond McCartney (Deputy Chairperson)
Mr Tom Elliott
Mr William Humphrey
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Ms Catherine Murphy	*Amnesty International*
Ms Gráinne Teggart	*UK*

2465. **Mr Wells**: On a point of order, Mr Chairman. It is 7.10 pm, and we are about to set the record for the longest Committee meeting ever held at Stormont. I think that several of us have pressing engagements; mine, for instance, is near Enniskillen. Is it too much to ask that we could adjourn the meeting and come back for the last group at a later date? We may lose a quorum, and, although I continue to have the will to live, others may be flagging a bit after five hours of solid debate.

2466. **The Deputy Chairperson**: I am reluctant to do that because this is the second time that Amnesty was to be here, and the witnesses have sat frustrated along with us. So, I would like to do them the service. We may lose the quorum, Jim, if you have to go to Enniskillen, but the quorum is required only to make decisions; we can still take evidence. It will be in Hansard for members to read. However, I am reluctant to say that to someone who has sat patiently for five hours.

2467. **Mr Elliott**: I have another engagement and have rescheduled it.

2468. **Mr McGlone**: You could have nearly done that one for Jim. *[Laughter.]*

2469. **Mr Wells**: Not quite.

2470. **The Deputy Chairperson**: We need four members to take evidence. I would prefer to hear the witnesses.

2471. **Mr McGlone**: I have another appointment that I could be at, but I am prepared to give it another 20 minutes to get stuck in.

2472. **The Deputy Chairperson**: We do not want to rush our next witnesses, but, when someone has waited five hours and 10 minutes, that is nearly degrading and inhuman treatment.

2473. **Ms Gráinne Teggart (Amnesty International UK)**: Thank you for that.

2474. **The Deputy Chairperson**: I welcome Gráinne Teggart and Catherine Murphy from Amnesty. You have seen the format. It is up to you to make opening remarks, and then we will open it to members for questions. Whoever is leading, go ahead.

2475. **Ms Teggart**: I thank the Committee for the opportunity to present our evidence paper and to address a very important issue of concern to us all, which is ensuring that Northern Ireland is a hostile place for traffickers and that we have in place robust policies, practice and legislation that protect and promote the rights of victims of trafficking. I am joined by my colleague Catherine Murphy from the law and policy team of our international secretariat. I see that, on the agenda, she is referred to as being from Amnesty International UK, but our international secretariat is our global research headquarters.

2476. Amnesty International UK is a national section of a global movement of over three million supporters, members and activists. We represent more than a quarter of a million supporters in the UK. Collectively, Amnesty International's vision is of a world in which every person enjoys all the human rights that are enshrined in the Universal Declaration of Human Rights and other international human rights instruments. Our mission is to undertake research and action that are focused on

preventing and ending grave abuses of these rights.

2477. Amnesty International has a wealth of experience working on this issue at local, national and international level. We were one of leading non-governmental organisations that campaigned for a robust approach to the prevention and combating of human trafficking during negotiations on the text of the Council of Europe Convention on Action Against Trafficking in Human Beings. That is a mouthful, so I will say the human trafficking convention for short. Amnesty International continues to work to promote states' ratification of, and compliance with, that convention.

2478. I will now highlight our main comments on the Bill, and we then will be happy to take any questions from members. On clause 4, although Amnesty International does not have a view on the introduction of minimum sentencing, we ask that members pay particular attention to ensuring that the clause is amended to clearly stipulate that it does not apply to children.

2479. Much of the discussion and debate on the Bill has been focused on clause 6. It is Amnesty International's view that those who are engaged in selling sexual services and in human trafficking are involved in two very complex social phenomena that require more considered, separate policy and legislative responses. One clause to address sex work is wholly insufficient. Clause 6 fails to make any further provision for support for those who will be directly affected as a result of this step. It also does not make provision for crucial protection and support for those who are seeking to exit the selling of sexual services. Further provision and support should be fully informed by a strong evidential base that includes independent research and consultation with a wide range of stakeholders, including those who sell sexual services. I welcome the Department of Justice's commitment to conduct further research in this area.

2480. Our analysis of clause 6 is that it makes no direct provision to lessen the existing criminal burden on people who are involved in selling sex in Northern Ireland, many of whom may be vulnerable individuals. It simply seeks to introduce further criminalisation around sex work and provides no explanation of, or guarantees against, the potential consequences of such a move. There are still other sexual offences in existence that criminalise sex workers. For example, article 59 of the Sexual Offences (Northern Ireland) Order 2008 criminalises those who solicit in a public place to offer their services as a sex worker, and article 64 of the 2008 order makes it an offence to manage or assist in the management of a brothel.

2481. Although clause 6 would decriminalise the sex worker for the offences of aiding and abetting etc, it does not recognise that, to prove the offence of purchase, there is likely to be a requirement for evidence from the sex worker, which may still expose a sex worker, if they have not been subject to force, as having committed other offences such as those that I have just outlined. Therefore, we propose that further research be conducted to establish the degree to which legislation, together with administrative, educational, social, cultural or other measures, could serve to reduce the demand that fuels trafficking, including for the purpose of sexual exploitation.

2482. We welcome clause 10 and support provision for victims. We feel that that is where the focus of this legislation should be and where it is strongest in improving our response to human trafficking in Northern Ireland. We feel that the clause would benefit from clarification of the responsibilities of both the Department of Health, Social Services and Public Safety and the Department of Justice so that it is clear in statute. We recommend that the overarching requirement for support be placed in primary legislation, with a requirement for the Department of Justice and the Department of Health to

set out the detail by order in secondary legislation.

2483. Human trafficking is not a static issue and will change and evolve over time, as, too, will the needs of victims. Northern Ireland policies, processes and legislation must retain a degree of flexibility and be easily amended to ensure that they can adequately respond to upholding the protection and promotion of the rights of victims. It is our view that secondary legislation will be easier to amend at a later point. Thank you, Chair, I will leave our opening remarks at that. I am happy to take any questions.

2484. **Mr Wells**: Gráinne, who is Douglas Fox?

2485. **Ms Teggart**: Douglas Fox was a member of Amnesty International, along with a quarter of a million other people in the UK. I know that you have been in contact with our office to query links between Douglas Fox and Amnesty International, and I am happy to place on record as a point of clarification that, in 2008, the Newcastle upon Tyne group brought forward an AGM motion on sex workers' rights. The AGM rejected the policy proposals but supported a review of policy and research into the area. Douglas Fox is no longer a member of Amnesty International.

2486. **Mr Wells**: Who else is Douglas Fox?

2487. **Ms Teggart**: I will look to you for that.

2488. **Mr Wells**: I think that you know who Douglas Fox is, do you not?

2489. **Ms Teggart**: I think that, after your e-mail inquiry, based on what my colleague googled, he came up as an International Union of Sex Workers (IUSW) activist.

2490. **Mr Wells**: Douglas Fox runs the largest prostitution ring in the north-east of England. He has been on the front page of 'The Northern Echo' and is quite proud of that fact. Douglas Fox was running the largest prostitution ring in the north-east of England, he was a member of Amnesty International, in one of your north-east branches, and he proposed the motion at your AGM in Nottingham in 2008. Is that correct?

2491. **Ms Teggart**: He did not propose the motion. The motion was proposed by the Newcastle upon Tyne group.

2492. **Mr Wells**: But he was instrumental in that motion, which went before your group.

2493. **Ms Teggart**: He was a member of the group that brought forward that motion.

2494. **Mr Wells**: You allowed a person who ran the largest prostitution ring in the north-east of England to have major input in your policy development.

2495. **Ms Teggart**: I am happy to answer the question of how our policy is developed. On Douglas Fox, I think that it is important to note that he is one of a quarter of a million people in the UK and that our policy is not influenced by any one individual. I will hand over to my colleague from our global research headquarters to give a general outline of how Amnesty International policy is developed, but I point out that we are an independent organisation and our policies always come from extensive research that we conduct as an organisation. I reiterate and re-emphasise that the AGM motion that the Newcastle upon Tyne group brought forward was rejected.

2496. **Mr Wells**: It was amended.

2497. **Ms Teggart**: It was rejected.

2498. **Mr Wells**: I have the speech here. I can show it to you.

2499. **Ms Teggart**: I have the text of that here. It was rejected. What was passed committed the organisation to conduct a review into policy and to look at further research in that area. I have the text here.

2500. **Mr Wells**: And I have the text as well.

2501. **Ms Catherine Murphy (Amnesty International UK)**: I just want to give an overview of how we develop our policies. The purpose of our policies is to move the human rights agenda forward. We look to international law and human

rights standards as the basis and, beyond that, if we feel that international human rights law is not going as far in the protection of human rights as we think it should, then we look to influence that. The basis of our policy is research. We do research, we develop ideas and, beyond that, it goes through a full democratic process. We are a global democratic organisation. There are varying degrees of decision-making powers, but the policies are developed in line with the membership and our democratic processes.

2502. **Mr Wells**: Yes, and you reached a conclusion that was published in the 'Daily Mail' two weeks ago. The headline reads:

"Amnesty calls for legal prostitution: Charity says laws that ban people buying or selling sex breach 'human rights'"

2503. The article continues:

"A policy document drawn up by the charity claims that prostitutes, pimps and men who buy sex are simply 'exercising their autonomy' and should be allowed to do so 'free from government interference'. The proposal, which also bizarrely compares prostitutes to coal miners and domestic servants, was uncovered by writer Julie Bindel."

2504. Is being a prostitute the same as being a coal miner and a domestic servant?

2505. **Ms Teggart**: I would like to comment on what that article raised, but we are not going to get into responding to editorial bylines. What I can say is that Amnesty International is reviewing its policy. There is no "conclusion", as you put it. We are reviewing our policy on the buying and selling of sexual services. At present, we neither support nor endorse any specific state response such as the Swedish model.

2506. In opposing clause 6 and highlighting contradictory evidence, we are simply urging the Committee and the Northern Ireland Assembly to undertaken deeper and wider reflection on this important human rights issue than is possible in the consideration of a single clause of an anti-trafficking Bill.

2507. **Mr Wells**: Who is Patrick Corrigan?

2508. **Ms Teggart**: He is our head of nations and regions.

2509. **Mr Wells**: He is also a leading light in Amnesty International at a UK level.

2510. **Ms Teggart**: He is our head of nations and regions, which means, as part of the UK section, he is the head of Northern Ireland, Scotland and Wales.

2511. **Mr Wells**: Why was Mr Corrigan not available to speak to us today?

2512. **Ms Teggart**: Because I lead our work on human trafficking.

2513. **Mr Wells**: Right. Why did he deny that he had ever heard of Mr Fox when I contacted him?

2514. **The Deputy Chairperson**: She cannot answer for someone who is not here, Jim.

2515. **Mr Wells**: You have been well briefed on this, Gráinne. You know the answer.

2516. **Ms Teggart**: In the email exchange between you and my colleague Patrick Corrigan, you asked the simple question: was Douglas Fox known to him?

2517. **Mr Wells**: He said no.

2518. **Ms Teggart**: He said no initially. To be exact, he said that a Google search brought up that he was an IUSW activist. He then looked through his email history, because you referenced that you had an e-mail exchange between him and Esmond Birnie on this. In the email that Patrick forwarded to you, he acknowledged then that there had been an email five years ago, but, again, that was in relation to the Newcastle upon Tyne group, which I referenced.

2519. **Mr Wells**: By the way, what is the status, then, of this report, which is obviously an update of your policy? You are saying that it has not been adopted by the full membership. What is the status of this document that has been revealed in the media? What is it?

2520. **Ms Teggart**: It marks the beginning of a very detailed and genuine consultation with our members on a global scale.

No one section of our organisation has a policy. We take our policy decisions internationally. This document, which is referred to in the 'Daily Mail' article, is a draft policy on which we are now encouraging a healthy debate amongst our membership in order to get their views on a draft sex work policy. We are at the very beginning of the process of garnering their opinions on that.

2521. **Mr Wells**: It is worth saying that one of the major policies in that document is that there should be no criminalisation of voluntary sex between adults, whether it is paid for or otherwise.

2522. **Ms Teggart**: I have to stress that I cannot get into a conversation or discussion on policy that does not yet exist. This is not policy.

2523. **Mr Wells**: OK. I accept that, but it shows you the drift of Amnesty on this issue.

2524. **Ms Teggart**: No. What it shows is that we recognise that this is an important human rights issue, and we want to consult our members to get their views on it.

2525. **Mr Wells**: We heard very compelling evidence from Rachel Moran. I do not know whether you have read her book. I advise you to do so. It is a compelling and horrendous story, but I think that it gives us an insight into the sex trade in the Irish Republic. When you were compiling your evidence, why did you not consult people like Rachel, Sarah Benson and those who have direct experience of the impact that selling sexual services has on prostitutes?

2526. **Ms Teggart**: Our position on the Bill comes from our policy analysis of existing legislation and legislative proposals. At the minute, because we are at the beginning of a consultation process on what could be our sex work policy, we will engage with a range of organisations.

2527. **Mr Wells**: Have I a right to buy the sexual services of any woman I want?

2528. **Ms Teggart**: Again, you are getting into areas on which we do not have a policy. We do not have a policy on sex work. That is what we are consulting on at the minute. I cannot —

2529. **Mr Wells**: But you pride yourself on being an international human rights organisation. That is —

2530. **Ms Teggart**: We do not pride ourselves on it: we are an international human rights organisation.

2531. **Mr Wells**: I think that everyone would accept that. That is probably the only thing that we will agree on all afternoon — or evening, as it has become. You are an internationally recognised human rights organisation. However, funnily enough, the Irish Congress of Trade Unions, Women's Aid and, most importantly, the Northern Ireland Human Rights Commission do not agree with you.

2532. **Ms Teggart**: Each organisation can analyse legislative proposals and human rights instruments and come to their own policy conclusions. I am here to speak about how Amnesty International has analysed this legislation.

2533. **Mr Wells**: So, despite what those very disparate and internationally recognised bodies say, Amnesty International will go on a solo run and say that they are all wrong.

2534. **Ms Teggart**: We are not saying whether other organisations are wrong; we are saying that our analysis of the Bill is as it is in front of you in our evidence paper. Our concern, as represented by other organisations, is that support for clause 6 comes from its shift of legislative and criminal-liability focus from the seller to the buyer. As I have just said in my opening remarks, it does not actually succeed in doing that. The reason that it does not succeed is because it does not give consideration to other sexual offences that already exist.

2535. **Mr Wells**: There is a view that, if you take the Dutch or Danish model, in which everything is open and there is no prosecution of the buyer, that makes life safer for sex workers. Yet, in Holland, in 30 years, 127 people have died. In Sweden, one person has died. They

have two totally different models. Which do you think gives better protection to the human rights and safety of practitioners?

2536. **Ms Teggart**: Again, at the risk of sounding repetitive, we do not have a policy on sex work —

2537. **Mr Wells**: You have a —

2538. **Ms Teggart**: — which means that we neither support nor endorse any specific state response.

2539. **Mr Wells**: Gráinne, you cannot have your cake and eat it. You are a very experienced political animal, or political lady, in more ways than one. You say that you are against clause 6, but that you do not have a policy. That is fundamental. The clause 6 model applies in Sweden. It does not apply in Holland.

2540. **Ms Teggart**: I think that I have pointed out that clause 6 is not the Swedish model. Clause 6 does not succeed in shifting the focus from the seller to the buyer.

2541. **Mr Wells**: Are you saying that, if we were to adopt clause 6 to replicate the Swedish model, Amnesty International would support it?

2542. **Ms Teggart**: I am saying that it does not replicate the Swedish model. We have stated quite clearly that, at best, there is conflicting evidence as to whether the Swedish model has succeeded.

2543. **Mr Wells**: The contrast between 127 deaths in one country and one in the other is quite stark. Going back to my right as a man to purchase the services of a prostitute, were you here for the evidence of Ugly Mugs? For instance, do you think that it is a foundation of human rights that a women can be bought for sex, shunted around from one part of Ireland to the next, and then her performance rated on a website by the men who use her? Can you see that as a fundamental defence of her human rights?

2544. **Ms Teggart**: Amnesty's primary concern is for women and men who suffer human rights abuses and violations because of their status as sex workers or as victims of sexual exploitation and/or trafficking. Again, you are asking questions about areas on which we do not have policy.

2545. **Mr Wells**: You do not have policy in that area, but you have policy resisting either clause 6 as drafted by Lord Morrow or as it has been introduced in Sweden. You are against both versions of clause 6.

2546. **Ms Teggart**: We have not said that we are against anything in Sweden. We have said that the evidence in Sweden is, at best, conflicting. The reason why we oppose clause 6 in the Bill is because we feel that it poses some risk that has not been properly explored. That is why we recommend further research in this area.

2547. **Mr Wells**: Gráinne again, you have experience in this that is the oldest trick in the book. If you do not like something, do not come out and say so. Boot it off into the bushes by calling for more research.

2548. **Ms Teggart**: With the greatest of respect, we are not trying to boot if off into the bushes. How do you know what you are legislating for if you do not have the research and evidence base to know exactly what should be put on the statute books?

2549. **Mr Wells**: In the Irish Republic, their approach on that was to carry out extensive hearings on the issue, as we are doing. We have trawled widely. We have heard from people with your views, and totally different views. We went to Sweden. We went to Dublin to meet the Oireachtas justice committee. We went through all of that. That is the research that is required. By the time that we have finished with this, we will have gone down every byway on the issue. Is that not sufficient to meet your concerns?

2550. **Ms Teggart**: On research, we should be looking at the range of experiences and needs that exist in the sex-work industry, if that is how you want to refer to it. We do not have that information at present. Although I appreciate that the

Committee is taking evidence from an extensive range of witnesses, which is certainly something that we welcome, that is on a legislative proposal. It is on this piece of legislation. It is not on the detail of what the sex industry looks like in Northern Ireland.

2551. **Mr Wells**: So, your point is that there is something inherently different about the sex industry in Northern Ireland from that of, say, Sweden, Norway, Iceland or any other country — or France, which is just about to introduce these measures? You are saying that we are totally different; our men are gentlemen who are there only for social interchange and a wee bit of chat, and do not treat women in the way that men do elsewhere in Europe?

2552. **Ms Teggart**: We think that country context is important and that it merits further investigation in Northern Ireland before clause 6 —

2553. **Mr Wells**: I suggest that you go to the Escort Ireland website tonight and look at the reviews of prostitution in Londonderry, which is a place dear to the heart of the Deputy Chair. See whether those men are any different from men in the Irish Republic, Sweden and Norway. They are exactly the same, only their phraseology is different.

2554. **Ms Teggart**: Sorry. With the greatest respect, I think that you are misinterpreting or do not understand my point, which is that we need to look at and understand the sex industry in Northern Ireland. We need to consider not just those who purchase sexual services but, for example, how many women, men or transgender individuals are involved, and how and why their needs differ. In talking about sexual services, are we talking about sexual intercourse, lap dancing or sex phone lines? What exactly are we talking about when we refer to sexual services?

2555. **Mr Wells**: So, Gráinne, when someone buys the services of a woman in Belfast through a leading sex website, you believe that, in Northern Ireland, they have a cup of tea and a chat in the 35 minutes and no sexual services are provided?

2556. **Ms Teggart**: Sorry, you are asking the same question in a different way, and I thought —

2557. **Mr Wells**: I am, because you are saying that men behave differently, and it is a fact —

2558. **Ms Teggart**: No, I am not saying that men behave differently. I am saying that there is a vacuum — an absence of information — that the Northern Ireland Assembly needs to consider before it legislates.

2559. **Mr Wells**: And you feel that we are radically different from the Republic, France and Sweden in our attitudes to the purchase of sexual services and that those providing that here are radically different as well?

2560. **Ms Teggart**: Sorry, Mr Wells, I have answered that question.

2561. **Mr Wells**: You have not.

2562. **Ms Teggart**: I have, to the best of my ability.

2563. **Mr Wells**: You are in a human rights organisation that is prepared to stand in the way of something that will protect many vulnerable women from dreadful sexual treatment. You are totally out of line with every other human rights organisation that works in this field.

2564. **Ms Teggart**: Actually, we are concerned about vulnerable women. That is why we oppose this clause and why our evidence highlights the risks that this has the potential to create.

2565. **Mr Wells**: What are the risks?

2566. **Ms Teggart**: My colleague can speak more about the international examples. However, the Swedish model, as it is often referred to in the Committee, has led to a breakdown in relationships with police and had impacts on health. A number of policy areas need to be addressed in the round before we get to legislating against sexual services.

2567. **Mr Wells**: I think that you need to speak to the police in Stockholm. We went there — I do not think that you have — to speak intensively to the police. I was there, as were Mr Humphrey, the Chair and, I think you —

2568. **The Deputy Chairperson**: No, Ms McCorley went.

2569. **Mr Wells**: We took them through that, and the police in Sweden have a totally different view on this issue. You do not seem to have carried out that research. Either the police in Sweden are lying to us, which I doubt, or they have a clear knowledge of what has gone on over the past 16 years in Stockholm and elsewhere.

2570. **Ms Teggart**: I think that the Swedish police have acknowledged the difficulties that the Internet presents in monitoring the numbers of sex workers and in dealing with the wider issues of their safety etc, which also need to be considered. I will let my colleague come in on the international examples.

2571. **Ms Murphy**: We are trying to make the point that there has not been research in Northern Ireland. We do not know enough about the situation, and it is not just as simple as transferring the Swedish model to Northern Ireland. That is because what you are proposing is not the Swedish model; it is an untested model.

2572. **Mr Wells**: So you would accept the Swedish model being imposed in Northern Ireland?

2573. **Ms Murphy**: We are saying that there is conflicting evidence about the Swedish model, but, even at best, you are not transferring a model from one place to another. You are trying to introduce an untested model when you do not have any of the evidence needed to understand the environment.

2574. **Mr Wells**: Why do you not fly to Sweden — it takes only two and a half hours — and speak to the social services, the public prosecutor and police, as we have? Your evidence is not based on any first-hand experience of the Swedish situation. We got a totally different message during our visit to Sweden. You have not been; you have not gone and spoken —

2575. **Ms Murphy**: I appreciate that, and I would be extremely interested in going to Sweden. I would love to do that. However, I think that it is well versed in research that the evidence on the Swedish model is conflicting, so we are concerned about that. We are not coming down on one side or the other; we are saying that the evidence is conflicting and we would like the Committee to acknowledge that, look into it and see if you can do further research that will provide more checks and balances if you are to introduce an untested model in Northern Ireland. A huge amount of vulnerable people could be affected by this.

2576. **Mr Wells**: The Deputy Chair has been very patient with merit is interesting that the Norwegians, the Icelanders and the French did not require any research beyond what was done through the legislative process. They were all absolutely convinced —

2577. **Ms Murphy**: The results have been conflicting.

2578. **Mr Wells**: — that men — it is 99% men, unfortunately — behave exactly the same in every part of Europe in how they deal with women. If you read the reports on the sexual services provided and the way that the men react to women, it is appalling that any woman should be put through that. It is exactly the same no matter where you look at it in Europe: the women are treated like lumps of meat to be used for the gratification of men, with no thought whatsoever about their welfare or human rights.

2579. **Ms Teggart**: I appreciate that you can go to Sweden, but you can also do the research. You can look for official data that shows anything convincing that suggests that there has been a marked decrease in the purchase of sexual services or in human trafficking for the purposes of sexual exploitation. That is absent. Part of that can be put

down to the Internet and, obviously, the difficulties that that presents. Although it may still be true, as you claim, that demand has decreased since 1999, we would say that, equally, it could be true that it has increased and that the available facts do not justify a conclusion one way or the other. That is why we say that the evidence is conflicting.

2580. **Mr Wells**: So, Amnesty International in Northern Ireland is right, and it knows more about the Swedish model than the Swedes themselves. The Swedes tell us that their life and times survey shows that the number of men in Sweden acquiring the sexual services of women has halved since 1988, but you know better. That is what you are telling us.

2581. **Ms Murphy**: Our point is that a number of different research projects in Sweden demonstrate conflicting evidence. We are not saying that we know better than anyone. We are acknowledging that it is not as clear-cut as perhaps you think it is. Our concern, as a human rights organisation, is that, in legislating, you have to take cognisance of all human rights. You cannot legislate in one area and ignore the potential consequences in other areas for other individuals.

2582. **Mr Wells**: You need to get on that plane.

2583. **Ms Teggart**: The Swedish National Council for Crime Prevention, which is the official body that monitors organised crime, has stated in its reports that it has found little or no evidence that the Swedish law criminalising the buying of sex had any significant impact on the decrease of trafficking for sexual exploitation. Those are its words, not Amnesty International's.

2584. **Mr McGlone**: Thanks for being with us here today. It does no harm to be better informed, no matter how well informed we think we are at any given stage. An old friend of mine used to say that it is a poor day that goes by when you do not learn something. I hope that we will learn something as a result of this.

2585. We are talking a lot about hopping on a plane to Sweden. What is the take of your Amnesty International colleagues in Sweden? If there were something from them that could help to inform me or us, I would be glad to hear it.

2586. I move on to your recommendations on clause 6. You recommend:

"a full needs analysis of the range of people involved in the sex industry and a human rights compliant impact assessment of any further legislation."

2587. What are you seeking to obtain by way of a needs analysis of the range of people involved in the industry and the human-rights compliant impact assessment? Are there deficiencies in that regard that require an impact assessment, or there are there other issues? Will you tease out your thinking on that?

2588. **Ms Teggart**: Yes. There are a couple of points to make on that. There has not been an impact assessment to look at the potential for unintended negative consequences. When we refer to the needs analysis as being something that should come through in further research, it is because we really need to understand the nature of the problem here so that we can legislate in the most appropriate way. Our policies need to be devised in a way that is responsive to the needs of vulnerable people in Northern Ireland.

2589. **Mr McGlone**: Will you give me a few examples of what you mean by that needs analysis? What needs? I am trying to get it into my head. We have been sitting all day in this room. I have been here since 10.00 am.

2590. **Ms Teggart**: OK. An example is the needs of women, and how they may differ from the needs of men and from transgender individuals. What numbers are we talking about? We might rightly assume that females make up the majority of sex workers in Northern Ireland, but we need to know that. We also need to know the number of men and transgender individuals involved so that we have targeted and robust legislation and policy.

2591. **Ms Murphy**: It would be useful to understand how the current legislation removes criminal provisions for victims of trafficking but does not remove criminal provisions against people who do not meet the strict definition of trafficking, which could include a huge number of very vulnerable people involved in sex work. It could include people who have been coerced but who do not meet the technical definition of trafficking. It also has an impact on people who voluntarily engage in sex work. It does not remove the criminal sanctions on those individuals either. That is not the same as the Swedish model, which is why it would be really important for the Bill to look more closely at the make-up of people involved in the sex work industry: individuals who have been trafficked, those who have been coerced but do not meet the definition of trafficked, and those who engage in sex work voluntarily. The Bill, as it stands, has very different implications for those different groups and, from our perspective, that is potentially dangerous for very vulnerable groups.

2592. Let me say that we do not want to be a roadblock. We want to make the point that measures that initially appear logical and valid when applied to one context or group can have unintended or counterproductive consequences for others. I will be very brief. Earlier today in Committee, we heard about how you can legislate to send a message. We talked about seat belts, and so forth, and I entirely accept those points. However, there are plenty of other examples, in legislative terms globally, and I can give you some if you care to hear them, whereby something has appeared logical and sensible and seems like a very obvious move to achieve one end. The legislation has been enforced and then, at the other end, there have been implications for other vulnerable groups, which leads to other human rights violations. We want to make that point. We would love to see the Northern Ireland Assembly take more action to ensure that that does not happen in this case.

2593. **The Deputy Chairperson**: Could you briefly provide one example of that?

2594. **Ms Murphy**: Yes, and I will be very brief. One global example that is currently a big issue is the proliferation of Bills on the criminalisation of HIV transmission. The aim of much of that legislation is to protect women in relationships because of their vulnerability, whereby they cannot negotiate condom use, and so forth. That was the impetus behind many such Bills, particularly in Africa. They were given huge support by a lot of women's organisations, and, on the face of it, it appears incredibly logical. It appears to be a great way to protect women from HIV transmission. However, in reality, what has come about is that, because women are diagnosed earlier and can transmit HIV through pregnancy, women are far more liable to prosecution. I know that that is not a like-for-like comparison; I am simply giving you an example of how, if there is not adequate research and the issue is not thought through to the end, legislation with a legitimate aim and obvious purpose can have serious applications for other groups.

2595. **Ms Teggart**: Allow me to make a final point in answer to the question. A needs analysis would also inform us about the services that are needed, which we do not have at present. Although the Bill seeks to put on a statutory basis support for victims of trafficking, it does not do the same for those who would be directly affected as a result of clause 6 passing into law. We simply do not know. We may have some limited information about the services that would be needed, but we do not have that information at the minute, which, in itself, poses a risk. Members should also consider this question: is it right that we put on a statutory basis support for victims of trafficking — we support that aspect of the Bill — but, with clause 6, do not also consider support for potentially vulnerable groups?

2596. **Mr McGlone**: I have two brief points. With clause 10, we talked about domino effects, consequentials, and so on. You say that clause 10 should be amended

to clarify the responsibilities of the Health Department and the Department of Justice. Can you expand on that, please?

2597. **Ms Teggart**: The Department of Justice takes the lead on the anti-human-trafficking response in Northern Ireland. The Department of Health is responsible for child victims of trafficking, and the Department of Justice is responsible for adult victims of trafficking, so a cross-departmental approach would not be required.

2598. **Mr McGlone**: That is grand. Finally, although it may be misguided to assume that any organisation's policy direction can be determined by an ex-member who has long gone, you are determining policy at the moment and conducting a policy review. Do you have a date by which that will be available? If it were there for the Committee to read, it could be helpful if that were done before we advance our deliberations to the next stage.

2599. **Ms Murphy**: I am genuinely not being evasive. There is not a set date for a decision. We have a timeline in mind of this calendar year. It is a big organisation, and many people have to be consulted. We do not have a deadline because we feel that an internal debate is necessary. We think that it will be in the next calendar year.

2600. **Mr McGlone**: That is grand.

2601. **Ms Teggart**: We are a global international human rights movement and take these decisions as such, but I emphasise that we are one section that is beginning the consultation with other sections. We each work through our own processes in consulting our members and stakeholder organisations.

2602. **Mr Elliott**: Thanks for the presentation, folks. I am just checking my emails in case I sent something five or six years ago to you that I need to confess to. *[Laughter.]*

2603. **Mr McGlone**: Or received five or six years ago.

2604. **The Deputy Chairperson**: There is something to be said about the spoken word.

2605. **Mr Elliott**: I cannot find anything at this stage, but I will keep looking.

2606. It is obvious that there is a divergence of views over parts of the Bill, particularly clause 6. We are being open about this. I listened to your issues about clause 6 and the aspects that you do not believe are workable. What do you believe that clause 6 would do if it were implemented, as opposed to what it would not do?

2607. **Ms Teggart**: Essentially, clause 6 creates a mixed bag of criminalisation. Despite what has been claimed about shifting the focus from the seller to the buyer, in real terms, it does not do that. I refer to article 59 and article 64 the Sexual Offences Order, which refer to offences around brothels and soliciting in a public space. My colleague referred to this untested model and said that this is not the Swedish model. The Department of Justice, for example, has said that, on article 64A, when a woman has been subjected to force, it wants to remove the six-month statute bar to that offence in recognition that there have been no convictions, as far as I am aware. It is also in recognition that that six-month statute bar creates difficulties — for example, with the PSNI in investigating those offences. We welcome that, and, indeed, we call on the Department of Justice to commit to a legislative vehicle with which to bring about those legislative changes. There is no reason why the Bill —

2608. **Mr Elliott**: Sorry, Gráinne. Surely that is what clause 6 is still not doing. My question is: what, in your opinion, does clause 6 do?

2609. **Ms Teggart**: It creates a mixed bag of criminalisation, which could have unintended negative consequences.

2610. **Mr Elliott**: I asked a previous set of witnesses about support services for victims. Obviously, I want to hear your opinion as well. I asked the trade unions whether their preference would be that

people were integrated into this society if they were not from Northern Ireland. What is your view on that, and do you have any idea of the numbers that may be involved? The trade unions did not seem to have any indication, and perhaps you do not either. If you do not, that is OK. Do you have any idea of the numbers that may be involved and the associated costs if those people were to be integrated into Northern Ireland society?

2611. **Ms Teggart**: We do not, because our work on the issue has a purely legislative and policy focus. We are not service providers.

2612. **Mr Humphrey**: Thanks very much for your presentation and for your patience. Gráinne, you set out very clearly in your opening statement that Amnesty International is about protecting the human rights of all people. You may have your view on the Bill and its clauses, but that is exactly what we are trying to do here. I hope that you accept that. In your reply to Mr Elliott, you said that clause 6 would create a mixed bag. In Amnesty International's opinion, does section 64A of the Policing and Crime Act 2009 provide sufficient protections?

2613. **Ms Teggart**: I made the point about there having been no convictions when a woman has been subjected to force. Some of the difficulties and reasons behind that have included the six-month statute bar, which is why we welcome the Department of Justice's commitment to remove that.

2614. **Mr Humphrey**: In terms of convictions and so on, that could equally be down to policing and the fact that the whole problem in Northern Ireland is driven underground. Do you accept that?

2615. **Ms Teggart**: I am not sure that I understand what you mean.

2616. **Mr Humphrey**: Basically, I am saying that it is very hard to get statistics on the issue in Northern Ireland, or anywhere, but, given the mixed messages from the police, which you will have heard about earlier, that there is criminality and has been alleged paramilitary activity in the past, prostitution has been driven underground. My view is that the current law does not provide protection for the most vulnerable trafficked people. Do you agree with that?

2617. **Ms Murphy**: As Gráinne said, given that we are not a service-providing organisation, it is difficult for us to gauge beyond the statistical prosecutions, figures, and so on, about the perceptions of the impact of the law. The point that we are trying to make is that there may be a perception, or there may be reason to believe, that the law as it stands is not sufficient. We do not really have a position on that, one reason being that we do not have the research. However, we are trying to communicate as clearly as we can to the Committee that legislation definitely has a role. We are not suggesting that there should be no more legislation on those issues per se but that there is a range of other options beyond a legislative course of action. We are concerned that there is a rush for a legislative course of action in this instance when there may be many other options along the way. It is an untested legislative model.

2618. **Mr Humphrey**: I do not disagree with what you say. My point is about the lack of evidence and statistics, and I think that you agree with that.

2619. **Ms Murphy**: We would like our proposal to the Committee about further research to be included in that.

2620. **Mr Humphrey**: I hear what you say, but our view as a party is that it is evident that the current law does not provide enough protection, particularly to people who are trafficked. Examples that we saw in Sweden — or heard about in Sweden, I should say, as opposed to having seen them — were really horrific. Young ladies had been denied all their human rights. I do not think that it is an option for the Northern Ireland Assembly to do nothing. Whatever your views are on clause 6 and the Bill generally — I wrote down what you said about it creating a mixed bag or whatever — the status quo is not enough. It does not

provide protections, and it is our duty to address that. Do you agree with that?

2621. **Ms Murphy**: We absolutely agree that it is your duty to address trafficking in Northern Ireland.

2622. **Mr Humphrey**: Do you also agree that the status quo is not enough?

2623. **Ms Teggart**: Again, that is getting into different legislative models and approaches. I feel that we have answered that, but I do —

2624. **Mr Humphrey**: To be fair, Gráinne, I did not name any other country. I am simply saying that our legislation, as a supposed protection, is not enough to protect people who are trafficked — the most vulnerable people.

2625. **Ms Teggart**: As a general comment, I think that there is recognition from our Department of Justice, in terms of the Northern Ireland Assembly and Executive response, that perhaps there is an inadequacy around the offence concerning a woman who has been subjected to force. I assume that that is the reason why the Department has committed to removing the six-month statute bar to that offence to facilitate convictions.

2626. **The Deputy Chairperson**: Thanks very much. I have a couple of questions. did you say that there are three million Amnesty members?

2627. **Ms Teggart**: Globally, there are three million-plus.

2628. **The Deputy Chairperson**: If you have only one dodgy member in that three million, you are doing well.

2629. I will move on to clause 4. Amnesty has no position on minimum sentences for adults; it is only for children.

2630. **Ms Teggart**: We have no position on whether minimum sentencing should be introduced. We said that clause 4 is not explicitly clear at present, and it needs to be clear that that will not apply to children — for example, in the case of a minor who could be involved in the trafficking of other individuals.

2631. **The Deputy Chairperson**: I read your papers today. You have two broad headlines: first, you think that there should be separate legislation for human trafficking and for sexual exploitation. Is it right to interpret it in that way?

2632. **Ms Teggart**: Yes. We think that they are two very complex social phenomena. As far as sex work goes, it is not possible to address that in one clause in an anti-trafficking Bill. We think that it merits further research and consideration.

2633. **The Deputy Chairperson**: There would be a concern, as Catherine outlined, that the unintended consequence has not been thought through.

2634. **Ms Teggart**: Nor has it been assessed.

2635. **The Deputy Chairperson**: How would you assess that? How do you say, "Here is a law that you are trying to enact, but here is the downside". How do we come to some determination on that? I say that because that is one of the big challenges when we are bringing in legislation. I said that last week in an evidence session, or perhaps it was at the Oireachtas. We had the PSNI in front of us when we were enacting a law on crowd control, and they said that it was a law that they would never use. Someone asked them why we would bring it in if that was the case. What is the point of having legislation if the people who are going to investigate say that they will never use it and, in this instance, to protect people from something, which is well intentioned but turns out to have a negative impact? How do we process that?

2636. **Ms Murphy**: I understand that the Committee has consulted extensively, and that is a great start. Through that consultation, you will undoubtedly have identified grey areas where there is no clear answer, there is conflicting evidence, and perhaps you are not getting the necessary level of testimony and evidence from affected groups. You have an opportunity in the report that you put together to identify crucial gaps in knowledge in Northern Ireland.

Beyond that, moving forward, there is real scope for independent research. You would need to determine that from the findings of your report, but we would say that the discussions that you have had around this table and the gaps that have emerged are a good starting point to figure out the next steps for Northern Ireland.

2637. **Ms Teggart**: I will add to that. As far as I am aware, the Department of Justice has put out a tender for research on the subject. A lot of the evidence and detail that would be needed would or should, hopefully, come from that.

2638. **The Deputy Chairperson**: You say that you welcome clause 10. I want to ask you about the concept of:

"reasonable grounds to believe that an individual is a victim".

2639. The other standard is if:

"there has not been a conclusive determination".

2640. Is that not a minefield? Who makes that determination? It seems to put the onus for assistance onto the Department of Justice and the Health Department. The standard of "reasonable grounds" is bookended by the other standard, which is:

"there has not been a conclusive determination that the individual is not such a victim".

2641. It leaves it open, first, for the cost of doing it and, secondly, that either Department could say that there is no conclusive evidence.

2642. **Ms Teggart**: Obviously, there are processes in place whereby trafficking victims are identified: namely, the national referral mechanism. Victims of trafficking can opt to go into that mechanism or opt to be returned to their country of origin. We support the broad principle of putting support for victims on a statutory basis, which is very welcome. That adds to our legislative response to ensuring that Northern Ireland is a hostile place to traffickers.

2643. You mentioned the onus being put on the Department of Justice and the Health Department. Again, that is why we recommend that the detail of such support be outlined in a secondary order. Presumably, that would be the platform from which to tease out any difficulties that clause 10 may present.

2644. **The Deputy Chairperson**: In earlier evidence, we heard of instances in which people are trafficked, but citizens could be moved from one part of a state to another.

2645. **Ms Teggart**: When internal trafficking occurs, support is given by migrant health services for forced labour or through Women's Aid for sexual exploitation. Irrespective of whether they are from here or it is a case of internal trafficking, they get those support services.

2646. **The Deputy Chairperson**: Thank you, Gráinne and Catherine, for your patience and your evidence.

6 February 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley

Witnesses:

Ms Mia de Faoite

2647. **The Chairperson**: I welcome Ms Mia de Faoite. I will allow you, Mia, to correct my pronunciation when you come to the table. This session will be recorded and published in due course. I will hand over to you to make an opening statement, after which, I am sure, members will have questions. We appreciate that you have taken the time to speak to us today.

2648. **Ms Mia de Faoite**: Thank you for the opportunity. My name is Mia de Faoite, and I am a survivor of prostitution and drug addiction. I am an activist in my own right and one of the many partners who make up the Turn Off The Red Light campaign. I have given public lectures on the issue and have used the avenues of the media to highlight the harms and dangers intrinsic in prostitution and the reasons why the recommendations made by our own Justice Committee now need to be implemented. I am a second-year student at the National University of Ireland at Maynooth, where I am reading philosophy and sociology. I am also the mother of one daughter, and I have two beautiful granddaughters, whom I adore.

2649. My decision to enter prostitution seemed to me at the time quite a rational one. I had developed a heroin problem at the age of 33, having never taken a drug in my life before, and my partner had an even bigger drug problem. My money was gone and crime was not an option, but I knew that I had a valuable commodity because I had a female body that I could sell. It would not be for long; just until they were sorted and I was sorted. However, I made that decision while addicted to a mind-altering substance, and you do not make good decisions while you are trapped in addiction. I entered a paradox from which very few women escape. I am one of the lucky few.

2650. Life on the street is complex. We led difficult and complex lives, and I would never be able to explain them in this short time. However, there are two issues that I would like to address today. The first is rape. Rape becomes part of the job, so much so that we do not really use the term "rape"; we do not have permission to. We might allude to it, but then it is ignored and the subject is changed. Many people become desensitised to the pain of others because, if you acknowledge someone else's pain, you may just have to acknowledge your own. We do not have anywhere to place that pain or deal with it, so some people bury it, some use substances to forget it and some disconnect from it. Unfortunately, some accept it as routine.

2651. Every prostituted woman has a rape or sexual assault CV, and here is mine. It was December, it was freezing cold and we were out more than usual as it was close to Christmas. I got an offer of a job with a friend of mine named Jenny; it was for a Christmas party. She said that there would be only a few men, she knew one of them well and we would be fine. I was a little naive, as I had been on the Burlington Road for only five months and the thought of getting one large sum of money meant that I would not have to come out again until after Christmas, so I went.

2652. It turned out that there were eight men in total. I was nervous now, but we agreed the terms — what was allowed and what was not etc — we were paid in full and we got on with it. Alcohol and cocaine were offered. I took cocaine, but I had no alcohol, so you can imagine what went on. Not all the men wanted something from us, and I did feel somewhat in control, but I was aware that Jenny was getting drunk, as were the men, who were getting loud. When the time was up, we were left alone for a minute. I collected my things and told Jenny to get ready to leave.

2653. I went into the other room and said, "Right guys, we are going to go, thanks" or words to that effect. I could feel that something had changed in the atmosphere, and the hairs on the back of my neck began to stand up. One of the men said, "You are not going anywhere; we are not finished". I tried to reason by saying, "Come on, fair's fair", but I looked at the door and glanced in at the bedroom where Jenny was still not ready. I could not just run and leave her. The next thing, my hair was pulled and I was pushed over the sofa. Then it began.

2654. I was dragged back into the bedroom where Jenny and I were subjected to an unimaginable horror. We were raped, mostly anally and orally. We were like rag dolls — not even that. We were just objects to be passed round. My skin was crawling, and my insides felt as if they would come right up my throat. I wanted to scream, but I could not. I looked at Jenny, but I could not protect her. She was much younger than me, much thinner and weaker. I looked straight into the eyes of the man who was on top of me. I thought, "Can't you see me? Can't you see my tears?". I will never forget the eyes that looked back at me, for they were blank. He looked straight through me. They tried to insert objects inside us. Jenny was placed on a chair. I am sorry that I cannot speak about what happened next, but eventually it ended and they left. Thankfully, they did not take the money back, so we could get out of there. I picked Jenny up, half-dressed her myself and we left. I left that building with a bruised body and face, smelling of urine and bleeding from my rectum.

2655. Do you now understand how I could not see the choices any more? I have not seen the world the same way since that night. As for my friend Jenny, she died. Her drug use spiralled out of control, and she died alone of an overdose about three months later. It might have been heroin in her arm on the day she died, but I know what really killed her. Today, I am her voice also.

2656. My next rape was a year or so later by a lone offender off the Burlington Road. The next — I am not sure if I can call it rape — happened the same night. I was sitting on the ground on the street after the attack. My money and my phone had been taken, and I was sitting, disorientated and alone, with an aching body and a struggling mind. A regular of mine pulled up, got out of his car, picked me up and offered to drive me home. I told him what had happened, and he stopped and bought me a coffee. However, just before we reached my home he pulled in and reminded me that I had no money to pay him — he was a taxi driver — but that I could sort him out. I did not even argue; I just leaned back and let him. What do you call it when someone has sex with a woman who, they know, was raped an hour or so beforehand?

2657. My last rape was by two young men who were high on cocaine. One watched while the other did it, but to me he was just as guilty. I have countless accounts of humiliations — I have been urinated on etc — and of oral rape. In fact, I have no gag reflex; the muscles in the back of your throat learn to relax because they have to.

2658. I am devoid of sympathy for buyers, as they messed around with the minds and bodies of some of the most damaged women whom I am ever likely to come across, and they were my friends. I cared about them, and I miss them. At the same time, however, vengeance is not mine, nor is it something that I seek

or desire. I have long since let go of the fact that my rapists and abusers will never be brought to justice. In fact, it is something that you must do in order to survive prostitution.

2659. Some people struggle with clause 6 because, I believe, they think that the men who buy human beings for sex are, for the most part, good citizens in that they are in gainful employment, they pay their taxes, they pay their rent, they buy homes with their partners, they have 2·4 children and they tick every box that society deems to be correct, so we allow them this little indulgence. How do we allow it? Again, through silence and keeping it legal. The men who bought me and all the other women, the men who feed this twisted industry walk among you every day. They are fathers, husbands, colleagues etc. We do not want to acknowledge that a good citizen can behave like a bad human being. I understand that fear. We hate to upset society's little apple cart, but at whose expense do we do that?

2660. I, on the other hand, would be viewed as a bad citizen. I did not have a job, I was supported by the state, I was a heroin addict, and, worst of all, I stood on a public street displaying my wares, luring those good citizens to me as if they had no choice. However, I am a good human being; I always have been. That is the balance that you must find: between the good citizen and the good human being and which of us comes first in the queue for protection.

2661. People ask me how many men. I was bought by four to five offenders two to three nights a week at least 45 weeks of the year for nearly six years. That is an equation that I will never do in my head. I was no sex worker; I was a trapped mind who lived in a body that no longer belonged to me. In fact, I was a disconnected, drug-addicted, walking rape victim. We all were. How our trapped minds coped depended on a wide range of things too complex to explain briefly here. Prostitution is like 'Inception', and it messes with your mind.

2662. I knew women who used their real name and would defend their position. To me, that was frightening, because it meant that they had lost all realistic hope that this could change and had begun to find a sense of value in their own exploitation. It was contented acceptance, fuelled also by the master manipulation of buyers. I believe that there is a fundamental difference between choosing to become and defending what has become of you, and the wise researcher understands that concept. We pick up survival skills, we use laughter as a coping mechanism, and we only trust one another, for we know what the world thinks of us. Those messages come in loud and clear, and there are no messages that we are ever welcome back. We have become the worst insult that a woman can call a woman or a man can bestow on a woman. We sign a social contract that comes at the highest cost, for the small print of that contract, the terms and conditions, are harsh, disturbing and unjustifiable. It would appear to most that we stand free on the street, and yet, everywhere, we are in chains.

2663. Prostitution and sex trafficking are intrinsically linked: you have one because of the other. For the last 18 months of my time on the Burlington Road, I stood alongside a trafficked woman. She became my closest friend, and I have never seen a human being so broken down. The conditions in which she lived were inhumane, and, although we had arrived at the same place through different means, we were connected because we were bought, used, exploited, humiliated and raped by the same offenders. One night I would be bought, and, a few nights later, the same man would buy her. On a couple of occasions, we were bought together. That connection can never be broken by anyone at any time in any country.

2664. There are some who argue that people have a right to do with their body what they wish. However, I do not see that as an absolute right. If what you do with your body promotes and feeds an industry that, at its worst, results in the

rape and sodomisation of children, then it is much more of a limited right. What I believe is an absolute right, as stated in article 4 of the Declaration of Human Rights, is that slavery and servitude in all their forms must be prohibited. We must always remember that the liberty of a few should never come before the freedom of many. Any time in history that that has happened, human dignity has been removed and freedom lost.

2665. I never describe what Sweden did 15 years ago as a model. They have set a remarkable example that Europe must now follow. As we know, three countries already have. It comes as no surprise to me that it was Sweden that set this example, because, as the most equal society in the world, it was the only country where the reclaiming of human dignity could have begun. Sweden placed human dignity first. They fully understand the concept of human dignity, which is the value and respect that we place on one another as human beings. What happens when we place human dignity first, as Sweden has proved beyond doubt, is that good triumphs, whereas, in countries where it is placed last, evil thrives, as is abundantly evident in countries that have decriminalised or legalised and tolerated prostitution. That evil is both human trafficking and the place where vulnerable women and children are trafficked into: prostitution. There, they join the addicted, disconnected and damaged women like me, who are also trapped but in a different way, to service the needs of a particular group of men.

2666. Arendt concluded that most evils in the world are committed by nobodies, and I agree with her. Furthermore, I believe that it is now time that the nobodies were made accountable and held responsible for the cruel industry and slave trade that they willingly sustain and uphold. In fact, it exists only because of them.

2667. Once again, Sweden did not do a radical or controversial thing; it did the right thing in the name of freedom, justice and equality. Now it is the turn of our island. We have a remarkable opportunity to effect a social change for the greater good, an opportunity that we must not allow to pass us by.

2668. Committee members, I have two beautiful granddaughters, and I want them to grow up in a country, on an island and in a Europe where the bodies into which they have been born are respected and at no time up for sale like that of their beloved grandmother. That is my wish for every little girl. The one sure thing that nearly six years of sexual exploitation taught me is that prostitution is not compatible with humanity; we choose one or the other. I implore you to come to a wise choice.

2669. **The Chairperson**: Mia, thank you very much. We have had a number of evidence sessions that have been difficult for all of us. This is another. However, it obviously does not come anywhere near how difficult it has been for you. I thank you for coming to the Committee and appreciate your honesty and the way in which you have conducted yourself before us. Members will have questions that we need to ask to do our job of scrutinising your evidence. I hope that you appreciate that. Let me start with a couple of questions, and then I will open it up to members.

2670. I was struck by your testimony when you talked about being raped. At any point, did you contact the police?

2671. **Ms de Faoite**: No. Calling the police is not something that you even think of. As I said, we do not know if we can call it rape. We know that it is, but it feels as if you cannot. It is hard enough for women outside prostitution to take rape cases. Many people do not even believe that a prostituted woman can be raped. It does not even enter our heads to call the police.

2672. **The Chairperson**: You highlighted the case of you and Jenny. You said that you looked into the man's eyes and he just looked through you as though you did not exist. Is that a typical experience?

2673. **Ms de Faoite**: You are bought; someone has purchased an object. When people

buy something and take it home only to find that it does not work properly, the first thing that many of them do is shake it. The same principle applies in prostitution: "I bought you to do this, you are not doing it properly, so I will shake you". You are not seen as fully human. You have been bought. In a way, in prostitution, the conditions are set up for rape to happen. Where you have good citizens, who may be outside this, it would never happen. However, when those conditions are set up, it is more likely. Psychological study after psychological study proves that, if the conditions are set up, human beings are, in fact, capable of anything. That is the problem. That is why even independent women carry personal alarms and legal brothels have panic buttons. You cannot predict or legislate for that. Do you know what I mean? When a person is bought, they do not know how the buyer will act. You can learn the signs telling you when to feel unsafe. It depends also on how many drugs there are in your system, where you are and how cold you are, but really, the conditions are set up for it to thrive and happen.

2674. **The Chairperson**: Some of the witnesses whom we have had before us said that their clients, as they call them, cared for them and would be concerned for their welfare. In your experience, did the men care for your welfare?

2675. **Ms de Faoite**: Not every man who bought me was violent or abusive, but I refuse to feel grateful just because they were not. Some think that they care. There was a regular of mine who had never been abusive or violent towards me. He picked me up off the ground in a terrible state, but I did not get out of that car without servicing his needs. He would justify his action, maybe, because he showed me a kind act. However, the fact that they buy means that they are all aware that we are not standing out in the street because we have functional lives. I only met one woman who was not addicted to alcohol or drugs and did not have underlying psych issues. Buyers know that. In fact, the more vulnerable you look, the more popular you are, because it is not about sex; it is about power.

2676. **The Chairperson**: It was not clear to me from some of the notes that I read what age you were when you started.

2677. **Ms de Faoite**: I started at 33, when I got addicted to heroin. I worked briefly on Benburb Street, then I was on the Burlington Road from early 2005 to 10 October 2010. That was the last night that I stood on the street.

2678. **The Chairperson**: We are particularly interested to know how many of the people involved in prostitution are victims of human trafficking. From your experience during that time, what is the prevalence of human trafficking? Can you also let me know what age some of the girls are? Are there any minors involved? Perhaps you could address those two points.

2679. **Ms de Faoite**: Sure. Most of the trafficked coerced women are indoors, although the woman whom I knew was not. She had been taken out of Africa 10 years beforehand, and she began in Greece. Then she was brought to Switzerland, the UK and finally Dublin. The reason that we got close was that I heard her speak a language, and I had been to that part of Africa some years before. That was how we got close. Her trafficker or controller watched her everywhere she went; he would patrol the streets. She was sent out at 5.00 pm and worked continuously until 5.00 am. She had to return with every €100. She was addicted to crack, and he was the dealer. He barred her from speaking to me. He could not stand me, not because I might get her to work for someone else or get her off drugs but because I treated her like a human. I was the only friend that she had had in 10 years. I reminded her of her children at home when I spoke of mine, and that was the thing that could have taken her from him: humanity. I challenged him once, and he walked away from me. It was quite eerie. However, he sent me a message by beating her and sending her to me. She defended him. She had this loyalty to him. I understand now

that it is trauma-bonding. Women kept in those conditions can get an attachment to their controllers, traffickers or pimps. She defended him, and I could not understand it. I took her to my home once, after she had been — I describe it in the submission. I thought that I could just get her out of the country and get her home, but I had no understanding really of the bond that women who have been under so much control, constraint and abuse form with their abusers. Much as I loved and cared for her, I could not break it. She returned to him.

2680. **The Chairperson**: Tell us about the age profile of some of the other victims.

2681. **Ms de Faoite**: I never met a young girl under about 17. I knew two or three who were 18 and 19. I never met a 14- or 15-year-old on the street. I really do not know what I would have done, because I had a daughter at home who was the same age. I knew 18-year-olds. I do not know exactly what age they were when they entered, but they were that age when I went on the street. Then there were a few older ladies who had been on the street for 20 years. One night, one woman said, "I'm retiring". I remember looking at her and thinking, "My God, is that me in 20 years?". It was just so strange.

2682. The street is different. There are rules. There is a hierarchy. It is quite a complex place to be. In some ways, there are normal group dynamics. The older ones are shown respect. The younger ones can be quite chaotic, because crack cocaine causes unpredictable behaviour, and they put themselves at much more risk. I cannot tell you how hard it is as a mother of a daughter to watch an 18-year-old get in the back of a car. Then she comes back, and she is not quite sure exactly what happened.

2683. One night, one of the younger ones was thrown out of the back of a van. She knew that the man had inserted something inside her. She felt as if something was still stuck, but she could not get it. So another girl and I had to help her and physically take it out. I cannot tell you what it is like to hold an 18-year-old in my arms whom I could not send home because she did not have a home. I could not ring her parents because they were not around. I watched her cry. All we could do was give her money so that she could go and get something that would numb it all. When she came back about two weeks later, she was so angry. She owned the street, and she fought with everybody. I thought, "God, is it anger or is it just, you know?". She was a child really. She was so damaged, hurt and humiliated, and she did not know where to place that, so she came back angry.

2684. It is quite a cruel world out there. The way you cope with trauma and your survival skills depend on a number of things. It is quite hard to witness. Yes, we laugh a lot, but that is because, if you got angry, you were afraid about how angry you would get. If you cried, you might never stop. So laughter is a kind of release. We laughed at some of the strangest things.

2685. **The Chairperson**: This will be my final question. I will then bring other members in. Clause 6 concerns the criminalisation of the buyer. Sweden has pioneered that, but it has not stopped prostitution or trafficking. The evidence that we heard when we were there is that it has reduced it but that it is still there. What makes you believe that criminalising the buyer would have an impact, both here in Northern Ireland and in the Republic if it were to do it, on what you have told us about today and reduce the problem?

2686. **Ms de Faoite**: I personally do not believe that anybody has the right to buy another human being to do with their body what they wish. I think that that should be in law regardless. Sweden's figures speak for themselves, and, no, it has not been abolished altogether. It will probably never be wiped out completely because, in this world, we will always have people who take advantage of the vulnerable and make profit on the backs of other human beings. No one, not even Sweden, the most equal society in the world, has found a cure for the human

condition and all its complexities. That does not mean that we should not do anything.

2687. **Ms McCorley**: Go raibh maith agat, a Chathaoirligh. Thanks for your presentation. It must be very difficult for you to talk about that. It is probably the most horrific thing that I have heard in all this. How did you manage to exit the life that you were in? Would you mind telling us how you did that? Was it unusual for someone to exit?

2688. **Ms de Faoite**: I did not decide one day that I had had enough. My daughter battled an illness. She became quite ill and had to get some inpatient care. While she was there, she met a social worker. She took to her. My daughter would be quite guarded. We had lived quite an isolated life. I was at home all day minding her, and I left to go to the Burlington Road three nights a week. Apart from that, it was just us. Anyway, she let her in. That social worker asked me to come into her office one day, which I did, with the usual guarded front. She asked me a few questions that nobody had ever asked me before. She asked me what life was like for me, what it was like to be out there all alone, what it was like to be a mother and watch my daughter fade and feel helpless. Nobody had ever asked me those questions. I had only ever met judgement and people's presumptions.

2689. Anyway, I began to talk to her. I spoke to her every time that I went out. I trusted her. I told her things that I had not told anybody. I let her in. When my daughter was well enough to come home, the social worker asked me if I trusted her enough to make two phone calls on my behalf. I said yes. I had previously worked for the health board for 10 years, eight of which were as an administrator for a detox unit for heroin users. She rang my former boss, a consultant psychiatrist. He met me, and he made the decision. He rang me and said that I would be going to rehab at St Michael's and then on to the Rutland. So even in the end, I did not make the decision. She could see choices. I just could not. My choice might have been a much darker one.

2690. **Ms McCorley**: So it was rehab.

2691. **Ms de Faoite**: Yes. I had a medical detox for three weeks. I then spent five weeks in the Rutland. I then had severe post-traumatic stress. I had suffered disassociation after the gang rape. I viewed the woman whom I was at night, "Lucy", as separate. I had to conquer that. It often involved two people and a chair for Lucy, so that I could own all of that and find myself again. It was like a seven-year war was over. I did not know who I was, but I now know that disassociation and all that is quite common. I also read a lot about trauma and how to recover. I went to Ruhama, and I have really not looked back since. I knew that education was the one thing that would save me. It is the one thing that pulls people out of adversity. For the most part, it is the lack of education that leads women to end up in prostitution.

2692. **Ms McCorley**: Have you been able to go to some of the people who lived the life that you were in and show them how they can escape?

2693. **Ms de Faoite**: I work with the anti-trafficking office in the Immigrant Council of Ireland (ICI) and with Ruhama, but I have mainly been active in getting this law before us and now here. I have given my insight to a couple of researchers. I could not go back to that street and offer advice. It would be too close. It is only three years since I worked out there. My friends are still there. So I give my insight to the people who know what to do with it, whether in drawing up policy or care services. It may be that one day I can help, but, at the moment, I could not go to the front line as such.

2694. **Ms McCorley**: You said that nearly everybody has an addiction and complex issues. You said that you were addicted to heroin. Would most of the women whom you met have had addictions such as that and those kinds of complex issues?

2695. **Ms de Faoite**: Only one whom I met did not. With the older women, it tended to be alcohol. The younger ones were addicted to crack, heroin and anything that was going. Some of the heroin addicts were more chaotic than others, but, yes, everyone was addicted. It may have been alcohol with some or speed. It was sometimes tablets or what they call polysubstance abuse — a combination of whatever.

2696. **Ms McCorley**: Thinking about those people and the incidents that you described, can you see clause 6 putting off those kinds of people from purchasing sex? If they can do those types of things, do you think that clause 6 would deter them? That is what I find difficult.

2697. **Ms de Faoite**: Yes. It is the one and only thing that will stop them. As one said to me once, "I don't worry about the police because, so long as I get to the post before she does, I can pay the €50 fine". Clause 6 is the only thing to do, and I believe that it is the right thing to do. I know very well the men who bought me. I spent six years in their company. Those are not men who will be watching this debate or listening to it — you know what I mean — they are not going to take a risk there. They have to be made accountable, and they know that. They get away with it now. Society permits them to do it. However, once society and the Government are over it, and I do not mean by imposing a €50 fine that they get in the post box before their partner, they will have to take responsibility. The only way that you will change such behaviour is by making them responsible for their actions.

2698. **Ms McCorley**: What do you think that the penalty should be, if, say, clause 6 were introduced for someone found guilty of paying for sexual services?

2699. **Ms de Faoite**: I think that France is going to bring in €1,000 or €1,500. In Sweden, it is based on your income — we are not as up to date as Sweden for that — but it should be substantially more than €50.

2700. **Ms McCorley**: You have made your case that you think that this will be the deterrent. Clause 6 is a single clause. What about the complex needs and issues of those women? Where does it leave them?

2701. **Ms de Faoite**: I am often asked that. If I were still out there, and somebody came along and said, "We are going to legalise this", I would have thought that they were mad. I would have said, "Look around — seriously — are you formally going to make this legitimate?" If you had said to me, "This is terrible; you have to stop; nobody is ever going to be allowed to buy you again; this is awful", that is not what I would have heard. I would have heard, "Oh my God, she is about to remove what gives me access to the drug that keeps me sane". If the drug were removed, I would remember; I would not be numb any more, but that does not mean that I would not do it any more. It would have been hard, and I would have been sick, but I would have had to reach out for the help that was there but just could not see.

2702. **Ms McCorley**: That is a fair point. There are different views on how you deal with prostitution. There is a view that dealing with it in a single clause is not the best way and that we need to look at it and explore what is involved. By talking about those women, you have made the case that you definitely have to look into what their lives are like and how you address their needs and health issues. You have made a good case for looking at it more comprehensively.

2703. **Ms de Faoite**: There is clause 6. However, I am fully aware that those women will need support systems. I would like to see the money that comes from the fines being placed directly into those support systems. For me, the very least that they can do is contribute financially to repair the damage that they have caused. Yes, I am aware that there are exit needs, and the women will need support.

2704. **Mr Humphrey**: Thank you very much for your presentation and evidence, Mia. I know that it is a cliché to say it, but it is

really powerful and very distressing not only for you but for those of us listening. There is a huge responsibility on us as legislators to listen very carefully to what you said and act on it.

2705. The Committee has received evidence on this issue over the past few months. You used the terminology that you were "bought" or people came "to buy". Others who have given evidence recoiled at that terminology being used and would not agree with you. I am not saying that you are comfortable saying it, but why are you using that terminology, and why do you think that it is the appropriate terminology?

2706. **Ms de Faoite**: People tend to say the "purchase of sex", but you cannot buy sex. It is the purchase of a human being for sex. When a person came to me and asked for a sexual act, I did not take it out of my pocket and give it to them. They had to buy me and all of me, and I had to go with them and all of me had to go with them. You always have to buy the person before you gain access to the body.

2707. **Mr Humphrey**: If I picked you up correctly, you said that you came in contact with only one prostitute who was not on either alcohol or drugs. Were alcohol and drugs required to see you through the day or the night?

2708. **Ms de Faoite**: For me personally?

2709. **Mr Humphrey**: Collectively.

2710. **Ms de Faoite**: I would have been quite religious in how I used my heroin, as I had to keep some stability for my daughter, so I would smoke 10 to 15 lines in the morning. I never smoked it before I went out to the street, because, when you are in the early stages of withdrawal, your senses are heightened, and I felt safer being out there with heightened senses rather than taking heroin before I went, in which case you would be numb, but a lot of women take it beforehand. The minute I jumped in a taxi to get home, it was the first thing I took. I smoked only one bag a day prior to the gang rape and disassociation, but it increased after that, so, yes, I was taking more to shut out quite a few things. I could not say, because we do not have conversations as such, but I do know that some women, if they have had a bad experience, go and get alcohol and come back. Some women earn £100, go off, get stoned and come back.

2711. **Mr Humphrey**: It could be part of the coping mechanism.

2712. **Ms de Faoite**: It could be, or sometimes it is chaotic addiction.

2713. **Mr Humphrey**: You said that, for the buyers, it was not about sex but power. If you are comfortable enough, can you expand on that?

2714. **Ms de Faoite**: In this day and age, given the access we have to the Internet and what you can get, you can actually go online and meet consenting adults with no money involved or whatever. There appear to be quite a number of people, groups and couples who are into all sorts of things, and you can do that without ever handing over money, so what are they buying?

2715. **Mr Humphrey**: We have also had evidence from various groups and individuals that have come before the Committee and on our visit to Stockholm. People have said that women have a choice, and they make that choice freely. Do you believe that?

2716. **Ms de Faoite**: I do know that a few women say that they are happy to be there and are independent. I have spoken to a number of them on occasion. I still do not believe anybody has the right to buy them, no matter how happy they declare themselves to be. They are very few. As I said earlier, the liberty of a few should never be taken before the freedom of so many. As I said, I made what I thought was a rational choice, but I was not in the right state of mind — in addiction, nobody is in the right state of mind. That is why rehab was invented; because we make messes of our lives and stuff. The ability to see choices goes or becomes extremely affected by trauma and disconnection from society in general.

2717. A lot of the women whom I stood beside were second-generation addicts, so addiction and dysfunction were not unfamiliar. In fact, some of them insisted that it was the only thing they ever knew. If it was a quiet night on the street, all of a sudden there would be a fuss, because, when you get used to trauma, it can be something that you crave or feel comfort in. You lose your ability to see choices, and, for some women, that choice was never there. It was like their life's script was already written, so they did not see it. They considered me to be quite strange, and they were very protective of me because they felt that I should not be there. I was respectable and educated. They were extremely protective of me, but that did not tell me that they felt that I was a better person or whatever. It tells me one thing, and that is how little value they placed on their own life.

2718. **Mr Humphrey**: A few weeks ago, this Committee had a joint meeting with the Committee in the Irish Parliament at the Dáil. During your evidence, you said that you wanted laws to protect women in Ireland, on the island and Europe. What do you think would happen with prostitution if laws were enacted in the Dáil and the Northern Ireland Assembly did not follow suit?

2719. **Ms de Faoite**: I think that some people would travel up North. If we close it off to them and cut off their profits and whatever, they will transfer their commodities to where they can legally sell them. The next nearest place to us is you and England. They will move. France has closed its doors now, and they will shift to Spain. Israel is looking at this. Croatia is looking at this. It will move on. Yes, you would need to take account of that if we were to do that. I would like to see the whole of —

2720. **Mr Humphrey**: So, the problem would be displaced.

2721. **Ms de Faoite**: It would be. Yes, of course. Sweden is not attractive to them anymore, because why would they import women when it is illegal to buy them?

2722. **Mr Elliott**: Thanks very much for the presentation and the evidence. You talked about support services and the potential for support for victims. How do you see that operating? I assume that you would need quite a lot of people on the ground assisting the people who are involved in prostitution and, obviously, the rehabilitation. Can you explain a bit what is on your mind on that?

2723. **Ms de Faoite**: In the South, Ruhama is the only organisation that looks after women who are affected and exiting and while they are still in prostitution. It needs extra support systems to be put in place. It looks after trafficked women as well. A number of things need to be sorted that are in our recommendations — the definition of trafficking, its status and safe accommodation. The recommendations are made by a subcommittee, and it allows for those and brings those in.

2724. **Mr Elliott**: How much of that do you see as being government's responsibility, as opposed to the responsibility of agencies or voluntary groups?

2725. **Ms de Faoite**: I think that it is government's responsibility to make sure that the funds are available for it, because it has happened and been tolerated.

2726. **Mr Elliott**: When you were involved in prostitution, did you feel that you were trafficked in any way? We are looking here at the legislation on human trafficking. Would you have said that you were trafficked in any way?

2727. **Ms de Faoite**: No, I was not trafficked. There are very few Irish women left in prostitution. It is minimal, and we tend to be on the street. With a lot of women who are on the street, their pimps come in the form of drug-addicted boyfriends or partners. I had a partner who never went to the street, yet expected something to be brought home. For a long time, I was quite nervous, and I do not really know why. I look back now and think, "God, why did I not just …", but you do not see that when you are there.

2728. **Mr Elliott**: You indicated that you feel that this legislation would reduce prostitution. Do you feel that it would significantly reduce drug abuse as well?

2729. **Ms de Faoite**: In the sense that the women affected that are affected reach out for help. Ruhama and the organisations look at everything in the person's life, whether there are court issues, children's issues, drug issues or whatever. That is one of the things that has to be tackled.

2730. **Mr Elliott**: So, that would be one of the support services required as well.

2731. **Ms de Faoite**: Yes.

2732. **The Chairperson**: Mr Elliott asked whether you feel that you were a victim of human trafficking. That is a fair question. Sometimes we are in danger of thinking that this Bill is about only prostitution and human trafficking. The Bill's title refers to human trafficking and exploitation. I am not going to ask whether you feel that you were exploited. That is a silly question for me to ask, but we have to bear in mind that it is not about just human trafficking and prostitution; it is about exploitation.

2733. One of the arguments against clause 6 is that it could make it more dangerous for women, because it will drive prostitution underground. What is your response to that?

2734. **Ms de Faoite**: You will only hear that from one side, because it is a fallacy. The error in the reasoning of that argument is that prostitution is not like any other vice. Drugs and guns need the underground; they only survive underground because it is criminals dealing with criminals. Where prostitution differs is that it only thrives and survives because of the good citizen or the general public. It will always need a face. It would not exist and there would be no money to be made, if you could not advertise. It needs a face and a domain. Prostitution is the one vice that cannot exist underground.

2735. **The Chairperson**: There is an academic debate that rages around this issue. People say that there are statistics to say that Sweden has worked and there are statistics to say that it has not worked. At times, ideological views on this are very polarised. What is your view of the academic debate?

2736. **Ms de Faoite**: I currently study at a university. In our sociology department, we have two academics who differ from my opinion. Mind you, they have never spoken to me, even though they know I am there and they know who I am. I think that it was clearly demonstrated here last week that the research does not stand up to scrutiny. There are a lot of female academics. Sometimes, I do not have an answer; I will never understand women who fight to keep women in sexual exploitation, especially when they shout it out from the ivory towers of universities. They are places that the women I stood alongside will never gain access to. They usually put the argument forward that a woman has a right to do whatever she wants with her body. I have already explained how I feel about that. Sometimes, they use the underground fallacy. I do not, for the life of me, understand their position. I tell you one thing: you will get two or three of them in every sociology department in every university everywhere. For every two or three you get, there will be four, five or six sociologists — as there are in my university — who would never take that position.

2737. **The Chairperson**: Obviously, you have been very brave to give a voice to your experience. What has been the response from individuals currently in the industry, if you want to call it that, to your having stepped forward and spoken about this?

2738. **Ms de Faoite**: It has been mainly positive. I have not received any nastiness or anything, any threats, anything. In fact, a couple of independent women I have spoken to have been quite compassionate. We do not agree with each other, but there has not been any animosity. I do not have any animosity towards them. It is the right thing to do for the greater good and

to combat the evil of human trafficking. It has been positive. I have good friends and good support. I have great support from my lecturers, especially in the philosophy department. I keep myself very much to myself, and I do not trust easily. I have a handful of good friends I would not swap for the world. It has been mainly positive. Absolutely.

2739. **The Chairperson**: Good. The last point I want to make goes back to one that Ms McCorley made. Some of us are struggling to grasp this point. We have existing legislation in Northern Ireland that deals with coercion, and there is no defence at all, even in ignorance, if you have engaged in sex with prostitutes and they have been trafficked or coerced into the industry. If those individuals are not concerned about the current laws and they are not concerned about you — you talked about that individual who raped you, just looking through you like you did not exist — if they have no modicum of consciousness about them under existing laws, why, then, will clause 6 have any impact on them?

2740. **Ms de Faoite**: It makes them responsible. The issue of fines that will be more than €50 makes them accountable. It puts them at risk of bringing what they do in the dark into what they do in the day. Do you get me?

2741. **The Chairperson**: Yes.

2742. **Ms de Faoite**: It is a big risk for them. I know that most of the men who bought me would not be prepared to take it.

2743. **The Chairperson**: OK. No other members want to ask questions so, Mia, thank you very much for coming to the Committee. It has been a very powerful piece of testimony for us, so I really appreciate the time that you have taken to come and speak to us. Thank you.

2744. **Ms de Faoite**: Thanks for having me.

2745. **The Chairperson**: Not at all.

13 February 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr William Humphrey
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

Witnesses:

Ms Ruth Breslin	*Eaves*
Ms Jacqueline Hunt Ms Andrea Matolcsi	*Equality Now*
Mr Thomas McConaghie Ms Carla Prentice Mr David Smyth	*Evangelical Alliance Northern Ireland*
Ms Liz Griffith	*Law Centre (NI)*
Ms Ursula O'Hare	*Law Centre (NI)*
Ms Pam Hunter Ms Fiona Mullin	*Nexus*
Mr Gregory Carlin	
Ms Parosha Chandran BL	
Mr Lindsay Conway Very Rev Dr Norman Hamilton Rev Richard Kerr	*Presbyterian Church in Ireland*
Ms Gillian Clifford Mrs Dorothy Dickson Ms Geraldine Hanna	*Victim Support*

2746. **The Chairperson**: I officially welcome the people in the Gallery. You are very welcome to the Building. We all know why we are here. Lord Morrow's private Members' Bill passed its Second Stage on 24 September. The Committee Stage began on 25 September, and we will conclude our work in the middle of April, when we will provide a report to the Assembly.

2747. In response to the Committee's public call for evidence on the Bill, we received 139 written submissions from a wide range of organisations and individuals. We held a series of oral evidence sessions in December and January. A number of Committee members visited Sweden to hear evidence there. Today's event provides us with another opportunity to hear from quite a wide range of organisations. I will take you through the format that we will be following in due course.

2748. There are a few basic housekeeping rules that I need to make you aware of because this is not a normal Committee meeting and we are in the Long Gallery. Toilets are on this floor. If you go through the doors and turn left and walk along the corridor, they will be on your right-hand side. If you cannot find them, security staff will wonder why you are wandering about and will be able to direct you to the right place. If the fire alarm rings, we have to leave the building immediately, but we are not to use the lifts so you will need to make your way down the stairs and follow any instructions from the doorkeepers. If anybody feels unwell during the meeting, please advise our Committee staff immediately, and they will assist you.

2749. As we are recording the session, please turn off your mobile phones to make sure that they do not interfere with the recording. Although we do not have cameras here to record the session, everything will be recorded word for word. A transcript will be then be published, so it is important that there is no interference with the microphones so that we can get everything that people say accurately on the record. There is a paper setting out the format for the session, and the order in which the evidence will be taken has been provided, hopefully, to everybody. Members of staff will be roving around the room and microphones will be used. So, please do not speak until you have the microphone; that will be important so that people can hear and for the recording.

2750. I will work through the clauses of the Bill in the order that has been outlined. I will invite each speaker listed against a particular clause to briefly make their points. There will then be an opportunity for other witnesses to make further comments or observations, after which Committee members will be able to ask questions or seek clarification. If you want to speak on a clause that you have not been listed to speak on, please indicate. Before you speak, please identify yourself very clearly by stating your name and organisation so that that information can be officially recorded. Hopefully, that is all clear.

2751. I will guide the meeting as we progress if people are not quite sure about how to proceed. It is not like the normal format where we have individual groups before the Committee, so the evidence sessions will be shorter. We need to be out of this room by 3.00 pm, so I will need to keep an eye on the time so that we can make progress through the elements of the clauses that we want the organisations to touch on. If that is clear, we will start. Anti-Slavery International representatives were not able to make their flight, so they will not be taking part in this evidence session.

2752. The first organisation to give evidence on clause 1, entitled "Definition of human trafficking and slavery offences", will be the Law Centre NI.

2753. **Ms Ursula O'Hare (Law Centre (NI))**: Thank you, Chairperson. My colleague Liz Griffith will speak directly about clause 1. However, since I have the benefit of being the first person to speak this afternoon, I want to take this opportunity to say that, as an organisation that provides advice and representation to victims of trafficking, we strongly welcome the measures in the Bill that will provide protections. We appreciate the learning that has occurred as the Committee has taken evidence over the past number of months. There is an opportunity here for Northern Ireland to make legislative history. We hope that a number of our comments can inform the Committee.

2754. **Ms Liz Griffith (Law Centre (NI))**: I want to say a quick word on the definitions in part 1 of the Bill. Ideally, we would like the Bill to adopt the international definitions as specifically taken from the EU directive on human trafficking and the International Labour Organization (ILO) convention 29 on forced labour. We say this because the Bill has the potential to streamline and consolidate existing legislation. Having the definitions, which are rooted in international law, set out at the very beginning of the Bill will give it clarity and help with its symbolic status.

2755. We would like the whole of the Bill and all of the provisions and protections it offers to apply equally to victims of human trafficking and victims or forced labour. Part 1 relates to both sets of victims, whereas Part 2 and thereon apply only to victims of human trafficking. We have been struggling with that a little at the Law Centre and have been drawing Venn diagrams. Some victims of human trafficking are victims of forced labour and vice versa. However, some victims of forced labour do not meet the legal threshold for human trafficking. As the Bill stands, these people will not benefit from the support provisions in clause 10. This is a flaw in the Bill, and we hope that it can be amended.

2756. **Mr Gregory Carlin**: I was involved with Esmond Birnie and the Ulster Unionist Party and a coalition of anti-trafficking activists in Belfast from 2002 to 2010. One of the problems we encountered with the definition of human trafficking was that, particularly as it applied to lap-dancing clubs and related prostitution, which was fairly ubiquitous to the clubs, females were arriving in Ireland with a general notion of what was going to happen. However, in all the cases we encountered, they were not told the truth about how they would be paid or where they were going. For example, one female thought that Dundalk was a suburb of Dublin and others thought that Belfast was near London. The problem that that caused for the police was that they viewed all of that as voluntary when

what we had was organised crime where deception and falsehood were the terms of trade for the victims involved.

2757. **Mr S Dickson**: Have you provided a written submission to the Committee and the Department of Justice with your comments and concerns about the lack of clarity so that the issues that you raise can be technically assessed?

2758. **Ms Griffith**: We set out our thinking on that directly with Lord Morrow when we discussed that with him. We made brief reference to it in our submission to the Committee, but we will be happy to expand on it if that would be helpful because we feel very strongly that the Bill should not create a hierarchy of victims whereby some get protection and some do not.

2759. **Mr S Dickson**: Are there things in train in the Department of Justice or in the Modern Slavery Bill that has been introduced at Westminster to deal with these matters? A lot of it is being taken on board by way of discussion with Lord Morrow and the Department. We must be absolutely sure that the issue you raised is fully taken account of in amendments to the Bill.

2760. **Ms Parosha Chandran BL**: I am a human rights barrister from London. Thank you for inviting me. I have two points to add, the first of which is about the drafting of clause 1. It is relevant to say that the Sexual Offences Act offence and the section 4 exploitation offence are to be categorised as being as amended by the Protection of Freedoms Act 2012, which expanded the jurisdictional scope of the Sexual Offences Act and the scope of section 4 to include internal trafficking.

2761. The second point is about the forced labour offence being subsumed within clause 1. I agree with that. Klara Skrivankova from Anti-Slavery International, who cannot be here because her flight was cancelled last night from London, has written in her direct evidence that Anti-Slavery International supports that absolutely.

2762. **The Chairperson**: No other organisation wants to speak on this clause. Clause 2 is entitled, "Consent irrelevant for victim of human trafficking or slavery offences". Mr Gregory Carlin is the only witness on this point.

2763. **Mr Carlin**: It is a short point, but it is relevant to the lobbying of Amnesty International. Our group worked on police sexual violence at a variety of prisons across the United States. We were joined with Amnesty, and it basically defines consent along certain lines. It is going for sexual autonomy based on the new proposals that have come out of the research in Asia, but we are lobbying for an understanding of consent that takes into account disparities in power, indoctrination, use of drugs and things like that. It is not particularly related to your legislation, but it is a concept vis-à-vis the lobbying that is going on between various organisations that are quite concerned at Amnesty International's idea of sexual autonomy. That has progressed and moved from where we were 12 or 15 years ago when we were doing the prison work together, and we think that Amnesty's position at the moment is that the female prisoner is capable of consenting with the prison guard.

2764. **Ms Chandran**: The wording here is that the consent is to be linked to the action. The pure interpretation, or the pure wording, of the Palermo protocol, in the Council of Europe convention and in the EU directive, is the linking of the consent to the exploitation. It is not incompatible to have it linked to the action, but I would perhaps suggest an action or exploitation as an adjunct.

2765. **Rev Richard Kerr (Presbyterian Church in Ireland)**: I want to draw the Committee's attention to not only human trafficking but to people-smuggling and to the fact that the boundaries between the two are often very unclear. In some cases, there may be some level of consent. In other cases, there may not be. It is worth considering having the legislation take into account that people who are smuggled may also give a very little level of consent.

2766. **The Chairperson**: We will move to clause 4, which is on the minimum sentence for human trafficking and slavery offences.

2767. **Mr Lindsay Conway (Presbyterian Church in Ireland)**: On behalf of the Church, I thank the Committee for the opportunity to present this afternoon. In doing so, we want to unambiguously support the key aim of the Bill, which is to deal seriously in Northern Ireland with the evil issue of human trafficking and exploitation.

2768. I want to bring a cautionary note about children. There is a possible risk that, under the Bill, children could be targeted. Given that the age of consent and so forth is now 16, those recruiting and grooming children and young people could have them well trained and schooled in that whole area. The sexual exploitation of children is already under investigation, and I draw your attention to the Barnardo's study of 2011. In that study, Barnardo's clearly says that the vast majority — 88% — of young people were under the age of consent when concerns about sexual exploitation were first identified. Most were between the ages of 12 and 15, with 14 years the most frequent age at which the concern was first identified.

2769. Point 24 of the study cites sexual exploitation as a main thrust and also the issue of prostitution. Sadly, at the end of that, it concludes that 49·1% of looked-after children are at risk of sexual exploitation. So, in that sense, we are saying that, unless the fine-tuning and the corners of the legislation are explored, we think that there is a still a risk. However, we commend that. In a further section, child trafficking guardian, the Bill is to be commended. It is very much child-centred and needs-led.

2770. **Mr David Smyth (Evangelical Alliance Northern Ireland)**: Our organisation has been involved in the issue of anti-slavery since our inception in 1846, just 10 years after slavery was abolished here. We work across the UK in England, Scotland and Wales and are involved in the Modern Slavery Bill. I should maybe add that I am a qualified solicitor. I say that very gingerly but I just want to put that on record.

2771. We welcome the aim behind clause 4, which calls for a minimum sentence for human trafficking and slavery offences as a deterrent for traffickers. A minimum sentencing provision exists in Sweden. So, that should not be considered in isolation but as part of a suite of measures that form part of the Swedish model. However, we suggest the need for further clarity in clause 4(2), particularly on the wording "exceptional circumstances" relating to the offence or the offender. We agree with our friends in the Presbyterian Church that those exceptional circumstances should include occasions when the offender is under 18, perhaps when the offender has been coerced and also when the offender is a vulnerable adult. We acknowledge that the clause can also be viewed as an interference with the separation of powers, particularly around judicial discretion. If the words "exceptional circumstances" are sufficiently defined so as to allow judicial discretion, we are satisfied that a balance could be struck between the legislature and the judiciary with regard to these offences.

2772. More generally, if the words "minimum sentence" are causing difficulty, perhaps the clause should reworded with the words "mandatory sentence". This is accepted language and practice in the Northern Ireland criminal justice system, and there are a number of precedents or examples of offences where there are mandatory sentences, which, in some circumstances, are, effectively, minimum sentences in other words. For instance, if someone is convicted of a drink-driving offence or certain other driving offences, that person must be banned from driving for a certain period of time. In effect, there is a minimum sentence. There are other scheduled offences where there is a mandatory way in which that person must be dealt with. For example, some sexual offences must automatically attract a period on the sexual offenders register.

2773. We support the overarching aim of the clause, namely that, if someone is convicted of a trafficking or a slavery offence — taking away the freedom of an individual — they should at least put their own freedom on the line. This is an important opportunity to show, through legislation, the value that our society places on freedom and human dignity. We must make this a safe place for victims and a dangerous place for traffickers.

2774. **Ms Geraldine Hanna (Victim Support)**: Good afternoon, Chair and members of the Committee. I am the operations manager. First, I thank the Committee on behalf of our organisation and my colleagues who are with me today for the valuable opportunity to provide evidence on this Bill. In keeping with the other organisations that are giving evidence today, Victim Support NI is deeply concerned about human trafficking in Northern Ireland, and, as an organisation that supports victims, we are fully committed to providing appropriate help and support to victims who have been trafficked for any purpose.

2775. We welcome Lord Morrow's commitment to the issue and the important opportunity for discussion and debate that the introduction of the Bill has afforded. We acknowledge that this is a highly emotive policy area and fully support efforts to legislate on this issue. We also respectfully acknowledge the views of our partner organisations, including Women's Aid, which has worked and campaigned extensively on human trafficking and sexual exploitation. However, we are of the view that any legislation must be based on strong evidence and should produce law that is effective and enforceable if it is to make a demonstrable difference to the individuals who have been trafficked.

2776. In the context of clause 4 specifically, Victim Support NI is a strong advocate of judicial independence, and we value the principal that, in delivering sentence, judges must be free to take full account of the broad circumstances in each case as well as any mitigating factors. We therefore have concerns about the application of minimum sentencing. We share the concerns of the Presbyterian Church in Ireland that the term "exceptional circumstances" is not clearly defined in the Bill. We agree that the potential criminalisation of children also needs to be addressed. That is the conclusion of my remarks.

2777. **The Chairperson**: Thank you very much. Do any members wish to ask the three witnesses any particular questions before I open it up? Do any other witnesses have any comment to make on clause 4 in respect of minimum sentencing?

2778. There are not, so let me move on to clause 7, which is entitled, "Requirements and resources for investigation or prosecution".

2779. **Mr Carlin**: I have only a short statement on clause 7. The abolitionist movement finds that, as we go from country to country, we get legislation, enforcement and police action. One of the adverse phenomena of policing is that, in many jurisdictions, there is the phenomenon of perp-walking, where the police operations are seen as reality television and you have prostituted women led out in handcuffs for the benefit of the cameras or the newspapers. The consequence is that individuals in the abolitionist movement and, indeed, the anti-trafficking sector are labelled as a rescue industry that is totally indifferent to the well-being of the people who are actually caught up in these large-scale police operations.

2780. It is important to view a prostituted woman, or anyone who has been a victim of trafficking or sex trafficking, essentially as a victim. Therefore, how appropriate would it be to have a TV crew appear outside other scenes of crime? I actually think, should the legislation go through, that the PSNI should be discouraged from getting involved in reality-TV policing whereby they basically work with the media as if it were a public-relations opportunity for them. Prostituted women deserve better

than how they are often treated by the police.

2781. **The Chairperson**: Do any members or witnesses want to come in on that particular clause? Gregory, how do you balance that with what some people say, which is that it is in the public interest to highlight that and that that, in itself, it can raise awareness and also act as a deterrent to individuals who may potentially want to exploit women in that way?

2782. **Mr Carlin**: There have been cases when the police have actually delayed raiding premises until such times as a TV crew was available to do it. That happens. Basically, the raid does not happen because the TV crew is not ready.

2783. **The Chairperson**: What about court proceedings? Obviously if a case were to be taken forward —

2784. **Mr Carlin**: At the moment, over two or three years in the UK, most of the arrests that have taken place have been of prostituted women — not sex traffickers, but prostituted women. The British Government have lauded their efforts to eliminate sex trafficking. However, essentially, they have arrested prostituted women. You see them being led out of brothels and stuff like that. It is basically no use to anybody.

2785. The abolitionist movement asked the British authorities to arrest sex traffickers. We did not ask anybody to arrest prostituted women in droves, which is basically what they did. Then, they dressed it up as somehow a clampdown on sex trafficking, which it was not. The people who have paid for that are our movement and indeed feminists as well. We are being accused of being part of a rescue industry which is fundamentally fraudulent. It has to be stated that what the British Government have done over several years — I am not saying at the moment, but certainly during the Labour Government — was a fraudulent exercise in arresting large numbers of people and that, sometimes, prostituted women would be moved from the victim category to the perpetrator category. It was just a huge mess. It will not earn the support of the public if they see things that are just not true. That is what I am basically saying: arresting prostituted women in droves will not help anyone, particularly if it is done very publicly for the benefit of the media or television because it alienates the victims of the sex trade. It is not good and it does not work.

2786. **Ms Andrea Matolcsi (Equality Now)**: We also want to thank you very much for the opportunity to comment on the Bill. With regard to the previous point, we want to emphasise and add to that that the focus has been on the women for far too long, with regard to law enforcement and research, public awareness and where the media has been looking. If there is a chance to use police operations and media attention around that to raise awareness of trafficking, coercion, exploitation or the situation of those women in the sex industry as such, that is a great opportunity to then talk about the traffickers and pimps and the people who use those women, the buyers. The information is there as well. It can be presented. It is up to the media and the police what they want to present.

2787. **The Chairperson**: Are there any other comments or questions? Let us move to the next clause — clause 8 — which deals with the non-prosecution of victims of trafficking in human beings.

2788. **Ms Chandran**: I have been working for victims who have been trafficked in the UK since 2004, so that is 10 years. One of the significant issues that came to me back in 2005, I think, first, was the phenomenon and, unfortunately, the reality of the phenomenon of victims of trafficking who were being prosecuted, convicted and imprisoned for criminal activities that arose through a direct consequence of their trafficking. The obvious crimes at that time, which were prevalent, were the runaway crimes, where victims of trafficking were fleeing their traffickers, had obtained false documents and were using those to flee London and the United Kingdom. In that process, they were being arrested, charged, prosecuted and imprisoned. In 2008, I brought, with the help of Peter

Carter QC, the first case to signify that that was an unlawful practice that ran directly against article 6 of the European Convention on Human Rights — the right to a fair trial — and also to human rights, namely that a person who, but for their trafficking, would not have committed the criminal offence at all should not be punished.

2789. Since that time, unfortunately, the practice of criminalising victims of trafficking has continued. Its form has changed. Victims are increasingly being subjected to criminal-activity-style exploitation by traffickers. That much is so clear that the EU directive in 2011 included in its list of prohibited exploitation aims the use of criminal activities. What we see now is that many people are being used for benefit fraud; drug-style cases, such as cannabis cultivation; and drug trafficking. Those people are being prosecuted and, again, imprisoned and punished.

2790. The aim of the non-punishment provision is critically clear. It is to uphold the human rights of the victims. It is also to enable an effective criminal justice system to operate that will allow successful prosecutions of those who target vulnerable victims to force them or compel them to commit crimes. That relates to how the business model of traffickers is now able to flourish. Until non-prosecution becomes a substantive right, and whilst it remains in the hands of an individual prosecutor in an individual court on an individual day to make an individual decision that may not be overseen by anybody, we will continue to have a completely uneven, piecemeal and flawed system of protection for victims of trafficking. We will continue to have growth exponentially of human trafficking as a profitable business in the United Kingdom, including in Northern Ireland.

2791. Clause 8 is very commendable because it confronts a number of things. First, it suggests that there should be no prosecution or punishment of a victim of trafficking who commits a crime as a direct consequence of their trafficking. It ties in the word “compelled” to an understanding of what that means, namely that a person is subjected to abuse of a position of vulnerability, deception, coercion or threat. If the person is under one of those conditions when they commit the crime and it arises directly through the trafficking, they should not be prosecuted.

2792. It also confronts the difference in the human trafficking definition between children and adults, whereby the means do not have to be established for a child. So, the harbouring, recruitment, transfer or exchange of a child for the purpose of exploitation is human trafficking. If a child is used for a purpose that results in their criminalisation, that would be unlawful. The child should be protected before they are criminalised.

2793. That is the backdrop for it. What is clear is that the EU directive has direct effect, so it has a different legal status from article 26 of the Council of Europe Convention on Action against Trafficking in Human Beings, which, as you will know, was implemented on 1 April 2009. The EU directive has direct effect. That means that there needs to be direct respect and implementation of article 8 in the EU directive, which is the non-criminalisation provision, into UK law. At the moment, there is prosecutorial discretion, and we see that it fails time and time again. My most recent case, which I took to the Court of Appeal (Criminal Division), last year, resulted in the landmark judgement of R v L and others. In that situation, which involved four trafficked victims — three Vietnamese, who were boy minors at the time of their conviction and were prosecuted and imprisoned for cannabis cultivation offences, and a woman from Uganda who had used her passport to obtain a national insurance number after she had been released from her trafficking — the facts of the cases were crystal clear at the time of the prosecution. Legal guidance existed, so why did nobody turn their attention to it? They did not care, or they did not know about it. That is notwithstanding the 2008 judgement in R v O, which

established that there should be recognition of the legal guidance by the Crown Prosecution Service (CPS) and that it should be published, which is what happened the following year.

2794. Are we going to maintain the United Kingdom as being a soft touch for traffickers who know that they do not have to use their own hands to commit crimes, because they can use the hands of those who are vulnerable and weak and who have no support to do the crimes for them? That is what article 8 of the EU directive is about. It comes through a long line of very sophisticated history, from article 26 of the Council of Europe Convention back to 2002 when the Office of the High Commissioner for Human Rights wrote her guidelines and principles on human trafficking and human rights, and, for the first time, enumerated what was then a non-binding, non-prosecution clause. So, the fact that the Council and Commission in Brussels have decided that this is absolutely important and necessary for the modern-day combating of human trafficking and slavery is something that requires very careful thought.

2795. It is still a shock to me each time I hear about it, even having won the L judgement last summer, that, two days ago, a Vietnamese child was being prosecuted for cannabis cultivation offences. The child had a reasonable grounds decision under the national referral mechanism (NRM), but still no one paid any attention. You might ask me, "What are the safeguards? Isn't everyone going to stand forward and say that they are trafficked? We cannot have it because people will abuse it". The answer is this: we need an effective, accountable and accurate national referral mechanism that is good at the identification of victims. If we have that, it will be the NRM decision-making process that should be the trigger for consideration of non-prosecution and should enable these cases to halt quickly. If they do, the dual aims of article 8 under the EU directive and clause 8 will be enabled. It is this: we must not harm the victims of human trafficking. They are the witnesses of the crime. If you punish them, you are compounding their fear, and you will not achieve any chance at combating slavery in this modern-day era.

2796. I support everything that the Bill is suggesting in respect of the offences, but I am also asking for recognition that one has to link non-prosecution with the prosecution of offenders to understand what the objectives are, how they can be achieved and how victims can finally be cared for, and so that the UK can stop being a soft touch for the human traffickers who are completely motivated by harming those weaker than themselves.

2797. **Mr Smyth**: We recognise and welcome the intention behind the clause. A victim of human trafficking should not be unfairly penalised for criminal acts that they were forced to do. However, we have concerns about establishing a statutory basis for the non-prosecution of a group of people. Although clause 9 defines the meaning of "victim" for Parts 2 and 3, the term "victim" is not defined for Part 1, under which this clause falls. That creates an issue of defining the group of people to whom the non-prosecution is extended. Does it apply to suspected victims, to those who self-identify as victims, to those who cooperate with the criminal investigation, to those who are successful in the NRM process or to all those people? We need more clarification on that.

2798. Crimes are often committed for a number of reasons, which can be hard to separate. Clause 8 states that the criminal act must be as a direct consequence of the trafficking in human beings. That could be difficult to prove in many instances. For example, take someone who was trafficked into Northern Ireland two years ago and has since escaped from exploitation, but struggles to rehabilitate and often commits petty crimes while intoxicated, attributing that behaviour to their trauma. Will they be prosecuted? Will there be a time bar between trafficking and offences being committed, or does the clause apply only to

offences committed while they were being trafficked, bearing in mind that trafficking is not just being held and that escaping from a trafficked situation can take a long time?

2799. We are also concerned that the immunity may create a hierarchy of victims, whereby the non-prosecution of victims of human trafficking who commit crimes could diminish the justice needs and views of their own victims. That leads me to an uncomfortable truth. There are victims who may have risen to positions of power, becoming traffickers themselves. In those cases, victims may have committed very serious offences, such as trafficking, murder or rape. The intention of the clause is certainly not to provide an excuse for serious organised criminals, despite their real or bogus claims of being trafficked themselves. It will be difficult in those very complex cases to decide which offences were committed because of coercion and the direct consequence of being trafficked and which were committed through free will and choice. The line between coercion and an individual's own responsibility is very difficult to find. Such cases should be considered on their own merits, having regard to the seriousness of the crimes committed and the conditions of their trafficking experience.

2800. There could be conflict of legal interpretation under the Bill as it stands. If a trafficked person who has been coerced into becoming a trafficker themselves is convicted of a trafficking offence, how are they to be treated under the Bill? Under clause 4, they may be subject to a minimum sentence. However, under clause 8, they could actually argue that they should never have been prosecuted at all. We also have concerns as to how this clause will fit alongside the independent role of the Public Prosecution Service (PPS). In every case, the PPS has discretion on whether to prosecute or not built into the public-interest element of their test for prosecution. There is a real danger that the clause could, or could be seen to, interfere with the independence of the PPS.

2801. We want to reiterate the fact that we welcome the intentions of the clause to protect vulnerable people from prosecutions for crimes that they would not have committed but for being trafficked. However, as it stands, we fear that the clause could be abused by traffickers themselves.

2802. **Mr Carlin**: The abolitionist movement is opposed to prosecutions for offences that are intrinsically or directly linked to the trafficking environment for the victims, such as the cultivation of cannabis, other drugs and related crimes. We perceive that there may be a problem when a trafficked person becomes a sex trafficker themselves. We have difficulty with that because the fundamental principle of abolition is that all sex traffickers should be prosecuted, in the same way that all child sex abusers are also prosecuted.

2803. **Mr A Maginness**: Thank you very much for those very interesting and stimulating contributions. There is an argument around prosecutorial discretion. I am attracted to clause 8, but I can see problems with it effecting absolute, blanket prohibition on prosecution that would, in certain circumstances, perhaps allow people who are guilty of serious offences to avoid the proper due process of law. Would it not be a better situation for the prosecutor to have a discretion? The presumption would be that normally a victim would not be prosecuted but that, in certain circumstances, a person would be prosecuted given the gravity of the offences and an element of detachment from the effects of being trafficked.

2804. That is my worry with clause 8. I cannot resolve it in my mind, so I am looking for advice from those who are here.

2805. **Ms Chandran**: I am grateful for the question. Article 8 of the EU directive and clause 8 of the Bill do not seek to protect the poacher turned gamekeeper from being prosecuted for their crimes. It intends to protect a person who is not culpable of the offence, because

there is a dominant person behind the offence, from being prosecuted. That is one point.

2806. The answer to the question of the difficult cases should be left in the hands of the judge. Clause 8 is not a blanket ban, and article 8 is not a blanket ban; it is a legal test, just like any other. Was the crime committed as a direct consequence of the trafficking? The judge, in difficult cases, would want to decide that himself. The prosecution is no safeguard for non-criminalisation cases. History, and recent history, is showing that time and time again. It is unfortunate, but it is the reality.

2807. The UK's obligations under article 8 are not met by prosecutorial discretion. It falls on the eventual courts to be the arbiter of justice in the cases where, say, there is a question over whether the person has been culpable of the crime, and for the serious crimes as well. It will always rest in the hands of a judge. I do not think that it is an answer to say that we cannot have it, as has been suggested by a colleague, because it is too hard to decide. Our judges decide really hard questions, all the time, of law and fact. We have to have confidence in the justice system.

2808. Clause 8 is about putting on a statutory footing a general presumption and a general prohibition on this type of criminalisation. In fact, it is going to be the obvious cases that will be the ones that are caught within its protection again and again, rather than the ones that slip out of its protection again and again. No one has ever come to me and said, "Parosha, here is a case of somebody who was a victim of trafficking and has now become the trafficker, and they want protection and are not being given it". It has not happened like that. Those cases, I guess, will be inevitable once there is a framework and a floor of protection for those who are vulnerable, but those people will be identified more quickly, because, when the police find criminal activities going on, instead of arresting the first person they see, if they identify that trafficking is going on and that exploitation is crime-led, they may be trying to investigate, from that moment, the bigger picture. That would enable better prosecutions and, critically, better asset recovery. At its core, that is what human trafficking is about: profit.

2809. **Mr A Maginness**: To paraphrase, if clause 8 were agreed to, there would be a statutory presumption against prosecution, but it is not a blanket prohibition as such.

2810. **Ms Chandran**: Exactly.

2811. **Mr A Maginness**: OK. Thank you.

2812. **The Chairperson**: In your commentary, you said that the non-punishment provision in clause 8 provides an overall framework for the Bill to be effective. Can you elaborate on what you mean by the victims are the witnesses and why that clause therefore helps them?

2813. **Ms Chandran**: Thank you. Given the importance of article 8 of the EU directive, the Organization for Security and Co-operation in Europe (OSCE) recently published recommendations on the application of the non-punishment provision for the 56 Governments that are members of the OSCE regional security operation. That includes the United Kingdom, many European countries and the whole of North America. In April 2013, the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Maria Grazia Giammarinaro, published guidance on that. I included some of her guidance, on which I was an adviser. What she said was that the practice of criminalisation of victims of trafficking:

"furthermore promotes trafficking in human beings by failing to confront the real offenders, by dissuading trafficked victims from giving evidence against their traffickers and by enabling traffickers to exert even further control over their victims by threatening exposure to punishment by the State. Traffickers will favour the punishment of victims as it simply plays into their hands: it ensures that their victims are the ones to bear the criminal penalties while the real offenders can operate with impunity."

2814. It is interesting, because I took the first Vietnamese drugs exploitation case to the Court of Appeal (Criminal Division) back in 2012. It was the case of R v N. In N's case, he was 16 years old and in a cannabis factory in a disused warehouse. The door was bolted from the outside, and the walls were all bricked up. The only reason he was ever discovered was that burglars ram-raided the wall to knock it down and steal the loot, which was short of half a million pounds worth of cannabis. N was then arrested on the spot, along with three other minors. They were found cowering in bushes nearby and taken to the police station. N gave an interview to the police and told them what had happened to him. He was charged with cannabis cultivation and was prosecuted and convicted.

2815. In sentencing him, the judge accepted that he had no part to play in the sophisticated set-up and that those who were more unscrupulous had used him. However, she sentenced him to an 18-month detention and training order. We took the case to appeal, but, unfortunately, the Court of Appeal was not satisfied that the conviction should be overturned, so it rejected the appeal against conviction. He had a positive NRM conclusive decision by that time. The case is now before the European Court of Human Rights, and I am still acting in it.

2816. What that showed was that, despite all the hallmarks of organised crime, no police investigation was encouraged to find out who was responsible for that sophisticated set-up. N was and remains a chief witness, but he is now a criminal. So, even if his trafficker is found, effectively, he could not give evidence in a criminal trial, because the criminal court has not yet accepted that he was the victim, even though everything pointed to that and his NRM decision was conclusive in his favour.

2817. That is the consequence, in real terms, of where the non-punishment principle is not statutory or enshrined in a culture. If you have it enshrined in a culture, which you will be enabled to by having it in statute, the eye of the police will also be on investigating the bigger picture from the start if all the human trafficking indicators are there. If they are not sure, the case can be referred to the NRM and the outcome can be achieved. From that moment onwards, the proper police investigation can be started into who is behind the crime, who is profiting, who is responsible and who should be held to account.

2818. **The Chairperson**: That has been very helpful. Thank you.

2819. We will move on to clauses 9, 10 and 11, which deal with the victim of trafficking in human beings, requirements for assistance and support, and compensation for victims of trafficking.

2820. **Mrs Dorothy Dickson (Victim Support)**: I am a coordinator in Victim Support in Belfast. Thank you, Chair and members of the Committee.

2821. Victim Support NI welcomes the clauses on support for provision for victims. We feel that clause 10, which outlines the requirements for assistance and support, would benefit from clarifying the proposed responsibilities of the Department of Health, Social Services and Public Safety and the Department of Justice so that it is clear in statute. Our organisation joins Amnesty International in recommending that the overarching requirement for support is placed in primary legislation, with a requirement for the relevant Departments to set out the detail of their responsibilities and requirements by order in secondary legislation.

2822. Human trafficking is not a static issue; it will change and evolve over time, as do the needs of victims. Northern Ireland policies, processes and legislation must retain flexibility and be easily amended to ensure that they can adequately respond to upholding the protection and promotion of the rights of victims. Secondary legislation will be easier to amend at a later point. We also share the Law Centre's views on the necessity for provision for dependants of victims of human trafficking to be able to

access support services. We note that, while there is mention of education in the Bill, medical services for dependants are omitted. It is particularly important that any children of trafficked persons have access and entitlement to services. Similarly, we share the concern that there are individuals who are not conclusively recognised as victims of human trafficking but who require support services. Their needs must be acknowledged and considered.

2823. We view the compensation proposals as being very positive and much needed. Victim Support NI provides support and assistance to seek compensation to any individual who has had the misfortune to become a victim of crime. Victim Support NI currently supports seven male victims and one female victim of human trafficking. The males, in this instance, have all been rescued from the fishing industry and the female from the sex trade. While all have applied for compensation under the current scheme, a positive outcome is very unlikely due to the strict criteria set down by Compensation Services. No specific tariff for the crime of human trafficking is incorporated in the scheme. Therefore, victims of such a crime are required to apply for compensation based on their physical injuries and/or mental trauma. In all cases, such victims are not in a position to fulfil the required medical criteria, including such things as three visits to a GP and reporting to the police. Additionally, providing evidence of emotional and psychological damage can be extremely difficult for those individuals when they often must return to work to ensure their financial well-being and that of their dependants. That is usually why they find themselves there in the first place. We strongly recommend that the Committee integrates that work on compensation along with the ongoing review of compensation legislation that the DOJ compensation services are undertaking.

2824. That is the conclusion of my remarks. Thank you.

2825. **Ms Griffith**: The first point that I will make on clause 9 will really reiterate what we said about clause 1 and the scope of the Bill. You will note that the title of clause 9 is "Victim of trafficking in human beings". It does not make reference to a victim of forced labour. As we said, we think that that is a flaw in the Bill.

2826. The second point on clause 9 is that the definition is very much rooted in the language of the national referral mechanism. Clause 9(1) states that a victim is:

"a person who shall be treated as a victim of human trafficking if there are reasonable grounds to believe that the individual is such a victim".

2827. Those reasonable grounds come directly from the national referral mechanism framework. To get to that reasonable grounds decision, a person needs to, first, be referred to the national referral mechanism by a first responder, which can take up to 48 hours. The competent authority then has up to five days to make that reasonable grounds decision. That means that, as the legislation is drafted, a person who is suspected of being a victim will have no statutory entitlement to support for at least the first week after they come to the authorities' attention. It could well be that that victim, if they are subject to immigration control, is to all intents here unlawfully and is arguably not entitled to anything. That is why it is essential that the support provision kicks in at the first encounter with the first responder.

2828. The Law Centre thinks that the Bill really comes into its own in clause 10 and is very innovative in what it will secure for victims. If a victim feels secure and properly supported, that will enhance the criminal proceedings that may be taking place. A victim will feel confident in their standing in society, if you like, and will be much more able to assist, give evidence or appear in a criminal case etc.

2829. Our concern with clause 10 is that it still appears to be linked to cases where there are criminal proceedings. You will

note that clause10(1)(a) refers to there being support in place:

"until three months after criminal proceedings are completed".

2830. So, our question is this: what if there is not a criminal process in play? The Law Centre has been involved in a number of cases where, for a variety of reasons, a case does not go to criminal trial. That may be because there is not sufficient evidence to reach a criminal conviction, although there is evidence that the person is a victim of trafficking and, in our view, is entitled to support.

2831. My second comment really just reiterates what Victim Support said. Dependants of victims of trafficking should be equally eligible to receive support. We have acted for a number of young women who have given birth during the trafficking process as a result of the rape and sexual exploitation that they were subjected to. In law at the moment, their young babies do not have a clear entitlement to healthcare. That has to be rectified. At the moment, the Bill makes provision for access to education for dependants, but we would like to see all the provisions articulated in clause 10 applied equally to any dependant.

2832. Obviously, we welcome that the support is being extended from a period of 45 days to three months. That is a step forward. However, we suggest that there should be some flexibility around those three months, because there will be circumstances where they are not sufficient and support will need to go beyond that. Additionally, there are cases where people do not meet the fairly high legal threshold of what constitutes a victim of trafficking but there are, nevertheless, very compelling reasons for why they are here and need support. I ask the Committee to consider what discretion can be written in to the Bill to ensure that those victims are not put out of accommodation that Women's Aid or Migrant Help provide if they get a negative decision on their trafficking claim.

2833. Finally, I will draw to your attention to the fact that, as it stands, there is no right of appeal in the NRM process. If a person gets a negative conclusive grounds decision, they can challenge that only by way of a judicial review (JR) in the High Court, which can take months, if not years. Where is that person left legally while the case is being listed? They may well be back to the position of being, in the eyes of the law, an unlawful entrant, and they may not get any protection during that period. Again, we think that that needs to be addressed. One way of doing that would be to ensure support until either a negative conclusive grounds decision is made or all appeals and appeal rights are exhausted. However, I am mindful of the fact that an appeal right is not actually linked to the NRM, so there is definitely a difficulty there.

2834. **Mr Smyth**: Some victims of trafficking and exploitation are freed in a police operation or by a sudden turn of events. However, we recognise that, for many, exiting a trafficking or exploitation situation is far from a one-off process; rather, it is typified by stops and starts. Victims of human trafficking are often enslaved by physical or psychological dependence on their traffickers or users. That will compete with the practical difficulties that can be faced when they exit, as well as the uncertain benefits of doing so without the guarantees of formal or informal support.

2835. Consequently, we would say that there is a need for a well-funded programme to support victims who want to break away from the dreadful circumstances in which they find themselves. Cooperation is required across Departments to develop targeted exit strategies that include health support, counselling, education, income support and retraining. It sounds strange, but we need to ensure that victims have the freedom to leave exploitative situations and that the support does not kick in only once they are identified officially as a victim. We would like that assistance and support extended to prostituted people and to those who are involved in providing sexual services. That is especially important if clause 6 comes

into effect and we are to deal with the issue in a victim-centred and holistic way.

2836. In Sweden, after the purchase of sexual services was criminalised, 60% of prostituted women took advantage of the well-funded programme and succeeded in exiting prostitution. In addition to providing the incentive for women wanting to escape prostitution to seek the assistance that they need, Swedish NGOs reported that prostituted girls and women contacted them in greater numbers to get assistance to leave prostitution. In effect, we are saying that we would like to see these excellent measures provided to victims from the point at which they become known to authorities, not just when they are identified officially as a victim. We also want the measures extended to those wishing to leave the enslavement of being a prostituted person.

2837. **Rev Kerr**: We strongly endorse the Bill's emphasis on detection, protection and support for victims of human trafficking. However, we would like that to be taken further. We would welcome additional safeguards. Picking up on what the Law Centre said, one thing that we think would be particularly valuable would be to ensure that a reflective period is observed before trafficked victims are removed from a jurisdiction. That would also mean that unconfirmed or suspected victims are not removed until such time as they can be screened and a definitive judgement can be made about whether they have been trafficked. We raise that, because we see a very clear conflict of interest between this legislation and the UK Border Agency dealing with immigration and removing people from the jurisdiction, which is a reserved matter. We feel that there is an issue there that needs to be at least raised, referred to and highlighted.

2838. We also think that there are potential additional measures that could ensure the detection and protection of trafficked victims. Those could include workplace checks not simply to remove those who are in breach of immigration law but to find evidence of trafficking and to ensure that people are protected in the first instance. There could also be safeguards for whistle-blowers so that we can get information that leads to the detection and protection of people who are trafficked.

2839. **Mr A Maginness**: I will direct this question to Victim Support. Clause 11 deals with the compensation for victims of trafficking, so on that subject, is Victim Support saying that there is no compensation for a person who has not sustained a physical or psychological injury? In other words, by virtue of the fact that they have effectively been imprisoned or put into some sort of servitude, under the criminal injury compensation scheme here in Northern Ireland, there is no compensation for them.

2840. **Mrs D Dickson**: Yes, that is correct. As the criteria stand, you must be seen to be cooperating with the police, first and foremost. You have to have made a statement. If you have physical injuries or are suffering from mental trauma, you have to have made three visits to a GP. Your GP would have to have referred you to a psychiatrist or clinical psychologist, citing mental trauma or psychological damage. As you rightly pointed put, if you are being held against your will, it is highly unlikely that you will access any of that, and, by virtue of that, you will not meet the criteria.

2841. **Mr A Maginness**: I just want to clarify, because this is important. Under the present scheme, you would not receive compensation for the very act of being imprisoned.

2842. **Mrs D Dickson**: No. You would still have to meet the criteria.

2843. **Mr A Maginness**: You have to have a physical or psychological injury and to complete a number of tests before you can get to that stage of compensation. It is very unlikely that somebody in that position would be able to achieve any of those tests.

2844. **Mrs D Dickson**: That is correct.

2845. **Mr A Maginness**: Is the conclusion then that, if clause 11 were to pass, we

would have to have a separate scheme to compensate the victims of trafficking?

2846. **Mrs D Dickson**: I do not feel that there is a need for a separate scheme. Given that the scheme is tariff-based, there could be a particular tariff for human trafficking, and that might work.

2847. **Mr A Maginness**: I am sorry for going on about this, but is that possible under the current scheme, which, as I understand it, compensates people only for physical or psychological injuries?

2848. **Mrs D Dickson**: Under review of legislation, it could become part of the scheme.

2849. **Mr A Maginness**: Yes, but you would have to change part of the scheme as it stands.

2850. **Mrs D Dickson**: Yes, and given that it is such a particular crime, it would obviously merit particular criteria.

2851. **The Chairperson**: That is one of the areas that Lord Morrow and the Minister corresponded with the Committee on. They indicated that they got some agreement to amend the Bill so that the Department could bring forward guidance that would set out the procedures for applying that. There seems to have been some progress, but we have not got the amendment yet. So, that is an area that I know that the proposer of the Bill and the Minister have been working on.

2852. No other members have any questions, so do any of the witnesses wish to comment further?

2853. **Ms Griffith**: I want to reiterate the comments that the representatives of Victim Support made. The Law Centre is aware of only one case of a person successfully obtaining compensation. We have acted in 22 cases, so that gives you some idea of that.

2854. I also want to draw on a comment that Richard Kerr made about the need for legal status for victims. There is a need for some form of temporary status as a victim goes through the process. However, there is also a need for a clear, tenable and durable legal status for a victim who goes through the process and is recognised as a victim of trafficking.

2855. The Law Centre is currently acting in the case of a woman who was subject to sexual exploitation. I think that it is fair to say that she really went through the mill during the trafficking process. She went to the police herself and was subject to hours and hours of police interviews, immigration interviews and long, protracted medical examinations in connection with her account of rape. The process has taken years to complete. Following an appeal to the High Court, she was finally recognised as a victim of trafficking. However, the Home Office has hitherto refused to provide her with a resident's permit. That begs the question of what the national referral mechanism has brought to her. She has not benefited from the process at all. She had been left with no status, and, were it not for the fact that she has an ongoing asylum claim, she would have got to the end of the process and, in the eyes of the law, would have been deemed an immigration offender and subject to deportation. So, I ask you to consider that point.

2856. **Ms Chandran**: Thank you. I have some brief comments to make. I confess that I had not given these clauses too much consideration, simply because of a lack of time. Looking at clause 10 and the point about assistance and support being dependent on criminal proceedings, I think that that is just an oversight in the drafting. The EU directive, which is a criminal justice directive, requires there to be support, at a minimum, for victims who have given evidence in criminal proceedings. So, I think that it is an oversight to have it as an amalgamated whole here. I think that it is quite easy to draw a distinction between those who are involved in criminal proceedings and those who are not but who are still recognised as victims.

2857. The other thing — I take this very seriously — is that the NRM is not statutory. So, there is no statutory right

of appeal as it stands. I was one of the legal advisers to Baroness Butler-Sloss and Frank Field MP in their Modern Slavery Bill review report, which was published on 16 December 2013. In that, when we were looking at the blueprint for a Modern Slavery Bill, we recommended that there should be a statutory NRM. So, I am just wondering whether that might be of interest to the Committee.

2858. Returning to clause 10, I wonder whether an answer to the cutting off of support might be that that support should be enabled until the final decision is made under the NRM. That would encompass a delay through no fault of the individual, as they are stuck with a JR process, which is laborious and takes time. I am sure that individuals would prefer an appeal process that gives a prompt remedy. However, that is not there.

2859. I will briefly raise two points on compensation. The Sexual Offences Act crime of trafficking and the exploitation crime of trafficking both come under the Proceeds of Crime Act (POCA), so those are cases in which the money can be chased straight away. However, apparently there is an absence of having made section 71 fall under POCA. There could be a potential amendment to enable the money to be chased where section 71 prosecutions are obtained. I know that that is something that has not been possible or successful here yet. If assets are to be recovered, a suggestion that we made in the Modern Slavery Bill review report was that, where the Crown requests a confiscation order following the successful prosecution of a trafficker, it is morally right to ask at that time for compensation order for the victim who was brave enough to stand and give evidence against a trafficker. My suggestion was that the victim in those circumstances should be the first creditor in the asset recovery to themselves.

2860. Of course, we know that there are many victims who will never be able to give evidence for one reason or another, whether that is for circumstantial or personal reasons. Those victims would need to have access to an effective remedy for compensation under a statutory scheme. Article 17 of the EU directive requires that compensation is payable to victims of human trafficking and that there is access to any existing statutory schemes that give compensation to:

"victims of violent crimes of intent".

2861. That is very interesting, because it tells us that victims of trafficking, regardless of the form of exploitation, should be seen as victims of the crime of violent intent. That means that the criminal injuries compensation scheme that the Criminal Injuries Compensation Authority (CICA) operates needs to look at that through that lens. To my understanding thus far, although claims have been successfully made to CICA on behalf of victims of trafficking who were female victims of sexual exploitation and who had given evidence against their traffickers, no child has ever received compensation from CICA, nor has any person who was a victim of domestic servitude. So, it is ripe for reform, and this is the right time to focus on it.

2862. **The Chairperson**: A couple of members have some quick questions to ask.

2863. **Mr Humphrey**: First of all, I apologise *[Inaudible.]* I have a question for Liz. On our visit to Stockholm and in conversations that we had with the police and other agencies there, we were made aware of made of eastern European ethnic minorities from *[Inaudible.]* who do not have the status as most of the *[Inaudible.]* as Roma.

2864. We also heard information from various contributors to the Committee. Obviously, there is an issue of the Chinese *[Inaudible.]* a second child is not registered. In effect, that child does not have an entitlement, because it would be breaking the law to have a second child *[Inaudible.]* Of course, just a few weeks ago, we received evidence from the Irish Congress of Trade Unions (ICTU) about *[Inaudible.]* Indian subcontinent *[Inaudible.]*

particular caste and, therefore, had no identity. Obviously, our legislation is about protecting the most vulnerable people in society and those are the most vulnerable people, so how do you suggest *[Inaudible.]*

2865. **Ms Griffith**: That is a difficult issue for the Committee, given that the national referral mechanism has been set at Westminster. The Home Office issues residents' permits, so that is a reserved matter. Perhaps the Committee can have some influence on the Modern Slavery Bill with a view to ensuring that a trafficked victim has some form of temporary legal status during the determination process and an endurable status on completion of the process.

2866. **Mr Humphrey**: However, the very nature of those people *[Inaudible.]* is that they *[Inaudible.]* any status that they have to be here *[Inaudible.]* is falsified; it is illegal. So, it is extremely difficult to ensure that those people are protected. I thank you for your answer, but I am not sure that we are dealing with people who have identity and, therefore, have some status that the state has given them to be here. According to those people, it is everyone who is trafficked, and, obviously, that is against the law, we assume. However, at least they try to identify the vast bulk of people but not those people who I outlined.

2867. **Ms Griffith**: You are absolutely right to say that, when some potential victims of trafficking and asylum applicants come to our attention, they may present with no documentary evidence at all. They would have no passport, and perhaps were never issued with a passport, and no birth certificate. It can be very difficult, challenging and time-consuming for them to assert to their identity, and it requires a lot of investigation by their legal representative and other involved agencies. Given that that takes time, I will go back to the point that there has to be a mechanism so that that person is protected while those investigations take place and that would enable somebody to assert their identity.

2868. **Mr A Maginness**: Ms Chandran tells us that the national referral mechanism has no statutory basis in UK law. Does it have a basis in European law, and, if not, what it its standing as far as the UK is concerned?

2869. **Ms Chandran**: That is an excellent question. The NRM is a creature of policy, not statute, and that is its fundamental flaw. However, it is required, because article 10 of the Council of Europe Convention on Action against Trafficking in Human Beings requires there to be an identification mechanism for victims of trafficking. When the UK ratified that convention in December 2008, it had until 1 April 2009 to implement it — all member states had three months — so it decided to bring in its identification obligations through this NRM scheme.

2870. It is there because it is required to be there in line with the UK's obligations in international law and under Council of Europe law. Where its process is concerned, however, in many cases it operates unlawfully. So, for example, the Anti-Trafficking Monitoring Group (ATMG) reported in 'Wrong Kind of Victim? One Year On' that the process of identifying victims of trafficking was heavily imbalanced between the positive recognition that arose through the UK Human Trafficking Centre (UKHTC) — the police — and that which arose through the operation of the Home Office through the UK Border Agency (UKBA). The distinction was that those who created the NRM designed it for European Economic Area (EEA) nationals to be identified by the police and non-EEA nationals to be identified by the Home Office. That is a snapshot of why it exists. The reason why there is argument for reform to replace the statutory NRM system is that it has proved to be fundamentally flawed in accurate identification and, therefore, in ensuring prompt support for those who have been trafficked within and to the United Kingdom.

2871. We know that a statutory scheme would be accountable; the decision-makers would not be individuals whose

decisions can be tested only in the High Court on grounds of reasonableness, but they could be tested regularly by judges. In that process, decision-making improves.

2872. **The Chairperson**: Members, please be brief because we need to make more progress: Mr Dickson is next, followed by Ms McCorley, and we will then move to the next clause.

2873. **Mr S Dickson**: *[Inaudible.]* on this particular area, which has spread through much of the conversation that we have had. The identification of victims and of traffickers is, in great part, through high-quality policing and policing intelligence. Does that hamper you, given that the earliest detection leads to the earliest release? There are also all those NRM issues and how we support victims. Do any commentators view the lack of a National Crime Agency involvement in Northern Ireland as being crucial? In your opinion, would it help to have that operating here so that we have the best-quality intelligence that can deliver for everyone?

2874. **Ms Chandran**: Yes. Without an effective investigation, there will be no combating of human trafficking. It does not matter how many laws you have — we have had laws since 2003 — it just will not happen. There needs to be a specialised police force. Operation Pentameter was a specialist police force that was able to see what other forces could not see. As a lawyer, I sometimes use the analogy of judicial review: you can only see a JR point if you have learned JR, otherwise you would not see it at all.

2875. On the proliferation of human trafficking, we also know that, last year, the Home Office-published threat assessment considered labour exploitation to be the second-highest organised criminal threat to the United Kingdom, the first being cybercrime. So this is also a very significant issue. There needs to be not only overt and directional policing for sexual exploitation investigations but also labour exploitation investigations. It is critical that that kind of expertise is obtained and shared among police forces. The work of the Gangmasters Licensing Authority has been vital to enabling police forces to understand labour exploitation and forced labour indicators where they might not have done. So the groundswell of opinion is that its scope and powers need to be extended. It should certainly be able to assist police forces here to detect these crimes. Generally, specialist trafficking and exploitation squads are required to investigate effectively.

2876. **Ms McCorley**: I have a question for you and Liz. You outlined the case whereby a person who was a victim went through the whole process and was successful but was then deported. Do victims who successfully go through the NRM ever gain residency, or are they always deported? In what circumstances can a trafficked victim gain residency?

2877. **Ms Griffith**: Thank you for that question. The law provides for someone who is conclusively recognised as a victim of trafficking to be granted a one-year residence permit, which is known as discretionary leave. You can get that permit if you are a victim who is cooperating in a police investigation or if compassionate and compelling circumstances require it. That is not only found in domestic legislation but is required by the European directive. In practice, the Law Centre has yet to see a case of somebody being granted a residence permit unless they are cooperating with a police investigation. When somebody is cooperating and gets a one-year residence permit, that can be renewed. We have one example of somebody renewing a residence permit for a further three years. Who knows what will then happen? Perhaps such a person might ultimately apply for settlement, but it will be a very long route.

2878. **Ms Chandran**: We have certainly seen cases of a residence permit also being granted on the personal circumstances limb —

2879. **Ms Griffith**: Not in Northern Ireland.

2880. **Ms Chandran**: I appreciate that it was not in Northern Ireland, and that is a significant deficit for both limbs of the residence permit requirement. It arises from article 14 of the Council of Europe Convention on Action against Trafficking in Human Beings, which states that a renewable residence permit should be granted either in the circumstances of a person assisting the police or because of personal circumstances. Another answer to your question is that the right to refugee status might be there when there is a serious risk of re-trafficking on return to their home country. Some asylum cases are able to succeed. I set the established precedent on that in 2008 in a case called SB (Moldova).

2881. It is an important point. In some prosecutions, a question is raised by the defence about inducement: "So you are only giving evidence against the trafficker because you are going to get a residence permit". It needs to become non-controversial that victims of trafficking should be given residence permits. In America, a recognised victim of trafficking gets a T visa straight away, which enables a residency period to begin immediately. The idea is that, if victims feel safe, they will be more likely to give evidence against a trafficker. It is not only evidence but intelligence. The small bits of intelligence that can then be drawn together from many victims can create prosecution just as much as direct testimony.

2882. Italy has the same kind of renewable residence permit. Indeed, in 2006, the parliamentary Joint Committee on Human Rights at Westminster looked at whether the UK should sign the Council of Europe trafficking convention. It went to Italy, and its report on human trafficking is to be commended, even though it dates from 2006, because it was actually ahead of its time. The committee visited Italy and saw that the Italian authorities would ordinarily grant residence permits to victims of trafficking. It would enable evidence and intelligence to be given. It also came from the perspective that, but for the trafficking, a victim would not be in the country so there should be something to support and enable that person to integrate into society as well. So the residence permit included training and skills, for example, to obtain an occupation.

2883. **The Chairperson**: Let us move on to clause 12, which deals with a child trafficking guardian. Only the Law Centre wishes to speak on this clause.

2884. **Ms O'Hare**: The Law Centre is strongly supportive of the provision to appoint a child guardian. Liz talked about the 22 cases that we have worked on to date. Five of our cases involved trafficked minors, but, over the years, we have also represented unaccompanied asylum-seeking minors. Our experience certainly is that there is a proper role for an independent and trusted person who walks through a process with a child. When a child suddenly finds himself dealing with a plethora of authorities and different people and meetings need to be held, someone walks and navigates that child through the process to facilitate him in challenging the people who are tasked with the responsibility of supporting him and who will have a role to play in long-term integration for that child.

2885. Our experience has been grounded not only in the issue of trafficked minors but in that of unaccompanied asylum-seeking minors, so we think that the guardian role should not be confined simply to trafficked children. It may be the case that it takes some time for a child who arrives unaccompanied in Northern Ireland to disclose that they are trafficked, so we think that the remit of clause 12 could be broadened.

2886. There are some other points about the detail of clause 12. A guardian should have responsibility for ensuring that a child's opinions and views are heard, and that reflects best practice. We want it to be clear that a guardian does not perform the same role as a lawyer in giving advice on legal rights, which is referred to in clause 12(2)(d). Parosha made the point that no child victim has yet received compensation, and I think

that that is really telling and goes to the heart of why we think that it is vital that there is an independent, trusted person with whom a child establishes a long-term relationship and who can walk the process with him. We are encouraged that, following the launch of the Northern Ireland Commissioner for Children and Young People (NICCY) research on the issue earlier this week, which my colleague Liz attended, the Department of Health, Social Services and Public Safety (DHSSPS) and the Health and Social Care Board (HSCB) are now looking at options. This Bill makes a very valuable contribution to that, and, for that reason, the Law Centre is strongly supportive of this provision.

2887. **The Chairperson**: The Presbyterian Church also wishes to comment.

2888. **Mr Conway**: I commend clause 12, and, given that time is short, I will also comment on clause 13. We support what the Law Centre is saying. There is a danger that children could age out on this. I come from a social work background, and I know that it is important that, if a process is embarked on when the individual is a child, that is seen through to its conclusion. There is a huge resource element that has to be met. I support the DHSSPS taking the lead, but perhaps delivery would be best done through a voluntary organisation. By way of tidying up, in clauses 12(2)(b) and 12(2)(g) we would want to include "spiritual" — surprise, surprise, coming from a faith background — in the long list of a guardian's appropriate care responsibilities.

2889. It is important that, in clause 13, best practice is reflected. We have learned a lot through child protection and other investigations that that trauma is reduced by controlling the interviews and being sensitive to those issues so that we reduce the trauma and psychological injury that is possible in secondary abuse. All that should be spelled out very well. Clauses 12 and 13 are very much to do with the humanity of the Bill, and we commend them.

2890. **Mr Smyth**: On behalf of the Evangelical Alliance, I will make a very short point. Is there an opportunity whereby the concept of guardians could be offered to all victims of trafficking? The number of victims in Northern Ireland is comparatively low, and I wonder whether offering that would result in a large additional cost. The services that are already provided by Migrant Help, Women's Aid, social services and all the other agencies are excellent, but we feel that there would be an added benefit for victims in having a guardian assigned to them. That would be one person whom they could deal with consistently to steer them through the complicated legal, healthcare and immigration procedures that they face. An adult guardian might have a different legal function in name, but, essentially, would look after a victim's pastoral care. Such a guardian would journey with a victim through this difficult and confusing process. The main roles that are described in clauses 12(2)(a) to 12(2)(k) could easily be applied to the circumstances of any victim — child or adult. Our reasoning for this suggestion is simply that the people who are identified as victims are often in an extremely vulnerable position. They are far from home and without their local language, and they are traumatised and confused. In the case of children, a guardian would be appointed automatically. We wonder whether a similar procedure could at least be offered to adults. The real value is in providing stability, helping victims to coordinate the best care and to consistently join all the very complicated dots that we have been talking about today.

2891. **The Chairperson**: Let us go to clause 13, which deals with the protection of victims in criminal investigations. We will hear from the Law Centre.

2892. **Ms Griffith**: We absolutely support clause 13, but the criminal investigation is just one half of the jigsaw for many victims of trafficking. The other half of the jigsaw is the Home Office. The protections that are afforded by the clause should also extend to any

interview that is being conducted on a person's immigration status.

2893. **Mr Carlin**: Interviews with children should be conducted in an environment that *[Inaudible.]* at all possible for an appropriate adult to be present for police interviews

2894. **The Chairperson**: No members or witnesses want to come in on that clause. That was our quickest discussion on a clause. Clause 15 is on prevention. The Evangelical Alliance is first up.

2895. **Mr Smyth**: Whether the strategy document is published every one, two or three years, it is important that there is flexibility to respond to changing trends in trafficking. We understand that traffickers can change quite quickly depending on where the most profitable areas of trafficking are, so we ask that the strategy be able to respond quickly to developing intelligence and trends.

2896. On a slightly broader issue, we suggest that a strategy to raise awareness of human trafficking and exploitation is not strictly limited to trafficking and slavery. I do not want to put too much freight on one train, but there are grave abuses of freedom, human rights and the dignity of the person. We suggest that raising awareness of those issues presents a greater opportunity when engaging with the public and front line workers. If a lot of energy is to be put into raising awareness, prevention and training, could other issues be raised at the same time? We propose that any training and awareness raising begins with the framework around the dignity of the human person and why these issues matter. A consistent context and framework could help to change our culture into one in which any exploitation of another person becomes much more difficult and unacceptable. A very brief awareness training could be given on recognising the signs of other areas of abuse — say, domestic violence, when a priest received 60 calls a day on the issue. Is there any way that prevention of trafficking could be linked in to broader prevention for other abuses that we see more frequently?

2897. **Mr Carlin**: With regard to prevention, the phenomenon of trafficking for labour was able to take place, particularly in places such as Northern Ireland, on a significant scale right under the noses of the police for the simple reason that no one was there to accept responsibility for such a phenomenon taking place. That could be the sale of work permits in Sheffield to Ukrainian workers, which might happen via an agency in the Baltics, and the police could then find that people were paying £3,000 I think that that was the average price a few years ago for a permit from Sheffield. If we look at minimum wage occupations, that means that such people are working for nothing for a period. The point that I am making is this: in Northern Ireland, when such abuses or crimes — if that is what they are — came to light, the police did not do anything, and there was no campaign by the British Government overseas — in Ukraine or wherever — to point out that UK work permits issued in Sheffield were not for sale; you are not supposed to pay for them.

2898. With regard to clause 15, when the strategy on trafficking is produced by the Department of Justice in consultation with other NGOs, would it be possible to liaise with the Department of State's Office to Monitor and Combat Trafficking in Persons in the United States?

2899. **The Chairperson**: Are there any questions from members? Are there any questions from witnesses?

2900. **Ms Chandran**: An important point has been raised about the fact that no police force has been accountable in a number of cases in which forced labour has been at the doorstep. A potential prevention strategy might be to request that there be performance targets in police stations for the investigation of forced labour and trafficking forced labour offences. There seem to be performance targets for sexual exploitation — forgive me if I am wrong. However, if they are not in place either, deliberately identifying what the performance targets should be for the

crimes that the Bill is to encompass could impact on the issue.

2901. **The Chairperson**: Thank you; that is helpful. Do any other witnesses have a question? Let us go to clause 16, which relates to the Northern Ireland rapporteur.

(The Deputy Chairperson [Mr McCartney] in the Chair)

2902. **Ms O'Hare**: We want an oversight mechanism, and, crucially, an oversight mechanism that has traction with the Home Office and the devolved Administrations. We are conscious that the Modern Slavery Bill is proposing a UK-wide commissioner, and I am conscious that that may alter the nature of the debate, which is a very welcome development. That may align with a local rapporteur who works closely with the UK-wide commissioner and who takes a lead in scrutinising how Northern Ireland authorities are addressing the issue of human trafficking. We have already heard about the lack of an appeal mechanism and the lack of oversight within the NRM, and that might be addressed by a UK-wide commissioner. The rapporteur might find himself or herself in receipt of the strategy. There is a model in the child poverty strategy that has to be presented to the Assembly, and that is about sending out the importance of a message around the objective to be pursued. We see the need for an important oversight role to be played here. Of course, the Westminster commissioner's powers will be critical going forward. We see another debate coming down the line once we know how things will develop with the Modern Slavery Bill. In principle, we support a local oversight mechanism.

2903. **Mr A Maginness**: You have been marvellously oblique on the issue, in so far as you accept the need for an oversight commissioner, and so forth, but you do not really come down on whether that person should be Northern Ireland-specific. A thought has been put out there, particularly by the Minister of Justice here, that we could link up with the UK commissioner. In your contribution, you mentioned the anti-slavery commissioner, who is yet to be appointed, and the legislation has yet to go through. Would it not be better for us to have our own specific commissioner or rapporteur who is independent and is able to deal with issues that arise in Northern Ireland? To my mind, that is the central question. I know that the Department here is opposed to that. What are your feelings on that?

2904. **Ms O'Hare**: Our view is that there is real merit in having a local oversight mechanism. In the context of a UK-wide commissioner, there is a genuine risk that Northern Ireland may fall off the span of attention. We are saying that we do not necessarily see the two things being mutually exclusive, but that needs to be worked out, as does the relationship between the two. In principle, I think that there is real merit in having a local independent mechanism, which, in the context of the proposals in the Modern Slavery Bill, would need to link into the UK-wide model, in whatever format that develops.

2905. **Mr A Maginness**: Chair — there has been a change in the Chair; that was very quick — by way of information, in Sweden, the rapporteur is, in fact, a senior member of the police and is a lady, whom we met. Is there any reason why we could not have somebody such as that here? As I understand it, the lady is a member of the national police service and has a senior position on the equivalent of our Policing Board.

(The Chairperson [Mr Givan] in the Chair)

2906. **Ms O'Hare**: The issue is ensuring that the mechanism, whatever form that takes, is independent, holds the police to account and has traction with the Home Office. Liz talked today about the importance of the interaction between trafficking and immigration.

2907. **Mr A Maginness**: Thank you.

2908. **The Chairperson**: Do any of the other witnesses want to comment on the national rapporteur issue?

2909. Can whoever has their phone near a microphone or in the audience switch it off? Thank you.

2910. **Ms Chandran**: This is just a quick suggestion. The US State Department's Trafficking in Persons (TIP) Report monitors each country for compliance with trafficking standards under prosecution, prevention and protection of victims. So it might be an idea that, if there were to be a separate monitoring body such as a commissioner or other, that type of tripartite focus would be relevant and enable quite deliberate attention to the balance or imbalance between the three. What we know from the Palermo protocol is that all three elements are critical to effectively combating human trafficking. It will not be done by legislation, assistance to victims or prevention strategies alone.

2911. **The Chairperson**: No other witnesses wish to speak, so we will move on to clause 6, which deals with paying for the sexual services of a person. This has been kept to the end because it may well have dominated had we discussed it first. Needless to say, I am very pleased that, for the vast majority of the session, we have been able to talk about all of the other clauses, which hopefully helps to put into perspective that it is not a single-clause Bill. Unfortunately, that has dominated a lot of discussion both in the Committee and when the Bill has been debated in the media. Thank you for your help with the other clauses. That will contribute to our scrutiny of the majority of the Bill. That said, let us move on and deal with clause 6, and the first group to speak is Nexus.

2912. **Ms Pam Hunter (Nexus)**: Thank you, Chair and Committee for the invitation. Nexus fully endorses the legitimate concerns that the Bill seeks to address and the need for additional support to victims of trafficking. As Northern Ireland's leading service provider to people who have experienced rape and sexual abuse, we are concerned about this one clause. Although we accept that people are trafficked to Northern Ireland for sexual exploitation, we recognise that trafficked victims and those who sell sexual services are two separate and complex groups. The Bill does not address the complexities of sex work outside those trafficked for prostitution. Nexus believes that it is unacceptable for the Bill to move forward in its present format because, from our clients' perspective, it does not introduce any supportive methods for the victims and survivors of rape and sexual violence through trafficking specifically and separately. Nexus believes that more research is required to know the nature, scale and extent of sex work specifically in Northern Ireland in order to make informed decisions on the support required for those wishing to exit prostitution and those who choose not to exit yet.

2913. In Nexus, we aim to improve the possibility of a client's engaging with support services, and we reach out to all potential clients without judgement. The inclusion of clause 6 has the potential further to isolate those in need of support and make it more difficult for them to look for it. Nexus needs to be confident in the criminal justice system in order to effectively support clients who wish to move forward towards prosecution. Our clients can be reluctant to come forward for fear of their safety, mistrust of services, shame and guilt, fear of not being believed, and other reasons that demonstrate the complexity of sexual violence. Sexual violence against sex workers adds another level of complexity, which would need to be explored through in-depth independent research to provide an evidential base for further legislation. Nexus fears that the inclusion of clause 6 has the potential to push the purchase of sex further under the radar, increasing the risks to those involved. It believes that the isolation of prostitutes already makes them a highly vulnerable and targeted population for perpetrators of sexual violence. Clause 6 would increase that vulnerability. Nexus is concerned for the safety of those who work in the sex industry. Criminalising the purchase of sex could increase their vulnerability in the future and decrease their options to look for

support, including exiting prostitution. Nexus knows that sexual abuse itself is already vastly underreported. That is evident in the 40% increase in referrals to its services experienced during the Savile investigations, an increase that has continued since.

2914. Nexus appreciates that trafficking and prostitution overlap as they are complex social phenomena. However, Nexus is concerned that the clause would create a hierarchy of victimhood among victims of trafficking, placing an emphasis on those trafficked for sex over those trafficked for other reasons. Nexus believes that further research is required to understand the particular needs of those in the LGBT community who are engaged in sex work and being exploited. Again, that is another complexity that the Bill fails even to begin to address.

2915. Nexus urges caution that clause 6 is being portrayed as a moral argument either for or against prostitution — this is not a moral argument.

2916. Nexus recommends that clause 6 be removed from the Bill and the issue addressed separately. More survivor information and support should be provided for women in need of assistance through trafficking to support those who want to exit prostitution. We also recommend that more research be carried out to provide a clear picture of sex work and the sex industry in Northern Ireland. Such research should include the voice of the sex workers and the range of experiences that exists to ensure that further policy and legislation are fit for purpose. We recommend that the DOJ commit to legislation to bring about the removal of the six-month statute bar in article 64A of the Sexual Offences Order. That would allow the PSNI more time to gather evidence for better conviction rates. Nexus endorses the PPS suggestion to extend that to three years to allow for the complexity of the investigations and increase the likelihood of successful prosecutions.

2917. The depth of the conversation that happened before clause 6 came to the table has shown that the trafficking Bill could stand on its own without its inclusion. Therefore, clause 6 could be held separately while more research and evidence are gathered to ensure that the legislation is fit for purpose. As is the case in current legislation, Nexus believes that forced sex and harm to any person is wrong, and we will continue to support those in need.

2918. **Ms Ruth Breslin (Eaves)**: I am the research and development manager at Eaves, and I am really pleased to be here today. Thank you very much for inviting us. We have followed proceedings quite closely from London, where my organisation is based, and we welcome the Bill as a whole. We are delighted that it contains some strong measures to protect not only victims of trafficking but those exploited in a wider sense. We absolutely commend the inclusion of clause 6 and feel that it greatly strengthens the Bill as a whole. From our perspective, measures to address demand are absolutely essential to tackling human trafficking specifically and the exploitation inherent in prostitution more broadly.

2919. Eaves is a London-based women's organisation, although some strands of our work extend nationally through England and Wales. We have existed since the 1970s, and our mission is to tackle and prevent all forms of violence against women and girls. We provide direct support services and undertake research, policy development and advocacy. In our practice and research, our particular expertise lies in the areas of prostitution, trafficking and sexual violence. We have supported many thousands of women with such experiences since our inception.

2920. Our Poppy project provides a range of vital services, including accommodation and advocacy support to women who have been trafficked into England and Wales and exploited there. From October 2012 to December 2013, Poppy provided direct support to 192 women and we received referrals for many more. In the same year, we provided one-to-one support to 43 women through our

London Exiting Action (LEA) project. That is for women based in London who are seeking to exit prostitution, and many referred themselves to us for the holistic range of support that we can provide to assist women in the exiting process. We have also conducted some significant research in the area, often in conjunction with academics, focusing on women who are involved in prostitution as well as the individuals who buy them. I will refer to some of those studies shortly.

2921. Looking back at all the evidence already given, a number of arguments have been put before the Committee about conflation — the suggestion that clause 6 conflates the two different phenomena of prostitution and trafficking. In fact, it has just been mentioned that they are separate groups. We refute that assertion, and, having worked with both groups — women in prostitution who were trafficked into it and women in prostitution who were not — we will explain why. I know that you will have heard similar evidence from other contributors who came before. However, at the risk of repetition, it is important to note once again the many commonalities between the experiences of the numerous support organisations, including ours, who work directly with women who have been exploited. What you will have heard from others, which we can verify based on our research and our day-to-day practice, are the inextricable links between prostitution and trafficking. Our work in the field leaves us with no doubt about the many parallels and commonalities between the two groups.

2922. I will briefly highlight five key areas of similarity: trafficked and non-trafficked women's routes into exploitative situations; their experiences in the exploitative situation; the context of the exploitation; their buyers; and the impact and outcomes of the exploitation on their life. In our experience, the vast majority of women in prostitution, whether trafficked or not, have been drawn into it as a result of a range of compelling factors, including but not limited to marginalisation, coercion and the exploitation of their vulnerabilities. I will cite an example: Cathy Zimmerman's study of women who had been trafficked across Europe found that 60% had experienced violence, usually in their home countries prior to ever having been trafficked. We recently conducted a study, which we are in the process of completing, that involved interviews with 114 women across England who had been involved in prostitution. Similarly, they described a background of vulnerability, and 72% had experienced violence in their childhood.

2923. What about trafficked and non-trafficked women's experiences in the exploitative situation? The vast majority of women whom we support and the vast majority of those who participated in our research, whether trafficked or not, have experienced physical, sexual and psychological violence while in prostitution from a host of perpetrators, including punters, partners and pimps, or the "three Ps" as we call them. In Zimmerman's study of trafficked women, 95% had experienced violence. In our study of women in prostitution, 86% had experienced violence, and the most common perpetrator was the punter, the woman's buyer. In our sample, 71% of women had experienced that. Rachel Moran spoke very eloquently to the Committee on the issue, and she speaks very well about her view on the links between prostitution and trafficking. As a survivor of prostitution, she described it as a matter of two different sets of circumstances bringing women to exactly the same place. Eaves sees that in practice with both trafficked and non-trafficked women.

2924. That brings us to the commonalities in the context of the exploitation. In very many instances, trafficked and non-trafficked women are being sold alongside one another in the same brothels and, in some cases, in the same outdoor locations, typically experiencing varying degrees of coercion and control. It is relatively rare to find "special" brothels or corners of the Internet solely reserved for women who have been trafficked across international

borders. Women in prostitution, regardless of their route into it, are commodities in the very same market.

2925. Buyers tend not to distinguish between trafficked and non-trafficked women when purchasing sex and generally show little concern in that regard. Our research of 103 men who buy sex in London found that over half — 55% — believe that the majority of women in prostitution have been lured, tricked or trafficked. A similar number believe that most women in prostitution are controlled by a pimp, and many, through their buying behaviour, have observed that form of control from pimps or pimp-like figures who surrounded the women from whom they were buying sex.

2926. The next point is key and particularly significant. Not only is there an awareness of women being lured, trafficked or tricked and being controlled by a pimp, half the men in our sample stated that they had bought women whom they believed to be under the control of a pimp. Awareness of coercion does not seem to deter buyers, nor does appealing to their better nature, and public education is not a deterrent when it stands alone. However, criminal sanctions do. In our study of 103 men, we asked what would deter them from purchasing sex. Between 80% and 85% agreed that all the following measures would deter them: placement on a sex offender register; their picture or name on a billboard, because of the public sanctions that that would incur; time in prison; their picture or name in the local paper or online; or a higher monetary fine. So, bluntly speaking, it is the law that deters men from purchasing sex from vulnerable women, and it also has a preventative role.

2927. It is sometimes argued that legislating against the purchase of sex means that buyers will not report their concerns about vulnerable women. That argument does not stand up. First, there are already several mechanisms to report such concerns anonymously. Secondly, in our 11 years of running the Poppy project, less than 1% of our referrals have come from buyers who had concerns about the welfare of a women. Even in that less than 1%, the referral came from men who had already paid for sex and then felt a bit worried afterwards so decided to get in touch; or men who claimed to have rescued from a brothel a woman who had been trafficked, exploited or was vulnerable but was keeping her under their own roof and seeking sex on demand.

2928. The final commonality between women who have been trafficked and women who have not been trafficked but find themselves in prostitution is that our research and our practice have demonstrated that the negative consequences of time spent in prostitution tend to be very similar. They can include significant physical and mental health problems, homelessness and housing problems, debt and money problems, a criminal record and a host of difficulties and barriers in rebuilding one's life, recovering and moving on from prostitution. I have statistics for all of this, but I will give just one example: in Zimmerman's study, 56% of the women described their physical health as poor and had symptoms suggestive of post-traumatic stress disorder. Our in-depth study of 114 women in prostitution gathered their life history and life stories and conducted qualitative interviews, in some cases for three hours. The study found that 74% had physical and/or mental health problems related to their involvement in prostitution.

2929. Often, women in prostitution, whether trafficked or not, are in circumstances far more similar than different. The places where women are exploited are still the same; the harms caused are much the same; the buyers are the same; and, typically, they operate in the same market. Given all that, it is absolutely right and, indeed, entirely sensible to tackle the demand for prostitution in a Bill that seeks realistically to address trafficking and exploitation more broadly.

2930. Clause 6 is a pragmatic and effective way to cool the demand that fuels the growth of the sex industry and the trafficking and other harms associated

with it. In doing so, it would also reduce the size of the industry, deterring men who are considering buying, buy only occasionally or have concerns about their buying behaviour. That, in turn, would make what was left easier for police to deal with and allow law enforcement to focus more effectively on tackling the organised crime networks responsible for exploiting women and children.

2931. Eaves has conducted extensive research on the barriers that women face to exiting prostitution and the support that they need to do so. We feel that there is one key gap in the Bill and so one potentially important addition. We kindly request a reference to the crucial need for specialist support, often known as exiting support, for women leaving prostitution, particularly given the impact that clause 6 could have on their immediate circumstances. That could take the form of an explanatory note to the Bill or a link to some of the clauses discussed earlier about requirements for assistance. There would need to be a firm commitment that the provision and adequate funding of such support formed a key element of the implementation of the new law.

2932. Furthermore, the impact that a criminal record has on women in prostitution, including after they have exited, is extremely detrimental and can have lifelong repercussions, preventing women from ever leading the life that they long hoped for.

2933. Just to be clear, we strongly oppose the criminalisation of anyone exploited in prostitution. All women in prostitution, whether trafficked or not, should be afforded the same protection from criminalisation that the Nordic approach provides.

2934. I suspect that I am running out of time. I was hoping to comment on the law as it operates in England and Wales. If you want to ask me about that afterwards, please do so.

2935. With the adoption of clause, 6, Northern Ireland will be taking the lead in Great Britain in enacting a progressive approach to combating sexual exploitation while promoting gender equality, which I believe Northern Ireland has a proud tradition of doing. We are well aware of and have followed the good work of the Joint Oireachtas Committee on Justice, Defence and Equality in the Republic of Ireland. I really welcome the whole-island approach. This is a unique opportunity to make this happen on both sides of the border because similar legislation is being discussed in the South.

2936. I thank the Committee for hearing our evidence and call on members to join the groundswell of support for tackling a demand that is spreading across this island and the whole of Europe.

2937. **The Chairperson**: Thank you very much, Ruth, and I was happy to give you more time because you had not commented on any other clause. I may not be as generous to some of the other groups.

2938. **Ms Matolcsi**: Equality Now is an international human rights organisation working to end violence and discrimination against women and girls worldwide. That means that we work on issues such as female genital mutilation, child marriage, discrimination in law and other issues. One of our main focus areas is sexual exploitation and sex trafficking. In that, we work with many grass roots organisations around the world, several of which are survivor-led, and many of which work directly with people in prostitution and the victims of trafficking.

2939. Equality Now supports the Nordic model. That is why, in principle, we welcome clause 6 because it would criminalise fully the purchase of sex. At the same time, we believe that the selling of sex should not be criminalised in any way. That includes through offences related to public soliciting for the purpose of selling sex. That should be made explicit in all relevant legislation.

2940. It is critical also that support services, including support to exit, are in place for all people in prostitution, not only those who are recognised as victims

of trafficking or coercion, and that those services are guaranteed through adequate resource allocation.

2941. We would like to emphasise that supporting the Nordic model is not about being moralistic or anti-sex. Prostitution constitutes one of the most blatant manifestations of inequality between women and men, and, at the same time, it is one of the key phenomena that helps to maintain that inequality as well as ethnic, racial, economic, class and a host of other inequalities.

2942. Prostitution systematically violates the human rights of those in prostitution, as enshrined in international human rights law. Those rights include the right to equality, the right to be free from all forms of discrimination, the right to the highest attainable standard of physical and mental health, the right to life, the right to liberty and security of the person, the right to dignity and the right not to be subjected to violence, torture or inhuman and degrading treatment.

2943. Meanwhile, there is no human right to sexual access to another person's body. The law should protect the most vulnerable and ensure that everyone enjoys their inherent human rights. It should not protect a minority who feel that they have the non-existent right to buy sex from others. Reducing demand for prostitution and decriminalising and supporting those in prostitution are increasingly recognised as integral components in combating sex trafficking, promoting the human rights of people in prostitution and promoting gender equality.

2944. Reducing demand is most effectively done through the full criminalisation of the purchase of sex. Eaves has just talked about the loss of anonymity, including through criminalisation, and criminal sanctions as the most effective deterrent, according to research done with men who pay for sex. We want to add that countries that have attempted a partial ban on the purchase of sex, such as Northern Ireland, highlight the shortcomings of these halfway measures. Finland has had a similar offence in place since 2006 but without the strict liability element. The Finnish Minister of Justice is now calling for the full Nordic model because the current halfway ban is seen as inadequate.

2945. Meanwhile, police in Sweden and Norway do not appear to be having difficulty enforcing a clear-cut full ban on the purchase of sex and are, in fact, reporting that they have an easier time monitoring the sex industry and investigating prostitution and trafficking-related crimes since the respective bans in both countries. They also report that they can easily monitor and investigate prostitution organised via the Internet and mobile phones, which is where most prostitution takes place in most Western countries at the moment. This contradicts claims that criminalising the purchase of sex would cause prostitution to go "underground", where it is suddenly inaccessible and invisible to police.

2946. In the Committee's evidence sessions, it was mentioned that the Council of Europe and other bodies de-link prostitution and trafficking. In fact, there has been increasing and clear recognition at an international and European level of the inextricable link between sex trafficking, organised crime and gender inequality on the one hand and the commercial sex industry on the other. Such recognition can be found in statements from UN and EU officials and bodies, including the EU Commissioner for Home Affairs, Cecilia Malmström, whose remit includes tackling trafficking, and the EU Anti-Trafficking Coordinator, Myria Vassiliadou. It can also be seen in several concluding observations of the UN Committee on the Elimination of Discrimination against Women (CEDAW), which has asked countries to tackle demand for prostitution as such, not for exploitation of prostitution, when they are trying to reduce trafficking and promote gender equality. Most recently, we have seen it in a report adopted by the European Parliament's Committee on Women's Rights and Gender Equality,

which recommends the Nordic model for all EU member states.

2947. This Committee has also heard that certain UN agencies advocate the full decriminalisation of prostitution — beyond the decriminalisation of those selling sex to other activities such as brothel-keeping and pimping. In fact, the executive director of UNAIDS has recently confirmed, in response to an Equality Now communication, that it does not support the decriminalisation of brothel-keeping or pimping. Similarly, the official UNAIDS guidelines on prostitution do not call for full decriminalisation. In fact, they instead note that reducing demand for paid sex as such is a way to reduce the number of new HIV infections.

2948. A third assertion is that the Nordic model stigmatises and increases the stigmatisation of people in prostitution. Our partner organisations, which have been working for many years in Sweden with women, men, children and transgender people in prostitution, report that, since the change in the law, people have felt less stigmatised and more willing to come forward to them as service providers and to the police. That is because they now feel that the law is on their side and that the blame and responsibility has shifted from them to the buyers.

2949. Meanwhile, police in Germany are reporting that legalisation there, including of the purchase of sex, has led to the buyers feeling less stigmatised, since their purchasing of sex is not only legal and accepted but encouraged; for example, through brothels offering flat-rate deals where men can go and pay a specific set fee and have sex with as many women as they would like. That is like an all-you-can-eat-buffet style of organising. Women in prostitution, however, have not benefited from a reduction in stigma through legalisation, nor has their situation improved in other respects. Although one of the main aims of German law legalising aspects of the sex industry was to reduce stigma towards women in prostitution and to give them better access to healthcare and other benefits, it has been reported that, of an estimated 300,000 people in prostitution in Germany, a mere 44 of them have registered as such. That says something about stigma, but it also says something about access to services and benefits.

2950. The Committee has already had the opportunity to hear from some survivors of prostitution, and we would like to emphasise that it is a growing movement. Ever more women and a few men across the world who have been in prostitution are speaking out about their experiences. They are advocating against the normalisation of the sex industry, and that includes through legalisation and decriminalisation. They are unequivocally calling for the Nordic model. We sincerely hope that Northern Ireland and the Committee listen to the survivors and take the lead in the UK with this legislation fully criminalising the purchase of sex and decriminalising and ensuring support for people in prostitution, not only those recognised as victims of trafficking or coercion. That is the most effective way in which to reduce sexual exploitation and sex trafficking, protect human rights and promote gender equality.

2951. Thank you for your attention. We are also happy to submit a copy of our contribution if possible, because we did not include it in our previous written submission.

2952. **Ms Gillian Clifford (Victim Support)**: Good afternoon, Chair and members of the Committee.

2953. As was stated earlier by my colleague Geraldine Hanna, in sounding a note of caution about the inclusion of clause 6 in the Bill, Victim Support is deeply aware of the work of our partners, including Women's Aid, on human trafficking and sexual exploitation. We respect fully and acknowledge the views of those who feel that paying for sexual services of a person should indeed be criminalised, and we note the comments that have been made just before us. We also fully support the principle of making Northern Ireland a hostile place for

traffickers and a place where victims are fully supported.

2954. However, Victim Support Northern Ireland wishes to highlight that the trafficking convention and the EU trafficking directive expressly provide measures to be taken for discouraging and reducing the demand for trafficking victims and that criminalisation of the purchase of sexual services is not one of the measures that it currently recommends. Additionally, those concerns are reflected by the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) in its third general report, which states that the impact of criminalising the purchase of sexual services, seen as an anti-trafficking measure in some states, when evaluated by GRETA, must be assessed in the light of all possible consequences. That includes ensuring that measures taken do not make victims of trafficking more vulnerable and that they do not mobilise investigation units and prosecution authorities to the detriment of investigations of traffickers.

2955. In that regard, we flag the comprehensive submission on the Bill made by Anti-Slavery International, with which we are in broad agreement. It highlights the very limited impact on levels of prostitution and sexual exploitation in those jurisdictions that have taken the approach of criminalising the purchase of sexual services. It cites statistics from the Swedish National Council for Crime Prevention in that regard.

2956. We are additionally concerned that clause 6 seeks to outlaw the paying for sexual services of a person as a stand-alone measure without further provision for support to be provided for those who would be directly affected as a result of this step, or crucial protection and support for those seeking to exit the selling of sexual services, as has been mentioned by others. Further provision and support should be fully informed by a strong evidential base, we feel, which would include independent research in consultation with a range of stakeholders, including sex workers. We welcome the Justice Minister's commitment to exploring that much-needed, Northern Ireland-specific research. We trust that the research will be thorough and wide-ranging in nature. We also hope that such research will explore the wider factors impacting on prostitution. In addition to criminal justice factors, there are significant health and socio-economic issues, including but not limited to poverty and substance abuse. We are also strongly of the view that taking a primary focus on human trafficking, and on prostitution in the context of human trafficking, is unhelpful. We fear that criminalising the purchase of sexual services could have an impact on detection and make it ever more difficult for individuals to seek help and support. It is also essential that, in seeking to provide appropriate support and legal provision, we do not wish to see a hierarchy of victims being created in Northern Ireland. We must not ignore individuals who have been trafficked for other purposes, including forced labour.

2957. In conclusion, Victim Support would welcome more debate on the potential impact of clause 6. We feel that the wider issue of prostitution in Northern Ireland merits discussion and consultation in its own right when it comes to policy development and implementation. Thank you.

2958. **Very Rev Dr Norman Hamilton (Presbyterian Church in Ireland)**: I will do my best to be brief and be good. As we indicated in our submission, we believe prostitution to be an evil and a blight on a civilised society, but we are currently of the view that, to deal adequately with prostitution and the scope of the sex industry generally, full primary legislation is probably required. It is also worth saying that at no time have we as a Church been in contact with or been lobbied by any group or individual on the contents of the Bill. I put that on record.

2959. We are aware that clause 6 has been, and, indeed, still is, a highly contentious clause and that the Committee has had some very powerful evidence brought

to it. We agree that every effort should be made to reduce the demand for prostitution, although we note that "sexual services" and "prostitution" are not synonymous terms. I suppose, like many others, we look forward to the Committee bringing real clarity as to what is and what is not covered by the term.

2960. That having been said, we wish to raise a number of questions arising from clause 6 and genuinely look forward to the considered views of your Committee on them in due course. The first issue is whether, as a Committee, you believe that there is the legislative framework and the capacity for law enforcement to carry through the implications of the clause adequately. For example, if and when payments are made for sexual services by credit or debit card to accounts outside the UK, or perhaps, looking down the tracks a wee bit, through the use of Bitcoins, is the Committee satisfied that there is adequate legislation in place for the investigating authorities to access the relevant bank accounts? What are the resource implications of bringing many hundreds of such cases to the courts?

2961. Linked to that, is it likely that short-term tourists who avail themselves of sexual services will be caught and subsequently brought to trial, even though they may live in another jurisdiction? Is the Committee satisfied that any trafficked woman or any vulnerable woman involved in prostitution and the provision of sexual services will be able to be brought to court as a credible witness, given the likelihood that she will have suffered severe emotional trauma before appearing in court?

2962. We fully accept that the naming and shaming in public of those caught paying for sexual services is very likely to act as a deterrent to their seeking those services in the first place. However, as a former mayor of New Orleans memorably said of prostitution:

"You can make it illegal, but you can't make it unpopular."

2963. We are particularly concerned that, as the tourist trade increases in Northern Ireland, such a deterrent will cut little ice with men from overseas, and the demand may well be sustained, even if we are reasonably successful in stopping the trafficking of women for the purpose.

2964. A couple of other questions come to our mind. Are there any lessons to be learned from our experience of facing the evil of drug dealing? Drugs are everywhere — just look at the Odyssey last week — even though there is legislation, and plenty of it, in place to deal with the scourge. What consideration has the Committee given to shifting the main emphasis to pursuing the sex barons behind the trade rather than those who use the services on the front line? Furthermore, what consideration has been given to other models of dealing with those who consume sexual services, such as compulsory counselling or therapy for those convicted? Is the Committee satisfied that a criminal conviction is the totality of what should be done for such people? The Swedish evidence is still highly contested, so we want the Committee to be fully satisfied that the evidence and results from Sweden can be readily transferred to here, given that this is a different culture with an underbelly of societal violence.

2965. Finally, as you mentioned a few minutes ago, Chair, we are concerned that the focus on clause 6 has distracted from the wider issues of those trafficked for bonded labour and domestic servitude. We are also concerned that resources may well be allocated away from those trafficked for bonded labour and servitude and towards the implementation of clause 6.

2966. **Mr Smyth**: It is unlikely that someone wakes up one day and arbitrarily decides to buy or sell sex. Human trafficking and prostitution are connected, but they do not happen in a vacuum. By way of context, on a broader level, we need to address urgently the difficult societal issues that allow such trades to flourish in Northern Ireland. We live

in a media-driven, sexualised culture that has normalised promiscuity and pornography.

2967. Our starting point is that each person is of infinite worth and value. We believe that sex is a relationship not a product or a service and that, as such, it should not be bought. However, sex is increasingly being detached from relationships and turned into something of a right or a commodity to be consumed. Buying sex goes against everything that we teach our children about relationships, violence against women, respect, well-being and freedom of self. We welcome clause 6, in broad terms, as a strong message that it is not OK to buy sex.

2968. Having set out those principles — clearly, I hope — I want hear the intimate policy detail of clause 6, keeping in mind what I have already said about exit strategies, if the clause comes into force, to help women to move out of prostitution.

2969. We welcome the aim of clause 6. We welcome the bold attempt to reduce the demand for paid sexual services, which, in turn, fuels sex trafficking. Like Lord Morrow, we are of the opinion that the existing offence — article 64A of the Sexual Offences (Northern Ireland) Order 2008 — is not an effective deterrent. At the moment, those found guilty of using a prostitute subjected to force can be fined a maximum of £1,000. It is a strict liability offence, and, to date, there have been no convictions. We are aware, however, that the Department of Justice is considering extending the time limit for prosecution of the offence to three years. We welcome the extension of time for operational reasons but believe that the penalty of £1,000 is still disproportionate and does not provide a sufficient deterrent to men who are willing to buy, or are negligent about buying, trafficked sex. We ask the Committee to consider several alternatives that perhaps sit between Lord Morrow's proposal and that of the Department of Justice to deal with the purchase of sexual services.

2970. At this point, I should declare that, for the past two years, we have been running a campaign to reduce the demand for sexual services. In April 2012, the Evangelical Alliance launched a campaign calling on the Northern Ireland Assembly to change the existing law so that anyone convicted of using a trafficked person faces at least the possibility of being brought to prison or put on the sex offenders register. Our aim was to use the possibility of a serious criminal conviction as a deterrent: a serious penalty for a serious crime.

2971. By the time that Lord Morrow's Bill was launched, we had 1,200 signatures.

2972. Practically, what we were suggesting involves turning the existing offence — whereby, as I said, you can be given only the penalty of a £1,000 fine into a hybrid offence that extends the time limit and penalties involved. That would give greater flexibility and discretion as to how the offence can be prosecuted. An indictable offence would also need to be added to the schedule of offences that attract a period on the sex offenders register.

2973. Alternatively, we encourage the judiciary to consider a sexual offences prevention order (SOPO). The aim of a SOPO is to protect the public, or any particular members of the public, from serious sexual harm from the defendant. Some will argue that that would be an abuse of such an instrument. They will say that using SOPOs in cases of men who purchase sexual services from a prostitute subjected to force is using a sledgehammer to crack a nut.

2974. Let me say that there are clearly differences between rape and the crime of paying for the sexual services of a prostitute subjected to force, such as the strict liability nature of the offence and the perceived consent that is involved at times. However, it can be argued that people convicted of using the services of someone forced to have sex with them is a danger to the public and, in particular, to members of the public who are selling sexual services

and are already in very vulnerable positions of exploitation.

2975. Those men are the willing or negligent participants in a crime involving forced sex. Crimes such as exposure and voyeurism are already scheduled offences that can attract periods on the sex offenders register. I contend that the crime of paying for forced sex is as serious, if not more so, than those offences. We do not deny that this could be a very serious conviction. We refer to the offence of sexual relationships with a minor, as found in articles 12 to 15 of the 2008 order. Whether the child consented to the act or not is irrelevant. A child under 13 does not, under any circumstances, have the legal capacity to consent to any form of sexual activity. The maximum penalty for rape or sexual penetration of a child under 13 is life imprisonment. For sexual assault, the maximum penalty is 14 years.

2976. The key issue here is the inability to consent. Lord Morrow's Bill deals with the inability to consent in another clause. Lack of consent is the critical turning point in the case of paying for sex with a prostitute subjected to force. A trafficked woman has not willingly consented. We contend that the penalty should be more comparable to that for rape than the current legislation, where the penalty of a £1,000 fine is more comparable to riding the train without a ticket.

2977. Our campaign occupies the same territory as Lord Morrow's Bill. Clause 6 aims to simplify the matter and criminalise payment for any sexual services. We welcome the clear, bold statement that clause 6 makes in saying to society that it is not acceptable to commoditise people by buying sex.

2978. In the light of our campaign and Lord Morrow's proposals, we suggest four possibilities for clause 6 around payment for sexual services. The first two options involve amendments to existing article 64A of the 2008 order. The third involves amendments to clause 6. The final option proposes a third way — splitting the offence into two tiers.

2979. First, we could simply amend article 64A to make it a hybrid offence. The hybrid nature could give greater flexibility in both timescale and penalty when prosecuting. A second option is to amend article 64A to make it a scheduled hybrid offence, with the difference there being that it becomes scheduled. We argue that one of the penalties faced under indictment should be prison and being placed on the sex offenders register. Again, we encourage consideration of a SOPO as a serious deterrent to purchasing forced sex.

2980. We would welcome clause 6 as a hybrid offence. We encourage the timescale for prosecution to be extended to three years if tried summarily. That would avoid the current situation, in which time runs out before a prosecution can be made. We also call for the consideration of more serious penalties. There has been some criticism that clause 6 conflates the issues of prostitution and trafficking. That could be countered by differentiating between, one the one hand, the offence of paying for sexual services and, on the other hand, paying for sexual services from someone who has been subjected to force. That would essentially split clause 6 into a two-tiered offence, whereby the act of purchasing sex is illegal in both instances, but, if force is proved, the penalty becomes much more serious. The draft Modern Slavery Bill is looking at civil prevention orders; that is, a civil order that, if broken, becomes a criminal offence.

2981. **The Chairperson**: Sorry to interrupt you, David. We are short of time, so if you could wrap up.

2982. **Mr Smyth**: Absolutely.

2983. Could that idea be used for those charged with purchasing sexual services where there is a suspicion of trafficking? They would be under the limits of a civil order, so they would not be immediately criminalised. However, if they were to break the order by purchasing sexual

services again, they would face criminal sanctions.

2984. I have other points to make, but I will stop there.

2985. **The Chairperson**: Thank you. We are happy to take points in writing, if you want to send them through to us.

2986. **Mr Carlin**: I will try to be brief. I have been involved in sexual politics all my life. I was involved in a range of initiatives associated with industrial music and manufactured gender from the age of 17. I have worked in Amsterdam — well, I have worked everywhere. If possible, I would like to clear up a misapprehension that I have heard several times during Committee meetings. The reforms in Amsterdam to close half the brothels were not done for moral reasons, to help women or anything like that. They were done because the prostitution sector had become a threat to the state, in the same way that this state may feel that it is threatened by dissident republicans or whatever. The state was becoming frightened of the sex trade. Mr Humphrey made the point that, when he was in Sweden, he talked to a police officer who said that you can phone a number and get through to Bucharest. One of the reasons that I was asked to come out of retirement, if you like, and make this point to you is because you are debating something that is important, not just for your jurisdiction or in helping to tidy up the Southern jurisdiction but for Sweden.

2987. Chairman, you were taking to an academic gentleman from Queen's University, and at some point you said:

"you are reading out the reason why you cannot tell me."

2988. Do you remember that?

2989. **The Chairperson**: Yes.

2990. **Mr Carlin**: The massive increase in prostitution that was being referred to in that phrase was an escort agency, which is operating or effecting, shall I say, out of Sweden. It is exactly the same escort agency as has been repeatedly mentioned to you, with the name that your colleague Mr Wells brought to everyone's attention. That is the downside of the Swedish law. When the Swedes passed the law, they did not get you to do it simultaneously, and that allowed an individual who is very, very talented with technology and telephone systems to expand into areas that were dictated by the domestic crime that was associated with the Swedish state or, indeed, with other areas where they are now closing prostitution down. Introducing clause 6 here would damage the sex industry and the coalition of business interests, which is the major manifestation of organised prostitution in northern Europe. It is important to realise that the most successful entrepreneur in prostitution came from your island. Criminals from as far as Siberia now copy that criminal, and he came from Ireland. He did not come from Russia, and he is not a Serb gangster: he is from here. He is used as an example by organised criminals across the globe because he developed a mechanism for selling prostitution that no one has bettered, and he comes from your island. Passing clause 6 would hurt him, as would banning the advertising of the services of a prostitute. If you can destroy that one person, that one enterprise, it will go a long way towards eliminating trafficking on this island. It would also assist our sister commonwealths, such as Sweden, which are fighting the same battle.

2991. **The Chairperson**: Members, I do not want any comment on other comments and people's positions. I ask members to ask a specific questions to get a specific answer, because we are wrapping this up in 10 minutes.

2992. **Mr Wells**: I ask those groups that said that it had not been successful in Sweden and that it cannot be enforced: have any of you been to Sweden? Have any of you talked to the Swedish authorities and got the evidence, as we have? If you do, you will find that, unless the Swedish attorney general, the Swedish social services and the

Swedish police are telling porkies, they tell a very different story. Have any of the Presbyterian representatives or Nexus been there or made any enquiries to see whether this works elsewhere?

2993. **Very Rev Dr N Hamilton**: In my remarks on behalf of the Presbyterian Church, I was careful simply to ask the Committee whether it was satisfied that the Swedish model can be brought here. We did not express a view on the quality of the Swedish evidence.

2994. **Mr Wells**: Over to the other two groups.

2995. **Ms Clifford**: We echo the sentiments of the Presbyterian Church in that regard. We are in no way seeking to denigrate the Swedish model, but we are concerned about the contradictory evidence that we are finding. As a voluntary sector organisation, we see statistics coming through that contradict the content —

2996. **Mr Wells**: Some of which are driven by the industry. Have you had any contact with the Swedish authorities to ask them what is happening in their country?

2997. **Ms Clifford**: We have not had any contact, but we have not been looking at material from the sex industry; we were looking at statistics produced by the Swedish National Council for Crime Prevention. We are simply seeking additional information and would welcome the opportunity to have it. That is our issue with it. At this point, we are not making any judgement on the merits of the Swedish.

2998. **Mr Wells**: What direct knowledge has Nexus?

2999. **Ms Hunter**: I do not believe that I referred to the Swedish model at all, Mr Wells. It seems that we do not have any knowledge of the sex industry in Northern Ireland, and part of our proposal was to find out what the sex industry is like in Northern Ireland before we make anything legal.

3000. **Mr Wells**: Did the Oireachtas Committee, the Swedes, Norwegians, Icelanders or the French have to go down that route before they adopted the equivalent of clause 6?

3001. **Ms Hunter**: You would have to ask them that. I do not know.

3002. **Mr Wells**: Yes, but what I am saying to you is that they, while going through the process that we are, felt that to be sufficient, given the vast amount of consultation that we have had. They have gone through the process and were satisfied that you do not adopt the oldest tactic in the world to kill off legislation, which is to knock it into the bushes by having further research. They felt that they needed to act. The French are about to act. Prostitution is the same the world over. Indeed, prostitutes in Northern Ireland are being circulated around all those countries; they are exactly the same people. Prostitution is no different and therefore does not require further research.

3003. **The Chairperson**: Mr Wells, I am keen that you ask questions rather than make statements.

3004. **Mr Wells**: Is it not the case that — *[Laughter.]* You still have not answered my question.

3005. **The Chairperson**: I am interested in the position of the Presbyterian Church. I have noted the positions of the Catholic Church, the Evangelical Alliance, the Reformed Presbyterian Church and the Church of Ireland. The Presbyterian Church seems to be somewhat out on a limb. My question to my Presbyterian friends — we have a Committee member who is one of your committee members in north Belfast — is this: if the capacity to enable enforcement could be met, if the issue of vulnerable women being deemed credible witnesses by the courts could be dealt with, and if there were exit strategies for women involved in such circumstances — I agree with the point about therapy for the purchasers, such as Sweden provides — would the Presbyterian Church support clause 6? I think that those were the main points that you made to us.

3006. **Very Rev Dr N Hamilton**: Thank you for that, Chair. It is not an unexpected

question, and I am glad to be among friends, as you put it. If the Committee is satisfied that the concerns that we and others have raised could be satisfactorily addressed, we would be prepared to support a Bill. However, I would add the caveat that we are seeking a wider and more rigorous Bill to deal with the sex industry in general.

3007. **Ms McCorley**: I have a general question about the deterrent effect. I am not convinced that bringing in this clause would stop people wanting to buy sex. We have heard people ask how prostitution can go underground as it is already underground. The clause is targeted at the part of prostitution that is legal, so it would go underground with the trafficking and the coerced and abused people, That is what would happen. The clause is meant to reduce the demand for human trafficking. Does anybody believe that it will bring about that effect?

3008. **Ms Breslin**: It is designed to tackle the demand for the human trafficking of the women whom I have just described. They are two groups of women who are essentially synonymous: women in prostitution and women who have been trafficked into prostitution. There are so many similarities between them that we could almost be talking about the same group.

3009. On the normative effect of the Bill, the research — not just our research with buyers, but research conducted in other English universities — demonstrates that there are many buyers who are ambivalent about their behaviour, have concerns or who have done it only once or twice and are afraid to do it again. On the other hand, we have also seen that a lot of young men are buying early, and some 44% of men in our study had bought before the age of 21. I think that a law like this will tackle some of those who are ambivalent, who are thinking about buying or who are just starting to buy. It will have the normative effect of making them think twice about what they are planning to do.

3010. On the other hand, I accept that there are buyers who are entrenched and that it is something that they do as par for the course, perhaps regularly. They are the ones who need to be tackled. If the normative effect is successful, which it was in Sweden, you will have a smaller sex industry and fewer buyers. It means that, when police resources have to be put into this, they will target a smaller group.

3011. A couple of things were said about prostitution going underground, and the Group of Experts on Action against Trafficking in Human Beings (GRETA) made similar points. That has been said so many times that I no longer know what it means. If the buyers can find the women, so can the police and the support services. It is as simple as that. I accept that there are some closed markets. For example, in London, there are closed markets in the Chinese community, in which women are trafficked in by Chinese men from China and only advertised through Mandarin. However, those markets are a very small part of a big sector. I do not know what the underground thing means any more. As a support service, we can find these women if we need to. We know that we can do that, and we have the mechanisms to do that.

3012. On the issue of shifting the focus of police resources away from investigating traffickers, we would need to do something similar to what they have done in the Nordic countries, which is to take it as a whole operation. They say, “Let us go out there and tackle the three: the punters, the pimps and the traffickers”. They tackle them all at once as part of coordinated operations. They do not just focus on the buyers and forget about everybody else. They have done it in a smart way.

3013. We welcome tourists to our island; that is a very positive thing. Our research shows that sex tourists who tour the world to buy sex do not come to regimes like the one we would have if we brought in clause 6. Our research with men who have bought showed that they absolutely favour going to legalised regimes or to

regimes where the law is not enforced. As far as I recall from our research, the top three favourite destinations are Amsterdam, Thailand — where it is not legalised, but where the regime is extremely lax — and New Zealand. This kind of law is a deterrent to sex buyers who come from abroad as well as those in the home country.

3014. **The Chairperson**: Alban has one very last question, and then we will conclude.

3015. **Mr A Maginness**: Actually, Chair, it is not really a question but more of a comment. We went to Dublin and had a very useful and constructive meeting with the Oireachtas Joint Committee on Justice, Defence and Equality. The point that members of the Committee emphasised was the normative effect of law: if you change the law, different attitudes arise. That has been the case in Sweden, where they changed the law 10 or 15 year ago. That is very important. In fact, your colleague Pádraig Mac Lochlainn emphasised the point about normative values.

3016. My other point is about research, which Nexus also emphasised. There is plenty of research into prostitution to show that it does not differ from one part of Ireland to another. One of the points that the joint Oireachtas Committee made was that you do not need any further research. They told us that the research has been done and that, if we wanted the research, they would share it with us. You can go round the world and see the research and get the same sorry results. That deals with the research point.

3017. **Ms Breslin**: Can I add one thing to that? Sorry, I know that I am taking liberties. A clever thing in the Bill is the monitoring of its implementation. That is where you could build in proper research to assess its impact. In Norway and Sweden they did the same, and they can now look back and observe those changes.

3018. I agree with you that the research is there. I do not think that men in Northern Ireland who buy sex and women in Northern Ireland in prostitution are so different from those in the Republic, the UK and elsewhere in Europe.

3019. **The Chairperson**: People want to continue the debate. Ms McCorley and William Humphrey want to speak again. I really will draw a line under it after we have dealt with those two points. We need to leave, as the First Minister is coming in to host an event.

3020. **Ms McCorley**: I do not think that the case for the normative effect has been proven. I was in Sweden and was told by people who work in the sex industry there that they have seen no significant reduction. There is also evidence that it has increased. In fact, there is Eurostat evidence to suggest that convictions for trafficking in Sweden have quadrupled and that trafficking is increasing more there than in other countries in the area. What the women said — this is very concerning — was that life had got more dangerous and that they felt more stigmatised.

3021. I see no evidence of a normative effect. As somebody said, it is like drugs. Do drugs laws make people stop wanting to take drugs? No. Will this law make men stop wanting to buy sex? I do not think so, and I do not think that the normative effect is proven.

3022. **The Chairperson**: We are into statement territory again. I forgive Rosie as I have allowed others to do it.

3023. **Mr A Maginness**: It is a self-evident proposition that the law changes attitudes, behaviours and values.

3024. **Mr Wells**: As Pádraig Mac Lochlainn clearly stated.

3025. **The Chairperson**: I can hear our Assembly speeches already.

3026. **Mr Humphrey**: I will perhaps continue to make a statement, but only a baby one. As someone who represents north Belfast and who knows about all the illicit criminality that has gone on in this city, and in that constituency in particular, I am afraid that I not convinced that the Bill will drive things underground. They are already

underground, folks. We have heard some of the testimonies of people whose lives have been destroyed by this evil, and Norman is quite right that it is evil. As legislators, we have a bounden duty to protect the most vulnerable people in society. That is simply all that we are trying to do.

3027. These are evil people who are criminals, but they are also very astute and clever businessmen, who are making millions by driving young women, who are denied the most basic of human rights, into appalling conditions and servitude that nobody should be expected to endure in this day and age. It is modern-day slavery that needs to be addressed.

3028. **The Chairperson**: On that point I will finish. I am sorry. I know that people want to speak, but we have to leave the room.

3029. I thank everyone who came. We appreciate your evidence, particularly on all the other clauses. Thank you very much.

20 February 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Assistant Chief Constable Drew Harris	*Police Service of Northern Ireland*
Detective Chief Superintendent Roy McComb	

3030. **The Chairperson**: I officially welcome Assistant Chief Constable Drew Harris and Detective Chief Superintendent Roy McComb to the meeting. I appreciate your taking the time to come to speak to us. As with all our evidence sessions on the subject, it will be recorded by Hansard and published for the record in due course. I invite Drew to make some comments to the Committee. Then members will have questions.

3031. **Assistant Chief Constable Drew Harris (Police Service of Northern Ireland)**: Thank you. I am Assistant Chief Constable Drew Harris, and I am responsible for the crime operations department in the Police Service. That includes the organised crime branch, of which Roy McComb is the head. I am also responsible for serious crime investigation, intelligence and surveillance. I have been in that post for five years. I will let Roy introduce himself.

3032. **Detective Chief Superintendent Roy McComb (Police Service of Northern Ireland)**: Thank you, Chair and Mr Harris. I am Detective Chief Superintendent Roy McComb, head of the organised crime branch. I have responsibilities for organised crime, led by the Police Service, throughout Northern Ireland. That includes human trafficking, prostitution, drugs investigations, extortion, armed robbery and a range of other criminality.

3033. **Assistant Chief Constable Harris**: Thank you very much for the invitation to give evidence, as the Police Service welcomes the opportunity to contribute to the debate. First, we want to highlight the benefit that there has been from the public debate in creating publicity and important public knowledge. There is an understanding in the wider community of the types of crimes that have been going on in Northern Ireland, primarily what has happened in respect of human trafficking and how people are being exploited, not only for prostitution, but for forced labour and domestic servitude, and also increased public knowledge of what they might do to assist us in detecting those offences.

3034. Secondly, I want to highlight that the Police Service's focus is on serious harm, combating human trafficking for whatever purpose it might be — I have already highlighted them — and combating serious harm from organised crime groups (OCGs) involved in prostitution. We welcome the focus that there has been on victims and protecting the vulnerable, whether they have been trafficked or not. We want to highlight that individuals who are caught in that web are on a continuum of vulnerability. That continuum is one of grave danger and vulnerability to assault or serious sexual assault for all those who might operate as prostitutes. One has only to look at the murders of prostitutes, particularly in Great Britain, to see the inherent dangers.

3035. I want to make a few comments in respect of clause 6, which has received

a great deal of attention. We recognise, in the first place, that it is for the Assembly to pass legislation. We believe that clause 6 sends out a strong message. The message, we think, should be that Northern Ireland is a difficult place for organised crime groups to operate in. In part, the attention and focus on human trafficking and the prevention of prostitution are important messages in that. We envisage that, if the law was passed, prosecutions may then flow. However, those would flow from major investigations that are ongoing into organised crime groups. They would in fact be prosecutions as an adjunct or benefit to organised crime group investigations into human trafficking combined with prostitution.

3036. It should be recognised that prostitution in Northern Ireland, although not unique, does have certain characteristics. It is mostly born through the internet and website adverts. Although there is some, very limited, on-street prostitution, in the vast majority of cases it is off-street; it is, therefore, clandestine. Individuals who seek prostitutes run the risk of public shame and therefore may be classed as risk-takers in this society, because they may be ostracised by their friends and family if they became aware that they used prostitutes. Therefore, it is difficult to assess how much impact the threat of prosecution would have on that behaviour. We concentrate upon the organised crime groups and will continue to do that, particularly in respect of human trafficking and prostitution.

3037. A wider aspect is that Northern Ireland is a target for organised crime groups, as it is seen on the global stage as an affluent place. We will continue to be targeted by OCGs whether the legislation is passed or not. A demand now exists for prostitutes, for prostitution in our society and on the island of Ireland as a whole. Crime gangs regard it as high-yielding in hard cash and of low risk. Therefore, it is attractive for organised crime groups to get involved in this crime.

3038. The PSNI remains committed to preventing serious harm and to tackling organised crime. If the Assembly passes the legislation, we will use it to the best effect that we can.

3039. **The Chairperson**: Thank you both very much. Members will have questions, but let me go straight to clause 6. I note your comment that it sends out a strong message and that you link the clause to the legislation for tackling serious organised crime. Should we pass the Bill, including clause 6, how would that complement the legislative tools available to the police to tackle serious organised crime?

3040. **Assistant Chief Constable Harris**: It is an additional offence for which prosecutions could be mounted. You have already received evidence on the lack of prosecutions of those who have used trafficked prostitutes. They have been defeated by being statute-barred. I know that the legislation will change to accommodate that, so it offers us another plank on which to mount prosecutions against those who have used prostitutes. However, the evidential opportunities in this are limited. It would therefore be part of a larger investigation involving surveillance and all the tools that we bring to bear against an organised crime gang, which would probably be best placed to facilitate such a prosecution. You would need a wide scope of investigative effort, using a lot of investigative tactics to gain the necessary evidence. I do not want to go into all the detail, but it would require large-scale effort on our part. That happens anyway in the case of organised crime groups, as we put a lot of effort and resources into them. Prosecutions may flow from that.

3041. **The Chairperson**: Can you give me a sense of the nature of the crime gangs involved in prostitution? Are they involved in other criminal activities?

3042. **Detective Chief Superintendent McComb**: Generally, the assessment of organised crime in Northern Ireland is led by the police but supported by other law enforcement agencies through the auspices of the Organised Crime Task Force. We estimate that the number of organised crime groups in Northern

Ireland fluctuates, but, at the moment, is sitting in and around 145. That is 145 individual groups that can be made up of two, three, four or up to 10 or 12 members at a time. Therefore the better part of perhaps 1,000 people could be involved in organised crime almost as a day job, in effect.

3043. Human trafficking or human exploitation embraces human trafficking for matters other than sexual exploitation as well as prostitution, because there could be prostitution that is not human trafficking. That could be organised crime through prostitution. For the most part, that activity is carried out by non-indigenous organised crime groups — groups from outside Northern Ireland. That has changed slightly, in that, for a time, the non-indigenous groups were working with Northern Irish crime groups. However, it has evolved so that, now, the greater number of crime groups involved in this activity come from outside this jurisdiction. We have led investigations that have had not only a cross-European but a global reach because of the internationalisation of organised crime in this country.

3044. **The Chairperson**: I want to be clear that you are not opposed to clause 6. Does the PSNI have any opposition to clause 6?

3045. **Assistant Chief Constable Harris**: We have no opposition. Overall, we welcome the Bill. We welcome the focus on victims and on what other legislative tools may be brought to bear on human trafficking and prostitution; however, our focus would be on organised crime groups. We have no opposition to clause 6. I think that there is a qualification in our mind about its impact: what are the unintended consequences? Apart from the organised crime group element of prostitution, there are links with the remainder of the industry. We wish to provide them with a service because they are vulnerable, and we wish to ensure that they are protected.

3046. We want to be careful, as the legislation passes, to maintain a sense that those individuals feel that the police service will protect them from assault and serious harm as a result of crime. Some of that has been highlighted to us in correspondence from UglyMugs.ie as well, and we have a qualification in our mind about what the overall impact, the unintended consequences, might be. As Roy said, most of the groups operating prostitution into the island of Ireland, including Northern Ireland, come from outside the jurisdiction, and the legislation and the proposals may send a strong message. I am not sure how much of a deterrent it will be, but it is at least a strong message of the intent of the Assembly and of wider society and our revulsion at this type of crime. Again, we do not know what the consequences or benefits would be, but it would be wrong to say that we were opposed to it. However, there is a qualification in our own mind about the service and our relationship and contact with the rest of those who are prostitutes.

3047. **The Chairperson**: Some in the media have sat in front of us saying that they are on the same side as the Police Service of Northern Ireland, that the police do not want this Bill and neither do they. Where do you see its particular benefit as an additional tool in tackling serious organised crime gangs?

3048. **Assistant Chief Constable Harris**: Of course, there are investigations in respect of the public nuisance element of prostitution, but that is balanced in that we do not want victims of serious crime, particularly those who are vulnerable, not feeling that they can come forward to the police and make complaints. Prostitutes are particularly vulnerable to serious crime and assault; therefore we want to ensure that they feel that they can have a relationship with the police so that they can contact us and report crimes.

3049. **The Chairperson**: I welcome the police's position on clause 6. You touched on how to support victims of human trafficking. In an informal meeting just before this one, we met a girl who gave us her real name, but the name that she prefers us to use in public is Anna. I think that she is familiar to the police, because there was a case recently that

led to a prosecution in Sweden that you were involved in. Anna provided us with her documentation to prove that she was a victim. The Serious Organised Crime Agency (SOCA) had given her an official certificate to the effect that she had been a victim of human trafficking. One of the comments that Anna made, which was alarming to me, was that she felt that the police did not necessarily treat her as a victim, but rather as a source of information to get a prosecution. She raised questions that I think the Committee will want to look at: how we support victims, not just from the police point of view, but as a broader welfare-type package. She said that she felt that the relationship between herself and you — as a corporate body — was that she was a source of information to give you intelligence about the people involved and, potentially, get a prosecution. She did not necessarily feel that she was being treated as a victim and that her needs, as a victim, were being taken care of.

3050. **Detective Chief Superintendent McComb**: First, it is very difficult for us to comment on an instant case; we need to respect the circumstances of the individual. I am alive to the individual that you refer to. We have had significant involvement. On a broader point, our entire approach to human trafficking is victim-centric, and we have made it known to all our staff and investigators that we would rather have an investigation fail than have it lose sight of the rescue and recovery of a victim. That is the first thing that we do; that is what we seek. If we can manage to do that and then frustrate, disrupt or dismantle organised crime groups or detain or detect people involved in the trafficking of people, that is a second big bonus. However, the first and main thing that we are interested in is the rescue of victims.

3051. The provision of services to support victims of human trafficking is well established. They are not provided by the police, but the first contact by the police, who are the first responders, is very important. When we go into an environment where we think we are rescuing victims of trafficking, we are still trying to catch up on the curve of knowledge, so we have to speak to people and gather information from them. It would be churlish to suggest that victims are not rich sources of information and it would be foolish of us not to pursue that as well. However, our opening line and our starting and consistent position is rescuing people and making sure that they get the support that they require through other agencies.

3052. **The Chairperson**: I would expect that response, and my next question is: how do you ensure consistency in that approach amongst all the officers involved?

3053. **Detective Chief Superintendent McComb**: In one sense, investigations have been by a small number of my investigative teams who have, over time, developed a high level of specialist knowledge. We have provided training to the greater number of members of my branch; they have been exposed to national-level training. We give them all the training and exposure to these operations and investigations. Because we are the branch that leads on these investigations, they are not dealt with by the broader police family. Therefore, there is a consistency of approach because the investigations are being dealt with by a relatively small cadre of officers in the organised crime branch.

3054. **Mr A Maginness**: Thank you for coming. This is very useful. I am also interested in your written submission. I am trying to understand the nature of the problem in Northern Ireland. Yes, some prostitution arises out of human trafficking, but there is also "indigenous prostitution" — if that is the wrong term, correct me — which is different and separate from human trafficking. If I am right in making that distinction, what is your assessment of human trafficking in providing people for prostitution?

3055. **Detective Chief Superintendent McComb**: Human trafficking provides one part of the scenario of those involved in prostitution. However, the

greater number of people involved in prostitution in Northern Ireland are not victims of human trafficking; moreover, the greater number of people involved are also probably not indigenous to Northern Ireland. We have experience of seeing people from the wider United Kingdom and Ireland travel to Northern Ireland because, as Mr Harris said, there is a market to be serviced, if I can used that expression. The greater number of people involved in prostitution here are not victims of trafficking, but trafficking provides a rich source of personnel for brothels. Part of that is to meet the personal choice expressed by men who, for the most part, are the ones using the brothels; they almost like the idea of somebody who is not from Northern Ireland.

3056. **Mr A Maginness**: Can I take it, then, that prostitution, or an element or some section of prostitution, is very mobile, in so far as people are being shipped around the country, Britain, the South and so forth?

3057. **Detective Chief Superintendent McComb**: The expression "chicken run" is used in the trafficking industry for girls who are moved not only throughout Northern Ireland but across the island of Ireland. There have been documentaries showing that people have been moved around. Part of it is to meet requests by people who want to use the services but who do not want to revisit a brothel a week later to find the same girls there. It is to keep the market fresh, as it were.

3058. **Mr A Maginness**: And it is much easier to move people around.

3059. **Detective Chief Superintendent McComb**: The second element is that most of the girls whom we have rescued, especially those who have been trafficked, have no clue where they are. They rarely know which country they are in. Even though the language spoken is English, they do not know which country they are in, and they certainly do not know which city they are in.

3060. **Mr A Maginness**: Has the trafficking of girls for prostitution got bigger over the past number of years? I presume that it has.

3061. **Detective Chief Superintendent McComb**: It is a well-established crime activity now. In the past number of years, we have seen that develop from being quite small, based on our understanding of Operation Pentameter in 2007-08, to the point where we have appointed a senior officer to lead on it, because we recognise it as a growing threat.

3062. **Mr A Maginness**: A growing area.

3063. In your estimation, how big is human trafficking for labour and servitude?

3064. **Detective Chief Superintendent McComb**: That is probably the next challenge for us. We have focused on the sexual exploitation end of the human trafficking chain, but I think that labour exploitation is probably another area of business that we will have to look at. In that respect, we work with other agencies such as the Home Office's Border Agency, which is involved in immigration offences.

3065. **Mr A Maginness**: We have been grappling with this for quite some time to get an understanding of the situation. An argument has been put forward that we should forget about the clause 6 aspect, because the situation in Northern Ireland is such that human trafficking for prostitution is not a big problem in any event and because it is inappropriate to criminalise the purchase of sexual services in the Bill. Have you a view, or are you neutral on that, Mr Harris?

3066. **Assistant Chief Constable Harris**: As Roy set out, you have to look at human trafficking beyond Northern Ireland. Somebody may say that you do not have many instances of it in Northern Ireland and that you have 2% of the United Kingdom's problem. However, we still have 2%, which is, you would expect, proportionate to the scale of the problem. Therefore we are no better off than anywhere else in the United Kingdom, and we will be no better off than the rest of Ireland either.

3067. It is a significant problem, given the scale of harm that such crime entails. It is like saying, "You don't have very many murders, so why do you get worried about them?". We have very serious crime, and people are being placed in these awful positions. It is incumbent on society to respond to that. We as a police service have been very active in responding to this over the past six years. We recognise it as the insidious and serious crime that it is and feel that we have responded appropriately. There is something around clause 6. It is the Assembly's decision, but, as a society, how do we respond to this new phenomenon? Six years ago, when Operation Pentameter was run in Northern Ireland, we could find no evidence of human trafficking. When it was run again, a year or 18 months later, we uncovered cases, and it has grown from then.

3068. **Mr A Maginness**: That is very helpful. Chair, may I ask another question?

3069. **The Chairperson**: Yes, by all means. Your colleague wants to come in next.

3070. **Mr A Maginness**: Page 5 of your submission states:

> *"Law enforcement activity to reduce demand for the product of organised crime has concentrated on public awareness rather than criminalisation. It is suggested that demand reduction is focused on awareness within the area of human trafficking."*

3071. I could not understand that; I found it difficult to follow. Basically, you are saying that something to do with awareness is a better remedy than criminalisation. To my mind, that does not follow through. I am not persuaded by that. I think that to criminalise the purchase of sexual services is a huge deterrent. You do not want to be caught in that situation. Even if it is only a fine, as is the case in Sweden or places like that, you have the glare of publicity and are being revealed to family, friends and everybody else.

3072. **Assistant Chief Constable Harris**: I go back to the earlier argument. We cannot be sure because, I think, to go to a prostitute in this society would bring public shame on you in any case, if it was found out. It is going to be a very public event if you are therefore prosecuted in the aftermath. I do not think that it is an either/or. I think that a lot of education is required around the harm that is prostitution. I note in other evidence that people have talked about the importance of education and awareness. Awareness is about people knowing what they are looking at, what seems odd, what it might be, and, therefore, obviously, reporting it to the police. The education relates to educating people on the reality of prostitution for the vast majority of people who are in that industry.

3073. **Mr A Maginness**: Could we say "public awareness and criminalisation" and delete "rather than"? Is that a fair alternative?

3074. **Assistant Chief Constable Harris**: It is a fair alternative. We have made this submission. We have also been aware of how the debate is continuing to develop and move on, and how it probably will continue to develop and move on. With the implementation of this, we will need to be aware of what happens next. Being here today, we can further expand on our views on that.

3075. **Detective Chief Superintendent McComb**: The view that we have of organised crime is that it is a supply-and-demand product. For the most part, law enforcement is about tackling the supply end, which is the people who supply the product, whether that is drugs or, in this case, girls, or, sometimes, men, for prostitution. As a society, we have not often looked at the demand side to take away the enthusiasm of people to buy whatever product organised crime will want to sell you. That is why we wanted to look at the awareness. For a long time, we were engaging with people in communities and the NGO sector. There was not an acceptance that there was a human trafficking problem, so we needed to raise the understanding of it. That is why, as Mr Harris said, the fact that this conversation is going on serves the

purpose that we are trying to achieve, which is to raise the public awareness of the fact that it is happening. Therefore, we can drive out the demand for it and, possibly, even shine a light on it.

3076. **Mr McGlone**: I will be brief. I take you back to clause 6, because that is obviously where the question mark is. You added to that question mark in your comments, whether it was adeptly done or there was a basis for it, by referring to what the unintentional consequences might be. That was either an unintentional remark or a very intentional remark. If it was intentional, from my point of view, I would ask on what it is based. Is it based on experience of this type of legislation elsewhere? If so, what are the unintentional consequences of it?

3077. **Assistant Chief Constable Harris**: We would be particularly concerned about individuals who, outside of organised crime groups, engage in prostitution. We are concerned about their protection, so that, in effect, they do not feel further ostracised or further removed from the police and could not come forward to get assistance. There have been studies about people moving elsewhere and this being displaced. We are an island and, I am not sure, but displacement may be a huge factor in this. Certainly, however, protecting those individuals engaged in prostitution who are vulnerable would be an important caveat in this. We want to be sure that we will still have lines of communication open to such individuals. We must be in the position from which we can protect them.

3078. **Mr McGlone**: That brings us, if I am following your thought pattern, to the very point that some have made. Do you feel that clause 6 has the potential, for those outwith the organised crime groups, to drive this underground and therefore make it more difficult to realise and get evidence that you would require?

3079. **Assistant Chief Constable Harris**: It is underground.

3080. **Mr McGlone**: I mean further underground.

3081. **Assistant Chief Constable Harris**: The criminalisation of the purchasing of sexual services may add a further impediment, and it can reasonably be anticipated that it may add a further impediment to individuals who are prosecuted coming forward to police to make complaints around serious matters or to provide information.

3082. **Mr McGlone**: That is grand. That clarifies that.

3083. The second bit concerns what you said about the evidential opportunities being limited. I listened carefully to what you said: the evidential opportunities were limited and it would potentially fall within a wider scope of investigation efforts. In other words, you are going in with a big hit about other aspects of organised crime, possibly including prostitution, and, as a bit of an add-on, you might scoop a few guys round the edges who had been there. That begs two questions. A considerable resource will be used to catch a couple of individuals in a criminal act, and they then appear in court where they are maybe fined a few hundred quid. They might have been scooped as part of a major effort, and that brings me back to the resource issue, which I put to you as well. You are obviously not going to put in a major undercover team, significant resources and surveillance to wind up bringing a couple of people, who have been commissioning sexual services or whatever, to court where they are fined a couple of hundred quid.

3084. **Detective Chief Superintendent McComb**: That is one of the challenges that we would face. We have to decide how to use our finite resources against the most serious harm visited on society. As Mr Harris said, we may be faced with an option of investigating prostitution that involves a woman who wants to be involved for her own reasons but, should the legislation be passed, the purchase of that sexual service will be a criminal offence. If that is the option versus an investigation into an organised crime group that is trafficking women against their will, almost 100% of the time we will be

focused on that high-end risk. Therefore, the resources are not going to be put towards investigating straightforward prostitution, where there is no element of trafficking and probably a significant element of consent from both parties.

3085. **Mr McGlone**: Which, if I get the logic of where you are going, really brings us back to my point: it would scoop people at the edges as part of a wider catch-all operation against organised crime. However, that approach has the potential not just to scoop people but to drive prostitution and the flow of information from prostitutes to the police further underground. Am I interpreting that right?

3086. **Assistant Chief Constable Harris**: In some ways, we are looking to the future regarding implemented legislation to try to anticipate the risks or what may reasonably happen. It would be a significant disadvantage to us to lose that contact. That has to be set against the wider message that society has sent out about prostitution and the wider message that sends to organised crime groups. That is a difficult judgement to make and a difficult thing to balance.

3087. **Mr McGlone**: OK, thank you for that.

3088. **Mr Lynch**: I think, Roy, you spoke about the importance of focusing on the large groups rather than where there is no evidence of trafficking and there is consent. How important is it to distinguish between consensual paid sex and those who are trafficked or coerced?

3089. **Assistant Chief Constable Harris**: The reality will be that, given the priority we have to give to serious harm, the amount of organised crime work that we have, the scale of the evidential requirements and the operation that we would have to put in place, our effort, on the vast majority of occasions, will be predominantly directed towards organised crime groups.

3090. **Mr Lynch**: I think you said that clause 6 could hamper evidence coming from sex workers or those being trafficked and break those lines of communication. Is that true?

3091. **Detective Chief Superintendent McComb**: The activity is covert and clandestine for the most part at the moment, but there are opportunities for us to understand the picture, and that allows us investigative lines of enquiry. For instance, and it is a matter of public record, various websites are touted as escort sites. That is not fooling anybody about what "escort" means. If selling an escort service is synonymous with selling a sexual service, those websites would go underground or shut down overnight. That denies us an opportunity to understand the nature of the picture of prostitution in Northern Ireland, so there is one potential risk that we would have to consider.

3092. **Mr Humphrey**: Thank you both very much for your presentation. Mr Harris, I very much agree with your assertion that prostitution is driven underground. If that were not the case, your organisation and police forces throughout this kingdom would have much more information and statistics around this issue than is the case. Do you agree?

3093. **Assistant Chief Constable Harris**: Yes, it is clandestine in its type. One of the principal issues for us is that it is hidden from view and we become aware of it only through proactive investigation or complaint.

3094. **Mr Humphrey**: I was part of the delegation that went to Sweden to look at this and discuss it with the Stockholm police. Would you also agree that we are dealing with sophisticated international criminals who, not just in this jurisdiction but throughout most of the European Union, are involved in this criminality, but, because of their sophistication, they are skilled at avoiding detection here in Northern Ireland and across Europe? If I was a cricketing umpire and clause 6 was introduced to take away the corridor of uncertainty, do you think that it would make it worse?

3095. **Assistant Chief Constable Harris**: There is an international and national element for us in that we work closely with the National Crime Agency and on out into Europol. We have been involved in a joint investigation team,

and there is lots of sophisticated law enforcement to be brought to bear. I am not sure what impact clause 6 will have on that international picture. Sweden undoubtedly still has prostitution, some of which is Internet-based and some of which is off-street.

3096. **Detective Chief Superintendent McComb**: More often than not, those from an international background are involved in trafficking as opposed to prostitution on its own. So, it is towards the higher end of it, and they provide that level of sophistication and investigative challenge, not least because they are moving seamlessly across the European Union.

3097. **Mr Humphrey**: That is the point: they are moving seamlessly across the European Union. I have made the point on a number of occasions to delegations that have made presentations to the Committee that we were told of people who were being used as prostitutes in Stockholm but phone calls were going directly to Bucharest because the young ladies were from Romania or other eastern European countries. Therefore, even when resource is put in of the magnitude that it is in Sweden, it is underground. You will not force it underground because it is already underground. They are sophisticated international criminals who are exploiting young ladies, in particular, in the most evil way. It is a judgement, and some people will have their own opinion on it. I and my party believe that it is our duty to protect the most vulnerable people in society, and that is what we are trying to do.

3098. Northern Ireland has a history in the past 30 or 40 years of paramilitary activity, and criminality flows from those organisations. Have you any evidence of linkages between paramilitary organisations and that type of organised crime through trafficking and prostitution?

3099. **Assistant Chief Constable Harris**: About a decade ago, there was some indication of the involvement of some paramilitary groups in prostitution, but, as Roy described, this now has an international element, and those groups just do not have the international reach. You need that international reach to intimidate and terrorise families back in their home countries. We were involved in Operation Describe in respect of phone calls being routed through to Budapest, and we have presented, on our part of that operation, to Europol and Interpol on our good practice. We believe that we are at the leading edge of enforcement activity around those OCGs, and we are very pleased to help our European partners on that. We have been involved, as you will be aware, in a joint investigation team with the Swedish on those very offences. We sit here not without hope. We have invested in the training of specialist officers and also in training the rest of the organisation on awareness and how to recognise that. We have also worked closely with our partners on that. Our ports officers and the UK Border Agency have received training on identifying telltale signs of human trafficking so that we and our partners at the airports and the seaports have an awareness of the signs to watch for. We have been successful in identifying people being moved under coercion.

3100. **Mr Humphrey**: You said that Northern Ireland has 2% of the UK's problem on the issue. We represent about 3% of the UK's population. I take from that that you are saying that it is no better or worse than other parts of the kingdom. The difficulty in Northern Ireland is that it is an advantage to those who are involved in that sort of illicit behaviour that we have a land border with another European state. The Committee recently visited the Dáil and met the equivalent Committee there, where there seems to be all-party agreement to move forward on legislation on this issue. If the Republic moves to address this issue and puts legislation on statute and Northern Ireland does not, do you fear that that would create a soft underbelly for prostitution and human trafficking of prostitutes in Northern Ireland?

3101. **Assistant Chief Constable Harris**: Organised crime groups are very

adept at finding weaknesses in law enforcement, and one would anticipate that they would try to use that weakness. One has to recognise that individuals who use prostitutes do not seem to travel far to do so. Whether there would be a lot of movement from the South into Northern Ireland would be hard to envisage, but we enjoy good cooperation with an Garda Síochána and we share intelligence. All that is written into an intergovernmental agreement of 2002, and we are very active with the guards in sharing criminal intelligence and in trying to identify criminal gangs that are operating across the whole island. We recognise that, from afar, the border can seem to be a point of advantage for an organised crime group.

3102. **Mr Humphrey**: I am reassured to hear that there is good cooperation; that is vital and it will be particularly important if legislation does not follow here at a greater level.

3103. Will the failure to implement completely the National Crime Agency (NCA) in Northern Ireland affect your operation in this matter? Given that it is not fully implemented, do you have the resources to deal with this problem?

3104. **Assistant Chief Constable Harris**: There are a couple of elements around the National Crime Agency and, hopefully, its operation here. Obviously, there has been an issue about accountability and, hopefully, that can be resolved, but the practical impact for us is being felt. We can seize funds through the seizure of criminal assets proceedings, but the NCA is responsible for the seizure of civil assets through civil proceedings. Given that this and other organised crime group activity is all about the cash, that is an underbelly and a weakness for us.

3105. Secondly, the NCA has already been a very active partner with our colleagues in England, Wales and Scotland. Where there is a big operation against an organised crime group, it has, in effect, lent officers to other forces so that there is a surge capacity with detective resources etc. That has been a great advantage.

3106. **Mr Humphrey**: You cannot avail yourselves of that.

3107. **Assistant Chief Constable Harris**: We cannot avail ourselves of that at the moment. That is significant.

3108. **Mr Humphrey**: So, what Mr Maginness called the indigenous people who are involved in this industry or people who are trafficked in Northern Ireland are left more vulnerable because the National Crime Agency is not being fully implemented and you are not getting the resources that other forces on the mainland are getting.

3109. **Assistant Chief Constable Harris**: At the beginning, those vulnerabilities would have been difficult to anticipate, but after five months without the National Crime Agency, we can start to see where cracks are opening up. We are very hopeful that we can get accountability issues resolved because we are missing out on the operational assistance that the NCA can bring.

3110. **Mr Humphrey**: I presume that you have briefed the Justice Minister on this matter.

3111. **Assistant Chief Constable Harris**: Yes, the Justice Minister is aware.

3112. **Ms McCorley**: Go raibh maith agat, a Cathaoirleach. Thank you for the presentation. In your evidence, you said that most of the prostitution is by independent sex workers and not as much by people who are coerced.

3113. **Assistant Chief Constable Harris**: Yes.

3114. **Ms McCorley**: You also said that the deterrent value of the legislation would be minimal in that persons who use prostitutes do so in a clandestine way. Can you elaborate on that?

3115. **Assistant Chief Constable Harris**: It is very hard for us to say what proportion of the industry involves organised crime groups and what proportion involves prostitutes acting individually. The bigger

proportion, by far, is prostitutes who act, in effect, on their own.

3116. As I said, Northern Ireland is not a society in which prostitution is commonplace or accepted. We have not been a society in which prostitution has been very open. We have not mirrored the situation in big conurbations in the Midlands where, for years, prostitution was going on very openly. The nature of our society means that people who use prostitutes are already taking a significant risk with their reputation. It is very difficult to determine what further impact this will have on their behaviour. It might have some effect if there were prosecutions that were publicised, as they would be. Application of the law and successful prosecutions may have a deterrent value. Unfortunately, we have not had successful prosecutions of individuals who have used prostitutes who have been trafficked. Hopefully, we have resolved the situation with respect to statute limitation. Those offences were becoming statute-barred for a summary offence in the middle of what was a complicated prosecution which was to be taken forward on indictment. Therefore, the two timescales were not compatible.

3117. **Ms McCorley**: I believe it is very important that the statue bar is lifted.

3118. **Assistant Chief Constable Harris**: Yes, we see that as being very important in clamping down on human trafficking and we are very pleased that it will soon be resolved. We have to say that this has been a developing picture over the past five years, and we have begun almost from a standing start. As our learning has developed, so has the legislation. That is why, as I said, we welcome this debate. It is part of the wider debate that society needs to have about our attitudes to prostitution and vulnerability, particularly the vulnerability of the men and women who are engaged in the industry.

3119. **Ms McCorley**: As you know, we have heard a lot of evidence, and, as you said, this has become a much wider debate. That is a good thing, because this is a very complex issue. It is complicated, and there are so many aspects to it.

3120. This is a Human Trafficking Bill, and human trafficking, by its nature, involves coercion and force. When we said to people we have heard from that there are laws in place making it a crime to use someone for sex if that person is coerced, if abuse is involved or if they are under age, they told us that there have been no prosecutions, that the law has not been effective and that it has not resulted in reducing human trafficking. They are saying that this law is required in order to make prosecutions more common. Do you think that that is the case? If this law is introduced, it might bring in people who are doing this in a relatively open way. I do not know how openly people do it, but, if they are doing it openly, they, obviously, will become secretive about it. Is this law likely to deter people who are coercing others?

3121. **Detective Chief Superintendent McComb**: As Mr Humphrey said, this is a clandestine activity. In our experience, people do not advertise the fact that they visit brothels or go to a single-person prostitute. Mr Harris mentioned the moral impact on them. If someone were arrested or prosecuted for this, they would be exposed to public understanding, which, undoubtedly, would have an impact on them. If they are being exposed to visiting a brothel now and are not prosecuted, that can be just as powerful because of the social stigma that we think is attached to visiting a prostitute.

3122. There have been prosecutions for trafficking for sexual exploitation. In the course of one of our investigations, which took a considerable period of time because of its international complexity, we visited six men who had visited girls who had been trafficked. We interviewed them and put papers to the prosecution service, only to discover that, unfortunately, the statute was limited to six months from the date of their visit to the girls. That is a lesson for us and we

are pleased to see that the legislation will hopefully change.

3123. We have brought prosecutions forward for trafficking for sexual exploitation. As far as the impact is concerned, we know, from our most recent investigation, our reach and our ability to engage with our European partners especially. The crime groups have probably not really appreciated our capability to reach into other European communities to take them on. This is a global problem, not an Irish problem or a British problem. We are simply one of hundreds of destinations that people go to; so there is a necessity to take forward the investigation of human trafficking on a global basis.

3124. **Ms McCorley**: You have outlined how that is the focus of how you operate, that you are after the criminal gangs and are taking an international view on it. Do you think that clause 6 would make any significant difference to that?

3125. **Detective Chief Superintendent McComb**: Clause 6 is targeted at the people who buy the service as opposed to those who are trafficking people; but it would be wrong to say that there is not a connection between one and the other. It is a service that is being delivered because there is a demand for it. If clause 6 has a positive impact, in so far as it reduces the number of people buying the service because they do not want to be at risk of being prosecuted, and therefore reduces the demand side, then that will have an impact on the supply side, if that makes sense to you. If it has the effect of driving out a number of people who would otherwise, at this point, visit a brothel or use a prostitute, but who will not do so because they could be prosecuted, then that will have an impact on the supply and demand sides. Organised crime is fleet of foot. It seeks out profit where there is least risk. If there is a risk of being caught and prosecuted, people will move into something else; so, it may be positive in driving out and having an impact on the business, but we will not actually know that until we roll the dice.

3126. **Ms McCorley**: Can you say something more about your investigative difficulties. In Sweden, we heard that they would not be able to get prosecutions if they did not have access to wire tapping.

3127. **Detective Chief Superintendent McComb**: At one end of the extreme there are organised crime groups; at the other end there is consensual prostitution, where adults, male and female, agree to participate in a sexual act. At one end, the level of risk is quite low; at the other end, it is quite high. The seriousness of the criminality allows us to engage different legislative tools and less covert means. When you move towards the lower end, where it is consensual between a woman and a man, where a woman decides to be a prostitute for her own reasons and there is no threat, violence or force and it is an independent, conscious decision, then she has not broken any law at that point. If she offers herself to a man for sexual services, that is a consensual agreement between two adults. If this law is passed, then the purchaser of the sex will be committing a criminal offence. For us to use covert means, we need to reach certain thresholds, and this scenario may not allow us to do that. Gathering evidence could involve us trying to find evidence of a consensual agreement between an adult female and an adult male in the privacy of a hotel bedroom. Trying to do that raises all manner of difficulties for us regarding the Human Rights Act.

3128. **Assistant Chief Constable Harris**: Briefly, as far as the legislation is concerned, before you can use the most intrusive means of surveillance, the offence you are directed against must be one in which a person over the age of 21 on first conviction is likely to be sentenced to more than three years imprisonment. That is a high threshold and, obviously, the offence, as indicated at the moment, attracts only a one-year sentence at maximum. That is why, in practice, and with all the investigative tools we might wish to use — and a lot of them would be around surveillance — we would act and look towards

investigations into serious harm, where there were offences in respect of human trafficking, rape, serious sexual assault, grievous bodily harm and those sorts of offences.

3129. **Ms McCorley**: Do you see difficulties in trying to get proof of purchase?

3130. **Detective Chief Superintendent McComb**: In one scenario, a girl is voluntarily putting herself forward as a prostitute. In some scenarios, people may put themselves forward almost as a business enterprise. Although they will have committed no crime, the person buying the service from them will have committed a criminal offence. So, we may be asking a person, who has voluntarily offered themselves, to give evidence against their client. I foresee some real challenges with there being an unwillingness to do that.

3131. A lot of the business we are talking about is built on reputation. Some websites allow people to review the service they got. You can just imagine, from an economic, business point of view, that people will not want to put themselves forward and then have their clients say, "I went to this person, but she then gave evidence to the police about the deal she offered." We see some difficulty; and this is even before you get into the use of the covert, highly intrusive and very expensive investigative techniques that we would want use for other more serious crimes.

3132. **The Chairperson**: Thank you. Before I bring in Mr Dickson, I want to comment on a couple of things raised. I take notes and think, "I want to follow that up." There are more questions coming in as we hear the evidence. Is the threshold for covert surveillance, in which the person has to be over 21 and facing three years' imprisonment, necessary if you suspect that the victim has been trafficked?

3133. **Detective Chief Superintendent McComb**: If you are investigating a crime of human trafficking, the criminality has to meet that threshold, which is applied under the Regulation of Investigatory Powers Act.

3134. **Assistant Chief Constable Harris**: That is for intrusive surveillance. It is a specific form of intelligence within the Regulation of Investigatory Powers Act 2000 (RIPA). However, OCGs breach these thresholds because of the seriousness of the crimes they are engaged in. If you go outside the OCGs and to the single actors in prostitution, you will not breach that high-end surveillance requirement. You may be able to mount surveillance, but it may not be all that you need in for an evidential outcome.

3135. **The Chairperson**: I understand that the Swedish system is different in the sense that the prosecution service seems to be very much involved in directing investigations. I understand that there are differences in how they can get over the line with respect to wire-tapping and those types of processes. However, they say that European human rights legislation applies to them as much as it does to Northern Ireland. We asked them questions such as "How do you overcome this?". The prosecutor who leads a lot of the investigations could not understand why it was even being raised as an issue and why it was difficult in Northern Ireland. They have the same human rights —

3136. **Detective Chief Superintendent McComb**: At times, it is the legislation that has to comply with human rights that can create a challenge.

3137. **Assistant Chief Constable Harris**: The European Convention is the same. The legislation that flowed from the Human Rights Act is very much UK-based.

3138. **The Chairperson**: I do not know whether you said "minimal impact" in your presentation. I think it was unquantified and that you are not quite sure what the deterrent value would be to the ordinary person who uses a prostitute. The Swedish police service said — and I have no reason to suggest why they would tell me different — that the deterrent value in clause 6 would reduce

things by approximately half. That was the deterrent value that allowed them to put their resources into the harder cases. The deterrent value would reduce it by about half. Why would we not have that same kind of deterrent value?

3139. **Assistant Chief Constable Harris**: We hope to have a deterrent value, but I am not sure that I would be able to quantify it. We are a different place. Their legislation was introduced in 1999, and I believe that the particular problem then was on-street prostitution, which was very visible in their city centre. There, as well as here, the character of prostitution and how it is made available has moved on in that it is now internet-based and off-street. The overall deterrent value may have changed.

3140. We hope that it would have a significant deterrent value, because prostitution, in itself, can encourage, or be connected to, other forms of criminality, particularly for organised crime groups. We find ourselves walking a narrow line around organised crime groups, serious harm, public nuisance and public well-being but also the vulnerability of those who engage in prostitution as single actors. So, there is a difficult and narrow line for us to operate on. Clause 6 in particular may change some of that relationship. We hope it will be a deterrent, but it is hard to quantify how much of a deterrent it will be.

3141. **The Chairperson**: Mr McComb, you said that one of the unintended consequences may be that internet sites will shut down. The Swedish police showed us how they track people through the internet sites, and they have had the law for quite a number of years. If the law in Sweden did not result in internet sites shutting down, why would it have that impact here?

3142. Finally, they indicated that evidence from the victims was very useful. It is not just clause 6 in isolation: there is also the decriminalisation of the prostitute. Those two, hand in hand, meant that the evidence was more forthcoming from victims. Maybe, you could touch on the internet and victims.

3143. **Detective Chief Superintendent McComb**: With respect to victims, you are talking about human trafficking, which is clearly a matter on which we want to focus our efforts. We are talking about the circumstances in which people are acting as prostitutes voluntarily. Who is the victim then? Potentially, we do not have a victim in such circumstances, because it is a consensual act. There has to be willingness from that person to cooperate, and I am not so sure that we are going to get the required level of cooperation.

3144. If someone is running an escort website, which everybody knows is for the purpose of engaging in a sexual sale, and you make buying that service illegal, there is a risk that such sites will be put off the market or will become part of the dark web, which is that part of the web that is harder to get to and where you need to be more enthused to get to. That is a judgement we have to make. As this legislation has not been passed, we do not know what its impact will be: all we have to go on is professional judgement.

3145. **Assistant Chief Constable Harris**: It is hard to quantify, because Sweden still has a lot of sites offering escort-type services. The websites are also an area of investigation for us. We do not know what the impact will be regarding websites coming down.

3146. **The Chairperson**: The evidence coming forward is that human trafficking victims have been put into sexual servitude, but that the vast majority of women involved in prostitution did not have a choice: they came from broken homes, they had a drug problem, they had an alcohol problem, they had mental problems. Those people may not have been trafficked into Northern Ireland and they may not be being trafficked internally in Northern Ireland, but they are almost exclusively vulnerable adults who have issues. Are they really consenting adults?

3147. **Detective Chief Superintendent McComb**: I accept that there is a spectrum of people on that side of the consensual element: there are people

with vulnerabilities. We absolutely accept that, and we are clear that we have an obligation to protect them. Our experience so far is that there are a number of people who we have spoken to who are making a lifestyle choice. They are making a choice for reasons that many of us may find difficult to believe, and they are there because they want to be involved in that activity. There are people who we have spoken to who are using it as a means to make a living, pay for a university course or pay off debts. There is a variety of legitimate reasons why people want to do it. I accept that by the nature of the business there will be people involved who have vulnerabilities, such as the ones you mentioned.

3148. **The Chairperson**: This is my final, final point. This is a question for legislators, so it may be unfair to ask you, but should we be, as the Human Rights Commission said, protecting the rights of the minority who are being kept in sexual servitude at the expense of the majority's freedom?

3149. **Detective Chief Superintendent McComb**: If someone is being held against their will and is being asked to participate as some sort of a sex slave, there is a duty on a decent society to do all it can to protect them.

3150. **Mr Dickson**: Thank you for coming along and for helping us with what is a very difficult and complex situation to understand and work around. I want to look first at the situation of individuals who are trafficked for sexual services. You have clearly set out for us the scenario in which it tends to be a bigger police operation for you than it would be if simple sexual services were being delivered. When you carry out such operations, you would enter premises. If, for the sake of discussion, women are present who are clearly distressed — and it would be what any reasonable person would consider to be a horrible situation — are your officers trained to presume that those women have been trafficked? Is there a presumption that they have been trafficked and that, therefore, until you can prove otherwise, they would be provided with the appropriate services given to those who have been trafficked?

3151. **Detective Chief Superintendent McComb**: The short answer is yes. When the officers whom I have the privilege to lead are used for these types of operations, they will have been trained to understand the signs, images and presentation of people who have been trafficked. However, those are simply indicators. They are not, of themselves, evidence. Officers are trained to try to build up a person's trust. We conduct ourselves in such a way that we try to separate people into individual rooms so that they are not being spoken to in the presence of somebody who may be the trafficker or controlling force. We try to separate people so that we can have a conversation to try to understand who is who in that situation.

3152. **Mr Dickson**: Are they treated with appropriate sensitivity? How quickly would you have someone who could translate for you so that you are not screaming at them in English when they have very poor English skills?

3153. **Detective Chief Superintendent McComb**: I would hope that we would never scream at anybody. When we lead intelligence-led investigations, we often go into those environments with a level of understanding about who is likely to be there and the language that they may be speaking. Part of our planning exercise, when we have the opportunity to plan as opposed to having to react quickly, is to have all those agencies available to us as soon as possible. The Police Service is able to have an on-call telephone translation service. We can literally put somebody on a telephone in the middle of the hotel room, bedroom, flat or wherever it might be.

3154. **Mr Dickson**: To what extent is the current failure to have access to the NCA hampering your efforts? I appreciate that you have good cooperation across a wide range of organisations and agencies. Is there a particular point that either

frustrates your opportunities or means that you have to do time-consuming circumventions?

3155. **Detective Chief Superintendent McComb**: To reflect what Mr Harris said, there is an invisible barrier, which is the border with Northern Ireland. The NCA can lead, and in fact has led, international investigations, not specifically in respect of human trafficking but in other matters, in which it has had absolute control and primacy. The moment that that investigation comes into Northern Ireland, the PSNI has to pick up what would be an NCA-led investigation. In the same situation, in England, Wales and indeed Scotland, the NCA would simply carry that through. If our job is to protect the vulnerable and take away the really serious criminals, we do not really have an option to say, "Well, you have brought it this far, but we cannot really help you. You are on your own." We are professionally, but not legally, obliged to pick up the investigation and say, "We will take it from here". That enables us to carry on and do the right thing. However, we have to make a judgement and say that other parts of our business would have to be put into some abeyance for a period. There are practical issues that we see when international investigations have to be supported in Northern Ireland, whereas in England, Scotland and Wales they are simply carried on by the NCA.

3156. **Mr Dickson**: I understand that there are plans to extend the statute-bar period to allow for prosecutions. Is that something that you welcome? What are the practical outworkings of that for you?

3157. **Detective Chief Superintendent McComb**: Yes. We raised that with the Department. With one mind, we thought that it was something that we would like to see fixed. The nature of our investigations into organised crime and human trafficking and exploitation are often not quick operations. They take a period of time. Our focus is on rescuing victims, so the individual who has visited a trafficked victim and has bought a sexual service from them is down the pecking order, as it were, in what we are trying to achieve. We are after the organised crime group. Unfortunately, on the six occasions that we went looking — when we visited six men — in the one operation, it appeared that the legislation did not enable us to do that. We wanted to investigate and bring prosecutions against six people who had been involved in the abuse of trafficked victims, but we were unable to do so because the legislation limited the time.

3158. **Mr Dickson**: Turning to the experience that the Committee had in visiting Sweden, we looked at the model that the police deploy in dealing with these matters. You said that phone tapping and Internet interception comes at a high level in the criminal offence being undertaken. The little piece of video that we saw of an operation was very much a low-level — consensual, if you like — activity. There was no court intervention and no authority given other than that at police superintendent level, which is the level at which the law in Sweden permits interference with telephone communications. That went on to include the placing of — I suppose that you would call them — microphones on the walls of the adjoining room. You obviously have to get to the point where the consensual act takes place, because conversation is not illegal, nor is sitting on a bed beside somebody.

3159. What effect would that have on the resources of the PSNI were that to be what society would demand of you if we were to implement clause 6 in full?

3160. **Assistant Chief Constable Harris**: That which you described as taking place in Sweden is not possible within the present legal framework for how we operate. Under our legislation, it would be classed as intrusive surveillance. Both Roy and I have emphasised that our focus would be on organised crime groups and serious harm, because that allows us all the legislative implements that we can bring to bear for all the tactics that we might wish to apply.

3161. **Mr Dickson**: In the PSNI submission to the Committee, you said in the final paragraph:

"The criminalisation of paying for the sexual services of a person is not supported at this time. It is suggested that further research is conducted into the prostitution environment in Northern Ireland and this may involve wide-ranging prostitution legislation. The support of persons involved in prostitution is also a concern and this legislation does not assist in such support."

3162. Is that still the view of the PSNI?

3163. **Assistant Chief Constable Harris**: I think that I have given a more nuanced view. We have discussed this as a command team, and I am representing the views of the Chief Constable when giving the more nuanced view in respect of the application of clause 6. As I said, I can see issues around deterrence, where it would be a deterrent to prosecute somebody as a result of an operation in an organised crime group, but we are also concerned about the flow of information and driving other prostitutes away from the Police Service, both in providing information and seeking assistance from the police.

3164. **Mr Dickson**: And on that basis — I am potentially not disagreeing with you on the serious crime side of the discussion — are you saying to us that, in fact, clause 6 as it is currently written does not achieve all your objectives or is too broad in its concept and that perhaps we should look at how it can be reworded to put more focus on organised crime?

3165. **Assistant Chief Constable Harris**: With the legislation that we have, and the statute-barred element repaired, you have a focus directly on individuals who have been trafficked for the purpose of prostitution. That then catches a further group where we would be involved: organised crime gangs that are using prostitutes to make money where we are not able to illustrate or prove the trafficking portion of it. We have instances where individual women have been trafficked and controlled by other women who, at times, have acted as prostitutes as well. So, as part of the controlling function, if the demand is there, they also act as a prostitute. That would be where, again, we would wish to use this legislation to bring a further prosecution against an individual who used that woman as a prostitute.

3166. **The Chairperson**: It is worth trying to bottom out exactly your position, because the public will want to know very simply whether you are for it or against it. I want to try to encapsulate exactly where you are. My reading of it is that you have moved on from what the submission states because you have looked at it as a command team. You have been listening to the debate and the evidence coming forward in that debate. It is now at a position where you do not oppose clause 6 but there is qualified support for it. Is that right?

3167. **Assistant Chief Constable Harris**: There is qualified support in that there are impacts that are hard to determine at this stage. There could be positive impacts that, again, are hard to determine now. If we were able to bring prosecutions and this was a substantial deterrent to individuals who want to use prostitutes, that would be a public good for this society.

3168. **Mr Wells**: I am interested in your definition and description of the prostitution industry. For some reason, documents on this issue keep falling into my pigeonhole without any indication of where they came from, anonymously, and, yet again, another load from the police and the Department of Justice has come in. I think that it is worth refreshing your mind as to what your view on this is.

3169. On 25 October, Philip Marshall — via the PSNI, of course — was asked for his view on what constituted the prostitution industry in Northern Ireland. He said that he had a number of key points, one of which was that he believes that 1% to 2% of the women involved in prostitution in Northern Ireland are there by choice. That figure is somewhat at odds with the idea of this being a consensual, happy career choice of women who are doing it voluntary; he says that 1% to 2% are there by choice. He said that, of the women contacted by the Belfast Commercial Sex Workers

Service, 87% had suffered depression, 19% had attempted suicide, 87% had been physically assaulted, 40% had been raped and 55% had experienced homelessness. That paints a rather different picture to me from that in your original paper that the majority of prostitutes in Northern Ireland are career women who had made their choice and are content with their lot. If they are, it is a pretty awful lot. Those are not my words, those are Philip Marshall's words, and there is more. Would you like a bit more? In a paper published by the Department of Justice — again, this was dropped into my pigeonhole — called 'Reducing Offending Among Women: 2013-2016', it says, and this is again about prostitution:

"Women become involved in prostitution for a variety of reasons. Some enter through personal choice, others feel driven to it out of desperation for money, typically to provide for their family or an addiction … Some are trafficked, either within Northern Ireland or into Northern Ireland from another jurisdiction. Most are controlled or exploited by a male partner or 'pimp'."

3170. Again, that is not a glowing reference for the industry in Northern Ireland. If that is the case, are we not dealing with a large number of vulnerable women who really have no choice at all?

3171. **Assistant Chief Constable Harris**: I do not move away from what those documents have said. I have highlighted in my answers and my evidence that we are concerned that all these women are on a continuum of vulnerability, from grave danger through to danger of assault, sexual assault and rape, as highlighted in those statistics. That is why there may be a benefit in this in the deterrent that it may offer and the signal that the Assembly sets out of society's abhorrence at the vulnerability and the abuse of vulnerable people for prostitution.

3172. **Mr Wells**: If 99% of them are there because they do not want to be there, those women find themselves in a very difficult position. Also, the seventeenth, eighteenth and twenty-first Independent Monitoring Commission (IMC) reports found that dissident republicans were involved in organised prostitution in Northern Ireland. Do you stand over those reports?

3173. **Assistant Chief Constable Harris**: I would not contradict those reports, but there is no information at this time that I am aware of to suggest that dissident republican groups are involved in prostitution, and certainly —

3174. **Detective Chief Superintendent McComb**: Sorry to interrupt. What is the latest date for the time periods for the twenty-first report?

3175. **Mr Wells**: That, again, was dropped into my pigeonhole. I do not know the dates but the twenty-first must be quite recent.

3176. **Assistant Chief Constable Harris**: 2010 or 2011.

3177. **Detective Chief Superintendent McComb**: The question was about the role of paramilitaries. We have seen the smallest number of people involved, but they have been displaced rapidly. In fact, in one instance, we had people in organised crime more generally where prostitution, as opposed to trafficking, was just one element. What started out with this particular group having an element of foreign nationals supporting them as the muscle quickly became inverted and the paramilitary group became the muscle on behalf of the organised crime group, which was led by foreign nationals. So, they were displaced by foreign national groups but, again, that is historical.

3178. **Mr Wells**: It must be a great comfort to the women who are locked in various apartments in Northern Ireland and being abused for sexual services that a different cohort of victimisers is in charge of their destiny; it is still a very worrying situation. A report published by the DOJ, in 2011, stated that 85% of men in Northern Ireland would change their behaviour if there was a risk of a conviction under the equivalent of what has now become clause 6. I put it to you that, particularly in rural communities, if there was someone of standing in

the community and a tiny column in the paper said that Mr Smith had been convicted — and fined only £100 — because he was caught in a brothel, the shame of that in a Northern Ireland context who have a hugely deterrent effect.

3179. **Detective Chief Superintendent McComb**: I think that we have said that. We accept that there is a social stigma in Northern Ireland. Notwithstanding how the law stands even at the moment, if people are identified as having visited a brothel when there is no criminal offence involved, we accept the fact that that has a huge impact on them in society.

3180. **Mr Wells**: I would not, obviously, but if I visited a brothel today and I walked out, under the present legislation, there is nothing you can do to me.

3181. **Assistant Chief Constable Harris**: No, you have not committed any offence.

3182. **Mr Wells**: Therefore, my name will not appear in the paper. But if you then stopped me and said, "Mr Wells, we have just seen you coming out of that brothel. We are fining you £100. We are taking you back to your wife", I would only do it the once, I can tell you. I would only do it the once. If I then appeared in the paper, that would be a big deterrent.

3183. **Detective Chief Superintendent McComb**: We did visit people using the 2009 legislation, not intending to cause domestic catastrophe, but I can imagine that that was the outworkings of it — one of those unintended consequences. We did knock the doors of six men and had those conversations. That did not lead to a prosecution, but I would be not at all surprised if, as a consequence of that, the follow-on conversations were far more difficult than the conversations that we had with those people at the door.

3184. **Mr Wells**: If you knew my wife, I would say that it would be a very difficult conversation.

3185. **Detective Chief Superintendent McComb**: Absolutely, and we accept the fact that there is that deterrent value, and we accepted that in the evidence.

3186. **Mr Wells**: That leads on to the issue of the Swedes. I hope that you have been on the plane. I do not normally support the police going off on foreign trips, but this is one that you should make. The Swedes — we spent a very interesting day with them — told us that their stats indicated that the demand from Swedish men for prostitutes' services had halved. That is against a backdrop of countries such as Germany and the Netherlands, where it has rocketed. Therefore, the impact has been more than that.

3187. **Detective Chief Superintendent McComb**: I certainly have not been to Sweden, nor has Mr Harris, in respect of this legislation, but we have conducted a joint investigation with the Swedish police. So, I have had investigators embedded in Sweden for considerable periods. If you will allow me to present it as second-hand evidence from them, I will say that their experience is different. Their experience is not that it has had that positive impact but that there is still a significant prostitution problem in Sweden. More so, there is still a significant human trafficking problem in Sweden. It is not the on-street prostitution. It is off-street, more clandestine and more sinister in so far as human trafficking is concerned. As for that being second-hand information, those were my detectives and senior investigating officers having those conversation with their counterparts in the middle of an investigation that was focused on human trafficking.

3188. **Mr Wells**: I do not think that anyone who supports clause 6 is saying that it will wipe out prostitution in Northern Ireland. I think that we accept that. However, the Swedes have measured their performance against that of somewhere like Germany, where the line on the graph has gone sky high. In other words, the growth there would have been stopped.

3189. They told us another very interesting statistic, which was that the reoffending rate was amazingly small among the hundreds and hundreds of men — the vast majority are men — who had been intercepted, taken back to their wife and

fined and seen their name appear in the paper. That indicates that the shame of what they had done clearly registered. So, they did not find that the same customers were coming back time and time again.

3190. **Detective Chief Superintendent McComb**: The social stigma today of visiting a brothel, where there is no criminality, is, I think, significant in Northern Ireland. If it were publicly recognised that Jim Wells visited a brothel, the social stigma would be huge. I absolutely accept that.

3191. **Mr Wells**: He would also be an ex-MLA. [Laughter.]

3192. **Detective Chief Superintendent McComb**: The additionality of Jim Wells being exposed and prosecuted would add to that. We accept that, but —

3193. **Mr Wells**: That is useful. Unless the Swedish prosecutors, social services and police are telling us porkies, I have to say that their evidence, like the evidence from other countries that did this such as Iceland, indicates that it suppresses demand, but it does not wipe it out, and no one is pretending that it will.

3194. **Detective Chief Superintendent McComb**: We express a caution that you have to compare like with like in respect of legal systems, societal attitudes, social pressures, the prosecution service, the attitude of the prosecutors, the evidential issues, the evidential processes and the investigative processes. Those things have to be seen in the mix.

3195. **Mr Wells**: There is an argument going round that you cannot — I think that this is the word — conflate prostitution with trafficking. Why, in July 2011, did Douglas Grant, who is a senior police officer — I do not know the gentleman; he is known as Dougie apparently, but I think that his proper name is Douglas — decided to merge the trafficking and prostitution units within the PSNI? Why was that done?

3196. **Detective Chief Superintendent McComb**: For a start, he did not; I did.

3197. **Mr Wells**: Oh right. Sorry about that. He announced it. He took the credit.

3198. **Detective Chief Superintendent McComb**: At that point, Dougie was the, what we call, service lead. He is one of my detective chief inspectors at this time. We did not have a standing prostitution unit. We had quite a small cadre of people who had experience of human trafficking. Recognising that it was an emerging and increasingly difficult issue and that there are overlaps between human trafficking and prostitution, I merged the concept and the service lead issues and called it "human exploitation", because there are two elements to it. So there is an overlap, but one is not synonymous with the other.

3199. **Mr Wells**: But it is interesting that you made that decision because you could see a very clear overlap between prostitution and trafficking.

3200. **Detective Chief Superintendent McComb**: I accept that. Absolutely.

3201. **Mr Wells**: So those who say that you should not link the two are, frankly, talking through their hat.

3202. **Detective Chief Superintendent McComb**: Well, no. We do not support the idea that there is no link. What we do say is that there is no absolute link. One is not a mirror image of the other. You can have human trafficking that is not at all linked to the sex trade, and you can have the sex trade that is not at all linked to the human trafficking trade.

3203. **Mr Wells**: You have tended to add some weight to the argument that criminalisation drives it further underground. Yet, interestingly, again, the Nordic countries have not suggested that that is a problem. If someone who needs to make contact with the provider of sexual services can do so through the Internet, why can the police not make the same contacts? If you arrive in a town and want to acquire the services of a prostitute, by its very nature, you have

to have access to the information to obtain those services.

3204. **Detective Chief Superintendent McComb**: Take the scenario of buying drugs: you cannot just look up the Yellow Pages and order drugs. The reason for that is that it is a criminal act. If it were not a criminal act, you would see ads in the Yellow Pages and websites popping up. If you reverse that and make something a criminal act — it is not unreasonable to think that something that is not a crime today will be a crime tomorrow — it becomes much more difficult to access that information.

3205. **Mr Wells**: Yet, the Swedes apparently had no problem whatsoever.

3206. **Detective Chief Superintendent McComb**: I revert back to the point about whether there are absolute parallels between the Swedish justice system and societal system and the Northern Ireland systems.

3207. **Mr Wells**: The French took a look at the Swedish system, and they are going down exactly the same route. It is strange that very different countries with different systems have all looked at the Nordic model and thought, "There is something going on here". I accept your point, but I would have thought that the difference between drugs and prostitution is that, with prostitution, you are talking about human beings who have to be accessed. That is rather more difficult than a small packet of powder being slipped between one person and another. I would have thought that you would have the ingenuity, as policemen, to track down the prostitutes using [Inaudible.]

3208. **Assistant Chief Constable Harris**: Part of the fear that we are expressing is on the vulnerability therein. Will they report crimes to the police in the overall climate of clause 6 being in place? Will they report assaults or sexual assault? We want to make sure that we keep an avenue open for that and that they do not feel that we will just be focused on the criminality of the individuals who used them as a prostitute.

3209. **Mr Wells**: But if you make the buyer the criminal, why would that make the person who is being abused less likely to report crime?

3210. **Assistant Chief Constable Harris**: That is what has been represented to us in correspondence.

3211. **Mr Wells**: Yes, and I am coming to that. You quoted it, and I am extremely worried about who you quoted. You said that you were in correspondence with Ugly Mugs and Escort Ireland.

3212. **Assistant Chief Constable Harris**: They sent me a letter.

3213. **Mr Wells**: Do you know what Escort Ireland is?

3214. **Assistant Chief Constable Harris**: Yes, I do.

3215. **Mr Wells**: It is the largest prostitution website, run by Peter McCormick and Mark McCormick, in Ireland. I will say it again — Peter McCormick and Mark McCormick. They have both been prosecuted and convicted, and they are both perfectly open about what they do. They have 400 women being trafficked internally on the island of Ireland weekly, and that includes Northern Ireland. As we speak, 45 of those women are in Northern Ireland. They are being trafficked around. I hope that you followed the line of questioning I made to the Ugly Mugs representative, Lucy Smith. Ugly Mugs is quite clearly the front spokesman for that organisation. There is no question about it. Why are you regarding what they are telling you as anything but the voice of the industry, and they would say that, would they not?

3216. **Assistant Chief Constable Harris**: They would say that, would they not, but then you yourself have quoted to me the statistics on the vulnerability of prostitutes, and that is our concern. Throughout our evidence, I have highlighted the fact that our concern is around the vulnerability of those individuals. As I said, they are on a continuum of vulnerability to very grave danger. They are in danger of being attacked, physically assaulted

or sexually assaulted, and we want to be sure that they know that, if they come to the Police Service, we will respond properly in protecting them and investigating those offences.

3217. **Mr Wells**: I think that that is important, but if you take your steer from a front organisation that is funded by the prostitution industry, I think, it is clearly very tainted evidence.

3218. **Detective Chief Superintendent McComb**: I am not sure that we are taking our steer from them. We make our own judgements.

3219. **Mr Wells**: You quoted them several times in your earlier evidence.

3220. **Detective Chief Superintendent McComb**: Certainly not consciously. I have not met them.

3221. **Assistant Chief Constable Harris**: I think that we quoted the correspondence that was provided to us once. Ugly Mugs does exist elsewhere and is used by Merseyside Police as a conduit to prostitutes in its policing area. That was as a consequence of the murder of a prostitute. We have to bear in mind the lessons and awful experience there has been, both in Merseyside and Ipswich, of the murder of prostitutes, and the need to be able to keep a route of communication open with that vulnerable group of people.

3222. Our position has changed. I think that it has become more nuanced, but we cannot know all of the impact of the provision of the legislation. If it is the deterrent that is described in Sweden, that will be a public good, as I have already said, but we just want to be mindful of the consequences as well, if there are any consequences.

3223. **Mr Wells**: It is worth saying, on that letter you received, that none of those people is from Northern Ireland. Equally, I must make it very clear that the Laura Lee lady has admitted to this Committee that her International Union of Sex Workers includes the largest pimp in the north-west of England, Douglas Fox. So, you must always treat the evidence from so-called prostitutes' collective groups with extreme suspicion. You would be better to speak to prostitutes individually when they are not being coerced by their pimps and their controllers, rather than to the so-called groups, which are clearly front people. The pimps cannot come here and give us opinions, obviously.

3224. **Assistant Chief Constable Harris**: We have experience of prostitutes being in a position of vulnerability and being subject to crime. That is the reality of our policing experience.

3225. **Mr Wells**: May I say that I welcome the different nuances that you have and the stance that you are taking on clause 6? You have moved from a position of outright opposition to one where you can see some benefit from it, even though you still have some concerns about what you might see in the outworkings. That is a major step forward. It is interesting that the two organisations in Northern Ireland that are directly involved in the care of prostitutes, including Women's Aid, are very strongly in favour of clause 6.

3226. **Assistant Chief Constable Harris**: I have taken notice of their evidence as well, and I respect it. The evidence from the Committee has provided us with further information on which we can make judgements. It would be foolish for us to have adopted a position six months ago and to have stuck fast to it, especially in the light of emerging evidence and a more thorough understanding of what happens in Sweden. However, I will point out that there is a caution, in that police officers are naturally cautious about what the unintended consequences might be.

3227. **Mr Wells**: I think that it is a very welcome move, and it shows the benefit of the Committee system and of people listening in to hearings. I am certain that the Committee can give some consideration to allaying your fears. I see it as a major step forward in the protection of vulnerable women in Northern Ireland.

3228. **Detective Chief Superintendent McComb**: Just to drive it home, let me

reiterate a point that I made earlier. Organised crime is about making money and is driven by supply and demand. If one of the consequences of the Bill, particularly clause 6, is to have that 85% of men who today visit a brothel or a prostitute determine that they would not then visit them, it changes the supply-and-demand nexus, and organised crime will react to that. This is only a hypothesis, but if that 85% of people who today use a brothel or a prostitute determine that they will not do that today or tomorrow for fear of being prosecuted, it changes the supply-and-demand nexus and will have an impact on organised crime generally.

3229. **Mr Humphrey**: That is not an excuse not to do it.

3230. **The Chairperson**: It is the opposite.

3231. **Assistant Chief Constable Harris**: It is the reason to do it.

3232. **Detective Chief Superintendent McComb**: Absolutely, and I thought that I made that clear. That is the point that I am making. If the Bill passes and it has that effect, we will be the first people to say "Hallelujah", because we are in the business of protecting vulnerable people.

3233. **The Chairperson**: Amen.

3234. **Mr Wells**: It is worth saying that, in the Twittersphere and on the Internet, huge insults are being thrown at members of this Committee and at Lord Morrow because there is a fear in the industry that, if we go down this line, the Republic might do so and eventually the rest of the UK as well. The industry will then react by moving somewhere else. That is what happened in Sweden; it moved across the border to Denmark. However, we have no control outside Northern Ireland, and we have to do what is best for our people. So, the industry clearly sees the writing on the wall with this legislation. People in the industry are not sitting there saying that this is going to have no impact on prostitution; they are extremely worried. That is where we all want to get to: less organised crime and fewer vulnerable women locked in rooms being abused, even as we speak.

3235. **Mr Elliott**: Thank you very much, and I apologise for missing the start of your presentation. I have a couple of questions, but if you have dealt with some of them, please tell me. You mentioned the percentage of prostitutes in Northern Ireland that are trafficked. Can you remind me of that percentage?

3236. **Assistant Chief Constable Harris**: No, we are not able to give such a percentage. Research was quoted that suggests that it lies between 1% and 2%, but, as I sit today, I could not put a figure on that, Mr Elliott.

3237. **Detective Chief Superintendent McComb**: We would say that the picture of prostitution in Northern Ireland is more tainted for those who have not been trafficked than for those who have.

3238. **Mr Elliott**: You mentioned clause 8 and said that it would be unwise to introduce an automatic immunity from prosecution. Do you believe that the current legislation is sufficient?

3239. **Detective Chief Superintendent McComb**: Clause 8 provides for almost a mandatory immunity. We have seen people in our investigations raise nothing about being trafficked when they are caught in the middle of the cultivation of cannabis especially. Very late in the day, they might suddenly throw in the allegation that they had been trafficked. We are obliged to pursue that as a very proper allegation. Oftentimes, we have not found evidence to support it. So, this would allow people to claim from the get-go in a range of different criminal investigations that they had been trafficked. If you are caught driving from Fermanagh to Belfast with 100 kg of cannabis, you can see a circumstance where you would immediately say, on being arrested, that you are doing it only because you have been trafficked. If that is the case, it potentially raises a number of barriers to prosecuting people who have not been trafficked but who have been involved in serious criminality. That automatic

assumption that they would be given immunity would raise some difficulties. Those issues of immunity have to be addressed in the round by the prosecutor understanding the totality of the evidence that is presented to them.

3240. **Mr Elliott**: In your evidence, you touched a little on the Swedish model. To put it in my terms, you do not believe that that has been as effective as it was intended to be or maybe as some pretend that it is. Why do you think that is? Why do you think that it may not have been as effective?

3241. **Assistant Chief Constable Harris**: I am not an expert on Sweden's legal system or the particular policing problems that it faces, but it seems that the problem that Sweden faced with prostitution was a very significant social issue and that this legislation came after a number of decades of consideration about what should be done about prostitution in Sweden. The difficulty is that, with that base of a problem, there is money and there is demand. As Roy said, organised crime works to gain money against an illicit demand. Therefore, the Swedes faced a very difficult problem with prostitution, which is now coupled with human trafficking. We have first-hand experience of working with the Swedes on human trafficking involving prostitution. Thankfully, I think that we are starting from a different base level of prostitution in Northern Ireland, certainly, and, hopefully, on the island of Ireland. We are at an advantage to the Swedish. That may mean that we do not see all the advantages that the Swedes enjoyed. However, we also have a different legal system, so because the law will not allow them, we are precluded from some of the operations that the Swedes conduct.

3242. **Mr Elliott**: Finally, I think that your words were that, although the police are still opposed to clause 6, there is qualified support for it. Can you explain that a bit further, because it does leave it hanging?

3243. **Assistant Chief Constable Harris**: We are not opposed to clause 6, if I can use that phrase back to the Chair. We give it qualified support because of some of the consequences that may flow from it. We talked about those at some length, mainly information flow, but, more importantly, the vulnerability of people who are prostitutes.

3244. **Mr Elliott**: To be clear, does that mean that the paper that you provided to us is now not accurate?

3245. **Detective Chief Superintendent McComb**: No, I think that what we said is that, since the paper was submitted, we have looked at it not only against the evidence that has been heard in this Committee but against the additional learning that we have had in investigations, conversations and discussions with professionals. An NGO engagement group has been set up. There has been a variety of information sources, and that commands us to think that maybe we do not want to take an absolute position at this point. So, the paper was presented in good faith. It was presented as our position at that time, but, to use the cliché, when you have new information, you have to consider your position.

3246. **The Chairperson**: I think that that is the right way for people to approach this discussion. Indeed, a Sinn Féin TD said that he came into this with his eyes a bit blinkered, but that, having tested the evidence and examined the issue, he now wholeheartedly supports what they are trying to do in the Republic of Ireland, which is exactly what we are trying to do here in Northern Ireland. I think that that is the responsible way for organisations and individuals to come to this issue so that they can ensure that they do not have closed minds and that their eyes are open. So, I think that that is an approach to be commended.

3247. **Mr Anderson**: Gentlemen, thank you for coming to the Committee today. We talked about the international crime gangs that are operating not just here but right across Europe and further afield. My colleague Mr Humphrey and, I think, Mr Dickson touched on the National Crime Agency. Roy, I think

that it was you who said that, when it comes to a certain distance and stops operating here, you come up against an "invisible barrier". Is that the term that you used?

3248. **Detective Chief Superintendent McComb**: It is like an invisible border.

3249. **Mr Anderson**: When you come up against that, how much does it hamper efforts on trafficking right across Europe? You more or less have to pick up the pieces. Is there a big void that would be mostly filled if we had the NCA operating right across?

3250. **Assistant Chief Constable Harris**: Any time that we worked with SOCA, which was the predecessor to the NCA, we found that it would take on international investigations that had a foothold in Northern Ireland, if I may describe it that way. It would take on these big international pieces of work with scope. We would assist, but it would be one of the lead agencies. That is one of the things that it was good at doing. The NCA has also now picked that up. What happens now is that, as it arrives in Northern Ireland, we have to lift the mantle of law enforcement. That creates a break or a lacuna in the operation.

3251. Therefore, we have to prioritise the work that we are involved in. It is a resourcing issue. It is perhaps not the most effective way to work operationally. We are cut off from a search facility. Beyond that and in the longer term, there is still asset recovery through the civil courts, which will be a bigger and growing issue as the months go by. We have a lot of goodwill with the NCA, and we have information-sharing agreements with it. We also understand, and have been very much involved in the discussions on, the accountability of the NCA operating in Northern Ireland.

3252. **Mr Anderson**: I am trying to work out how big a void there is here. How much more would it help if the NCA were operating right across? Is there such a big void here? I forget the numbers, but Jim talked about the numbers being trafficked into the whole of Ireland.

3253. **Detective Chief Superintendent McComb**: We have a finite capacity. We need additional support, and the difficulties of getting mutual aid are well documented. Before 7 October, we had the capability to use NCA officers who had the powers to assist us in investigations. From 7 October, that has not been available to us. So, we could not rely on that and had to become self-sufficient. This is about not just human trafficking; it is about organised crime or serious crime in its widest remit. The NCA is simply not there as an asset.

3254. Another point that we are making is that Northern Ireland is not isolated from the internationalisation of organised crime. It is here. Organised crime of an international nature is here in Northern Ireland today. The NCA provides that international reach, which, at times, is denied to us. That can only have the impact of making Northern Ireland a more vulnerable place for its citizens and a more lucrative place for organised criminals.

3255. **Mr Anderson**: I think that we are saying today that, if we had the NCA operating right across, it would be so much more helpful resource-wise and with everything else.

3256. **Detective Chief Superintendent McComb**: Take just one example. The amount of money that can be made from human trafficking, prostitution, drugs and other organised crime activity is significant. We need to prosecute people. If those people are in Northern Ireland, we need to secure a criminal conviction before their assets can be taken off them. If we cannot bring that higher standard of proof, which is the criminal standard of proof, we do not have the option to use the civil standard of proof to take assets off them. Therefore, people who have been involved in the most egregious criminality can hold on to assets, simply because we cannot find the higher evidential standards of proof. So, you could find that Northern Ireland becomes a place where criminal assets are left untouched simply because the ability to take them off those people,

and the agency that is empowered to do so, is not there in statute.

3257. **Mr Anderson**: It is worrying that that could happen. What I am trying to say, and what I think others would say, is that the NCA would be a great tool for working right across and would bring some of the numbers down.

3258. **Ms McCorley**: Go raibh maith agat, Chair. Thanks for letting me in again. I have two points to make.

3259. It has taken us a long time to get through the discussion, but it has all been very useful. Legislation in France was mentioned, and my understanding is that that was a comprehensive piece of legislation. The difference here is that the Human Trafficking Bill has one clause that deals with prostitution. You expressed reservations, and I have concerns about the impact on those who will be affected by the Bill and by its unknown consequences. We do not really know what those will be. So, given that, I think that there is a good argument for having separate legislation on prostitution and to do that in a comprehensive way, rather than through a single clause that just leaves it hanging and does not deal with other aspects, outcomes and consequences. So, I wonder what you think about that.

3260. It was also mentioned that clause 6 will criminalise the buyer and decriminalise the seller. I am not sure whether that is true; I am not sure that there will be a decriminalising of the seller. Will you make that clear?

3261. **Detective Chief Superintendent McComb**: I do not think that we used the expression "the decriminalisation of the seller." Currently, a woman who sells herself for sexual purposes does not commit a criminal offence unless she is in a brothel. The legislation will not change that, but it will change the buying of that service from the other party. It will criminalise one element of it. The seller will commit no offence, but the buyer will commit an offence.

3262. **Ms McCorley**: That is how I read it. It has been described in a way that sounds as though it is making life a bit better for the seller, but it will actually not change anything.

3263. **Detective Chief Superintendent McComb**: Legally, it will not change the situation. If it is a case of a male and a female, it will not change the situation for a woman who sells herself for sexual services; the buyer will become the one who commits the criminal offence.

3264. **Ms McCorley**: OK. What about my other point?

3265. **Detective Chief Superintendent McComb**: We are a law enforcement agency. We were invited here and are grateful for the opportunity. We give our views on how we think legislation may impact.

3266. I think that the legislation raises a number of possible positives and negatives. We do not know, because it is such a difficult issue, as was mentioned. Ultimately, if the legislation provides an opportunity to reduce the harm to vulnerable people, reduces the demand for sexual services, has an impact on organised crime-related activity and reduces the impact of human trafficking in Northern Ireland, it will all be to the good. If it has the reverse effect, it will clearly not have worked. Unfortunately, we do not legislate; that is a matter for you.

3267. **Mr McCartney**: Thank you very much for your presentation. On a lighter note, as you were walking in the door, I was reading that paragraph about the Lord Chief Justice saying that we were acting outside our powers. I thought that he had sent you in early — [Laughter.] That is maybe for another day, as the saying goes.

3268. It was interesting to follow your commentary, and, as the Chair said, people should be led by evidence. A number of years ago, Assistant Chief Constable Will Kerr was appearing before the Justice Committee and made what, to me, was the very forthright and honest assertion that no police service in the world would refuse any power. However, the issue is what you do with

that. I think that we were discussing legislation on drinking alcohol on buses, and he made the point that it would be a good power to have, but whether it would ever be used was something else. You can see that type of debate with clause 6. You could have that power, but whether you use it or not —

3269. **Detective Chief Superintendent McComb**: It is like a fire extinguisher.

3270. **Mr McCartney**: It is that type of thing. We have to ensure that we do not legislate because we think that it is a good thing, but it has no consequence. It may not tackle the problem that we are trying to tackle. Do you have a view on that?

3271. **Assistant Chief Constable Harris**: We talked about what we see as the difficulties and how we would see the Bill in the organised crime group arena so that we could use the full menu of police tactics to get evidence. If the legislation was passed, we would respect it. We would also respect the manner in which it was passed and its purpose and intent of trying to reduce the demand for prostitution. However, as we outlined at some length, that is not say that there will be a whole set of operations around all prostitution. That would not happen. We have to prioritise and focus on where we see organised crime, primarily because of the serious harm that is always involved with organised crime groups.

3272. **Mr McCartney**: It is always interesting, because we use statistics to either prove or disprove something, and they can sometimes be used liberally. We are told that no one knows the extent or the nature of prostitution in the North and that nobody knows the precise number. So, we must keep that in mind when we hear people talking about percentages of what is an imprecise number. At present, it is a crime to pay a coerced person for sex.

3273. **Assistant Chief Constable Harris**: Yes, and there is an important change in that not becoming statute-barred.

3274. **Mr McCartney**: Chief Superintendent Philip Marshall, allowing for his use of percentages, said that, in his opinion, only 2% were doing it by choice. That means that 98% are not doing it by choice, so it is a form of coercion.

3275. **Assistant Chief Constable Harris**: The coercion could be due as much to the dire straits in which they find themselves socially, such as deprivation, drug addiction, mental health or whatever. It may not be human trafficking-type coercion.

3276. **Mr McCartney**: I accept that, but I am making the point that, in acting as a deterrent, the person who enters into an arrangement does not know whether they are doing it with a coerced or trafficked person. In the past year, how many people have been convicted of paying for sex to a coerced or trafficked person?

3277. **Detective Chief Superintendent McComb**: None, on the basis that the legislation requires a charge or summons to be brought within six months of the sexual engagement or its purchase. In the investigations that we have had, unfortunately, which we have to take our own responsibility for, we focused on the rescue of the victims and targeted the prosecution of the organised crime groups. It was a very deliberate action on our part to target, as a second wave, men who had been involved in buying a sexual service. It was an error on our part that that was statute-barred. So, the answer at this point, Mr McCartney, is zero.

3278. **Mr McCartney**: We have heard that Sweden relies heavily on wiretapping —

3279. **Assistant Chief Constable Harris**: We are precluded from doing that.

3280. **Mr McCartney**: You cannot do that?

3281. **Assistant Chief Constable Harris**: No. We are precluded by legislation even from talking about it, really. So, it will not be an evidential avenue for us.

3282. **Mr McCartney**: I had not heard about your officers being in Sweden, but would

they have submitted a report of their experiences there?

3283. **Detective Chief Superintendent McComb**: How do you mean "a report"?

3284. **Mr McCartney**: Maybe a published report that they submitted when they came back that contained their views so that they can be shared.

3285. **Detective Chief Superintendent McComb**: No, their being in Sweden was in the context of a live operation, so it was the operational learning from two law enforcement agencies with different elements working together for a single purpose. So, it was in the environment of saying, "We do this and they do that; they can do this, we cannot do that; we can do this". On that basis, no reports have been submitted. There is a prosecution report that will be with the Public Prosecution Service, but that is not the type of report that I imagine you are referring to.

3286. **Mr McCartney**: Would it be something that you feel would be helpful for the Committee to use?

3287. **Detective Chief Superintendent McComb**: No, because its purpose is to consider the prosecution of people who —

3288. **Mr McCartney**: No, in light of this discussion, I am talking about it perhaps not being a bad idea to ask the officers who were in Sweden to put their thoughts on paper so that we can share them. Those are people who may, in the future, be tasked with pursuing this and have had experience of the Swedish model.

3289. **Detective Chief Superintendent McComb**: I trust that I have not misrepresented their experiences —

3290. **Mr McCartney**: I would not suggest that you had, but sometimes, as you said — I do not doubt the accuracy of this — in formulating an evidence-based report, it may be better that we have it in writing.

3291. **Detective Chief Superintendent McComb**: I am slightly worried about that, because I think that what you are talking about is — forgive the expression — two cops having a conversation: one Swedish, one from Northern Ireland. That is not to say that they are inaccurate or are making anything up, but it is two police officers having a conversation such as this, and to convert it into a report that comes to the Committee is, I think, probably not what the conversation was intended to be.

3292. **The Chairperson**: Very finally — you have been very generous with your time — I want a bit more detail on the evidential requirement before you can use covert methods. People who are involved in trafficking can get a conviction for beyond three years for that offence. Does that not meet your threshold?

3293. **Detective Chief Superintendent McComb**: It does.

3294. **The Chairperson**: If it was trafficking on the basis of someone's sexual servitude, you could not —

3295. **Detective Chief Superintendent McComb**: You can, because trafficking for the purposes of sexual exploitation breaches that threshold. Prostitution that does not involve trafficking — the Bill proposes a one-year threshold — would not reach that threshold, nor would some of the high-end covert activities.

3296. **The Chairperson**: It is about how you can identify that. Obviously, you will know that, when information comes in about a brothel — I hate using the phrase "consensual prostitutes" because I question that — and there are human trafficking victims, we can use covert methods.

3297. **Assistant Chief Constable Harris**: You would want to establish whether that is the activity of an organised crime group or activity outside of an organised crime group. I will not use the word "consensual"; you have to establish whether it is the activity of an organised crime group and, therefore, other elements of serious harm will be present, either trafficking, coercion,

violence or whatever it might be, or whether it is outside of an organised crime group.

3298. **The Chairperson**: However, if you identified a brothel and victims of human trafficking are involved, you can determine that that meets the test for the use of covert methods. If that did not identify a human trafficking victim, and someone used a prostitute who had not been trafficked and the offence was going to attract only a one-year sentence, you could not prosecute that offender on the basis of the covert evidence.

3299. **Assistant Chief Constable Harris**: We would not have the evidence from surveillance. I understand that, in Sweden, some prostitutes have given witness evidence and that suspects are willing to make admissions and have the matter dealt with quickly through the courts. However, we would have to present a case that was complete to the Public Prosecution Service for the alleged offence. That is not to say that it could not happen, but our emphasis and priority in using our resources is always going to be around organised crime groups and serious harm.

3300. **Detective Chief Superintendent McComb**: In the scenario that you painted, Mr Chairman, if we had information that a particular premises was being used today for prostitution or that people were being held as trafficked victims, we would not be seeking to use covert means as a first step. We would be looking to do a fairly rapid intervention in order to rescue and protect the victims. Using covert methods can sometimes be a slower burn and would not necessarily be our first action. We would seek to use the powers that we have to enter the premises and rescue victims first of all.

3301. **Assistant Chief Constable Harris**: That is worth emphasising. Even with the feedback that you received from Anna, our priorities are, in the first place, public safety and the safety of these individuals; the criminal justice strategy comes as a third or fourth priority. The purpose of our interventions is to prevent further harm and to save people from further abuse.

3302. **The Chairperson**: I want to ask you about your covert methods, if you ever had them — say, you had a video of someone. We were shown a video in Sweden of someone walking into premises and walking out 15 minutes later. That was pretty much enough to prosecute. Would that even be admissible in proceedings here if you had that to charge someone? That person will have broken the law in respect of clause 6, and you will have the covert information to prove it.

3303. **Assistant Chief Constable Harris**: If that was the height of your case, you would be well short of the proofs that the PPS would require. There are two elements: there is an exchange that is a purchase, and there is an exchange that is the sexual services provided. Evidence of someone going in and out of premises would not be sufficient for a prosecution.

3304. **The Chairperson**: I am, perhaps, misrepresenting them. They said that they would go in and get a witness statement from the individual, which is usually enough.

3305. **Assistant Chief Constable Harris**: They also use their wiretap evidence to show the person's intent, but we are precluded from doing that.

3306. **Mr McCartney**: How many people have you rescued from trafficking?

3307. **Detective Chief Superintendent McComb**: Since 2009, the Police Service — my own branch — has conducted 12 proactive operations. We have rescued 18 potential victims of human trafficking, conducted 75 searches and arrested 41 people.

3308. **Mr McCartney**: Is that all involving sexual exploitation, or is it across the range?

3309. **Detective Chief Superintendent McComb**: Those are exclusively for the purposes of sexual exploitation.

The figures for victims who have been rescued are greater, but those are the proactive, intelligence-led operations that the PSNI has led: 12 operations, 41 arrests, 75 searches and 18 victims of human trafficking.

3310. **The Chairperson**: Mr Harris and Mr McComb, I thank you both for coming to the Committee. I know that we have spent a long time going over your evidence, but it has been very helpful.

6 March 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

Witnesses:

Mr Gareth Johnston	*Department of Justice*
Ms Amanda Patterson	
Mr Simon Rogers	
Ms Julie Wilson	

3311. **The Chairperson**: From the Department of Justice, I formally welcome Simon Rogers, the deputy director of the protection and organised crime division; Gareth Johnston, the director of the criminal justice policy and legislation division; Julie Wilson from the protection and organised crime division; and Amanda Patterson from the criminal justice policy and legislation division. The meeting will be recorded by Hansard and published in due course. I will now hand over to you, and then we will take up the issues.

3312. **Mr Simon Rogers (Department of Justice)**: The Department has been asked to brief members on the Minister's response to the Committee's evidence sessions on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

3313. In October last year, the Department provided a written paper in response to the Committee's call for evidence. The paper indicated that the Minister supported the motivation and sentiment behind the Bill and welcomed its positive impact in raising public awareness. The Minister supported many provisions but also highlighted areas of concern.

3314. Since then, the Minister and Lord Morrow have engaged on the content of the Bill in order to agree amendments to resolve, when possible, those areas of concern. We think that good progress has been made, and the Minister and Lord Morrow jointly wrote to members on 14 January, setting out the areas on which they had reached agreement, where engagement was ongoing, and one issue on which agreement was not reached.

3315. The written paper provided for today's session sets out the Department's detailed clause-by-clause response to the Bill. It highlights the areas in which the Department intends to table amendments and to what effect. From contact with Lord Morrow, we understand that he also intends to table amendments, and we have also sought to highlight those.

3316. I do not intend to repeat in depth the points in the letter, but it may be helpful to draw out some areas for the Committee. The first of those is to remind members of the Minister's consultation on new measures to add to the Bill and to strengthen further our response to human trafficking and slavery. We briefed the Committee on those measures in January, and the proposals that are out to consultation will simplify the legislative framework, increase the maximum sentence, introduce new court orders to protect the public, provide effective oversight of government and law enforcement actions and enhance our understanding of the extent of offences in Northern Ireland through data capture.

3317. Subject to the consultation and the Committee views on that, and to timing, our preference, as we explained previously, is to legislate for these proposals, if possible through amendments. Lord Morrow indicated that he is sympathetic to that approach,

and we are confident that the proposals that I outlined will complement and strengthen the Bill.

3318. As we explained, some will have a direct impact on the Bill. We think that that is why it is preferable to amend the Bill rather than having to amend a subsequent Act. Clauses 1, 5 and 14, in particular, would require amendment.

3319. I want to focus on three main areas that remain of concern to the Department. Clause 4 deals with minimum sentences. In summary, it provides for a mandatory minimum sentence of two years for human trafficking and slavery offences. The Minister intends to oppose its inclusion in the Bill on the basis that judges should be free to take full account of the potentially broad scope of circumstances of each case in delivering a sentence. Nonetheless, he recognises that the clause may be supported by the majority in the Assembly. It is, therefore, important to highlight our most serious concern about the clause, which is that, as drafted, it would apply to children as well as adults. The Minister's strong view is that children should not be subject to the same sentencing framework as adults.

3320. Lord Morrow has acknowledged the Minister's concern, and we understand that he intends to table an amendment to disapply the provision in clause 4 to children.

3321. Clause 8 concerns the non-prosecution —

3322. **The Chairperson**: Simon, we will get to clause 8 as we go through the Bill. I will ask you to comment on each clause, so if you are happy, that is the approach that I will take to try to keep members from jumping from clause to clause.

3323. **Mr Simon Rogers**: I was trying to help the Committee by highlighting the three areas that, from the Department's perspective, cause concern. I am happy to pass on, if that is better.

3324. **The Chairperson**: That would be great. I understand that the Committee staff advised the Department to go through each clause rather than highlight particular clauses. We will get to all the clauses, so we will avoid repetition, and it will help us be more efficient.

3325. Will you start with clause 1, which is the definition of human trafficking and slavery offences?

3326. **Mr Simon Rogers**: We do not propose any amendments to clause 1. The consultation that we are undertaking has a bearing on it, but, as it stands, we have no concerns about clause 1.

3327. **The Chairperson**: In your original submission, you indicated a recommendation to amend clause 1(b) to include other relevant offences under sections 12 and 13 of the Gangmasters (Licensing) Act 2004, but you are not doing that now. Why?

3328. **Ms Julie Wilson (Department of Justice)**: We had another look at it, and we took legal advice. We did not think that the nature of those offences was relevant to the other provisions that clause 1 and the offences under it would capture. They are linked in nature to exploitation, but the level of the offence is different, and we did not think that it would attract those other provisions under Parts 2 and 3 of the Bill.

3329. **The Chairperson**: Thank you. If members have no questions on clause 1, we will move on to clause 2.

3330. **Mr Simon Rogers**: Clause 2 specifies the circumstances in which a victim's consent to any action related to being a victim of human trafficking or slavery should be deemed to be irrelevant. Again, we have no comments on it, and we are certainly not proposing any amendments.

3331. **The Chairperson**: If members have no questions on clause 2, we will move on to clause 3.

3332. **Mr Simon Rogers**: Clause 3 deals with aggravating factors. It would require a court to treat a range of specified factors as aggravating factors when sentencing for human trafficking or slavery offences. Our position had been

that sentencing guidance was already available through the Crown Court, but we have looked at the weight of opinion that is coming through the Committee on the clause, and the Minister has reflected on that. He wants to highlight the fact that, strictly speaking, aggravating factors did not need to be expressed in statute, but he will not propose any amendments to clause 3 or, indeed, oppose it.

3333. **The Chairperson**: I am assuming that the Department will support clause 3.

3334. **Mr Simon Rogers**: Yes.

3335. **Mr Elliott**: I recall a question about clause 3 on more flexible sentencing guidelines or the use of sentencing guidelines. Has the Department moved away from that?

3336. **Mr Simon Rogers**: Our view is that aggravating factors are better dealt with by the court. In the case of R v Pis, the recorder at the time, Judge Burgess, set out the aggravating and mitigating factors for this offence, but the Department is trying to show a spirit of cooperation and support for the Bill rather than to look as if it is being negative about it. If the general view is that people would like to see aggravating factors included, we will not stand against those.

3337. **Mr Elliott**: You still think that it is wrong, but you will not object to it.

3338. **Mr Simon Rogers**: We are not saying that it is wrong. The normal form for stating aggravating and mitigating factors is through sentencing guidance rather than statute. That is not always the case. Some statutes cover aggravating factors, and, in this instance, the Minister has taken the view to work with clause 3 as it stands.

3339. **The Chairperson**: Do you want to recap on clause 4?

3340. **Mr Simon Rogers**: Clause 4 would introduce a compulsory minimum custodial sentence of at least two years for any human trafficking or slavery offence under the Bill, unless a court was of the opinion that there were exceptional circumstances to justify it in not doing so.

3341. As I said, the Minister's view is that judges should be free to take account of the potentially broad scope of circumstances in each case in delivering a sentence. He does not support clause 4 for that reason. He has, however, indicated to and agreed with Lord Morrow that the provision should not extend to children, and Lord Morrow has indicated that he proposes to table an amendment to that effect, which the Minister would support.

3342. **Mr A Maginness**: I want to clarify something. It seems to me that this is not, strictly speaking, a compulsory minimum custodial sentence. Clause 4(2) states:

"unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so."

3343. Is that not sufficient qualification to permit sufficient judicial discretion on sentencing?

3344. **Mr Simon Rogers**: It is, and sentencing guidelines will often give that option in cases. The view of the Department is that it is better not to have a raft of statutory provisions that will then have an exception in them and that it would be better to leave this discretion entirely in the hands of the judiciary. We have already set out — for example, in the case that I mentioned of R v Pis — the aggravating and mitigating factors. Almost as a matter of principle, the Department does not favour minimum sentences, which are quite a rare occurrence in statute at the moment.

3345. **Mr A Maginness**: I agree with that position, and I do not believe that there should ordinarily be mandatory sentences, but I think that this is sufficiently qualified in that it does not fit into the category of being strictly a mandatory sentence because of the exceptional circumstances aspect of the clause. Does the Department agree?

3346. **Mr Simon Rogers**: The Minister's intention is to oppose clause 4, because he does not think that it is a good principle to have a minimum sentence in this case or, indeed, to start extending minimum sentences across other criminal offences.

3347. **Mr A Maginness**: You are saying, to all intents and purposes, that this is a mandatory minimum sentence?

3348. **Mr Simon Rogers**: Yes. The difficulty is that, if every case becomes an exception because the judiciary thinks that two years is too grave because of a guilty plea or the circumstances of a case, our concern is that the exception becomes the rule.

3349. **Mr McCartney**: How rare are minimum sentences?

3350. **Mr Simon Rogers**: The only one that I am aware of, in a statutory situation, is in a firearms order that dates back to the 1970s. I am looking at Gareth because he might know whether there is another one. That is the only one that we could turn up.

3351. **Mr Gareth Johnston (Department of Justice)**: There is an extent to which, with murder, a life sentence follows, but there is discretion in the tariff that is awarded.

3352. **Mr McCartney**: I accept that, but for Alban's contention for it not to be seen as a mandatory or minimum sentence, "exceptional" would have to be defined. My only concern is that everybody will find an exception.

3353. **The Chairperson**: We will move on to clause 5.

3354. **Mr Simon Rogers**: Clause 5 makes amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 on the definition of trafficking and exploitation.

3355. We do not have concerns about the intended effect of the clause, but our consultation would introduce a new consolidated offence that would have an impact on clause 5 if, through the consultation, that proposal is accepted. At least one minor technical amendment is set out in our paper around positions of trust, and we think that that needs to be tidied up. We have been working with Lord Morrow on that, and he agrees that it should be tidied up.

3356. **The Chairperson**: If members have no questions on clause 5, we will move on to clause 7.

3357. **Mr Simon Rogers**: Clause 7 would place a statutory duty on the Department to ensure that appropriate training is provided to those responsible for investigating and prosecuting offences of human trafficking and slavery and that effective investigative tools are made available. Although we recognise the importance of training and of resources being provided for front line professionals — that is reflected in our action plan to a great extent, in which priority is given to training in investigation and prosecution — our concern is that clause 7(1) places a duty solely on the Department that it is not able to deliver, since the organisations and agencies that the clause is intended to cover are wider than the authority of the Department.

3358. The Minister has discussed the matter with Lord Morrow, and they have agreed that the clause 7(1) issue would be best addressed by an amendment to clause 15, which is to do with prevention, to require the strategy under that clause to include training in investigation and prosecution. We would seek an amendment to omit clause 7(1) and amend clause 15. We have no concerns with clauses 7(2) and 7(3).

3359. **The Chairperson**: Is Lord Morrow content with that approach?

3360. **Mr Simon Rogers**: Yes, he is.

3361. **Mr Elliott**: I am sorry; which clause do you intend to remove?

3362. **Mr Simon Rogers**: It is clause 7(1).

3363. **The Chairperson**: It is the statutory duty for training. The Department also wishes to amend clause 15.

3364. **Mr Elliott**: OK.

3365. **The Chairperson**: If members have no further questions on clause 7, we will move on to clause 8.

3366. **Mr Simon Rogers**: Clause 8 would provide immunity from prosecution for victims of human trafficking when they have been compelled to commit a criminal act as a direct result of being subjected to threats, abduction, fraud, deception, the abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, or when the victim is a child. This is one of the areas about which the Minister has expressed significant concerns because he feels that it would fetter the Director of Public Prosecution's (DPP) current obligations under the Justice (Northern Ireland) Act 2002 to review each case received in accordance with the code for prosecutors in order to determine whether criminal proceedings should be instigated or continued.

3367. Clause 8 would go beyond our obligations under the EU directive in that it does not require member states to ensure immunity but rather to ensure that prosecutors are entitled not to prosecute or impose penalties on victims; that is already the case here. Obviously, under the test for prosecution, the DPP would consider whether the public interest calls for prosecution and punishment. We are aware, from the DPP's office, that there have been no prosecutions in cases in which the person concerned was a victim of human trafficking.

3368. In addition, as the Committee is aware from evidence put to it, the Attorney General's draft human rights guidance for the Public Prosecution Service (PPS) also deals specifically with the issue. Our concern is that clause 8 does not provide a proportionate or appropriate response in that it would introduce a less-nuanced and fact-specific approach to the crimes than is presently available. The Minister has discussed this with Lord Morrow, and he has confirmed that it is not his policy intention to provide a mechanism for blanket immunity but rather to ensure that victims are protected from prosecutions that are not in the public interest in cases in which they have been compelled to commit offences.

3369. The Minister shares that view, but the Department believes that the protections are already available. Therefore, we do not support the clause; it is an area on which we will continue to have discussions with Lord Morrow. We are also in discussions with the PPS to see whether the guidance that it has issued could be strengthened in some way. In short, the Department would not support clause 8.

3370. **The Chairperson**: Do members have any questions on clause 8?

3371. **Mr Elliott**: I have a specific interest in clause 8. Although the Department does not support it, you said that there are ongoing discussions with Lord Morrow. Are you coming any closer to a resolution? I assume — it is only an assumption — that he plans to keep the clause. Perhaps he will make amendments. Is that right?

3372. **Ms J Wilson**: Lord Morrow has said that he also wants to be informed by any recommendations from the Joint Committee in Westminster that is looking at the modern slavery Bill and is also considering this issue. We share the same policy intent in that we want to avoid victims of human trafficking being prosecuted when that is not in the public interest. We think that there may be issues around awareness in the criminal justice system. We have already begun to do things with that. We have written to stakeholders across the criminal justice system to highlight the issue. One issue that we have considered is whether raising awareness across the criminal justice system could be covered under the annual strategy in clause 15 and whether we could perhaps amend the clause to require that strategy to look at those kinds of issues.

3373. We are also aware that the Crown Prosecution Service has issued more detailed guidance on the issue. We

have written to the Director of Public Prosecutions to seek his view as to whether similar guidance would also be helpful here.

3374. **Mr A Maginness**: I must say that I have a lot of sympathy with the Department on the issue. If blanket immunity were granted, there could be people who were originally victims of human trafficking but who have gone over to support criminal activity and have carried out serious offences. You could find that those people are guilty of criminal offences, but immunity could be exercised in circumstances in which it is totally *[Inaudible.]* We heard some good evidence on that during a session in the Long Gallery. Perhaps we should revisit some of that evidence to see whether there is a way forward. It seems to me that the best way to deal with that is probably to look at the prosecutorial guidance and, if that is weak, to strengthen it in order to safeguard genuine victims of human trafficking.

3375. **The Chairperson**: We can do that.

3376. **Mr Simon Rogers**: Chief Superintendent Roy McComb, in an evidence session here, highlighted the risk of all defendants arguing that they are victims of human trafficking to open up a new line of defence, which is another concern. We fully support the objective that Lord Morrow seeks, which is that victims of human trafficking who, as a result of that, have committed an offence should not be prosecuted. The PPS is at one with us on that. The risk of clause 8 is that it goes much further than that objective.

3377. **Ms McCorley**: I have similar concerns about creating blanket immunity. It is difficult to cover every single eventuality. In circumstances in which people might be arrested for an offence and who then say that they are victims of human trafficking, are they automatically put into the national referral mechanism (NRM), which can take up to 90 days? Will that prosecution be pursued while such a person is in the referral system?

3378. **Ms J Wilson**: There are two stages in the national referral mechanism. Before you get to the 45-day recovery and reflection period, you first need to satisfy the test of reasonable grounds, which has a lower threshold of proof. However, some evidence would still be required to satisfy the competent authorities in those cases that there are reasonable grounds that that individual is potentially a victim of human trafficking. The actual recovery and reflection period does not begin until that reasonable grounds test is carried out, which is supposed to be within five days. There is then the longer 45-day-plus period until a conclusive determination can be made as to whether that person is an actual victim. The two-stage process helps and identifies those people who may be making a claim that they are a victim when there is no evidence to suggest that there are reasonable grounds.

3379. **Ms McCorley**: Has it ever happened that someone has claimed to be a victim of human trafficking, and a decision was made against that, and he or she has gone on to be prosecuted for an offence?

3380. **Mr Simon Rogers**: I do not think that we know the answer to that. We would need to ask the Public Prosecution Service. We know that it has not prosecuted individuals who were involved in sexual and labour exploitation, so it has examples. We did not ask for too much detail on that, but we know that that is the case.

3381. **The Chairperson**: Let us move on to clause 9.

3382. **Ms J Wilson**: Clause 9 provides a definition of a victim of human trafficking for the purposes of Parts 2 and 3 of the Bill. In effect, we support the clause, but we think that it needs some amendment. The current definition provided under clause 9 would encompass potential victims of human trafficking and those who had been referred into the national referral mechanism and received a reasonable grounds decision and are in the recovery and reflection period, as well

as confirmed victims who have gone through the NRM process and received a positive conclusive determination.

3383. The Department is satisfied that the effect of the definition in clause 9 is appropriate for the requirements set out for assistance and support under clause 10 and the clause 12 requirement about the appointment of a child trafficking guardian. However, we have some concerns that the current definition would not have the appropriate effect for other clauses under Parts 2 and 3. Although we agree that the provisions in clauses 10 and 12 should be available to potential victims under the NRM and to confirmed victims, we think that clause 11, which relates to compensation, should apply only to confirmed victims since not all potential victims may receive a positive conclusive determination confirming them to be victims. The Department will seek an amendment that would set out separate definitions for potential victims and confirmed victims under the NRM. We have discussed that with Lord Morrow and his team, and he is content, in principle, with the intended amendment.

3384. **The Chairperson**: How would the outworkings of that help with compensation for victims?

3385. **Ms J Wilson**: We think that the clause on compensation should apply only when someone has been confirmed as a victim rather than to people who are still going through that process and who may receive a negative conclusive determination. It is about defining those two groups of people who will be entitled to supports, but our view is that those supports should be different, according to their status.

3386. **Mr A Maginness**: Who will give compensation to victims of trafficking? Will the Bill rely on the criminal injuries compensation scheme? Under that scheme, is there provision for compensating victims of human trafficking?

3387. **Mr Simon Rogers**: Yes, there is. There are cases in which victims have been compensated. Julie said that it would apply to confirmed victims rather than to what I might call "speculative" claims from people who have not been defined as a victim. Clause 11 deals with compensation. Chair, do you want us to wait until we come to that?

3388. **Mr A Maginness**: Maybe we will wait. I would like to know a bit more about the compensation.

3389. **The Chairperson**: OK. Let us move on to clause 10.

3390. **Mr Simon Rogers**: Clause 10 would place requirements on the Department of Justice and the Department of Health, Social Services and Public Safety to provide support for victims and potential victims of human trafficking. The Minister has already signalled that he is proposing to bring forward secondary legislation in this area and is, obviously, therefore content with the policy objective behind clause 10. However, we think that some clarification is needed about the respective responsibilities of the Department of Justice and the Department of Health. We also need to look at the language of the clause. We are liaising with officials in the Department of Health with a view to seeking some amendments to clarify that. We have been discussing the position with Lord Morrow, who is happy in principle, subject to seeing the detail.

3391. **The Chairperson**: Are members OK with that?

3392. We will move on to clause 11.

3393. **Mr Simon Rogers**: Clause 11 takes us back to compensation. It requires the DOJ to set out by order the procedures under which a victim of human trafficking can apply for such compensation. The current arrangements are set out in the criminal injuries compensation scheme 2009. Lord Morrow and the Minister discussed this, and they agreed that clause 11 could be amended to require the Department to bring forward statutory guidance, as opposed to an order. We are seeking an amendment

to that effect. In addition, since there is no requirement for an applicant to be resident in Northern Ireland to be eligible to apply for compensation, Lord Morrow has agreed that clause 11(b)(ii), which deals with leave to remain in the United Kingdom to claim compensation, should be removed. So, we propose to bring forward an amendment on that.

3394. **Mr A Maginness**: Where the level of compensation is concerned, what would the victim of trafficking be compensated for?

3395. **Mr Simon Rogers**: We do not have figures, I am afraid, but we can certainly provide them.

3396. **Mr A Maginness**: Currently, if I were a victim of human trafficking, for example, I could apply to the criminal injuries compensation scheme and receive a payment from it.

3397. **Mr Simon Rogers**: That has happened.

3398. **Mr A Maginness**: Is that for being trafficked?

3399. **Ms J Wilson**: I think that it is for the level of injury against you.

3400. **Mr A Maginness**: Do you see the point that I am making? Are you being compensated for injuries received, as the scheme is arranged for? If I were locked up and beaten up and that sort of thing and suffered an injury, would the compensation be for circumstances such as those?

3401. **Ms J Wilson**: My understanding is that that is what the compensation is for.

3402. **Mr A Maginness**: So, you would not be compensated for being trafficked per se.

3403. **Mr Simon Rogers**: No, you would not per se. It is down to injury, which you are alluding to.

3404. **Mr A Maginness**: There are lots of rules for receiving compensation. You have to see a doctor in certain circumstances, you have to have repeat visits to doctors, and you have to show a degree of injury that reaches a certain level of gravity that merits compensation. All those rules would still apply to people who are unaware of the scheme and the various hurdles that they would have to get over and so on.

3405. **Mr Johnston**: There is, however, a degree of flexibility in the various rules. For example, one principle is that the matter should be reported promptly to police. In the case of someone who has been held and imprisoned as a trafficked person, as it were, compensation services will have a degree of latitude in when the matter is reported to police. You are not going to expect that of someone who is not in a position to report. So, there is a degree of flexibility in those rules that allows an equitable approach to be taken in such cases.

3406. **Mr A Maginness**: I am not aware of such flexibility shown by the —

3407. **The Chairperson**: In the evidence that we received, Victim Support indicated all those hurdles and said that it was very problematic for victims of human trafficking to meet the criteria.

3408. **Mr A Maginness**: I will just make the point that, although I understand that the Department is trying to be helpful, I am not so certain that the scheme as it is presently operated is friendly towards victims of human trafficking. That is because there are so many different hurdles, such as evidential hurdles, hurdles about the level of injury and medical reports, etc. Perhaps that should be looked at to some extent to see whether amendments could be made to the compensation scheme so that those who are trafficked can benefit from the scheme.

3409. **Mr Simon Rogers**: We were all about to say the same thing.

3410. **Mr Johnston**: There is to be statutory guidance, and that is the position that was agreed with Lord Morrow. So, those sorts of issues could be covered in that guidance.

3411. **Ms J Wilson**: A review of compensation legislation that focuses on criminal damage has begun. However, it is

also going to look at criminal injuries. I understand that Victim Support has said that that review is the appropriate place to be looking at those issues, and the review can consider the definition of criminal violence and such things and how trafficking victims can apply for compensation. So, there is a review process, and it will allow those issues to be looked at.

3412. **Mr A Maginness**: This might be too radical a step to take, but it might be appropriate to look at trafficking being regarded as a criminal injury that is compensable to a certain degree. That might be a helpful suggestion.

3413. **Mr Simon Rogers**: We will certainly feed that into the review team. The other thing, which I want to mention very quickly, is that you would be signposted in the support mechanism. Women's Aid and Migrant Help signpost victims to compensation and a whole range of other services, but that is one of the things on which they could get advice, etc.

3414. **The Chairperson**: We will now move on to clause 12.

3415. **Mr Simon Rogers**: Clause 12 sets out a requirement that:

"each child who might be a victim of trafficking in human beings shall have a child trafficking guardian appointed to represent the best interests of that child"

3416. in specified circumstances. The Department of Health has overall responsibility for child protection, and this clause is really outside the Department of Justice's remit. However, we understand that the Health Minister is supportive in principle of and is engaging on this clause. From the Department of Justice's perspective, there is no opposition to it, but it really falls to the Department of Health to take it forward.

3417. **The Chairperson**: We will now move to clause 13.

3418. **Mr Simon Rogers**: Clause 13 would place a statutory duty on the police to prevent secondary victimisation during police interviews by avoiding unnecessary repetition of those interviews, visual contact between the victim and the accused and unnecessary questioning concerning the victim's private life. Again, this is an area where the Minister previously indicated his intention to bring forward legislation, and it is again no surprise that he would agree with the effect of the provision. There is a slight adjustment, in that we have suggested to Lord Morrow that it is advisable that he make an amendment to replace the word "victim" with the word "complainant" to maintain consistency with terminology that is used elsewhere. Lord Morrow has indicated that he proposes to make an amendment to that effect.

3419. **The Chairperson**: OK. Clause 14 is next.

3420. **Mr Simon Rogers**: Clause 14 is about special measures in court and is in a similar category. It would amend the Criminal Evidence (Northern Ireland) Order 1999 to ensure that victims are automatically entitled to special measures in court. At the minute, that would apply in cases of sexual exploitation, but not generally. Again, the Minister had intended to legislate. The clause has the same issue with the words "victim" and "complainant", and Lord Morrow has indicated again that he intends to introduce an amendment to resolve that. This is another area where the current consultation that we are doing might bite in, but, as it stands, we certainly support clause 14.

3421. **The Chairperson**: OK. We will move on to clause 15.

3422. **Mr Simon Rogers**: Clause 15 would place a statutory duty on the Department to publish, in cooperation with non-governmental organisations and other relevant organisations, an annual strategy on raising awareness of and slavery offences and reducing trafficking in human beings. In effect, it would replace the Department's current non-statutory commitment to produce an annual human trafficking action plan, and, as such, the Department has no difficulty with the intended effect. I will just mention again that, in connection

with clause 7, we have agreed that the strategy should cover training, investigation and prosecution. As a result, we need to seek an amendment to that effect.

3423. **The Chairperson**: OK, members. We will move on to the next clause, which is clause 16.

3424. **Mr Simon Rogers**: Clause 16 is Lord Morrow's proposal for a Northern Ireland rapporteur. That is one of the areas that were covered in our recently published consultation. Clause 16, as it stands, would require the Department to establish an independent rapporteur to report to the Assembly on the performance of the Act in Northern Ireland and on related matters. The Minister has acknowledged the need for effective monitoring of and accountability in human trafficking. His current view, subject to the consultation that we are running, is that a more effective approach would be to extend to cover Northern Ireland the remit of the United Kingdom-wide anti-trafficking commissioner, which is provided for in the Modern Slavery Bill.

3425. As a result, he will oppose clause 16 but in the hope of getting support for a wider commissioner. Lord Morrow has acknowledged that the broader commissioner may be a more effective approach, but he is seeking assurances about the nature of that body and appointments etc before he will draw his own proposal about a local rapporteur.

3426. **The Chairperson**: OK. Do members have questions on clause 16?

3427. **Mr A Maginness**: Is it surely not more appropriate that we have our own rapporteur who has a specific role in those matters? I understand that, in the context of the anti-slavery Bill, there is going to be some sort of super-rapporteur for the UK, but surely it would be worthwhile having our own here.

3428. **Mr Simon Rogers**: I think that the Minister's concern is that a number of the bodies that are integral to the organised crime strategy and task force are UK-wide bodies, such as the border force, HMRC and others. His view is to capture all those references and to have the broader commissioner. However, he has made it clear to the Home Office that he would expect to have a role in the appointment of that commissioner and in setting their terms of reference — in other words, the areas that they are looking at — and that any reports would have to be made to the Assembly and the Minister here. So, I think that his concern would be not to have two bodies doing it, both a local and a UK-wide one. That is not least bearing in mind that there are a lot of other bodies that can trample on that ground, such as the Criminal Justice Inspection, HMIC, the Police Ombudsman, the Justice Committee, dare I say, and others. So, I think that his view would be that, on balance, between a UK-wide commissioner and a national rapporteur, the breadth of the issue, which is really a global rather than a local issue, points to the UK-wide commissioner.

3429. **The Chairperson**: OK. We will move on to clause 17.

3430. **Mr Simon Rogers**: Clause 17 is a general interpretation provision. As we highlight in our paper, we think that a few minor amendments to it are required. Clause 17(3), for example, provides:

"If the age of the person is uncertain and there are reasons to believe the person is a child, the person shall be presumed to be a child."

3431. This is a small point in one sense, but it is important. We believe that it would be helpful to clarify that they should be presumed to be a child, pending verification of their age, and we will seek an amendment to that effect.

3432. Although clause 9 seeks to define a victim for the purposes of Parts 2 and 3, the Bill does not include an overarching definition of a victim of human trafficking, and we think that it would be useful to put that in clause 17. We are looking at amendments to change that.

3433. **The Chairperson**: Clause 18 just deals with the orders. That is straightforward.

3434. **Mr Simon Rogers**: Yes. They will be subject to affirmative rather than negative resolution.

3435. **The Chairperson**: There are no changes to the title.

3436. **Mr Simon Rogers**: No.

3437. **The Chairperson**: We will move on to clause 6.

3438. **Mr Johnston**: Clause 6 concerns regulating prostitution. The paper to the Committee sets out the Department's position. We are not arguing with the proposition that demand for sexual services may have a bearing on the supply of trafficked victims, and we note the support for clause 6. However, the Department still has concerns, which others share, about legislating in that way without taking cognisance of the possibility of creating adverse impacts on an already vulnerable group. That is why we commissioned research to provide us with more targeted evidence to use as a base for developing policy in this complex area. The paper provides more detail on the precise nature of those concerns.

3439. The Department recognises the cohort of evidence that has been put forward in favour of criminalisation, as illustrated by the Swedish or the Nordic model, but it is also aware that much of that evidence is contested. The research is intended to address how such a change would sit in the criminal justice framework here in Northern Ireland. The paper acknowledges that the Department carried out previous research in 2010, and it looks at the context of that research. It also acknowledges the evidence that the police gave to the Committee just recently.

3440. In concluding, the paper states that the Minister intends to oppose the clause to allow him time to consider the outcome of the research that we are commissioning.

3441. **Mr Humphrey**: Thank you very much for your presentation. Mr Johnston, you mentioned the research. Has it gone out to tender?

3442. **Mr Johnston**: The research has gone out to tender, and the intention is to award a tender by the end of this month.

3443. **Mr Humphrey**: So, the person has not yet been selected. When will the research be completed?

3444. **Mr Johnston**: The intention is to complete it in the autumn, so there is about a six-month timescale.

3445. **Mr Humphrey**: Does that mean early or late autumn?

3446. **Ms Amanda Patterson (Department of Justice)**: It will probably be towards the end of October and the beginning of November.

3447. **Mr Humphrey**: OK.

3448. **The Chairperson**: Has the Department ever used Graham Ellison for research?

3449. **Mr Johnston**: In the context of who has applied for the research and has submitted tenders, as that is a running process, that information is confidential to the tender evaluation panel.

3450. **The Chairperson**: Heretofore, has Graham Ellison ever provided any official research to the Department?

3451. **Mr Johnston**: Sorry, Chair, I did not quite hear that.

3452. **The Chairperson**: Up to this point, has the Department ever engaged with Graham Ellison on this issue?

3453. **Mr Johnston**: There was a request from Mr Ellison to meet the Minister, and that meeting took place. He briefed the Minister on the research that he had been undertaking.

3454. **The Chairperson**: I take it that it would be open to him, then, to apply for this exercise.

3455. **Mr Johnston**: There is no reason why anybody could not apply to the process, provided that they were suitably qualified.

3456. **The Chairperson**: If he is selected, you can bear in mind what he said to the Committee and what he said about individuals on the Committee when it comes to considering the credibility of any evidence that is provided. That is a comment that you can note.

3457. **Mr Humphrey**: You will be aware that the PSNI has changed its position on clause 6, Mr Johnston. How does the Department view or assess that change in position?

3458. **Mr Johnston**: The PSNI has said that it is not opposed to clause 6. It qualified that by expressing some concerns about the impact that it might have and about the risk of unintended consequences. One area that was highlighted was that it is difficult to assess how much impact the threat of prosecution could have on behaviour. There was some discussion about the risk that, once you start to legislate and regulate in an area, the prostitutes themselves might feel further ostracised and removed from police. Obviously, the police are very keen to keep those links and relationships with sex workers and to assure them that any offences against them will be properly investigated and dealt with. There were some points, too, about the flow of information. We want to get a grip on all those points through the research before coming to conclusions on the appropriate policy response.

3459. **Mr Humphrey**: Nevertheless, you will accept that the police have changed their position.

3460. **Mr Johnston**: Yes.

3461. **Mr Humphrey**: Is the Department aware of the report of the European Parliament's women's rights committee?

3462. **Mr Johnston**: Yes.

3463. **Mr Humphrey**: How does the Department respond to the support across the European Parliament for the motion based on that report? I am not sure about Mr Nicholson's position, but two of our MEPs supported it. It promotes the criminalisation of the purchase of sexual services. What is the Department's view on that?

3464. **Mr Johnston**: It is all a contribution to the debate. We have looked at that report and will obviously want to study it further. It is worth acknowledging that it is a non-binding resolution from the women's rights committee.

3465. The other interesting point is its wider recommendations on, for example, how you support people coming out of prostitution. Again, it all points to the research, because we want to get a handle on the wider impacts that are not part of the proposals in clause 6.

3466. **Mr Humphrey**: You said that it is non-binding, but, at the end of the day, a clear majority of Members of the European Parliament supported that view. They obviously represent the vast bulk of continental Europe. Will the research be unbridled? Those who the Department selects will be allowed to carry out the research without direction or interference from the Department, I assume.

3467. **Mr Johnston**: The direction that is given is the terms of reference on the scope of the research, and that is in the specification. I know that the Committee has seen the terms of reference, and the full specification was published as part of the tender documents. It is a wide specification, and it is entirely up to the researchers to choose who to talk to. We may make some suggestions. For example, I was asked whether it would be open to the researchers to talk to former prostitutes who had exited prostitution and who might have a particular view. I am perfectly happy for the researchers to do that, but, ultimately, it will be their decision.

3468. **Mr Humphrey**: You mentioned how the Minister is minded on clause 6. His and the Department's view on clause 6 will not in any way steer the research that the researcher who is chosen will carry out.

3469. **Mr Johnston**: No. The question of the potential impact of the criminalisation of paying for sexual services on

reducing the levels of human trafficking in Northern Ireland is one of the highlighted areas that we want the research to cover. The background that we put into our specification refers to the fact that the Minister has made a public commitment to commission research. It does not go into the particular views that the Minister has expressed.

3470. **Mr Humphrey**: Does that mean that it will not?

3471. **Mr Johnston**: I want the research to consider and establish facts about the nature and extent of prostitution in Northern Ireland. That will then give us a factual base onto which we can project the Nordic model or any other policy options and assess them. So, we want the researchers to establish facts and for that not be constrained in any way by the concerns that we have expressed.

3472. **Mr Humphrey**: I welcome that reassurance. If there were to be those constraints or some sort of narrowing, I think that that would irreparably damage the piece of work and undermine it entirely.

3473. **Mr Johnston**: It is intended to be a high-quality academic, properly conducted piece of research.

3474. **Mr Humphrey**: OK.

3475. **Ms Patterson**: If I could just add to that that the specification demonstrates the very factual nature of the information that the Department is seeking to collect and that it is not based on any sort of wish to consider a particular ideology. It will consider what can be found out about prostitution and the framework that is in place in Northern Ireland.

3476. **Mr Humphrey**: If ideology, someone's opinion or the Department's collective opinion came into play, frankly, it would be an opportunity missed. In my opinion, the piece of work would be completely without value.

3477. **The Chairperson**: It also depends on the academic. Most of us know what the research is really about.

3478. **Mr A Maginness**: Arising from Mr Humphrey's questions, can we take it that the Department's position on clause 6, or, at least, the Minister's, is now one of neutrality rather than opposition? Is the Minister awaiting the completion of the research before making his mind up?

3479. **Mr Johnston**: Yes. The Minister is not taking a position on the Swedish model. He feels that we need to do the research so that we can see what the impacts of any policy option would have in Northern Ireland, whether it is the Nordic model or another option.

3480. **Ms McCorley**: Go raibh maith agat, a Chathaoirligh. I welcome the progress that has been made on the research. I feel that it is important that we get clear evidence and relevant information about what it means for people who are clearly very vulnerable. Some of the most powerful testimony that we have heard came from those who have been involved in that work. So, I really think that it is important to hear that at first hand before you make legislation.

3481. Under what context would you legislate for prostitution?

3482. **The Chairperson**: And when?

3483. **Mr Johnston**: That would happen in the context of having an evidence base and having seen the extent and nature of prostitution in Northern Ireland and what the needs are and the best options for moving forward.

3484. **Ms Patterson**: If I could add, as you said, it is very important to look at all the impacts in the period before any policy decisions are made on the legislation that might follow. Part of that is to look at the current law on how prostitution is regulated and how that ties in or conflicts with any desire to make the purchase of sexual services a criminal act.

3485. **Ms McCorley**: Say the current proposal were to proceed, how do you feel that would impact on what already exists in law?

3486. **Ms Patterson**: Again, that is one of the areas that we need to look at once we have the research and once we are looking at the policy. The law as it stands does not create a criminal offence around the exchange of money in a transaction between two consenting adults. It creates criminal offences surrounding prostitution that, if clause 6 were to go ahead, would still be in place. The criminal offence of soliciting in a public place would still be there, so there would still be criminal activities attached to the seller of sexual services and, even more so, to sexual services in a brothel. Criminal offences would still be attached to the seller of sexual services in a brothel. There are areas that are quite complex and quite conflicting if you criminalise the purchase of sex.

3487. **Mr Johnston**: It is worth noting that, in the Swedish model, the underlying law about prostitution differs. It is not just the difference that is brought about by clause 6; they do not have the offence of persistently soliciting, and the legislation around brothels is different. There is a bigger picture on legislation that we want to keep in mind.

3488. **Ms McCorley**: Last week, the PSNI referred to unintended consequences. What are your concerns about unintended consequences?

3489. **Mr Johnston**: It all stems from the fact that we are dealing with extremely vulnerable people, and I know that a number of those who have given evidence to the Committee have emphasised that. Therefore, the particular concern with unintended consequences is about anything that risks compromising people's safety when they are already vulnerable. One area that I mentioned is the impact on access to police, and a couple of weeks ago Assistant Chief Constable Harris noted that prostitutes are susceptible to crime and that there was a qualification in his mind about, if you were to legislate, would that, by virtue of the general fact that you were doing more about the whole area of crime, law and policing, serve to put any greater barrier between police and sex workers? He was anxious to avoid that.

3490. A second area is about pathways out of prostitution. If you were to take the step of enacting clause 6 and people wanted to exit prostitution, what would be the economic impact on them and their families, and what pathways out would be available? The French, in considering the Nordic model, have been focusing quite a bit on providing financial support and practical help.

3491. A third area is about the impact on those who would choose not to exit prostitution. If you were dealing in a situation where clients were not just taking the risk of discovery but were taking a risk of criminalisation, would clients who are greater risk-takers pose any greater threat to prostitutes?

3492. Then there is the impact on pathways into prostitution. If people are exiting, you want to understand why people get involved in prostitution in the first place so that you can prevent others from going in and simply taking their place.

3493. **Mr A Maginness**: I read — I think that it was yesterday — that a House of Commons Committee had some opinion on this issue. I am not aware of the name of the Committee, but is the Department aware of it?

3494. **Mr Johnston**: It is the all-party parliamentary group on prostitution and the global sex trade, which is one of a number of unofficial groups that exist in Parliament across the two Houses of Parliament. It has published a report with a number of recommendations, which include, interestingly, removing the soliciting offences that we have just talked about, a financial assessment of the social cost of prostitution, and programmes to reduce entry into and promote exit from prostitution. Ultimately, at recommendation 9, it comes round to supporting:

" a general offence for the purchase of sexual services."

3495. It is not an official body, and the Home Office has not responded to the report, nor are we expecting there to be an official Home Office response. However, it is certainly a report that we have been studying.

3496. **The Chairperson**: To pick up on one of Ms McCorley's questions, if the Department were to get the elusive evidence that it needs to justify clause 6, when would it be possible for the Department to bring forward legislation, given that the Minister has already indicated to me that he certainly will not legislate in this mandate?

3497. **Mr Johnston**: We would have to look at the legislative programme. A number of pieces of legislation are already stacked up for this programme. It would depend on what sort of legislative change you intended to make. If it were relatively small, we would have to discuss it with the Minister, but we would not necessarily rule it out in this mandate. However, I think that we need to do the research and come to some conclusions on the way forward, and then we will be able to assess the timetable.

3498. **Mr Wells**: For the record, Martina Anderson, the Sinn Féin MEP for Northern Ireland, and Diane Dodds, the DUP MEP, voted for the report in the European Parliament. It is a highly significant development that two ladies with very opposing political viewpoints supported it.

3499. Mr Johnston, have you ever met Lucy Smith or Mark McCormick?

3500. **Mr Johnston**: I do not believe that I have, no.

3501. **Mr Wells**: I believe that you have, Mr Johnston. I believe that you met them on 31 October 2013. I have the minute; I have the information. You met Lucy Smith and Mark McCormick on 31 October 2013.

3502. **Mr McCartney**: Ask for your solicitor before you answer the next question.

3503. **Mr Wells**: I advise you to answer that truthfully, Mr Johnston, because there is a section of questions coming about that meeting.

3504. **Mr Johnston**: I am honestly not aware of it, but, if you can give me more details, that might prompt something.

3505. **Mr Wells**: You are aware of who Lucy Smith is. She is the lady who gave us evidence.

3506. **Mr Johnston**: Yes.

3507. **Mr Wells**: On her blog, she is claiming that she met you —

3508. **Mr McCartney**: That is a different thing altogether.

3509. **Mr Wells**: And several other blogs are claiming that they met you. They also met Amanda Patterson.

3510. **Mr McCartney**: There is an individual here telling lies.

3511. **Mr Johnston**: She was here, sitting in the Public Gallery, when we were giving evidence.

3512. **Mr Wells**: So neither you nor Ms Patterson has any recollection of meeting Lucy Smith or Mark McCormick?

3513. **Mr Johnston**: No.

3514. **Mr McCartney**: I think that there is an apology coming here.

3515. **Mr Wells**: Why, then, would they have posted that they had in their respective blogs on 1 November?

3516. **Mr McCartney**: Ask them.

3517. **Mr Johnston**: I am not aware —

3518. **Mr A Maginness**: Chair, with respect, this line of questioning is a bit unfair.

3519. **The Chairperson**: I am content for Mr Wells to continue.

3520. **Mr Wells**: In the report of that meeting, Lucy Smith, in referring to the two of you, said to Douglas Fox, who is the leading prostitute organiser/pimp in the north-west of England:

"They hate the DUP more than us and will be opposing the Bill."

3521. You do not recall saying any of that. Is this entirely fictitious?

3522. **Mr A Maginness**: Chair, on a point of order, that is hearsay. It is not something that is appropriate to be put. It is on a blog: I could put anything on a blog.

3523. **Ms McCorley**: I agree.

3524. **The Chairperson**: The refusals are on the record in terms of the denials, and that record will stand.

3525. **Mr Wells**: I will not take it any further, but I have to say that if it transpired that what several people wrote was true, that would be quite a serious issue, would it not?

3526. **Mr Johnston**: I think, Chairman, that I would want —

3527. **Mr McCartney**: If it is not true, it is *[Inaudible.]* for someone like you to put yourself in the position —

3528. **Mr Wells**: I would be the first to say that a series of people made a false accusation that they had met you.

3529. **Mr Dickson**: It started with an accusation in the first place.

3530. **Mr Johnston**: Chairman, if Mr Wells wants to share the text of the blog with us, we will certainly look at it. If there are inaccuracies, we will seek to have those corrected.

3531. **Mr Wells**: Right, OK. We might have to revisit that. I would be surprised if the informant who has been, up to now, absolutely accurate is wrong on that issue; I would be very surprised.

3532. Why is the reducing offending unit not here today?

3533. **Mr Dickson**: Chair, with respect, that leaves the record of this meeting sounding very difficult for me. Those are remarks that I wish to disassociate myself from. I find it very uncomfortable that somebody is saying that their source has always been accurate up to now.

3534. **Mr Wells**: It has been.

3535. **Mr Dickson**: We have had a clear denial from the parties concerned that they have not had the conversation that was outlined. I think that we should leave the matter there. I feel extremely uncomfortable about being associated with those remarks.

3536. **The Chairperson**: I assume that Mr Wells is leaving it at that point.

3537. **Mr Wells**: Yes. We will check our sources. Unless there is another Gareth and Amanda working in this office —

3538. **Mr Dickson**: The damage has already been done, Chair.

3539. **Mr Wells**: This information came from a source that also gave me the information on another secret email that I quoted at a previous Justice Committee meeting, and that was entirely accurate. I accept your point, Mr Johnston. You are saying that you have never met anybody of that description, ever.

3540. **Mr Johnston**: No.

3541. **Mr Wells**: Well, I accept that. I still have other questions to ask you, I can assure you. Why is the reducing offending unit not here today?

3542. **Mr Johnston**: We are allowed only four people at the table.

3543. **Mr Wells**: Why is the only unit that has been directly involved in this not one of the four here today?

3544. **Mr Johnston**: We have been having discussions with the reducing offending unit outside of this meeting. Indeed, there was a meeting, Amanda —

3545. **Ms Patterson**: Two weeks ago.

3546. **Mr Johnston**: Two weeks ago, when all three of our divisions were represented.

3547. **Mr Wells**: Why are they not here today?

3548. **Ms Patterson**: It is largely because what we are looking at today is a change to the criminal law, which is the responsibility of the division that I work for.

3549. **Mr Wells**: I quoted from some of the material at the meeting two weeks ago. There is quite clearly a split between the criminal justice unit and the reducing offending unit. The reducing offending unit is very clear on its view about the nature of prostitution and the vulnerability of the women taking part in it, while the criminal justice unit seems to have a rather different view. Is the DOJ split down the middle on this issue?

3550. **Mr Johnston**: No, I do not believe that there is a different view. Different parts of the Department have specific responsibilities. One of the responsibilities of the reducing offending division is in supporting people who have been caught up in offending. One of their responsibilities was the production of the women's strategy. Flowing from all of that, certain actions are being taken, including guidance for the criminal justice bodies in dealing with people involved in prostitution whom agencies may come across. That is a very positive development that complements, rather than being in conflict with, the discussions that we are having today.

3551. **Mr Wells**: Given the fact that you have not read the report from the reducing offending unit, I cannot see how it complements your view as articulated today. I just cannot see it. They are the folk at the coalface. They are the folk who are advising. They are being gagged by the Department of Justice. They are being gagged.

3552. **Mr Johnston**: Chairman, I have to refute that. Action is being taken across different parts of the Department and, as I say, it all aims to complement each other. It would be very regrettable if the good work that the reducing offending division is doing, including in this guidance, were held back in any way.

3553. **Mr Wells**: The Minister issued a press release on 27 January 2011 that spoke about the Department wishing to help people to leave prostitution. How many people has the Department helped out of prostitution?

3554. **Mr Johnston**: The responsibility there lies with the particular agencies, both criminal justice and health agencies, that are involved. I do not have particular statistics.

3555. **Mr Wells**: Has anybody been helped out of prostitution by any of those agencies?

3556. **Mr Johnston**: As I say, the responsibility lies with the agencies rather than with the Department centrally. That is something that I would have to check.

3557. **Mr Wells**: It would be very useful if you would come back to us on that.

3558. After the first hearing, a Mrs Laura Lee made a complaint to the Minister of Justice about questions that I and the Chair asked her. Where did that complaint go?

3559. **Mr Johnston**: Chair, I am a little uneasy with answering questions about individuals who may or may not have written to the Minister. I am conscious that there are data protection issues —

3560. **Mr Wells**: She told the press that she had made a complaint to the Minister. Your Department has seen that.

3561. **Mr Johnston**: Maybe, Chairman, I could deal with it in general terms. If we were to receive a complaint from someone about something that had happened in the Committee, the Department is not the appropriate body to receive that complaint. All we would be able to do would be to point them in the right direction.

3562. **Mr Wells**: And that is all you did.

3563. **Mr Johnston**: As I said, I do not want to get into individual cases, because I think that there are data protection implications. However, in general terms, if we were to get a complaint, that is what we would do; we would point them to the appropriate —

3564. **Mr Wells**: And there would be no question of you assisting the complainant with their case before it was sent on to Standards and Privileges.

3565. **Mr Johnston**: No.

3566. **Mr Wells**: Would you be surprised if the complainant had a different view?

3567. **Mr Johnston**: Yes.

3568. **Mr Wells**: You are giving me a categorical assurance that you would act as a postbox and would not assist the complainant.

3569. **Mr Johnston**: The Department receives a great many complaints about the actions of various independent agencies, some of which have no connection with the Department. There are fairly settled forms of correspondence that go out in those cases to point people to the appropriate agency to deal with those complaints.

3570. **Mr Wells**: I think there is a second letter to go to DOJ about that.

3571. There is constant reference to the Swedish model. How many times have you been to Sweden, Mr Johnston and Mrs Patterson?

3572. **Mr Johnston**: The Minister intends to visit Sweden in the very near future, and an official will be going with him.

3573. **Mr Wells**: Right. I suggest that more than one official goes with him. It is vital that you receive the maximum amount of information about the Swedish model.

3574. **Mr Johnston**: We will discuss that with the Minister.

3575. **Mr Wells**: When you say "in the near future", what do you mean? Before Easter? Before St Patrick's day?

3576. **Mr Johnston**: Before Easter.

3577. **Mr Wells**: That is good. To some extent, you are the only player in this who has not been to Sweden. I think that you need to go.

3578. The Minister was in Westminster this week giving evidence on human trafficking. Why was he there?

3579. **Mr Simon Rogers**: I can answer that; I was with the Minister. He was invited by the Chair of the Joint Committee at the Houses of Parliament, Frank Field, to attend and give evidence on the Modern Slavery Bill, which the Home Secretary is taking through Parliament.

3580. **Mr Wells**: OK. Has he released a draft of what he said? Is that in the public domain?

3581. **Mr Simon Rogers**: I believe that it was reported and will be available in the same way —

3582. **Mr Wells**: It will be in Hansard. OK.

3583. The Swedes, the Icelanders, the Norwegians, the French, the European Parliament, Martina Anderson, Diane Dodds and now the Westminster all-party group on prostitution have all come to the same conclusion on the equivalent to clause 6. Why are they all wrong and the Department right?

3584. **Mr Johnston**: We are not saying at all that they are all wrong. However, the different countries that you mentioned have reached a conclusion on the right way forward in the particular circumstances that they are in. One could equally mention countries such as Germany or Canada, which have reached extremely different conclusions. I repeat that we are not taking a position on the Swedish model at this stage. We are not ruling it in and we are not ruling it out. However, we believe that we need the research to understand fully the impact that it would have in Northern Ireland.

3585. **Mr Anderson**: Thank you for coming along today.

3586. Mr Wells touched on a number of points, and I want to follow up on a couple. He gave a long list of those in support of clause 6. The Northern Ireland Human Rights Commission stated in its evidence to us that it welcomed the principle of clause 6 and did not believe that it was incompatible with

human rights standards. Considering the Department's opposition to the introduction of clause 6, do you believe that the Human Rights Commission is wrong?

3587. **Mr Johnston**: The Human Rights Commission has expressed its views very much in terms relating to the protection of vulnerable people. Obviously, that is a criterion that we are equally keen to ensure is satisfied. Let us do the research and come up with a settled policy position on whether it is right or wrong.

3588. **Mr Anderson**: In light of your comments, do you not think that it would have been wise to have made contact with and sought advice from the Human Rights Commission in respect of this clause?

3589. **Ms Patterson**: We have met the Human Rights Commission.

3590. **Mr Anderson**: Have you discussed the issues around vulnerable adults, which Gareth was talking about?

3591. **Ms Patterson**: The response is what we are giving here: that the Minister has not yet reached a position and wants us to undertake further research.

3592. **Mr Johnston**: In the course of moving forward, I would certainly expect to keep in touch with the commission and be informed by anything further, and I am open to that. We have its response, but we will be informed by anything further that it wants to say.

3593. **Mr Anderson**: Do you agree that the commission is a body that you should give a good listening ear to?

3594. **Mr Johnston**: I am quite happy to accept that, yes.

3595. **Mr A Maginness**: I am pleased that the DUP is saying that.

3596. **Mr McCartney**: This is all written down. *[Laughter.]*

3597. **Mr Anderson**: It is on this particular issue.

3598. **Mr McCartney**: It is right one day, but wrong the next.

3599. **Mr Dickson**: It is just a selective ear, Mr Chairman, is it?

3600. **Mr McCartney**: Be careful who you call as a witness.

3601. **Mr Anderson**: If we are getting support for clause 6, we have to listen to everyone who supports it. My colleague Mr Wells has given a long list of people. I think that the greatest opposition is probably coming from the Department. I think that we have to take on board all of those people who will support those victims. That is where I am coming from.

3602. **Mr Johnston**: The Committee's report will certainly be a very significant document in the ongoing consideration of the Department.

3603. **Mr Anderson**: We have talked a number of times about the Swedish model, and you clarified for my colleague Mr Wells that officials have made contact. Did I pick that up?

3604. **Mr Johnston**: Yes.

3605. **Mr Anderson**: The Minister is taking himself off to Sweden quite soon. We have clarified that he is going before Easter. Gareth, you also mentioned the fact that the Minister was neutral in his opinion on this, is that right?

3606. **Mr Johnston**: Yes, he is not ruling it out or in.

3607. **Mr Anderson**: So he has not set his face against the Swedish model.

3608. **Mr Johnston**: That is correct.

3609. **Mr Anderson**: He is going to Sweden with an open mind on this.

3610. **Mr Johnston**: He is certainly very keen to speak to people at the front line and to speak to Swedish commentators, to see for himself the evidence and to find out the range of views.

3611. **Mr Anderson**: I ask that because, in the lead-up and in all the discussions that have taken place, someone's mind or views could be tainted before they go somewhere. When the Minister goes there, I hope that he has an open mind — I know that his colleague is sitting

here — and comes back with the facts that have been well presented by others.

3612. **Mr Johnston**: I can assure Mr Anderson that getting at facts is very much what the Minister wants to do.

3613. **Mr Anderson**: OK. Thank you.

3614. **Mr Elliott**: Thank you very much for the presentation. I have two questions. I know that, at this stage, the Department is opposing clause 6 in this form. Mr Wells has highlighted a number of groups and organisations that are in support of clause 6. Coming from a fairly objective position, I know that a huge number are opposing it and a huge number are supporting it. That is an issue that we have got to get our head round and establish who is right and who is wrong. Does the Department see any amendments that would help clause 6 or make it more practical or better to implement, as opposed to total rejection?

3615. **Mr Johnston**: At this stage, given what we have said about the importance of research and about having an evidence map on which to project any policy, our position is very much that we should move ahead without clause 6 and then come back to all of these issues in the light of the research.

3616. **Mr Elliott**: That answers that quite clearly. My second question is about the Swedish model. We have heard quite a bit about it in the Committee. Even today, it has been referred to. What do you see the Swedish model bringing to the legislation, either in positives or negatives? Do you see it as a help or a hindrance in this case?

3617. **Mr Johnston**: As I say, we have an open mind and we want to do the research. We are conscious, as the discussion on clause 6 has been ongoing, that there have been both pros and cons expressed about the Swedish model. We have read in Hansard the evidence presented to the Committee and we are aware of other comments on the Nordic model, including in the reports which have been mentioned. So we are really conscious of —

3618. **Mr Elliott**: Gareth, we are all well aware of what others have said about it. I am interested in what you are saying about it.

3619. **Mr Johnston**: Really, where we are is wanting to get more information about the possible impacts and maybe the unintended impacts. They are, as I set them out to Ms McCorley, around impacts on access to the police. That is something that the police raised a couple of weeks ago. There are also economic impacts and how people could be enabled to exit prostitution. There would also be impacts on those who choose not to exit, and about how pathways into prostitution would need to be affected. And also there is the fact that clause 6 or its equivalent does not sit on its own in the Swedish situation; there are other differences between the Swedish law and ours which we need to be clear on and whose impact we need to assess.

3620. **Mr Elliott**: I would like you to expand on that, if you can. You say that clause 6 does not sit on its own in the Swedish model. Are you saying that it is built into a wider piece of legislation?

3621. **Mr Johnston**: Yes.

3622. **Mr Elliott**: OK.

3623. **Ms Patterson**: The legal framework in Northern Ireland is not the same as it is in Sweden, and there are issues to do with that. Earlier, I talked about the current criminal law offences to do with prostitution, and where clause 6 sits with that. There are also enforcement issues which the police referred the Committee to in its evidence, such as the differences between how the Swedish police might approach it and how it would be approached here.

3624. **The Chairperson**: If clause 6 were to go through, it would be open to the Department to bring forward the legislation after the research and make amendments. If the unintended consequences — as people say — were negative, would we be able to amend the legislation at a later stage through a proposal from the Department?

3625. **Mr Johnston**: We do not believe that that is the right approach. Often, when I am sitting here proposing various pieces of legislation, I am asked about what the impacts are — the equality impacts, the practical impacts and so on. The Department's position is very much that it is important to understand and take account of those before going into legislation.

3626. **The Chairperson**: I understand that you think it might not be the best approach. However, for members who think that the current framework does not work or is not effective enough, we have evidence, we are satisfied that the evidence warrants a change, and we will legislate for that change. However, if some of the unintended consequences are negative, can we amend that by way of legislation, through a Bill that the Department could bring to the Assembly?

3627. **Mr Johnston**: I would rather that we went into this knowing more about what the consequences were going to be and dealing with them up front, rather than having to come in behind with some very rushed legislation to deal with problems that we had only just identified.

3628. **The Chairperson**: It would not be rushed in the sense that someone is tagging on an amendment to a Bill. It is a private Member's Bill that has been in the ether for well over a year. It is going through the proper scrutiny processes that are required of legislation, so I would not put this into the category of "rushed".

3629. **Mr Johnston**: Sorry, Chairman, I meant that you might have to rush in with amending legislation to deal with the problems.

3630. **The Chairperson**: I picked you up wrong on that. I apologise.

3631. I assume that the answer, in a purely legal sense, is that we can legislate for it and that we can amend. It is a simple procedural thing that can be done. It may not be the approach that you think is necessarily the best, but for Members, who are the ones who have to decide, I assume that the answer is yes.

3632. **Mr McCartney**: Have you agreed a timeline with Lord Morrow on how this should be taken forward?

3633. **Mr Simon Rogers**: We sent instructions to counsel on our amendments, and we hope to get them back as soon as we can so that we can share them with Lord Morrow and the Committee. We do not have a specific timescale for that, because we are in the hands of counsel, who have many Bills et cetera to manage. As soon as we get them, we will share them with Lord Morrow and the Committee. We are alive to the fact that time is of the essence.

3634. **Ms J Wilson**: The only other element would be the tabling of further amendments, if that were possible, on the back of our consultation. We have discussed it with Lord Morrow, and the earliest we could do it would be Consideration Stage, which could be towards the end of September. We have discussed that with Lord Morrow, and he has indicated that he is content to defer, in principle, until that time.

3635. **Mr McCartney**: Have you discussed the timeline for the proposed research, which is due to be done by the end of October? Given the Chair's point that if there is something in the research that will inform us, that seems like a long gap. Is there anything that you can do to bring forward the outcome of the research so that you do not end up with a situation where, as the Chair mentioned, something comes out of the academic research and people say, "I would change my mind on that aspect" but we have no provision to change the import?

3636. **Mr Johnston**: It is a substantial piece of research that will involve talking to a lot of people, including people who are personally involved. We cannot telescope the timetables anymore. I am not aware that we have communicated with Lord Morrow specifically on the timescale for the research, but the Minister has answered Assembly Questions on it, so the information is in the public domain.

3637. **Mr McCartney**: You are saying that Lord Morrow has shown patience by saying that he willing to wait until the end of September. The end of October does not seem to be too much of a push further. That is why I am asking you whether you have discussed that particular aspect.

3638. **Ms Patterson**: There would be too much coming out of the research to make a decision in a short time, because we would have to consider its findings. There may be recommendations that involve other people and having to consult other people. I do not think that it would work.

3639. **Mr McCartney**: When you receive the academic research, will it be a closed document for a period, or will you release it to inform the Committee for the next stage of the Bill?

3640. **Mr Johnston**: We would want to release it as soon as we could.

3641. **Mr McCartney**: Are the terms of reference set before the tender?

3642. **Mr Johnston**: Yes, they are set before the tender; that is the basis on which you tender.

3643. **Mr McCartney**: Are the terms of reference open or closed?

3644. **Ms Patterson**: We sent the terms of reference to the Committee. They are no longer available on the Central Procurement Directorate website because they come off at the end of a certain period. However, we have sent them to you.

3645. **The Chairperson**: We hope to do clause-by-clause scrutiny of the Department's proposed amendments on 20 March . Will you have them with us by then?

3646. **Mr Simon Rogers**: We have our instructions with counsel. The honest answer is that I cannot tell you to-day. We will talk to counsel again and see what timescale they can work to. They are under a great deal of pressure. With your permission, we will let the Committee Clerk know the position.

3647. **The Chairperson**: We need to complete our report, so we will be going through the legislation; however, we have only a couple of weeks to do that. I would appreciate it if we could have that information as soon as possible.

3648. Let me for formally thank you, and also Julie, who has persevered with a cough throughout. Thank you for coming to the Committee.

3649. **Mr Simon Rogers**: May I come back for just one moment? One of the areas that Mr Wells raised was the work that the Department is doing on prostitution. We did not express all the areas that we are working on, and there are many of them. I want to put it on record that we are working on several areas and, if it would help the Committee, we could send you a note setting out the initiatives that we are taking in the Department. They cut across various divisions: community safety units look after the domestic and sexual violence aspects; Gareth's side does legislation; and our side does reducing offending. I would not want to leave you thinking that our answer showed that there is no work going on. There is a great deal of such work, and I would like to put that before the Committee.

3650. **The Chairperson**: That is appreciated. Thank you all very much.

6 March 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley

Witnesses:

Mr John Larkin QC — *Attorney General for Northern Ireland*

3651. **The Chairperson**: I welcome to the meeting the Attorney General for Northern Ireland, Mr John Larkin QC. As usual, proceedings are recorded by Hansard and published in due course. Mr Larkin, you are very welcome, and thank you for making yourself available to the Committee to address members' issues. I hand over to you, and then members will have questions.

3652. **Mr John Larkin QC (Attorney General for Northern Ireland)**: Thank you very much, Chair. Once again, it is a pleasure to be before the Committee as it engages in its important work of legislative scrutiny.

3653. I propose, although I suspect that it may not be entirely satisfactory, to go through the clauses one by one and make some quite technical observations, by and large, on each. Then, inevitably, there will be questions from members. I thought that it might be of assistance to the Committee if I were to set out views in writing, both as a result of my original thoughts and of any adjustments to them that arise from the views of the Committee. I thought that it might be preferable to do that rather than submit a short paper now when members' points might cause readjustment. If that is satisfactory, I will go through the clauses one by one.

3654. I understand that clause 1 may have to be adjusted to take account of any changes that take place in the framework or in the Department's current consultation, to which allusion has already been made. Therefore I will say nothing more about it.

3655. As members know, clause 2 deals with the irrelevance of consent. There is nothing really wrong with the clause, but I simply ask the question: what does it do? I am not sure that it does anything. In existing criminal law, consent is vitiated by the very features that are identified in paragraphs 2(1)(a) to 2(1)(e): if one threatens someone and obtains consent as a result of it, as a matter of common law that consent is vitiated. Therefore I am not sure what the clause does. Usually, if it is not necessary to enact a provision, then, in my view, it is necessary not to enact it. I leave that with the Committee.

3656. Aggravating features are set out in clause 3. Again, there is no obstacle to the legislature setting out a series of aggravating factors. They are not inconsistent with judicial discretion in sentencing, so I have no observations of substance to make on clause 3.

3657. Clause 4 has given rise to a little controversy. It is a perfectly proper device if the legislature is satisfied as to its policy.

3658. This is not a hard minimum-sentence model, because any judge who considers that injustice will arise in a particular case by the imposition of the statutory minimum will be free to depart from that predictive statutory minimum. May I make two technical observations? The first is that it should be made clear that the custodial sentence will be applied only to a person of 18 years or above. Secondly, it may be thought appropriate to insert "immediate" before "custodial", because I imagine that it chimes with the policy intention. As

drafted, it would be open to a court to impose a suspended sentence.

3659. A more general observation on clause 4 is that if one is allowing for an exceptionality condition — in my view, it is quite a proper thing because it preserves judicial discretion — one might want to require some statement of reasons as to why a judge in any particular case considered the case to be exceptional.

3660. With regard to clause 5 —

3661. **The Chairperson**: So you do not regard clause 4 as being a mandatory minimum. Will that exceptionality still allow judicial discretion?

3662. **Mr Larkin QC**: Let us assume, for the sake of argument, that someone has been involved in human trafficking in circumstances that do not quite give rise to a defence of duress but it is clear that someone has been a very minor cog in the wheel and that they themselves have suffered as part of that dreadful process and a judge considers that it would be the height of injustice to impose the predictive minimum that is set out in clause 4, no judge would ever be prevented from imposing the sentence that he or she thought just. The issue is that one might want to know what the reason was, and it might be worthwhile for the Assembly to consider inserting a provision that required the statement of reasons for believing the exceptionality condition was met.

3663. **The Chairperson**: Thank you.

3664. **Mr Larkin QC**: I understand that clause 5 may become redundant in view of the Department's consultation. Therefore, I will not make any observations on it just now. However, I am happy to make observations when it looks as if the clause has bedded down.

3665. We now come to clause 6. The Committee will be relieved to hear that the policy wisdom of the clause is not a matter for me; it is a matter for the Assembly. However, there are some technical comments that I should make. First, in relation to competence, I note that the evidence that three Public Prosecution Service (PPS) officials gave to the Committee suggested that there may be issues around articles 8, 10 and 17 of the European Convention on Human Rights. Article 8 is engaged and, subject to the points that I make shortly, I do not think that this provision would infringe article 8. I do not see that article 10, which deals with freedom of expression, nor article 17, which deals with the abuse of rights, are likely to be engaged, far less breached, by this provision.

3666. Turning to the technical issues, the definition of payment is too wide. Members will be aware that payment means:

"any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount."

3667. One of the policy aspects, of course, that have been pointed out by the PPS is that that may include lap dancing and things of that nature. That is a policy call for the Committee and the Assembly. However, the reference to sexual services troubles me because it strikes me that it is possible that it will mean that the mutual exchange between two persons of sexual services — if I do x, will you do z? — would be caught by that provision. I do not think that that is the policy intention of those sponsoring the Bill. I think that it is safe, and important, to remove it from clause 6.

3668. **The Chairperson**: The reference to "sexual services".

3669. **Mr Larkin QC**: Yes. The words are in brackets in the substituted 64A(3). I suggest taking out from the third line of 64A(3) "including sexual services" because of what strikes me as the impermissible breadth that that would lead to. One can see how it has happened because that definition is, of course, taken from the definition provision in the 2008 order, but that in itself refers to different offences. It may be entirely appropriate in the context of those offences, but it strikes me as

not being appropriate in the context of this offence. Incidentally, members may wish to note a point that occurred to me only relatively recently. One of the reasons for the apparent ineffectiveness of the old article 64A may be that it relies on the concept of "prostitute", which requires an additional evidential hurdle because "prostitute" is defined in article 58 of the 2008 order as someone who has offered sexual services on one occasion. I think that the context means that that means one other occasion apart from that giving rise to the particular investigation of a charge that is then before the courts. It is technically neat that this definition avoids the previous approach to defining "prostitute". The Committee might wish to consider that because, although the definition of "prostitute" in the 2008 order represents a narrowing, a modernisation and a refinement of the old common-law approach, the idea that people are, one might say, stigmatised as a prostitute henceforward strikes me as undesirable. One does not call someone a thief because, on one occasion, they stole a bar of chocolate. Therefore, if we can avoid it, we should not stigmatise individuals who may have got caught up in offending for all kinds of reasons.

3670. **The final technical issue on clause 6 relates to some uncertainty over the penalty. That is provided for in 64A(2)**:

"Person A guilty of an offence under this article is liable—

(a) on summary conviction to a fine not exceeding level 3 on the standard scale;

(b) to imprisonment for a term not exceeding one year or a fine not exceeding the statutory maximum, or both."

3671. It is not clear whether it is intended that this offence should be triable summarily only or on indictment. That should be made clear. I suspect that it may be intended to be triable summarily only, in which case one would have in 64A(2):

"Person A guilty of an offence under this article is liable on summary conviction—

(a) to a fine not exceeding level 3 on the standard scale;

(b) to imprisonment for a term not exceeding one year".

3672. If that were the policy intention, one would then delete the words:

"or a fine not exceeding the statutory maximum, or both."

3673. The other point that, I understand, has arisen from the police evidence in the context of this clause is in relation to the time limit. If the offence is triable summarily only, there is a presumptive time limit of six months in the Magistrates' Courts Order. It may be thought desirable to make specific provision extending that time limit if it is thought that it is best to keep this a summarily only offence.

3674. As I said, the approach to the definition of "payment" comes from the 2008 order, and it might be thought desirable to ensure that there is a match between the other parts of the 2008 order and this provision. I am not sure that there is entirely. Again, that is capable of ready amendment should that be thought desirable.

3675. Moving on to clause 7, I understand that —

3676. **The Chairperson**: Sorry to interrupt, Mr Larkin. I assume that you have read the issues that the PPS raised on prosecuting cases under clause 6. If those technical issues were addressed, would that overcome the difficulties that it highlighted to the Committee?

3677. **Mr Larkin QC**: I think that it would. That feeds into the policy approach, but, as I understood the police evidence, it seemed to be that, although this would not be the easiest offence in the world to prosecute, they saw it as a useful addition to the police armoury. In response to your question, Chairman, it would address some of the PPS's concerns.

3678. **The Chairperson**: Thank you.

3679. **Mr Larkin QC**: I understand that clause 7(1) will go, if I have been correctly informed about the sponsor's intentions. I suggest that clause 7, including subsections 2 and 3, should go in its entirety, because those are statements of existing legal reality. If you say something again, it will be assumed as a matter of statutory construction that you are saying something slightly different, and that could give rise to problems in future. For example, it is simply true to say that the investigation or prosecution of any offence:

"shall not be dependent on reporting or accusation by a victim wherever the offence takes place."

3680. The starkest example of that is that murder victims do not normally report the offences that have just been committed on them. Similarly, if a victim has withdrawn his or her statement, happily, as I think the Committee will be aware, in cases of domestic violence, the PPS and the PSNI, quite properly, very often proceed, even though the complaint has been withdrawn. Therefore I do not think that clause 7 adds anything, and, because it does not, I go back to the principle that, if it is not necessary to legislate, it is usually necessary not to legislate.

3681. Clause 8 goes much further than the directive. The directive simply requires the UK to be in a position not to prosecute. The prosecuting authorities in the UK have always been in a position not to prosecute; they have always had discretion not to prosecute, particularly where the public interest so requires. The PPS has its internal guidance on this, and the Committee will perhaps recall my guidance to the PPS, which I hope to lay shortly. It includes specific provision for victims of trafficking. I think that clause 8 goes much too far, and, at present, for example, it would operate to bar the prosecution of the trafficked professional assassin.

3682. **The Chairperson**: Is there any other way that we can amend it that still seeks to do what Lord Morrow wants it to do?

3683. **Mr Larkin QC**: The Committee will no doubt hear again from Lord Morrow, but I get the sense — it may be a wrong sense — that the existing guidance may well satisfy Lord Morrow's concerns. I encourage him and the Committee to look specifically at the guidance that I have in place and hope to lay shortly dealing, among other things, with this very issue.

3684. That probably deals with the great bulk of the technical issues. As one moves towards Parts 2,3,4 and 5, one is dealing with issues that I understand are still subject to quite a bit of potential fluctuation. I am happy to deal with any specific questions. The only issue that I will touch on is clause 19, and subsection 2 in particular. It strikes me that, if the policy decision is taken that this is a good Bill, one might want to make straightforward provisions in the Bill for its own commencement. For example, it should say whether it will be effective on consent or whether it will be effective after a certain period of months. If the previous evidence is anything to go by, there is still some remaining gap between the Bill sponsor and the Department. It may place the Department in the invidious position of having to make a decision about commencement with respect to legislation that it may not be entirely happy about.

3685. **The Chairperson**: That could be put in and made effective on gaining Royal Assent.

3686. **Mr Larkin QC**: Yes.

3687. **The Chairperson**: That has been very helpful, Mr Larkin. Have members any other questions?

3688. **Ms McCorley**: I might not have picked it up right. Can you clarify what you were saying about the definition in clause 6?

3689. **Mr Larkin QC**: At present, clause 6 strikes me as too broad, because the reference to including sexual services in article 64A(3) could mean — obviously, it does not want to be indelicate — that there could be an exchange. For example, if you do x, I will do z — x and z obviously

being activities of a sexual nature — would appear to be caught by that provision, and plainly that is not the intention of the sponsor, as I understand it.

3690. **Ms McCorley**: So, you mean that it is too broad; it could be phone calls.

3691. **Mr Larkin QC**: It is not so much that; that is a pure policy call. For example, lap dancing plainly seems to come within that. If one thinks that that is appropriately penalised — it is not for me to express a view on that — that is fine. My point is that this goes a little further. It means that two persons engaging in entirely mutual and uncommercial sexual exchanges might be caught by that.

3692. **The Chairperson**: As in no transaction of money.

3693. **Mr Larkin QC**: Yes, none whatsoever, nor any suggestion of exploitation. For example, you could have someone in absolute economic desperation and someone who is in a position to offer employment, and, again, in policy terms, that can be viewed as highly undesirable or not, as, undoubtedly, there are a variety of views about that. However, this is the situation where there is no commercial or exploitative issue around; it is simply two people engaging in sexual transactions of an entirely non-pecuniary and, I emphasise, uncommercial nature. If it is explicitly set out — you do this, I'll do that — one could come within this clause.

3694. **The Chairperson**: I want to make sure that it can still be achieved even if it is the consenting adults but payment is involved.

3695. **Mr Larkin QC**: Removal of the bracketed words in article 64A(3) will in no way affect the policy efficacy of what I think that Lord Morrow has designed it to do. This strikes me as an entirely accidental by-product and one that is not, on reflection, I suspect, desired.

3696. **Mr Dickson**: Thank you. Your explanation has been very helpful. Again in that area, could the nature of a commercial transaction be, for example, a box of chocolates or a bunch of flowers?

3697. **Mr Larkin QC**: We are moving into very delicate territory here. People may offer extravagant gifts with the hope of certain outcomes, but I have never in my life come across anybody, even at third or fourth hand, who has been as crassly explicit as to say, "If I were to bribe you with a nice bunch of flowers" —

3698. **Mr Dickson**: What I am trying to get is this: where do you draw the line between something that is as innocuous as a bunch of flowers or a box of chocolates and, for example, a ring, a diamond stone or a bottle of champagne?

3699. **Mr Larkin QC**: If one considers —

3700. **Mr Dickson**: Where do you draw that line? When does it become a commercial transaction?

3701. **Mr Larkin QC**: It is commercial if it is explicit. That is the quick answer to that. However, if one looks at an offence such as careless driving — driving without due care and attention — one sees that it is committed on a massive scale. If every instance of that offence was detected and processed by the police and the courts, the courts would, I hazard, do nothing else. To take Mr Dickson's example, some grotesque employer may say, "A promotion is coming up and, if you sleep with me, you will get the promotion". In one sense, many people may think, in a policy context, that, if someone exploits and engages in that crassly exploitative behaviour, it might well be properly penalised. The person who, on the other hand, takes his girlfriend or boyfriend away for a lavish weekend with certain hopes, does not fall within the clause.

3702. **Mr Dickson**: But you could reverse the employment situation and the person may be offering the employer something for a promotion as well.

3703. **Mr Larkin QC**: Yes.

3704. **Mr Dickson**: If you extrapolate that onto the street or into much more casual relationships, such as people who do

not know each other and who meet on the Internet or by phone, they become a bit like all those 32 mph or 33 mph speeders.

3705. **Mr Larkin QC**: They do. However, the police have said that clause 6 is capable of being policed, not without its difficulty, but those are the examples of behaviour that, even if at the more extreme level they were technically caught, would never come within the purview of any serious decision to prosecute.

3706. **Mr Dickson**: I am sorry to carry this on, Chair. Therefore, regarding the line of questioning that Mr Wells has taken up on occasions, where does that leave the very clever, manipulative people out there who are providing services that we are trying to legislate against? Where does that leave them in being creative and finding a way around all this?

3707. **Mr Larkin QC**: That is where the clause is helpful because it is broad. It will be difficult for such persons to avoid it. It is interesting that this model does not so much target them; there are other provisions in the 2008 Order, as you know, that do. This looks at demand, not at supply, which, certainly in this jurisdiction, is a new approach. As members will be aware, that approach has been tried in the Nordic countries and France.

3708. **Mr Dickson**: Where does that leave persons who will inevitably claim that they are the innocent party but who, nevertheless, may have paid for something? The payment may be a bottle of champagne or a box of chocolates. Is that their defence?

3709. **Mr Larkin QC**: The first defence is to say that the offence has not actually occurred; the item was bought —

3710. **Mr Dickson**: The chocolates might have been consumed.

3711. **Mr Larkin QC**: They will have been; I would be very surprised if they were not. *[Laughter.]* The chocolates and the champagne will have been consumed, but the question is this: was there an explicit, as it were, contractual arrangement? In the absence of that, the mere jostling around of hopes and expectations would not suffice to bring this within clause 6.

3712. **Mr Dickson**: When we went to Sweden, we saw evidence that showed that there was surveillance to the point where the police were satisfied that sexual activity had happened inside the room. That was done by listening to conversations and, ultimately, to particular noises which, they decided, gave them sufficient evidence to open the door.

3713. **Mr Larkin QC**: I suspect that the police are much better equipped to speak about that than I am. I suspect that the major use of that will be, largely, for a package of offences. People may well be arrested in particular contexts and evidence may come forward. Or, if it is thought that there is a particular problem — policing policy ebbs and flows on a variety of issues — you would have the kind of approach that is taken in North American cities where they do not have this legislation. They use decoy police officers and people are arrested by virtue of the act of solicitation and are charged with the inchoate offence rather than the complete offence.

3714. **Mr Humphrey**: Thank you very much for your presentation, Attorney General. You will be aware that, in evidence to this Committee, the Northern Ireland Human Rights Commission welcomed the principle of clause 6, saying that it was not incompatible with human rights standards. Do you share its view?

3715. **Mr Larkin QC**: I do. I hope I have said as much.

3716. **Mr McCartney**: My question is about clause 4. Does the idea of exceptionality in clause 4 not undermine the concept of a minimum sentence? Pleading guilty early could be exceptionality.

3717. **Mr Larkin QC**: The Committee will be aware of exceptionality in a different context; for example, that of legal aid and the decision of a magistrate to grant certificates for two counsel. Technically, the certification for two counsel should

occur only in a murder case or where exceptionally the interests of justice so require. Yet, one knows that the certification of two counsel occurred in cases that, on the face of it, appeared to be far from exceptional. That is why I suggested that a useful addition may be the requirement for reasons to be given by a judge who considers that the exceptionality condition has been met in a particular case.

3718. **Mr McCartney**: You could see a scenario at the end of every trial where, after the person has been found guilty, there is perhaps a long discussion about the reasons why the case is exceptional. I wonder whether it would be better if the clause read, "It is a minimum sentence" or, "It is not a minimum sentence". That is what I suggest.

3719. **Mr Larkin QC**: There are arguments about the potentially excessive rigidity of a minimum sentence regime. This bridges the gap between ensuring that the legislature is able to impose its views legitimately on the judicial branch of government while ensuring that injustice does not occur because of some truly — let us use the word — exceptional case that merits a different approach. That is why I think that one further preserves the harmony by insisting upon a provision that requires reasons to be given for the exceptionality.

3720. **Mr McCartney**: In your opinion, the word "immediate" should come before "custodial", because you can get a custodial sentence that is suspended.

3721. **Mr Larkin QC**: Absolutely.

3722. **The Chairperson**: Do any other members have any questions?

3723. **Mr A Maginness**: I have one question, Chair. I assume that, with clause 8, Lord Morrow is intending to try to give as wide as possible immunity to genuine victims of human trafficking. Would a better way of addressing that not be to look at the code for prosecutors to see whether that is reflective of the necessary flexibility that a prosecutor has?

3724. **Mr Larkin QC**: I agree, and I think that I said that. I would add to that the section 8 guidance that I circulated to the Committee.

3725. **Mr A Maginness**: As the Attorney General.

3726. **Mr Larkin QC**: Yes.

3727. **The Chairperson**: No other members want to come in on this issue.

3728. Attorney General, while I have you in front of me, I want to ask you about the issue of on-the-runs, which members have spoken to me about, and which I will get to later in the Committee's business. A number of members have obviously asked about you as the Attorney General, because there were a lot of references to an Attorney General being involved in the process. What was your involvement in the scheme?

3729. **Mr Larkin QC**: I have always wanted an opportunity to say this: "Not me, guv". *[Laughter.]* The references to the Attorney General that you will have come across do not refer to me. I had no part in the devising or administration of any scheme of that nature.

3730. **The Chairperson**: You have a consultative role with the PPS. Has that ever been engaged?

3731. **Mr Larkin QC**: The consultative role — I spoke to the Committee about this — is a rather curious one, in the sense that the director and I have a statutory discretion to consult one another on matters for which the Attorney General is responsible to the Assembly or on matters for which the Attorney General is responsible, but I do not have responsibilities. Once I have appointed a director and deputy director and have been consulted on the content of the code for prosecutors, which Mr Maginness mentioned lately, and tiny matters of that nature, I do not have to be consulted, and I certainly have not been consulted on the operation of the scheme.

3732. **The Chairperson**: OK. I am not going to ask you questions about your view on

the legality of the scheme pre- and post-devolution, because I know that some members want to seek your opinion on that, and because I do not want to bounce it on you at this stage. However, we may wish to engage your services.

3733. **Mr Larkin QC**: First, I am very grateful for your forbearance, Chairman. As you know, it is matter on which I may be asked to advise Ministers or, as you say, on which I may be asked for advice by the Committee. In those circumstances, I would not be happy to informally offer a view at this stage. In addition, there are factual issues on which I am simply not sighted, so that too militates against the expression of even a tentative view at this stage.

3734. **The Chairperson**: Mr Larkin, thank you for coming to the Committee.

3735. **Mr Larkin QC**: A pleasure as always, Chairman. Thank you very much.

20 March 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

Witnesses:

Lord Morrow	*MLA - Fermanagh and South Tyrone*
Dr Dan Boucher	*Adviser to Lord Morrow*

3736. **The Chairperson**: I welcome Lord Morrow to the Committee to discuss his amendments. Lord Morrow, I will hand over to you to make some opening remarks. We will then go through the Bill clause by clause, and I will allow members an opportunity to ask questions. You can update us as we go through the Bill.

3737. **Lord Morrow (Northern Ireland Assembly)**: Mr Chairman, thank you for inviting me back to the Committee this afternoon. With your permission, I would like to make some brief remarks before we consider each clause.

3738. I would like to thank three groups of people for their scrutiny of my private Member's Bill. First, I would like to thank everyone who took the time to give evidence. Some were incredibly brave, particularly those who have been victims of human trafficking or are survivors of prostitution. I have also been deeply impressed by the expert testimony given on different aspects of my Bill from a wide variety of groups. The testimony given will undoubtedly make the Bill a better one.

3739. Secondly, I want to thank Committee members for their scrutiny work. I know that you have spent many hours considering in depth the issues raised and that some of the evidence was difficult to hear. My Bill will emerge better for the work that you have done. I look forward to carefully considering your report.

3740. Thirdly, I would like to thank the Minister of Justice and his officials for constructively working with me. It is not a secret that the Minister and I do not see eye to eye on many issues. I know that, initially, the Minister was sceptical of much of my Bill. However, it is to his credit that, on closer consideration, he has changed his mind on many of the clauses. On reflection, I have changed my mind on aspects of the Bill, too. As members will be aware, we do not agree on a small number of clauses. However, I am happy to acknowledge that my Bill is a better one for the constructive work of the Department of Justice.

3741. Members will have received my letter about suggested amendments to particular clauses. You will also have received a letter from the Department of Justice outlining a set of proposed amendments. I think that many of those amendments are positive. However, some fine details are yet to be worked out. I think that it would probably be best if we considered the suggested amendments as we come to them.

3742. Chairman, those were my introductory remarks. With your permission, I propose to go through my Bill clause by clause and discuss where it is at present.

3743. **The Chairperson**: Certainly. Thank you for your opening remarks and the comprehensive letter that you sent, which spells out in detail the specific amendments. It is very helpful for members to be able to see the text of how you wish the Bill to be amended.

If members have any questions for Lord Morrow, they should ask them on a clause-by-clause basis. As members know, when Lord Morrow leaves, we will go back through the Bill clause by clause so that members can indicate how their position is developing and what areas they may want to consider further. Lord Morrow, I will hand back to you now to take us through each clause.

3744. **Lord Morrow**: Thank you, Chair. Clause 1 provides definitions of human trafficking and slavery offences. As my letter outlines, I am not proposing any amendments to it. I understand that, following the Department of Justice consultation, changes will be made to this clause.

3745. **The Chairperson**: Members do not have any questions on clause 1.

3746. **Lord Morrow**: Clause 2 makes it clear that the consent of a victim of human trafficking or slavery will be irrelevant to those offences. Some have argued that the clause should be removed, but my view is that it needs to be maintained. I continue to believe that stating the need for the consent of victims to be irrelevant is important because the question of whether the victim consented, despite being subject to deception or fraud et cetera, can lead to misunderstanding of whether a person has been trafficked or not. As my letter outlines, following discussion with the DOJ, I propose one amendment to make it clear that consent is irrelevant. There may be some consequential amendments following the Department of Justice consultation, if the proposed clause 2(2) of the draft Modern Slavery Bill is enacted in a similar way in Northern Ireland.

3747. **The Chairperson**: Members have no questions on clause 2.

3748. **Lord Morrow**: Clause 3 outlines a list of aggravating factors that judges would be required to take into account when sentencing for trafficking and slavery offences. As my letter outlines, I propose one amendment, which replaces the definition of a vulnerable adult with that used in the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2012.

3749. **The Chairperson**: Members, are there any questions on clause 3?

3750. **Ms McCorley**: Yes. The Department's paper suggested a number of amendments to clause 3. Have you considered them?

3751. **Lord Morrow**: I assure the Committee that we have considered everything that came to the table throughout the consultation. I ask the Committee to reflect on the fact that when my Bill was first published, I made it quite clear that I was never, ever of the opinion that it was the finished version. I listened to what the Committee and everyone else said, and that has helped to shape my Bill.

3752. **Dr Dan Boucher (Adviser to Lord Morrow)**: One thing to add is that the idea of using the same definition as in the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2012 came from the Health Department.

3753. **Ms McCorley**: Are the points listed in today's tabled paper included, or are you choosing not to include them? Do you want me to read some of them out?

3754. **Lord Morrow**: Yes. Go ahead.

3755. **Ms McCorley**: I am not clear whether you have already done that. The first is:

"insert a definition of 'public official'".

3756. **The next one is**:

"standardise the various references to the family of the victim".

3757. **The third is**:

"define the family of the victim by reference to Article 34 of the Sexual Offences Order".

3758. They are mainly technical points. Are you aware of them?

3759. **Lord Morrow**: What date is on the letter?

3760. **Ms McCorley**: This is from today's tabled papers and is dated 20 March 2014. We can come back to it. I do not need to —

3761. **The Chairperson**: The Department indicated to us in writing that you were content, Lord Morrow.

3762. **Lord Morrow**: Yes, those are all technical issues. Therefore, we are content. You are correct, Chair. There are no issues as far as we are concerned.

3763. **The Committee Clerk**: The Department will table the amendments.

3764. **Ms McCorley**: At the appropriate time: is that what it means?

3765. **The Committee Clerk**: Yes. The Department has given us the wording of the amendments and will table them at the appropriate time.

3766. **Ms McCorley**: No bother.

3767. **The Chairperson**: Thank you.

3768. **Lord Morrow**: Clause 4 outlines that there should be a minimum two-year sentence for those convicted of human trafficking and slavery offences. As you will be aware, the Department opposes the clause. However, I am minded to continue with it and test the opinion of the House. As my letter makes clear, I intend to table five amendments to this clause. First, I propose adding a new clause to make slavery offences triable only on indictment so that a two-year minimum sentence could be imposed.

3769. Secondly, I propose that clause 4 be amended directly so that the minimum sentence framework should not apply to children. It was an oversight in the initial draft that the sentence would apply to children.

3770. Thirdly, I propose that clause 4 be amended to ensure that the court cannot impose a suspended sentence. I am of the view that a two-year custodial sentence is appropriate for these offences.

3771. Fourthly, I propose that, if judges derogate from setting down a two-year sentence, they must state the reasons why they consider a case exceptional and have decided not to impose the minimum sentence. Since I sent my list of amendments to the Committee, the Attorney General has advised me of how I can make that amendment more effective. I will give a copy of the amendment to the Committee Clerk to aid the Committee today. I will read to you the change that I propose to make on the advice of the Attorney General:

"If a court considers that there are exceptional circumstances which justify the imposition of a lesser sentence than that provided for under subsection (2), the court must give its reasons for considering exceptional circumstances to exist and record those reasons in the order book."

3772. **The Chairperson**: Members do not have any questions on clause 4.

3773. **Lord Morrow**: Finally, following discussions with the Department, I intend to add a new clause to Part 5 of the Bill, with consequential amendments that will impact on other sentencing legislation. As a result of other changes that have been made, we would have to make these consequential amendments.

3774. **Mr Wells**: This is all very sensible, Lord Morrow, but do we know the timeline by which the Committee will have a full list of all these technical changes? Although many look routine, we will have to read the Bill as a whole to make certain that it all knits together.

3775. **The Chairperson**: The only one that we do not have the wording for is the Attorney General's amendment, which Lord Morrow read into the record. The Department sent in some of them very recently, so there is a tabled pack that will be for reference in our next session.

3776. **Mr Wells**: Does that include all the amendments suggested by the Department and Lord Morrow together under one cover?

3777. **The Committee Clerk**: Yes, it does.

3778. **Mr McCartney**: I have a broad point: in taking forward the Bill, Lord Morrow says that he is not changing the minimum

sentence. We have reservations, although that is not for discussion today. I just wanted to put that on record.

3779. **The Chairperson**: Do members have any questions on the detail?

3780. **Mr A Maginness**: May I make a comment, Chair? I know what Lord Morrow is trying to achieve on minimum sentencing. I do not like minimum sentences because I think that they tie the hands of judges, but the way in which the clause is phrased suggests to me that it is not absolute; it is a qualified minimum sentence. At least, that is the way that I interpret it. I think that the way in which the Attorney General has drafted the amendment seems to be along those lines, in that a judge will have to give reasons for deviating from the statute. That, to my mind, is not, strictly speaking, a minimum sentence. What the statute is trying to get at is that, in most circumstances, there would be a two-year minimum, and that is, I think, fair enough.

3781. **Lord Morrow**: Yes, if a judge felt that the minimum sentence should not be imposed, he would have to outline, in some detail, the extenuating circumstances that prevailed.

3782. **Mr A Maginness**: Yes.

3783. **Mr McCartney**: Is there a proposal for a maximum sentence?

3784. **Lord Morrow**: No.

3785. **Mr McCartney**: Could a judge give a life sentence?

3786. **Lord Morrow**: That would be at his or her discretion.

3787. **The Chairperson**: We will move on to the next clause.

3788. **Lord Morrow**: For clarification on the point that Alban raised, I think that it would be helpful for the Committee to know that a number of countries, including Canada, Luxembourg and India, have introduced minimum sentences for human trafficking offences. In the end, it comes down to the fact that the Minister of Justice and I disagree on the principle of minimum sentences. I will leave it to the House to make up its mind. That is the best way to deal with it.

3789. Clause 5 outlines some technical changes to the Asylum and Immigration (Treatment of Claimants etc.) Act 2004. I am content with the Department of Justice's proposals for an amendment on the position of trust in clause 5. However, the clause may become redundant if it is decided to repeal section 4 of the 2004 Act following the Department of Justice consultation.

3790. **The Chairperson**: We will move on to clause 6.

3791. **Lord Morrow**: I suspect that you have all heard of this one. Clause 6 deals with paying for sexual services of a person. As members will be aware, considering the fact that the lion's share of the debate on my Bill has focused on it, clause 6 seeks to criminalise the purchase of sexual services. In spite of the Department's opposition, I plan to retain this clause. I strongly believe that it is a necessary measure for the Province, a belief only strengthened by the evidence that the Committee has heard over the past few months.

3792. After considering the evidence that the Committee has received, I propose eight amendments. The first three clarify that the clause refers to a prostitute instead of a person. Having considered the evidence of the Public Prosecution Service (PPS), I came to the view that these amendments were necessary. Amendments, therefore, need to be made to the clause title and in articles 64A(1) and 64A(4) of the Sexual Offences (Northern Ireland) Order 2008.

3793. The fourth amendment is consequential to changing the clause to refer to a prostitute, removing the new article 64A(3), as the definition of payment is already covered under the interpretation set out in article 58(3).

3794. The fifth amendment would clarify the sentencing provisions in article 64A(2). The PPS said:

"it is not clear in respect of which court tier the potential to imprison for a term not exceeding one year applies. It does not refer to prosecution on indictment in the clause."

3795. I propose that there be reference to prosecution on indictment.

3796. My sixth suggested amendment is to article 37 of the Sexual Offences (Northern Ireland) Order 2008. The Northern Ireland Human Rights Commission, in its written and oral evidence, raised a concern that my clause would create a discrepancy with the current article 37 offence of paying for sex with a child. This was clearly not my intention. At the moment, under article 37, the purchase of sex from a child under 13 is a strict liability offence, irrespective of what the defendant knew or believed about the age of the child. However, if the child is 14 to 17 years old, the purchaser can use the defence of reasonable belief; that is, that the defendant reasonably believed that the child was aged 18 or over. Once clause 6 comes into force, if a child is over 13 but under 18, even if the purchase is proven, a defendant with a reasonable belief that the child was 18 or over could be found not guilty, whereas a defendant charged under clause 6 with purchasing sex from someone 18 years or over has no such defence available. So, if the offence were proven, they would be found guilty.

3797. The Northern Ireland Human Rights Commission said:

"it will be easier to penalise persons who pay for sex with adults than those who pay for sex with children."

3798. In keeping with the proposal to make it an offence to pay for sex with an adult, I propose a new subsection to amend article 37(c)(1), making that offence of purchasing the sexual services of a child under the age of 18 a strict liability offence, no matter what the age of the child. The different sentencing regimes relating to the age of the child would, of course, remain.

3799. My seventh amendment would make it clear that new clause 64A(1) refers to a prostitute who is 18 or over so that this distinguishes it from the article 37 offence. My Bill originally had the text "over the age of 18", which lacked clarity on 18-year-olds.

3800. The eighth and final amendment would introduce a new article 64A(5) and require an advertising campaign to ensure public awareness of the change effected by clause 6. I have also responded to the evidence given to the Committee by numerous parties, including Women's Aid and Ruhama, about the need to provide services to help people in prostitution to exit by proposing a new clause, 10A, which rises to this very important challenge. I have with me and will leave with the Clerk copies of suggestions and proposals by Women's Aid on the best method to do that. Mr Chairman, I will leave those with the Committee before I leave today.

3801. **Mr Dickson**: Lord Morrow, thank you for taking us through all of this today. Have you costed the proposed new clause 10A, which is to support those wishing to exit prostitution? Who would provide and deliver a quality and genuine service, and how?

3802. **Dr Boucher**: That is in the Women's Aid paper. The costing is £200,000 per annum.

3803. **Mr Dickson**: Where would that funding come from?

3804. **Dr Boucher**: It would come from the DOJ budget.

3805. **Mr Dickson**: Not the Health Department?

3806. **Dr Boucher**: Sorry, it would come from the Health Department.

3807. **Mr Dickson**: So the proposal is that a minimum of £200,000 would come from the budget of the Department of Health.

3808. **Lord Morrow**: Stewart, it is very difficult to tie the cost down to the last pound note.

3809. **Mr Dickson**: I understand that.

3810. **Lord Morrow**: The figure is in the region of £200,000.

3811. **Mr Dickson**: I just wanted to get a feel for how many people you envisage that delivering for.

3812. **Lord Morrow**: This is the work of Women's Aid, which presented this paper to us. We are drawing on its experience.

3813. **Dr Boucher**: It is based on its assessment of the number in prostitution in Northern Ireland.

3814. **Mr Dickson**: I am interested in your assessment of the number of people and how many are likely to wish to exit prostitution as a result of or regardless of the Bill.

3815. **Dr Boucher**: The offer of help would be made available to people regardless of whether they were, as of today, committed to leaving. As far as the number crunching is concerned, it would be worth clarifying that with Women's Aid.

3816. **Mr Dickson**: Do you have an estimate of the number of people involved in prostitution today, not those who have been trafficked?

3817. **Dr Boucher**: I think that it is in the region of 150. It would probably be better if we wrote to the Committee with a definitive answer.

3818. **Mr Dickson**: If 50% of the 150 wish to leave, do you think that £200,000 is a reasonable sum? Should it be more?

3819. **Dr Boucher**: Lord Morrow has taken advice from Women's Aid, which is the organisation with the expertise that works on the ground. That is its projection. Obviously, it may not be 100% correct, so it will need to be refined, as is the case with all things. That is its initial projection.

3820. **Lord Morrow**: Women's Aid drew down that figure, based on its experience.

3821. **Mr Dickson**: However, Women's Aid is not the only organisation delivering a service to assist people out of prostitution or those who are in prostitution but want sexual help and other types of support. This is not just about an exit strategy. Presumably, it has to be a holistic approach to medical and abuse issues and a range of matters.

3822. **Lord Morrow**: Sheltered accommodation is one of those issues.

3823. **Dr Boucher**: It is located in the context of a direction-of-travel exit. It is not construed in the context whereby there is not that direction of travel in place, but it does not impose on people the fact that, from day one, they have to be connected to that, because the experience of organisations such as Ruhama, which gave evidence, is that you have to take people on a journey.

3824. **Mr Dickson**: In a sense, you are saying that it is targeted only at those who have effectively signed up for the programme to leave.

3825. **Dr Boucher**: As I said, it is not about people being clear in their mind from day one that they want to leave. It is made available to people who are not of that opinion. However, it is in the context of a commitment to encourage people and to be there to provide them with a route out, if they want to seize hold of that. It is not in a context in which there is not an emphasis on routes out and people are encouraged to stay. If people want to stay, that is their prerogative, but they are offered a route out.

3826. **Mr Dickson**: I understand that. That is an important offer for anyone who is in a vulnerable position through drugs, personal circumstances or whatever. What I am trying to get at is this: surely the intention to provide a resource has to be fairly targeted at anyone who is in prostitution — that is the word we are now using for the purposes of the Bill. Even though people may not have indicated that they wish to take that as their first step as a route out, the delivery of a comprehensive service has to be provided to all people in prostitution so that they can at least see that there is a route out.

3827. **Dr Boucher**: The drafting of the amendments sets out the terms on which the provision of support services was requested by numerous organisations such as Women's Aid, Ruhama, SPACE, et cetera. That is testimony to the Committee's scrutiny work. Lord Morrow listened to people's evidence, and it has been defined in respect of the representations that were made.

3828. **Mr Dickson**: There are organisations, most of which you mentioned, whose raison d'être is to encourage exit from prostitution. Other organisations, usually in the healthcare field, will be neutral on the subject and do not take a view one way or the other, and some organisations are support networks for those in prostitution and the sex industry. Surely help must be given to everyone, even if the ultimate aim, which is very laudable, is to encourage people out of the sex industry and prostitution. Surely those support mechanisms must be given, regardless of a person's initial intent.

3829. **Dr Boucher**: Absolutely. Perhaps I am not explaining myself very clearly. It is provided regardless of the initial intent. People are not told, "If you say you are going to exit, we will help you; if you do not, we will not".

3830. **Mr Dickson**: Some providers may give words of encouragement, advice and guidance as part of their service. Others may not wish to go down that route. Would they be equally entitled to those funds?

3831. **Dr Boucher**: The clause is construed in the context of the Bill and the parallel commitment to criminalise paying for sex. It is in the context of a clear direction of travel, recognising that prostitution is not a valid form of employment, that one would not want to encourage people to continue providing that service, and that one would want to come down very firmly on anyone who was seeking to purchase that service.

3832. **Mr Dickson**: I am keen to understand why you see no barrier to the use of that resource, provided it is not to encourage someone to get into prostitution, but those who are there, in many people's minds, may be on a journey. Others may have decided that their journey has come to an end, and that is where they wish to stay. Surely they are all entitled to appropriate assistance, whether healthcare, counselling, accommodation, protection or legal services.

3833. **Dr Boucher**: Yes, absolutely.

3834. **The Chairperson**: The amendment, to me, is very welcome. I want to be clear about the purpose behind it, albeit that it is connected to what people said about clause 6 and is one reason why they may have been against it. It is clear to me that it is for those who want to leave prostitution. So there is a principle, and, ultimately, it is for the Department of Health to design the programme. If we agree the amendment, it stands separate to clause 6; it is not dependent on clause 6. You are not being prescriptive about the type of programme that it should be.

3835. **Lord Morrow**: Chairman, let me make this very clear. The exit strategy was introduced as a result of the consultation and the comments of those whom we met and listened to. They made it quite clear that, for the Bill to be effective, an exit strategy provision had to be built in or it would leave people who wanted to exit that lifestyle to discover that, when they were out of it, they had no support and were saying, "Where do I go from here? There is no support for me. I am left totally bewildered. I am left like an orphan". Therefore, on the suggestion of Women's Aid and others, my Bill proposes to build in a support mechanism for those who are exiting that lifestyle. That will give them confidence that they are not being left alone to fend for themselves in a big world that they have very little experience of.

3836. It might be useful if I quote a few lines from the Women's Aid paper that you will get, since you have not had a chance to read it:

"A supported living/sheltered accommodation building that will provide short-term accommodation to women, and their children, whose exiting prostitution has rendered them homeless/women who are fleeing prostitution.

Supported living support for 6 months–1 year, with intensive support in first 3 months, and additional support for months or years after, as long as needed.

Floating support for women in prostitution to provide long-term support and assistance to women on a one-to-one basis.

Programmes to promote — "

3837. — this is important —

"— self-esteem and understand the effects of abuse …

Support for any children or young people, based on the needs … and their protection, with referrals to other agencies."

3838. It is a gatekeeper for those who want to exit that lifestyle, and it will give them the support and confidence that they perhaps will lack on first coming out of it.

3839. **Mr Dickson**: What you describe is vital for the success of anyone wishing to leave, particularly for self-esteem. However, in order for people to build that self-esteem in the first instance, what support will be made available to those who are at a point before any decision has been made to exit? Does the resource extend to that?

3840. **Dr Boucher**: My understanding from the evidence that was given to you by Ruhama, which provides a good model, is that it is made available regardless of whether a commitment to leave is given at the outset, because people are on a journey. As I said, the provision is very much seen in the context of a Bill that is clearly of the view that prostitution is not a valid form of employment and that one should clamp down very heavily on those who buy. Although that is the direction of travel, and the overall context in which we are looking at this is about routes out, the wisdom from Ruhama is that, operationally, it is more effective if you do not ask people to have made all the decisions from the very first moment that you encounter them. That is not really how it works in practice.

3841. **Mr Dickson**: Will there be no objection to the resource being made available to those organisations that do not have an opinion on exit or, in other words, those that do not have the same value structures as Ruhama, for example, but nevertheless deliver perfectly valid healthcare and other services?

3842. **The Chairperson**: My reading of the amendment is that it will be for the Department of Health to design this programme. It will not be for Lord Morrow to say, "This money goes to Women's Aid. This goes to Ruhama".

3843. **Mr Dickson**: I was not suggesting that. I just want to be clear that the resource is made available to any appropriate organisation that wants to deliver services to people in these circumstances.

3844. **Mr Wells**: Lord Morrow, as you know, some of us have had several very late nights in here. For some of us, it was hardly worthwhile going home, so you will forgive some members for not being able to keep entirely up to date with the very fast flow of information. We have a tabled paper from Women's Aid, which is very interesting, we have responses from the Department, and we have your amendments list. It is sometimes quite difficult to draw everything together. It is in that context that I ask my questions, otherwise you might ask, "Has Wells slept in these last 48 hours?"

3845. Have you seen the letter from the DALO dated 19 March?

3846. **Dr Boucher**: We have just been presented with a copy.

3847. **Mr Wells**: You are in a similar position to others. Has the Minister seen the content of your proposed amendments to clause 6? Is he aware of them? More importantly, would he have been aware of them when the 19 March document was written? That might alter his opinion.

3848. **Lord Morrow**: It may do.

3849. **Mr Wells**: Was he aware of clause 10? Was he aware of the support mechanism that you have now pointed out? Was he aware of the extent of the commitment that you have now given to the care of those who leave prostitution?

3850. **Lord Morrow**: Are you asking me whether he is aware of the Women's Aid document?

3851. **Mr Wells**: Yes.

3852. **Lord Morrow**: No, he is not.

3853. **Mr Wells**: Obviously, that could flavour someone's view on clause 6. What you said is extremely powerful. One of the criticisms that has been made to me is that, if you simply throw these women on the streets and their trade dries up, they will turn to something equally sinister such as drug trafficking, whereas if you give realistic options of care, settlement, training and sheltered housing to these women — the vast majority will be women, but I presume that it is gender neutral and that a man in this position would get the same care — it is much less likely that they will get into something such as drug trafficking. We need an opportunity for all those involved to have all the documents in front of them to make a fresh decision on clause 6. The Minister has not yet had all that in front of him.

3854. **Lord Morrow**: Jim, I thought that I said — maybe I did not — that the idea of an exit strategy was made clear to me in my meetings with the different people, organisations and groups. It was they who emphasised it. Let me be very clear: on reflection, it was not properly catered for in my Bill. It was as a result of listening to what people were telling me about an exit strategy that we decided that it was important, and we needed to introduce it. It was emphasised by some of the groups that we mentioned today, including Women's Aid and Ruhama. Other groups said that if the Bill did not have an exit strategy, there would be a fundamental weakness in the whole strategy. You said that, when people come out of prostitution, perhaps there is a tendency to turn to something else such as drugs. This strategy is designed to try to steer them away from that and to give them the support, self-esteem and confidence that they really need, which is not there at the moment.

3855. **Mr Wells**: I totally agree with you. Would that very significant development change the Department's view if it were aware of it?

3856. **Lord Morrow**: It may well do. I cannot pre-empt what the Department will do. We made no secret of it, and if the Minister were here, I suspect that he would agree with me. When we started on this journey, the Minister was in one corner and I was in another corner, and ne'er the twain would meet. We are not there any more. There has been considerable movement, and we agree on many — in fact, the majority of — issues. I do not take credit for that, and I do not give entire credit to the Minister. I think that both of us have come together as two adults and said that there is merit in the Bill, and we will take it forward. That is the position that we find ourselves in. Before the Bill goes to the next stage, I hope that there will be further agreement on the issues that we are not in total agreement on at the moment. I cannot pre-empt what those will be, but I know that we are in negotiations, are talking and plan to meet in the future.

3857. **The Chairperson**: I encourage my own colleague and other members to stick to the substance of the amendments put forward by Lord Morrow rather than inviting him to comment on other people's opinions, otherwise we will be here a lot longer than we need to be. Let us get to the amendments.

3858. **Mr Wells**: Given that very stern warning from the Chair —

3859. **Lord Morrow**: You could have another late night tonight, Jim.

3860. **Mr Wells**: — and suitably admonished, I will finish with this rather than ask all the questions that I had in mind. In the letter from the Minister relating to clause 6 and the reference to article

64A, he is suggesting that there will be an amendment to the Sexual Offences (Northern Ireland) Order 2008 to extend from six months to three years the notifiable time in which someone can make an allegation that a person was trafficked? Does that in any way come close to meeting your concerns about that aspect, which is, of course, fundamental to clause 6?

3861. **Lord Morrow**: Clause 6 is one of the clauses on which we do not have agreement. Only time will tell whether we can get agreement in the end. I am not going to be unfair to the Minister. He might come round to my way of thinking, and I suspect that some of you are saying that I might come round to his way of thinking. I could give the answer to that one now, but I will not because I think that you know the answer. Therefore, I am not going to pre-empt what he may or may not say. I welcome the amendments that the Minister has come up with. I said on the Floor that I welcomed those and acknowledged it at the time. Therefore, that is a positive step in the right direction.

3862. **Mr Wells**: However, you do not believe that it is enough.

3863. **Lord Morrow**: I do not believe that it is enough, and that is why clause 6 is still there.

3864. **Ms McCorley**: Go raibh maith agat, a Chathaoirligh. Thank you for the presentation. I think that the new clause that you are promoting is a good idea, because we heard from many people that an exit strategy was missing. In coming to your conclusions on that, how many people involved in sex work have you spoken to, and what sort of work were they involved in, because there are different types? I am trying to work out how you arrived at the services that people will need. Have you spoken to any of them?

3865. **Lord Morrow**: I suspect that no Bill has received more scrutiny than my Bill. I will allow everyone to make up their own mind on why that might be. When I first floated — for want of a better word — my Bill, I went out to consultation. I suspect that there are those who could say that I put my own Bill out to consultation, which is fair enough; I did that. I did not go for the minimum period; I went for the maximum period. Then along comes the Justice Committee and does the same exercise again, which, of course, I have no problem with. I welcome that. I could not stop it, and nor would I want to stop it.

3866. I went for a full consultation. In other words, I said to all and sundry that if they had something to say about my Bill, I wanted to hear from them. It is no secret that I got comments from as far away as Jerusalem, which is a fair wee distance from here. Therefore, the world and the crows, to use a colloquialism, know about my Bill. They came with their views, and I took them on board. As a result of that consultation and what was said in the public arena, I have come forward with substantial amendments and changes.

3867. Even in the early days, I deleted a clause, included a new clause, amended a clause and made other changes. Therefore, I have gone the second mile in listening to everybody, including those in the sex industry.

3868. **Ms McCorley**: Clause 6 is the controversial clause. It will affect people who are involved in sex work, which is what it is meant to do. That is why I am asking you specifically which sex workers you spoke to. Was it single sex workers, groups or organisations? It is about trying to work out what services, risks and vulnerabilities those people were telling you about to inform you in coming to your conclusions.

3869. **Lord Morrow**: I do not think that it is any secret that Laura Lee and I appeared on television together and debated the issue. She has been in front of the Committee, and we heard what she said. In a direct way, on that programme, I heard what she was saying to me. Therefore, I have been listening.

3870. **Dr Boucher**: Apparently, a number of consultation responses were from sex

workers, and I also spent a lot of time with former sex workers.

3871. **Ms McCorley**: Taking part in a television debate with somebody is not the same as asking, "What way will this affect people like you who are involved in the work you do?" However, I heard your answer. Have you had conversations with men and transgender people who will be affected? We know that it will also affect people such as them.

3872. **Lord Morrow**: I have not, but I was in Sweden and you were in Sweden, and we listened to what we were told there. I understand that the Committee had deliberations on men in prostitution, but I heard nothing from them. To the best of my knowledge, I do not think that they responded to my consultation.

3873. **Dr Boucher**: It is important to stress that we engaged not just with Laura Lee. A number of consultation responses came from sex workers. We also spent a lot of time talking to former sex workers about their experience, so it was not just Laura Lee on television.

3874. **Ms McCorley**: You mentioned that you were in Sweden. Did you come to the meetings that we had with the academics and people who were involved in sex working?

3875. **Lord Morrow**: No, the Committee did that. You will recall that, although I was in Sweden at the same time, I was not with the Committee as such. I was there of my own volition to hear how effective this type of legislation is in Sweden.

3876. **Ms McCorley**: Do you not think that it might have been useful to inform yourself of what those people were saying?

3877. **Lord Morrow**: First, I was not invited. Secondly, I wanted to make sure that the Committee could get on with its business. I was not part of the Committee set-up. I used to be on this Committee, but I am not any more. Some of you are saying, "That's a good job", but that is the way things are.

3878. **Ms McCorley**: I am disappointed that you were not invited to those parts of our visit. I would like to know whose fault it is that you did not get an invitation.

3879. What risk assessments have you done to take a view of what might be very serious risks for people? I ask because we have been told that clause 6 will have very grave results for people in sex work. We have been told that people will be made more vulnerable. Did you do any risk assessment?

3880. **Lord Morrow**: The cut and thrust of my Bill is to provide support for vulnerable people; it is not to make vulnerable people more vulnerable. I accept that the sex industry is a very dangerous profession — for want of a better word. Indeed, staggering figures — I think that you heard them — were given to us in Sweden: some 126 or 127 prostitutes in the Netherlands have been murdered over the past 25 years, and that is in a country where prostitution is legalised. However, in Sweden — my Bill is based on the Swedish model — over the same time, there has been just one such murder. That does not tell me that people are going to be more vulnerable as a result of this type of legislation.

3881. **Dr Boucher**: The question was about whether a risk assessment has been done. The answer is yes, in as much as reviews have been conducted of all the evidence base. The underground thesis has been interrogated very closely, and there has been a critique of it. The problem with the underground thesis is that prostitution is, at any rate, a relatively underground industry, and the point is that prostitution cannot go completely underground because, at the end of the day, it works only because of making punters aware of where they can go to buy women or men. That requires communication. The countries that have gone down that route have testified that, if the punters can find out where the women are, so can the police.

3882. Obviously, we are aware that some people do not particularly like the proposed change in the law. They will

talk about the underground thesis and say that they think that it is a valid concern. However, we have looked at the evidence base in the round and considered academic reviews, and so on, and a judgement was made that the Bill will result in less risk and abuse. It will be an important step forward.

3883. **Ms McCorley**: I can go only by the evidence that we received, and that evidence is that it will have unintended consequences and that people will be more vulnerable. We heard that in Sweden from the people whom you did not get an opportunity to speak to.

3884. As you know, the lack of an evidence base for the scale and extent of prostitution is one reason why the Department finds it difficult to support clause 6, and it is conducting research. Other research is also being conducted. On what evidential basis is Women's Aid putting its services together? How can a figure of £200,000 be arrived at if you do not know how many people are in prostitution or how many people are likely to want to exit? You do not really know about their circumstances or problems or the circumstances they face as a result of having made a decision to be in prostitution. We do not know any of that. I am curious about how we came to a figure of £200,000. Is that amount of money there and tied down?

3885. **Lord Morrow**: I suspected that that question would come up. I have considerable confidence in Women's Aid and the work that it does, and I suspect that you do, too. It brings to the table its experience of past events and how its staff have worked with people engaged in all of this. To some degree, I am led by it. However, you might be right that £200,000 is not an adequate figure.

3886. I want to deal with something while I am here. We have heard that we need more evidence. To me, that is an attempt, not by you but by others, to kick the whole thing into the long grass. I believe that, if this opportunity is missed, there will not be another one for a very long time. I have jotted down some notes on the subject. As everyone is aware, I published my consultation on the Bill in August 2012, and it was thoroughly scrutinised. In July 2013, I introduced First Stage to the House. I will never forget it: it was, I think, at 12.55 am on one of those late nights.

3887. Up to that point, we had not heard anything from the Department about commissioning research into prostitution — not a word. It was only in September 2013 that the Minister announced his intention to conduct such research, and it has taken until now — March 2014 — for the academics to be selected. So, as you and I sit here, it is not even at that stage. It took 18 months from the time that I first announced the intention behind clause 6 for the Department of Justice to get the research under way. I have not, at any point, heard a plausible explanation from the Department for that delay.

3888. Members, if you were in my position today, what would you think was going on? I will let you answer that with your silence. I know that the Minister and his officials would deny it, but it seems to me that this is a classic Civil Service trick to send clause 6 into the long grass, whence they hope it will never emerge. Let me be crystal clear: if I did what the Department is calling for and removed clause 6, it would be nigh on impossible for such a provision to be considered again in this mandate. Indeed, it may not be until 2017 or 2018, or possibly beyond, that such legislation could come before the House again. I accept that some members here may be happy with that, but, having considered the evidence in favour of the approach outlined and given my belief that there is a real need for it, I would not be satisfied with leaving it that long. Mr McCartney asked a pertinent question of departmental officials last week: he asked whether they could liaise with me on whether I could delay Consideration Stage until the research was published. That was a fair question. The response tells us all that we need to know about where the Department is:

"There would be too much coming out of the research to make a decision in a short

time, because we would have to consider its findings. There may be recommendations that involve other people and having to consult other people. I do not think that it would work."

3889. The idea that we have no research on prostitution or the Nordic model is, as I am sure members will agree, inaccurate. Hundreds of research studies both for and against the approach outlined can inform us on how it would work. Also, the Department of Justice published research in 2011, of which we have heard precious little from the Department. As a matter of fact, I cannot recall hearing the Department say anything about that, but I might have missed it.

3890. I believe that the Committee has heard compelling evidence in favour of my approach. Organisations including Women's Aid, the Irish Congress of Trade Unions, the hugely impressive Turn Off The Red Light campaign, the Evangelical Alliance, the Catholic Bishops, the Barnardo's Supporting Primary Aged Children Early (SPACE) project and the Northern Ireland Human Rights Commission have come out in favour of the approach that I outlined.

3891. Indeed, I am informed that when you on the Justice Committee met your Dáil counterparts, Sinn Féin TD Pádraig Mac Lochlainn stated that we did not need more research to take action. Those are his words, not mine. It is rare for me to agree with much that Sinn Féin says, and you and I would agree that we often disagree. However, I wholly agree with your colleague in the Dublin Parliament on this matter.

3892. The European Parliament has also supported the approach outlined, and other countries such as France are going down this route. We also have evidence from other countries of the effectiveness of criminalising the purchase of sexual services. I believe that this is the right approach to take and that we have the evidence to go forward. Consequently, as I said earlier, I want to test the opinion of the House at Consideration Stage, regardless of whether we have access to the Department of Justice research. I am disappointed that we have not yet got that research and fail to understand why, but I have to go on without it.

3893. **Mr McCartney**: If the Department is dragging its heels, we need to tell it not to. I will quote the Honeyball report, as you have done. Interestingly, recommendation 52 states:

3894. "Urges the Member States to evaluate both the positive and negative effects of criminalising the purchase of sexual services on reducing prostitution and trafficking".

3895. It precedes that by stating:

"more analysis and statistical evidence is needed to judge which model is the most effective".

3896. Even the European Union's report calls for more evidence, which is why we, too, support that call. You heard last week that we think that the time lag should be as short as possible in order to assist you. That is the approach that we have been taking.

3897. I think that everybody welcomes clause 10, which makes provision for exit strategy services and support. Has the Department of Health or the Department of Justice commented? Will they get a copy of the Women's Aid document?

3898. **Lord Morrow**: They got a copy of the amendment but not the Women's Aid paper, which has only just come through.

3899. **Mr McCartney**: Do you intend to provide them with that?

3900. **Lord Morrow**: Yes.

3901. **Mr McCartney**: Women's Aid will be key to the costing of that support. I have to be honest, and I do not doubt the integrity of Women's Aid, but when I heard the figure of £200,000, I thought that it was very low. That was my first reaction when Stewart Dickson's question was answered. The clause puts into legislation that this must be done. So the Department that is to provide such support will, I assume, want to be rigorous about the projected cost before

signing up to something that it would have a legal imperative to do. That is why I ask that the report be given to the two Departments —

3902. **Lord Morrow**: You can be sure that it will be.

3903. **Mr McCartney**: — so that they know exactly its contents and can come back to you on whether that estimate is correct.

3904. **Lord Morrow**: Fair point.

3905. **Mr Wells**: You mentioned Pádraig Mac Lochlainn's comments, which we heard. Also, at the European Parliament, Diane Dodds and Sinn Féin MEP Martina Anderson supported the principle of what you are trying to do. I note that Martina Anderson did not, in the European Parliament, ask for the extensive research that is being asked for here. Having —

3906. **Mr McCartney**: She signed up to the report that asked for it.

3907. **Mr Wells**: No, she did not. She voted for —

3908. **Mr McCartney**: There it is in writing.

3909. **Mr Wells**: She voted for the principle of —

3910. **Mr McCartney**: The report.

3911. **Mr Wells**: No, she voted for it —

3912. **Mr McCartney**: For the report.

3913. **Mr Wells**: — without asking for the research to be done first.

3914. **Mr McCartney**: I have it in front of me. She voted for the report, as did Diane Dodds, which clearly calls for more evidence.

3915. **The Chairperson**: I encourage members to stick to the amendment.

3916. **Mr McCartney**: I have no problem sticking with it, but Diane Dodds signed up for more evidence.

3917. **Mr Humphrey**: You are both very welcome.

3918. Lord Morrow, it is interesting that we are now talking about the type of model; it is no longer the case that anyone is arguing for nothing to be done. If nothing happens, at least your Bill has generated much discussion in this place and across the country about two evils. There is a clear, defined, understood linkage, as established through the testimonies that the Committee has heard and our visit to Sweden, between human trafficking, slavery and prostitution.

3919. For us, as legislators, the Bill is to protect the most vulnerable. Clause 6 is all about protecting the most vulnerable. You gave evidence a few moments ago on talk of the removal of clause 6, as some political parties, or indeed some civil servants, may want to happen. On the basis of your experience and evidence from the various Committee witnesses and people in Stockholm, I have to commend you. I spoke recently to senior people in the Shankill Women's Centre. I work closely with them, and they very much support what you are trying to do. They put on a very powerful play recently in the Spectrum Centre on this issue. The people to whom you have spoken, and to whom we have listened, have said that doing nothing is not an option. So, if clause 6 were to be removed or watered down significantly, would those who are hugely vulnerable not be let down massively? I am thinking of people like the young Romanian lady in Stockholm who had to service 33 clients a day in a filthy room. No doubt, given the free movement across Europe, people like that young lady are operating here for criminals who are making an absolute fortune.

3920. **Lord Morrow**: The quick answer to that is yes. I believe that you are right in saying that we as legislators have a duty to protect and provide for the very vulnerable.

3921. I did not come to this subject lightly. Someone described their experience as being on a journey, and I think that I am, too. I have, I think, gained a greater insight into this whole unsavoury business. Previously, I had the

impression that it happened somewhere else, but you know, folks, it is happening here in Northern Ireland. That has been proved and demonstrated. I met Anna, as some of you have, and I listened to the frightening story of what that young lady has gone through. She said that she believes that, if the Bill had been in place, she might not have been subjected to or had to come through those very unpleasant experiences.

3922. Mr Humphrey, I believe that, if clause 6 was not in my Bill, we would be condemning more victims to continued suffering. That is why I want to test the opinion of the House on that clause. I want to paraphrase an immortal quotation on slavery. Spoken some 200 years ago, it remains relevant today, "Some of you might decide to turn your head and look the other way, but you are never going to say that you did not know."That is what I am saying through my Bill. If people decide that they are not up for it, on their head be it, but at least they are going to get the opportunity to say so. I believe that clause 6 is the effective way to deal with this, since we know that the main driver for trafficking is sexual exploitation. Why would we not tackle it?

3923. **Dr Boucher**: The stats show that, between 2008-09 and 2012-13, 69% of people trafficked into Northern Ireland were trafficked for the purposes of sexual —

3924. **Mr Humphrey**: Sixty-nine per cent?

3925. **Dr Boucher**: Yes, 69%. In our own figures for the three years, as a whole it was 69%.

3926. **Mr Humphrey**: The other interesting thing is the position of the police, as set out to the Committee by Drew Harris recently. The PSNI's position has clearly changed. In our view, that is a change for the better.

3927. You mentioned our visit to the Republic to speak to the equivalent Committee in the Irish Parliament. An all-party group there is looking at legislation and at how the Republic is going to deal with the issue. If the Dáil moves to put legislation in place and we do not, do you agree that Northern Ireland — because there will be legislation in place on the mainland as well — will be the soft underbelly for human trafficking/ prostitution in Europe?

3928. **Lord Morrow**: Absolutely. In the event of us having legislation here that is tougher than that in, for instance, the Republic of Ireland, the Republic of Ireland will have a problem. If the Republic of Ireland moves ahead of us and gets its legislation in place, and that legislation is tougher than ours, we will certainly have a problem. It should be said that Scotland and Wales will be looking at their legislation, too. Therefore, we could become very vulnerable here. It is better to put your house in order and prepare for things rather than do so when events happen. They are happening now, but, as you said, with open borders, we are moving into a different situation right across Europe. We have a porous land border here, and we will be very vulnerable if the Republic of Ireland goes ahead and toughens up or introduces legislation, either similar to this or of the same type. Therefore, it is important that we move ahead.

3929. **Mr Humphrey**: You should be aware, in case you are not, that the police agreed absolutely with that position. That was their line as well.

3930. **Mr Lynch**: Just a quick question, Maurice. Did you carry out an equality impact assessment (EQIA) on the Bill?

3931. **Lord Morrow**: No.

3932. **Mr Lynch**: Why?

3933. **Lord Morrow**: In order that I can get my head around it properly, in what respect are you asking the question?

3934. **Mr Lynch**: If somebody is planning to introduce a Bill or a policy, one of the things to carry out is an EQIA. When people are bringing in legislation, they mostly carry one out to see what impact the legislation will have on vulnerable people.

3935. **Dr Boucher**: The whole purpose of the Bill is to help the vulnerable. One could attach an equality impact assessment to it, but, given the fact that that is its whole raison d'être and central theme —

3936. **Mr McCartney**: It is a statutory obligation. It is not an add-on.

3937. **The Chairperson**: It is a statutory obligation on Departments for their legislation, not for a private Member's Bill.

3938. **Dr Boucher**: I am sure that one could be provided, but I think that the conviction is that it is not a Bill leading to something other than equality and protecting the vulnerable such that it would be worth pausing to see whether it has an effect in that regard. It is a Bill that has been conceived for the purpose of helping equality.

3939. **The Chairperson**: If there are no other purely technical questions on clause 6, let us move on. I am sure that we will gallop through the rest.

3940. **Lord Morrow**: Clause 7 is titled, "Requirements and resources for investigation or prosecution". As my letter outlines, I am content with the approach proposed by the Department of Justice for training. That is the subject of clause 7(1), and it will now be covered in clause 15. I am minded to maintain clause 7(2) and (3) to ensure clarity in those areas.

3941. **The Chairperson**: If there are no questions on that, we move on.

3942. **Lord Morrow**: Clause 8 is titled, "Non prosecution of victims of trafficking in human beings". From my point of view, the clause has been one of the most difficult to deal with. My aim, in including it in my Bill, is to protect vulnerable people, particularly children, from being prosecuted and punished for crimes that they were forced to commit by their traffickers.

3943. The clause responds to the article 26 convention rights and the article 8 directive rights that a victim of trafficking who commits a crime

"which they have been compelled to commit as a direct consequence of being subjected"

3944. to an act of trafficking should be protected from prosecution. There have been strong views expressed about whether the clause is needed and whether it should remain in the Bill.

3945. I acknowledge that the current wording of the clause has flaws. I never intended for it to provide a protection against prosecution for murder, for example. I am awaiting the view of the Joint Committee on the draft Modern Slavery Bill on the subject before proceeding. I will inform the Committee and the Department of Justice about the decision that I have come to once the joint Committee's report is released. It is my understanding that that will be published by the end of this month. I apologise that I am not in a position to come to a final view on the clause at present.

3946. **Mr A Maginness**: That is a wise course of action. Whether or not you ultimately intend to include clause 8 in the Bill, it is wise to take some time out and examine it further.

3947. I reflect on what the PPS said when it was here. It seems to me that there is probably sufficient protection in the prosecutorial code of conduct. The PPS would exercise a non-prosecution approach to recognise the public interest, where people are genuinely victims of trafficking. Therefore, you might conclude that the clause is not necessary.

3948. **Lord Morrow**: I thank Alban for those comments. That is why we are waiting to see the report. It may well be the case that the clause will not be included in the Bill. It is something that we are deliberating on, and, as I said, clause 8 has been a very difficult one for me to get my head around. It is not the finished article.

3949. **Mr A Maginness**: You may want to include some reference to children or minors who may be involved in criminal activity so that they have protection.

That may be appropriate. That is just a side comment.

3950. **Mr McCartney**: In your discussions with the Department on the clause, has decriminalising prostitution come up at all?

3951. **Lord Morrow**: No.

3952. **Mr McCartney**: Is it something that you would consider?

3953. **Lord Morrow**: I said early on that I have read to the best of my ability all the material that has come in as a result of the consultation. I will look very carefully at this Committee's report.

3954. Members, it is important to understand that my primary focus is on placing the burden on the buyer, not the seller. I listened to what Alban and others said, and you have heard me say that this has been a difficult clause for me to get my head around. I want it to be an offence to buy sex from someone, male or female, across the board, and it is important to understand that it is already perfectly legal to sell sex in this country in every context apart from on the street. The offence was created for reasons of public order, and I have not heard the views of the police on the matter or consulted colleagues. Others might want to make a case for a change here. People have expressed views to me from both sides, and I see criminalising the buyer in all contexts as my priority and the way forward.

3955. **The Chairperson**: We will move to clause 9.

3956. **Mr Dickson**: May I ask one question? Lord Morrow said that his objective is always to see the buyer criminalised or prosecuted. Do you envisage any circumstance in which the buyer might also avail himself of similar services to those who wish to seek exit from prostitution? In other words, alternatives may be available to the buyer. How would that manifest itself in the Bill if the buyer is always to be criminalised as a result of the purchase of sex?

3957. **Dr Boucher**: That is an interesting question. There are some voluntary organisations in other countries that have sought to help people go down that path. I am not aware of any country that has put anything in statute on that, but it is a very good question. I will give it some thought.

3958. **Mr Dickson**: Is there perhaps a role for either the Department of Health or the Department of Education to play in what people of my generation call "school sex education", which is about respect and behavioural issues? Is there scope for delivery of that?

(The Deputy Chairperson [Mr McCartney] in the Chair)

3959. **Dr Boucher**: It is certainly worth thought and consideration.

3960. **Mr Dickson**: By logical extension, it means that it may be incorrect to prosecute everyone who is a purchaser of sexual services.

3961. **Dr Boucher**: No, that does not follow. It is perfectly all right to help people who say, "I have bought sexual services in the past, and I now recognise that it is not a good way forward".

3962. **Mr Dickson**: Is that not a confession?

3963. **Dr Boucher**: It is, but you are not in the position of giving it live in front of the police. If you admit that, in the past, you were involved in that area but now want help, there is a valid role for charities to afford help and support to people who want to take that path. However, I do not see — *[Inaudible.]*

3964. **The Deputy Chairperson**: We are now on clause 9.

3965. **Lord Morrow**: Clause 9, titled "Victims of trafficking in human beings", seeks to provide definitions of "victims of human trafficking". As my letter outlines, and as the DOJ has set out, I propose to make some amendments to clauses 13 and 14 to ensure that there is consistency in the language used in legislation related to so-called special measures. I propose two minor consequential amendments to clause 9. They may need to be

amended further in the light of the proposed amendments to clause 9 that the Department is working on, which I have yet to see.

3966. **The Deputy Chairperson**: If members have no questions on clause 9, we will move to clause 10. You have covered most of it, but go ahead.

3967. **Lord Morrow**: Clause 10 outlines requirements for Departments to provide assistance and support to victims of human trafficking.

(The Chairperson [Mr Givan] in the Chair)

3968. As members will be aware, the Department of Justice and the Department of Health support the inclusion of clause 10. I am grateful to them for that. However, drafting the clause to ensure that it will be effective has proven to be a complicated business. It is my understanding that the two Departments require more time to finalise the exact wording of the clause. It has been suggested that scrutiny of clauses 10 and 12 should be delayed until the Department of Justice returns to the Committee with its report on the responses to its human trafficking consultation. I am content with that approach.

3969. **The Chairperson**: Members have no questions on that clause.

3970. **Lord Morrow**: Clause 11 deals with compensation. This was one of the clauses that the Examiner of Statutory Rules raised. I have agreed with the Department of Justice that there should be an obligation to bring forward statutory guidance on when and how a trafficking victim should receive compensation and that that guidance will replace clause 11. Therefore, there will no longer be a reference to an order in this clause, and I am content with the amendment that the Department of Justice proposed.

3971. **The Chairperson**: There are no questions on clause 11.

3972. **Lord Morrow**: Clause 12 proposes to introduce child trafficking guardians in Northern Ireland. As members will be aware, the Department of Health supports the inclusion of the clause, and I am very grateful to it for that. However, as with clause 10, drafting the clause to ensure that it will be effective has proven to be a complicated business.

3973. I have proposed one amendment to ensure that child trafficking guardians are independent of the health and social care trusts. I am in ongoing discussion with the Department about that and am waiting to hear from it about other amendments. It has been suggested that scrutiny on clauses 10 and 12 be delayed until the Department of Justice returns to the Committee. Again, I am very content with that approach.

3974. **Mr McCartney**: Are you proposing that guardians should be independent persons who are not employees of the health service? Is that at every level of the health service or at a particular level?

3975. **Dr Boucher**: It means that a person cannot be employed by the Department to be a child trafficking guardian. The best practice guidance on child trafficking guardians is that they should be independent of any statutory agency that is involved in providing services to children so that there is no conflict of interest.

3976. **Lord Morrow**: Mr Chairman, if it is OK with you and the Committee, I will consider clauses 13 and 14 together. Both clauses deal with special measures for victims of trafficking and slavery offences. As my letter makes clear, I am very pleased that I have been able to work with the Department of Justice to agree that there should be an extension of so-called special measures to victims of human trafficking during the investigation and court processes. I have agreed with the Department that there needs to be amendments to clauses 13 and 14 so that, instead of referring to a victim, the clauses will refer to a complainant.

3977. **The Chairperson**: Members have no questions on those clauses.

3978. **Lord Morrow**: Clause 15 deals with prevention, and it requires the Department of Justice to publish an annual strategy on human trafficking and slavery. As my letter makes clear, following my discussions with the Department of Justice, we have agreed that clause 15 should be amended to ensure that the annual strategy covers matters that are related to training, investigation and prosecution. I am also supportive of its proposal to include awareness of the issues on the non-prosecution of victims of human trafficking who have been compelled to commit an offence as a consequence of being a victim of trafficking, should clause 8 be removed. There remain some minor points of difference in the drafting of the clause, but, by and large, we are in agreement.

3979. **Mr Anderson**: Have the revisions come from you and the Department?

3980. **Lord Morrow**: Yes.

3981. **Mr Anderson**: So, can I take it that you have come to some sort of agreement along those lines?

3982. **Lord Morrow**: Yes, basically what we are after is something that the Department and we can live with.

3983. Clause 16 would introduce a Northern Ireland-based national rapporteur who would scrutinise Departments' work in this area. Since I published my Bill, the draft Modern Slavery Bill has proposed an anti-slavery commissioner, which the Department of Justice proposes to extend to Northern Ireland. I think that it is important for members to be aware that, at the time that I suggested introducing a national rapporteur, the UK Government had actually ruled out the idea of having one. They have subsequently changed their mind. I acknowledge that there is a good argument for a national rapporteur to operate on a UK-wide level. However, I am unwilling to commit to removing clause 16 until more detail is available about how the anti-slavery commissioner will operate in Northern Ireland. I am particularly concerned by the fact that, under the relevant provision as it is drafted, the proposed commissioner will consider only law enforcement and not areas such as victim support, which my proposed rapporteur would have the power to do. It is important that the rapporteur considers effectively the needs of Northern Ireland and our particular challenges, particularly the fact that we have a land border with the Republic of Ireland. Once the commissioner's precise role becomes clear, I will make a decision on this clause. I apologise to members that I am not in a position to provide more detail on that at this stage.

3984. **Mr McCartney**: This might not be a question for you, but has your proposal been costed? If that role were specific to the North, do we have any idea of the cost?

3985. **Lord Morrow**: Yes, we did a costing.

3986. **Mr McCartney**: We can come back to that; I was just wondering.

3987. **Dr Boucher**: The explanatory memorandum that accompanied the Bill had a costing of £1·3 million. This clause was in that Bill, so it was factored in to that.

3988. **Lord Morrow**: It was a part of that figure.

3989. You may be pleased to know — or maybe not — that I have nothing more to add to clauses 17, 18 and 19.

3990. **The Chairperson**: OK. If there are no further questions on those amendments, can I thank you —

3991. **Lord Morrow**: Chairman, can I just bring your attention to one last issue that I have been asked to include in my Bill? It concerns forced marriages, which I want to bring to the Committee's attention. A number of months ago, the Minister of Finance and Personnel wrote to me to ask whether I would be happy for him to use my Bill to create an offence of forced marriage. As my letter outlines, new offences of forced

marriage have just been created as part of the Westminster Anti-social Behaviour, Crime and Policing Act 2014. The new offences of forced marriages apply to England, Wales and Scotland. I can see no reason why my Bill could not be used to deal with forced marriage, and I hope that the Committee is satisfied by that approach. However, I must confess that I do not have a significant amount of detail on this matter. So, if members have questions, I will have to go back to the Minister of Finance to get the answers. However, I thought it proper that I bring it to the attention of the Committee that, in all probability, a clause on that issue will be in the Bill.

3992. **The Chairperson**: I think that, last week, the Committee agreed to get a briefing from the Department of Finance on the issue. Mr Wells and Mr McCartney have questions.

3993. **Mr Wells**: I wanted to ask whether Lord Morrow would refer to forced marriage, and he did. So, that is settled.

3994. **Mr McCartney**: Will that go to the Finance and Personnel Committee, or will it come here for scrutiny? I assume that it will come to this Committee, as we are looking at the Bill.

3995. **Lord Morrow**: Yes. I think that it will come here.

3996. **The Chairperson**: I think that we will have to deal with it.

3997. Lord Morrow and Dr Boucher, thank you very much for coming to the Committee today. We very much appreciate you giving us your time.

3998. **Lord Morrow**: Chairman, I thank you and the Committee for your tolerance. Thank you very much for all that you have done. I know that I have taken up much of the Committee's time over the past weeks and months. I suspect that, at times, you could see me anywhere. I want to place on record my appreciation for all that you have done.

3999. **Mr McCartney**: We will wait for the Christmas cards.

4000. **Mr Wells**: For our usual fee.

4001. **The Chairperson**: Thank you for those comments, Lord Morrow.

20 March 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

4002. **The Chairperson**: At this point, I will ask members to indicate what clauses they are content with, what clauses they are not content with, what clauses they have no comment on and what clauses they require more information on. That will allow us to try to filter through the clauses and to get whatever information may be needed for next week. We can then try to home in on trying to get to the formal clause-by-clause stage of the Committee process, which will start on 3 April.

4003. You have the pack for this. I thank the Committee staff, who have put a lot of work into gathering this information. It has been challenging for them, but they have been able to do it. You have copies of each clause with the amendments that Lord Morrow proposed. How it will appear in the Bill is shown in red with lines deleted. We are still awaiting some of it, and Lord Morrow has referred to a number of proposed amendments for which we have not been able to do that. By and large, however, it has been made as helpful as possible for members' consideration.

4004. You have been provided with a folder that gives a summary of the evidence that the Committee has received over the past number of months. Hopefully, that has consolidated a lot of the information and has allowed members to recap on what they said. You have your folders or, if you are really impressing people, you are going with your computers. You will need both of them beside you as we discuss clause 1. The information highlights what some of the groups said, and the amendments are in the pack. So, you will need two pieces of paper to do this. I will go through each clause, and it would be appreciated if members were then able to make their comments.

4005. Clause 1 sets out what the Bill means by a human trafficking offence and a slavery offence.

4006. **The Committee Clerk**: Lord Morrow said that he has no amendments to this clause, but it is likely to be subject to changes following the ongoing consultation. Again, the Department indicated that it will table no amendments, but the consultation proposals could directly impact on the clause. At the minute, apart from that one very small proposed amendment to be clarified by Lord Morrow, the clause is as it stands. However, it may be affected in due course by the outcome of the consultation.

4007. **The Chairperson**: Lord Morrow's proposed amendment was to clause 2, so we are content that there is no more information to be sought. Obviously, if there is a slightly revised amendment of a technical nature, we will deal with that, but there is nothing in principle that members have an issue with.

4008. **The Committee Clerk**: It is really a question of whether members are content with clause 1 as it stands while recognising that it may be subject to changes later as a result of the consultation that the Department is undertaking on the Modern Slavery Bill.

4009. **The Chairperson**: No member has indicated that they wish to speak, so I will take it that they are content with that.

4010. Clause 2 is entitled "Consent irrelevant for victim of human trafficking or slavery offences". Lord Morrow is tabling a technical amendment to this clause. Are members content?

Members indicated assent.

4011. Clause 3 deals with aggravating factors. Those are laid out in the Bill, and Lord Morrow and the Department have each proposed some amendments to the clause. Are members content with clause 3 and with the proposed amendments?

Members indicated assent.

4012. Clause 4 relates to the minimum sentence for human trafficking and slavery offences. You can see the proposed amendments that Lord Morrow is seeking to table. The Attorney General also suggested an amendment to this clause.

4013. Having checked that, I can see that this is the issue about preventing the court from imposing a suspended sentence and making it immediate. Lord Morrow is addressing that through the second amendment on his list of amendments to clause 4. Clause 4, page 2, line 41 addresses it. It seems to be dealing with the same objective.

4014. **The Committee Clerk**: The Attorney General was pointing out that he felt that the clause was worded in such a way that meant that the court could impose a suspended sentence. He wanted it to be immediate.

4015. **Mr McCartney**: He wanted it to be classed as custodial.

4016. **The Committee Clerk**: Yes. Lord Morrow seems to be addressing that point, but in a different way, through the amendment that he proposes for page 2, line 41. He suggested that it read:

"the court shall not exercise its power under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to a sentence which it is required to impose under subsection (2)."

4017. **The Chairperson**: Are we content with clause 4, as it would be amended by Lord Morrow?

4018. **Mr A Maginness**: The addition of wording that would prevent the court exercising power to suspend a sentence is something that I could not agree with at this stage. I agree with and welcome the suggested amendment to clause 4(3), which states that:

"If the court decides not to impose a custodial sentence under subsection (2), the court must state the exceptional circumstances of the offence or the offender."

4019. I do not think that the element that would be added to clause 4(2) is necessary. If there is a power not to impose a two-year sentence, I think the court should have the full power not to impose it instead of being obstructed or prevented from imposing a suspended sentence.

4020. **Mr Wells**: Did Lord Morrow's olive branch not meet you halfway on that?

4021. **Mr A Maginness**: I do not think that it has with that amendment. It would have to be clarified. You might be correct, but I think that —

4022. **Mr Wells**: If I was correct, would that meet your concerns?

4023. **Mr A Maginness**: If you were, yes. If it allowed full discretion at that point and if a judge thought that it was exceptional —

4024. **Mr Wells**: So, does that mean that you do not object to the principle of forcing the judge to make known the reasons why?

4025. **Mr A Maginness**: No, I do not object to that.

4026. **The Chairperson**: The issue is whether clause 4(2) contradicts clause 4(3).

4027. **Mr A Maginness**: Yes. I am not certain that clause 4(2) is necessary. Anyway, we can look at that later; I am just flagging it up.

4028. **Mr McCartney**: We have the general reservation about minimum sentences, but we will come back to it.

4029. **Mr Dickson**: It probably goes without saying that I have reservations about both.

4030. **Mr Wells**: Could you live with the court still having the discretion, provided that it explains the reasons?

4031. **Mr McCartney**: That would be for exceptional circumstances. I think that the sentencing guidelines as they are laid out allow the judge to look at the circumstances and to impose the appropriate sentence rather than compelling them to say that it has to be "two years, unless".

4032. **Mr A Maginness**: I could be helpful here. The way that I view it is that this clause would be persuasive on the court to impose a two-year sentence but not binding on the court to impose a two-year sentence.

4033. **Mr McCartney**: One of the reservations is that an appeal could be lodged on the severity of the sentence. I think that you would open it up to appeal on whether the judge gave appropriate weight to the exceptional circumstances that the person puts forward. So, it gives the judge more latitude and less of an opportunity for an appeal. The sentence should be appropriate, but it should not be left open to the extent that you have a conviction and then there is an appeal that is based solely on whether the judge put proper weight on the exceptional circumstances. You can make an assumption that everybody will say, "My circumstances were exceptional."

4034. **The Chairperson**: We will come back to that next week. I would like some clarity on clause 4(3) and the exceptional circumstances if it means that agreeing clause 4(2) means that you cannot implement clause 4(3). The exceptional circumstance would then preclude a suspended sentence.

4035. Clause 5 concerns amendments to the Asylum and Immigration Act. We are waiting on the Department for those amendments, which will be technical. I do not have any issues with this clause as it is drafted.

4036. **Mr Wells**: Is it in order to clear all the clauses and come back to clause 6?

4037. **The Chairperson**: No. I am taking us through the Bill clause by clause. *[Laughter.]* I am taking the clauses as they come.

4038. **Mr A Maginness**: Good try.

4039. **The Chairperson**: Mr Wells, I will take your position on clause 6 first.

4040. **Mr Wells**: As Lord Morrow said, I have never seen a clause in any Bill in the House that has ever been subject to such scrutiny. That is about the only thing that we will probably agree on today. We have seen huge support for the clause from some very disparate groups, such as Women's Aid, the Northern Ireland Human Rights Commission (NIHRC), the Irish Congress of Trade Unions (ICTU), and various Christian Church groups, including the Church of Ireland and the Catholic bishops. We have had a huge range of support for it. Through our various discussions with witnesses, I think that our views have been well articulated. I think that the Bill without clause 6 is severely weakened. Unless you cut off demand for sexual services, you will still have trafficking. I know that people have very profound views on the subject. I notice that Lord Morrow has moved a long way on many clauses to meet the Department, and, to be fair to it, apart from this clause, the Department has moved a very long way as well. I think that we need to record that the them-and-us situation that we faced at the start of this process has very much become people working together on every issue except this. The evidence that we received from those who had come out of the industry was absolutely compelling, and they were some of the most difficult arguments that I have had to listen to.

4041. I also thought that the Oireachtas hearing was extraordinarily helpful,

because TDs went in with a very cynical view on the equivalent legislation, and, as one Donegal TD told us, he went on a personal journey and was convinced by the weight of the argument in the Republic on the issue. I think that anyone who listened to the evidence that was given here could not be persuaded that this has to be the way forward. I notice that France is also about to follow the example.

4042. I think that the evidence from police, social workers, etc in Sweden was overwhelmingly in support of it. So, I will be saying that clause 6 is absolutely essential, subject to the amendments that Lord Morrow outlined. We need to see all those amendments on one piece of paper and get time to read them. However, apart from that, I think the clause should stay in the Bill.

4043. **The Chairperson**: Let me just add to Mr Wells's comment. There is an aspect that I want more clarity on. The Attorney General (AG) was explicit that the term "person" should be kept and not replaced with the term "prostitute". Obviously, Lord Morrow's amendments will replace the word "person" with the word "prostitute". The AG's comment at the time was that, if the clause becomes legislation, it is better to retain the term "person" to make it prosecutorial, because it is more difficult to prosecute with the word "prostitute". So, I would like to ask the Attorney General for his opinion on the terms "person" and "prostitute" and to have that opinion for next week. Lord Morrow indicated that he used the term on the basis of what the Public Prosecution Service (PPS) said, and that is why he proposes this amendment. However, I just want to make absolutely certain that, if this clause is passed, it will be an effective tool for the prosecution service. So, I would like to bottom out that particular aspect of clause 6.

4044. **Mr A Maginness**: I am content with the clause. Certainly, I am content with its intention and with the amendments that have been proposed. I am happy with that. I actually prefer the use of the term "prostitute" to "person". It might be a better way of expressing this clause. I recall what the PPS said. However, if there is further advice on the matter, either from the Attorney General or the PPS, it would be helpful. At this point, though, I am content.

4045. **Mr Dickson**: I very strongly welcome Lord Morrow's comments about the cooperation that there has been between him and the Department on the Bill. I think that there is more work to be done, and they can achieve more. I do not think that, at this stage, we should come to a final conclusion on clause 6, because we should wait to see the final outcome of those deliberations.

4046. I hope and believe, Lord Morrow, that trafficking is a great deal more than just paying for sexual services. If we are genuinely trying to tackle that, this Bill is important. I think that clause 6 has been very difficult for everyone on the Committee to deal with; however, I feel that the Bill is much bigger than clause 6 and that it deals with a very important issue.

4047. Lord Morrow made a comment about the length of time that the Department has taken to come to conclusions with research on some of these matters. At least we should be content that the Minister has accepted Lord Morrow's and the Committee's suggestion that he should travel to Sweden. I understand that he is going in the last few days of March to, as I understand it, undertake an investigation similar to that which we undertook as a Committee. That may also assist him and departmental officials, who, presumably, will be travelling with him, to confirm or alter their view on a number of items that clause 6 very firmly sits around.

4048. I note that Mr Wells made a comment about France. Although that was a headline in the news, I understand that the upper house in France, whatever it is called, has not seen fit to move the legislation forward and that that may be where it sits — not moved forward. I also think that the Minister for Justice in the Republic has not intimated particular enthusiasm for moving forward the

Committee's views on similar legislation there.

4049. These are genuinely not delaying tactics. This is about getting the best possible information and research. I listened to Lord Morrow, and I understand his concerns about the time that it takes civil servants to get the game into play and to undertake these things. However, if we are genuinely to legislate to improve the lot of citizens in Northern Ireland, it is important that we get this right. On that basis, I am not prepared to indicate full support for clause 6 at this point.

4050. **Mr McCartney**: I have a number of points to make. First, we still require more evidence, and we welcome the fact that the Department is doing research. Lord Morrow made a point earlier about delay, and we should report that back to the Department. My understanding is that there is a stretch in the timeline and that Lord Morrow cannot introduce his Bill until the Modern Slavery Bill proceeds, so he has given the Department a few months.

4051. We have no issue with trying to deal with human trafficking and vulnerable people who are in prostitution but we are not, at this stage, in a position to support clause 6 as the appropriate way to do that.

4052. **Mr Wells**: You were in Dublin with us and you heard the very powerful comments of Pádraig Mac Lochlainn TD. He started from a similar position but is now extremely supportive. Indeed, he was almost a cheerleader for what Maurice Morrow is trying to do. Do you not see that there is a discrepancy between the view that he clearly espouses, that of your party on the Turn Off The Red Light campaign and your view here?

4053. **Mr McCartney**: Not particularly. That came up during the discussion in Dublin and Pádraig articulated his position. He went through all the sessions in the Oireachtas and came to his conclusion. We are doing the same thing here. That is the process of scrutiny. Lord Morrow himself said today that some of the evidence that he has heard allowed him to change his mind on particular aspects. We certainly want to deal with the issues. We could go into the warnings about the two issues being legislated for at the same time. We will take a view on that, as did the Oireachtas Committee, which recommended that the two issues be treated separately. We are not convinced that this is the best way of doing it, and we will ensure that, whatever mechanism is used to deal with human trafficking and sexual exploitation, it will be the best vehicle possible.

4054. **Mr Wells**: As the only all-Ireland party, what do you see as the major difference between prostitution in the Irish Republic as opposed to Northern Ireland that makes us so radically different that we cannot follow suit with what the rest of Ireland is doing?

4055. **Mr McCartney**: Well, as Stewart said, the Minister there has not seen fit to move the legislation. You could make the argument that William made earlier: should we all park it and do it at the same time, considering that we have a porous land border?

4056. **Mr Wells**: I am not talking about the Minister; I am talking about the very powerful stand that your party has taken on this issue in the Republic by supporting the Turn Off The Red Light campaign and the Oireachtas Committee report. As an all-Ireland party, what do you perceive to be so fundamentally different here in what you would call the Six Counties as opposed to the Irish Republic?

4057. **Mr McCartney**: There would be no difference, but Sinn Féin has accepted that people in our party are entitled to scrutinise this legislation as it comes in front of us and make up our mind accordingly. We will be informed, as we were —

4058. **Mr Wells**: You are saying that you are opposing clause 6.

4059. **Mr McCartney**: No. I never said that.

4060. **The Chairperson**: I also have issues with clause 6 that I need to bottom out. We will come back to it next week. I have heard what you have said — you can correct me — but, at this stage, you have not formally decided on how to vote on this when it comes to the Committee's formal scrutiny and that of the Assembly.

4061. **Mr McCartney**: We have not.

4062. **The Chairperson**: OK. We will move on to clause 7, which deals with requirements and resources for investigation or prosecution. There are amendments from the Department. Are members broadly content with the clause, as amended?

Members indicated assent.

4063. **The Chairperson**: We will move on to clause 8, which deals with non prosecution of victims of trafficking in human beings. Obviously, you heard what Lord Morrow had to say; he has not yet reached a decision on this clause. I will not press members to decide on it today. Hopefully, we will be in a better position to know how Lord Morrow intends to proceed by next week, or at least the following week. Do members wish to comment?

4064. **Mr A Maginness**: I will make a comment for the record. It may well be that the clause is not necessary, given the assurances that the PPS gave to the Committee on the exercise of public interest test in not prosecuting bona fide victims of human trafficking. It could well be that we do not need a statutory provision in relation to that matter.

4065. **Mr McCartney**: The prosecutor will be in a good position to make that decision when assessing a case. If it is legislated for, you could see a courtroom battle over whether or not a person committed a crime as a direct result of trafficking. The Public Prosecution Service can deal with that as part of its process of formulating charges.

4066. **The Chairperson**: Clause 9 deals with victims of trafficking in human beings. Lord Morrow is to table some amendments, as is the Department. I think that we will need to come back to this clause next week when, hopefully, things will be a bit clearer by way of those amendments. If members are content, we will deal with that next week.

4067. Clause 10 deals with requirements for assistance and support. Lord Morrow spoke about an amendment to this clause at the Committee meeting this afternoon. Are members content with what was in clause 10 and the addition of clause 10A, which is Lord Morrow's amendment? I am certainly keen to get a response from the Health Department, if it is able to provide that. In principle, I am in favour of it as outlined, but I am keen to hear from the Department of Health.

4068. **Mr McCartney**: Lord Morrow also said that he had written to the Department of Education. It would be interesting to know the legal position on access to education for child victims and the children of victims.

4069. **The Chairperson**: We will contact the Department of Education about that.

4070. **Mr A Maginness**: Just for completeness, I think the Department for Social Development has also been written to, so we need its response as well.

4071. **The Chairperson**: Maybe I should not make this assumption, but I am assuming that support is provided from Departments when victims are identified, although they may not be branded as victims of prostitution. I am happy to ask for that clarification. The Department has also indicated that it may propose some amendments to clause 10.

4072. Clause 11 deals with compensation for victims of trafficking. The Department has proposed an amendment to that. Are members content with clause 11, as amended?

4073. **Mr A Maginness**: Yes, Chair, I am content, but I am not altogether convinced that guidance alone is sufficient to make it an effective provision, because I think that there will

be no compensation per se for being trafficked. It may well be that that is not desirable or is not the intention of the statute, but I think that, if somebody is trafficked, they should be compensated for that, not simply for the abuse or misuse that they have physically or, indeed, mentally suffered. I leave that point with you.

4074. **The Chairperson**: The Department indicated to the Committee that that issue could be looked at as part of a broader review of compensation legislation. That was the response that they provided to the Committee.

4075. **Mr A Maginness**: That is a long shot, is it not? I am not certain that that is the happiest result that we are looking for. We need to be reassured that people in such circumstances will receive adequate compensation. As I see the criminal injuries scheme at the moment, there are several difficulties that would prevent people from getting adequate compensation. There are a number of hurdles that may be difficult for the victims of human trafficking to overcome.

4076. **Mr Humphrey**: Alban, who do you see paying the compensation, given the hurdles that you are talking about? Could there not be provision, effectively, for assets that are seized?

4077. **Mr A Maginness**: No, you need some sort of statutory scheme.

4078. **Mr Humphrey**: Yes, I accept that, because that is the ultimate protection for someone if assets cannot be seized because it is so shady and so many people are removed from it. However, if assets can be seized, moneys that are seized should go to —

4079. **Mr A Maginness**: It is not a matter, Chair, of the money not being available. The state has sufficient money to pay compensation. It is the different boxes that have to be ticked. Perhaps that is the wrong analogy; it is the different stages that the applicant in those circumstances — the victim of human trafficking — will have to go through. For example, the law and the scheme are very strict as to what type of medical evidence is presented to the compensation agency, including how many times the person has gone to his or her GP. I would assume that a victim of human trafficking would not have a GP or access to a doctor. There are certain criteria, for example the reporting of the injury that a person received and when it was reported. Was it reported to the police? If not, is that person entitled to compensation? There are all sorts of difficulties, without going through the whole scheme. All that I am saying to the Committee is that, if we want to compensate these unfortunate people, we have to have a scheme that is flexible enough to ensure compensation.

4080. **Mr Humphrey**: I am not disagreeing with you.

4081. **Mr A Maginness**: I understand that.

4082. **Mr Humphrey**: I am just saying that, where there are assets that can be seized, those should be used to augment compensation funds. The other difficulty that we have to be clear about is that there are minorities in the former Baltic states who do not have official status, so they do not have passports and so on. There is also the situation that Women's Aid discussed with us about people from China or the subcontinent who are trafficked.

4083. **Mr A Maginness**: Stateless people.

4084. **Mr Humphrey**: Yes. Which state pays the compensation? That could well draw those people into long and tedious legal battles. We need to get European Union countries to sign up to these things.

4085. **Mr A Maginness**: In conclusion, Chair, all I would say is that we need to look at that issue and satisfy ourselves that we can compensate people properly and adequately in such circumstances. I am not certain that the scheme as it is presently arranged is in a position to do that properly, even with guidance.

4086. **The Chairperson**: We will look at whether there is way in which we could do something to give this place a bit

more control over that. I certainly have no difficulty with the amendments that the Department has brought forward because, unlike what was previously drafted, its amendment specifically references victims of human trafficking. It states that guidance shall be issued as to:

"the grounds on which compensation may be awarded under that Order".

4087. I am not sure whether there can be some recourse to the Assembly in the guidance process so that we have a role in looking at the grounds on which compensation could be awarded. We will see whether we can do something by way of an amendment to facilitate that.

4088. **Mr A Maginness**: Thank you, Chair.

4089. **The Chairperson**: Clause 12 deals with the child trafficking guardian. There is one amendment from Lord Morrow. Are members content with the clause, as amended? We will chase up the Health Department, which indicated that it may have some issues with it. Subject to anything that the Health Department may say, I take it that the Committee is content with the clause, as amended by Lord Morrow's proposal.

4090. Clause 13 deals with the protection of victims in criminal investigations. Some technical amendments have been brought forward by Lord Morrow, and the Department is to come back to the Committee with some further amendments. Are members content with the clause as proposed, with the current amendments? We will await the Department's further amendments. Are members content?

Members indicated assent.

4091. **The Chairperson**: Clause 14 deals with amendments to the Criminal Evidence (Northern Ireland) Order 1999. There is a technical amendment from Lord Morrow. Are members content with clause 14, as amended?

Members indicated assent.

4092. **The Chairperson**: Clause 15 deals with prevention. The Department has proposed an amendment. Lord Morrow touched on this issue, and they are pretty close to getting agreement on it. I think that we are content with the direction of travel, but we will finalise the position next week, if members are content with that approach.

Members indicated assent.

4093. **The Chairperson**: Clause 16 deals with the national rapporteur. We heard what Lord Morrow said about the anti-slavery commissioner. He is hoping to get more clarity on that issue. I am content to wait for a final outcome on that. If members have no comments on the national rapporteur clause, we will wait until next week.

4094. Clause 17 deals with general interpretation. Lord Morrow has drafted consequential amendments. The Department has also proposed an amendment. Are members content with clause 17, as amended?

Members indicated assent.

4095. **The Chairperson**: Clause 18 refers to orders. Again, amendments have been proposed by Lord Morrow. The Department has suggested some further amendments. Are members content with clause 18, as amended by Lord Morrow, and that we await further amendments from the Department?

Members indicated assent.

4096. **The Chairperson**: Clause 19 deals with the short title and commencement. In our discussion with the Attorney General, an issue came up around the powers of commencement. He indicated that we may wish to consider that the commencement be immediate upon receipt of Royal Assent, although Lord Morrow has not touched on that or brought forward an amendment. I will seek to bring forward an amendment so that, if the Bill is passed, commencement would be immediate. Are members content with that and that we look at the wording of amendments drafted in respect of that next week?

Members indicated assent.

4097. **The Chairperson**: We will pull together a summary of what we have discussed and agreed and what we need to come back to next week.

4098. **Ms McCorley**: Chair, Lord Morrow said earlier that he was not invited to a meeting that was part of the Swedish trip. Was that an oversight?

4099. **The Chairperson**: Let me take responsibility for that. Lord Morrow indicated that he wanted to come along to the Committee meeting when we heard evidence from the police. I indicated that I did not have a problem with that. He did not become aware that there was a secondary aspect until we were travelling to it. I made him aware of what he initially indicated he wanted to be present for. That is how it happened. It was not deliberate or intentional not to invite him to come to that particular session.

4100. **Ms McCorley**: So he chose not to go when he was made aware of it.

4101. **The Chairperson**: We were travelling to it; it was spontaneous. I made him aware that we had another meeting to do with the Committee. There is nothing more to it. There is no conspiracy, if you are after one.

4102. **Ms McCorley**: It was his loss, I think.

4103. **The Chairperson**: It was a Committee visit, and Lord Morrow made his own way there by way of expense and so on. He was not part of the official Committee delegation. He wanted to hear the evidence that we were hearing from the government authorities. The Committee agreed to go to the second meeting, and I did not make Lord Morrow aware of that until there was very short notice.

27 March 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Seán Lynch
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

4104. **The Chairperson**: We will move on to the next item of business, which is the consideration of the clauses of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, which we commenced last week. Members were content with a number of the clauses that we went through, and more discussion was to be sought on some others. I note that some of the members who were not here last week are not here again this week to shed some light on their thinking, so I do not know how beneficial this will be.

4105. There has been some movement on those clauses that we put back to deal with today. One of those is clause 4, which is titled "Minimum sentence for human trafficking and slavery offences". The issue with that was on the wording of the amendment that Lord Morrow sought to table. The Attorney General suggested that the term "immediate" should be used, but Lord Morrow had an alternative wording. Some members indicated their views about the general principle behind clause 4, but, from my party's perspective, Lord Morrow's proposed amendment to that clause is the one that we would go with, as opposed to the Attorney General's.

4106. **Ms McCorley**: I am not completely clear. What is the difference? What difference would the term "immediate" make?

4107. **The Chairperson**: Both are trying to achieve the same objective about what would happen at sentencing, that is, there would not just be a suspended sentence. Lord Morrow's wording and the Attorney General's wording tried to deal with the same issue, but we are advised that Lord Morrow's wording is the better version, as opposed to the Attorney General's.

4108. **Ms McCorley**: So, does the Attorney General's proposed amendment rule out a suspended sentence?

4109. **The Chairperson**: They both do, but we were advised that, technically, Lord Morrow's amendment is better worded to achieve that objective.

4110. **The Committee Clerk**: I think that some members last week were not sure whether they were both doing exactly the same thing. The intent is the same, but they are just worded differently.

4111. **Ms McCorley**: Yes, it was only when I was reading over it myself that I could not remember what the distinction was.

4112. **The Committee Clerk**: I think that that was all. Members were not sure whether there was any distinction or whether they were trying to do the same thing but just with different wording. We have clarified that they would both do the same thing, but Lord Morrow's wording refers back to the legislation, so it is a better form of words.

4113. **The Chairperson**: Certainly, from a DUP point of view, we will support Lord Morrow's version of the amendment to that clause. We will have to come back to that.

4114. There is still an issue with the wording of clause 6 beyond whether you agree with the principle behind it. The issue is between the use of the words "person" or "prostitute". In reaching my own view about what wording we should use, I am still not satisfied with the issue that the Attorney General raised. We will have to seek some further advice on that.

4115. Beyond parties' outstanding views on the principles, did you have any views on the wording of that clause? If clause 6 were passed, should it refer to "person" or to "prostitute"?

4116. **Ms McCorley**: I was thinking about what the Attorney General said, and he seemed to be making the case that it would be easier to convict if the term "prostitute" was used, as it would present an additional burden of proof.

4117. **The Chairperson**: That is certainly my reading of what he said, which was that, to make it a more prosecutorial piece of legislation, the term "person" was his preferred wording. Lord Morrow indicated that he was going with the word "prostitute". We have contacted him about this, and we are trying to get a bit more advice from him about his view, given what the Attorney General advised him subsequent to last week's meeting. We have a copy of that. Hopefully, we can get a bit more clarity on Lord Morrow's thinking on that before I ask the Committee formally what the view is.

4118. **Mr Wells**: I think that it is somewhat easier to prove that someone is a person as opposed to a prostitute. What he is saying here is that you are putting up another hurdle. It will be interesting to hear Lord Morrow's view on that.

4119. **The Chairperson**: The Public Prosecution Service (PPS) seemed to indicate in some of its evidence to the Committee that there may be an issue with the "person" or "prostitute" terminology, and Lord Morrow's amendment seemed to be based on that. The Attorney General has given a very different opinion. We will come back to that issue.

4120. **Ms McCorley**: Chair, an issue was raised last week about whether an equality impact assessment (EQIA) had been considered for clause 6. There was a response, but I am not sure how clear it was. Can we write to Lord Morrow to get a clearer answer on whether he would consider doing an EQIA?

4121. **The Chairperson**: I am happy for us as a Committee to contact him to ask about that. My take on his evidence was that he had not carried out an EQIA.

4122. **Ms McCorley**: Was he not required to?

4123. **The Chairperson**: He was not required to. I think that Dr Boucher indicated that he did not feel that the clause required one, because it is trying to help vulnerable people. However, I am happy to get clarity on the EQIA thinking.

4124. **Ms McCorley**: It just might be useful to have that.

4125. **The Chairperson**: Clause 8, which deals with the non-prosecution of victims of trafficking in human beings, was the other clause for consideration. We noted that that clause may not be necessary, if the assurances that the PPS gave on prosecutorial guidance that deals with human trafficking cases address Lord Morrow's concerns about the non-prosecution of victims of trafficking in human beings.

4126. Lord Morrow also indicated that he is minded to await the recommendations of the Joint Committee in Westminster, which, as part of its scrutiny of the draft Modern Slavery Bill, is considering how non-prosecution of victims should be dealt with.

4127. Obviously, we are waiting on Lord Morrow to identify whether he will move the clause in the light of the other information. Next week — or when we look at this — we have to either agree or disagree with the principle behind clause 8, although we can put in a caveat that that position is subject to what is happening elsewhere. The DUP agrees with the principle behind clause 8, but, as Lord Morrow indicated, we are awaiting the outcome of what is happening.

4128. The principles behind clause 8 are in paragraph 20 of the letter that Lord Morrow sent in at the time. Will members look at those principles for next week, because we need to either agree or disagree with the clause?

We can affirm that we agree with the principle behind it.

4129. The Committee agreed to a further consideration of clause 9 on the wording of the Department of Justice's proposed amendments that had been received. The Department is continuing to engage with Lord Morrow and the Office of the Legislative Counsel (OLC) on the wording of further proposed amendments. However, it is not yet in a position to forward them to the Committee. In the absence of the draft amendments, the Committee may wish to agree that it is content with clause 9, subject to DOJ preparing draft amendments to clarify the definition of human trafficking victims in relation to the distinct roles and responsibilities of DOJ and the Department of Health. This is about dealing with how the Department of Justice and Department of Health decide which is ultimately responsible for dealing with it. Certainly, I am content that we should agree clause 9, subject to the amendments that are to be brought by the Department, which will give clarity on which Department is ultimately responsible. Are members content that we will agree clause 9, subject to the proposed amendments?

Members indicated assent.

4130. **The Chairperson**: Clause 10 relates to the requirements for assistance and support. The Department is currently liaising with officials in the Department of Health with a view to agreeing a comprehensive set of instructions for amendments to the wording of clause 10 to include setting out the respective functions and responsibilities of each Department. However, officials have indicated that it is unlikely that the amendments will be available for consideration before the end of the Committee Stage. The Committee agreed to write to the Department of Justice, the Department of Education, the Department of Health and the Department for Social Development, enclosing a copy of the Women's Aid proposal for a focused support system, to request their views on the proposed new clause 10A, which was subject to conversation at the previous Committee meeting. The amendments to clause 10, as it is currently worded — excluding proposed new clause 10A — are again about dealing with which Department will be responsible for providing the support. That is to be worked out between two Departments.

4131. Clause 10A is Lord Morrow's new proposal, and the Committee will ultimately not need to decide on it, because it is a new clause. The Committee has only to agree or disagree on the existing clauses and the amendments to them. This is a new clause, so, from a technical point of view, we do not formally need to agree or disagree on it.

4132. **The Committee Clerk**: We can reflect our view of it in the Committee's report. We can state that Lord Morrow has brought forward the proposal and that the Committee has asked the various Departments for more information to assist in its consideration. However, we do not have to put the Question formally, because the clause is not in the Bill at the minute. Members can indicate their views on it and that they are getting further information to assist their assessment of it.

4133. **Ms McCorley**: OK.

4134. **The Chairperson**: I am going to assume that members are content with the clause 10 that is in the Bill, subject, again, to those amendments, which will decipher whether the Department of Health or the Department of Justice is responsible. Members will be able to indicate whether they are supportive of the proposed new clause 10A, but, ultimately, we do not need to give a formal opinion on it.

4135. Clause 11 relates to compensation for victims of trafficking. We agreed to consider this clause further. Concern was expressed that the guidance may not ensure that adequate compensation can be paid. We agreed to seek advice on the options that are available to provide the Assembly with a degree of control over the content of the guidance.

So, some advice has been sought. We could use an affirmative resolution procedure to approve the guidance, we could use the negative resolution procedure again to deal with the advice, or we could ask the Minister to give us a commitment, either in the House or in writing, that the Committee will be fully consulted before the guidance is determined and that he will take full account of our deliberations. So, those are the three options.

4136. Mr Maginness has raised this as an issue that he wants to pursue. Certainly, I want to make sure that the Committee's views will be taken into account in drawing up the compensation guidance. The Committee has been advised that the legislation on the whole issue of compensation will be reviewed, and that will be an area that we can consider. The issue is whether we want to use this legislative tool or to seek a formal commitment from the Minister in the House that he will properly consult with the Committee and take our views fully into account when the guidance is determined.

4137. Affirmative and negative resolution procedures would be unusual for determining guidance because the compensation order puts into legislation the areas that deal with compensation. The guidance subsequently flows from it through the relevant Department. That is the case for all forms of compensation that the legislation covers. So, it would be unusual for us to legislate for a regulation for guidance. It is not to say that we cannot do it, but it would be unusual. I am happy to wait for Mr Maginness to give a view on that, but he will not be here today. I want to at least get the Minister's commitment in the House that he will take the Committee's views on board when dealing with the guidance.

4138. Clause 12 is on the child trafficking guardian. The Committee agreed that it would be content with clause 12 as amended, subject to the Department of Health's views. The Department has indicated that it does not intend to propose any amendments to clause 12. I assume that the Committee will be content with clause 12, as amended by Lord Morrow's proposed amendment.

Members indicated assent.

4139. **The Chairperson**: Clause 15 is on prevention. The Committee agreed to give further consideration to a proposed amendment to clause 15 when the Department provided the final wording of that amendment. The Department is continuing to engage with Lord Morrow and the OLC on the wording of the final amendment. However, it is not yet in a position to forward that to the Committee for consideration. We had indicative wording of the amendment to clause 15 and are waiting for the final exact wording. I am content with the indicative wording. Is the Committee content with clause 15, subject to the final exact detail of the wording of the proposed amendment?

Members indicated assent.

4140. **The Chairperson**: Clause 16 is on the Northern Ireland rapporteur. There is a proposal for the remit of the anti-slavery commissioner, which the draft Modern Slavery Bill would create, to be extended to Northern Ireland. Again, Lord Morrow touched on that, but, at this stage, his Bill still includes clause 16. We can formally agree the clause when we do that, or we can indicate that we do not agree with the clause, subject to the deliberations of an anti-slavery commissioner. If there is failure to have an anti-slavery commissioner, you would need to revisit that if you want a Northern Ireland rapporteur to do that. That is the question that people need to consider. I am content with the principle of a rapporteur, but if we have an anti-slavery commissioner doing the same work, and if Northern Ireland is to be included in that, it seems that we could take that approach. However, we still need to formally agree or disagree the clause.

4141. **Ms McCorley**: I would lean towards a rapporteur rather than the other option. When do we need to formally decide? Will that have to happen next week?

4142. **The Chairperson**: We have to formally agree or disagree all the clauses, and I suspect that the issue of the anti-slavery commissioner will not be dealt with in time for us to do that. We will need to take a view on that when we are agreeing or not agreeing the clause.

4143. Clause 19 is the short title and commencement. We agreed to request a draft amendment to clause 19 to make provision for the Bill to commence on Royal Assent, giving further consideration to the matter when the wording of the amendment is available. The Bill Office has advised that, at present, the provisions of the Act come into force by order of the Department. If the Committee wishes to commence the whole Act on Royal Assent, that can be achieved by an amendment to remove clause 19(2), which would remove the part of the Bill relating to commencement. Under the Interpretation Act (Northern Ireland) 1954, if a Bill is silent on commencement, its provisions come into force upon Royal Assent. Alternatively, we could build in some flexibility to allow anyone involved in the implementation of the Bill to have some time after the Bill becomes law. The commencement could be set with a very short time frame in mind.

4144. As things are currently worded, the Bill will come into force only when the Department, by order, does it. I am certainly not content for the Department to hold that power, but I am prepared to look at having some flexibility, because, obviously, if the proposed new clause 10A that Lord Morrow wants to introduce is passed, some Departments may indicate that they need some time to develop those measures and to get them done. Work could start on a lot of that, but, nevertheless, giving effect to the Bill on immediate receipt of Royal Assent may create some difficulty for some Departments being prepared for its implementation.

4145. We can give some thought to setting a time frame for when the Bill's coming into effect. I certainly want to see whether we can take that forward. Whether the Bill takes effect two months or three months after Royal Assent, it will hopefully give enough time for Departments to be prepared for its implementation.

4146. Are members content that we will set a time frame, as opposed to seeking immediate commencement on Royal Assent?

4147. **Mr Wells**: I agree, Mr Chairman. The Department has been less than enthusiastic and has had to be dragged the whole way along on the Bill. So, we do not want to give it the power to put this on the long finger.

4148. **The Chairperson**: We will think about the time frame and about whether it should be two months or three months. We will finalise that when we do the formal consideration of the Bill.

4149. I am conscious that Mr Elliott has not been here for been here for either session. We had planned to do the formal clause-by-clause consideration of the Bill next Thursday, and we have a very tight time frame to get the Bill put through.

4150. I suggest that we try to do the formal clause-by-clause consideration of those clauses that have been dealt with. We are still seeking clarity on a number of the clauses, but I propose that, next Thursday, we do the formal clause-by-clause consideration of those clauses that the Committee's view has been settled on and that are not controversial. We will then try to meet on the following Tuesday during the break in Assembly proceedings between 12.30 pm and 2.00 pm to do the formal clause-by-clause consideration of those clauses that we have been unable to deal with on Thursday.

4151. Next Thursday, we will also have some more discussion about some of the clauses for which we are awaiting amendments. Hopefully, that might give the Department an opportunity to bring forward some of the amendments that it is working on. We will take that approach. I know that that will make it difficult for the Committee support

staff to pull it together, because the following Thursday we will need to agree the final report to meet the deadline for publication to the Assembly that the rules require us to achieve. We will consider the draft report at the start of the meeting. If there are any changes to that report, we will come back to it later in that meeting and agree the final report. That will keep things interesting, that's for sure. Are members happy enough with that approach?

Members indicated assent.

3 April 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

4152. **The Chairperson**: I will take members through the Bill clause by clause. We have had two weeks in which we have had some discussions about it. This is the third week, and we will put most of the clauses formally to members, then, on Tuesday, we will put the remaining clauses formally to members. Hopefully, the papers have highlighted in advance of this meeting the ones that we need to formally agree or disagree. I will take you through each clause, and we can have discussions on them.

4153. **Mr A Maginness**: What document are we working from?

4154. **The Chairperson**: There is a tabled pack, commencing at page 13. You will see the Clerk's memo on page 13, and page 15 starts with clause 1. That is what I will be going through.

4155. **Mr A Maginness**: Thank you, Chair.

Clause 1 (Definition of human trafficking and slavery offences)

4156. **The Chairperson**: The Committee agreed that it was content with clause 1 as drafted at this stage. However, depending on the results of the Department of Justice's consultation on its proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences, some changes may be required. They will all be very technical in nature; therefore, we agreed that we were content to go with clause 1.

Question, That the Committee is content with the clause, put and agreed to.

4157. **Mr Elliott**: Chair, can I just make a point at the start? I have not been here for the last two weeks — my apologies for that; I had apologies in for both. I am happy in principle to accept the Bill as it is going through. However, we reserve our judgement to make amendments, as any party does, at a later stage or to oppose something. There are a couple of clauses that I have specific issues with, and I have raised some of them here in Committee, but that will be for a later stage. I am content at this stage.

4158. **Mr A Maginness**: On a point of order, Chair. When we express that we are content with clauses, we are not saying in absolute terms that we agree with every dot and comma in the clause.

4159. **The Chairperson**: No. I think that is standard for Committee consideration. From a Committee point of view, at this stage of a Bill, we have to agree or disagree with each clause, but we can also put commentary around the clause. Then, as Chair of the Committee, I can reflect where there has been discussion and where members have some issues. It would be useful if members would indicate — some have done so already — where their current thinking is on the clauses. That will obviously go into the Committee report, but that does not preclude parties putting down further amendments. Indeed, the Department and Lord Morrow have not been able to provide us with the final amendments to the Bill, so they will have to do it as well.

Clause 2 (Consent irrelevant for victim of human trafficking or slavery offences)

4160. **The Chairperson**: The Committee agreed that it was content with clause 2 as amended by Lord Morrow

to make it clear that consent is irrelevant. Members also noted that a consequential amendment may be needed to the clause if proposed clause 2(2) of the Modern Slavery Bill is enacted in a similar way in Northern Ireland following the Department of Justice's consultation. The Question will be put on the clause as amended by Lord Morrow, and the text of the report will reflect the context of the Committee's position.

4161. Is the Committee content with Lord Morrow's proposed amendment?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 3 (Aggravating factors)

4162. **The Chairperson**: The Committee has agreed that it is content with clause 3 as amended by Lord Morrow and the Department of Justice. The Committee noted that the Department was still looking at the definition of "vulnerable adult". The Department is seeking to agree two further amendments with Lord Morrow and has indicated that it should be able to give us those for Tuesday's meeting. I know that members had indicated that we were content with the direction of travel, but, for the sake of completeness, if we can get the exact wording of the amendments, that is better. So, clause 3 will be formally put at Tuesday's meeting.

Clause 4 (Minimum sentence for human trafficking and slavery offences)

4163. **The Chairperson**: Last week, the Committee considered advice provided by the Bill Office on the amendments proposed to clause 4(2) by Lord Morrow and the Attorney General. That indicated that the amendments have the same objective, which is to avoid a suspended sentence being imposed under clause 4. In the Committee's deliberations, we erred towards Lord Morrow's amendment, which is what the Bill Office indicated was the most appropriate to use. The Question on clause 4 will be formally put on Tuesday. Previously, some members had indicated some concern about the general concept of a minimum sentence in legislation. Other members indicated that they did not have a difficulty with that, and some members indicated that they felt that the exceptionality element to the amendment meant that it was not a minimum sentence because there was an exceptional clause to it. At the moment, that has been the general conversation around this clause. I am happy for some members to comment on it, and we will formally deal with it on Tuesday.

4164. **Mr Elliott**: Obviously, the Department raised the issue of the minimum sentence. Are there ongoing discussions with the Department and Lord Morrow on the clause? I am not sure whether you highlighted that? Are those discussions exhausted?

4165. **The Chairperson**: My understanding is that those are exhausted and that the Department will oppose clause 4 because of the view around the minimum sentence concept. Lord Morrow indicated that he had had discussions with the Attorney General and that the exceptional element meant that it was not a blanket minimum sentence and there could be exceptionality to it. Therefore, Lord Morrow has put it forward that this is not a blanket minimum sentence, and that has been the discussion.

4166. **Mr McCartney**: I think that you have summed it up. Our position is in and around the concept of minimum sentences, but we are willing to listen to how people explain exceptionality, where the onus lies and what the latitude is for a presiding judge.

4167. **Mr A Maginness**: To reiterate what I have said on previous occasions, I believe that there should be judicial discretion. This narrows the judicial discretion to some extent but does not exclude it with the exceptionality clause.

4168. **The Chairperson**: OK. We will put the Question on the clause formally on Tuesday.

4169. **Mr Elliott**: Chair, can I ask for clarification?

4170. **The Chairperson**: Yes.

4171. **Mr Elliott**: The print in red in the papers: what is that?

4172. **The Chairperson**: The papers highlight the clause as originally conceived in black, and the amendments are in red.

4173. **Mr Elliott**: Those could be the Department's amendments, the Committee's amendments or Lord Morrow's amendments.

4174. **The Committee Clerk**: It should say on it.

4175. **The Chairperson**: If you look at, for example, clause 3, which we were discussing and is on page 23, you will see at the bottom, immediately after the writing in red, "Clause 3 - Aggravating factors" and "Lord Morrow's proposed amendments". That gives you the exact wording, which is then translated above into the Bill. You have the line going through what was originally there.

4176. **Mr Dickson**: Chair, are those the accepted changes?

4177. **The Committee Clerk**: No.

4178. **The Chairperson**: They are the proposed amendments.

4179. **Mr Elliott**: Sorry, Chair, I follow. That gives clarification. Thanks.

4180. **The Committee Clerk**: It is just trying to let you see how the new clause would look.

4181. **Mr Dickson**: I see.

Clause 5 (Amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004)

4182. **The Chairperson**: The Committee agreed that it was content with clause 5 as drafted, recognising that, subject to the results of the Department of Justice's consultation on a proposal for a new consolidated offence of human trafficking, which would result in the repeal of section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, clause 5 could become redundant. Members also noted that, if clause 5 remains, technical amendments would be necessary. So, the Committee previously agreed that it was content with this.

Question, That the Committee is content with the clause, put and agreed to.

Clause 6 (Paying for sexual services of a person)

4183. **The Chairperson**: As agreed at last week's meeting, clarification was sought from Lord Morrow on his thinking about his amendments to change the word "person" to "prostitute" and whether that remains his position in light of the Attorney General's letter, which indicated that, in his view, using the word "prostitute" goes further than is necessary to limit the scope of clause 6 and will create a hurdle to prosecution that could be avoided. Clarification was also sought from Lord Morrow on whether he will carry out an equality impact assessment on the Bill.

4184. We await a formal response from Lord Morrow on that. I had some informal conversations with him, and he has indicated that he has engaged with the Attorney General and is moving towards leaving it as "person". However, he has not reached a final view. I hope that, by Tuesday, we will be clear on the "person" or "prostitute" argument and that the formal Question can be put.

4185. The current position of the parties that I am aware of is as follows: my party indicated its support for clause 6, and we have raised the issue of the use of "person" or "prostitute" and are still trying to bottom that out; Mr Dickson indicated that his party had not yet reached a definitive view on clause 6; Mr Maginness indicated that his party was content to support it; and Mr McCartney had indicated that Sinn Féin had not reached a definitive view on it. That is my understanding

of where we are at. Is anyone able to elaborate at this point? Do anyone wish to elaborate?

4186. **Mr A Maginness**: The PPS gave evidence to the Committee. I have not checked the transcript of their evidence, but I thought that they supported the idea of using the term "prostitute" rather than "person". I think that that was their position.

4187. **The Chairperson**: That was why Lord Morrow proposed the amendments. My understanding from speaking to Lord Morrow is that the amendments were proposed partly to try to deal with the unintended consequences of telephone conversations, webcams and things like that, which were not in the design of the clause but would be captured by it. The PPS raised that as a concern. Lord Morrow is trying to see whether keeping the word "person" but amending the clause as the Attorney General suggested would work. It would mean that the clause was focused only on the real reason behind it and would not capture lap dancing, telephone services and those aspects. Hopefully, on Tuesday, we will be clearer on the issue of the use of "person" or "prostitute", but we will have to formally consider it then.

4188. **Mr Elliott**: I just want to say that we reserve our position on clause 6 at the moment. We will take a definitive decision in the near future.

4189. **The Chairperson**: Then, on Tuesday I will put the formal Question on the matter.

Clause 7 (Requirements and resources for investigation or prosecution)

4190. **The Chairperson**: The Committee agreed that it was content with clause 7 as amended by the Department of Justice to remove subsection (1) and cover training in clause 15, thus omitting unnecessary words in clause 7(2). Is the Committee content with the Department of Justice's proposed amendments?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 8 (Non prosecution of victims of trafficking in human beings)

4191. **The Chairperson**: Clause 8 may not be necessary if assurances given by the PPS in relation to its prosecutorial guidance, which deals with human trafficking cases, address Lord Morrow's concern on the non-prosecution of victims of trafficking in human beings. Lord Morrow also indicated that he was awaiting recommendations from the Joint Committee in Westminster that is considering the question of how the non-prosecution of victims should be dealt with as part of its scrutiny of the draft Modern Slavery Bill.

4192. We agreed to give further consideration to whether we support the principles underlying clause 8 as outlined by Lord Morrow in his letter. My sense of where the Committee was going with this was that, while disagreeing with the clause, it was supportive of the principles behind it. So, we would formally disagree with the clause but support the principles, which would allow us to withhold judgement pending the outcome of the work of the Joint Committee at Westminster. However, for the purposes of next Tuesday, we need to agree a position, but that was my sense of where we were going.

4193. **Mr Elliott**: I have always had problems with clause 8; it has exercised my mind probably more than clause 6. I understand the reasoning and the sentiments behind it. Again, I can accept the principle; it is just the specifics that I do not agree with. There are probably mechanisms and ways to deal with that. I spoke to CARE on the matter, and they gave advice to Lord Morrow on it in some depth. CARE anticipates significant amendments to it or maybe its removal.

4194. **Mr A Maginness**: The PPS had concerns about clause 8 but gave a reassurance, I thought, at the time, that the prosecutorial code would meet

the ostensible objective of clause 8 as outlined by Lord Morrow, so I think that the necessity for the clause is probably in doubt. If Lord Morrow is reassured, this clause will not go forward.

4195. **The Chairperson**: OK. We will prepare the formal Question on the basis of that position, which is that we can formally disagree with the clause but support the principles behind it, with a further caveat that it does not preclude anyone from doing something if they do not feel that the other avenues that Lord Morrow is awaiting bear fruit. For the purposes of next Tuesday, we will prepare a Question on that basis.

Clause 9 (Victim of trafficking in human beings)

4196. **The Chairperson**: The Committee agreed that it is content with clause 9 as amended by Lord Morrow, subject to the Department of Justice's proposed amendments to clarify definitions of victims of human trafficking in relation to the distinct roles and responsibilities of the DOJ and the Department of Health in providing support to victims and potential victims of human trafficking. The definitions are connected to the proposed amendments to clause 10. The wording will not be available before the end of Committee Stage. Nevertheless, the Committee was of the view that the amendments were technical and was content to support the clause.

4197. Is the Committee content with Lord Morrow's proposed amendments?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 10 (Requirements for assistance and support)

4198. **The Chairperson**: The Committee has agreed that it is content with clause 10 subject to the Department of Justice and the Department of Health's proposed amendments, which, again, set out the respective functions and responsibilities of each Department in relation to the assistance and support to be provided to victims of human trafficking. Officials indicated that the wording of the amendments will not be available for consideration before the end of Committee Stage. That is the argument that was used for the previous clause. The amendments are technical, and the Committee had agreed that it was content with where it was with this clause.

Question, That the Committee is content with the clause, put and agreed to.

Clause 11 (Compensation for victims of trafficking)

4199. **The Chairperson**: Concern was expressed that the guidance proposed by the Department's amendment to clause 11 may not ensure that adequate compensation could be paid to victims of trafficking. The Committee agreed that it would consider options available to provide the Assembly with a degree of control over the content of the guidance. The Bill Office prepared draft amendments that include a regulation and guidance that would be subject to the affirmative or negative resolution procedure. However, it was highlighted that it is usual to see regulation-making powers or duties to issue guidance in legislation but not usually together.

4200. An alternative option, which would not require an amendment to the Bill, is to seek a commitment from the Minister either in writing or on the Floor of the Assembly at Consideration Stage that the Department will consult the Committee on its draft guidance and take full account of its views. We discussed this briefly last week, and I indicated that I wanted to bring it back. Mr Maginness, I know that you raised this: do you want to comment before the Committee takes a final view on how it will handle this?

4201. **Mr A Maginness**: I am not sure of the technical approach. However, it could well be that, at the end of the day, the Minister will state on the Floor of the Assembly that the Department will

consult the Committee about the draft guidance. That might be a better way of doing it. There are so many obstacles in the compensation scheme that, no matter what way you do it procedurally, it might be difficult to get the desired result, which is actual compensation for the victims of trafficking. So long as there is a commitment on the part of the Department to try to resolve the issue, we should be content.

4202. **The Chairperson**: OK; well, I am certainly content to push the Minister to give a commitment on the issue on the Floor of the Assembly. We will take it forward on that basis. Are Members content with that approach?

Members indicated assent.

4203. **The Chairperson**: I will put the formal Question on clause 11 next Tuesday.

Clause 12 (Child trafficking guardian)

4204. **The Chairperson**: The Committee agreed that it was content with clause 12 as amended by Lord Morrow. The Committee noted that the Department of Health had advised that it did not intend to bring forward any amendments to the clause. The Minister of Health has communicated with us. I have not had an opportunity to read that yet, so just give me a minute. It does not tell me a lot. The Minister of Health continues to liaise with Lord Morrow on this, but there does not seem to me to be any indication that it will be completed by Tuesday. On that basis, I will put the formal Question today.

4205. Is the Committee content with Lord Morrow's proposed amendment?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

4206. **The Chairperson**: If there are technical amendments from the Minister of Health, we will have to deal with them as they arise. However, as they are not here in time, we cannot deal with them.

Clause 13 (Protection of victims in criminal investigations)

4207. **The Chairperson**: The Committee agreed that it was content with clause 13 as amended by Lord Morrow and the Department of Justice. We noted that the Department may need to bring forward a further technical amendment. The Department has now indicated that it does not plan to bring forward any further amendments.

4208. Is the Committee content with Lord Morrow and the Department of Justice's proposed amendments?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 14 (Amendments to the Criminal Evidence (Northern Ireland) Order 1999)

4209. **The Chairperson**: The Committee agreed that it was content with clause 14 as amended by Lord Morrow and notes that the results of the Department of Justice consultation may have a bearing on the clause.

4210. Is the Committee content with Lord Morrow's proposed amendment?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 15 (Prevention)

4211. **The Chairperson**: The Committee agreed that it was content with clause 15 subject to the final wording of the Department's proposed amendment. The Department provided an indicative draft of the wording of the amended clause and is seeking to agree the final wording with Lord Morrow and the Office of Legislative Counsel. They have indicated that they should have that with us for Tuesday's meeting. I know that we are agreeing clause 15, but, for the sake of completeness, it would be more beneficial to have the exact wording. Hopefully that will be here on Tuesday,

and I will then put the Question on that clause formally.

Clause 16 (Northern Ireland Rapporteur)

4212. **The Chairperson**: The Committee noted that the remit of the anti-slavery commissioner that would be created by the draft Modern Slavery Bill could be extended to Northern Ireland. Members agreed to consider whether they wanted to indicate that they supported clause 16 but wished to consider the position further when there is clarity on the position regarding the anti-slavery commissioner or, alternatively, indicate that they did not support clause 16 at this time. We could consider the matter further when there is clarity on the position regarding the anti-slavery commissioner. Some of us may be content to agree the inclusion of that but, if the anti-slavery commissioner will do this work, it will be likely that we would not see the need for duplication.

4213. Some members indicated that they supported a Northern Ireland rapporteur being created. Lord Morrow indicated that he wanted to see what the anti-slavery commissioner's role would be, and he is in discussions with those who are responsible for that to see if it will happen. However, for Tuesday, we need to decide how we will deal with it. My party will agree to the clause, subject to what happens with the anti-slavery commissioner's position. We would withhold a definitive position if that were to develop. Are members content that a Question to agree it will be put with the commentary that members' views are subject to how the anti-slavery commissioner role is handled?

Members indicated assent.

Clause 17 (General interpretation)

4214. **The Chairperson**: We agreed that we are content with clause 17 as amended by the Department of Justice. Is the Committee content with the Department of Justice's proposed amendment?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 18 (Orders)

4215. **The Chairperson**: We agreed that we were content with clause 18 as amended by Lord Morrow. We noted that the Department was working on minor technical amendments that it hoped to forward to the Committee before the end of the Committee Stage. The Department has indicated that the further amendments are subject to clause 16 falling from the Bill and, as the position will not be settled before the end of Committee Stage, the wording of any necessary amendments is not available.

4216. Is the Committee content with Lord Morrow's proposed amendment?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 19 (Short title and commencement)

4217. **The Chairperson**: We considered the draft amendments prepared by the Bill Office to make provision for the Bill to commence on Royal Assent or, alternatively, a short time after Royal Assent, to build in some flexibility for the Departments and other organisations that would be involved in the implementation of the Bill. Members indicated a preference to set a time frame for commencement of the Bill. We agreed to give further consideration to whether that should be two months or three months. I am content to go with three months, if members are content that that is the exact wording of the amendment. If members are content, we will put that Question formally on Tuesday.

4218. That concludes that element of the Bill. The remaining Questions will be put formally on Tuesday. Thank you for your forbearance.

8 April 2014

Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Tom Elliott
Mr William Humphrey
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Jim Wells

4219. **The Chairperson**: Item 3 on the agenda is the formal clause-by-clause consideration on the remaining clauses that need to be agreed formally by the Committee, which we commenced on Thursday 3 April. Formal Questions were put on a number of clauses, and we agreed to complete the process at today's meeting in order for the draft Committee report to be provided to the Committee meeting this Thursday, before Committee Stage ends at the end of the week.

4220. There is a paper in members' information packs outlining the Committee's position on the remaining clauses. I will work through each, clause and put the formal Question. Where there are amendments, I will put the Question on the amendments first, followed by the Question on the clause.

Clause 3 (Aggravating factors)

4221. **The Chairperson**: We agreed that we were content with clause 3 as amended by Lord Morrow and the Department of Justice and noted that the Department was still looking at the definition of "vulnerable adult" with a view to bringing forward a further amendment. The Department has now provided the wording of two further proposed technical amendments to define "vulnerable adult" and the family of the victim by reference to article 34 of the Sexual Offences (Northern Ireland) Order 2008. Lord Morrow has indicated that he is content with the proposed amendments.

4222. Is the Committee content with Lord Morrow and the Department of Justice's proposed amendments?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendments, put and agreed to.

Clause 4 (Minimum sentence for human trafficking and slavery offences)

4223. **The Chairperson**: We considered advice provided by the Bill Office on the amendments proposed to clause 4(2) by Lord Morrow and the Attorney General for Northern Ireland indicating that the amendments had the same objective, which is to avoid a suspended sentence being imposed under clause 4. The advice from the Bill Office on the proposed amendments to clause 4 is in members' information packs.

4224. A range of views was expressed by members on the clause. Reservations were expressed by some in relation to the general concept of including a minimum sentence in legislation, the issue of exceptionality and the latitude for a presiding judge. Other members expressed support for the clause as amended by Lord Morrow and indicated that, although clause 4 narrows judicial discretion, it does not exclude it.

4225. In correspondence dated 18 March, Lord Morrow indicated that he intended to insert a new clause 17A to make consequential amendments to clause 4. He has now decided to address the matter through a further amendment to clause 4 and has provided the wording of that amendment.

4226. Is the Committee content with Lord Morrow's proposed amendments?

Members indicated assent.

4227. **Mr McCartney**: We have that sort of broad thing around minimum sentences.

4228. **The Chairperson**: OK.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 6 (Paying for sexual services of a person)

4229. **The Chairperson**: Clarification was sought from Lord Morrow on his thinking about his proposed amendments to change the word "person" to "prostitute" and whether that remained his position in light of the Attorney General's letter indicating that, in his view, using the word "prostitute" goes further than is necessary to limit the scope of clause 6 and would create a hurdle to prosecution that could be avoided. Some members agreed to support clause 6 and give further consideration to the issue of the use of "person" or "prostitute", while others indicated that they had not yet reached a definitive view on the clause.

4230. Lord Morrow has responded with his position on the use of "person" or "prostitute". After consultation with the Attorney General, he has provided revised amendments to clause 6 that will narrow the offence whilst keeping the word "person"; remove any reference to the age of the person who is selling the sexual services; remove the reference to payment "including sexual services"; provide some further options on sentencing; and require an advertising campaign to ensure public awareness of the change affected by clause 6. A copy of Lord Morrow's letter is in members' meeting folders.

4231. The Department has indicated that it remains opposed to clause 6. That being the case, it does not intend to make any amendments to the clause, although it has indicated that, if it proceeds, it may require amendment. Should clause 6 not stand part of the Bill, the Department intends to table an amendment to extend the time limit for the prosecution of offences under Article 64A of the Sexual Offences(Northern Ireland) Order 2008 from six months to three years and has provided the wording of the proposed amendment. However, the amendment will not be moved if clause 6 stands part of the Bill.

4232. Members, I am happy to give you the opportunity to state your position. Obviously, clause 6 has generated most public debate, and the Committee now needs to reach a final, definitive position on it. I will start with Mr Wells.

4233. **Mr Wells**: I suppose that this is the defining moment as far as clause 6 is concerned in the Committee.

4234. Our group is very supportive of the clause as amended after our various consultations. We have been to Sweden and have taken evidence from a wide range of groups. It is noticeable that organisations such as the Irish Congress of Trade Unions, Women's Aid and the Northern Ireland Human Rights Commission back the clause, which is a very broad church indeed when you add it to the supportive views of churches such as the Church of Ireland and the Roman Catholic Church.

4235. We have also seen increasing political support for the equivalent of clause 6, and the Nordic model has now been adopted by Iceland, Norway and Sweden. France is going through the process of adopting it, and it is before its Senate at the moment. There have also been some notable supporters in the Irish Republic, and we accept that it is important that the two jurisdictions move in tandem on the matter. We went to Dublin, and I was particularly impressed by the comments of Pádraig Mac Lochlainn, TD for Donegal North East. He said that he had started from a position of scepticism about the Turn Off The Red Light campaign and the report of the Oireachtas Justice Committee but, having looked at the evidence, had become a very enthusiastic supporter of the equivalent of clause 6. Of course, we also heard evidence from the Turn Off The Red Light campaign.

4236. Since then, we have had a vote in the European Parliament, and I am delighted that Martina Anderson and Diane Dodds supported an equivalent call for the outlawing of the purchase of sexual services. Today, the elected members of the European Council voted by a huge majority to adopt a stance similar to that proposed by Lord Morrow.

4237. All the evidence seems to be stacking up in favour. The only people who have opposed clause 6 are those whom we have shown, through cross-examination, to have a direct pecuniary interest in the prostitution trade, particularly organisations such as UglyMugs.ie and Escort-Ireland.com, who clearly fear this proposal as leading to a diminution of their trade.

4238. There is a small group of others, but of course it has been co-ordinated by Amnesty International. We showed, through cross-examination, that Amnesty International's initial policy was adopted through a proposal from a gentleman who turned out to be a leading beneficiary of the prostitution trade in the north-west of England. It is noticeable that a small number of witnesses simply followed the Amnesty International line. Of course, Amnesty International has not as yet adopted a policy of supporting the prostitution industry, but that is coming up at its international congress, which I think is in Chicago this week.

4239. All the evidence indicates that, if you cut off the trade the vast majority of those who are trafficked, particularly women, are trafficked for the purposes of prostitution you diminish the demand for prostitution. It was a great pity that more members did not turn up to hear the evidence given by the lady from Romania, who indicated that she had been kidnapped off the street and trafficked to Galway for £20,000 and had been locked in a room for 11 months and treated in the most horrendous way. That is what is going on. We do no service to the equality of women if we allow that to continue.

4240. We need to make Northern Ireland and, indeed, the island of Ireland a cold house for prostitution, and we need to set an example that hopefully other jurisdictions will follow. While I reserve the right to comment on other members' views on this, I believe that we should most certainly give this our enthusiastic support and do something for the many scores of women in Northern Ireland who, even at this moment, may be locked in rooms being forced to service 20 or 30 clients a day. They deserve the right and the protection of society through this legislation.

4241. **Mr Elliott**: I appreciate Mr Wells's point. I have listened carefully to all the evidence that has come forward, and we have discussed it as a party group. Our party certainly would not vote against it at this stage, but we reserve our position until Further Consideration stage.

4242. **Mr A Maginness**: In general terms, we are content with clause 6. The preponderance of the evidence given to the Committee has been in favour of clause 6, and certainly there seems to me to be an international trend in favour of what has been termed the Nordic model. This is a variant of that model. I also think that we need to be congruent with the developments in the South. I think that they will also go for a form of clause 6. Certainly, the report by the Oireachtas Committee on Justice indicated that on an all-party basis, and I think that that is strongly supportive of a provision similar to clause 6.

4243. At the end of the day, there are details in clause 6 that may need attention. I have read briefly the letter from Lord Morrow to the Committee in relation to his amendments, and I need to study it in more detail. However, on superficial reading, I am sympathetic to his changes. I do not want to give a definitive position until I have read the thing properly. In general terms, we are content with the clause, subject to my latter remarks in relation to the amendments that Lord Morrow proposes.

4244. **Mr McCartney**: As outlined last Thursday, we are not in a position to offer support either way.

4245. **The Chairperson**: Everyone has had an opportunity to state their final position at this stage of the consideration. Is the Committee content with Lord Morrow's proposed amendments?

Ayes 5; Noes 0; Abstentions 2.

AYES

Mr Anderson, Mr Givan, Mr Humphrey, Mr A Maginness, Mr Wells.

NOES

No members voted no.

ABSTENTIONS

Mr McCartney, Ms McCorley.

4246. **The Chairperson**: I am recording two abstentions and that the Committee is content, unless anyone else wants to abstain officially.

4247. Question put, That the Committee is content with the clause, subject to the proposed amendments.

4248. **The Committee divided**: Ayes 5; Noes 0; Abstentions 2.

AYES

Mr Anderson, Mr Givan, Mr Humphrey, Mr A Maginness, Mr Wells.

NOES

No members voted no.

ABSTENTIONS

Mr McCartney, Ms McCorley.

Question accordingly agreed to.

Clause 8 (Non prosecution of victims of trafficking in human beings)

4249. **The Chairperson**: Clause 8 may not be necessary if the assurances given by the Public Prosecution Service in relation to its prosecutorial guidance, which deals with human trafficking cases, address Lord Morrow's concerns in relation to the non-prosecution of victims of trafficking in human beings. Lord Morrow also indicated that he intends to await the recommendations of the Joint Committee in Westminster, which is currently considering the question of how non-prosecution of victims should be dealt with as part of its scrutiny of the draft Modern Slavery Bill.

4250. Members gave further consideration to whether they supported the principles underlying clause 8 as outlined by Lord Morrow in his letter dated 18 March 2014. Members indicated that they were not in a position to support clause 8 as drafted but agreed that the report should reflect that the Committee supports the principles underlying it and wishes to consider the findings of the Joint Committee on the matter. The Director of Public Prosecutions has written to the Minister acknowledging the level of public concern around the issue and has given a commitment to issue further detailed guidance to prosecutors that will be consistent with the intent behind clause 8.

4251. I think that that is helpful. I will put the Question on the clause as drafted, and the text of the report will reflect the context for the Committee's decision on the clause. Previously, members indicated that they would formally, for the record, say that they were not content but would support the principles behind it.

Question, That the Committee is content with the clause, put and negatived.

Clause 11 (Compensation for victims of trafficking)

4252. **The Chairperson**: Concern was expressed that the guidance proposed by the Department's amendment to clause 11 may not ensure that adequate compensation could be paid to victims of trafficking. We agreed to give further consideration to the options available to provide the Assembly with a degree of control. We considered that last week, and we agreed that we would seek a commitment from the Minister on the Floor of the House on the clause. The Department has now provided the

wording of a proposed minor technical amendment to clause 11 to correct an error in the previous drafting. Is the Committee content with the Department of Justice's proposed amendment?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 15 (Prevention)

4253. **The Chairperson**: The Committee agreed that it was content with clause 15 subject to the final wording of the Department of Justice's proposed amendment. The Department had provided an indicative draft of the wording of the amended clause, and that has now been provided. The final wording of the proposed amendment to clause 15 has been agreed by Lord Morrow. Is the Committee content with the Department of Justice's proposed amendment?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Clause 16 (Northern Ireland Rapporteur)

4254. **The Chairperson**: The Committee noted that the remit of the anti-slavery commissioner that would be created by the draft Modern Slavery Bill could be extended to Northern Ireland. Members agreed to consider whether they wished to indicate that they did not support clause 16 at this time but would consider the matter further when there was clarity on the position regarding the anti-slavery commissioner or, alternatively, indicate that they wished to support clause 16 at this stage but would wish to consider the position further when there was clarity on the position regarding the anti-slavery commissioner. We indicated last week that our preference was to support clause 16 as drafted at this stage and consider the matter further subject to the position regarding the anti-slavery commissioner.

Question, That the Committee is content with the clause put and agreed to.

Clause 19 (Short title and commencement)

4255. **The Chairperson**: We considered the wording of draft amendments that had been prepared by the Bill Office to make provision for the Bill to commence on Royal Assent or, alternatively, to commence the Bill a short time after Royal Assent to build in some flexibility for the Departments and other organisations that will be involved in the implementation of the Bill, for example, to provide training and the introduction of support mechanisms. The draft amendments can be found at page 54 of the meeting pack.

4256. Last week, Members agreed a preference to set a time frame for commencement of the Bill three months after Royal Assent. The amendment will therefore read:

"Clause 19, page 10, line 12

Leave out from 'in' to 'order' on line 13 and insert- '3 months after royal assent'"

4257. Is the Committee content with the proposed amendment to set a time frame for commencement for the Bill three months after Royal Assent?

Members indicated assent.

Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.

Long Title

4258. **The Chairperson**: As this is the end of the clause-by-clause consideration of the Bill, the Committee must now consider the long title of the Bill.

4259. **Mr Wells**: Before we move to that, at the previous Committee meeting, reference was made to the forced marriages proposal. Are we still in the position that we will not see that proposal before we adopt the report?

4260. **The Committee Clerk**: Yes.

4261. **Mr Wells**: Is it going to be dropped in by formal amendment by the Minister or does it come from this Committee? How does that work?

4262. **The Committee Clerk**: As the Committee asked, we wrote to the Department of Finance and Personnel asking for some more background and for the proposed wording of the amendment, if the Department had it. We have not received a reply yet. In the body of the report, we will reflect that the Committee has been advised of the Department's intention and that we have requested further information. That is probably as far as we can go in the report because you have not got it yet, but you will be able to look at it in more time.

4263. **Mr Wells**: So, we will get that before Consideration Stage.

4264. **The Committee Clerk**: We are waiting for a response. The Department was hoping that it might have been able to get it to us this week, but it will be too late to put it in the report now. The report will reflect that there is a proposed amendment. We just do not have very much information on it, but we will indicate that the Committee has asked for the further information and that it will consider it when it is available.

4265. **Mr Wells**: I think that most of us would probably favour the principle. I am just a bit concerned about whether, if there is something in the wording that we are concerned about, we will have time to reflect on that and take a policy decision on the amendment?

4266. **The Committee Clerk**: My understanding is that Lord Morrow is not intending to move Consideration Stage until after the summer to allow the Department of Justice to bring forward more amendments as a result of its consultation.

4267. **Mr Wells**: The problem is solved, then.

4268. **The Committee Clerk**: There should be time. As soon as we get the information from the Department of Finance and Personnel, we will bring it to the Committee for consideration.

Question, That the Committee is content with the long title, put and agreed to.

4269. **Mr Elliott**: Chair, I certainly did not vote for, vote against or abstain on any of the clauses. There are clauses that I am still not totally content with, but I do not want to hold it up. I certainly do not want to vote against it at this stage, but I would like it recorded that I reserve my position on them. I think that I made that clear the previous day as well. There are a number of specific issues. I do not want to vote against, because that would probably send out the wrong signal, but I reserve the right to table amendments at Consideration Stage.

4270. **The Chairperson**: All of the differences in the Committee will be reflected in the report. Ultimately, when it gets into the Chamber, I will do that where members have indicated issues. Of course, once you get into the next stage in the Assembly, it is open to others to table amendments.

4271. There is a list of documents for inclusion in the appendices to the Committee report on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, and that has been provided for members' consideration. Lord Morrow's letter dated 7 April will be included in appendix 3, and the letter from the Department dated 7 April will be included in appendix 4. Do members have any other views on other documents that need to be included on the list, or are they content with the exhaustive list that we have?

Members indicated assent.

4272. **The Chairperson**: We will be asked to formally agree the contents of the appendices when agreeing the Committee report on Thursday. Sections of the draft report will be circulated as soon as they are ready.

4273. One other item has come in correspondence for inclusion in the appendices. Philip Bradfield, a journalist from the 'News Letter', communicated with the Committee following the oral evidence sessions with Laura Lee, International Union of Sex Workers, and Dr Graham Ellison. Mr Bradfield is concerned that, during the evidence sessions, the witnesses appeared to forget or misremember details of what they had told him during their interviews with him and that this has had the unintentional effect of implying that his journalism was inaccurate or misrepresenting. He has provided a link to the transcripts of his interviews with Laura Lee and Dr Graham Ellison and has indicated that he wants this correspondence to be brought to the Committee's attention and included in the Committee report. Are members content?

Members indicated assent.

4274. **The Chairperson**: We will meet this Thursday at 2.00 pm, when we will formally agree the report. I thank members; this has been a very long process. I will do that properly on Thursday. It has been a long number of months for Committee members, but, eventually, we have got as close as possible to an agreed position. I express my appreciation for the work of members and of Committee staff, who have supported the Committee to enable us to get to this stage.

Northern Ireland Assembly

Appendix 3

Memoranda and Correspondence from the Bill Sponsor

Memoranda and Correspondence from the Bill Sponsor

June 2013

Lord Morrow's Report on the Responses to the consultation on proposed changes in the law to tackle human trafficking

14 January 2014

Joint correspondence from Lord Morrow and the Minister of Justice

18 March 2014

Correspondence from Lord Morrow providing an update on the provisions in his Bill and the wording of his draft amendments and an outline of an exit strategy for those who wish to leave prostitution

18 March 2014

Correspondence from Lord Morrow providing the views of the Attorney General for Northern Ireland on Clauses 4 and 6.

7 April 2014

Correspondence from Lord Morrow regarding the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and providing revised amendments to Clause 6

Lord Morrow's Report on the Responses to the consultation on proposed changes in the law to tackle human trafficking

RESPONSES TO CONSULTATION ON

PROPOSED CHANGES IN THE LAW TO TACKLE HUMAN TRAFFICKING

JUNE 2013



FOREWORD

I am very grateful to all those who took the trouble to respond to the consultation on my Bill. It is the purpose of this report to provide an overview of those responses and to set out the changes I have consequently made to my Bill, which has been greatly strengthened by this consultation process. The end result is a suitably robust piece of legislation which I believe, if implemented, would result in Northern Ireland leading the way in the UK in combating human trafficking and exploitation. This is entirely appropriate for a Province with an abolitionist heritage as strong as ours. I very much hope that the Bill will be embraced by the Northern Ireland Assembly, and become law before the end of the current Mandate.

LORD MORROW

DEMOCRATIC UNIONIST PARTY

JUNE 2013

SUMMARY

One hundred and forty-seven submissions were received in response to the consultation on my Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. Ninety-eight were emails or letters and forty-nine were completed consultation forms. 53 were from organisations and elected representatives and 94 were from private citizens. Twenty-two of the responses were from outside of Northern Ireland. The location of twenty-three respondents was unclear. This document sets out a summary of those responses.

As a result of the comments and suggestions I have received I have:

- made minor changes to some clauses;
- amended the clause on paying for sexual services;
- added new clauses to bring in a minimum sentence for trafficking offences and to introduce a National Rapporteur in Northern Ireland;
- extended the Bill to include forced labour, an offence under section 71 of the Coroners and Justice Act 2009.

I am publishing a new version of my Bill, which has its First Reading today, alongside this report.

GENERAL SUPPORT FOR THE PROPOSED BILL

Today, I am introducing my Bill to the Northern Ireland Assembly to reduce demand for human trafficking, improve the investigation and prosecution of trafficking and support victims – whether they are victims of trafficking for

sexual exploitation or labour exploitation. I believe that my Bill should be introduced for two reasons:

- Firstly, because the proposals in my Bill are the right thing to do with regard to this area of policy.
- Secondly, they will also have the benefit of making Northern Ireland more fully compliant with our international obligations.

The majority of respondents acknowledged the need for further action on trafficking and in the vast majority of cases agreed aspects of my Bill would make a positive difference in Northern Ireland.

A number of respondents wanted to see the Bill go further on measures to reduce demand for labour exploitation, even when individuals have not been trafficked. I agree that this is an area of exploitation that needs tackling so I have decided to include Section 71 of the Coroners and Justice Act 2009, which criminalised slavery, servitude and forced or compulsory labour, within the scope of my Bill. [1] This change impacts seven clauses in my revised Bill. [2]

COMMENTARY ON CLAUSES

CONSENT OF THE VICTIM TO BE TRAFFICKED (Clause 1(2) of the Draft Bill)

My consultation asked if there should be a list of circumstances outlining when evidence of agreement to travel and be trafficked is irrelevant. The vast

[1] See *Report on the Internal Review of Human Trafficking Legislation* HM Government, May 2012, para 10, page 6 and Table 1, page 8; *CPS Policy for Prosecuting Cases of Human Trafficking*, May 2011, page 11, 25-6 and *First Annual Report of the Inter-Departmental Ministerial Group on Human Trafficking*, October 2012, para 4.7, page 32

[2] New Bill Clauses 1-4, 7, 15 and 16

majority of respondents who answered this question supported the inclusion of a list of circumstances outlining when evidence of agreement to travel and be trafficked is irrelevant.

A number of respondents suggested that this clause would be positive for individuals who have been trafficked into the province. Some respondents further noted that this clause would help bring Northern Ireland into line with Article 2(4) of the relevant European Directive.

Several respondents had concerns that that a list of circumstances in legislation may limit flexibility to deal with individual cases; or may restrict the prosecution if a factor outside of the list was to emerge. I am not convinced that this clause would restrict flexibility with regard to consent since it does not exclude other factors but makes clear these factors are to be considered as voiding consent. I believe that it would be better for this to be outlined in legislation rather than left to guidance.

Conclusion: Having considered the submissions made in this area, I am proposing that the drafting of the clause on consent remain unchanged. It becomes Clause 2 in my revised Bill.

AGGRAVATING FACTORS (Clause 2 of the Draft Bill)

My consultation asked whether a judge should be forced to take into account certain factors that increase further the severity of the crime of human trafficking; and consequently the sentence should be increased. The vast majority of respondents to this question agreed that there should be circumstances that require a judge to increase a human trafficking sentence.

Suggestion/Concern	Response
A small group of respondents argued that judges should not be compelled to take into account aggravating factors and that sentencing should be left to the discretion of judges.	Since inclusion of aggravating factors is part of our international obligations in both the European Convention and European Directive, I have decided to maintain this clause.
The suggestions for additional factors included: • threats to a victim's family; • the involvement of a family member; • the involvement of a person who is in a position of trust.	I have decided to include these factors in my Bill.
One respondent raised the question of whether cases should be prosecuted differently depending upon the age of a trafficked child.	I have reflected on this suggestion and am minded to leave the Bill unchanged since this clause allows the sentence to reflect the child's age by making it an aggravating factor.
A further respondent proposed a minimum sentence of at least two years for those convicted of a trafficking offence.	I have decided to include a new clause in my Bill to provide for a minimum sentence for trafficking offences.

Conclusion: I am adding the new categories above to the list of aggravating factors in Clause 3 of my new Bill and adding a new Clause 4 setting out a minimum sentence for trafficking. Both of these clauses will be applicable to Section 71 of the Coroners and Justice Act 2009.

EXPANDING THE DEFINITIONS OF EXPLOITATION (Clause 3 of the Draft Bill)

My consultation asked whether the definitions related to exploitation should be expanded as my draft Bill proposed. The vast majority of respondents to this question agreed that the definitions should be expanded as outlined. Many respondents submitted that forced begging should never be tolerated in Northern Ireland and that expanding the definitions related to exploitation to *expressly and explicitly* include forced begging would be a positive way forward.

Suggestion/Concern	**Response**
One respondent asked whether the amendments to Section 4 of Asylum Act should go further than the Bill proposes to name all forms of human trafficking.	This Bill is aiming to be as comprehensive as possible. I have heeded concerns about potential slavery offences not being covered and brought Section 71 of the Coroners and Justice Act 2009 within the scope of the Bill.
A further respondent stated that this clause was unnecessary, as forced begging constitutes exploitation under section 4 of the Asylum and Immigration Act 2004.	This may be true 'technically' but the fact that forced begging is not clearly defined as exploitation has caused and continues to cause confusion. My Bill ends that confusion by clearly and expressly stating that forced begging is an offence.

Conclusion: On the basis of the support for the extension to the definitions, I am proposing that the drafting of this Clause remains unchanged. It becomes Clause 5 in my new Bill.

MAKING PAYING FOR SEXUAL SERVICES ILLEGAL IN NORTHERN IRELAND (Clause 4 of the Draft Bill)

The majority of respondents agreed that paying for sexual services should be made illegal. The main reasons that this was supported were:

- This clause would act as an effective deterrent to buyers of sexual services, would reduce the financial incentive for human traffickers to transport vulnerable individuals into Northern Ireland and hence would reduce the level of human trafficking. Academic evidence has supported the argument that human trafficking falls in countries where paying for sex is criminalized, whereas it is higher in countries where prostitution has been legalized;[3]
- Sweden has shown that this model works; as one respondent put it, "the approach adopted by the Swedish Government is indeed one rooted in rational economics and also one which affirms the human dignity of all persons";
- Prostitution is based on, and sustains, gender inequalities in society and therefore measures should be taken to reduce it. This clause sends a strong signal that men, women and children's bodies in Northern Ireland are not for exploitation;
- Many people in prostitution work under duress and do not enter the sex industry freely- this clause recognizes that reality.

[3] See for example Seo-Young Cho *et al*, Does legalized prostitution increase human trafficking? World Development Volume 41, 2013, p61 and Nadejda K Marinova and Patrick James, The Tragedy of Human Trafficking: Competing Theories and European Evidence. *Foreign Policy Analysis* (2012) 8, pp231-253

Suggestions for Improvements

Suggestion/Concern	**Response**
This clause should also criminalize the use of sexual services paid for by a third party, and that payment should include non-monetary payment such as food, shelter, alcohol, drugs and clothing.	Payment by a third party is covered in my revised Clause, which is Clause 6 in my new Bill, and payment will be defined as any financial advantage.
This clause should be made a hybrid offence rather than a summary offence. This would give the PPS flexibility to decide where to bring charges and give more than 6 months to bring a charge.[4]	This clause is a hybrid offence in my new Bill.
There should be a provision for media advertising awareness on this offence.	I have added a requirement that within the first year of the offence come into effect the Department must raise awareness of the offence.
This clause should be accompanied by clear mechanisms for monitoring and evaluating its effects, as recommended by the UN Committee on the Elimination of All Forms of Discrimination Against Women.	I have added a requirement that there should be a report to the Assembly on this offence once it has been in effect for three years.

[4] Similar arguments were made about the current Article 64A offence of paying for sex with someone coerced and that this is leading to difficulties in its implementation.

One fifth of the respondents to this question disagreed with the proposal that paying for sexual services should be made illegal. The main reason(s) for this view were:

Suggestion/Concern	**Response**
Concerns that it might negatively impact those who are trafficked by redirecting resources away from policing trafficking and organised crime.	This concern is based on the assumption that demand for paid sex and demand for trafficking are separate. I disagree. It would not make sense to introduce an anti-trafficking Bill that did not address the single biggest driver of trafficking to Northern Ireland. If this clause increases police resources aimed at reducing demand for paid sex, it will also engage with demand for trafficking for sexual exploitation. Clause 7 of my revised Bill ensures effective investigation and prosecution of trafficking offences.
The effect on demand was disputed: some thought that it would *increase* human trafficking because more money could be made if it was harder to pay for sex. This they said would result in more foreign sex workers in Northern Ireland. Others said this clause would *not have much of impact* on demand in practice because of the sale of sex over the internet.	The evidence from Sweden is that the ban on the purchase of sexual services acts as a barrier to human traffickers.[5]

[5] See the evaluation of the ban on purchase of sexual services, Ministry of Justice Press Release, July 2010. English summary http://www.sweden.gov.se/content/1/c6/14/92/31/96b1e019.pdf p37, and Ekberg, G. & Wahlberg, K "The Swedish Approach: A European Union Country Fights Sex Trafficking" 2011 published in Solutions Volume 2: Issue 2: Mar 02, 2011

Suggestion/Concern	Response
It would push prostitution further underground and make it more dangerous for women working in prostitution and for the buyers;	I am not convinced that this clause will push prostitution underground. Prostitution by its very nature is a secretive activity, with the vast majority of women in the industry already working in "off street prostitution". However, prostitution still does not disappear from view entirely since men and women must be advertised for sale. If customers can find those who sells sexual services, law enforcement can also find them. This has been strongly illustrated in Sweden.[6]
A ban on payment for sexual services would make health initiatives for sex workers unworkable.	The innovation in my Bill criminalises the seller, not the buyer. Indeed it goes out of its way to make it clear that the seller cannot be caught indirectly by anything in this Bill by making it plain that someone who accepts payment, or the promise of payment, cannot be prosecuted or convicted for aiding and abetting the buyer under this offence.
It is unhelpful to conflate prostitution and human trafficking since the majority of sex workers have made an informed decision to sell sex and	I do not agree with those who say that it is not helpful to conflate human trafficking and prostitution. As has been suggested by other respondents,

[6] See for example, Max Waltmann, "Sweden's prohibition of purchase of sex: the law's reasons, impact and potential" Women's Studies International Forum 34 (2011) p459 and page 20 of the Report from the European Conference on Human Trafficking, December 2009. Statement by Kajsa Wåhlberg, the Swedish national Rapporteur on Trafficking in Human Beings, Conference on the "Preventing and Combating Trafficking in Human Beings and Reducing Prostitution and Sexual Exploitation", Czech Republic, 3 June 2009

Suggestion/Concern	Response
should be allowed to do so without the state interfering with what two consenting adults do behind closed doors.	these two areas are inherently interlinked. Given that the main driver for trafficking to NI is paid sex, failing to take action with regard to the prostitution sector in Northern Ireland would mean that we would not be able to effectively tackle human trafficking in this province.
This is not a requirement set down explicitly in the European Directive and therefore is not required.	The Directive (Article 18) requires action to prevent trafficking. My Bill is seeking to reduce demand for sexual services and forced labour and is - in any event - not limited to the requirements of the Directive.
This clause would be unworkable/ difficult to police.	These arguments have been powerfully refuted by the police in Sweden where this law has been in force for over 10 years.[7]
This clause could lead to a person selling sex committing offences of aiding and abetting the buyer.	My new Bill makes it clear that no individual should be prosecuted for aiding and abetting this offence hence there should be no difficulty in accessing health services.
Concern that this provision might negatively affect children.	I wish to stress that my Bill would not change the current law on the offence of Paying for Sexual Services of a Child.

[7] G. Skagerlind, 'Polischef Per-Uno Hågestam: Sexköpslagen fungerar over förväntan' [transl. Chief Criminal Inspector Per-Uno Hågestam: The Law that Prohibits the Purchase of Sexual Services Functions Beyond Our Expectations]. Morgonbris 4, 13, October 2004, cited in Gunilla Ekberg "The Swedish Law That Prohibits the Purchase of Sexual Services: Best Practices for Prevention of Prostitution and Trafficking in Human Beings," published in the October 2004 issue of the journal Violence against Women. 2004; 10:1187-1218.

Conclusion

In balancing up the arguments for and against this clause, I have become even more convinced that criminalizing paying for sex in Northern Ireland is the best way forward. I strongly believe that if we want to substantially reduce human trafficking and exploitation in Northern Ireland, we need to introduce legislation such as that outlined here, combined with my new measures on forced labour.

I have, reflecting on the suggestions of respondents, made several changes to this clause, which is Clause 6 in my new Bill:

- The offence will be triable in the magistrates or Crown court;
- The offence sets out that the party providing sexual services is not guilty of aiding and abetting the purchaser;
- There is a requirement to raise awareness of the new offence in its first year of operation;
- Data will be collected on the operation of the offence and a report on the operation of the offence will be made to the Assembly once it has been in effect for three years.

PROTECTING THE VICTIM FROM PROSECUTION (Clause 5(3) of the Draft Bill)

The vast majority of respondents to the questions on Clause 5 agreed that:

- a victim of trafficking should not be punished for crimes where those crimes were the direct consequence of the trafficking. One respondent described this protection as being “imperative” for victims who commit offences.

- a child victim should not be punished for crimes where those crimes were the direct consequence of the trafficking. It was suggested by one respondent that this should be happening but does not always do so, e.g. children trafficked to work in cannabis factories are being prosecuted.

Suggestion/Concern	**Response**
Two respondents suggested extending the definition to include vulnerable and disabled individuals up to the age of 21 and vulnerable adults, respectively.	My clause already contains a provision taking into account "a position of vulnerability".
Various respondents suggested that victims of trafficking who commit offences should be prosecuted with the Director of Public Prosecutions for Northern Ireland then having discretion to drop charges if it was in the public interest. If charged, trafficking could be considered a mitigating factor in sentencing. Each case should be treated on its merits on the basis of guidance.	My proposal is simpler and makes the position for victims clearer rather than leaving them in legal uncertainty.
One respondent felt that exemption from prosecution should also be available for crimes that were committed that were related to being trafficked, not solely as a direct consequence.	This seems to be a step too far as it could cover many different crimes (e.g. shop lifting). I am proposing not to include this suggestion in my Bill.

Conclusion: I have decided to keep the provisions of non-prosecution unchanged in my Bill. This provision is Clause 8 of my new Bill.

INVESTIGATION, PROSECUTION AND REDUCING TRAFFICKING (Clauses 6 and 13 of the Draft Bill)

Investigative Tools and Training

The vast majority of respondents to this question agreed that investigative tools and training should be made available for investigators and prosecutors of human trafficking cases. Many respondents suggested that ensuring adequate resources and training are available for investigators was vital in fighting against the crime of human trafficking in the province.

Suggestion/Concern	Response
A respondent suggested that this clause should be amended to include investigations where the victims have not been trafficked or where trafficking will be difficult to prove, but the offence would meet the definition of forced or compulsory labour set out in Article 4 of the Human Rights Convention.	I am extending this clause to cover investigations into forced labour where an individual has not been trafficked.
One respondent submitted that it was unnecessary for a requirement for investigative tools and training for investigators and prosecutors to be put in statute. It was felt that guidance may be more appropriate.	A crucial aspect of tackling human trafficking in our province is ensuring that the police and investigators have sufficient resources. I believe that setting out this provision in statute will ensure resources will continue to

Suggestion/Concern	Response
	be available no matter which party or Minister holds the Justice Ministry. Resources for tackling this crime cannot be sacrificed if budgets are tight.

Conclusion: The clause on policing - Clause 7 in my new Bill - extends to cover investigation of offences committed under Section 71 of the Coroners and Justice Act 2009, offences of forced labour without trafficking.

Annual Strategy

My consultation asked whether there should be a legal requirement for the Department of Justice to produce an annual strategy on raising awareness and reducing trafficking in human beings as part of the prevention measures. The vast majority of respondents to this question agreed that there should be a legal requirement for the Department of Justice to produce a strategy on raising awareness and reducing trafficking in human beings as part of the prevention measures.

Suggestion/Concern	Response
Various respondents suggested the strategy should be developed in conjunction with other relevant Government departments and justice agencies as well as NGOs and private sector companies, especially with regard to trafficking for labour	I have added a requirement that the strategy be produced "in co-operation with non-governmental organisations and other relevant organisations".

Suggestion/Concern	Response
exploitation.	
Various respondents said the strategy did not need to be produced on an annual basis. Suggestions were made that the strategy be produced every three years or updated rather than rewritten every year.	Although initially opposed to the idea when my consultation was launched, the Minister has since proposed introducing reports and actually conducting them annually, albeit on a non-statutory basis. I believe that it is important to put this on a statutory basis so that no new Minister can simply abandon the practice. Providing a statutory foundation, together with a statutory obligation to consult with NGOs and other relevant organizations, underlines the importance of the issue and our commitment to taking trafficking seriously.
The strategy should also consider forced labour.	I am extending the remit of the strategy to include the Section 71 offences.
One respondent submitted that such a strategy is not required by the European Directive and should not be set down in statute. Other respondents felt it would be a waste of resources with little benefit and others said the whole of Article 18 (Prevention) of the Directive should be included in this clause to boost prevention.	Article 18 of the Directive provides a requirement to prevent trafficking. A requirement for the Ministry of Justice to publish a strategy to raise awareness of and reduce human trafficking would help prevent this crime in Northern Ireland and meet the objectives of Article 18(1) on education and training and Article 18(2) on increased awareness. Article 18(3) is already met by Clause 7 of my Bill which deals with training of investigators and prosecutors.

Conclusion: I have amended the clause on producing a strategy so that it occurs with input from relevant NGOS and others and covers forced labour without trafficking. This clause will be Clause 15 in my new Bill.

SUPPORTING AND ASSISTING THE VICTIM INTO RECOVERY (Clauses 8-12 of my Draft Bill)

Assistance and Support (Clause 8 of the Draft Bill)

My consultation asked if legislation should set out what assistance and support is required for victims of trafficking. The vast majority of respondents to this question agreed that legislation should set out what assistance and support is required for victims of trafficking. Many respondents agreed that it was of real importance that effective support was provided to victims when they are identified.

Suggestion/Concern	Response
One respondent was concerned about current underfunding in this area and argued that the Government should make better use of confiscated assets.	I am supporting the current use of confiscated assets: 50% of confiscated assets goes to law enforcement and 50% goes to the Community Fund[8] - community projects to help

[8] http://www.dojni.gov.uk/index/media-centre/news-archive/archive-june-2010/octf_annual_report_final_-2.pdf.
See http://www.dojni.gov.uk/index/media-centre/ford-announces-564_000-investment-in-community-safety.htm for the 2013/14 funding

Suggestion/Concern	Response
	"communities most affected by organized crime".[9]
The Minister for Health, Social Services and Public Safety said that support for child victims did not need to be set out in statute because they are already covered under the Children (NI) Order 1995. A legally enforceable code of practice or secondary regulation rather than primary legislation was suggested by some respondents.	I have amended the language in my Bill to ensure that where the 1995 Order is in effect, there will be no duplication of legislation. I have deleted references to specific care for child victims from this clause. I have moved the requirement to help adults and children claim compensation to Clause 11 in my new Bill.
Two respondents supported a statutory requirement but were concerned that it could limit the level of support provided to victims rather than ensuring each individual received what they needed.	My Bill specifically and expressly states that support is "not restricted" to the services listed in Clause 10.
There were a number of comments on my proposal that support and advice should be provided for 3 months after any criminal trial. The European Convention requires a 30 day period of reflection and recovery. The UK currently operates a 45 day period. There were suggestions for an increase to six months, one year and two years.	I have decided to retain the three months period for now but will be keen to hear from Members of the Legislative Assembly during the Bill's scrutiny.
One respondent proposed that victims	I have added this requirement to

[9] See Chapter 5 on Asset Recovery, pages 42 and 43 of the 2012 OCTF Annual Report and Threat Assessment

Suggestion/Concern	Response
are given a choice to receive assistance – especially psychological assistance and counselling – from professionals of the same gender.	clause 10(b)(iv) in my new Bill.
Three respondents suggested that this clause should be expanded to include advice and assistance on welfare entitlement, advice and assistance on accessing employment and information about making a voluntary return.	I am considering this further in discussion with some of the relevant organisations.
A further respondent also suggested that the Bill should be specific on provision of legal aid for victims.	My Bill already covers legal aid through new Clause 10 (Requirements for assistance and support) in my new Bill. During the consultation, my draft Bill contained a separate clause specifically on legal aid. The Minister of Justice has since made it clear that there will be no cuts to legal aid in Northern Ireland[10] so I am removing this clause from my revised Bill.

Conclusion: I believe that ensuring that victims are adequately supported is of vital importance. These men, women and children are some of the most vulnerable individuals in our province and I strongly believe that it is incumbent upon us to ensure that adequate resources are provided to support them. I believe that this requirement needs to be set out in statute for the

[10] The clause in my draft Bill specifically on legal aid has been removed as the Minister for Justice announced there would be no cuts in the scope of legal aid. See para 1.1 http://www.dojni.gov.uk/index/public-consultations/current-consultations/consultation-paper-levels-of-representation-in-civil-family-courts.pdf

same reason that adequate resources need to be made available for investigators: the support budget should not be cut depending on who happens to hold the relevant portfolios or when public monies are tight. I have, however, made several changes to the clause on assistance and support - Clause 10 in my new Bill - in light of the comments above. I have also deleted the previous clause on legal aid.

Compensation (Clause 10 of the Draft Bill)

My consultation asked whether legislation should require clear compensation procedures in line with Article 17 of the European Directive. The vast majority of respondents to this question agreed that legislation should require clear compensation procedures. It was suggested by one respondent that "compensation signifies the harm that has been experienced by a victim and validates this for the victim which is a crucial part of their healing process." Other respondents noted that compensation would further help victims to rebuild their lives in the aftermath of what has happened to them.

Suggestion/Concern	**Response**
One respondent argued that criminal assets should be used to fund the compensation scheme while another said offenders should make a contribution.	The law already allows the court to direct an offender pay a compensation order.
A further respondent disagreed with	My clause requires the Department of

Suggestion/Concern	Response
this proposal arguing that the Criminal Injuries Compensation Scheme (CICS) suffices but did say that victims should be given legal advice on how to claim compensation.	Justice to make clear all the routes to compensation for victims who have been trafficked so there is no longer any lack of clarity.[11] Legal advice on how to claim compensation is also mandated by my Bill.
Another respondent urged compensation for victims of human trafficking for labour exploitation and for victims of forced labour, who have not been trafficked.	My Bill already covers victims of trafficking for labour exploitation. The Part of my Bill that gives services to victims of trafficking has not been extended to victims of forced labour as it implies a right to remain in the UK which the Assembly does not have the power to grant. I will continue to explore fair treatment of victims of forced labour with the Minister for Employment and Learning.

Conclusion: I believe that including this clause is of real value to victims of human trafficking. It will, as one respondent noted, signify the harm that has been done to the victim and help them to rebuild their lives. I have not proposed any changes of principle in my compensation clause but I have moved the requirement for assistance in seeking compensation to this clause[12] (which is Clause 11 in my new Bill).

[11] The Department of Justice will shortly publish new information for victims in partnership with Amnesty International. http://www.octf.gov.uk/getattachment/17afde17-fcb9-4d95-91fc-ead5257013f9/Minutes-from-the-second-meeting-of-the-Engagement-.aspx p5

[12] From the clause on assistance and support for victims, which is now Clause 10.

Legal Advocate (Clause 11 of the Draft Bill)

My consultation asked whether each child trafficking victim should have a legal advocate to support them and ensure they receive suitable assistance. The vast majority of respondents to this question agreed that child trafficking victims should have a legal advocate to support them and ensure they receive suitable assistance. Many respondents agreed that the introduction of a legal advocate for children would be an important step forward in safeguarding child victims.

One respondent further argued that "In many cases, child victims of human trafficking possess a basic need for a parental figure, something that older victims do not require. Subsequently, proposals aimed at providing child victims of human trafficking in Northern Ireland with a legal advocate to protect their interests and provide practical support in the immediate aftermath of their recovery are to be welcomed. Such provision would begin to restore to these victims the dignity and youth that their captors denied them."

Suggestion/Concern	**Response**
One respondent recommended an addition to this clause to ensure that the advocate would have a standing with the UK Border Agency, while another proposed adding words to ensure an immediate appointment.	I have made changes to my Bill to reflect both of these proposals.
Two respondents supported using current resources to support children, especially given the low number trafficked into NI but both organisations said that a legislative solution may be needed. A private	Regardless of the numbers involved, be they great or small, we should seek to put in place a framework for helping trafficked children that is in line with international best practice. This is why my Bill makes provision for

Suggestion/Concern	Response
citizen said that an advocate should not be an "eager volunteer" but someone with experience of the circumstances of the victim's home country.	child trafficking guardians as defined by UNICEF. The drafting of the clause provides scope for appointing paid employees and volunteers and requires the Department to set out appointment and training arrangements.
The Minister for Health, Social Services and Public Safety argued that current provisions under the Children (NI) Order 1995 (Articles 60 and 66) were sufficient to meet the needs of trafficked children and the clause was unnecessary.	The provision to which the department refers is that of 'guardian ad litems' which have a much narrower role - one pertaining to law courts - than that provided by a legal advocate , a 'Child Trafficking Guardian,' as defined by UNICEF. Child Trafficking Guardians should be appointed to assist the child as soon as they are recognised as a potential victim of trafficking. It is their role to accompany the child and to be empowered to speak, if necessary, on the child's behalf, in all the child's dealings with relevant agencies not just the law courts.

Conclusion: I have decided to retain this clause while making the two changes which are outlined above. The provisions for a 'child trafficking guardian' (I have decided to use this language rather than that of a legal advocate, although the substantive UNICEF definition of the role in question remains the same) are in clause 12 of my new Bill.

"Special Measures" (Clause 12 of the Draft Bill)

My consultation asked whether there should be "special measures" for trafficking victims if they act as witnesses. The vast majority of respondents to this question agreed that there should be "special measures" for trafficking victims if they act as witnesses. It was suggested by one respondent that having special measures for victims of trafficking as a matter of course would be helpful due to the climate of fear which surrounds victims of this offence. Other respondents noted that special measures would be helpful in ensuring that victims of trafficking felt able to testify against those who had oppressed them. There have been new regulations on protection of victims introduced in England and Wales to ensure compliance with the European Directive. These were published after the publication of my Draft Bill. My Draft Bill already contained the majority of the England and Wales proposals on "special measures" but I have added one new addition to Clause 14 of my new Bill published today. I have also added a new Clause 13 to protect victims during criminal investigations which meets the requirements of Articles 12(4) and 15(3) to ensure there is no secondary victimisation of the trafficked victim and that children are suitably protected during police investigations and reflects the provisions in the England and Wales Regulations.

A further respondent proposed that victims are given a choice to be interviewed by police officers and prosecutors of the same gender as themselves. Given the specialist nature of those working in this field, I am not convinced this would always be possible but there should be adequate training to recognise the concerns of working with someone of the opposite gender in

these cases. Training of individuals involved in working with trafficking victims is covered by clause 7 in my new Bill.

Conclusion: I am of the view that introducing special measures for victims of trafficking in statute would be a positive step forward. It will ensure that victims know that they can avail themselves of special measures if they have anxieties about testifying against their oppressor. I have made some changes to the provisions on special measures that reflect the latest provisions that have been introduced in England and Wales. The provisions for special measures are Clause 14 in my new Bill.

Other Comments

Other suggestions for inclusion in my Bill were as follows:

Suggestion/Concern	Response
Creation of an individual with some sort of co-ordinating/monitoring role.	I have introduced a new Clause (Clause 16) to ensure there is a national rapporteur for Northern Ireland, which will be the first in statute in the Great Britain and Northern Ireland in response to these concerns, Article 19 of the European Directive and the comments by the Justice Committee in support of an independent national rapporteur.[13]
Establishment of an Anti-Trafficking Unit in the PSNI.	This is an operational decision for the PSNI. Requirements for effective

[13] Committee for Justice, Report on the Criminal Justice Bill, (NIA 10/11015), 13 December 2012, page 33, paragraph 267

Suggestion/Concern	Response
	policing are set out in Clause 7 of my new Bill.
Establishment of contact protocols between voluntary groups and designated First Responders.	This also could be covered by the requirements for effective investigative tools (Clause 7 of my new Bill).
An offence specifically for internal trafficking within Northern Ireland with more severe penalties than for trafficking from abroad.	All individuals have the right not to be trafficked. The current offences already in statute with the amendments in the Criminal Justice Bill will ensure trafficking internally within the UK and from abroad are punishable up to 14 years in prison. My new Bill sets out factors that should be considered as aggravating in Clause 3.

Questions on Human Rights, Equality Implications and Costs

Of those that answered the question on the impact of the proposed legislation on **human rights**, 86% respondents agreed the impact would be positive.

Of those that answered the question on the impact **on equality of opportunity** 75% respondents agreed the impact would be positive.

Of those that answered the question on the **likely cost / financial implications** of the proposed legislation, the majority thought that the costs associated with this Bill were worth it to tackle human trafficking.

List of Respondents

- Anna Lo MLA
- Amnesty International
- Barnardos
- Belfast City Council
- Caleb Foundation
- Castlereagh Borough Council
- Church of Ireland Board of Social Theology in Action
- Consular Corps/Association of Northern Ireland
- Contemporary Christianity
- Councillor James McCorkell
- Craigavon Trades Council
- David McIlveen MLA
- David McNarry MLA
- Diane Dodds MEP
- Disability Action
- Dungannon and South Tyrone Borough Council
- Equality Now
- European Women's Lobby
- Evangelical Alliance
- Evangelical Presbyterian Church
- Free Presbyterian Church of Ulster
- Girls Brigade Northern Ireland
- International Union of Sex Workers
- Jim Wells MLA
- Joseph Rowntree Foundation
- Labour Party in Northern Ireland
- Law Centre (NI)
- Minister for Health, Social Services and Public Safety
- Network of Sex Work Projects
- Nexus
- Northern Ireland Assembly Committee for Agriculture and Rural Development
- Northern Ireland Assembly Committee for the Environment
- Northern Ireland Assembly Committee for Employment and Learning
- Northern Ireland Catholic Council on Social Affairs
- Northern Ireland Commissioner for Children and Young People

- Northern Ireland Council for Ethnic Minorities
- Northern Ireland Human Rights Commission
- Northern Ireland Student Movement
- Northern Ireland Women's European Platform
- National Society for the Prevention of Cruelty to Children
- Oasis Caring for in Action
- Presbyterian Church in Ireland
- Project Futures
- Public Prosecution Service
- Reformed Presbyterian Church of Ireland
- Salvation Army
- Scottish Prostitutes Education Project
- Sex Work IE
- Soroptimist International GB & I
- The Josephine Butler Society
- White Ribbon Campaign
- William McCrea MP
- Victim Support Northern Ireland

There were 94 responses from private citizens.

Joint correspondence from Lord Morrow and the Minister of Justice

Department of Justice
www.dojni.gov.

Northern Ireland Assembly

Our ref: SUB/13/2014

Paul Givan MLA
Chairman
Committee for Justice
Room 242
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Belfast
BT4 3XX

14 January 2014

Dear Paul,

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

We are all committed to tackling human trafficking in Northern Ireland. This crime is a horrendous abuse of human rights and it demands a clear and robust response. The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, currently at Committee stage, provides an opportunity to further enhance the legislative framework and law enforcement response in Northern Ireland.

We have been engaging on the content of this Bill and thought it would be helpful to set out, in a joint letter to the Committee, the progress we have made. This letter is intended to assist the Committee's consideration of the legislation. We have, therefore, set out below those areas on which we have reached agreement, some which will require amendments, and a few areas on which we have not been able to reach agreement.

Clauses we both agree should stand as part of the Bill

Subject to some technical and terminological amendments, we agree that the following clauses should stand as part of the Bill:



- Clause 1: Definition of human trafficking and slavery offences;
- Clause 2: Consent irrelevant for victim of human trafficking or slavery offences;
- Clause 3: Aggravating factors;
- Clause 5: Amendments to the Asylum and Immigration (Treatment of Claimants etc) Act 2004;
- Clause 9: Victim of trafficking in human beings;
- Clause 13: Protection of victims in criminal investigations;
- Clause 14: Amendments to the Criminal Evidence (Northern Ireland Order) 1999.

(Note – Clause 12 is for the Department of Health, Social Services and Public Safety. Other Clauses are dealt with below).

Proposed amendments

We believe that some parts of the Bill should be amended to ensure that the intention behind the clauses is achieved in the most effective way. A summary is set out below.

Clause 4: Minimum sentence for human trafficking and slavery offences

The Department believes that Clause 4 would restrict the scope for judicial discretion and could lead to inappropriate outcomes, and the DOJ will continue to oppose it for that reason. The Department's overriding concern, however, is that the clause as it stands applies equally to children. The extension of minimum custodial sentences to children would be inappropriate and in breach of the "best interests of the child" principle set out in Article 3 of the United Nations Convention on the Rights of the Child. We agree, therefore, that this Clause should be amended to clarify that the provision does not apply in respect of children.

Clause 7: Requirement and resources for investigation and prosecution

We fully recognise that resources should be put into appropriate training for frontline professionals if we are to tackle human trafficking effectively. This reflects the Department's current approach, which prioritises training in the DOJ Human Trafficking Action Plan. Clause 7, however, places a requirement solely on the DOJ





when the organisations/agencies the clause is intended to cover are wider than those that fall under the authority of the DOJ. To address this, while still placing an emphasis on training etc, we consider that Clause 15 of the Bill could be amended to require that the annual human trafficking strategy must include matters relating to training, investigation and prosecution.

This would provide a strategic response, allowing training and resources to be considered under a more comprehensive multi-agency approach, covering all of the organisations represented on the Organised Crime Task Force (OCTF) Immigration and Human Trafficking Subgroup, including those organisations which are accountable to the Westminster Government. The strategy would also go beyond training for investigators and prosecutors, to include training needs of all relevant frontline professionals.

We agree, therefore, that Clause 7(1) should be removed from the Bill. Clause 7(2) and (3) should remain.

Clause 10: Requirements for assistance and support

We believe that Clause 10 would benefit from amendment to clarify, and set out, the respective obligations on the Department of Justice and the Department of Health, Social Services and Public Safety (DHSSPS). The DOJ is working with DHSSPS on this Clause and plans to table a joint amendment for Members to consider during Committee Stage.

Clause 11: Compensation for victims of human trafficking

Arrangements for compensation for victims of human trafficking are set out in the Criminal Injuries Compensation Order 2002. As such we are agreed that Clause 11 could be amended to require the Department to bring forward statutory guidance, as opposed to an order, which would set out the procedures for applying for compensation



and the arrangements to provide assistance and support to a person applying for compensation.

Given that it is not necessary for an individual to be resident in Northern Ireland in order to apply for compensation, we also agree that subsection 11(b)(ii), which deals with leave to remain in the United Kingdom to claim compensation, should be removed.

Ongoing discussions

There are other parts of the Bill which we are continuing to work through. These are Clause 8 (non prosecution of victims of trafficking in human beings) and Clause 16 (Northern Ireland Rapporteur). The Department has set out its concerns about Clause 8 previously and once it has the Justice Committees views on its draft consultation document – see below- plans to consult on the extension of the UK Anti Slavery Commissioner to Northern Ireland.

We hope to be able to reach agreement on these Clauses soon and will keep the Committee informed of developments.

We accept that we will not reach agreement on Clause 6 (Paying for sexual services of a person).

The Department of Justice is working with the Office of the Legislative Counsel (OLC) to draft amendments which would give effect to the changes to Clauses 4, 7, 10 and 11 as outlined above. These draft amendments, and any other subsequent amendments agreed between us, will be brought to the Justice Committee during Committee Stage.

Modern Slavery Bill

As the Committee has been informed, the Department of Justice plans to consult on a number of legislative proposals for Northern Ireland, many of which reflect proposals in the Home Secretary's recently published Modern Slavery Bill. The Department

Department of Justice
www.dojni.gov.

Northern Ireland Assembly

considers that these measures will strengthen Northern Ireland's position in respect of tackling human trafficking.

A number of the proposals set out in the consultation would, if enacted, impact on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. We have agreed, in principle, and subject to timing not slipping, that the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill could be used as a legislative vehicle for any changes that follow the Department's consultation.

To be achievable this would require Consideration Stage to be deferred to late September 2014. Furthermore the consultation process will not end in time to allow the Department of Justice to bring any proposed draft amendments to the Bill to the Committee during the official Committee Stage. Nonetheless, we would propose to bring them to the Committee before Consideration Stage. If it is possible to incorporate them in the current Bill then that will speed the process of legislation and implementation enormously.

We hope this information will assist the Committee. We will keep you informed of developments.

DAVID FORD MLA
Minister of Justice

LORD MORROW MLA

Correspondence from Lord Morrow providing an update on the provisions in his Bill and the wording of his draft amendments and an outline of an exit strategy for those who wish to leave prostitution

Mr Paul Givan MLA
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18 March 2014

Dear Chairman

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

1. I am grateful for all the work the Justice Committee has done on scrutinising my Bill. Before I appear before the Committee again on 20 March, I thought it would be helpful for me to give you an update on the Bill following discussions with the Department of Justice (DOJ) and others. I am also responding to your letter of 27 November regarding the use of delegated powers and the very helpful report by the Examiner on Statutory Rules. My proposed amendments to the Bill are listed in the Annex to this letter.

Clause 1 – Definition of human trafficking and slavery offences

2. I am not proposing any amendments to this clause but I recognise that it is likely to be subject to changes following the current DOJ consultation on *Human Trafficking and Slavery: Strengthening Northern Ireland's Response*.

Clause 2 – Consent irrelevant for victim of human trafficking or slavery offences

3. There has been discussion about whether this clause is needed in my Bill. The same discussions about how the consent of a victim should be treated are being discussed by the Joint Committee on the Draft Modern Slavery Bill, since consent being irrelevant is included in clause 2(2) of the draft Bill. I continue to believe that stating the need for the consent of victims to be irrelevant in certain circumstances is important since the question of whether the victim consented, despite being subject to deception or fraud etc, can lead to misunderstanding of whether a person has been trafficked or not.[1] Following discussion with the DOJ, I am proposing one amendment to this clause to make it clear that consent is irrelevant. There may be some consequential amendment to this clause following the DOJ consultation if the proposed clause 2(2) of the Modern Slavery Bill is enacted in a similar way in Northern Ireland

[1] See GRETA (Group of Experts on Action Against Trafficking in Human Beings), *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom*, GRETA(2012)6, 12 September 2012, page 52, para 223 and *In the Dock, Examining the UK's Criminal Justice Response to Trafficking*, The Anti-Trafficking Monitoring Group, June 2013, page 28

Clause 3 – Aggravating Factors

4. I am proposing one amendment to this clause which replaces the definition of a vulnerable adult with one used in Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2012. I am still in discussion with the DOJ about whether this is the most suitable option but I hope this will be acceptable to them.

Clause 4 – Minimum sentence for human trafficking and slavery offences

5. As you are aware, the DOJ does not support this clause. I am minded to continue with this clause but I am proposing five amendments:

    - Adding a new clause to make slavery offence triable only on indictment so that a two year minimum sentence could be imposed. This would bring the current offence of forced labour etc in section 71 of the Coroners and Justice Act 2009 in line with the policy for human trafficking offences implemented in the Criminal Justice Act 2013. This proposed amendment may get overtaken by the proposed changes on consolidating the human trafficking and slavery offences currently being consulted on by the DOJ;
    - That Clause 4 should be amended directly so that:
        - the minimum sentence framework should not apply to children;
        - the court cannot impose a suspended sentence; and
        - The court must state the reasons they consider a case exceptional if they decided not to impose the minimum sentence.
    - Adding a new clause to Part 5 of the Bill with consequential amendments that impact other pieces of legislation on sentencing.

Clause 5 – Amendments to Asylum Act and Immigration (Treatment of Claimants Etc) 2004

6. I am content with the DOJ's proposal for an amendment on the position of trust in clause 5, but this clause may become redundant if it is decided to repeal section 4 of the 2004 Act, following the DOJ consultation.

Clause 6 – Paying for sexual services of a person

7. There have been continuing strong views on whether this clause should remain part of my Bill or not. The DOJ has made clear that they continue to oppose its inclusion in this Bill and I am very disappointed that their research will not be completed before the Consideration Stage of the Bill. Many others who have given evidence to the Committee, however, have made plain their strong support for this clause.

8. Moreover, since the Second Reading of my Bill, there have been continuing precedents for this sort of measure which makes me determined to pursue this clause, especially as it is highly unlikely that this issue will be revisited before the next Assembly mandate:

- The French Parliament voted to make buying of sexual services an offence in December last year.[2]
- In February, the European Parliament's Committee on Women's Rights and Gender Equality published a report on sexual exploitation and prostitution and its impact on gender equality, known as the Honeyball Report[3] which says, "*that demand reduction should form part of an integrated strategy against trafficking in the Member States; believes that demand reduction can be achieved through legislation that shifts the criminal burden onto those who purchase sexual services rather than onto those who sell it, and through the imposition of fines to make prostitution financially less lucrative for criminal organisations/organised crime*." The Parliament's Plenary vote also supported the position that demand reduction should be part of the strategy to reduce trafficking and that one way of doing this is the model implemented in Sweden and other Nordic countries.[4]
- In March, the Westminster the All-Party Parliamentary Group on Prostitution and the Global Sex Trade recommended that there should be a "general offence for the purchase of sexual services" in their report *Shifting the Burden, Inquiry to assess the operation of the current legal settlement on prostitution*.[5]

9. I am proposing eight amendments to clause 6. The first five address issues that were raised in Committee by the Public Prosecution Service (PPS):
    - Clarifying that the clause refers to "a prostitute" instead of "a person". There would need to be three amendments to the clause title, 64A(1) and 64A(4). This would address the concerns raised by the PPS both about the scope of the clause – they argued that the current definition of a person will apply to teenagers who look at webcams and use chat lines - and their concerns about the definition of sexual services within the clause as drafted. In the oral evidence session on 28 November 2013, they recommended that using the term prostitute would address this:[6]
        - Ms Lavery said, "*I think that, if "person" is substituted with "prostitute", the issue of what "sexual services" are and the circumstances included will become clear*"
        - Ms O'Kane said, "*Yes, in my mind that would make it more legally specific, and anything that makes the law clear assists prosecutors, defence practitioners, the judiciary and, indeed, the public*".

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2 France prostitution: MPs back fines for clients, 4 December 2013, http://www.bbc.com/news/world-europe-25217185

3 European Parliament, Report on sexual exploitation and prostitution and its impact on gender equality, Committee on Women's Rights and Gender Equality, Rapporteur: Mary Honeyball, 3 February 2013, (2013/2103(INI)), A7-0071/2104, paragraph 31, page 12

4 Sexual exploitation and prostitution and its impact on gender equality, European Parliament resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)), P7_TA-PROV(2014)0162, paragraphs 28-33

5 Recommendation 9, page 9 http://appgprostitution.files.wordpress.com/2014/03/shifting-the-burden.pdf

6 Oral evidence to the Justice Committee from the PPS, 28 November 2013, pages 2, 5, 6, 7 and 14

- Ms Lavery also said, "*This is about whether using the term "person" or "prostitute" may clarify matters. I think that I mentioned that [using the term prostitute] would clarify what was meant by "sexual services*".

- Consequential on changing the clause to refer to a prostitute, I am proposing removing new Article 64A(3) since the definition of payment is already covered under the interpretation set out in Article 58(3).
- Clarifying the sentencing provisions in 64A(2). The PPS said, "*it is not clear in respect of which court tier the potential to imprison for a term not exceeding one year applies. It does not refer to prosecution on indictment in the clause*."[7] I am proposing that there should be reference to prosecution on indictment.

10. The PPS also raised the question about whether a person convicted of the offence proposed under clause 6 should be on the sex offenders register.[8] I am confirming that this is not my intention.

11. The Northern Ireland Human Rights Commission (NIHRC) in their written and oral evidence raised a concern that my clause would create a discrepancy with the current Article 37 offence of paying for sex with a child. This was clearly not my intention.

12. At the moment under Article 37, the purchase of sex from a child under 13 is a strict liability offence, irrespective of what the defendant knew or believed about the age of the child. However, if the child is 14-17 years old then the purchaser can use the defence of "reasonable belief", that is the defendant reasonably believed that the child was 18 years or over. Once Clause 6 comes into force, if a child is over 13 but under 18 even if the purchase is proven, a defendant with a reasonable belief that the child was 18 or over could be found not guilty whereas a defendant charged under clause 6 with purchasing sex from someone 18 years or over has no such defence available so if the offence is proven then they would be found guilty. The NIHRC said, "it will be easier to penalise persons who pay for sex with adults than those who pay for sex with children."[9]

13. The NIHRC recommended that Article 37 should be amended. In keeping with the proposal to make it an offence to pay for sex with an adult, I am proposing a new subsection in clause 6 that would amend Article 37(c)(i) so that the strict liability offence should apply up to the age of 18. There is an argument for making the strict liability offence apply up to the age of 16 as that is the age of consent but that would leave the treatment of 16 and 17 year olds at odds with the treatment of all other children, where a child is defined as under the age of 18.[10]

14. The other two amendments further clarify clause 6 so that:

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7 Ibid, page 2
8 Ibid, page 2
9 Oral evidence to the Justice Committee from the NIHRC, 16 January 2014, page 2 and page 5. Also referred to in paragraphs 53-63 of the NIHRC Written Evidence
10 The APPG Report on Prostitution referred to in footnote 4 recommended that the strict liability nature of the offence of paying for sex with children should be increased to age 16 from age 13. See Recommendation 4, page 9 and page 18

- It is clear that the clause refers to a prostitute who is 18 or over in new 64A(1) so that this distinguishes it from the Article 37 offence,
- New Article 64A(5) will require an advertising campaign to ensure public awareness of the change affected by clause 6.

15. I am also proposing a new clause after clause 10 that would provide support services for those who are exiting prostitution. I have been in discussion with Women's Aid about how such a service might be provided.

Clause 7 – Requirements and resources for investigation or prosecution

16. I am content with the approach proposed by the DOJ in relation to training that is the subject of clause 7(1) which will now be covered in clause 15.

17. Clauses 7(2) and 7(3) set out the obligations under the Article 9(1) of the European Directive.

18. The DOJ is proposing two amendment to clause 7 and I am content with both.

Clause 8 – Non-prosecution of victims of trafficking in human beings

19. Clause 8 of my Bill responds to the Article 26 Convention rights and Article 8 Directive rights that if a victim of trafficking commits a crime "which they have been compelled to commit as a direct consequence of being subjected" to an act of trafficking should be protected from prosecution. There have been strong views expressed about whether the clause should remain in the Bill or not.

20. I remain convinced that the following principles should underlie the discussion on non-prosecution:
    - In order for a trafficked person to have the prosecution stopped the circumstances of their trafficking need to be investigated at an early stage as a priority. There needs to be good information flow between the police, prosecutors and the NRM and knowledge of the Convention/Directive rights amongst those working with potential victims.
    - Where victims of trafficking have committed crimes as a direct result of coercion/duress associated with trafficking/exploitation then their Article 26 Convention rights and Article 8 Directive rights should be applied.
    - However, I accept that there cannot be blanket immunity, especially for serious crimes like murder.

21. As you know the question of how non-prosecution of victims should be dealt with is also being considered by the Joint Committee in Westminster scrutinising the Modern Slavery Bill. I have been minded to await their recommendations before proposing any amendments to my Bill on this issue. Regardless of the outcome on clause 8, I support the DOJ's suggestion that there should be raising of awareness of the rights and entitlements of victims across the criminal justice system which should be a focus of the annual strategy required by clause 15.

Clause 9 – Victim of trafficking in human beings

22. As the DOJ have set out I propose to make some amendments to clauses 13 and 14 to ensure that there is consistency in the language used in legislation related to so-called special measures. I am proposing two minor consequential amendments to clause 9. These may need to be amended further in the light of the proposed amendments to clause 9 that the Department is working on, which I have yet to see.

Clause 10 – Requirements for assistance and support

23. I am very grateful for the support of the DOJ and the Department of Health Social Services and Public Safety (DHSSPS) to include victim care in primary legislation. The two departments are working on some amendments to make clear where the lines of responsibility fall for providing services. I understand that there may also be impacts on the Department for Education and the Department of Social Development and I will be writing to the relevant Ministers. I have been liaising with the DOJ on some other suggested improvements to this clause in particular to ensure that assistance is available even if there are no criminal proceedings, as this has given rise to concerns that in this context victims would be excluded from services which is not the intention of my Bill. I have not yet seen any amendments to this clause but it is clearly important for victims that we get this clause right and cover all the vital areas of services including housing, medical services etc.

Clause 11 - Compensation

24. This was one of the clauses raised by the Examiner on Statutory Rules. I have agreed with the DOJ that there should be an obligation to bring forward statutory guidance on when and how a trafficking victim should receive compensation and that this will replace clause 11; therefore there will no longer be a reference to an order under this clause. I am content with the amendment that the DOJ has proposed.

Clause 12 - Child trafficking guardian

25. As you know, I have supported child trafficking guardians because it is internationally recognized best practice and a key part of our international obligations,[11] which I believe we should be implementing in Northern Ireland. I am continuing in dialogue with the Department for Health, Social Services and Public Policy about the best way forward on this clause.

26. Since my Bill was published, there has been further support for the principle of a child trafficking guardian role:

    - The 2013 *Still at Risk* report which looked at the experiences of trafficked children in England and Wales recommended the development of a role for "*an independent, trusted adult*" whose role would "*ensure that all potential victims of trafficking are able to understand their rights, ensure that their voice*

[11] Article 10(4) of the European Convention on Action Against Trafficking in Human Beings and Articles 14(2) and 16(3) of Directive 1011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting its Victims

is heard in decisions that affect them and are supported effectively through the different legal processes they are engaged in."[12]

- In February 2014, the Northern Ireland Commissioner for Children and Young People said in a recently published report:[13]
  - "*Guardianship is thus not just about representation, but rather it is about the arrangement of independent representatives that are responsible for ensuring the well-being and best interests of the child*";
  - *"our wider experience shows that Guardianship works well as an independent and dedicated 'whole' service that does not 'belong' to any statutory service... Guardians having time to develop close and companionable working relationships with separated children, has been shown to be a key aspect of children feeling safe, feeling a sense of belonging within a Service, and being helped to be successful in their lives. In its independent form a distinctive Guardianship Service can complement, support and enhance all services that work with separated children subject to immigration control*."

27. I continue to believe that the position of a child trafficking guardian should be:
    - Set in statute;
    - Appointed as soon as a trafficked child has been identified;
    - Recognised by other agencies as having a legitimate role working in the best interests of the child; and
    - Suitably trained.

28. I also believe that the guardian should be someone independent of the DHSSPS and the Health Trusts to ensure there is no conflict of interest. Both the *Still at Risk* and NICCY reports state that that guardians should be an independent person, so I am proposing an amendment to clause 12(4)(a) to exclude an employee of a health trust from being a guardian.

29. The Examiner on Statutory Rules was concerned about the order making powers in this clause. When I have further information about the outcome of my discussions with the DHSSPS I am expecting to make a further amendment to clause 12(7) and the powers it contains. In the meantime, I am proposing an amendment to clause 18 (see below) that the powers in 12(7)(a) should be agreed by the draft affirmative procedure.

Clause 13 - Protection of victims in criminal investigations

30. I am very pleased that I have been able to work with the DOJ to agree that there should be an extension of so-called "special measures" to victims of human trafficking during the investigations and the court process. I have agreed with them that there

[12] Refugee Council and The Children's Society, Still at Risk, September 2013. page 9

[13] R Kohli, H Connolly, H Beckett, By their side and on their side: reviewing the evidence for guardianship for separated children in Northern Ireland, February 2014, pages 40 and 97 http://www.niccy.org/downloads/2014/Publications/Guardianship_reports_Feb_14/NICCY_Guardianship_main_report_-_Feb_14.pdf

need to be amendments to clauses 13 and 14 so that instead of referring to a "victim", the clauses will refer to a "complainant". This leads to proposed changes to the titles of Part 3 and Clause 13 and replacing every instance of "victim" to complainant in the text of clause 13. I am also proposing including a definition of "the accused" and a "complainant" as used in the England and Wales Trafficking People for Exploitation Regulations 2013.[14]

Clause 14 - Amendments to the Criminal Evidence (Northern Ireland) Order 1999

31. As with clause 13, I am proposing that the word "victim" should be amended to "complainant" in the one place that it appears in this clause. Following the outcome of the DOJ consultation this may need further amending so that special measures apply to the appropriate offences.

Clause 15 – Prevention

32. Following my discussions with the DOJ, we have agreed that clause 15 should be amended to ensure that the annual strategy covers matters related to training, investigation and prosecution. I am also supportive of their proposal to include awareness of the issues around non-prosecution of victims of human trafficking who have been compelled to commit an offence as a consequence of being a victim of trafficking if clause 8 should be removed. We are still in discussion on the final wording of an amendment.

Clause 16 – Northern Ireland rapporteur

33. Since I published my Bill, the draft Modern Slavery Bill has proposed an Anti-Slavery Commissioner,[15] which the DOJ proposes to extend to Northern Ireland. I acknowledge that there is a good argument for a national rapporteur to operate on a UK wide level. However, I am unwilling to commit to removing this clause until more detail is available as to how this Anti-Slavery Commissioner will operate in Northern Ireland. I am particularly concerned by the fact that, as currently drafted, the proposed Commissioner, will only consider law enforcement and not areas such as victim support which my proposed rapporteur would have the power to do. It is important that a rapporteur considers effectively the needs of Northern Ireland and our particular challenges, particularly the fact that we have a land border with the Republic of Ireland.

34. I am not proposing any amendments to this clause at the current time.

35. I have noted the Examiner on Statutory Rule's recommendations that clause 16 should be subject to the affirmative procedure as it stands and propose amending clause 18 accordingly. There may be further amendments to clause 16 in light of what is happening on the Modern Slavery Bill which may remove the need for an order making power.

Clause 17 – General Interpretation

36. I am content with the DOJ's amendment on the definition of a child.

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[14] http://www.legislation.gov.uk/uksi/2013/554/pdfs/uksi_20130554_en.pdf
[15] Part 3 of the Draft Modern Slavery Bill

Clause 18 – Orders

37. On the advice of the Examiner on Statutory Rules, I propose amending Clause 18 to make it clear that as clause 12(7)(a) and clause 16 stand, they should be subject to the draft affirmative procedure. Other orders would be subject to the negative resolution except for the commencement order in clause 19.

38. Further amendments may be necessary in light of any changes that occur to clauses 12 and 16.

39. The DOJ is also proposing an amendment to clause 18 which differs from mine as it applies to all orders under 12(7) and does not apply to clause 16.

Clause 19 – Short title and commencement

40. I am not proposing any amendments to this clause. My proposed amendment to clause 18 means that the commencement order making power in 19(2) does not need the Assembly agreement. I am content with the two DOJ proposed amendments to clause 19.

Forced Marriage

41. In addition to these clauses, the Minister of Finance and Personnel has asked me to consider using my Bill to create an offence of forced marriage. Forced marriage is part of the Westminster Anti-Social Behaviour and Policing Act 2014, which has just received Royal Assent. The new offence of forced marriage are at sections 121 and 122 and apply to England, Wales and Scotland. The key policy issue is that these clauses introduce a new offence of forcing someone to marry against their will. Breach of a forced marriage protection order is already a criminal offence in Northern Ireland. Now these offences are enacted, Northern Ireland is out of step with the rest of the UK on the new offence of forcing a person to marry against their will so action is needed to make the law consistent across the UK. I am content for my Bill to be used to ensure this loophole is resolved and would suggest as the Bill currently stands, the new offence of forced marriage would sit best after current clause 8 – ie at the end of the Part 1 on Offences.

I look forward to discussing these issues further with the Committee on 20 March.

Yours sincerely

LORD MORROW MLA

ANNEX: PROPOSED AMENDMENTS

Amendment to Clause 2

Purpose: Make clear that consent is irrelevant in the case of a human trafficking or slavery offence.

Clause 2, Page 1, Line 14
Leave out from 'where' to end of line 6 on page 2

Amendment to Clause 3

Purpose: Replaces the definition of a vulnerable adult with one used in Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2012.

Clause 3, Page 2, Line 30
Leave out from 'means' to the end of line 34 and insert 'has the same meaning as in Article 7(7) of the Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2012.'

Amendment after Clause 3

Purpose: To allow a 2 year minimum sentence for slavery offences by removing the option of a summary offence in section 71 of the Coroners and Justice Act 2009. [This new clause may not be needed depending upon the outcome of the DOJ consultation.]

New Clause
After Clause 3 insert-
'Slavery offence to be triable only on indictment
3A. -(1) In section 71(3) of the Coroners and Justice Act 2009 (slavery, servitude and forced or compulsory labour) omit paragraph (a).
(2) This section does not apply in relation to an offence committed before this section comes into operation.'

Amendments to Clause 4

Purpose: Restricts a minimum sentence for a human trafficking offence to adults only.

Clause 4, Page 2, Line 37
After offence 'insert 'and that individual was aged 18 or over when the offence was committed'

Purpose: Ensures that the sentence is an immediate custodial sentence and not a suspended sentence.

Clause 4, Page 2, Line 41
At end insert -
'( ) The court shall not exercise its powers under section 18 of the Treatment of Offenders Act (Northern Ireland) 1968 (suspended sentences) in relation to a sentence which it is required to impose under subsection (2).'

Purpose: Requires the court to state the reasons why a case is considered exceptional

Clause 4, Page 5, Line 1
At start insert -
'( ) If the court decides not to impose a custodial sentence under subsection (2), the court must state the exceptional circumstances of the offence or the offender.'

Amendments to Clause 6

Purpose: change person to prostitute in clause title

Clause 6, Page 3, Line 24
Leave out 'person' and insert 'prostitute'

Purpose: to remove the reasonable belief defence for paying for sexual services of a child so that there is no disparity between Articles 37 and 64(A).

Clause 6, Page 3, Line 26
At end insert -
'( ) In Article 37(1) for (c) substitute –
"(c) B is under 18 years old."

Purpose: change person to prostitute

Clause 6, Page 3, Line 31
Leave out 'person' and insert 'prostitute'

Purpose: clarify age of prostitute

Clause 6, Page 3, Line 31
Leave out 'over the age of 18' and insert 'is aged 18 or over'

Purpose: clarify court that can give custodial sentence

Clause 6, Page 3, Line 37
At start insert 'on conviction on indictment'

Purpose: consequential on changing the clause to refer to a prostitute, remove new clause 64A(3) since this definition is covered already under the interpretation set out in Article 58(3)

Clause 6, Page 3, Line 39
Leave out lines 39 to 41

Purpose: change person to prostitute

Clause 6, Page 4, Line 1
Leave out 'person'

Purpose: ensure advertising campaign meets its intentions

Clause 6, Page 4, Line 4
Leave out 'must raise awareness of this offence' and insert 'shall conduct an advertising campaign to ensure public awareness of the change effected by this section'

Amendment to Clause 9

Purpose: consequential on amendments to Clause 13 to change 'victim' to 'complainant'

Clause 9, Page 5, Line 4
Leave out 'and Part 3'

Clause 9, Page 5, Line 19
Leave out lines 19 and 20

Amendment after Clause 10

Purpose: to provide assistance and support for those who wish to exit prostitution.

After Clause 10 insert -
'Assistance and Support for Exiting Prostitution
10A. *-(1) The Department of Health, Social Services and Public Safety must ensure that there is a programme of assistance and support made available to a person who is a prostitute to leave prostitution.*
(2) Assistance and support provided under this section—
(i) is not conditional on the person's willingness to act as a witness;
(ii) shall be provided with the agreement of the person; and
(iii) shall take due account of the victim's safety and protection needs, including being offered assistance from a person of the same gender.
(3) For the purposes of this section "prostitute" has the same meaning as in Article 58 of the Sexual Offences (Northern Ireland) Order 2008.

Amendment to Clause 12

Purpose: to ensure that an employee of a Health and Social Care Trust cannot be a guardian.

Clause 12, Page 7, Line 16
At end insert 'except for an employee of a Health and Social Care trust'

Amendment to Title of Part 3

Purpose: change the word "Investigation" to "Investigations"

Clause 13, Page 8, Line 3
Leave out 'investigation' and insert 'investigations'

Amendments to Clause 13

Purpose: change the word "victim" to "complainants" to bring into line with other special measures legislation

Clause 13, Page 8, Line 2
Leave out 'victims' and insert 'complainants'

Clause 13, Page 8, Line 4
Leave out 'victims' and insert 'complainants'

Clause 13, Page 8, Line 6
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 9
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 12
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 14
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 15
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 16
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 18
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 20
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 23
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 24
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 27
Leave out 'victim' and insert 'complainant'

Clause 13, Page 8, Line 27
Leave out 'victim's' and insert 'complainant's'

Clause 13, Page 8, Line 29
At end insert -
'(2) In this section—
"the accused" means a person who is alleged to have committed, or has committed, a human trafficking offence;
"complainant" means a person against or in relation to whom a human trafficking offence is alleged to have been committed, or has been committed.'

Amendment to Clause 14

Purpose: brings the wording in Clause 14 in Line with the wording used in the Criminal Evidence (NI) Order 1999

Clause 14, Page 9, Line 2
Leave out 'victim' and insert 'complainant'

Amendment after Clause 17

Purpose: Consequential amendments to clause 4

After Clause 17 insert -

'Consequential amendments

17A. *– (1) In section 36 (review of sentencing) of the Criminal Justice Act 1988 after subsection (9)(c) insert—*

"(d) the power to review a sentence under section 2(b) applies to a sentence required by section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014."

(2) The Criminal Justice (Northern Ireland) Order 1996 is amended as follows—

(1) In article 4(1) (absolute and conditional discharge) after "2008" insert "or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014".

(2) In article 10(1) (probation orders) after "2008" insert "or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014".

(3) In article 13(1) (community service orders in respect of convicted persons) after "2008" insert "or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014".

(4) In article 15(1) (orders combining probation and community service) after "2008" insert "or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014".

(3) In Article 5 (restrictions on imposing certain custodial sentences) of the Criminal Justice (Northern Ireland) Order 2008 after paragraph (1)(b)(iii) insert—

"(iv) section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014".

Amendment to Clause 18

Purpose: changes the order making procedures so that orders under clauses 12(7)(a) and clause 16 are subject to the draft affirmative procedure and to make clear that the Assembly does not agree to a Commencement Order. [Note that any subsequent changes to clause 12 may need to be reflected here too.]

Clause 18, Page 10, Line 7
Leave out lines 7 and 8 and insert -

18. (1) Except as provided by subsections (2) and (3), orders made under this Act are subject to negative resolution.

(2) No order shall be made under section 12(7)(a) and section 16 unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(3) Subsection (1) does not apply to an order under section 19.

Women's Aid Meeting with Lord Morrow 13 February 2014

Human Trafficking and Exploitation Bill

– Support Pathways out of Prostitution

In order to effectively tackle the exploitation of women and girls through prostitution it is essential that there is a support network in place to assist women as they exit the sex industry. Such a support pathway must reflect and understand the multiple and complex reasons that women enter prostitution, and understand that exiting prostitution is not one action but a process. Many women return to prostitution after exiting in a similar manner to women returning to a domestic abuse perpetrator and others feel that they have no other option for economic reasons.

A support system must recognise and be able to tailor support to all the complexities, and be developed and resourced to provide a viable alternative and choice to women trapped in the sex trade.

Women's Aid is committed to working with government to develop and provide such a support system. We already have links with organisations across the UK and in the Republic of Ireland who are providing specialist support to women exiting prostitution.

We believe that a support service of this kind would operate under the following principles:

- Non-judgment – no requirement to exit and understanding that exiting is a process
- Led by the needs and priorities of the women.
- A flexible service that can tailor support to women in different situations and with different needs – care plans fitted to needs of the individual.
- Support and outreach to women who do not yet want to exit – having exited should not be a pre-requisite for support.
- Support to gain skills to seek employment.
- Support for the children based on the needs and protection of the children.
- Confidentiality – there is a need for one to one support, complete confidentiality, to allow women's identities to be protected.

We propose that such a service might be created along the following lines:

- A wrap-around service: practical support with connections with other support agencies and organisations and emotional support.
- A supported living / sheltered accommodation building that will provide short-term accommodation to women, and their children, whose exiting prostitution has rendered them homeless / women who are fleeing prostitution.
- Supported living support for 6 months – 1 year, with intensive support in first 3 months, and additional support for months or years after, as long as needed.
- Two shelter workers during the day and one night worker, running the shelter and providing support to those who stay there.
- Floating support for women in prostitution to provide long-term support and assistance to women on a one-to-one basis.
- Programmes to promote self-esteem and understand the effects of abuse
- Advocacy and resettlement support.
- Support for any children or young people, based on the needs of the CYP and their protection, with referrals to other agencies.
- Well-established links with all relevant statutory and voluntary organisations, including:
    - Sexual Health / GUM services
    - Addiction services / community addictions team
    - Migrant support services, including legal advice and advocacy
    - PSNI / criminal justice system / Victim Support NI
    - Health & social care – Benefits, GP registration, Housing provision
    - Education and employment support – GEMS

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BUDGET 2014/15 New Project

EXPENDITURE	
salaries	125,079
NIC	12,508
Pension	10,006
travel	2,200
recruitment	3,000
training	1,000
volunteer training	0
total staff costs	153,793
rent	15,600
rates	1,000
heat & light	7,500
repairs & maintenance	3,500
gardening	400
total property costs	28,000
insurance	500
phone	1,000
cleaning contractor	1,000
household	2,500
beneficiary subsistence	500
seasonal beneficiary su	200
emergency payments	200
replacement furn	10,000
womens travel	207
vol expenses	400
equip rental	300
creche costs	0
general support	200
training women /crafts	100
total household	17,107
conf/residential	0
printing	0
advertising	0
management costs	0
publications/membersl	100
niwaf	0
transport	0
postage	100
stationery	500
photocopying	100
legal fees	0
bank charges	0
audit	200
consultancy	0
fundraising	0
computer expenses	100
total CENTRAL	1,100
OVERALL EXPENDITURE	200,000

Correspondence from Lord Morrow providing the views of the Attorney General for Northern Ireland on Clauses 4 and 6.

Attorney General
for Northern Ireland

Lord Maurice Morrow MLA
19 Church Street
Dungannon
BT71 6AB

Our Ref: 18/05/13/001

Date March 18 2014

Dear Maurice,

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

Thank you for your letter of 14 March 2014 setting out proposed amendments and seeking my views. The letter only came my way today.

Clause 4 minimum sentence

You are right to say that I see no legal reason why you should not table this clause. This is not to say, however, that consequential amendments would not be useful to provide clarity for judicial decision makers. However, an easier way to provide such clarity might be to be start clause 4(2) with,

'Notwithstanding any other provision, the court shall impose...'

The technique you propose for removing the discretion to impose a suspended sentence will be, I think, effective.

Your proposed amendment which seeks to confer a duty to give reasons would benefit, in my view, from a slight redrafting to read,

'If a court considers that there are exceptional circumstances which justify the imposition of a lesser sentence than that provided for under subsection (2), the court must give its reasons for considering exceptional circumstances to exist and record those reasons in the order book'

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Clause 6 – paying for sexual services

I had, in my letter of 12 March to the Justice Committee (which you may now have seen) suggested a different approach to ensuring consistency with Article 37 of the 2008 Order. I had suggested removing the age limitation from the new offence by deleting 'over the age of 18' in the proposed article 64A, leaving it open to the prosecution to decide which offence to prosecute based on the evidence available. I note that even with your amendment, there will be a significantly higher penalty available to the judge where the person whose sexual services are sold is 16 or 17 years of age (potentially 7 years imprisonment) as compared to when the person is 18 years of age (potentially 1 year imprisonment). There would remain judicial discretion as to mitigating factors, which could include reasonable belief that the person was older.

I still think that my suggestion leading to an overlap may be preferable.

In terms of the mode of prosecution, I had suggested that consideration be given to the best way to proceed and had not suggested that the offence be triable only summarily. I see no difficulty with the offence created by clause 6 being a hybrid offence, allowing prosecution either summarily or on indictment. You may also wish to amend the proposed article 64A(2)(a) to allow for a term of imprisonment to be imposed on summary conviction. At present, your amendment reserves the imprisonment option to indictment only.

You suggest changes to the use of 'a person' and the definition of payment. Clearly, you wish to limit the scope of the offence and avoid unnecessary penalisation. Using the word 'prostitute', in my view, goes further than necessary to limit the scope of clause 6 and will create a hurdle to prosecution which could be avoided. If clause 6 were to use 'prostitute', this would add another layer of proof to the prosecutorial burden. This is because the definition of 'prostitute' in article 58 of the 2008 Order (unless also changed) requires a person to have offered or provided sexual services in return for payment on at least one occasion, which I think must mean on an 'other' or 'previous' occasion. In contrast, the use of 'person' means that a purchaser of sex from someone who has not necessarily previously provided such a 'service' commits the clause 6 offence, which, so I understand, better reflects your policy intentions. It also avoids unnecessarily stigmatising language about the unfortunate persons who may be caught up in this exploitative business.

I would suggest that a better approach might be to limit explicitly the offence to the type of sexual services at which clause 6 directly aims.

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The following additional subparagraph to the proposed article 64A could be inserted:

'No offence is committed under this article unless the sexual services that are provided or are to be provided by B to A involve (a) B being physically in A's presence and (b) B touching A or A touching B.'

I accept that if 'prostitute' is used then there is less need to amend the definition of payment to remove '(including sexual services)'. An unwitting married couple would not find themselves criminalised unless it was possible to prove that this was not the first exchange of sexual services, rendering at least one of them a 'prostitute'.

If, on the other hand, you continue with 'person' rather than 'prostitute', limiting the scope of sexual services in the way I suggest then it would still be necessary to amend the definition of payment. I would suggest simply deleting the words '(including sexual services)' and a slight amendment to article 58 of the 2008 Order to make it clear that its definition of 'payment' does not apply to the new article 64A. This could be done by inserting the words 'other than in article 64A' after "Payment" in article 58 (3).

I have no difficulties with your amendment to the proposed article 64A (5).

I am, of course, happy to discuss any of the amendments further should that be of assistance.

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Attorney General for Northern Ireland

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Correspondence from Lord Morrow regarding the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and providing revised amendments to Clause 6

From Lord Morrow to Justice Committee

Mr Paul Givan MLA
Chairman, Committee for Justice
Parliament Buildings
Stormont
Belfast
BT4 3XX

7 April 2014

Dear Paul

Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill: Clause 6

1. Thank you for inviting me to give further evidence before the Justice Committee on 20 March. As I explained then I had just received advice from the Attorney General on clause 6 and the amendments I had proposed in response to concerns from the Public Prosecution Service and the Northern Ireland Human Rights Commission (NIHRC).

2. The Attorney General strongly advised against replacing "person" with "prostitute" because of evidential difficulties and the use of stigmatising language. However, he recognised that my suggestion of changing "person" to "prostitute" in my most recent letter to the Committee was a result of my concerns about having too wide a scope to the offence. The Attorney General suggested alternative wording to narrow the offence whilst keeping "person" and also some further options on sentencing. I have taken this advice on board and am proposing revised amendments which I am enclosing in Annex A. Annex B sets out what clause 6 would look like if these were implemented.

3. I am proposing seven amendments to clause 6 that would amend the new Article 64A and one amendment to current Article 58 of the 2008 Order that is consequential to amending the definition.

4. Three of these amendments relate to using the word "person" rather than "prostitute".

   - The amendment to paragraph (1) removes any reference to the age of the person who is selling sexual services. The Attorney General wrote to the Committee on 12 March about this point. This amendment will mean there is an overlapping offence with Article 37 (Paying for sexual services of a child) but the Attorney General's advice is that the prosecution will have the choice on which offence to charge on the basis of the strength of the evidence around belief on age and the penalties available. It would remove the NIHRC's concern that it would be easier to prosecute someone purchasing sex from an adult than a child.[1]
   - The amendment to paragraph (3) removes the reference to payment "including sexual services", as recommended by the Attorney General when he gave evidence to the

1 Oral evidence to the Justice Committee from the NIHRC, 16 January 2014, page 2 and page 5. Also referred to in paragraphs 53-63 of the NIHRC Written Evidence

Committee on 6 March.[2] My new clause 6(1A) amends Article 58(3) so that the definition of payment in that Article does not apply to new Article 64A.

- A new paragraph (3A) which narrows the scope of clause 6 by requiring A and B to be physically in each other's presence and the sexual service provided to involve A touching B or B touching A where the touching is sexual. By doing this my amendment does not make a new definition of sexual services which would be difficult to achieve without being making it too broad or too narrow. Instead it narrows the scope of clause 6 by implicitly referring to definitions already in the 2008 Order since:
  - Article 2(11) defines touching as "touching includes touching (a) with any part of the body, (b) with anything else, (c) through anything and in particular includes touching amounting to penetration;" and
  - Article 4 says "penetration, touching or any other activity is sexual if a reasonable person would consider that (a) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual, or (b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both), it is sexual."

5. Three amendments to paragraph (2) allow for a sentence of imprisonment up to six months or a fine on summary conviction and for trial on indictment.

6. The seventh amendment to paragraph (5) will require an advertising campaign to ensure public awareness of the change affected by clause 6.

7. I would be happy to discuss these amendments further with the Committee if that would be helpful.

Sincerely….

2 Attorney General before Justice Committee, 6 March 2014, page 2

Annex A: Proposed Amendments To Clause 6

Purpose: ensure definition of payment in Article 58 does not apply to new Article 64A

Clause 6, Page 3, Line 26

At end insert-

'(1A) In Article 58 (Interpretation of this Part) at the end of paragraph (3) insert "other than in Article 64A".'

Purpose: remove age restriction on offence

Clause 6, Page 3, Line 31

Leave out 'over the age of 18'

Purpose: clarify court that can give custodial sentence either at summary or on indictment

Clause 6, Page 3, Line 35

After 'to' insert 'imprisonment for a term not exceeding six months or'

Clause 6, Page 3, Line 36

After 'scale' insert ', or both'

Clause 6, Page 3, Line 37

At start insert 'on conviction on indictment'

Purpose: amend definition of payment

Clause 6, Page 3, Line 41

Leave out '(including sexual services)'

Purpose: narrow scope of clause 6 to avoid penalising teenagers using webcam services and adults using lap dancing clubs

Clause 6, Page 3, Line 41

At end insert -

'(3A) No offence is committed under this article unless the sexual services that are provided or are to be provided by B to A involve—

(a) B being physically in A's presence,

(b) B touching A or A touching B, and

(c) the touching is sexual.'

Purpose: ensure advertising campaign meets its intentions

Clause 6, Page 4, Line 4

Leave out 'must raise awareness of this offence' and insert 'shall conduct an advertising campaign to ensure public awareness of the change effected by this section'

Annex B: Proposed Revised Text Of Clause 6

6 Paying for sexual services of a person

(1) The Sexual Offences (Northern Ireland) Order 2008 is amended as follows.

(1A) In Article 58 (Interpretation of this Part) at the end of paragraph (3) insert "other than in Article 64A".

(2) For Article 64A (Paying for sexual services of a prostitute subjected to force etc.) substitute—

"64A Paying for sexual services of a person

(1) **A person (A) commits an offence if A obtains sexual services from a person (B) in exchange for payment—**

(a) **if the payment is made or promised by A; or**

(b) **if the payment is made or promised by a third party.**

(2) **Person A guilty of an offence under this article is liable—**

(a) **on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 3 on the standard scale, or both;**

(b) **on conviction on indictment to imprisonment not exceeding one year or a fine not exceeding the statutory maximum, or both.**

(3) **In paragraph (1), "payment" means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services gratuitously or at a discount.**

(3A) No offence is committed under this article unless the sexual services that are provided or are to be provided by B to A involve —

(a) B being physically in A's presence,

(b) B touching A or A touching B, and

(c) the touching is sexual.

(4) For the avoidance of doubt, person B is not guilty of aiding, abetting or counselling the commission of an offence under this article.

(5) Within the first year of this offence coming into effect, the Department shall conduct an advertising campaign to ensure public awareness of the change effected by this section.

(6) The Department shall collect data to review the operation of this offence and report to the Assembly after this offence has been in effect for three years."

Northern Ireland Assembly

Appendix 4

Memoranda and Correspondence from the Department of Justice and the Department of Health, Social Services and Public Safety

Memoranda and Correspondence from the Department of Justice and the Department of Health, Social Services and Public Safety

5 September 2013

Department of Justice – Initial comments on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013

29 October 2013

Department of Justice – Written evidence on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013

29 October 2013

Minister of Health, Social Services and Public Safety – Written evidence on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013

14 January 2014

Department of Justice - Details of research into prostitution in Northern Ireland commissioned by the Minister of Justice

26 February 2014

Correspondence from the Department of Justice outlining its current position on the Bill following discussions with Lord Morrow

19 March 2014

Correspondence from the Department of Justice outlining its position in relation to the Bill and the wording of its initial set of amendments

25 March 2014

Correspondence from the Department of Justice following the oral evidence session on 6 March 2014 regarding the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

27 March 2014

Further correspondence from the Department of Justice on actions the Department is taking to support those wishing to exit prostitution

3 April 2014

Correspondence from the Minister for Health, Social Services and Public Safety on Clause 12 of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

7 April 2014

Correspondence from the Department of Justice outlining its current position in relation to the Bill and providing the wording of a further set of amendments proposed by the Department and further amendments proposed by Lord Morrow

Department of Justice – Initial comments on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013

FROM THE OFFICE OF THE JUSTICE MINISTER

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Our ref SUB/1231/2013

FROM: **TIM LOGAN**

DATE: **5 SEPTEMBER 2013**

TO: **CHRISTINE DARRAH**

SUMMARY

Business Area:	Protection and Organised Crime Division.
Issue:	To provide the Committee with initial comments on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.
Restrictions:	None.
Action Required:	That the Committee note the details of this paper ahead of the oral briefing session on 12 September 2013.
Officials Attending:	Gareth Johnston, Head of Criminal Justice Policy and Legislation Division, Amanda Patterson, Head of Criminal Policy Branch; and Julie Wilson, Head of the Human Trafficking Team

Background

The Committee for Justice has asked for a briefing by Department of Justice (DOJ) officials on the Department's response to Lord Morrow's Human Trafficking and

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Exploitation (Further Provisions and Support for Victims) Bill. In advance of that briefing and in order to assist Committee members in their consideration of the Bill, this paper sets out the Department's position. The paper focuses exclusively on the DOJ's response to those elements of the Bill which would impact on this Department.

2. The Minister of Justice regards human trafficking as a heinous crime in all its forms. The Department, working through the Organised Crime Task Force, its Immigration and Human Trafficking Sub Group and the Non Governmental Organisations/Stakeholder Engagement Group, has given it a major focus. It has created offences, made the crime triable in Crown Court only, launched new educational material and published an action plan. The Minister is also on record as saying that he will consider carefully any administrative or legislative proposals, whether generated here, in Great Britain, the Republic of Ireland or wider afield. He wants to secure the best system to deal with the extent of the problem in Northern Ireland, so any initiatives must have a clear benefit. While in no way criticising the sentiment behind the Bill the Minister is not, however, persuaded that the Bill in its current form will add substantively to the work which is ongoing.

3. The Minister has given this Bill in its various drafts careful scrutiny. He has also sought the views of a range of stakeholders, including statutory partners, such as the Police Service of Northern Ireland (PSNI) and the Public Prosecution Service for Northern Ireland (PPSNI), and relevant civil society organisations. He has also engaged with Lord Morrow. Having done so the Minister believes that a number of the measures provided for under this Bill are either unnecessary or could have a detrimental impact. As a consequence, the Minister's strong view is that if the Bill proceeds beyond Second Stage significant amendments would be needed to mitigate against any such negative impacts.

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Engagement

4. The Minister engaged with Lord Morrow prior to the introduction of the Bill. Upon the Bill's introduction to the Assembly, the Minister wrote to Lord Morrow to ask for sight of the public consultation responses in order to assess the Bill's proposals from a fully informed basis. Lord Morrow has shared a summary of responses and these have helped to inform the Minister's consideration of the Bill. Unfortunately the comprehensive responses are not available to the Department at this time. The Minister has, however, taken the opportunity during the Assembly's recess to engage with a range of interested stakeholders, including those civil society organisations represented on the Human Trafficking Engagement Group. A comprehensive list of those he has met with is included at Appendix 2 to this paper.

5. A wide range of views were expressed in the course of those meetings. It was agreed by all that a robust response is needed to tackle human trafficking. Views were mixed about whether the Bill would deliver this, with some concerns raised in relation to specific aspects of the Bill. A minority supported the Bill in its entirety but a significant number of stakeholders questioned aspects of it. The area discussed most was the Clause 6 proposal. A minority supported this. Of the others, some were opposed to it as they felt it confused trafficking and prostitution and others felt that more information and research was required before such a significant change was made.

Department's analysis of the Bill

Overview

6. As noted, the Minister has significant reservations about a number of clauses within the Bill. Many of the points previously raised by the Minister in relation to earlier versions of the Bill remain valid: for example, he remains of the view that many of the provisions replicate existing legislative or administrative cover and therefore will not add any practical value to what is already in place. A clause by clause analysis of existing legislative or administrative cover is set out in the table in Appendix 1. The

"Analysis" column of this table also identifies a number of aspects which the Department considers to be unnecessarily restrictive and which we believe may limit existing provision and protections (for example, the definition of "position of trust" in Clauses 3 and 5).

Measures already planned by the Department of Justice

7. The Bill also includes a number of provisions which the Minister of Justice had already intended to legislate for, including secondary legislation to put assistance and support for adult potential victims during the recovery and reflection period on a statutory basis. Our view is that secondary legislation would provide a flexible and appropriate legislative vehicle, which could more easily be adapted to respond to emerging and changing needs of victims. Work to draft this legislation had commenced, but is on hold pending the outcome of the Bill. Subject to the Bill's progress, our intention would still be to proceed with secondary legislation and we would hope to be in a position to bring draft legislation before the Committee within two months of drafting recommencing.

8. The Minister has also previously made clear that the Department would continue to consider further changes, including by working closely with other jurisdictions. In response to developments in other jurisdictions he had also asked officials to commence work on draft regulations that would add further measures to support and protect victims, with a view to bringing draft subordinate legislation before the Committee after the Assembly's summer recess. The intention was to place a statutory duty on police to prevent secondary victimisation during police interviews and to make provision so that all victims of trafficking giving evidence at court would be automatically eligible for special measures consideration. These measures are also proposed under Clauses 13 and 14 of the Bill. Work to develop these draft regulations has been paused, pending the outcome of this Bill. We do not consider it necessary to legislate for these matters by primary legislation and have some minor concerns about the detail of the current draft.

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However, as with statutory support for victims, subject to the outcome of the Bill, our intention would still be to proceed with secondary legislation and we would hope to be in a position to bring draft legislation before the Committee within two months of drafting recommencing.

9. The Department continues to work closely with officials in neighbouring jurisdictions to monitor policy developments and consider whether any further provisions should be brought forward within the Northern Ireland context. We have been liaising with the Home Office in particular about a possible Westminster Modern Slavery Bill. Some aspects of this might be relevant to Northern Ireland and some would extend here automatically (on non-devolved matters). We will keep the Committee informed of developments.

10. Two examples the Department is considering are a new class of crime aggravated by a link to human trafficking, such as drug offences and the creation of a "slavery/ human trafficking commissioner". The detail needs to be worked through, a consultation carried out and, indeed, the cost considered of a Commissioner post. The Commissioner post, if pursued, could cover Scotland, England and Wales and Northern Ireland. The Justice Minister has argued for a National Rapporteur rather than relying on the Inter-Departmental Ministerial Group on Human Trafficking. Lord Morrow's proposal is for a Northern Ireland Rapporteur. We believe a broader based Commissioner may have advantages in bringing a wider perspective given the global nature of trafficking and we would consult on that point.

Issues of significant concern

11. Should the Bill progress beyond Second Stage, it is the Minister's strong view that significant amendments would be needed to avoid a negative impact. A detailed analysis is included in the table in Appendix 1, but the Department's main concerns are set out below.

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Clause 6: Paying for the sexual services of a person

12. The Minister's view is that Clause 6 should not stand part of the Bill. The provision to criminalise paying for the sexual services of a person is neither principally an issue concerning human trafficking nor adequately evidenced. Although there have been some modifications to the Clause, the Department's view remains that it is inappropriate to deal with prostitution as an adjunct to trafficking. It is also wrong to focus on prostitution as the only outcome for trafficked individuals. Both of these distinct, but overlapping, areas need to be considered and dealt with in their own right.

13. The policy behind the proposed measure is one-dimensional, in that it is focused entirely on reducing the incidence of trafficking into the sex industry. The wider issues surrounding prostitution, and their impact on both the demand and supply factors, need to be given full and proper consideration. The proposed measure to reduce trafficking does not take account of the implications for women involved in prostitution, including those who have not been trafficked, and the possibility of negative consequences in terms of the safety and wellbeing of many vulnerable women. There are much wider areas of policy that need to be addressed, including how to reduce the entry into prostitution and the ease of exiting - support, health needs and employment – which all feed into the issue of regulation of the sex industry or criminalisation of those who pay for sex.

14. In terms of support for such a clause, although the Department has not yet seen the full consultation responses relating to the Bill, it is aware that a number of agencies, including the police, have concerns about such a fundamental change to the law.

15. As noted, in the Minister's meetings with stakeholders there was broad support for the principle of tackling demand for trafficking but no consensus on this provision in the Bill. Only one of the 18 groups expressed unreserved support for Clause 6. Some groups argued that there was not enough information on the wider impact of the clause – particularly within the local setting – to make an informed decision; or expressed

reservations about conflating trafficking with the wider issue of prostitution and the fact that there had been no direct engagement with women working as prostitutes about the impact on them. A number of stakeholders raised concerns about driving prostitution further underground and about the safety of vulnerable women, who will continue to work as prostitutes but with increasing difficulty in protecting themselves from harm.

16. The Department has already reviewed the legislation governing the offence of paying for the sexual services of a prostitute subjected to force (Article 64A Sexual Offences (Northern Ireland) Order 2008), and will be bringing forward proposals to extend the time limit within which offenders can be prosecuted. This issue was raised by a number of stakeholders in the course of the Minister's meetings during Recess.

17. Any wider proposals for change need to be based on evidential information, particularly given the concerns that the Department shares with some of the stakeholders that there is not enough information – particularly within the local setting – to make informed policy decisions on this issue. The Department intends to address this gap by commissioning research on the extent and framework of prostitution in Northern Ireland so that any subsequent policy review is based on the identification of local needs and issues. The Minister believes that it is inappropriate to make the proposed change to the law in this Bill without full and wider ranging consultation across the policy spectrum.

Clause 3: Aggravating factors

18. Sentencing guidance provides a more appropriate vehicle in which to set out aggravating (and mitigating) factors, with greater flexibility to respond to emerging case law. In addition to the established general guidelines, specific guidelines are already in

place in respect of trafficking for sexual exploitation[1] and arrangements are in place to ensure that guidance can also be issued in respect of trafficking for other types of exploitation as cases arise. We also have concerns that this clause would limit judicial discretion. In the course of the Minister's meetings, a number of the stakeholders consulted echoed these concerns.

Clause 4: Minimum sentence for human trafficking and slavery offences

19. The proposed compulsory minimum sentence for human trafficking and slavery offences which would apply equally to children as it does to adults raises a number of concerns. The Department considers the extension of a minimum offence to child perpetrators to be inappropriate. The youth justice system is entirely separate from the adult system for good reason and different sentencing options exist for children. The Department's view is that children should not be subject to the same sentences as adults and considers that the current sentencing framework for children offers sufficient options to the judiciary for the proposed offence. International standards, particularly the "best interests of the child" principle as set out in Article 3 of the United Nations Convention on the Rights of the Child, support this position.

20. Clause 4 would establish not only a compulsory custodial sentence (with or without a fine) but also a compulsory minimum custodial sentence of two years, save in exceptional circumstances. Although it is usual for the law to place a maximum limit on the length of any custodial sentence for each offence, it is very rare that a compulsory sentence or a compulsory minimum custodial sentence is specified in law. This reflects the valued principle that, in delivering sentence, judges should normally be free to take full account of the potentially broad scope of circumstances of each case. We therefore have concerns that the clause would have a negative impact on judicial discretion and could lead to inappropriate outcomes. It is important to note that in R v Pis (a guidance

[1] R v PIS [2012] NICC 14.

judgment) the judge made clear that anyone who is brought before the courts in Northern Ireland for offences of human trafficking, other than in exceptional circumstances, can expect a custodial sentence. He went on to clarify, "[t]hat sentence will be heavier for those who coerce their victims, who use violence against them, who sexually assault and degrade them and who place them in fear of their own or their loved ones' lives". Whilst the Matyas Pis case did not involve coercion, the judge emphasised that "[a]ny case involving the trafficking of other human beings is a serious case and will merit a sentence which is proportionate to the offending, and is a genuine and real deterrent".

Clause 7: Requirements and resources for investigation or prosecution

21 Clause 7(1) places a duty on the Department of Justice to take the necessary measures to ensure that appropriate training is provided to those responsible for investigating and prosecuting offences of human trafficking and slavery; and that effective investigative tools are made available. In fact responsibility for training investigators and prosecutors and equipping them with the appropriate tools does not rest with the Department of Justice, but with the individual law enforcement agencies, including the PSNI, Gangmasters Licensing Authority and the PPSNI. That is how it should be. Clause 7(1) places a duty (and a cost) on the Department that it cannot deliver.

22. Nonetheless, we recognise the significance of training and the Department, with its partners on the Organised Crime Task Force (OCTF), has highlighted in the published Action Plan on Human Trafficking the delivery of appropriate training as a priority in the fight against human trafficking. Significant work is already being taken forward through both the OCTF and the Human Trafficking Engagement Group, as detailed in Appendix 1.

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23. The Department also sees this is an administrative matter that should not require primary legislation. Parallel statutory requirements for training and resources are not in place in respect of other serious offences. In short, the Department considers Clause 7(1) to be unworkable; it would not add any value to existing arrangements, neither would it afford any additional protections to victims of human trafficking or slavery. The remaining provisions, set out in Clause 7(2) and (3) simple reflect what is already the case and therefore would also add no practical value to existing arrangements.

Clause 8: Non-prosecution of victims of trafficking in human beings

24. The Department has significant concerns about the proposal to provide blanket immunity from prosecution for victims of human trafficking. This runs counter to the Director of Public Prosecutions' current obligations under the Justice (Northern Ireland) Act 2002 to review each case received from investigators in accordance with the Code for Prosecutors in order to determine whether criminal proceedings should be instigated or continued. Every case must be considered on its own merit, having regard to the seriousness of the offence committed. If evidence or information is available to the prosecutor that the person has been trafficked and has committed the offence whilst in a coerced situation, this will be considered a strong public interest factor mitigating against prosecution. These arrangements comply with the requirements of the EU Directive on trafficking in human beings which does not require Member States to ensure immunity from prosecution but to ensure that prosecutors are entitled not to prosecute or impose penalties on victims in such cases.

25. This is already the case in Northern Ireland. Careful consideration is given to whether the public interest calls for prosecution and punishment in cases where the defendant is a trafficked victim and the crime has been committed when he or she was compelled to commit it. In taking decisions as to prosecution Public Prosecutors must apply the Test for Prosecution, the second stage of which is the Public Interest Test, i.e. is prosecution required in the public interest? If, taking into account all the

circumstances of the case, it is considered that the public interest does not require prosecution then no prosecution will be directed. The PPSNI Policy for Prosecuting Cases of Human Trafficking includes guidance on taking decisions in such cases, as well as highlighting the relevant case law. The Policy is due for publication in Autumn 2013. The PPSNI has confirmed that it has applied this approach in such cases already considered, resulting in no prosecution of the trafficked person.

26. In some cases where a victim of trafficking has committed an offence, this will lead in turn to create other victims, in addition to the individual who has carried out the offence. The impact on these victims and their views and needs should also be considered when determining whether prosecution should proceed. The Department is concerned that the provisions under Clause 8 do not provide a proportionate or appropriate response and has concerns that they could create a hierarchy of victims and conceivably champion the interests of victims of human trafficking over the rights of other victims. The Department's view is that Clause 8 should not stand part of the Bill.

27. However, the Department recognises the need to protect the interests of victims of human trafficking. In the recent judgment in the case of L, HVN, THN, T V R (21 June 2013) in the Criminal Division of the Court of Appeal in England and Wales the Lord Chief Justice of England and Wales issued guidance to courts about how the interests of those who were, or might be, victims of human trafficking and who had become enmeshed in criminal activities, should be approached *after court proceedings had begun*. The Department has written to the Law Society, the Bar Council and to the Judicial Studies Board to highlight the case, given the relevance it may have for cases in Northern Ireland.

Clause 16: Northern Ireland Rapporteur

28. The Department fully recognises the need for effective monitoring in respect of human trafficking. However Clause 16 needs to be looked at in the context of other

possible developments and the accountability structures already in place. For example, those Northern Ireland Departments with responsibility for tackling human trafficking are already subject to routine independent assessment by the Council of Europe's Group of Experts on Action Against Trafficking in Human Beings (GRETA) and others, such as the Anti-Trafficking Monitoring Group. The Inter-Departmental Ministerial Group, which now includes independent representation, also provides a challenge function to the Department's efforts in tackling human trafficking. In addition, it would already be within the existing scope of other statutory inspection authorities, such as Criminal Justice Inspection Northern Ireland (CJINI) or the Regulation and Quality Improvement Authority (RQIA) to review and report on the Department's effectiveness in tackling human trafficking and supporting its victims.

29. Developments in Departmental officials work with the Home Office are also relevant. To address concerns, officials have been considering with them the establishment of a United Kingdom-wide Commissioner/ Rapporteur. This may have advantages but we believe that the arguments for a Commissioner (and the cost this will entail) and whether this should be local or United Kingdom-wide, need to be considered more fully and consulted upon.

30. On the specifics of the Clause, it does not make it clear what the legal status of the Rapporteur is, nor what his or her role would be in respect of the Department of Health, Social Services and Public Safety (DHSSPS) or the national rapporteur mechanism (currently provided through the Inter Departmental Ministerial Group). The significant financial and resource implications need more consideration; since there is no budget for the associated new costs, it could only be delivered at the expense of existing activities.

Financial effect of the Bill

31. Lord Morrow has estimated that the financial effects of the Bill, if enacted, would result in approximately £1.3 million of new costs, some of which would be annually

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recurring costs, although the Department has not established how much, nor have we had sight of the detail of how the estimated costs have been calculated. Some of this (e.g. provision of Child Trafficking Guardians) would fall to the DHSSPS but the majority would fall to the DOJ.

32. Any costs associated with the new proposals arising from the implementation of the Bill will result in an unfunded pressure for DOJ which already has budget pressures. For these new activities to be funded, other activities would need to be identified and cut.

Recommendation

33. The Committee is invited to note the Department's assessment of Lord Morrow's Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. The Committee is also invited to note the Minister's strong reservations in relation to several clauses of the Bill and his strong view that, should the Bill progress beyond Second Stage, then significant amendments would be needed to mitigate against any negative impact.

Tim Logan

TIM LOGAN
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Appendix 1

Analysis of Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Clause	Effect	Current provision or activity	Analysis
Part 1 - Offences			
Provisions relating to paying for sexual services of a person			
Clause 6 Paying for the sexual services of a person	Clause 6 of the Bill makes it an offence to obtain sexual services from a person, over the age of 18, in exchange for payment. It is not necessary for the payment to have been made to commit the offence. It must have been made or promised by the buyer, or made or promised by a third party. Payment does not have to be monetary. The sanction is a fine not exceeding level 3 on the standard scale, or a sentence of imprisonment for a maximum term of one year, or a fine not exceeding the statutory maximum, or both. The clause also states that the person is not guilty of aiding, abetting or counselling the commission of an offence. Finally, the proposed clause requires the Department to raise awareness of the offence in the first year, and to collect	The current law was substantively updated by the Sexual Offences (Northern Ireland) Order 2008 (SOO) and criminalises a variety of activity in relation to the supply of prostitution and the purchase of sexual services. Any activity which involves a person under 18 years of age is illegal and carries heavy penalties. In the context of regulating demand for sexual services, it is an offence to: • obtain for payment the sexual services of a child under the age of 18, whether money has changed hands or not, or whether that payment, or promised payment, is to the person or a third party (article 37 SOO). • pay for the sexual services of a prostitute subject to force. This is a strict liability offence which renders irrelevant whether the person had any knowledge of force being used (article 64A SOO). Following a review, the DOJ is proposing to extend the time limit	Clause 6 would criminalise anyone who pays for sex with a man or woman. The Department of Justice (DOJ) supports the objective behind the clause – which is to discourage the trafficking of persons into Northern Ireland to work as prostitutes – but is not convinced by research and evidence elsewhere that criminalising paying for sex will reduce demand for trafficked victims. In addition, the DOJ has significant concerns that this provision has not had broad policy testing of the direct and indirect impact of such a measure beyond the singular trafficking aspect. If introduced it could, for example, bring further hardship and suffering to vulnerable individuals who work as prostitutes. To address the gap in evidential information, the DOJ is commissioning research into the extent and framework of prostitution in Northern Ireland to inform future policy. The requirement for awareness / monitoring

Clause	Effect	Current provision or activity	Analysis
	data and report to the Assembly after three years.	within which prosecutions for this offence can be brought. • solicit for the services of a prostitute in a public place (article 60 SOO). And, although with a much wider application, it is an offence to: • have any sexual activity with a person without their consent. Consent is agreement by choice and with the freedom and capacity to make that choice. In summary, those who organise supply - causing, inciting prostitution for gain (article 62 SOO) or controlling prostitution for gain (article 63 SOO), or who 'keep' a brothel (article 64 SOO), are involved in illegal activity and can face sentences up to seven years. In addition, traffickers will face charges of trafficking for sexual exploitation with maximum sentences of 14 years. Further existing brothel offences include allowing a child over 4 and under 17 to be in a brothel (section 23 of the Children and Young Persons Act (Northern Ireland) 1968 and permitting or letting premises for a brothel (section 13 of the Criminal Law Amendment Act 1885).	is not something for legislation.

Clause	Effect	Current provision or activity	Analysis
		For those who buy sex, they can face life for paid sex with a person under 18; they can be fined for soliciting to buy sex in a public place or for buying the sexual services of a prostitute subjected to force; they can face charges of rape (article 5 SOO); assault by penetration (article 6 SOO); and sexual assault (article 7 SOO) for having sex with a prostitute without consent.	
Provisions relating to human trafficking and slavery			
Clause 1 Definition of human trafficking and slavery offences	The clause would define human trafficking and slavery offences, for the purposes of this Bill. 1(a) replicates the existing offences of human trafficking under sections 57 to 59 of the Sexual Offences Act 2003 and section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. 1(b) replicates the existing offence of slavery, servitude and forced or compulsory labour under section 71 of the Coroners and Justice Act 2009	Human trafficking offences are set out in section 57 to 59 of the Sexual Offences Act 2003 and in section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. These existing provisions are considered to be compliant with the EU Directive. Cases of human trafficking may often involve a range of other offences which may also lead to related prosecutions and convictions. The offence of slavery, servitude and forced or compulsory labour is provided under section 71 of the Coroners and Justice Act 2009. Other relevant slavery offences are provided under sections 12 and 13 of the Gangmasters (Licensing) Act 2004.	This clause merely replicates existing legislation and does not add or amend the specific offences that are currently provided for in statute. As such we do not consider that the clause adds any value to existing legislation. The definition of a slavery offence, provided under clause 1(b) would not include the relevant offences under sections 12 and 13 of the Gangmasters (Licensing) Act 2004.
Clause 2	This clause specifies the circumstances	Existing legislation makes no specific reference	2(1) The reference to consent is not

Clause	Effect	Current provision or activity	Analysis
Consent irrelevant for victim of human trafficking or slavery offences	in which victim consent to any action related to be being a victim of a human trafficking or slavery offence should be deemed to be irrelevant. Clause 2(2) would define "a position of vulnerability" for the purposes of this clause and of clause 8 (which relates to the non-prosecution of victims of human trafficking) as being when the person has no real or acceptable alternative but to submit to the abuse involved.	to victim consent and as such consent is already irrelevant in respect of human trafficking and slavery offences under existing legislation, regardless of any specific circumstances.	necessary. Victim consent is already irrelevant in offences of human trafficking and slavery offences. The clause refers to Article 2(5) of the Directive, but does not make clear that where a child is involved proof of human trafficking conduct alone is sufficient (i.e., even if coercion, abduction etc. have not been used). In the case of child victims then, the clause could potentially be misleading. 2(2) simply replicates Article 2(2) of the Directive. We do not believe it is necessary and, in relation to both the proposed slavery extension and particularly in its application to the non prosecution of victims of human trafficking under clause 8, it goes beyond our obligations under the EU Directive.
Clause 3 Aggravating factors	3(1) would require courts to treat a range of factors as aggravating factors when sentencing for human trafficking or slavery offences under clause 1. These include: (a) the offence was committed by a public official in relation to the performance of her or his duties; (b) the offence was committed by a family member; (c) that the offence was committed by	Crown Court guidance was issued by Judge Burgess in 2012 following the R v Pis case. This set out aggravating factors in relation to offences for human trafficking for sexual exploitation, in addition to the established, general guidelines. As yet there have been no cases before the Northern Ireland Crown Court in relation to trafficking for labour or other non-sexual exploitation. However, the Lord Chief Justice has put procedures in place to identify such	3(1) DOJ believes that sentencing guidance provides a more appropriate vehicle in which to set out aggravating factors, with greater flexibility to respond to emerging case law. We believe that the clause is not necessary, given that sentencing guidelines are already in place in respect of trafficking for sexual exploitation and, as noted, arrangements are in place to ensure that guidance can also be issued in respect of trafficking for

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Memoranda and Correspondence from the Department of Justice and the Department of Health, Social Services and Public Safety

Clause	Effect	Current provision or activity	Analysis
	someone in a position of trust; (d) that the victim was a child; (e) that the victim was a vulnerable adult; (f) that the offence involved use of threats against the victim's family; (g) that the offence deliberately or by gross negligence endangered the life of the victim; (h) that the offence was committed by use of serious violence or caused serious harm to the victim; or (i) that the offence was committed by someone with previous human trafficking or slavery convictions. 3(2) defines "position of trust", "serious harm" and "vulnerable adult" for the purposes of this section.	cases if and when they do come before the Crown Court so that sentencing guidance can be issued.	labour exploitation as cases arise. DOJ has also written to the LCJ's office to ask that slavery offences under section 71 of the 2009 Act also be considered, given the serious nature of these offences and their obvious parallel to offences of human trafficking. It is worth adding that the aggravating factors specified under this clause would only extend to the human trafficking or slavery offences listed under clause 1 of this Bill and not to other offences which may be prosecuted in relation to the same case. We also think further consideration is needed as to whether this clause would impact negatively on judicial discretion. 3(2) DOJ has some concerns about the definitions provided under clause 3(2). In particular, the definition of a "position of trust" as having the same meaning as in Article 29 of the Sexual Offences (Northern Ireland) Order 2008, is more limited than the current definition applied under the Directive, which would also cover police officers.
Clause 4 Minimum sentence for human	Clause 4 would introduce a compulsory minimum custodial sentence of at least two years for any human trafficking or slavery offence under clause 1 of this Bill,	Although it is usual for the law to place a maximum limit on the length of any custodial sentence, it is very rare that a compulsory sentence or a compulsory minimum custodial	As noted, it is very rare that a compulsory sentence or a compulsory minimum custodial sentence is specified in law. This reflects the valued principle that, in

Clause	Effect	Current provision or activity	Analysis
trafficking and slavery offences	unless the court were of the opinion that there were exceptional circumstances to justify its not doing so.	sentence is specified in law. In respect of human trafficking offences, it will normally be the case that a court will want to impose a substantial sentence, reflecting the seriousness of the offence. In the guideline case Pis [2012] NICC 14, His Honour Judge Burgess indicated a two-year starting point for involvement at any stage of the trafficking process into the UK, or six years if the victim was coerced. There is a list of 13 potential aggravating factors, but also a recognition that there could be mitigating factors, particularly if the offender had themselves been coerced by a third party. The relevant slavery offence may be tried either in a magistrates' court or on indictment. The maximum custodial penalty in a magistrate's court for this offence is six months. Human trafficking offences may be tried only on indictment.	delivering sentence, judges should normally be free to take full account of the potentially broad scope of circumstances of each case. A minimum sentence removes flexibility in such cases. As a general rule DOJ considers that compulsory minimum custodial sentences should always be limited to offences that in all circumstances are very serious. However we recognise that the Bill would provide that a court could deviate from this in "exceptional circumstances" and note the footnote in the Explanatory Memorandum which refers to 'Article 70 of the Firearms (Amendment) (NI) Order 2005'. *[NB, this should actually read Article 70 of the Firearms (NI) Order 2004]* However, the DOJ has a number of significant concerns about the impact of this provision and about the premise on which it is based: • As it stands, this clause applies equally to children as it does to adults. The DOJ considers the extension of a compulsory minimum sentence for an offence to children to be completely unacceptable. Children should never be subject to the same

Clause	Effect	Current provision or activity	Analysis
			sentences as adults. The youth justice system is entirely separate from the adult system, for good reason, and different sentencing options exist for children. The DOJ considers that the current sentencing framework for children offers sufficient options to the judiciary for the proposed offence. International standards, particularly the "best interests of the child" principle as set out in Art.3 of the UNCRC support this position. The Convention also commits us to using custody for children only as a measure of last resort and for the shortest appropriate period of time – compulsory sentencing runs contrary to this. • We also think further consideration is needed as to whether this clause would impact negatively on judicial discretion.
Clause 5 Amendments to the Asylum and Immigration (Treatment of Claimants etc) Act 2004	Clause 5 would make amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, relating to what defines trafficking for exploitation purposes. 5(a) would add "other forms of coercion, abduction and fraud" to the list of factors that define trafficking for exploitation.	Human trafficking is already defined in Article 2 of the EU Directive. This definition is intentionally broad, as human trafficking is an evolving crime and as such it already covers the definitions provided for under clause 5. 5(e) The Sentencing Guidelines for Northern Ireland confirm general aggravating factors which are applicable in cases of human	We do not consider that further legislative provision is needed as the measures provided for under Clause 5 are already covered in existing legislation and/or guidelines. The proposed insertions add no new protections for victims. 5(d) Northern Ireland criminal law already provides a comprehensive regime to deal

Clause	Effect	Current provision or activity	Analysis
	5(b) and 5(c) would add being induced to undertake an activity that would otherwise be refused, on the basis of "being subject to a trust relationship with someone" to the list of factors defining trafficking for exploitation. 5(d) would make it illegal for a person to be given or receive payments or benefits to achieve the consent of another person for in respect of a range of specified activities. 5(e) would clarify that forced begging and criminal activities are examples of exploitation and would also define "position of trust", for the purposes of section 4 of the Asylum and Immigration Act, to have the same meaning as in Article 29 of the Sexual Offences (Northern Ireland) Order 2008.	trafficking. One such specific factor is: "The offender abused a position of power, a position of trust or a domestic relationship." We have the legal precedent that an abuse of such positions of trust must be severely treated. Forced begging is already recognised to fall within the labour exploitation definition.	with "intermediaries" who are paid to groom and recruit victims. Article 3 of the EU Directive states that Member States shall take the necessary measures to ensure that inciting, aiding and abetting or attempting to commit an offence. We already compliant with the Article 3 requirement to deal with and punish the aiding and abetting of the principal human trafficking offences The effect of 5(e) upon 5(c) would also limit the current arrangements in respect of defining the circumstances of exploitation by a "person of trust". The definition of "person of trust" applied under the Directive is wider than that provided for in Clause 5(e).
Clause 7 Requirements and resources for investigation or prosecution	Clause 7(1)(a) would create a statutory duty for persons, units or services responsible for investigating or prosecuting human trafficking or slavery offences to be trained accordingly. Clause 7(1)(b) would create a statutory duty for effective investigative tools, such as those which are used in organised crime or other serious crime cases to be	*Clause 7(1) Training and resources* 7(1) The responsibility for the investigation of human trafficking rests with a number of law enforcement agencies within Northern Ireland. Each agency has existing processes in place to ensure they can effectively investigate particular crime types and work in partnership across Northern Ireland in order to maximise their impact.	*Clause 7(1)* We do not believe the legislative requirement under this clause is either necessary or workable. It would not add any value to existing arrangements, neither would it afford any additional protections to victims of human trafficking or slavery: • Parallel statutory requirements for training and resources are not in place in respect of other serious

Clause	Effect	Current provision or activity	Analysis
	available to persons, units or services responsible for investigating human trafficking or slavery offences. These requirements would only apply in relation to human trafficking and slavery offences as defined under Clause 1 of this Bill and not to other related offences. Clause 7(2) and 7(3) would provide that the investigation or prosecution of a human trafficking or slavery offence should not be dependent on reporting or accusation by a victim; and that any criminal proceedings may continue even if the victim has withdrawn his or her statement.	7(1)(a) In addition, training in this area has been developed and implemented and remains under constant review given changing criminal methodology. Training has been prioritised by the Organised Crime Task Force and by the Human Trafficking Engagement Group and work is continuing against this priority, for example: • The PSNI has assisted in the development and introduction of an online training package, targeted at frontline officers and staff to assist in the recognition of signs of trafficking. Over 3700 PSNI officers and staff have successfully completed the training. • In addition, PSNI's Organised Crime Branch has introduced and delivered bespoke training to a number of detectives to enhance their investigative skills and ensure that officers know how to engage voluntary and statutory partners in assisting rescued victims. • The PPS has advised that prosecutors and investigating officers are required to be properly trained to ensure that cases involving human trafficking are properly investigated and effectively prosecuted and to ensure that they are aware of the specific issues involved in prosecuting such cases, including the requirements of victims. • Training has been provided to all	offences. • responsibility for training investigators and prosecutors and equipping them with the appropriate tools does not rest with the Department of Justice, but with the individual law enforcement agencies, including PSNI, Gangmasters Licensing Authority, PPSNI. That is how it should be. Clause 7(1) places a duty (and a cost) on the Department that it cannot deliver. 7(1)(a) DOJ considers this to be primarily an administrative matter which is already being provided by the relevant agencies. Training has already been identified as a priority by the Organised Crime Task Force and the Engagement Group on Human Trafficking and work is progressing. 7(1)(b) Resourcing for investigations or prosecutions is an administrative matter and it would be highly unusual to put this on a statutory basis. PSNI already make use of a full range of investigative tools and strategies based on operational decisions. Again, considerable work is already being taken forward in these areas without the need for specific statute. We do not believe that this provision would have any impact

Clause	Effect	Current provision or activity	Analysis
		prosecutors on human trafficking, internally and with input from the Home Office and it is anticipated that further training will be provided when the PPS Policy on Prosecuting cases of Human Trafficking is launched. • The PPS will ensure that any external barrister instructed in a case involving human trafficking is experienced and skilled in the conduct of such cases and efforts will be made, wherever possible, for the same barrister to deal with the case at all stages. • The Judicial Studies Board (JSB) is responsible for judicial training. The board runs study programmes and training workshops for the judiciary and issues written material to all judges. The JSB held a training event on THB for the judiciary in October 2010, and a copy of the training materials is given to all judges appointed since then. • DOJ has hosted an initial training event for NGOs represented on the Engagement Group and a Training Subgroup is also considering what further training needs NGOs have. 7(1)(b) Within PSNI, proactive investigations into trafficking are conducted by Organised Crime Branch, which has oversight over all PSNI trafficking investigations.	on the number of human trafficking cases being investigated or prosecuted or on the effectiveness of the investigations and prosecutions. *Clause 7(2) and 7(3)* The provisions under Clause 7(2) and (3) are necessary merely replicate existing requirements on the PSNI and PPSNI under the Police (Northern Ireland) Act 2000 and the Justice (Northern Ireland) Act 2002 already place requirements on police and prosecutors respectively. DOJ considers that these provisions do not add any value to existing arrangements; that they will not afford any additional protections to victims of human trafficking or slavery; and that they are therefore not necessary.

Clause	Effect	Current provision or activity	Analysis
		All investigative strategies can already be utilised as and when necessary, based on operational decisions. PSNI has developed working arrangements with a range of other law enforcement agencies including An Gardai Siochana, Europol, Interpol and Eurojust. Maintaining and developing these networks and proactive consideration of Joint Investigation Teams with other European Member States have been identified as priority actions in the 2013-14 Northern Ireland Human Trafficking Action Plan. *Clause 7(2) investigations and prosecutions* The PSNI are already required, under section 32 of the Police (Northern Ireland) Act 2000 to investigate if they suspect that a criminal offence has occurred, irrespective of whether a report has been received or a victim / potential victim is cooperating with the investigation. The PPSNI applies the prosecutorial tests in all referred cases, regardless of whether the victim reports the offence. If the Evidential and Public Interest tests are passed, prosecution will proceed. This is not dependent on reporting by a victim. *Clause 7(3) withdrawal of statement* Withdrawal of a complaint does not necessarily mean that a case will be stopped. As a general rule, PPSNI will prosecute all cases where there	

Clause	Effect	Current provision or activity	Analysis
		is sufficient evidence and where the prosecution is required in the public interest.	
Clause 8 Non prosecution of victims of trafficking in human beings	Clause 8 would provide blanket immunity from prosecution for victims of human trafficking where they have been compelled to commit a criminal act as a direct result of being subjected to threats; abduction; fraud; deception; the abuse of power or of a position of vulnerability; or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person; or where the victim is a child. Unlike other provisions in Part 1 of the Bill, Clause 8 would only apply in respect of victims of human trafficking and not in respect of victims of slavery.	The PPSNI cannot provide blanket immunity from prosecution for victims of human trafficking. The statutory obligations placed on the Director of Public Prosecutions by the Justice (Northern Ireland) Act 2002 require public prosecutors to review each case received from investigators in accordance with the Code for Prosecutors, to determine whether criminal proceedings should be instigated or continued. Every case must be considered on its own merit, having regard to the seriousness of the offence committed. However, should evidence or information be available to the prosecutor to support the fact that the person has been trafficked and has committed the offence whilst in a coerced situation, this will be considered a strong public interest factor mitigating against prosecution. PPSNI has advised that there have been a number of cases in Northern Ireland where sufficient evidence existed that a person had committed an offence but a decision was taken in the Public Interest not to prosecute, as the person was considered to be a victim of human trafficking and it was considered that their	Clause 8 runs counter to the Director of Public Prosecutions' current obligations under the Justice (Northern Ireland) Act 2002. Moreover it would go beyond our transposition obligations under the EU Directive: Article 8 of the EU Directive does not require Member States to ensure immunity from prosecution for victims of human trafficking where their criminal activity has been compelled as a direct result of being trafficked. Rather the Directive requires only that Member States ensure that prosecutors are entitled not to prosecute or impose penalties on victims in such cases. Prosecutors in Northern Ireland already have this discretion to decide that it would be inappropriate to proceed or continue with the prosecution of a defendant. It is the Department's view that decisions around non-prosecution must depend on the specific circumstances and the seriousness of the offence committed. For example, Duress cannot be advanced as a defence to the offences of Murder or Attempted Murder, even if the defendant is

Clause	Effect	Current provision or activity	Analysis
		criminal activity was as a direct result of their situation. Such cases include cannabis cultivation and brothel keeping.	a child. It is also important to highlight that the offence in question may have resulted in other victims, besides the trafficking victim who has carried out the offence. The impact on these victims and their views and needs should also be considered when determining whether prosecution should proceed. The Department believes that the provisions under Clause 8 do not provide a proportionate or appropriate response and has concerns that they could create a hierarchy of victims and conceivably champion the interests of victims of human trafficking over the rights of other victims.
Part 2 – Assistance and Support			
Clause 9 Victim of trafficking in human beings	This clause seeks to define victims of human trafficking - for the purposes of this Bill - in respect of the procedures which operate under the National Referral Mechanism (NRM).	Human trafficking victims already have legal status derived from the United Nations Palermo Protocol, the EU Directive and existing law within United Kingdom jurisdictions. 'Human trafficking' and 'victim' are also defined	Clear definitions of human trafficking victims already exist and UK jurisdictions are bound by these. The NRM provides the mechanism for identifying victims within the UK and has

Clause	Effect	Current provision or activity	Analysis
	Clause 9(4) contains definitions for the purposes of Parts 2 and 3 of the Bill.	in Article 4 of the European Convention. The United Kingdom and its jurisdictions are already bound to observe international obligations that it has ratified. The procedures for identifying victims of human trafficking are set out in the NRM, which has been assessed as compliant with the Convention.	been assessed as compliant with the Convention. Clause 9 is not needed and would not add value or have any positive impact on tackling human trafficking or protecting and supporting victims. It would simply define victims of human trafficking – for the purposes of the Bill – according to the NRM processes.
Clause 10 Requirements for assistance and support	Clause 10(1) would place statutory duties on the Department of Justice and Department of Health, Social Services and Public Safety (DHSSPS) in respect of the provision of assistance and support to victims of human trafficking who have received a reasonable grounds decision until three months after criminal proceedings are completed. It would require support to be provided to the family of a child victim where that family is resident in Northern Ireland and is not suspected to have committed a trafficking offence. It also makes clear that assistance and support should not be conditional on the victim's willingness to act as a witness; that it should be provided with the agreement of the victim; that it should take account of the victim's safety and	The provision of support and assistance to adult victims during the recovery and reflection period of the NRM is the responsibility of the Department of Justice. DOJ already funds a package of support for adult potential victims of human trafficking during the recovery and reflection period. Support is tailored to individuals' needs to take account of safety and protection and includes access to medical care, counselling and other support services. These administrative arrangements already go beyond the minimum 30 day requirement under the EU Directive. The Minister of Justice had also signalled his intention to bring forward secondary legislation which would put support for adult potential victims during the recovery and reflection period of the NRM, under the contract, onto a statutory footing.	The current arrangements in respect of DOJ's responsibilities already go beyond the requirements under the EU Directive. However the Minister of Justice had already signalled his intention to bring forward secondary legislation to put assistance and support for adult potential victims during the recovery and reflection period on a statutory basis. DOJ's view is that secondary legislation would provide a flexible and appropriate legislative vehicle, which could more easily be adapted to respond to emerging and changing needs of victims. Work to progress draft secondary legislation has paused, pending the outcome of this Bill. However, subject to the progress of this Bill, our intention would still be to proceed with secondary legislation; we would hope to be in a position to bring draft legislation before the Committee within two months of drafting recommencing.

Clause	Effect	Current provision or activity	Analysis
	protection needs and that it should be provided to assist victims in their physical, psychological and social recovery. Clause 10(2) sets out a minimum range of measures to be included within the scope of "assistance and support" provided under this clause.		DOJ also has some concerns that the clause fails to set out the respective functions and duties of each Department (DOJ and DHSSPS) and could therefore leave open scope for future litigation.
Clause 11 Compensation for victims of trafficking	Clause 11 would require the Department to set out by Order (a) the procedures for a victim of human trafficking to apply for compensation; and (b) the arrangements for assisting and supporting a person to apply for compensation or to seek leave to remain in order to claim compensation.	*Applying for compensation* 11(a) The Compensation Scheme 2009 already provides for compensating victims of crime and includes compensation for crimes that may be committed as a result of human trafficking. The Department is satisfied that the scheme meets the requirements of Article 17 of the EU Directive. Separately, the Chief Executive of the Compensation Service has issued guidance to staff on handling claims for compensation for victims of human trafficking. The Compensation Service has also put in place measures to record compensation claims in human trafficking cases (where this is known). The PPS has noted that Compensation Orders may also be awarded by the court upon conviction. *Assistance* 11(b) The DOJ-funded contract for support	Arrangements are already in place regarding compensation for victims of human trafficking. These comply with the Department's requirements under the EU Directive and consequently, the Department of Justice does not believe that further legislation is necessary.

Clause	Effect	Current provision or activity	Analysis
		services for potential victims in the recovery and reflection period also includes steering victims towards advice on seeking compensation. Assistance in relation to claiming compensation is also available to applicants through Victim Support NI (http://www.victimsupportni.co.uk/what-wedo/compensation). *[The 2011 Access to Justice Review recommended that money damages claims should be removed from the scope of legal aid, although this was on the condition that an alternative means of securing and improving access to justice in these cases can be implemented. This recommendation was accepted by the Justice Minister and the Legal Services Commission worked closely with key stakeholders to develop the options set out in the "Alternative Methods of Funding Money Damages Claims" consultation paper. The consultation closed on 28 June 2013 and the responses are being considered, and in doing so officials will identify any implications in respect of the EU Directive]*	
Clause 12 Child trafficking guardian	Clause 12 would require that a child victim of human trafficking should be provided with a child trafficking guardian appointed to represent his/her best interests.	Responsibility for the provisions under this clause would fall to DHSSPS.	No comment available.

Clause	Effect	Current provision or activity	Analysis
	This is subject to someone with parental responsibility for him/her: not being in contact with the child; living outside of the UK; suspected of taking part in the trafficking of the child or having another conflict of interest. The clause also sets out the responsibilities of the child trafficking guardian and indicates that the role may be performed by an employee of a statutory or charitable organisation or a volunteer for a charitable organisation. The clause also requires relevant agencies (defined) to recognise the authority of the advocate. Finally the clause requires/enables 'the department' to set out the arrangements for the appointment of child trafficking guardian, the training requirements of guardians and the designation of charitable organisations for the supply of guardians.		
Part 3 – Protection of victims of trafficking in human beings in criminal investigations and proceedings			
Clause 13 Protection of victims in criminal investigations	Clause 13 would place a statutory duty on police to prevent secondary victimisation during police interviews by avoiding unnecessary repetition of interviews, visual contact between the	This clause would place a statutory duty on police, mirroring the requirements under Articles 12 and 15 of the EU Directive with regard to avoiding secondary victimisation of victims of human trafficking during police interviews.	This is an area which the Minister of Justice has been considering, with a view to incorporating a similar duty on police into his intended subordinate legislation.

Clause	Effect	Current provision or activity	Analysis
	victim and the accused, and unnecessary questioning concerning the victim's private life. Similar, but more stringent, measures to avoid secondary victimisation would also apply in respect of child victims of trafficking.	The Department of Justice has already assessed that the current administrative arrangements already comply with the requirements under the Directive. However this is an issue which the Minister had asked officials to consider, with a view to bringing forward secondary legislation.	The Minister has stated in the past that the Department would continue to consider further changes, including by working closely with other jurisdictions. In light of the recent introduction of a similar statutory duty on police in England and Wales, under the Trafficking of People for Exploitation Regulations 2013, the Minister had asked officials to consider how to incorporate a similar provision into his proposed secondary legislation on support for victims. Work on this draft legislation has paused, pending the outcome of this Bill. However - as with legislating on statutory support for victims - subject to the outcome of the Bill, our intention would still be to proceed with secondary legislation; we would hope to be in a position to bring draft legislation before the Committee within two months of drafting recommencing. On a separate point, the correct criminal law terminology of "the complainant" has not been used (clause 13 refers to "the victim"). Whilst the Department understands the sympathetic use of the term "victim", we believe that in order to maintain consistency with the regular use of the terminology in criminal law, there would be merit in instead using the term "complainant".

Clause	Effect	Current provision or activity	Analysis
Clause 14 Amendments to the Criminal Evidence (Northern Ireland) Order 1999	Clause 14 would amend the Criminal Evidence (Northern Ireland) Order 1999 to ensure that victims of human trafficking are automatically entitled to special measures in court.	Those trafficking victims who are victims of sexual offences are already automatically eligible for special measures consideration. The DOJ considers that in practice, under clause 14 of the Criminal Evidence (Northern Ireland) Order 1999, victims of labour and other exploitation offences would already be considered for special measures assistance. Other trafficked victims would, in all likelihood, be considered eligible for special measures assistance on the basis that the quality of their evidence is likely to be diminished by reason of fear or distress when testifying. This is an area which the Minister of Justice has been considering with a view to incorporating special measures for victims of human trafficking into subordinate legislation, in light of the recent introduction of special measures for victims who have been trafficked for labour and other exploitation in England and Wales, under the Trafficking of People for Exploitation Regulations 2013.	This is an area which the Minister of Justice has been considering with a view to incorporating special measures for victims of human trafficking into subordinate legislation, in light of the recent introduction of special measures for victims who have been trafficked for labour and other exploitation in England and Wales, under the Trafficking of People for Exploitation Regulations 2013. DOJ had been working on this with a view to engaging stakeholders during the summer months and bringing draft legislation before the Justice Committee after Recess. Work on this draft legislation has paused, pending the outcome of this Bill. However – as noted in respect of Clauses 12 and 13 - subject to the outcome of the Bill, our intention would still be to proceed with secondary legislation; we would hope to be in a position to bring draft legislation before the Committee within two months of drafting recommencing. As with Clause 13, Clause 14 refers to "victims", rather than "complainants". This terminology does not align with existing "special measures" legislation under the 1999 Order. This would also have implications for the definitions under Clause 9 of this Bill, which does not currently include a definition of "complainant".

Clause	Effect	Current provision or activity	Analysis
			The Department also considers that paragraphs (d) and (e) in Clause 14 are not needed to prevent victims who are trafficked for labour and other exploitation from being cross-examined by the defendant as such protection already exists under Article 24 of the Criminal Evidence (Northern Ireland) Order, where this would improve the quality of their evidence.
Part 4 – Prevention and reporting			
Clause 15 Prevention	Clause 15 would require the Department of Justice to publish an annual strategy on raising awareness of, and reducing trafficking in human beings and slavery offences, in co-operation with non-governmental organisations and other relevant organisations.	The Justice Minister published the first annual action plan on human trafficking on 23 May 2013. The action plan identifies priorities and objectives for the year ahead across a range of areas including the prevention of human trafficking, the protection and support of victims and bringing perpetrators to justice through the Courts. It was developed in co-operation with the Immigration and Human Trafficking Subgroup of the Organised Crime Task Force and the Department of Justice's NGO Engagement Group on Human Trafficking and reflects the work of these bodies. It is aligned to United Kingdom Government's 2011-15 Strategy on Human Trafficking and takes account of local experience, opportunities for collaboration with the Irish Government, wider reports on human trafficking, the EU	The Department of Justice does not consider this provision to be necessary. It was agreed by the Immigration and Human Trafficking Subgroup of the OCTF that an annual plan, on a non-statutory basis, would provide the most appropriate response to the challenge of tackling human trafficking and would offer flexibility to ensure that the plan could be more easily integrated with other related strategies. The Justice Minister has made a commitment to review the action plan on human trafficking on an annual basis. Putting a requirement in statute is unnecessary and will not in any way enhance what is already being done to tackle human trafficking and support and protect its victims.

Clause	Effect	Current provision or activity	Analysis
		Directive on Human Trafficking and comments arising from the Department's consultation on the Directive.	
Clause 16 Northern Ireland Rapporteur	Clause 16 would place a requirement on the Department of Justice to establish an independent body to act as a Northern Ireland Rapporteur, reporting to the Assembly on the performance of the Act and on related matters.	Anti-trafficking efforts in Northern Ireland are already subject to significant scrutiny, for example through the Inter-Departmental Ministerial Group, which acts as the UK National Rapporteur. Responsible Northern Ireland Department's are also subject to routine independent assessment by Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) GRETA is responsible for monitoring implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. GRETA regularly publishes reports evaluating the measures taken by the Parties. It is also within the scope of other Inspection authorities, such as Criminal Justice Inspection Northern Ireland (CJINI) (in respect of criminal justice matters) to review and report the Department's effectiveness in tackling human trafficking and supporting its victims, in line with our obligations under the EU Directive.	This is a substantively new proposal which requires careful consideration. DOJ recognises the importance of scrutiny and accountability. However, we do not consider that the proposal will enhance the existing arrangements for accountability and reporting – including GRETA and CJINI. On the specifics of the Clause, it does not make it clear what the legal status of the Rapporteur is, nor what his or her role would be in respect of DHSSPS or the national rapporteur mechanism (currently provided through the IDMG). Developments in our work with the Home Office are also relevant. To meet concerns we have been considering with them the establishment of a United Kingdom-wide Commissioner/ Rapporteur. This may have advantages but we believe that the arguments for a Commissioner (and the cost that will entail) and whether this should be local or United Kingdom-wide, need to be considered more fully and consulted upon. The significant financial and resource

Clause	Effect	Current provision or activity	Analysis
			implications need more consideration; since there is no budget for the associated new costs, it could only be delivered at the expense of existing activities.

APPENDIX 2

MEETINGS WITH STAKEHOLDERS DURING RECESS:

Community Faith Forum
Freedom Acts / Craigavon Act
Evangelical Alliance
Northern Ireland Commissioner for Children and Young People (NICCY)
The Nexus Institute

Irish Congress of Trade Unions, Northern Ireland (ICTUNI)
Freedom Project Ireland
Soroptimist International
Migrant Help
Northern Ireland Council for Ethnic Minorities (NICEM)
Amnesty International
Victims Support Northern Ireland (VSNI)

Law Centre Northern Ireland (LCNI)
South Tyrone Empowerment Programme (STEP)
Northern Ireland Strategic Migration Partnership (NISMP)
Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)
CARE Northern Ireland
Health and Social Care Board (HSCB)

Department of Justice – Written evidence on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013

FROM THE OFFICE OF THE JUSTICE MINISTER

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Our ref SUB/1533/2013

FROM: **TIM LOGAN, DALO**
DATE: 29 **OCTOBER 2013**
TO: **CHRISTINE DARRAH**

SUMMARY

Business Area: Protection and Organised Crime Division and Criminal Justice Policy and Legislation Division.

Issue: Response to the Committee's call for written evidence on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

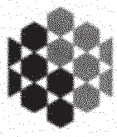
Restrictions: None.

Action Required: To inform the Committee's consideration of the Bill during Committee Stage.

Background

The Justice Committee has written to the Department of Justice (DOJ) inviting written evidence and views on the contents of Lord Morrow's Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill by close of play on 1 November. The DOJ has provided the Committee with a written paper on 5 September welcoming the focus on human trafficking and the sentiment behind the Bill, but also outlining some of the Minister's concerns about the Bill and providing a detailed clause by clause analysis.

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Overview

2. This paper focuses exclusively on those elements of the Bill which would impact on the DOJ and does not consider provisions which would fall to the Department of Health, Social Services and Public Safety (DHSSPS) to implement. The paper provides an overview of DOJ's response to the Bill, building on information that the Department has previously provided and on points made during the Second Stage debate. It is supportive of the Bill's intent, whilst highlighting key areas of concern which the Minister believes need to be addressed.

3. Appendix 1 provides more detail, on a clause by clause basis, of where we believe the Bill may *benefit* from amendment, or where we consider amendment is *required* and sets out the purpose of amendment.

Response to the Bill

4. The Justice Minister is committed to ensuring that the arrangements in Northern Ireland for eradicating this dreadful crime, punishing its perpetrators and protecting its victims - whether statutory or administrative - are as robust and effective as possible. The Minister has made clear that he is wholly supportive of the motivation and sentiment behind the Bill and that he welcomes the positive impact that the Bill has already had in terms of raising public awareness. Although some provisions replicate existing arrangements, the Minister has acknowledged that may help to reinforce the message that human trafficking will not be tolerated in Northern Ireland and its perpetrators will be dealt with robustly. As such, the Minister has asked me to focus on areas of concern.

Clause 3 – aggravating factors

5. Clause 3 would set in statute a range of aggravating factors that courts must consider when sentencing for human trafficking and slavery offences. The Department has a concern that setting aggravating factors in statute would limit flexibility in responding to emerging case law and would fetter the discretion of judges. Our view is that sentencing guidance provides a better vehicle with which

to respond flexibly to case law as it emerges. Nonetheless we will not oppose Clause 3 if it is the will of the Assembly, although we believe it will require some minor amendment, as highlighted in Appendix 1.

Supporting and protecting victims (Clauses 10, 13 and 14)

6. The Minister welcomes the Bill's focus on supporting and protecting victims of human trafficking. The Minister is committed to ensuring that victims are afforded the protections and interventions that they need and that they are entitled to under the EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims (the EU Directive). As Committee Members will be aware, the Minister had already signalled that he intended to bring forward secondary legislation in respect of supporting and protecting victims and he is content that this can be achieved through Clause 10. We believe, however, that some further amendment will be needed, included to clarify the respective functions of the Departments Of Justice and Health in order to mitigate against the possibility of any future litigation. We are seeking to work with Lord Morrow on this provision, who has indicated his willingness to engage.

7. Clause 13 would place a statutory duty on the police to prevent secondary victimisation during police interviews by avoiding unnecessary repetition of interviews, visual contact between the victim and the accused and unnecessary questioning concerning the victim's private life. More extensive requirements would also apply in respect of victims who were also children. This is another area where the Minister had intended to legislate and so the Minister is supportive of the Clause 13 proposal. Minor, technical amendments have been suggested as set out in Appendix 1.

8. Clause 14 would amend the Criminal Evidence (Northern Ireland) Order 1999 to ensure that victims of human trafficking are automatically entitled to be considered for special measures assistance in court. This is another area where the Minister had intended to bring forward draft legislation. Instead the Minister

supports the Bill's proposal. Again, minor, technical amendments have been suggested in Appendix 1.

Areas of concern

9. The Minister has more significant concerns about the potential negative impact of some provisions in the Bill. These were set out in detail in the Department's paper to the Committee of 5 September 2013, and highlighted in the course of oral briefing to the Committee by DOJ officials on 12 September. The Minister believes that the concerns can be addressed, in the main, by *amendment.* The Minister met Lord Morrow to discuss his concerns and they have agreed to work constructively to explore solutions.

11. The Minister's concerns are set out below. Suggested amendments have been highlighted in Appendix 1.

Clause 4 – Minimum sentence for human trafficking and slavery offences

12. Clause 4 would introduce a compulsory minimum custodial sentence of at least two years for human trafficking or slavery offences, unless the court were of the opinion that there were exceptional circumstances to justify its not doing so.

13. The Minister supports Lord Morrow's view that those who have been convicted of human trafficking offences should receive robust sentences which reflect the seriousness of the crime and its impact on victims. Indeed, Committee Members will recall that one effect of the human trafficking provisions set out in the Criminal Justice (Northern Ireland) Act 2013 is that the Director of Public Prosecutions has the power to ask the Court of Appeal to review any sentence imposed by the Crown Court in respect of human trafficking offences, where he considers it to be unduly lenient. The Minister has also removed the option of the case being tried summarily (it must now be tried in the Crown Court).

14. The Minister, however, has concerns about the Clause 4 proposal for minimum sentences. Compulsory minimum sentences are rarely specified in law,

reflecting the principle that judges should normally be free to take account of all available evidence and the unique circumstances in a particular case, allowing them to reach a decision on sentencing which fits the crime. Judicial discretion is particularly important in the context of human trafficking cases, where supply chains can be complex and a number of different individuals involved, to varying degrees and with varying culpability, throughout the trafficking process. Furthermore, the existing sentencing guidance already indicates that a custodial sentence should be the norm for involvement in the human trafficking process. DOJ believes that the Bill should be amended to remove Clause 4.

15. If the Clause is supported by the Committee/Assembly then the Minister's most serious concern is that the minimum sentence it proposes would apply in respect of children as well as adults. The Minister considers this to be inappropriate and in breach of the "best interests of the child" principle set out in Article 3 of the United Nations Convention on the Rights of the Child. As a minimum, therefore, the Minister's strong view is that an amendment is required to Clause 4 to clarify that the provision should not apply in respect of children.

Clause 6 – Paying for sexual services of a person

16. Clause 6 would criminalise any person who entered into a financial transaction in return for any sort of sexual service. This would include the purchase of sexual services between two fully consenting adults. It is the Minister's view that such a change to the criminal law extends beyond the scope of a Bill aimed specifically at alleviating the crime of human trafficking. The Department does not argue with the fact that demand for sexual services is a factor in the supply of trafficked victims into prostitution. However, it does argue that there are additional important factors outside of this one area which take this proposed provision beyond the remit of the Bill's objectives, and which could leave vulnerable individuals at greater risk of harm.

17. The details of the argument have already been presented to the Committee and to the Assembly. The basis for advocating that this Clause should be removed

from the Bill is clear and straightforward. In essence, there is insufficient information on what negative impacts there might be on those vulnerable women, and men, who use prostitution as a way of earning a living. We do not know what may happen in terms of their safety and wellbeing if their client base is criminalised. We do not know what may happen to their willingness to come forward and provide the police with information about abusers and traffickers. We do not know whether criminalisation will have the desired effect of reducing the incidence of trafficking into prostitution. There is no evidence base available in Northern Ireland to back up this change.

18. The Department recognises that Lord Morrow and others use the example of the Swedish legislation as evidence of the success criminalisation has on reducing demand for prostitution. The Department also recognises the strength of the presentation provided by the Swedish proponents. However, there is also a strong body of opinion that would question some of the claims made, and others who would point to the many diverse ways in which prostitution and sexual services manifest themselves in different jurisdictions, suggesting that what is right for one is not necessarily the best way for another.

19. There are also many questions posed by key stakeholders here, both in the statutory sector and from NGOs. Concerns of a practical nature are expressed by the PSNI and the PPS (including, if we were looking at the construction of the clause, the lack of clarity as to what "sexual services" means). These concerns largely relate to possible difficulties in evidence collection and the related, and serious, resource implications. Purchasing sex is not an open and visible transaction. Questions arise over the allocation of resources into evidencing offences, many of which will not involve trafficked victims, at the possible expense of pursuing the current offence of paying for the services of a prostitute subjected to force. The Minister has already announced his intention to seek a legislative change to extend the statute time bar for investigating such offences. There has also been little consideration, or evaluation, of ways to reduce demand outside of

criminalisation and, as previously stated, many concerns centre on the impact of criminalisation on those who are already vulnerable.

20. The Department is also aware that Lord Morrow and others have been looking to the Republic of Ireland for signs of a move to change the law on prostitution, particularly given the Oireachtas Joint Committee report to the Government which recommended criminalisation. Although relevant to the debate on human trafficking, it needs to be recognised that the conclusion reached by the Committee comes after policy consultation concerning the law on regulating prostitution, not just on the single issue of ways to reduce trafficking. The Minister has already made clear that future policy decisions would of course need to take into account legislation in our neighbouring jurisdiction. For now, however, the Irish Government has not made any response to the Oireachtas report, but we understand that it has asked for more information on some of the Committee's conclusions and recommendations.

21. As a result of these various factors, the Minister has concluded that he cannot support Clause 6 as part of this Bill. Instead he has made clear that he is prepared to consider the law on prostitution separately, not just as a measure to control trafficking, and with the benefit of specially commissioned research to provide an evidence base for future decisions. The Department has drawn up an outline specification for this research, and a worked up version will be forwarded to the Committee as soon as possible and, certainly, during its scrutiny of the Bill.

Clause 7 – Requirements and resources for investigation or prosecution

22. The Department has previously highlighted our concerns to the Committee that Clause 7(1) would place a duty on the DOJ that it cannot deliver. Responsibility for training investigators and prosecutors and for equipping them with appropriate tools does not rest with DOJ, but with the relevant law enforcement agencies, including the Police Service of Northern Ireland (PSNI), Gangmasters Licensing Authority (GLA), Home Office, the National Crime Agency (NCA) and the Public Prosecution Service for Northern Ireland (PPSNI).

23. We recognise the intent behind this provision and share Lord Morrow's assessment of the importance of appropriate training in effectively responding to human trafficking. The Department's paper to the Committee of 5 September outlined a number of steps that have already been put in train across the criminal justice system and other relevant frontline professions in order to train and raise awareness of this issue. The Minister will work with Lord Morrow to explore alternative options. The Department's preference is amend Clause 15 to ensure that matters relating to training, investigation and prosecution are covered in the annual strategy which that Clause provides for. The Department's view is that this would provide a more strategic response which would allow training and resources to be considered under a more comprehensive multi-agency approach.

Clause 8 – Non prosecution of victims of human trafficking

24. Clause 8 would provide blanket immunity from prosecution for victims of human trafficking *where they have been compelled to commit other offences as a result of having been trafficked.* The Minister has indicated that he has serious concerns about the impact of this Clause. Our assessment is that it goes too far; that it runs counter to the statutory obligations placed on the Director of Public Prosecutions under the Justice (Northern Ireland) Act 2002; that it could have a negative impact on the rights and interests of some victims; and that, ultimately, it could lead to inappropriate outcomes in difficult cases.

25. The EU Directive requires us to ensure that prosecutors are *entitled* not to prosecute or impose penalties on victims in cases where they have been compelled to commit other offences. This is already the case in Northern Ireland. It does not require Member States to *ensure* immunity from prosecution in all cases. Within Northern Ireland Public Prosecutors must apply the Test for Prosecution, including whether prosecution would be in the public interest. In doing so they are able to consider the specific circumstances of each case, including whether any mitigating factors exist – such as the fact that an individual has been compelled to commit the offence as a result of having been trafficked. DOJ understands that PPSNI has

exercised this prosecutorial discretion already in a number of cases, including cases of cannabis cultivation and brothel keeping. The PPSNI's recently published Policy on Prosecuting Cases of Human Trafficking[1] also covers this issue and provides further guidance.

26. The Minister is opposed to the introduction of the blanket immunity from prosecution that Clause 8 would provide and is of the view that the Clause should not stand part of the Bill. While he recognises, and shares, Lord Morrow's concern that victims of human trafficking be afforded appropriate protections under the law he is satisfied that those protections already exist. The Department's view is that, instead of providing for blanket immunity from prosecution in these circumstances, we need to ensure that there is greater awareness of human trafficking across the criminal justice system and an understanding of the system's responsibilities in protecting victims. DOJ has already begun to address this through the Organised Crime Task Force (OCTF). We have written to stakeholders across the justice system, including the Law Society, the Bar Council and the Judicial Studies Board to highlight the issue.

27. We suggest that there is scope to amend Clause 15 of the Bill to ensure that the annual strategy will include actions to raise awareness and to highlight the rights and entitlements of victims across the justice system. We will talk to Lord Morrow about that, but would hope the Committee would support our approach.

Clause 16 – Northern Ireland Rapporteur

28. Clause 16 would place a requirement on the DOJ to establish an independent body to act as a Northern Ireland Rapporteur and to report to the Assembly on the performance of the Act and related matters. The Minister agrees that effective monitoring and accountability arrangements should be in place in respect of our response to human trafficking. He has indicated that he wants to identify the best solution for Northern Ireland. The Minister has concerns, however, that the model

1http://www.ppsni.gov.uk/Prosecution-Policy-and-Guidance---5084.html

proposed under this Bill may not be the most effective way to deliver this, and he is particularly concerned that we do not lose sight of our international obligations, under the EU Directive, in respect of a *national rapporteur* for the whole Member State

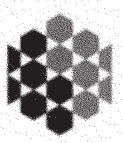
29. The Inter-Departmental Ministerial Group on Human Trafficking[2] has been discussing a proposal to establish a UK-wide Anti-Slavery Commissioner who would perform the functions of this national rapporteur for the UK Member State. Clearly the arguments for a commissioner need further consideration and consultation. The Minister's assessment is that a broader-based, UK-wide Commissioner would bring a wider perspective, which should add more value than a regional rapporteur, particularly given the global nature of trafficking. In addition, a UK-wide Commissioner would be able to look comprehensively at the actions of all of the organisations and agencies operating here, including those for whom responsibility has not been devolved – such as Home Office, NCA, the UK Human Trafficking Centre, and GLA. A Northern Ireland Rapporteur could not have statutory power to consider these organisations, which we believe would limit its value, particularly given the joined-up, multi-agency response to human trafficking that is provided under the OCTF.

30. The Minister would note that we already have local accountability arrangements to monitor the justice system's anti-trafficking efforts and arrangements through Criminal Justice Inspection Northern Ireland (CJINI).

31. The Minister would propose to consult on this issue before the end of the year when the detail of the UK-wide Commissioner has been worked up. His current view, however, is that a broader commissioner would be preferable both in terms of the establishment of effective accountability arrangements and value for money.

[2] Home Office chaired, which David Ford attends.

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Developments in other jurisdictions

32. There have been a number of recent developments in neighbouring jurisdictions relating to human trafficking, which may have a bearing on this Bill, most notably, the Home Secretary's plans for a Modern Slavery Bill and, in Scotland, the introduction of the Criminal Justice (Scotland) Bill. In particular, this paper has already noted that the proposal for an Anti Slavery Commissioner in the proposed Modern Slavery Bill should have a direct read across to consideration of the proposal for a Northern Ireland Rapporteur under Clause 16 of Lord Morrow's Bill.

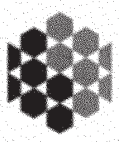
33. The Minister has made clear that he will consider any proposals which might reinforce or enhance our response to human trafficking in Northern Ireland. We will want to consider whether it would be beneficial to extend or replicate any of these provisions here and DOJ officials are working with other jurisdictions as policy proposals are being developed and finalised. We hope to be in a position to share a draft consultation paper on further policy proposals for Northern Ireland with the Committee before the end of this calendar year. Appendix 2 includes further detail on the relevant proposals being taken forward in the Modern Slavery Bill and the Criminal Justice (Scotland) Bill.

Financial impact of the Bill

34. Lord Morrow has estimated that the financial impact of the Bill, if enacted, would result in approximately £1.5 million of new costs, some of which would be annually recurring costs although we have not yet had sight of the detail of how the estimated costs have been calculated. Some costs (e.g., provision of Child Trafficking Guardians and potential new costs in relation to support for victims) would fall to DHSSPS but we anticipate that the majority would fall to DOJ.

35. Any costs associated with the new proposals arising from the implementation of the Bill will result in an unfunded pressure for DOJ which already has budget pressures. For these new activities to be funded, other lower priority activities

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would need to be identified and cut. We believe this is an important, relevant factor to take into account in considering the Bill.

Recommendation

36. The Committee is invited to note:

- the Department's comments in respect of Lord Morrow's Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill;
- the list of suggested amendments attached at Appendix 1;
- that the Minister will continue to engage with Lord Morrow about amendments; and
- that DOJ officials are working with other jurisdictions on a range of other policy proposals, with a view to putting a draft consultation paper to the Committee by the end of the year.

D. Graham

RP **TIM LOGAN**
DALO

Encl. - Appendix 1.

Appendix 1

Clause	Amendment
Clause 1 – Definition of human trafficking and slavery offences	This clause specifies the relevant human trafficking and slavery offences. However, in order for it be comprehensive, DOJ recommends that Clause 1(b) should be amended to include other relevant offences under sections 12 and 13 of the Gangmasters (Licensing) Act 2004.
Clause 2 – Consent irrelevant for victim of human trafficking or slavery offences	No amendments proposed.
Clause 3 – Aggravating factors	DOJ has set out its concerns in respect of this clause suggests that the Bill be amended so that it does not include Clause 3. If included, we believe that an amendment may be needed in respect of the definition of "position of trust" to broaden it.
Clause 4 – Minimum sentence for human trafficking and slavery offences	DOJ has set out its concerns in respect of Clause 4 and suggests that the Bill be amended to remove it. If included it would be important that it be amended to clarify that the provision does not apply in respect of children.
Clause 5 – Amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004	We believe that an amendment may be needed in respect of the definition of "position of trust" to broaden it.

Clause	Amendment
Clause 6 – Paying for the sexual services of a person	DOJ is of the view that this Clause should not stand part of the Bill.
Clause 7 – Requirements and resources for investigations and prosecution	Clause 7(1) places an obligation on the Department which it cannot deliver. DOJ will work with Lord Morrow to identify an alternative solution. One possible option may be to amend Clause 15 of the Bill to ensure that matters relating to training, investigation and prosecution are covered in the annual strategy which that Clause provides for. DOJ considers that 7(2) and 7(3) are unnecessary as these principles are already made clear in existing legislation. The new October 2013 PPS guidance, "Policy for Prosecuting Cases of Human Trafficking", also covers prosecution practice under subsections (2) and (3). However we are not concerned about their impact and will not seek to oppose their inclusion.
Clause 8 – Non prosecution of victims of trafficking in human beings	DOJ believes the Bill should be amended to remove this clause. The Department will seek to work with Lord Morrow to identify alternative ways to address the issue. One possible option may be to amend Clause 15 to ensure that the strategy will include actions to raise awareness and to highlight the rights and entitlements of victims across the justice system.
Clause 9 – Victim of trafficking in human beings	Clear definitions of human trafficking victims already exist derived from the UN's Palermo Protocol and the EU Directive and UK jurisdictions are bound by these. DOJ has no concerns about the Clause and will not seek to oppose or amend it. However, subject to the DOJ's proposed amendments to Clauses 13 and 14, we believe Clause 9 would require a minor consequential amendment to define "complainant".

Clause	Amendment
Clause 10 – Requirements for assistance and support	DOJ is supportive of the policy intent but believes that the Clause may need some amendment, including to clarify the respective functions of the two Departments in order to mitigate against the possibility of future litigation. DOJ will work with Lord Morrow to address these points.
Clause 11 -	Compensation arrangements are already set out under the Criminal Injuries Compensation (Northern Ireland) Order 2002. Victims of human trafficking can seek compensation under the statutory scheme provided for by this Order and there is no requirement for the applicant to be resident in Northern Ireland. Clause 11 would need to be amended to reflect this. However, DOJ will work with Lord Morrow to address these points. One option may be a statutory requirement for the Department to produce guidance on accessing compensation.
Clause 12 – Child trafficking guardian	Responsibility for the provisions under this clause would fall to DHSSPS.
Clause 13 – Protection of victims in criminal investigations	DOJ believes that the clause might benefit from an amendment to change all references to "victims", to the correct criminal law terminology of "the complainant". The Department understands the sympathetic approach of referring to "the victim" but, in order to maintain consistency with the regular use of the terminology of "the complainant" in criminal law, there would be merit in maintaining this consistent use in Clause 13. This would then require a consequential amendment to Clause 9 of this Bill, which does not currently include a definition of "complainant".
Clause 14 – Amendments to the Criminal Evidence (Northern Ireland)	As with Clause 13, Clause 14 refers to "victims", rather than "complainants". This terminology does not align with existing "special measures" legislation under the 1999 Order and to maintain consistency with the regular use of the terminology of "the complainant" in criminal law, there would be merit in maintaining this consistent use in Clause 14. This would then also require a consequential amendment

Clause	Amendment
Order 1999	to Clause 9 of this Bill, which does not currently include a definition of "complainant".
Clause 15 - Prevention	DOJ has already undertaken to produce an annual human trafficking action plan, and as such does not intend to oppose this clause. As noted there may also be scope to amend the clause to address concerns about the current provisions in Clauses 7 and 8.
Clause 16 – Northern Ireland Rapporteur	DOJ recognises the need for further consideration of the issue of a rapporteur, particularly in light of the Home Secretary's proposal for an Anti-Slavery Commissioner, which we believe may provide a more effective model.
Clause 17 – General Interpretation	DOJ suggests that 17(3) be amended to make clear that a person of uncertain age is deemed a child pending verification of his or her age.
Clause 18 – Orders	No amendments proposed.
Clause 19 – Short Title and Commencement	No amendments proposed.

Minister of Health, Social Services and Public Safety – Written evidence on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013

FROM THE MINISTER FOR HEALTH,
SOCIAL SERVICES AND PUBLIC SAFETY
Edwin Poots MLA

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Mr Paul Givan MLA
Chairman
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BELFAST
BT4 3XX

Our Ref: COR/1198/2013

Date: 29 October 2013

Dear Paul

Thank you for your letter of 7 October regarding Lord Morrow's Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and in particular Clauses 10, 12 and 16 of the Bill.

I fully support Lord Morrow's Bill. However, I have suggested amendments to those clauses in the Bill for which my Department has responsibility/part responsibility with a view to making the Bill more workable in practice.

I met with Lord Morrow on 11 September 2013 and during that meeting I expressed my concerns in relation to Clauses 10, 12 and 16. I agreed that my officials would provide him with some advice in relation to Clauses 10 and 12 and this advice has now been conveyed to him. I will deal with each clause separately below.

Clause 10
Clause 10(1)(b)(i) of the Bill specifies that support shall be provided to the family of a child identified as a victim if they are resident in Northern Ireland if, and only if they are not suspected to have committed a human trafficking offence.

This clause, as currently drafted, is problematic in that it may cause conflict with existing legislation. Specifically, it may prevent compliance with the *Children (Northern Ireland) Order 1995*, the *Provision of Health Services to Persons not Ordinary Resident Regulations (Northern Ireland) 2005*, the *Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004* and the *Human Rights Act 1998*.

Should Clause **10(1)(b)(i)** be removed from the Bill the emphasis of support will be on the victim and any potential conflict with existing legislation is likely to be eliminated. Entitlement to assistance and support for the family of the victim, where the family is resident in Northern Ireland is already considered to be available.

Clause 12 – Child Trafficking Guardian
Clause 12 of the Bill specifies that each child who might be a victim of trafficking in human beings shall have a Child Trafficking Guardian appointed to represent the best interests of that child if the person who has parental responsibility fulfils any one of a number of conditions.

As currently drafted, this clause is problematic as it requires the Department of Health, Social Services and Public Safety to set out the arrangements for the appointment of a Child Trafficking Guardian. This could be resolved by amending **Clause 12(1)** to place the onus for appointing a Child Trafficking Guardian in circumstances prescribed by DHSSPS on the relevant Health and Social Care (HSC) Trust, which has existing statutory duties to safeguard children to safeguard children and promote their welfare. This is on the assumption that child victims of trafficking will become looked after by one of the five HSC Trusts, which is the assumption we have made to date.

Clause 12(2) specifies the responsibilities of the Child Trafficking Guardian. This clause could be amended to allow for responsibilities of the Guardian to be added to by stipulating at **Clause 12(2)(l)** *'any other responsibility as prescribed by the DHSSPS'*. This resolution would then allow the removal of **Clause 12(3) – Clause 12(7)** inclusive from the Bill.

Clause 16
Clause 16 introduces the establishment of an independent body to report to the Assembly on the performance of this Act and on related matters. Although the responsibility of establishing a Northern Ireland Rapporteur will fall to the Department of Justice, some of the responsibilities in this Bill fall to my Department.

This issue was discussed during my meeting with Lord Morrow when the scrutiny and challenge functions relating to health and social care provision in Northern Ireland. It is a busy landscape and includes the Regulation and Quality Improvement Authority (RQIA) which is the independent body responsible for monitoring and inspecting the availability and quality of Health and Social Care Services in Northern Ireland and the NI Commissioner for Children and Young People who has a role to safeguard and promote the rights and best interests of children and young people in Northern Ireland. In addition, you are aware of the scrutiny role undertaken by Assembly Committees, including your own.

My view is that an Independent Rapporteur would add an unnecessary layer of bureaucracy and accountability mechanism. On that basis, I am of the view that this clause is unnecessary.

I hope this is helpful.



Edwin Poots MLA
Minister for Health Social Services and Public Safety

Department of Justice - Details of research into prostitution in Northern Ireland commissioned by the Minister of Justice

FROM THE OFFICE OF THE JUSTICE MINISTER



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Our ref: SUB/37/2014

Christine Darrah
Clerk to the Justice Committee
Room 242
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14th January 2014

Dear Christine,

PROSTITUTION RESEARCH

In my correspondence to you of 29 October 2013, in response to the Committee's call for written evidence on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, I undertook to forward further detail on the research into prostitution in Northern Ireland which is being commissioned by the Minister.

The attached paper details the Department's specified aims and objectives for the research. This specification is being used as the basis for the development of Instructions to Tenderers and will be issued in tandem with them. It is anticipated that tenders will be advertised within the next few weeks. Award of the contract will follow tender evaluation.

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I would be grateful if you would bring this to the attention of Committee Members. Should Members wish to see further detail on the specification for the research, officials would be happy to provide this, once the tenders have been published.

Tim Logan

TIM LOGAN
DALO

Annex A

RESEARCH INTO PROSTITUTION IN NORTHERN IRELAND

1. Purpose

1.1 The Department of Justice is commissioning research to provide evidence of the extent and characteristics of prostitution in Northern Ireland. The results of the research will be used to inform future policy decisions on the regulation of prostitution.

2. Background

2.1 The Minister of Justice has made a public commitment to commission research into prostitution in Northern Ireland. The issue of prostitution has received considerable interest recently, due to the proposal within Lord Morrow's Private Member's Bill, the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, to criminalise paying for sexual services.

2.2 To date, there has been little local research on the facts relating to prostitution. The lack of hard data in the Northern Ireland context means that the potential impact of criminalising the purchase of sexual services on those involved in prostitution, or in reducing the numbers trafficked for sexual exploitation, is largely unknown. The Department is commissioning this research to be used as an evidence base from which to inform future policy decisions on the criminal law and prostitution.

3. Aims and Objectives

3.1 The aim of the research is to provide the Department with a better understanding of the extent and characteristics of prostitution, and the extent

and nature of human trafficking, and other offences relating to sexual exploitation, in Northern Ireland. The research will be used to help shape the Department's policy on the criminal law on prostitution and to make future decisions on its regulation. For the purposes of this research, the definition of 'prostitution' is as given in Part 5 of the Sexual Offences (Northern Ireland) Order 2008.

3.2 In particular, the research should explore the following issues:

- the number, profile and age range of people (e.g. women/men/transgender/migrants) involved in street prostitution in Northern Ireland and the locations where they operate.

- the number and profile (as above) of people involved in off-street prostitution in Northern Ireland and the locations where they operate.

- within these sectors, an analysis of their entry into prostitution i.e. those who consider themselves as being there: by choice; by coercion – pimps, partners; criminal gangs etc; or because of wider social issues – drug/alcohol dependency; debt etc.

- the number, profile and age range of people involved in prostitution in Northern Ireland who are victims of trafficking, both from other jurisdictions and from within Northern Ireland.

- the level and profile of demand in Northern Ireland for prostitutes.

- how 'clients' in Northern Ireland access paid sex.

- what impact on demand that criminalisation of paying for sex would have; the potential impact of criminalisation of paying for sexual services on those working as prostitutes in Northern Ireland; the potential impact of criminalisation of paying for sexual services on reducing the levels of human trafficking for sexual exploitation in

Northern Ireland.

- the pathways that lead people into prostitution in Northern Ireland.

- the support needed to help people exit prostitution, providing evidence collected from those involved and analysis of effective practice in this and other jurisdictions.

- analysis of effective practice, in other UK jurisdictions and elsewhere, of reducing demand for prostitution by legislative and non-legislative means.

- the impact of prostitution on local communities.

- analysis of the effectiveness of the response to prostitution in other jurisdictions.

Correspondence from the Department of Justice outlining its current position on the Bill following discussions with Lord Morrow

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Our ref SUB/236/2014

FROM: TIM LOGAN

DATE: 26 FEBRUARY 2014

TO: CHRISTINE DARRAH

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

Business Areas: Protection and Organised Crime Division (POCD); and Criminal Justice Policy and Legislation Division (CJPLD)

Issue: DOJ officials are due to brief the Committee on Lord Morrow's Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill on 6 March.

Restrictions: None.

Action Required: To note ahead of the Committee meeting.

Officials Attending: Simon Rogers, Deputy Director, POCD
Gareth Johnston, Deputy Director, CJPLD
Julie Wilson, POCD
Amanda Patterson, CJPLD

Background

The Justice Committee has invited the Department of Justice (DOJ) to give evidence on Lord Morrow's Human Trafficking (Further Provisions and Support for Victims) Bill at its meeting on 6 March 2014. This paper informs the Committee of the Department's position in respect of that Bill.

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2. The Department provided a written paper to the Committee on 29 October in response to the Committee's call for evidence. That paper indicated that the Minister was wholly supportive of the motivation and sentiment behind the Bill and that he welcomed the Bill's positive impact in terms of raising public awareness, although it also highlighted a number of areas of concern.

3. Committee members will be aware that since then the Minister has been engaging with Lord Morrow on the content of the Bill to identify and resolve those areas of concern where possible. Good progress has been made and the Minister and Lord Morrow wrote jointly to the Committee on 14 January setting out the areas on which they have reached agreement and others which were the subject of further engagement.

DOJ Consultation on new proposals

4. As Members are aware, we are consulting on further measures to strengthen the response to human trafficking and slavery. Taken together, these proposals aim to simplify the legislative framework, enable court orders to protect the public, provide effective oversight of government and law enforcement action and enhance our understanding of these offences and how they occur in Northern Ireland. The consultation closes on 15 April 2014. We gave evidence to the Committee on these proposals on 16 January and will, of course, report back to the Committee at the end of that process.

5. Subject to the consultation and to timing, if possible our preference would be to legislate for most of these proposals by amendments to the Human Trafficking (Further Provisions and Support for Victims) Bill. As we have previously highlighted, this would require Consideration Stage to be deferred until September 2014. We believe that our proposals would complement and strengthen the Bill and would have the advantage of being in one piece of legislation, not two. Some of them would, if enacted, have a direct impact on it, for example:

- the consultation proposes the creation of a new consolidated offence of human trafficking, which would cover any type of exploitation. A new offence of

slavery, servitude and forced or compulsory labour would also be created. This would require the repeal of existing human trafficking and slavery offences, which are set out in the Sexual Offences Act 2003, the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 and the Coroners and Justice Act 2009 and which are cited in Clauses 1, 5 and 14 of Lord Morrow's Bill.

- the consultation also proposes that the powers and jurisdiction of the United Kingdom-wide Anti Slavery Commissioner, as set out in the draft Modern Slavery Bill, should be extended to cover Northern Ireland. We propose that a Commissioner should be established instead of the local rapporteur proposed under Clause 16 of Lord Morrow's Bill. The Department would therefore seek agreement for Clause 16 of Lord Morrow's Bill to be dropped from the Bill. A Legislative Consent Motion would be required for the Commissioner to extend to this jurisdiction.

Clause by Clause response to the Bill

6. The Department proposes a number of amendments, informed by our ongoing discussions with Lord Morrow and his team. Whilst we are not yet in a position to share draft amendments with the Committee, we have set out below a Clause by Clause commentary on the Department's position in respect of the Bill, outlining where we will seek to amend the Bill and the intended effect of those amendments. The Department understands that Lord Morrow also intends to table a number of amendments to the Bill. The Department has left Clause 6 to the end of the clauses, given the major focus on that Clause and as it has a broader effect.

Clause 1 - Definition of human trafficking and slavery offences

7. Clause 1 defines human trafficking and slavery offences, for the purposes of the Bill by reference to the existing offences of human trafficking and slavery, servitude and forced or compulsory labour. The Department does not propose any amendments to Clause 1.

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8. As noted, however, the Department's current consultation on proposals to simplify and consolidate the legislative framework around human trafficking and slavery offences would, if enacted, have a direct bearing on Clause 1 of the Bill, giving rise to a need for amendments.

Clause 2 - Consent irrelevant for victims of human trafficking or slavery offences

9. Clause 2 specifies the circumstances in which victim consent to any action related to being a victim of a human trafficking or slavery offence should be deemed to be irrelevant. The Department does not intend to propose any amendments to Clause 2.

Clause 3 – Aggravating factors

10. Clause 3 would require courts to treat a range of specified factors as aggravating factors when sentencing for human trafficking or slavery offences. The Committee is aware that Northern Ireland Crown Court sentencing guidance has been issued in respect of human trafficking for sexual exploitation which sets out a range of aggravating factors. The Department had previously questioned the need for this Clause. Nonetheless the Department recognises the strong support for the provisions of this Clause that has been expressed in the course of the Committee's deliberations and, as such, does not intend to propose any amendments to Clause 3.

Clause 4 - Minimum sentence for human trafficking and slavery offences

11. Clause 4 would introduce a compulsory minimum custodial sentence of at least two years for any human trafficking or slavery offence under Clause 1 of this Bill, unless the court were of the opinion that there were exceptional circumstances to justify it in not doing so. As we have previously indicated, the Minister's view is that judges should be free to take full account of the potentially broad scope of circumstances of each case in delivering a sentence. As such, he intends to oppose the inclusion of this Clause within the Bill. We would note that the EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (the EU Directive) requires a maximum sentence of 10 years whereas our maximum is 14 years. Furthermore the consultation document

proposes an increase to life. Such a change would be a further indication to judges of the seriousness with which the Minister and Assembly view these offences.

12. Nonetheless, he recognises that this Clause may be supported by the Assembly in general. The Minister's most serious concerns about Clause 4 relate to its impact on children; as currently drafted the Clause would apply to children as well as adults. His strong view is that children should not be subject to the same sentencing framework as adults. The Minister has discussed his concerns with Lord Morrow who has accepted that the provisions under Clause 4 should not apply to children. Lord Morrow has indicated his intention to table an amendment to this effect.

Clause 5 – Amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

13. Clause 5 would make amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (the 2004 Act) relating to the definition of trafficking for exploitation purposes. The Department has no concerns about the intended effect of the Clause, however, subject to our consultation for reasons set out at paragraph 15 we think that it may not ultimately be required.

14. Insofar as it currently sits within the Bill we believe it requires a minor technical amendment to Clause 5(e), which defines "position of trust" to have the same meaning as in Article 29 of the Sexual Offences (Northern Ireland) Order 2008. The Department is concerned that the definition as it stands may be limited in scope in that it would not cover all actions committed by public officials in the performance of their duties. To address this concern we are seeking a draft amendment to ensure that public officials acting in their official capacity are included within a wider, more comprehensive definition of "position of trust" under Clause 5(e). Lord Morrow has indicated that he is content with the Department's suggested approach.

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15. If implemented, the Department's current proposal for a new consolidated offence of human trafficking would result in the repeal of Section 4 of the 2004 Act and as a result Clause 5 of the Bill would be redundant.

Clause 7 – Requirements and resources for investigation or prosecution

16. Clause 7(1) would place a statutory duty on the DOJ to take the necessary measures to ensure that appropriate training is provided to those responsible for investigating and prosecuting offences of human trafficking and slavery; and that effective investigative tools are made available.

17. As we have indicated, we recognise the importance of appropriate training and resources for frontline professionals and this is reflected in the Northern Ireland Human Trafficking Action Plan for 2013-14, which prioritised training, investigation and prosecution. Clause 7(1), however, places a duty solely on the DOJ that it cannot deliver since the organisations and agencies that the Clause is intended to cover are wider that those which fall under the authority of the DOJ.

18. The Minister has discussed the difficulties inherent under the Clause 7(1) proposals with Lord Morrow and they have agreed that the issue of training would be best addressed by an amendment to Clause 15 (Prevention) of the Bill, to require that the strategy under that Clause must include matters relating to training, investigation and prosecution. As such we will be seeking an amendment to omit Clause 7(1) from the Bill. The Department does not intend to propose any amendments to Clause 7(2) and (3).

Clause 8 – Non prosecution of victims of trafficking in human beings

19. Clause 8 would provide blanket immunity from prosecution for victims of human trafficking where they have been compelled to commit a criminal act as a direct result of being subjected to threats; abduction; fraud; deception; the abuse of power or of a position of vulnerability; or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person; or where the victim is a child.

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20. Members will be aware that the Minister has expressed significant concerns that this Clause would fetter the Director of Public Prosecutions' current obligations under the Justice (Northern Ireland) Act 2002 to review each case received from investigators in accordance with the Code for Prosecutors in order to determine whether criminal proceedings should be instigated or continued[1].

21. The Clause would go beyond our obligations under the EU Directive. Article 8 of the EU Directive does not require Member States to ensure immunity from prosecution but rather, to ensure that prosecutors are entitled not to prosecute or impose penalties on victims involved in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts of human trafficking specified in Article 2. This is already the case in Northern Ireland. Under the Test for Prosecution, consideration is given to whether the public interest calls for prosecution and punishment in cases where the defendant is a trafficked victim and the crime has been committed when he or she was compelled to commit it. The Public Prosecution Service for Northern Ireland's (PPSNI) Policy for Prosecuting Cases of Human Trafficking includes guidance on taking decisions in such cases, as well as highlighting the relevant case law. The PPSNI has confirmed that it has applied this approach in such cases already, resulting in no prosecution of the trafficked person. As the Committee is aware, the Attorney General's draft Human Rights Guidance for the Public Prosecution Service also deals specifically with this issue.

22. The Department believes that Clause 8 does not provide a proportionate or appropriate response and has concerns that it would introduce a less nuanced and fact-specific approach to these victims of crime than is presently available. The Minister has discussed his concerns with Lord Morrow, who has confirmed that it is not his policy intention to provide a mechanism for blanket immunity from prosecution for victims of human trafficking, but rather to ensure that they are

[1] For instance, should a victim who has killed his or her trafficker be automatically immune from prosecution?

protected from prosecutions that are not in the public interest, in cases where they have been compelled to commit offences (such as cannabis cultivation) as a result of having been trafficked. The Minister shares this policy intent, although, as set out above, the Department's view is that those protections are already available under current arrangements.

23. We believe that an appropriate way forward would be through the raising of awareness of the rights and entitlements of victims across the criminal justice system. Our intention would be to address this point through the strategy required under Clause 15.

24. Whilst Lord Morrow has acknowledged the Minister's concerns about how Clause 8 is currently drafted we have not yet reached an agreed policy position on this Clause. The Department does not support the Clause as currently drafted, however this is an area on which we will continue to seek to reach an agreed position.

Clause 9 – Victim of trafficking in human beings

25. Clause 9 provides a definition of a victim of human trafficking for the purposes of Part 2 (Assistance and Support) and Part 3 (Protection of victims of trafficking in human beings in criminal investigation and proceedings) of the Bill. The current definition provided under Clause 9 would encompass both *potential victims* of human trafficking, who have been referred to the National Referral Mechanism (NRM) and are currently in the Recovery and Reflection Period as well as *confirmed victims* who have received a positive conclusive determination under the NRM process.

26. The Department is satisfied that *the effect* of the Clause 9 definition is appropriate in respect of the requirements for assistance and support under Clause 10 and the requirement under Clause 12 for the appointment of a Child Trafficking Guardian. It does not believe, however, that the current definition would have the appropriate effect in respect of the other clauses under Parts 2 and 3 of the Bill.

For example, whilst we agree that the provisions of Clauses 10 and 12 should be available both to potential victims under the NRM and to confirmed victims of trafficking, we believe that Clause 11, which relates to compensation, should only apply in respect of confirmed victims, since not all potential victims may receive a positive Conclusive Determination confirming them to be victims.

27. The Department is seeking an amendment which would provide separate definitions both for potential victims of human trafficking during the Recovery and Reflection period under the NRM and for victims who have received a positive Conclusive Determination. We have discussed this with Lord Morrow and he is in principle content with the intended effect.

Clause 10 – Requirements for assistance and support

28. Clause 10 would place requirements on the DOJ and the Department of Health Social Services and Public Safety (DHSSPS) to provide support for victims (and potential victims) of human trafficking. The Minister had already signalled that he intended to bring forward secondary legislation in respect of his responsibilities to support and protect victims and he is content that this policy intent can be achieved through Clause 10.

29. The DOJ, however, believes that some amendment is needed, including to clarify the respective functions of the DOJ and DHSSPS. We also believe that it may be helpful to consider in detail the language used, to ensure that the requirement for support to be provided is in accordance with need. By way of example, Clause 10(2) would currently require translation and interpretation services to be provided, regardless of whether the victim receiving these services has any actual language need. The Department is currently liaising with officials in DHSSPS with a view to agreeing a comprehensive set of instructions for amendments to this Clause. Again, we have discussed this and agreed in principle our approach with Lord Morrow.

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Clause 11 – Compensation for victims of trafficking

30. Clause 11 would require the DOJ to set out by Order the procedures for a victim of human trafficking to apply for compensation and the arrangements for assisting and supporting a person to apply for compensation or to seek leave to remain in order to claim compensation. The relevant arrangements for claiming compensation in Northern Ireland are already set out in the Northern Ireland Criminal Injuries Compensation Scheme (2009) which is established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.

31. Lord Morrow has agreed that Clause 11 could be amended to require the Department to bring forward statutory guidance, as opposed to an Order, which would set out the procedures for applying for compensation and the arrangements to provide assistance and support to a person applying for compensation.

32. In addition, since there is no requirement for an applicant to be resident in Northern Ireland in order to be eligible to apply for compensation, Lord Morrow has agreed that Clause 11(b)(ii), which deals with leave to remain in the United Kingdom in order to claim compensation, should be removed. The Department will be seeking amendments to this effect.

Clause 12 – Child Trafficking Guardian

33. Clause 12 sets out a requirement that each child who might be a victim of trafficking in human beings shall have a child trafficking guardian appointed to represent the best interests of that child in certain specified circumstances. DHSSPS has overall responsibility for child protection and as such this Clause is outwith the remit of the DOJ. The Department does not intend to propose any amendments to Clause 12. We understand that the Health Minister is in principle supportive of the clause.

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Clause 13 – Protection of victims in criminal investigations

34. Clause 13 would place a statutory duty on police to prevent secondary victimisation during police interviews by avoiding unnecessary repetition of interviews, visual contact between the victim and the accused, and unnecessary questioning concerning the victim's private life.

35. The Minister had previously indicated his intention to bring forward similar legislation and, as such, he agrees with the intended effect of this provision. We believe the clause would benefit from an amendment to replace the phrase "the victim" with the phrase "the complainant" in order to maintain consistency with the regular terminology used in criminal law. However Lord Morrow has indicated that he intends to table amendments to this effect and, as such, the Department does not propose any amendment.

Clause 14 – Amendments to the Criminal Evidence (Northern Ireland) Order 1999

36. Clause 14 would amend the Criminal Evidence (Northern Ireland) Order 1999 to ensure that victims of human trafficking are automatically entitled to special measures in court. This is another area where the Minister had intended to legislate and, as such, he agrees with the intended effect of this provision.

37. As with Clause 13, we believe that there would be merit in amending the clause to replace the phrase "the victim" at line 2 of Page 9 of the Bill, with the phrase "the complainant", to maintain consistency with the regular terminology used in criminal law. Lord Morrow has indicated his intention to table an amendment to this effect and, as such, the Department does not propose any amendment.

38. We wish to highlight, however, that, as with Clauses 1 and 5, subject to the outcome of the Department's current consultation exercise we may need to seek some further consequential amendment to Clause 14 in due course.

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Clause 15 – Prevention

39. Clause 15 would place a statutory requirement on the DOJ to publish an annual strategy "on raising awareness of and reducing trafficking in human beings and slavery offences in co-operation with non-governmental organisations and other relevant organisations." The strategy would in effect replace the Department's current non-statutory commitment to the production of an annual Human Trafficking Action Plan and the Department is content with the intended effect of the Clause.

40. As noted earlier, in respect of Clause 7, we have agreed with Lord Morrow that Clause 15 should be amended to require that the annual human trafficking strategy must include matters relating to training, investigation and prosecution. In addition, in order to address concerns relating to the non-prosecution of victims of human trafficking who have been compelled to commit an offence as a consequence of being a victim of trafficking, we would like to specify that the annual strategy must include matters relating to raising awareness of the rights and entitlements of victims of human trafficking across the criminal justice system. We intend to seek amendments to this effect.

Clause 16 – Northern Ireland Rapporteur

41. Clause 16 would require the DOJ to establish an independent rapporteur to report to the Assembly on the performance of the Act in Northern Ireland and on related matters. The Minister has acknowledged the need for effective monitoring and accountability in respect of human trafficking. As noted earlier, however, the Minister's view is that a more effective approach would be to extend the remit of a United Kingdom-wide Anti-Trafficking Commissioner (which the Modern Slavery Bill would establish) to cover Northern Ireland. The Minister intends to oppose the inclusion of this Clause within the Bill. Lord Morrow has acknowledged that a United Kingdom-wide Anti-Trafficking Commissioner may be a more effective approach but has indicated that he wants assurances about this body before taking any steps to withdraw his proposal for a local rapporteur.

Clause 17 – General interpretation

42. Clause 17 sets out general interpretation provisions in relation to the Bill. We believe that the clause would benefit from a number of amendments.

43. Clause 17(3) provides that in cases where the age of a person is uncertain and there are reasons to believe that the person is a child, they shall be presumed to be a child. We believe it would be helpful to clarify that *they* shall be presumed to be a child *pending verification of his or her age* and intend to seek an amendment to this effect.

44. Whilst Clause 9 seeks to define "victim" for the purposes of Parts 2 and 3, the Bill does not currently include an overarching definition of "victim of human trafficking". We believe it may be helpful to include such a definition under the "General Interpretation" at Clause 17. One possible option might be by reference to the definition set out in Article 4 to the Trafficking Convention. We are currently considering whether an amendment to this effect would be necessary or beneficial.

Clause 18 – Orders

45. This clause provides that Orders made by the Department under the resultant Act would be subject to affirmative resolution. The Department does not propose any amendments to Clause 18.

Clause 19 – Short title and commencement

46. Clause 19 sets out the Bill's short title and would provide for commencement by Order. The Department does not propose any amendments to this clause.

Prostitution

47. Clause 6 provides that any person who entered into a financial transaction in return for any sort of sexual service would commit an offence. The scope of the proposed offence is considered below. The Department does not argue with the proposition that the demand for sexual services can be a factor in the supply of trafficked victims into prostitution and in the exploitation of women and men.

However a range of views has been expressed on the appropriate response to these challenges. The Department continues to believe that the appropriate context in which to address this issue is that of a sound evidence base on the nature, extent and characteristics of prostitution in Northern Ireland. Given the wider focus of the Bill on the needs of victims, the Department believes that it is vital that full account is taken of the impact of legislative action on vulnerable individuals so that they are not put any greater risk of harm.

48. In evidence sessions to the Committee, there have been personal and moving accounts given of the individual experiences of women involved in prostitution, primarily outside Northern Ireland. Organisations involved in the support of prostitutes and the trafficked victim, again primarily from outside Northern Ireland, also gave evidence. It is clear from listening to these accounts that there are many different factors, across a spectrum, which may lead people into prostitution –; drug and alcohol addiction; childhood abuse and neglect; chaotic lifestyles; personal choice; economic betterment; abusive and exploitative relationships; and poverty. The criminalisation of those who buy sex will not eradicate these societal ills. There is also insufficient information on what negative impacts there might be on those vulnerable women, and men, who use prostitution as a way of earning a living. We do not know what may happen in terms of their safety and wellbeing if their client base is criminalised. There is no evidence base available in Northern Ireland to help make a sound judgment.

49. Current law criminalises various activities related to prostitution, aimed largely at preventing public nuisance, but, more importantly, preventing exploitation. Article 64A of the Sexual Offences (Northern Ireland) Order 2008 makes it an offence to pay for the sexual services of a prostitute who is subjected to force or any form of coercion or exploitation. The Minister has made clear his determination to address human trafficking and sexual exploitation, and in response to concerns raised about the time available within which to prosecute this offence, he has announced his intention to seek a legislative change to extend the time limit for prosecution of such cases from 6 months to 3 years.

50. Current law also criminalises heavily the exploiters – those who cause, incite and control prostitution and those who benefit financially from running brothels.

51. Proponents of the Swedish legislation point to its success in reducing demand for prostitution, but there are those who contest the claims made. Wherever the reality lies, the law in one jurisdiction may not necessarily work in another where there may be different legislative frameworks and societal contexts. The Minister intends to visit Sweden in the near future, to hear from proponents and opponents; from those who have experience in prostitution, or who provide support to those in prostitution, and those who administer the law. These findings will feed into his consideration of the way forward on future regulation, which will be informed by the outcome of the recently commissioned research into prostitution in Northern Ireland.

52. While the Department has previously carried out research into prostitution (published January 2011), this was done in the context of the Department's strategy to reduce offending among women. It focused on desktop research of practice in other jurisdictions, combined with engagement with relevant stakeholders. The forthcoming independent research will, for the first time, focus more effort on establishing the numbers and profiles involved in both on-street and off-street prostitution and will take the views of those working in Northern Ireland. It will also, for the first time, report their views on the potential impact in Northern Ireland of the criminalisation of the buyer. That is a very relevant factor in this discussion and was not, obviously, addressed in the previous research.

53. We are aware that the police have recently given evidence to the Committee that they are not opposed to Clause 6 but give it qualified support. Their reservations touch on issues of concern flowing from the possible wider consequences of introducing such an offence. The Department's position also has to take cognisance of such concerns, including issues of increased risk and safety of vulnerable women, the flow of information to the police on abuse and exploitation,

as well as support for exiting prostitution and the effectiveness and standing of the criminal law. Policy has to be developed from more than one perspective and from a base of appropriate and sound evidence, hence the need for further research.

54. The Minister has concluded that he cannot support Clause 6 as part of this Bill. He has made clear that he is prepared to consider the law on prostitution separately, when there has been time to consider various options and their possible impacts, and with the benefit of the research to provide an evidence base for future decisions. This will provide a unique opportunity to find a way forward that is tailored to the needs of Northern Ireland and best protects those vulnerable or exploited people involved in prostitution.

55. While this remains the Minister's position, we should mention that the wording of Clause 6 is particularly broad, covering any sexual services that are paid for. This could include, for example, ringing a telephone chatline, whilst Clause 6(3) might bring into scope arrangements between consenting adults not involved in prostitution.

Timing of Research

56. In response to the publication of research specifications (which were shared with the Committee in advance of publication), tenders have been received. These will be evaluated and it is hoped that a contract will be awarded by the end of March 2014, with expected completion of the research in the autumn of 2014.

The Committee's consultation

57. The Department has followed the extensive consultation process undertaken by the Committee on the Bill. A number of themes have emerged during the evidence sessions which have helped to inform both the Department's response to the Bill and its wider work on combating human trafficking.

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Forced labour

58. Many respondents to your consultation have emphasised that human trafficking in all its forms needs to be addressed and not just in respect of trafficking for sexual exploitation. There was significant concern about forced labour. The Joseph Rowntree Foundation, for example, welcomed recent initiatives which place a greater emphasis on forced labour and noted the complexity of issues around identifying this particular exploitation type. Other respondents noted the Bill's recognition of slavery offences under section 71 of the Coroners and Justice Act 2009.

59. The Department agrees that trafficking and exploitation in all its forms needs to be tackled. This can be illustrated by our approach in the Criminal Justice Act (Northern Ireland) 2013, where the Minister introduced provisions which require that all human trafficking offences, regardless of exploitation type, are triable on indictment only. In addition, following engagement with the Committee, the Minister is now consulting on measures which would ensure that slavery offences were also triable on indictment only and is proposing that the maximum sentence for slavery and trafficking offenders should be raised from 14 years to life imprisonment.

60. Furthermore the Department, working with partners on the Human Trafficking Engagement Group, has developed a programme of targeted engagement to raise awareness of human trafficking in its various forms and this is an area which we plan to develop further, with a specific focus on forced labour, through the 2014-15 Human Trafficking Action Plan.

Support for victims

61. Respondents were keen to ensure that victims of human trafficking were provided with support following their ordeal. Access to compensation, the prevention of secondary victimisation and a statutory requirement for support were common themes that were raised and which are covered by the Bill.

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62. The Minister agrees that the welfare of potential victims is of paramount concern and can assure the Committee that the Department is committed to assisting victims. The DOJ already provides a comprehensive package of care and support services for adult potential victims of human trafficking during the recovery and reflection period of the National Referral Mechanism. This is delivered by Migrant Help for those potential victims who are men and Women's Aid for those who are women. This support includes help to access specialised care such as medical treatment, psychological assistance, counselling and information. Access to translation, interpretation and legal services are also provided as necessary. As Committee Members are aware, the Minister agrees that this support should be put on a statutory footing. In terms of compensation, the existing statutory compensation scheme is also open to victims of human trafficking.

63. Protection and support for victims was identified as a priority under the 2013-14 Human Trafficking Action Plan and we have taken forward a range of measures aimed at potential victims. In addition to the support package, we have published an information leaflet for victims and we continue to look for ways to reach and identify victims. The Department has written to stakeholders across the Criminal Justice System to raise awareness of the needs of victims of human trafficking. Training by the organisations is another priority and, for those who may come into contact with potential victims, is expected to cover issues such as identification of signs and access to support. Other, wider work, such as the introduction of Victim and Witness Care Units and the development of a Victims' Charter will also help. We recognise, however, that there is more that can be done and will continue to further our work in this area.

Training and awareness

64. Evidence to the Committee has reinforced the importance of appropriate and effective training for law enforcement agencies in responding to these crimes. Again, we agree and training for frontline professionals in particular is another area that has been prioritised by the Department and its partners on the

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Immigration and Human Trafficking Subgroup of the Organised Crime Task Force (OCTF). The Department is working in conjunction with statutory partners to ensure that awareness of human trafficking and slavery is integrated into organisational training plans. Work to assess training needs and develop a training plan will continue over the coming months.

Recommendation

65. The Committee is invited to note:

- The Department's views on issues raised during the Committee's consultation;
- The Department's position in respect of Lord Morrow's Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, including the proposed amendments to that Bill;
- The potential impact of the proposals in the DOJ consultation Human Trafficking and Slavery: Strengthening Northern Ireland's Response on elements of Lord Morrow's Bill;
- That DOJ officials will continue to engage with Lord Morrow on these matters; and
- The Department's position in respect of issues relating to prostitution.

Tim Logan

TIM LOGAN
DALO

Correspondence from the Department of Justice outlining its position in relation to the Bill and the wording of its initial set of amendments

FROM THE OFFICE OF THE JUSTICE MINISTER

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Our ref SUB/352/2014

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

From: **Tim Logan, DALO**
Date: **19 March 2014**
To: **Christine Darrah**

SUMMARY

Business Area:	Protection and Organised Crime Division.
Issue:	DOJ proposed amendments to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. (Some amendments are still in discussion with Lord Morrow or in the process of being drafted).
Restrictions:	None.
Action Required:	To note and consider the initial set of amendments to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill which the Minister of Justice intends to table.

Background

Department of Justice (DOJ) officials briefed the Committee on 6 March on the Department's response to the Human Trafficking (Further Provisions and Support for Victims) Bill, indicating the Minister's position on the Bill.

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2. Further to that briefing, the Department is now able to provide the majority of its proposed draft amendments, ahead of the Committee's Clause by Clause analysis of the Bill. We regret that we are not yet in a position to provide all amendments at this stage. As officials outlined to the Committee on 6 March, the Department is engaging with Lord Morrow and with Legislative Counsel on amendments. We are continuing to seek to reach agreement on some outstanding areas. We will provide the Committee with further draft amendments as soon as these issues have been resolved and would hope to provide further amendments to the Committee next week, where possible. One area outside the direct responsibility of the Department is Clause 10. We are working with officials from the Department of Health, Social Services and Public Safety (DHSSPS) on amendments required to this Clause. The existing legislative framework governing DHSSPS's responsibilities in respect of the support provided to child victims and confirmed adult victims of human trafficking is complex and we understand that DHSSPS colleagues are continuing to work through these issues, including talking to Lord Morrow. We will need to come back to the Committee with draft amendments to Clause 10 and will endeavour to resolve the outstanding issues with DHSSPS and Lord Morrow as quickly as possible.

3. Notwithstanding the areas where further work is required, I set out below a number of proposed Departmental amendments for the Committee's consideration. These draft amendments cover both those areas for change that we have previously agreed with Lord Morrow, as well as some technical amendments which we believe are necessary to achieve Lord Morrow's intended effect (while not causing a conflict with other parts of the Northern Ireland Statute Book). We have indicated where Lord Morrow has seen the draft amendments and has said that he is content.

4. Before considering the detail of the draft amendments I would like to remind the Committee of the Department's proposals on new measures which are currently subject to public consultation. We would hope to legislate for most of these changes by amendments to this Bill. Indeed, as we have previously highlighted, some of these proposals would, if enacted, have a direct impact the Bill. In particular, the

proposal to simplify the existing legislation and create a new consolidated offence of human trafficking would have implications for Clauses 1, 5 and 14 of Lord Morrow's Bill and the proposal to extend the powers and jurisdiction of the United Kingdom-wide Anti Slavery Commissioner (as set out in the draft Modern Slavery Bill) to cover Northern Ireland would impact on Clause 16.

Clause by Clause - draft amendments

5. The Department's current position against each clause is set out below, including proposed draft amendments where it has been possible to prepare these. We have provided a commentary to summarise the purpose of the amendments and why we believe they are necessary. Where work on further amendments is ongoing, we have also highlighted this.

Clause 1 (Definition of human trafficking and slavery offences)

6. The Department is supportive of the Clause and does not intend to make any further amendments to Clause 1 at this stage. As noted, however, our consultation proposals would directly impact on this Clause.

Clause 2 (Consent irrelevant for victim of human trafficking or slavery offences)

7. In engaging with Legislative Counsel and Lord Morrow on this Clause we have identified some technical issues which we have been working through with Lord Morrow. Lord Morrow has indicated that he intends to table a further amendment to this Clause to resolve these technical issues and as such, the Department does not propose any amendments at this time.

Clause 3 (Aggravating factors)

8. Working with Lord Morrow and Legislative Counsel we have identified a need for some technical amendments in respect of Clause 3. In short these amendments would:

- insert a definition of "public official";

- standardise the various references to the family of the victim (for consistency);
- define the family of the victim by reference to Article 34 of the Sexual Offences Order;
- correct subsection (1)(g) to refer to the offender rather than the offence;
- correct the definition of "position of trust", which in the current Bill cites Article 29 instead of Article 28 of the Sexual Offences (Northern Ireland) Order 2008;
- omit the reference to an offence involving "serious violence" on the ground it would already be reflected in the reference to serious harm to the victim; and
- extend the 'previous convictions' ground to cover convictions for similar offences outside NI.

9. Lord Morrow has indicated that he is content with these proposed amendments, although we are continuing to look at the definition of "vulnerable adult" under Subsection 3(2) and will need to come back to the Committee with a further amendment as soon as we can – hopefully next week.

Proposed amendments to Clause 3:

Clause 3, Page 2, Line 13
Leave out 'family member' and insert 'member of the family'

Clause 3, Page 2, Line 15
Leave out 'a victim who was'

Clause 3, Page 2, Line 17,
Leave out 'the victim's family' and insert 'a member of the family of the victim'

Clause 3, Page 2, Line 19
Leave out 'offence' and insert 'offender'

Clause 3, Page 2, Line 21

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Leave out 'was committed by use of serious violence or'

Clause 3, Page 2, Line 24

At end insert 'or has previously been convicted in respect of anything done outside Northern Ireland which is not such an offence but would be such an offence if done in Northern Ireland'

Clause 3, Page 2, Line 26

Leave out '29' and insert '28'

Clause 3, Page 2, Line 27

At end insert—

' "public official" means—

(a) a member of the Northern Ireland civil service or the United Kingdom civil service;

(b) a person employed by a body established by an Act of Parliament or by Northern Ireland legislation;

(c) the holder of an office established by an Act of Parliament or by Northern Ireland legislation;

(d) a police officer.'

Clause 4 (Minimum sentence for human trafficking and slavery offences)

10. The Minister intends to oppose Clause 4 on the basis that it would have a negative impact on judicial discretion. The Committee is also aware that the Minister's most serious concerns about Clause 4 relate to its impact on children; as currently drafted the Clause would apply to children as well as adults. His strong view is that children should not be subject to the same sentencing framework as adults. The Minister has noted and welcomes Lord Morrow's intention to table an amendment to ensure that the provisions under Clause 4 should not apply to children. The Department does not, therefore, propose any amendments to this Clause, however, our assessment is that if Clause 4 were to remain in the Bill it would require some redrafting to make technical amendments to sentencing law. We understand that Lord Morrow is working on these amendments to this Clause.

Clause 5 (Amendments to the Asylum and Immigration (Treatment of Claimants etc) Act 2004

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11. The Department's proposals for new measures to strengthen Northern Ireland's response to slavery and human trafficking would, subject to consultation, result in the repeal of Clause 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 and as such would render Clause 5 redundant. Were Clause 5 to remain part of the Bill, we believe a number of technical amendments would be necessary. We have not instructed Legislative Counsel to prepare draft amendments to the Clause at this stage.

Clause 6 (Paying for sexual services of a person)

12. The Minister intends to oppose Clause 6 in its entirety and as such the Department does not intend to propose any amendments to this Clause. We have previously highlighted that if it proceeds it will require amendment.

13. Article 64A of the Sexual Offences (Northern Ireland) Order 2008 makes it an offence to pay for the sexual services of a prostitute who is subjected to force or any form of coercion or exploitation. The Department is engaging with Legislative Counsel on an amendment to extend the time limit for prosecution of offences under Article 64A of the Sexual Offences (Northern Ireland) Order 2008 from six months to three years and will provide the Committee with a draft amendment as soon as possible.

Clause 7 (Requirements and resources for investigation or prosecution)

14. The Minister has agreed with Lord Morrow that Clause 7(1) should be omitted from the Bill. We have prepared amendments to this effect. We are also proposing an amendment to omit the words "wherever the offence takes place" at subsection 7(2), since the provision can only deal with the investigation of offences under the law of Northern Ireland.

Proposed amendments to Clause 7:

Clause 7, Page 4, Line 10
Leave out subsection (1)

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Clause 7, Page 4, Line 19
Leave out 'wherever the offence takes place'

Clause 8 (Non prosecution of victims of trafficking in human beings)

15. As we have outlined previously, the Department cannot support Clause 8 as currently drafted. The Minister believes that Clause 8 goes too far and is satisfied that the necessary safeguards to protect victims of human trafficking who have been coerced to commit other offences are already in place in the Northern Ireland. We understand that Lord Morrow is still considering the points that the Department has raised and we are continuing to engage with him with a view to reaching agreement on this issue. As such, at this stage we have not proposed any amendments to Clause 8 although if it remains in its current draft the Minister will oppose its inclusion in the Bill. We are continuing to work on amendments to Clause 15 which are, in part, intended to address concerns around protecting the rights and entitlements of victims of human trafficking in the context of the strategy under Clause 15. (An indicative amendment, to add a new Clause 15, is set out below under the commentary to that Clause).

Clause 9 (Victim of trafficking in human beings)

16. We believe that further amendment to Clause 9 will be needed to clarify the definitions of victims of human trafficking in relation to the distinct roles and responsibilities of both the DOJ and DHSSPS in respect of providing support to victims and potential victims of human trafficking. DOJ's specific responsibilities are in respect of support provided to *adult* victims of human trafficking who have received a reasonable grounds decision but who have not yet received a conclusive determination (ie., *potential* victims who are still within the Recovery and Reflection period of the National Referral Mechanism). DHSSPS is responsible for providing support to all *child* victims and to adults who have received a positive conclusive grounds decision (ie., *confirmed* victims). We will come back to the Committee with draft amendments to this Clause as soon as possible. We hope to do so next week.

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Clause 10 (Requirements for assistance and support)

17. DOJ officials are continuing to work with DHSSPS on amendments to Clause 10, including amendments needed to set out the respective functions and responsibilities of each Department. We will come back to the Committee with suggested amendments as soon as possible. This is, however, a complex area, particularly in light of how the Clause will interface with the legislative framework under which DHSSPS currently operates. Whilst it may be easier to identify an amendment setting out the requirements on DOJ in respect of the assistance and support to be provided to adult *potential* victims of human trafficking, such an amendment would not be comprehensive without equivalent provisions in respect of the assistance and support to be provided by DHSSPS. We will continue to work with Lord Morrow, Legislative Counsel and DHSSPS on this Clause. It is unlikely that the Departments will be in a position to provide comprehensive amendments to the Clause before the end of Committee Stage.

Clause 11 (Compensation for victims of trafficking)

18. The Minister has agreed with Lord Morrow that Clause 11 should be amended to require the Department to produce statutory *guidance*, as opposed to an Order, in respect of compensation for victims of human trafficking. They have also agreed that subsection 11(b)(ii) is not needed since victims do not need to be resident in Northern Ireland in order to be able to apply for compensation.

Proposed amendment to Clause 11:

Clause 11, Page 6, Line 19

Leave out from ', by order' to end of line 25 and insert—

'shall issue guidance as to—

(a) the procedures to be followed by a victim of human trafficking to apply for compensation under the Criminal Injuries (Compensation) (Northern Ireland) Order 2002;

(b) the grounds on which compensation may be awarded under that Order; and

(c) the arrangements available to assist and support a victim of human trafficking in applying for such compensation.'

Clause 12 (Child trafficking guardian)

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19. Clause 12 is a matter for DHSSPS. The Justice Minister does not intend to table any amendments to this Clause.

Clause 13 (Protection of victims in criminal investigations)

20. Lord Morrow has signalled his intention to table amendments to Clause 13 to replace the word "victim" with "complainant". We welcome this move. In addition, through our ongoing engagement with Legislative Counsel and Lord Morrow we have identified some further technical issues and propose two new amendments to address these. The first replaces the phrase "the chief officer of police" with a reference instead to the Chief Constable. The second replaces the term "professionals" in subsection 13(b)(iii), which we consider to be a potentially confusing term, with the term "persons". Clause 13(b)(iii) has directly replicated the terminology of Article 15(3)(c) of the European Directive. In law professional can mean membership of the identified professions , or having a high level of competence in carrying out a job or vocation in a "professional manner". The intention of the European Directive is that law enforcement officers conducting the interview of a child should be properly trained.

21. We know the purpose of Article 15(3)(c) of the European Directive - "Persons" trained for the purpose of interviewing children. We believe that the amendment below achieves this legal requirement and avoids unnecessary potential arguments about vocations and professions, especially as the current Bill does not attempt to define in any manner what is meant by "professionals" in clause 13(b)(iii). Lord Morrow has indicated that he is content.

22. We are also considering whether there is a need for a further minor technical amendment and may need to come back to the Committee on this next week.

Proposed amendments to Clause 13:

Clause 13, Page 8, Line 6
Leave out 'chief officer of police' and insert 'Chief Constable'

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Clause 13, Page 8, Line 21
Leave out 'professionals' and insert 'persons'

Clause 14 (Amendments to the Criminal Evidence (Northern Ireland) Order 1999)

23. At this stage the Department is not proposing any amendments to this Clause, although, as we have noted our current consultation on new proposals may have a bearing on the Clause and we may need to come back with further amendments.

Clause 15 (Prevention)

24. The Department has proposed that Clause 15 should be amended to ensure that the strategy it requires the Department to produce will cover issues related to training, investigation and prosecution and to efforts to raise awareness of the rights and entitlements of victims of human trafficking. We have made good progress towards agreeing amendments with Lord Morrow, however we are not yet in a position to share the final agreed draft. In order to give the Committee a sense of how the final proposed amendment is likely to read we have included below the latest indicative draft. Lord Morrow has proposed a number of additional revisions which we are working through and we hope to be able to provide the Committee with a final draft next week.

Indicative draft new Clause 15

Clause 15, Page 9,
Leave out lines 27 to 30 and insert—
15.—(1) The Department shall, at least once in every year, publish a strategy on human trafficking and slavery offences.

(2) The purpose of the strategy is to—

(a) raise awareness of human trafficking and slavery offences in Northern Ireland;

(b) contribute to a reduction in the number of such offences.

(3) The strategy shall in particular—

(a) set out arrangements for co-operation between agencies and organisations with functions relating to human trafficking or slavery offences or the victims of such offences;

(b) include provision as to the training and equipment of those involved in investigating or prosecuting human trafficking or slavery offences or dealing with victims of such offences, including provision raising awareness of the rights and entitlements of victims of such offences.'

Clause 16 (Northern Ireland Rapporteur)

25. The Minister has proposed that the remit of the Anti-Slavery Commissioner which the draft Modern Slavery Bill would create should extend to Northern Ireland and, as such, he intends to oppose the inclusion of Clause 16 in the Bill.

Clause 17 (General Interpretation)

26. The Department intends to table a technical amendment to Clause 17, which is intended to simplify the definition of "child" under the Bill. Lord Morrow is content.

Proposed amendment to Clause 17

Clause 17, Page 10, Line 1
Leave out from 'shall' to end of line 2 and insert 'means a person under the age of 18'

Clause 18 (Orders)

27. The Department is continuing to work on a number of minor technical points and will come back to the Committee with any amendments to this Clause as soon as possible. We understand that Lord Morrow also intends to table further amendments.

Clause 19 (Short title and commencement)

28. The Department has identified a number of technical points to the Clause that need to be addressed. We believe two amendments are needed to ensure that the power to make Commencement Orders under the Bill comes into operation before that power is exercisable and to reflect drafting conventions within the Northern Ireland Assembly in respect of the short title.

Draft amendment:

Clause 19, Page 10, Line 11

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Leave out '(Northern Ireland) Act 2013' and insert 'Act (Northern Ireland) 2014'

Clause 19, Page 10, Line 12

Leave out 'This Act comes into force' and insert 'The preceding sections of this Act come into operation'

Recommendation

29. The Committee is invited to note:

- the draft amendments that the Minister proposes to table;
- the ongoing work with Lord Morrow to resolve outstanding concerns; and
- the Department's intention to bring further amendments to the Committee as soon as possible, but that it is unlikely that issues relating to Clause 10 will be resolved before Committee Stage ends.

D Graham

AP **TIM LOGAN**
DALO

Correspondence from the Department of Justice following the oral evidence session on 6 March 2014 regarding the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

FROM THE OFFICE OF THE MINISTER OF JUSTICE



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Our ref: SUB/363/2014

Christine Darrah
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BELFAST
BT4 3XX

25 March 2014

Dear Christine,

HUMAN TRAFFICKING AND EXPLOITATION (FURTHER PROVISIONS AND SUPPORT FOR VICTIMS) BILL: COMMITTEE SESSION ON 6 MARCH

The Minister has asked me to raise a matter with you concerning the Committee's meeting on 6 March, when Mr Wells MLA questioned Departmental officials on, amongst other matters, a meeting with Ms Lucy Smith and Mr Mark McCormick. Mr Wells indicated he was quoting from a blog which alleged that the officials concerned had said they "hated the DUP" more than Ms Smith and Mr McCormick. Officials denied the allegations and said that no such meeting had taken place. We appreciate that, after further questioning, Mr Wells accepted these denials. However the Department is now in possession of additional information about what appears to be the source of the allegations.

Following the Committee appearance, officials were contacted by Ms Smith and by Mr Douglas Fox, who had also been named. Ms Smith supported officials' assertion that no meeting as had been referred to at the Committee had taken place. Mr Fox supplied the attached extract, which he stated to have been sent to him by a

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journalist. He has made clear his view that the purported extract is a forgery and internet research confirms that the contents of the extract do not appear online. We understand that tools such as "Fakebook" are available online and allow extracts from Facebook pages to be mocked up. The Department therefore shares the view that this is a fake document.

The extract reflects the words Mr Wells quoted, and may well be what had been supplied to him prior to the meeting. The Minister has asked that this letter reiterates what officials said at the meeting: no meeting with Ms Smith and/or Mr McCormick took place, and the words attributed to officials in the forged extract are a complete fabrication.

Integrity is the first of the values in the Civil Service Code of Ethics, and is fundamental to the relationship between Departmental officials and the Committee. That is why the Minister is keen that the record reflects the facts. We very much appreciate the privilege that attaches to statements in the Assembly, and the reasons behind that. However, the existence of forged documents aimed at discrediting officials is a matter of considerable concern to the Department, as we imagine it is to the Committee. For our part, if any further information comes to light about who created the fake extract, we will advise the Committee of it. If the Committee intends to make any further enquiries about the source and use of the document, it would likewise be helpful if the Department could be advised of any relevant information.

I have also been asked to tell you that Departmental lawyers have advised that, should the allegations be raised by persons outside the Assembly, and in particular should the author of the purported Facebook extract come to light, given the importance of maintaining officials' integrity the Department would need to consider what further action was appropriate in the light of the defamation laws.

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I should be grateful if you could confirm that this letter has been seen and noted by the Committee.

Tim Logan

TIM LOGAN
DALO

Douglas Fox
Timeline
2013
Highlights
Midori Midori
Zahra Stardust
Places · 2013
Visited 42 Places
Douglas Fox was at San Lorenzo and 41 other places.
See All Stories
Newcastle upon Tyne
Whitley Bay
South Shields
Sunderland
Washington
Likes · 2013
WEAKEST LINK & friends!
The Weakest Link & Friends
Hyper promotions
+34
Timeline · 2013
44 friends posted on Douglas's Timeline.
Lucy Smith ▶ Douglas Fox
31 October 2013
Meeting with NI DoJ went purrfect today! :)
Spending two hours getting ready every morning really brings out your natural beauty.
someecards
Like · Comment · Share
7 people like this.
Douglas Fox Nice one... Whatwere Gareth and Amanda like?
31 October 2013 at 19:24 · Like
Lucy Smith Lovely, they hate the DUP more than us! Will be opposing Bill!
1 November at 10:53 · Like
Laura Lee You go girl!!!!!!!!!!!!!!!! You do the nords and I'll do the nuns, together we'll beat them to a pulp!
1 November at 11:07 · Like
Lucy Smith Ok Mark M came with me, but he didn't tell them his surname!!! They understand Swedish Model doesn't work, only puts sex workers in more danger. But said DUP very moralistic about sex and will not back down easily so we'll have to present a decent case against it and win over all the other parties.
1 November at 14:45 · Like · 2

Further correspondence from the Department of Justice on actions the Department is taking to support those wishing to exit prostitution

FROM THE OFFICE OF THE JUSTICE MINISTER

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Our ref SUB/396/2014

Christine Darrah
Clerk to the Committee for Justice
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27 March 2014

Dear Christine,

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

Thank you for your letter dated 18 March relating to the meeting of the Committee for Justice on 6 March 2014 when Departmental official's provided oral evidence in relation to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

During the oral evidence session Mr Wells sought details of how many people had been helped out of prostitution and, as the responsibility lies with particular criminal justice and health agencies, officials agreed to check the position and provide the information.

I can advise that neither the Department nor any of the criminal justice and health agencies which provide services and support for individuals who may wish to exit prostitution, records any data on those individuals who exit. The services and support provided are done so in a discreet, confidential and non-judgemental manner. While professionals working with women, and men, may have well

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founded suspicions, it is often difficult for individuals to disclose their involvement in prostitution. Although disclosure may occur in time, it is unlikely that a woman engaged in prostitution will exit it quickly, easily, or at least in the early stages, completely.

The Department and relevant agencies continue to work together to support those wishing to exit prostitution. Actions being taken forward are set out in the Department's refreshed women's strategy: Reducing Offending Among Women 2013-2016, published in November 2013 (copy attached).

Tim Logan

TIM LOGAN
DALO

Enc. Reducing Offending Among Women 2013-2016

Reducing Offending Among Women

2013 – 2016

Minister's Foreword

I am pleased to publish Reducing Offending Among Women, the refresh of my women offenders strategy.

The strategy, published in 2010, was one of the early parts of my reform agenda. Women account for a small proportion of offenders in Northern Ireland, yet offending behaviour among women can impact adversely on the victim, the woman herself, and on any children she may have. We know the strong influence mothers have on their child's future prospects; working with women is therefore an important part of my Department's prevention and early intervention agenda.

In putting the women offenders strategy in place, I recognised the complex range of often inter-connected issues associated with offending behaviour among women. There is an onus on us to respond appropriately to the needs of women at all stages of the justice system.

We have made good progress since 2010 and can rightly be proud of achievements, such as the widely recognised good practice of the Inspire model. We have much to build upon as we continue in our efforts to reduce offending among women.

I will ensure a continued focus on addressing the needs of women as I continue to implement my reform agenda. For me, it is not necessarily about creating new pilots or short-term initiatives; it is about ensuring that we recognise and respond to the particular needs of women as a normal part of everything we do within the justice system.

We will continue to support and work with our partners across government and the voluntary and community sectors to prevent and divert women from offending. Within the justice system, we will, as resources become available, roll out the Inspire model and establish the long-awaited new custodial facility for women.

To deliver on this strategy, I am committed to continuing to work in partnership with colleagues in the justice system and beyond, and with the voluntary and community sector, which plays such an important role in working with women in the community and in custody.

This strategy is the product of a very useful process of engagement with partners and stakeholders. I would like to thank all who contributed to the refresh, including the women themselves. I want to see our combined efforts make a real and positive difference, not only for those women and their families, but in building a safer society for all our people.

David Ford MLA
Minister of Justice

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Chapter 1: Introduction

1. Women make up a small proportion of those involved in offending behaviour in Northern Ireland, yet offending by women can have a disproportionate impact on the woman and any children she may have, as well as on the victim. *In October 2010, the Justice Minister published Women's Offending Behaviour in Northern Ireland: A Strategy to Manage Women Offenders and those Vulnerable to Offending Behaviour 2010-2013*. The Strategy had a vision:

> *"To provide a criminal justice system in which the particular needs of women offenders and those at risk of offending are recognised and addressed, and effective pathways out of crime are delivered."*

2. The Strategy was a new approach in Northern Ireland and brought about a sharper focus on meeting the needs of women offenders. Good progress has been made since 2010, but there is much more that can be done to reduce offending among women. The Department has therefore engaged with stakeholders, including women involved in the justice system, to refresh the women's strategy for the 2013-2016 period. A summary of the stakeholder engagement, along with the main issues identified, is provided at Annex A.

3. This second phase of the women offenders strategy, now entitled *Reducing Offending Among Women 2013 – 2016*, remains directed at the vision statement set out in 2010. It takes account of the local, national and international rights and standards relating to women. The main standards are: Section 75 equality duties that apply to public authorities in Northern Ireland, the Human Rights Act, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)[1], and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)[2].

4. The Strategy aims to reduce offending among women through work both to prevent girls and women becoming involved in offending and to bring down reoffending among those who do. Most women who offend pose a low risk to society but often have a high level of need. However, there are some women who commit serious offences and for whom secure custody and/or more intensive supervision is required. The justice system will continue to detect and, appropriately and proportionately, sentence offenders. To achieve long-term success in reducing offending, it will work in partnership with government departments and agencies, and the voluntary and community sectors, to deliver interventions that address the complex issues underlying offending behaviour among women.

5. The needs, experiences and behaviours of women differ from those of men and should be responded to accordingly. Reducing Offending Among Women therefore seeks to promote and embed a gender-informed approach throughout the criminal justice system to ensure it is effective in responding to the needs of women, and ultimately reducing offending behaviour among women.

6. A gender-informed approach means addressing the needs of women in a holistic way, taking account of the realities of women's lives, and matching interventions with risks and need. It involves the development of relationships, between criminal justice practitioners and the women they supervise and support, that are based on respect and dignity, and enable women to build on their strengths and to make positive changes.

1 http://www.un.org/womenwatch/daw/cedaw/

2 http://www.un.org/en/ecosoc/docs/2010/res%202010-16.pdf

7. A gender-informed approach should underpin each stage of the justice system. To deliver on that vision, the Department of Justice, working with partners within justice and across the statutory, voluntary and community sectors, will:

- Focus on prevention and early intervention strategies that will improve outcomes for girls and women and reduce the risk of involvement in offending behaviour.
- Continue to put in place alternative measures to divert girls and women, particularly those who have some form of vulnerability, from prosecution and custody.
- Provide child-centred interventions for young female offenders being supervised in the community or held in custody.
- Roll out the Inspire model across Northern Ireland to provide communitybased interventions aimed at reducing reoffending among women.
- Establish a new, separate custodial facility and step-down accommodation specifically for women, with a prison culture focused on addressing the needs of women.
- Support women involved in prostitution to exit the trade.
- Ensure a continuing strategic focus on reducing offending among women that is supported by local research and awareness raising.

Chapter 2: Background

8. Local experience, authoritative reports and international evidence identify the particular issues and challenges in working with women in the criminal justice system and highlight reforms that can better address offending behaviour among women.

9. Offending behaviour among women tends to be linked to particular vulnerabilities and complex interactions of personal and socio-economic circumstances. These include: dysfunctional family backgrounds, particularly being in care; mental health and emotional well-being; drug and alcohol misuse; relationship difficulties, typically with a male partner; being a victim of some form of abuse; childcare responsibilities; disengagement from school and poor educational attainment; unemployment; and socio-economic deprivation and disadvantage.

10. Most women offenders pose a low risk, or even no risk, to society as a whole. Even in cases where women are convicted of violence against the person, this may be linked to a relationship problem, a mental health issue or to the effects of substance misuse. In many cases, the violent offence is assault against a police officer while resisting arrest.

11. Offending behaviour among women has harmful effects on the women themselves, their families and wider society. Women suffer emotional trauma as a result of stigma, shame or separation from their families. Imprisonment has been found to have a particularly harmful impact on women, with rates of self-harm much higher among female inmates than males.

12. Women who have offended have difficulty in accessing employment (particularly in traditional female sectors, such as healthcare and childcare) and suffer financial hardship as a result of having a criminal record. Their children suffer the trauma associated with separation from a parent and are at greater risk of poor health and emotional wellbeing, under-achievement at school and later involvement in offending behaviour. Offending behaviour also impacts upon the victims and wider society in dealing with the financial and emotional cost of crime and family dysfunction.

13. The overwhelming consensus is that work to reduce offending behaviour among women should focus on addressing, in a holistic way, the complex needs and issues underpinning their offending behaviour. This is likely to involve some combination of support to help women to deal with mental health and emotional well-being; victimisation; substance misuse; to gain qualifications and develop skills, including self-esteem and life skills, along with employability skills; to re-build relationships and family links; and deal with accommodation difficulties. In both the community and in custody, it will involve partnership working between the range of statutory, voluntary and community organisations working with and providing services for women.

Progress Made on *Women's Offending Behaviour in Northern Ireland 2010-2013*

14. The women's strategy published in 2010 included an action plan with four strands: Providing Alternatives to Prosecution and Custody; Reducing Offending; Inspire Women's Project – Gender Specific Community Supervision and Interventions; and Developing a Gender-Specific Approach to the Management of Women in Custody. Some of the actions taken include:

- **Alternatives to Prosecution**: introduction of fixed penalty notices.
- **Alternatives to Custody**: a supervised activity order pilot scheme and development of plans to improve fine collection and reduce the use of custody for fine default.
- **Review of Community Sentences**: proposed reinforcing the need for courts to consider whether a community sentence, rather than a short custodial sentence, might offer more effective rehabilitative opportunities to the offender.
- **Inspire Women's Project**: DOJ mainstreamed funding for the PBNI led scheme in Belfast. Work is underway to roll out the Inspire approach across Northern Ireland, in line with the

Prisons Review Team's recommendation that it be adopted as the norm in dealing with women who offend.

- ***Gender-Specific Standards for Working with Women Prisoners***[3] - NIPS has developed these to underpin the implementation of a gender-specific approach within custody.
- **Pathways to rehabilitation**[4] - work continues to support women in custody and the community following the nine pathways, for example, employment support through NIACRO's Jobtrack programme and Business in the Community; addictions support provided by AD:EPT and a pilot 'hard-to-place' case conference model.
- **New small secure custodial facility for women**: the Justice Minister announced his decision to establish a new facility and work is underway to develop options as to its ideal size and model of provision.

Developments in England and Wales, Scotland and the Republic of Ireland

15. The Ministry of Justice published its Strategic Priorities for Female Offenders in England and Wales on 22 March 2013[5]. Its priorities are:

- Ensuring the provision of credible, robust community sentencing options that combine a punitive and rehabilitative element, as an alternative to short custodial sentences.
- Ensuring the provision of services in the community to address the specific needs of female offenders. This will involve joined-up working with partners within and beyond the criminal justice system to raise awareness and ensure the needs of female offenders are addressed.
- A review of the women's custodial estate and regimes, to consider capacity, distance from home, future composition and accommodation needs.
- Ensuring that women's needs are recognised in the Transforming Rehabilitation programme and that post-release support is provided for women serving custodial sentences of 12 months or less.

16. The Scottish Government is progressing work to implement the recommendations made by Dame Eilish Angiolini's Commission on Women Offenders[6]. Actions include establishing a new women's prison; supporting a range of reducing reoffending projects, including the provision of mentoring support by public social partnerships; and piloting a multi-agency approach to diversion from prosecution.

17. The Irish Prison Service has made a commitment in its Strategic Plan 2012-2015 to develop a strategy for dealing with women offenders, in partnership with the Irish Probation Service and other stakeholders in the statutory, community and voluntary sectors.

3 http://www.dojni.gov.uk/index/ni-prison-service/nips-publications/policy_-eports/gender-specificstandards-for-working-with-women-prisoners.htm

4 The nine Pathways are: accommodation; education, employment and training; health; alcohol and substance misuse; children and families; attitudes, thinking and behaviours; supporting women who have been abused, raped or who have experience domestic violence; and supporting women involved in prostitution. The last two Pathways were introduced in recognition of issues faced by mostly female offenders.

5 http://www.justice.gov.uk/downloads/publications/policy/moj/strategic-objectives-female-offenders.pdf

6 The report is available via http://www.scotland.gov.uk/Resource/0039/00391828.pdf and the Scottish Government's response is available via http://www.scotland.gov.uk/Resource/0039/00395683.pdf

Chapter 3: Strategy Refresh

Why Refresh?

18. The preceding chapter set out the progress that has been made. However, local research and evidence reminds us that there remain issues to be addressed[7]. Data on women in the criminal justice system in Northern Ireland is provided at Annex B.

Aim and Outcomes

19. We want more girls and women to lead healthy and positive lives, with strong family and social bonds, self-esteem, and the skills and qualifications that enable them to gain sustained, well-paid employment and maintain a home.

20. In terms of specific criminal justice outcomes, we want to achieve:

- A reduction in the number of girls and women becoming involved in offending behaviour.
- A reduction in the number of girls and women held in custody.
- Reduced re-offending amongst girls and women.

Achieving the Outcomes

21. In May 2013, the Justice Minister published, on behalf of the Executive, *a Strategic Framework for Reducing Offending*[8]. It aims to both prevent offending and reduce reoffending through partnership working, across justice, across government and with the wider voluntary, community and private sectors, to tackle the issues associated with offending behaviour.

22. The Strategic Framework will ensure the coordination of policies, strategies and programmes across other Government departments and within justice, which will reduce offending in Northern Ireland. Annex C explains how relevant Executive policies and the major strands of the Minister's reform agenda, including the Prisons Review, Youth Justice Review, Community Safety Strategy, Speeding Up Justice programme, Review of Community Sentences and the Vulnerable Individuals Programme, will benefit young and adult women.

23. *Reducing Offending Among Women* should be seen in the context of the Strategic Framework for Reducing Offending and gives renewed impetus to our efforts to reduce offending among women. It is not proposing any major new developments, 'initiatives' or 'pilots'. Targeted efforts and available resources within the criminal justice system will be directed towards continued delivery of the current reform agenda during the 2013-2016 period. At this stage, no new policies are considered necessary; the onus is on ensuring that the policies and reforms that are being put in place are consolidated and contribute effectively to the vision and aims set out in this Strategy.

A Gender-Informed Approach

24. Fundamentally, Reducing Offending Among Women is about the approach the justice system takes when working with young and adult women. We need to continue to develop and embed a gender-informed approach throughout the justice system. That means taking account of the realities of women's lives, meeting their needs in a holistic way, and supporting and challenging them through relationships built on trust and respect, between staff and the women that they work with, to make positive changes in their lives.

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7 For example, see Chapter 9: Women and Young Adults of Prison Review Team Final Report (2011): Review of the Northern Ireland Prison Service (available via http://www.dojni.gov.uk/index/ni-prisonservice/nips-publications/independent-reports-reviews-nips/owers-review-of-the-northern-irelandprison-service.htm) and Criminal Justice Inspection Northern Ireland (2013): Report on an announced inspection of Ash House, Hydebank Wood Women's Prison 18-22 February 2013 (available via http://www.cjini.org/TheInspections/Inspection-Reports/Latest-Publications.aspx?did=1251).

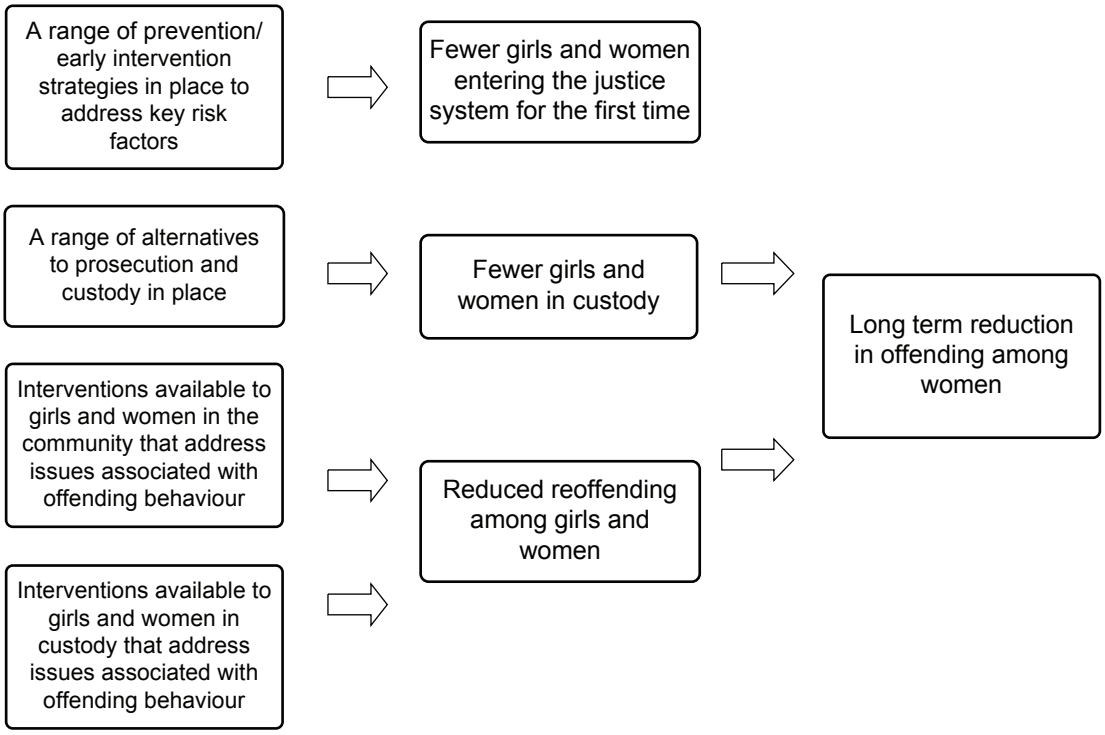
8 Available via http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policingcommunity-safety/doj-strategic-framework.pdf

25. Reducing Offending Among Women will ensure that the needs of women are appropriately provided for as the Minister's reform agenda is taken forward by the Department, the criminal justice sector, and voluntary and community sector partners. In doing so, we will work to improve the links between the various parts of the justice system and with our statutory, voluntary and community partners, particularly to improve information flows and the timely provision of practical support to women.

Actions to Reduce Offending Among Women

26. Our strategy is summarised in Figure 1 below.

Figure 1:



27. In terms of specific roles, the Department of Justice will:

- Provide strategic leadership and ensure a coordinated focus through the Women's Strategy Steering Group; embedding a gender-informed approach across the justice system.
- Ensure the needs of women are appropriately considered and addressed as work progresses on the Minister's reform agenda, i.e. the Strategic Framework for Reducing Offending, the Youth Justice Review, the Prisons Review, the Community Safety Strategy, the Speeding Up Justice programme and the Vulnerable Individuals programme.
- Take the lead in addressing cross-cutting issues within the justice system and with other Departments, such as prostitution (see Chapter 4) or early interventions with vulnerable groups (e.g. girls leaving care).
- Raise awareness and publish local research and data on women in the justice system in Northern Ireland.
- Keep this strategy (and the resource position) under review to identify gaps and opportunities for action between 2013-2016 or for 2016 and beyond.

28. The Criminal Justice agencies will work to address the needs of girls and women:

- The Youth Justice Agency will continue to provide child-centred supervision and support for young women in the community, and in custody, to address their offending behaviour.
- PSNI will work with its partners to roll out the three strands of Reducing Offending in Partnership (ROP) and to put interventions in place for female offenders being managed through ROP. This will include a greater focus on providing interventions for women in police custody, with partners being fully consulted throughout the investigative process prior to a decision being made in respect of remand or specific bail conditions. PSNI will also continue to review and improve its approaches in responding to females.
- PBNI will work with partners to further develop, embed and, when resources permit, roll out the Inspire model as the norm for the supervision and support for female offenders in the community. This will include putting in place a gender-informed approach to the preparation of Pre-Sentence Reports for adult female offenders.
- PSNI and NIPS will work to create a more joined up approach between police and prison custody healthcare, ensuring more fluid sharing of information and more expedient responses to meeting the assessed needs of vulnerable individuals.
- NIPS will publish a Female Development Strategy by December 2013, complemented by work to refurbish Ash House. NIPS will also continue to provide support for women under each of the nine Pathways to Resettlement.
- NIPS will complete implement agreed recommendations arising from its review of categorisation for female prisoners. The purpose of the review is to analyse the current policy and practice and make recommendations to ensure that categorisation decisions are based not only on the risk posed by prisoners, but also on what their needs are.
- NIPS will, in line with available capital resources, establish a new, small custodial facility for women. The proposed concept is one of a community village model, with secure accommodation for most serious offenders and those with severe mental health needs, along with step-down accommodation for female prisoners assessed as suitable for working in the community to better prepare them for resettlement.

Chapter 4: Prostitution

Background

29. Supporting women involved in prostitution became one of the nine Pathways to Rehabilitation, recognizing an issue that particularly affects women (accepting that men and transsexual and transgendered people are also involved in prostitution). Prostitution has also attracted strong political interest in the context of human trafficking.

30. It is very difficult to get an exact figure for the number of women involved in prostitution in Northern Ireland as, by its nature, prostitution is a hidden activity. It is believed that, in recent times, street prostitution has declined and off-street forms of prostitution, such as brothels and internet-based services, have increased. The nature and level of prostitution activity is also likely to vary across Northern Ireland.

31. Not all women involved in prostitution will be offenders (the act of prostitution itself is not illegal); if they do come into contact with the justice system, it may be for offences directly related to prostitution or for other indirectly related offences, e.g. disorderly behaviour, theft or drugs offences.

32. Women become involved in prostitution for a variety of reasons. Some enter through personal choice, others feel driven to it out of desperation for money, typically to provide for their family or an addiction (their own or a partner's). Some are trafficked, either within Northern Ireland or into Northern Ireland from another jurisdiction. Most are controlled or exploited by a male partner or 'pimp'.

33. As with female offenders generally, many of the women involved in prostitution have some form of vulnerability and may be known to one or more statutory or voluntary agencies. While the relevant professionals working with a woman may have well-founded suspicions, it is often difficult for a woman to disclose her involvement in prostitution, particularly if she feels threatened by a controlling figure in her life. Disclosure may occur in time, often through the development of a trusting relationship. It is also unlikely that a woman engaged in prostitution will exit it quickly, easily or, at least in the early stages, completely. It is ultimately up to each individual woman to decide if she wants to seek and avail of the support available to her. It may take an extended period of time and support, punctuated by periods of further involvement, before a woman can safely exit prostitution for good.

34. Regardless of whether involvement in prostitution is disclosed, or whether the woman is charged or convicted of any offence, the priority should be to provide holistic support that addresses the woman's individual needs and takes account of the realities of her lifestyle. Support should be provided by the existing statutory and voluntary agencies working with women – those with a responsibility for safeguarding children and adults may have a particular role to play in this regard. Priority needs are likely to relate to health, substance misuse, victimisation or exploitation, family responsibilities, accommodation, skills and employment, and financial difficulties.

35. Specialist support is available through the Belfast Drop-in Service for Commercial Sex Workers. The Service is nurse practitioner-led and provides drop-in support in a safe, confidential and non-judgemental location. Its services include sexual health advice, screening and treatment and signposting to other services that may help a woman to exit prostitution. The Drop-in Service will also explore the potential to provide outreach support to those not accessing services.

36. The Rowan Sexual Assault Referral Centre separately provides victims of rape and serious sexual assault with a range of services, depending on the individual needs of the victim, in a safe, secure and confidential environment.

Actions to date

37. The Department of Justice has already taken actions in relation to prostitution. The Department published a research paper in January 2011[9] and held a stakeholder conference to discuss the issues involved in October 2011. The Department has been working with the Drop-in Service and PSNI to take forward a range of actions relating to prostitution. These included awareness-raising: for staff in a range of statutory and voluntary sector bodies; among trade bodies affected by prostitution (hoteliers and landlords); and, for those involved in sex work, about the services provided by the Drop-in Service.

Future actions

38. The Department will continue its work on the issue of prostitution with the Drop-in Service and other partners. DOJ will also:

- Review the existing legislation on the purchase of sexual services from a prostitute.
- Commission and publish local research into prostitution in Northern Ireland to inform policy and legislation.
- Publish an awareness raising resource, during Autumn 2013, directed at practitioners likely to come into contact with women involved in prostitution.
- Provide information leaflets to women in custody and in the community about the support services available to those working in prostitution.

9 http://www.dojni.gov.uk/index/publications/research_paper_investigating_the_issues_for_women_in_northern_ireland_involved_in_prostitution_and_exploring_best_practice_elsewhere.htm

Chapter 5: Leadership, Monitoring and Evaluation

Leadership and Oversight

39. The Women's Strategy Steering Group will continue to oversee progress in delivering against the strategic priorities. The Steering Group is chaired by the Department of Justice and includes representation from the Department's Reducing Offending and Community Safety Units, the Probation Board Northern Ireland (PBNI), Northern Ireland Prison Service (NIPS), the Police Service of Northern Ireland (PSNI) and the Youth Justice Agency (YJA).

Monitoring and Evaluation

40. The Department's Reducing Offending Unit (ROU) will regularly monitor progress against the Strategy's action plan and target outcomes, and provide updates to the Women's Strategy Steering Group.

41. The following measures will be used to monitor progress:

- The number of girls and women coming into contact with justice system for the first time.
- The number of girls and women issued with police cautions or other diversionary disposals (e.g. Penalty Notices for Disorder (PND)).
- The number of girls and women convicted of offences at all courts, with breakdown by age, type of offence and sentence.
- The number of girls and women in custody (sentenced, remand, fine default and breach).
- The number of girls involved with the Youth Justice Agency.
- The number of women offenders subject to statutory supervision by PBNI.
- Re-offending rates (i.e. one-year reconviction rate) amongst girls and women.

42. NIPS' Change Management Team is monitoring progress on the implementation of the Prisons Review recommendations; this includes monitoring progress on the roll-out of the Inspire model and the establishment of a new custodial facility for women.

43. The Women's Strategy Steering Group will report on progress to the Criminal Justice Board, to the Minister and the Assembly's Justice Committee.

44. The Department will also take account of the findings and recommendations made by Criminal Justice Inspection Northern Ireland (CJINI), an independent statutory body with responsibility for inspecting the justice system (with the exception of the judiciary). CJINI's role includes monitoring progress on the Prisons and Youth Justice Reviews.

Annex A

Summary of Stakeholder Engagement

1. The Department engaged with stakeholders from the outset to obtain input into the refresh of the women's strategy. It was keen to take views on successes to date, issues that needed to be addressed and actions that could be taken.

2. The Department held a stakeholder workshop on 19 November 2012 for representatives of statutory, voluntary and community sector organisations and academics, from the justice sector and beyond. Participants were asked for their views on:

   - The target group(s), including any particular sub-groups of females, that should be the focus for the strategy.
   - The outcomes we should aim to achieve and the timescale.
   - Opportunities to intervene to prevent and divert women from offending and to prevent reoffending.
   - Priorities and actions for the future strategy.

3. The Department held focus groups with girls and women involved in the justice system. A session with women in Ash House was held on 3 December 2012; and with women in the Inspire Project Belfast on 6 March 2013. A focus group with girls involved with the Youth Justice Agency was held on 18 February 2013.

4. Throughout the course of work to refresh the Strategy, the Department engaged with partners in the Northern Ireland Prisons Service, the Probation Board of Northern Ireland, the Police Service of Northern Ireland, the Youth Justice Agency and the Belfast Drop-in Service for Commercial Sex Workers.

5. The main issues raised by stakeholders were:

   - The need for a gender-informed approach throughout the criminal justice system and, within this context, supporting women with particular vulnerabilities.
   - Feelings of shame, stigma, humiliation and intimidation (in an almost allmale courtroom environment). These feelings are an additional 'punishment' and have a negative impact on a woman's mental health.
   - Need for awareness-raising to counter the portrayal and attitudes of female offenders, including among some of those in the justice system, the media and the wider community. The 'sensationalist' reporting of court cases involving women also impacts on their children – they are not protected in the same way as is provided by the anonymity afforded to those accused of sexual offences against children.
   - For young women, issues relating to:
     - family relationships;
     - education – engagement and relationships with teachers, promoting
     - access to courses and achievement of skills and qualifications;
     - providing support and advice, including careers advice;
     - relationships with peers and opportunities and provision available within the community (having 'something to do'); and
     - the long term impact of a criminal record on future education and employment prospects.
   - The importance of early intervention – identifying and supporting young women at risk of offending; exploring the potential to introduce a diversion, 'triage' or 'crisis response'

model for women to enable them to access support at an earlier stage in the justice system.

- Ensuring women have holistic support within the community to address their individual needs and the issues associated with their offending behaviour.
- Sentencing decisions – perception that women are treated more severely; custody should only be used as a last resort; need to reduce the number of women held on remand and on short prison sentences.
- Improving the prison regime and the support provided to women in custody, especially women with vulnerabilities; stressing need to better support women in preparation for, upon and post, release from custody; and addressing the gap in support available to women on remand.
- The importance of effective joined-up working between statutory, voluntary and community organisations.
- Training and support for those in justice agencies and voluntary and community sector organisations working with women.

6. The Department also participated in workshops facilitated by the NIPS Prisons Reform Programme Team on End-to-End Women's Services (March 2013) and Prison Healthcare (April 2013) and noted the issues raised in relation to women.

7. The Department prepared a draft strategy and action plan, and sought feedback on the draft from stakeholders and the Justice Committee before finalising and publishing the updated strategy.

Annex B

Women in the Northern Ireland Criminal Justice System

Women as victims

- In 2012/13, the PSNI recorded 31,668 offences where the women were the victims, of which 13,101 were violence against the person or sexual offences (compared to 31,642 and 12,865 respectively in 2011/12).
- The Northern Ireland Crime Survey 2011/12 found that women were more likely than men to worry about crime and personal safety in general. Women were twice as likely as men to express worry about violent crime. Young women, aged 16-24, displayed the highest level of worry about violent crime (24%, compared to the NICS average of 19%).

Female Offenders

- The average female population in the Woodlands Juvenile Justice Centre for 2012/13 was four, with the highest female population reaching six. This compares to two and five respectively for the 2011/12 year[10].
- The Youth Justice Agency's supervised caseload in September 2012 included 90 females, which represented 13% of its total caseload.
- In 2011/12, the PSNI issued a total of 1,680 cautions and 4,461 discretionary disposals (first recorded in April 2012) to women. From June 2012, the PSNI issued 202 penalty notices for disorder to women. The most common offences were theft, disorderly behaviour, common assault and possession of a class B drug[11].
- In 2012/13, the Probation Board of Northern Ireland (PBNI) completed 930 presentence reports (PSRs) or short PSRs for female offenders.
- In 2012/13, a total of 475 women commenced supervision with PBNI.[12]
- During 2012, there was an average of 56 women in custody each week (with an average of 19 on remand, 3 imprisoned for fine default, and 34 sentenced to immediate custody)[13]. The majority of women were imprisoned for offences relating to violence against the person (average of 21 sentenced and 9 on remand). The next most common offences related to theft, fraud and drugs. In 2013, the average weekly population was around 60.

10 Data obtained from Youth Justice Agency, see http://www.youthjusticeagencyni.gov.uk/about_us/statistics_and_research/

11 Data obtained from PSNI January 2013. The number of cautions/PNDs does not equate to the number of women receiving cautions or PNDs, as some women may have received more than one.

12 Data obtained from PBNI, see http://www.pbni.org.uk/site/Content.aspx?x=6252pNJgcj4=&y=qP0jEMqcTQg.

13 Data obtained from NIPS February 2013. See http://www.dojni.gov.uk/index/statisticsresearch/stats-research-publications/prison-population/r-s-bulletin-6-2013-the-northern-irelandaverage-prison-population-in-2012.htm

Annex C

Policies Contributing to Improving Outcomes and Reducing Offending Among Women

Executive Policies

Executive Departments are taking forward a range of policies, strategies and programmes aimed at improving outcomes for all, including young women and adult women. These include:

- **Delivering Social Change** – the Executive's framework to co-ordinate efforts across departments to tackle poverty and disadvantage and address priority social policy areas. The initial focus within DSC has been on the needs of children and families, supported by the delivery of Signature Programmes focused on family support, improving literacy and numeracy levels and supporting young people (and their families) who are not in education, employment or training (NEET).
- **Public health strategic framework** – aims to improve health and well-being and reduce health inequalities. It will address issues such as improving support for children, families and parenting; mental health; and alcohol and drug misuse.
- **School improvement programme** – a range of policies aimed at raising standards in education and ensuring young people leave school equipped for life and work, including raising standards in literacy and numeracy; improving early years education; providing older pupils access to a wider range of academic and applied courses and improved careers education, information, advice and guidance; improving support for disadvantaged pupils or with special or additional educational needs; and improving pupils' emotional health and well-being.
- **Pathways to Success** – aims to improve the opportunities and possibilities for young people in Northern Ireland who are not in education, employment or training (NEET). The Strategy comprises a three-tier package of measures designed to reduce youth unemployment and support families of young people who are NEET: the Community Family Support Programme; the Collaboration and Innovation Fund (CIF); and the Youth Employment Scheme.
- **Priorities for Youth** (to be finalised following consultation during 2013) – sets the future direction for youth work in Northern Ireland and the contribution it makes to the development of young people. It will look to provide additional opportunities to support young people's learning and development and improve employability by re-engaging them with education.

Justice Minister's Reform Agenda

There are a number of measures being progressed that will benefit women:

- **Community Safety Strategy**[14] – the Executive's strategy for tackling crime antisocial behaviour, and fear of crime. It has a strong emphasis on prevention and early intervention to reduce the risk of individuals, especially young people, becoming involved in offending behaviour. Areas for action that will benefit women include tackling drugs and alcohol and domestic and sexual violence and abuse:
    - **Drugs and Alcohol**: evidence suggests a strong link between offending behaviour and substance misuse and a high level of drug and alcoholrelated offending among women. The *New Strategic Direction (NSD)* on *Drugs and Alcohol 2011-2016* focuses on prevention, treatment and support for children and young people and for adults.

14 The Community Safety Strategy is available on the Department's website: http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-communitysafety/community-safety-strategy-2012-2017.htm

A regional alcohol and drug services commissioning framework is being developed, with local action plans to target vulnerable and at risk groups in light of local need. The Community Safety Strategy complements NSD by providing targeted services and interventions to support offenders with substance misuse problems and supporting families and young people in dealing with substance misuse.

- **Domestic and sexual violence**: many females who offend have been the victim of some form of abuse. A range of measures have been put in place to improve protection, support, and information for victims, including:
  - a regional framework for commissioning specialist services for victims;
  - the opening of the Rowan Sexual Assault Referral Centre in June 2013;
  - the publication of a Regional Directory of Services for children and adults;
  - the publication of an updated information handbook for female (and male) adult victims of rape; and
  - the establishment in 2010 of the Multi Agency Risk Assessment Conference (MARAC) arrangements and the extension of court powers to impose restraining orders to protect victims.

  DHSSPS and DOJ are working together to develop and put in place a Domestic and Sexual Violence and Abuse Strategy and implementation plan for 2013-2020.

- **Prisons Review** – aims to promote a culture focused on building strong and meaningful relationships between prisoners and staff, where prisoners are supported by prison staff to make positive changes and address their offending behaviour. Every prisoner will have a personalised sentence plan, developed together with the individual, which reflects her own assessed needs, strengths and risk. NIPS will work in partnership with other agencies and the VCS to provide coordinated services and practical interventions that address needs and support the individual through custody and back into community. The Review made two recommendations specifically relating to women:
  - **The roll-out of the Inspire model across Northern Ireland**. The Inspire model is a gender-informed approach to working with women under statutory supervision (i.e. women serving a community sentence or upon release from custody). It is delivered through a partnership between the Probation Board for Northern Ireland and the voluntary and community sectors. Inspire provides mentoring support and links women into locally available programmes to address their individual needs and support their move away from offending behaviour. Following the success of the pilot, Inspire was mainstreamed in the Greater Belfast area from April 2012 and the Prisons Review recommended its roll out across Northern Ireland. Inspire was piloted in the north-west and mid-Ulster areas during 2012/13 and plans are in place to further consolidate and extend roll out across the rest of Northern Ireland.
  - **The establishment of a new small custodial facility for women**. In April 2013, the Justice Minister reaffirmed his commitment to establishing a new, separate women's facility, if possible by 2018. The vision is of a facility that is focussed on addressing the needs of women, including through in-reach and outreach support, delivered in partnership with agencies working in the community. It will be established on a community model, with accommodation and support to foster independent living skills, support for those dealing with vulnerabilities, provision for mothers and babies, and more secure accommodation for those offenders requiring the highest levels of supervision.

    In the short to medium term, work is underway to establish step-down accommodation for those women assessed as suitable for working out and accessing support in the community in preparation for their release from custody. Furthermore, a review of the categorisation of women prisoners is being carried out, with a view to introducing arrangements to manage women in custody on the basis of their assessed needs.

- **Youth Justice Review** – a cross-Government approach to improve opportunities for young people and prevent them becoming involved in offending behaviour. It includes a series of actions aimed at building on the progress already made in the youth justice system to divert young people from prosecution and provide more effective rehabilitation support for those in the youth justice system.
- **Alternatives to prosecution and custody** – the use of such measures provide opportunities to intervene earlier to address issues underlying offending behaviour, reduce the risk of further offending and avoid the harmful impact of custody on women and their families. Examples include:
  - Youth Engagement clinics to support earlier and speedier decision making on cases involving young people – decision on pilot evaluation and next steps by end 2013;
  - the introduction of a prosecutorial fine through the Fairer, Faster Justice Bill, to be introduced Autumn 2013;
  - the implementation of measures, as part of the Fines & Enforcement Bill (to be introduced Spring 2014), to tackle fine default, such as new enforcement arrangements and supervised activity orders in lieu of custodial penalties for non-payment;
  - reinforce the need for courts to consider whether a community sentence, rather than a short custodial sentence, might offer more effective rehabilitative opportunities to the offender; and
  - consultation on a proposal (included in the draft Bail Bill for Northern Ireland, expected to be introduced during 2015) that defendants should not be held on remand for an offence if, upon subsequent conviction, they would be unlikely to receive a custodial sentence (the 'no real prospect' test).
- Joint Healthcare and criminal justice strategy/supporting vulnerable individuals – offending behaviour among women is often linked to some form of vulnerability, e.g. mental health, substance misuse, being a victim of abuse. The Department of Justice is working with the Department of Health, Social Services and Public Safety, along with health and justice partners, to develop a joint healthcare and criminal justice strategy, as recommended in the Prisons Review. The strategy will address the provision of health and social care services to those involved with the justice system to support diversion and rehabilitation. Within the context of work on the strategy, DOJ will take forward a work programme aimed at improving support for vulnerable individuals within the criminal justice system.
- Reducing Offending in Partnership (ROP) – a multi-agency approach involving the Police Service of Northern Ireland, Probation Board Northern Ireland, Northern Ireland Prison Service and Youth Justice Agency to manage priority offenders. It focuses on those who offend most often, male and female, providing them with support and supervision to help them to stop reoffending. It is structured around three specific strands:
  - Prevent and Deter – early stage identification and effective intervention strategies to reduce crime and anti-social behaviour among young people.
  - Catch and Control – pro-active approach by police and partners to target those prolific offenders who persist in their offending behaviour.
  - Rehabilitate and Resettle – partnership working with statutory, voluntary and community sector to support offenders in addressing the issues that will promote their effective resettlement and reduce the risk of reoffending.

Correspondence from the Minister for Health, Social Services and Public Safety on Clause 12 of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

FROM THE MINISTER FOR HEALTH,
SOCIAL SERVICES AND PUBLIC SAFETY
Edwin Poots MLA

Department of
Health, Social Services
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Mr Paul Givan MLA
Chair
Committee for Justice
Room 345
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Our Ref: AGY/228/2014

Date: 3 April 2014

Thank you for your letter of 24 March in which the Committee requested clarification from DHSSPS on whether it intends to bring forward any amendments to Clause 12 of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill - Child Trafficking Guardian.

My officials have liaised, and will continue to liaise, with Lord Morrow and his office as to the content of the Bill. I last wrote to Lord Morrow on 21 March 2014 and in this letter set out potential tensions with existing legislation and possible solutions to these tensions. I understand that lord Morrow is considering this letter and will respond to me in due course.

I hope this is helpful.

Edwin Poots MLA
Minister for Health Social Services and Public Safety

Correspondence from the Department of Justice outlining its current position in relation to the Bill and providing the wording of a further set of amendments proposed by the Department and further amendments proposed by Lord Morrow

FROM THE OFFICE OF THE JUSTICE MINISTER

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Our ref SUB/440/2014

Christine Darrah
Committee Clerk
Committee for Justice
Northern Ireland Assembly
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1 April 2014

Dear Christine,

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

The Department of Justice (DOJ) wrote to the Committee on 19 March setting out an initial set of proposed amendments to the Human Trafficking (Further Provisions and Support for Victims) Bill that the Minister intends to table.

We have been continuing to engage with Lord Morrow and with Legislative Counsel on additional amendments and are now in a position to provide the Committee with further proposed amendments, which have been agreed with Lord Morrow. We have also been working with Lord Morrow to resolve some technical issues with some of his proposed amendments. He has asked that these revised draft amendments *which will be in his name* should also be shared with the Committee under cover of this paper. There are still a few areas where more work is required, with Lord Morrow and, in some cases, other Departments. The detail on these is set out below too.

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Further proposed DOJ amendments

I have set out below a further set of proposed amendments that the Minister intends to table. As with our earlier draft amendments, these are, for the most part, technical amendments which we believe are necessary to achieve Lord Morrow's intended effect. These have been shared with Lord Morrow and he has indicated that he is content. In addition we have included a New Clause 6A, which would amend Article 64A of the Sexual Offences (Northern Ireland) Order 2008. To assist the Committee we have also included a comprehensive (to date) set of all the amendments that the Minister intends to table at Appendix 1 to this paper as well as a table summarising the Department's current position against each of the Clauses at Appendix 2.

Clause 3 (Aggravating factors)

We are proposing two new technical amendments in addition to those which we shared with the Committee in our letter of 19 March. The effect of these amendments would be to:

- provide a definition of "vulnerable adult"; and
- provide a definition of the family of the victim by reference to Article 34 of the Sexual Offences Order.

Lord Morrow has indicated that he is content with these proposed amendments.

Proposed amendments to Clause 3:

Clause 3, Page 2, Line 30

Leave out from 'means' to end of Line 34 and insert 'means a person aged 18 or over whose ability to protect himself or herself from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, old age, addiction to alcohol or drugs or for any other reason.'

Clause 3, Page 2, Line 34

At end insert—

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'(3) For the purposes of this section a person is a member of the victim's family if the relation of that person to the victim is within Article 34 of the Sexual Offences (Northern Ireland) Order 2008.'

Clause 6 (Paying for sexual services of a person)

As previously highlighted, the Minister intends to oppose Clause 6 in its entirety and as such the Department does not intend to make any amendments to this Clause, although, if it proceeds it may require amendment.

Should Clause 6 not stand part of the Bill, then New Clause 6A amends Article 64A of the Sexual Offences (Northern Ireland) Order 2008. Article 64A makes it an offence to pay for the sexual services of a prostitute who is subjected to force or any form of coercion or exploitation. The amendment will extend the time limit for prosecution of offences under Article 64A of the Sexual Offences (Northern Ireland) Order 2008 from six months to three years. This clause will not be moved if clause 6 stands part of the Bill.

Proposed New Clause 6A:

'Time limit for prosecution of offences under Article 64A of the Sexual Offences (Northern Ireland) Order 2008

6A.—(1) In Article 64A of the Sexual Offences (Northern Ireland) Order 2008 (paying for sexual services of a prostitute subjected to force, etc) at the end add—

(5) Notwithstanding anything in Article 19(1) of the Magistrates Courts (Northern Ireland) Order 1981, proceedings for an offence under this Article may be brought within the period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the knowledge of the prosecutor; but no proceedings shall be brought by virtue of this paragraph more than 3 years after the commission of the offence.

(6) For the purposes of paragraph (5)—

(a) a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as is mentioned in that paragraph came to the knowledge of the prosecutor shall be conclusive evidence of that fact; and

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(b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(2) Subsection (1) does not apply in relation to proceedings for an offence if—

(a) the offence was committed before the day on which that subsection comes into operation; and

(b) but for that subsection, Article 19(1) of the Magistrates' Courts (Northern Ireland) Order would have prevented proceedings being brought for that offence on that day.'.

Clause 11 (Compensation for victims of trafficking)

As the Committee is aware, the Minister has agreed with Lord Morrow that Clause 11 should be amended to require the Department to produce statutory *guidance*, as opposed to an Order, in respect of compensation for victims of human trafficking. They have also agreed that subsection 11(b)(ii) is not needed since victims do not need to be resident in Northern Ireland in order to be able to apply for compensation.

We have made a small technical amendment to the earlier amendment we provided. This is to correct an error in the previous draft by omitting the first inserted word ("shall") which is already in the text of the Bill.

Proposed amendment to Clause 11

Clause 11, Page 6, Line 19

Leave out from ', by order' to end of line 25 and insert—

'issue guidance as to—

(a) the procedures to be followed by a victim of human trafficking to apply for compensation under the Criminal Injuries (Compensation) (Northern Ireland) Order 2002;

(b) the grounds on which compensation may be awarded under that Order; and

(c) the arrangements available to assist and support a victim of human trafficking in applying for such compensation.'

Clause 13 (Protection of victims in criminal investigations)

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In addition to the two draft amendments to Clause 13 that we have already provided, we are proposing a third, which has been agreed with Lord Morrow. The effect of this is to clarify that it is *the police officer in charge of an investigation* who may take a reasoned decision under paragraph 13(b)(vi) not to allow a child who is a victim of trafficking to be accompanied by an adult of their choice. The amendment would also require the officer to record the reasons for the decision. The current draft of the Clause does not specify who is responsible for taking this decision.

Proposed amendment to Clause 13

Clause 13, Page 8, Line 28
Leave out from 'reasoned decision' to end of line 29 and insert 'the police officer in charge of the investigation decides to the contrary and records the reasons for that decision in writing.'

Clause 15 (Prevention)

In our letter of 19 March we indicated that we had made good progress towards agreeing amendments to Clause 15 with Lord Morrow. We provided an *indicative* draft amendment, setting out the requirement on the Department to publish an annual strategy for tackling human trafficking and slavery after consultation with other relevant organisations, and specifying specific issues that this strategy should cover (including arrangements for co-operation with other statutory and non-statutory agencies and organisations, provision of training and provisions aimed at raising awareness of the rights and entitlements of victims). We have continued to work with Lord Morrow on the detail of the Clause and have agreed the following revised amendment.

Proposed amendment to Clause 15

Clause 15, Page 9,
Leave out lines 27 to 30 and insert—
'15.—(1) The Department shall, at least once in every year, publish a strategy on human trafficking and slavery offences.
(2) In drawing up the strategy the Department must—

(a) consult with other relevant organisations; and

(b) have regard to views expressed by such organisations.

(3) The purpose of the strategy is to—

(a) raise awareness of human trafficking and slavery offences in Northern Ireland;

(b) contribute to a reduction in the number of such offences.

(4) The strategy shall in particular—

(a) set out arrangements for co-operation between relevant organisations in dealing with human trafficking or slavery offences or the victims of such offences;

(b) include provision as to the training and equipment of those involved in investigating or prosecuting human trafficking or slavery offences or dealing with the victims of such offences;

(c) include provisions aimed at raising awareness of the rights and entitlements of victims of such offences.

(5) In this section "relevant organisation" means any body, agency or other organisation with functions or activities relating to human trafficking or slavery offences or the victims of such offences.

Lord Morrow's proposed amendments

Lord Morrow has indicated a number of new amendments that he intends to table and we have been working with him to resolve any related technical issues. As previously noted, he has requested that revised versions of these amendments (which are to be tabled in his name) should be included within this paper.

Clause 2 (Consent irrelevant for victim of human trafficking or slavery offences)

We welcome Lord Morrow's proposed amendment which we believe will help to avoid the Clause inadvertently suggesting that consent to any act relating to being trafficked that is freely given is relevant. We have agreed with him a further revision to clarify that consent is irrelevant *for the purpose of determining whether the offence has been committed*, rather than irrelevant for any other purpose (such as, for example, sentencing).

Proposed amendment to Clause 2 (to be tabled by Lord Morrow)

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Clause 2, Page 1, Line 13

Leave out from 'of a victim' to end of line 6 on page 2 and insert 'of the victim of a human trafficking offence or a slavery offence to any act which forms part of the offence is irrelevant.'

Clause 4 (Minimum sentence for human trafficking and slavery offences)

As we have previously indicated, the Minister does not agree with this Clause and intends to oppose it.

Nonetheless, we have indicated that if it remains part of the Bill it will need amendment to ensure that it does not cut across existing sentencing law. Lord Morrow sought to address this concern in his proposed New Clause 17A. We highlighted some technical issues with this proposed New Clause and Lord Morrow has now indicated that he intends to table the following amendment to Clause 4, *instead of* the earlier amendment to insert New Clause 17A.

Proposed amendment to Clause 4 (to be tabled by Lord Morrow)

Clause 4, Page 2, Line 41

At end insert—

'(2B) In section 36 (review of sentencing) of the Criminal Justice Act 1988 after subsection (9)(c) insert—

"(d) subsection (2)(b) shall be read as if it included a reference to a sentence required by section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.".

(2C) The Criminal Justice (Northern Ireland) Order 1996 is amended as follows—

(a) in Article 2(9) (interpretation of references to sentences falling to be imposed under various statutory provisions) after "2006" insert "or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014";

(b) in each of —

(i) Article 4(1) (power to discharge defendant except in specified circumstances),

(ii) Article 10(1) (power to impose probation order except in specified cases),

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(iii) Article 13(1) (power to impose community service order except in specified cases),

(iv) Article 15(1) (power to impose combination order except in specified circumstances),

after "2008" insert "or section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014".

(2D) In the Criminal Justice (Northern Ireland) Order 2008—

(a) in Article 5 (restrictions on imposing certain custodial sentences) in paragraph (1)(b) omit "or" at the end add of paragraph (ii) and after paragraph (iii) add—

"(iv) section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.";

(b) in Article 7 (length of custodial sentence) in paragraph (3) at the end add—

"(c) section 4(2) of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Act (Northern Ireland) 2014.".'

Outstanding issues

As we highlighted in our letter of 19 March, we are continuing to work to resolve a number of outstanding issues. While we have made good progress, we regret that we will not be able to provide amendments to Clauses 8, 9 or 10 before the Committee reports.

On Clause 8 (Non prosecution of victims of trafficking in human beings), we remain optimistic that we can reach an agreed position with Lord Morrow who has acknowledged the concerns that both the Minister and the Attorney General have raised.

Lord Morrow has welcomed the Minister's proposal to amend Clause 15 (Prevention) to ensure that the Annual Strategy under that Clause would include measures to raise awareness of the rights and entitlements of victims across the criminal justice system. In addition, the Director of Public Prosecutions has written to the Minister, acknowledging the level of public concern around this issue and

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giving a commitment to issue further detailed guidance to Prosecutors that will be consistent with the intent behind Clause 8.

Lord Morrow has, however, indicated that he wishes to see how the Westminster Joint Committee which is currently scrutinising the draft Modern Slavery Bill will deal with this issue before finalising his position. That Committee is expected to report around 10 April and so we will need to return to Clause 8 after that.

Our earlier letter also advised that progress to identify amendments to Clause 10 (Requirements for assistance and support) was challenging, particularly given the complexity of the issue and the fact that the Clause covers other Departments than just the DOJ. We are continuing to work with officials from the Department of Health, Social Services and Public Safety (DHSSPS) on the amendments required to this Clause, however, as we previously noted, the existing legislative framework governing DHSSPS's responsibilities in respect of victims of human trafficking is complex. We understand that DHSSPS colleagues are continuing to work through these issues, including talking to Lord Morrow. Other Departments are being engaged too. As we noted in our last letter, we will need to come back to the Committee with draft amendments to Clause 10 and will endeavour to do so as quickly as possible.

We had hoped to be able to provide the Committee with draft amendments to Clause 9 (Victim of trafficking in human beings) before the Committee formally makes its Report on the Bill. However, we believe that it will not be possible to refine Clause 9 until the issues surrounding Clause 10 have been resolved.

Amendments to Clause 18 will be dependent on other proposed changes to the Bill (for example to Clause 16). As such, we have not proposed any amendments at this stage but it is likely that we will need to return to this Clause in due course.

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The Committee is also aware that the Department's consultation on new proposals to strengthen Northern Ireland's response to human trafficking and slavery would also, if supported, have significant implications for the Bill and we will need to return to the Committee on these issues once that consultation has closed and the Department has had an opportunity to consider the responses received.

Recommendation

The Committee is invited to note:

- the additional draft amendments that the Minister intends to table;
- the comprehensive list of proposed DOJ amendments at Appendix 1 and Clause by Clause summary at Appendix 2; and
- the ongoing work to resolve outstanding issues on Clauses 8, 9 and 10 of the Bill.

A copy of this letter has been forwarded to Lord Morrow, MLA.

D Graham
pp **TIM LOGAN**
DALO

Enc: Appendix 1& Appendix 2

APPENDIX 1

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

AMENDMENTS TO BE MOVED AT CONSIDERATION STAGE

BY THE MINISTER OF JUSTICE

Clause 3, Page 2, Line 13

Leave out 'family member' and insert 'member of the family'

Clause 3, Page 2, Line 15

Leave out 'a victim who was'

Clause 3, Page 2, Line 17,

Leave out 'the victim's family' and insert 'a member of the family of the victim'

Clause 3, Page 2, Line 19

Leave out 'offence' and insert 'offender'

Clause 3, Page 2, Line 21

Leave out 'was committed by use of serious violence or'

Clause 3, Page 2, Line 24

At end insert 'or has previously been convicted in respect of anything done outside Northern Ireland which is not such an offence but would be such an offence if done in Northern Ireland'

Clause 3, Page 2, Line 26

Leave out '29' and insert '28'

Clause 3, Page 2, Line 27

At end insert—

' "public official" means—

(a) a member of the Northern Ireland civil service or the United Kingdom civil service;

(b) a person employed by a body established by an Act of Parliament or by Northern Ireland legislation;

(c) the holder of an office established by an Act of Parliament or by Northern Ireland legislation;

(d) a police officer.'

Clause 3, Page 2, Line 30

Leave out from 'means' to end of Line 34 and insert 'means a person aged 18 or over whose ability to protect himself or herself from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, old age, addiction to alcohol or drugs or for any other reason.'

Clause 3, Page 2, Line 34

At end insert—

'(3) For the purposes of this section a person is a member of the victim's family if the relation of that person to the victim is within Article 34 of the Sexual Offences (Northern Ireland) Order 2008.'

Clause 6

The Minister of Justice gives notice of his intention to oppose the question that clause 6 stand part of the Bill

New Clause 6A

After clause 6 insert—

'Time limit for prosecution of offences under Article 64A of the Sexual Offences (Northern Ireland) Order 2008

6A.—(1) In Article 64A of the Sexual Offences (Northern Ireland) Order 2008 (paying for sexual services of a prostitute subjected to force, etc) at the end add—

(5) Notwithstanding anything in Article 19(1) of the Magistrates Courts (Northern Ireland) Order 1981, proceedings for an offence under this Article may be brought within the period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the knowledge of the prosecutor; but no proceedings shall be brought by virtue of this paragraph more than 3 years after the commission of the offence.

(6) For the purposes of paragraph (5)—

(a) a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as is mentioned in that paragraph came to the knowledge of the prosecutor shall be conclusive evidence of that fact; and

(b) a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

(2) Subsection (1) does not apply in relation to proceedings for an offence if—

(a) the offence was committed before the day on which that subsection comes into operation; and

(b) but for that subsection, Article 19(1) of the Magistrates' Courts (Northern Ireland) Order would have prevented proceedings being brought for that offence on that day.'.

Clause 7, Page 4, Line 10

Leave out subsection (1)

Clause 7, Page 4, Line 19

Leave out 'wherever the offence takes place'

Clause 11, Page 6, Line 19

Leave out from ', by order' to end of line 25 and insert—

'issue guidance as to—

(a) the procedures to be followed by a victim of human trafficking to apply for compensation under the Criminal Injuries (Compensation) (Northern Ireland) Order 2002;

(b) the grounds on which compensation may be awarded under that Order; and

(c) the arrangements available to assist and support a victim of human trafficking in applying for such compensation.'

Clause 13, Page 8, Line 6

Leave out 'chief officer of police' and insert 'Chief Constable'

Clause 13, Page 8, Line 21

Leave out 'professionals' and insert 'persons'

Clause 13, Page 8, Line 28

Leave out from 'reasoned decision' to end of line 29 and insert 'the police officer in charge of the investigation decides to the contrary and records the reasons for that decision in writing.'

Clause 15, Page 9,

Leave out lines 27 to 30 and insert—

'15.—(1) The Department shall, at least once in every year, publish a strategy on human trafficking and slavery offences.

(2) In drawing up the strategy the Department must—

(a) consult with other relevant organisations; and

(b) have regard to views expressed by such organisations.

(3) The purpose of the strategy is to—

(a) raise awareness of human trafficking and slavery offences in Northern Ireland;

(b) contribute to a reduction in the number of such offences.

(4) The strategy shall in particular—

(a) set out arrangements for co-operation between relevant organisations in dealing with human trafficking or slavery offences or the victims of such offences;

(b) include provision as to the training and equipment of those involved in investigating or prosecuting human trafficking or slavery offences or dealing with the victims of such offences;

(c) include provisions aimed at raising awareness of the rights and entitlements of victims of such offences.

(5) In this section "relevant organisation" means any body, agency or other organisation with functions or activities relating to human trafficking or slavery offences or the victims of such offences.

Clause 16

The Minister of Justice gives notice of his intention to oppose the question that clause 16 stand part of the Bill

Clause 17, Page 10, Line 1

Leave out from 'shall' to end of line 2 and insert 'means a person under the age of 18'

Clause 19, Page 10, Line 11

Leave out '(Northern Ireland) Act 2013' and insert 'Act (Northern Ireland) 2014'

Clause 19, Page 10, Line 12

Leave out 'This Act comes into force' and insert 'The preceding sections of this Act come into operation'

APPENDIX 2

CLAUSE BY CLAUSE SUMMARY OF DOJ POSITION

The table below summarises DOJ's current position in respect of amendments to each clause.

Clause	Update
1 (Definition of human trafficking and slavery offences)	No amendments to make at this stage, although the outcome of the DOJ's current consultation on new proposals may require significant amendment.
2 (Consent irrelevant for victim of human trafficking or slavery offences)	The Department does not intend to table any amendments to this Clause, however we welcome the amendment proposed by Lord Morrow.
3 (Aggravating factors)	We propose amendments to this clause and have provided copies of these to the Committee.
4 (Minimum sentence for human trafficking and slavery offences)	The Minister intends to oppose Clause 4. No DOJ amendments proposed although we note the further amendments that Lord Morrow has provided, which we believe would be necessary if the Clause remains part of the Bill. Some further amendments may also be required subject to the outcome of the DOJ's current consultation on new proposals.
5 (Amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004)	Our expectation is that, subject to the outcome of the DOJ's current consultation on new proposals, this clause will become redundant. As such, we do not propose any amendments at this stage, although we expect to resist its inclusion, following the close of our consultation.
6 (Paying for the sexual services of a person)	The Department intends to oppose Clause 6. No amendments are proposed to it. The Minister intends to table New Clause 6A to extend the time limit for prosecutions under Article 64A of the Sexual Offences (NI) Order 2008. (This is only relevant if Clause 6 does not stand part of the Bill).
7 (Requirements and	We propose amendments to this Clause and have

resources for investigation or prosecution)	provided copies of these to the Committee.
8 (Non prosecution of victims of trafficking in human beings)	The Minister is opposed to the current draft of this Clause. We have suggested an amendment to Clause 15 which is consistent with the purpose of Clause 8. No further amendments sought at this stage, however we hope to reach agreement with Lord Morrow, following the publication of the Westminster Joint Committee's report on the Modern Slavery Bill (expected by 10 April)to remove this Clause.
9 (Victim of trafficking in human beings)	We will want to table amendments to this Clause, however we do not believe that we can provide appropriate definitions under Clause 9 until the necessary amendments to Clause 10 have been identified. We are continuing to work with DHSSPS on amendments to Clause 10, but it will not be possible to resolve the outstanding issues with this Clause before the end of Committee Stage.
10 (Requirements for assistance and support)	As noted above, we are continuing to work with DHSSPS on amendments to Clause 10, but it will not be possible to resolve the outstanding issue with this Clause before the end of Committee Stage.
11 (Compensation for victims of trafficking)	We propose an amendment to this Clause and have provided a copy to the Committee.
12 (Child trafficking guardian)	The Minister does not plan to table any amendments to Clause 12.
13 (Protection of victims in criminal investigations)	We propose amendments to this Clause and have provided copies of these to the Committee.
14 (Amendments to the Criminal Evidence (Northern Ireland) Order 1999	The Minister does not intend to table any amendments to Clause 14 at this stage, however, following close of our consultation on new proposals it is likely that we will need some consequential amendments
15 (Prevention)	We propose an amendment to this Clause and have provided a copy to the Committee.

16 (Northern Ireland Rapporteur)	The Minister intends to oppose this clause.
17 (General interpretation)	We propose an amendment to this Clause and have provided a copy to the Committee.
18 (Orders)	We anticipate further amendments to this Clause (subject to Clause 16 falling from the Bill) but we are unlikely to be in a position to do so before Committee Stage ends.
19 (Short title and commencement)	We propose amendments to this Clause and have provided copies of these to the Committee.



Appendix 5

Written Submissions

Appendix 5 Written Submissions

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- Alan Braddock
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- Leonard Fahrni
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Document reference number: 2468ZXVT

Submission to Human Trafficking and Exploitation Bill

Document reference number: 2468ZXVT

1st- November, 2013.

Dear Northern Ireland Justice Committee,

In relation to Lord Morrow's bill I agree with efforts to reduce trafficking and slavery. The vast majority of people are and should be against this exploitation. However I am opposed to criminalising the clients of sex workers.

I have answered in abridged form various questions raised in the original Consultation document and brought up again in most clauses of the bill plus have included a large discussion on sex work laws as this is an area that I have acquired plenty of information on and have studied long before seeing these proposals.

Answers to points raised in original Consultation and in The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill:

- If a person is forced to travel by a wrongdoer then there is no consent. All the different ways of trafficking a person mentioned make consent irrelevant.
- All the factors mentioned aggravate a forced labour offence and make the crime worse.
- I would agree that persons trafficked should not be guilty of certain crimes especially children.
- It makes sense to give the police plenty of tools and training to tackle this crime and also to produce an annual report on trafficking.
- It is right that victims should receive support and compensation.

These suggestions though need to be discussed and thought through with maybe experienced lawyers, legal or political advisors and legislators to make sure that they will work and have no unintended consequences.

Also as things stand the PSNI should be making full use of their powers to crack down on forced labour.

The above addresses Clauses 9 to 19 of the bill.

However I am totally opposed to criminalising the clients of sex workers. This would be a step backwards and certainly would have a negative impact on people's rights.

Two recently produced pieces of evidence have been included in this document to add to the many more surveys and links that will be displayed in subsequent pages. They are as follows and are a poignant remainder of the damage (including the death of a woman in Sweden called Jasmine) that blanket criminalisation causes:

http://sometimesitsjustacigar.wordpress.com/2013/07/12/justice-for-jasmine/

http://maggiemcneill.wordpress.com/2013/10/07/frequently-told-lies/

Also a senior PSNI officer has quite rightly rejected the idea of criminalising the buying of sexual services as it will do nothing to deter trafficking and exploitation and will discourage clients from reporting crime.

I have done extensive research on sex work and the law for a long time and have completed a submission in response to Rhoda Grant's past proposals in Scotland to criminalise clients and a consultation on prostitution in the Republic of Ireland. While it is based on the situation in other areas the same fundamental arguments against criminalisation are the same anywhere and can be used no matter where you are. This will address Clauses 1 to 8 of the bill.

Please see these submissions below which I will leave you with.

Yours sincerely,

Concerned individual.

13th December, 2012.

Dear Ms. Grant,

The following is a response to your consultation on sex work. I have commented on the various pages of your document.

My background is that I have friends who have had experiences with the sex industry. In recent times I have become alarmed about changes to the law that groups or individuals wish to have and increasingly concerned about the welfare of all who are involved in the adult industry.

It's a fundamental error to believe that sex work is violence against women. Also when the sex workers are willing participants it is no different than any other service. The very important point is that not all sex workers are victims.

I am very careful when people start quoting polls. They are often not carried out fairly. Like maybe a large proportion of drug addicts involved in street work were sampled. Also sometimes they are taken completely out of context in order to mislead everyone. This is what is happening here. You are saying that in a poll 75% of women were involved in prostitution before they were 18. This was a poll carried out by Professor Melrose. In that poll, only women who started before the age of 18 were interviewed- 46 in total. Later on 32 were still working. So that is where this 75% figure comes from.

A survey that explodes the myth that nearly all sex workers are forced into the profession can be viewed here:

http://www.londonmet.ac.uk/research-units/iset/projects/esrc-migrant-workers.cfm

It shows that many are happy with what they are doing.

There is another survey in PDF format by Suzanne Jenkins - Beyond Gender: An Examination of Exploitation in Sex Work, 2009 which indicates that the majority of those involved are not exploited.

The proper term to use is "sex worker". It is not acceptable to insist on solely calling a sex worker a prostitute in the same way as it is not acceptable to call a native American an Indian.

Gunilla S Ekberg and yourself are completely wrong. Sex workers are not commodities that are bought, sold or exploited. Sex workers are providing a service just like everyone else. Criminalising the clients of sex workers is interfering in the bedrooms of consenting adults.

The survey "challenging men's demand for prostitution" was conducted by biased people who had a complete contempt for all clients of sex workers. The majority of clients have 100% respect for women and completely condemn rape. A useful link highlighting the failures in the survey can be found here:

http://scot-pep.org.uk/sites/default/files/download-files/a_commentary_on_challenging_mens_demand_for_prostitution_in_scotland.pdf

Trafficking is a separate issue to that of sex work. It is already an offence to solicit a trafficked person. The authors of the survey of trafficking in 150 countries caution against using it as an argument for criminalising the clients of sex workers. They also said that more research is needed and that there are benefits of legalisation. New Zealand has the most advanced laws on sex work in the world and trafficking is not a big problem there compared to other countries.

Q1: Do you support the general aim of the proposed Bill? Please indicate "yes/no/undecided" and explain the reasons for your response.

A1: No. There are many reasons why not to. Please see the following links which will give plenty of reasons:

http://www.opensocietyfoundations.org/publications/ten-reasons-decriminalize-sex-work

http://www.sexworkersallianceireland.org/legalissues.html#anchor

Trish Godman was completely wrong was well. Reducing demand for sex is a nonsense argument. There are a certain proportion of workers exploited in the agriculture and clothes making industries. Should we reduce the demand for eating chocolate or buying shirts? See the following Laura Austin video describing the misguided efforts to reduce demand:

http://www.youtube.com/watch?v=lM8wQJF_qxU

Criminalising the clients of sex workers has been a disaster in countries that have adopted these measures. As well as being an abuse of a person's human rights it has also indeed pushed the industry underground and has created a greater than before culture of ignorance of sex work. Politicians in Norway want to get rid of the laws there that you are proposing. Also the Swedish government's review of its sex laws were completely biased and a farce. In addition there is an unhealthy culture of misandry in Sweden that has been encouraged. Please see the following links:

http://www.independent.ie/opinion/columnists/kevin-myers/kevin-myers-rampantte-rabbitte-has-to-learn-that-moralising-prohibitions-upon-human-appetites-never-work-2529301.html

www.bayswan.org/swed/swed_index.html

http://www.avoiceformen.com/feminism/government-tyranny/swedens-empire-of-governance-feminism/

www.thelocal.no/page/view/rip-up-prostitution-law-says-top-oslo-politician

Again sex work is the providing of a service like anything else. People are not being "bought or sold". To call sex workers commodities is to misrepresent the facts. Vast amounts of sex workers are doing what they do by choice and resent being told by individuals that they are victims that have to be "rescued".

As I said sex work and trafficking are two different things. It is unhelpful and a blurring of the issues to try and lump together these activities. A client having consenting sex with an escort has nothing to do with people trafficking.

Q2: What do you believe would be the effects of legislating to criminalise the purchase of sex (as outlined above)? Please provide evidence to support your answer.

Q3: Are you aware of any unintended consequences or loopholes caused by the offence? Please provide evidence to support your answer.

A2: Criminalising either person A, person B or person C is an abuse of an individual's human rights. There may be some public order concerns regarding outdoor sex work for example. However in an indoor setting there is only one factor that should concern us. Namely there is either consent or no consent. If there is consent between the two parties then it is none of the business of anybody else.

A3: It is completely unenforceable as it is a thought police and a bedroom police.

Q4: What are the advantages or disadvantages in using the definitions outlined above?

A4: This highlights how your proposed law is just a bedroom and thought police. Exchanging sex for alcohol could be someone going on a one night stand for example. In fact the person who

looks after their physical and mental health going to a sex worker is the more responsible one. They are not damaging their liver week after week and impairing their judgement concerning the consensus of sex. Also sexual activity can mean very different things to different people.

Q5: What do you think the appropriate penalty should be for the offence? Please provide reasons for your answer.

A5: There should be no penalty as I don't believe in criminalising the clients of sex workers. Scotland shouldn't follow Sweden's abuse of citizens' human rights. It is interesting the way things are at the moment whereby a "kerb crawler" could be treated more harshly under road traffic law than someone who injures a person seriously in an accident.

Q6: How should a new offence provision be enforced? Are there any techniques which might be used or obstacles which might need to be overcome?

A6: Sex work and trafficking are two different things as was said before and it is unhelpful to blur the two issues. Please read the following:

http://www.guardian.co.uk/uk/2009/oct/20/government-trafficking-enquiry-fails?intcmp=239

It is a waste of time for the police to interfere in the private sexual arrangements of consenting adults. Your proposal is actually taking us back in time and not forward in time. It would also encourage the breeding of more ignorance of sex work and would do nothing to curb the spreading of HIV.

Q7: What is your assessment of the likely financial implications of the proposed Bill to you or your organisation; if possible please provide evidence to support your view? What (if any) other significant financial implications are likely to arise?

A7: It is a waste of police resources to police the bedrooms of consenting adults having sex. There also could be less tourists going to Scotland if the state starts to dictate people's morals like in Dubai for example.

Q8: Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

A8: The proposed bill will have plenty of negative implications for equality.

For a start it is based partially on misandry. Men are sexually stimulated differently than women. Women are not as stimulated visually and usually take longer often needing memory trails. This is why the majority of clients are men.

From a feminist perspective you are performing gymnastics as you have to go back to a time many years ago when women might have been controlled by men. In recent times women in the sex industry have asserted themselves and many run their own businesses as is the case in other fields. They do not need to be told that they are victims or have their lives meddled with. This could be part of the reason you insist on calling sex workers "prostitutes"- in order to capitalise on old prejudices.

The bill will also increase discrimination against people who might have a disability, a disfigurement or who generally don't have the social skills to have a relationship. They will find it much tougher to fulfil what others can take for granted. The proposal completely dismisses their needs. This also ties in with the first point. It could lead to an increase in suicides which will affect men disproportionately.

To conclude I am saying that it is not recommended having proposals that will bring us back in time instead of forward in time. Sex workers should also be consulted and surveys should

be a true reflection of realities on the ground. A bill on sex work needs to be inclusive on the needs of everybody and should not demonise the clients of sex workers who are human beings like everybody else. It needs to address the needs of men, women, people with disabilities and the disadvantaged.

I will leave you with a submission which was completed for the Irish consultation on sex work. It is based on the situation in Ireland but the same general principles and arguments are the same no matter where you are. You can consider it a subset of the submission for the Scottish consultation.

Yours sincerely,

Concerned individual.

31st August, 2012.

Dear Oireachtas Committee,

In my introduction I would like to thank and congratulate the Minister for Justice Mr. Alan Shatter and his staff for giving everybody an opportunity to express their views and for producing a balanced consultation. Many on my side of the argument are reluctant to speak their mind in any public forum due to prejudice in society.

My background is that I have friends who have had experiences with the sex industry. In recent times I have become alarmed about changes to the law that NGO's wish to have and increasingly concerned about the welfare of all who are involved in the adult industry.

Let me start by stating that I am totally opposed to criminalising the clients of sex workers as has being lobbied for by groups such as the Immigrant Council of Ireland and Ruhama. I am also against criminalising sex workers themselves.

Reasons include the following:

1. It is essentially interfering in the bedrooms of consenting adults having sex (one of the most normal acts in the world) when you have blanket criminalising of the clients of sex workers. Prostitution is part of a spectrum in life which includes giving body massages, advertising for products, starring in over 18 rated movies and dancing sexily for women or men for example. Also doing work or giving a gift to a friend before sex is payment. In addition companionship with an escort is indistinguishable from a casual relationship. Who are third parties to arbitrate as to when someone is a girlfriend or boyfriend or not?

   Also it is resulting in criminal records for many people which effect employment prospects.

   Criminalising clients on this basis apart from everything else amounts to nothing less than misandry. There are many in the Turn Off The Red Light campaign that are motivated by this. You have to understand that men are sexually stimulated visually and quickly. Whereas women are stimulated differently usually taking longer and often needing memory trails. However erotica like Fifty Shades of Grey or vibrators for example which women may use as tools are no less or more deviating from the norm than a man visiting an escort. It is not also that all feminists incidentally are against sex work. It is just a certain category of them. They have taken a foothold in Sweden over recent times and have done major damage to the country. Please see the following link:

   http://www.avoiceformen.com/feminism/government-tyranny/swedens-empire-of-governance-feminism/

   The judges in the 1981 King case who struck out an old vagrancy law in Ireland were actually more progressive than the legislators later on in Sweden. Here another archaic and crude law criminalising clients was put on to the statute books in Stockholm in 1999. It also had to be forced and whipped through parliament. It assumes that all sex workers are victims, which is an assumption which can't be made. Among other parts of this useful following link the very informative video shows a sex worker speaking about the unsatisfactory conditions in Sweden:

   www.bayswan.org/swed/swed_index.html

2. Sex workers may be the only outlet for many in society. Someone with a severe disfigurement or disability for example may find it very challenging to fulfil any sort of sexual needs. Even those with low self confidence or getting on age wise in life might find this an uphill battle. The rights of these people are as important as everyone else's. Sex has a positive effect on the brain. We know from our own experiences in Ireland with institutional abuse in the past what damage a sexually frustrated person who was forced into celibacy potentially can do.

3. Trying to have a complete absolute ban on consenting sex with a sex worker will make heath initiatives unworkable. If activities are illegal and not out in the open the health of neither the sex worker nor the client will be a priority. Also the United Nations has come out and said the countries should stop penalising both the sex workers and their clients as it was impeding good health practices. See the UN Report of the UNAIDS Advisory Group on HIV and Sex Work Published December 2011. This doesn't matter whether you're in a rich country or a poor one. Sexual diseases don't care whether you're in the first, second or third world.

4. Criminalising the clients of sex workers will push the industry underground. There will be fewer clients and the sex workers will have to perform more dangerous acts in order to earn the same money. A similar phenomenon occurred in Ireland straight after the enactment of the 1993 prostitution act. The women were penalised for being on the street. Therefore they were at the mercy of criminal gangs which subsequently meant that they were financially less well off. As a result they had to perform more unsafe acts with clients to make the same money.

   It also makes prostitutes more isolated and marginalised in society. They are more compromised in many ways and prices have to be negotiated with a different type of client.

   The Swedish government's reviews of its sex laws were not impartial and badly performed. It also has no idea what is happening in the sex trade in the country.

   Criminalising the clients of sex workers has being a failure in Norway also. It has resulted in a situation where often only the more violent clients are available for the women and there has being calls in Oslo for the law to be repealed. See the following link:

   www.thelocal.no/page/view/rip-up-prostitution-law-says-top-oslo-politician

   The following link originating from the time of a previous Labour government in office in the UK gives more reasons not to criminalise the clients of sex workers:

   http://sexworkersallianceireland.org/legalissues.html#anchor

   I will now address some of the challenging questions, myths or points that are sometimes put to advocates of free choice in sex work:

1. "Are you enabling people trafficking?"

   Trafficking and sex work are two separate things. There are already laws against trafficking and the soliciting of minors and there is a clear consensus against these crimes. However there will always be consenting payment for sex which goes on in bedrooms all over the world. It is a waste of police resources to target consenting adults having sex where money happens to be involved. The issue of trafficking or slavery shouldn't be used as a stick to beat people with. There exists trafficking and slavery in the producing of agricultural goods and clothes and we don't criminalise the purchase of chocolate or shirts.

   In addition police reports have shown much less evidence of trafficking and slavery than anti-prostitution groups like us to believe there is. A police survey in the UK a few years ago failed to find one single woman that was forced into the sex trade.

   Please see the following link showing Laura Agustin speaking about trafficking and the misguided efforts to reduce demand for sex:

   http://www.youtube.com/watch?v=lM8wQJF_qxU

2. "How do you know that the escort hasn't being forced into the work?"

   There is a responsibility on all involved to look out for the welfare of sex workers. Customers should enquire for a start. Also if the purchase and sale of sexual services are not illegal

there is less of a role for criminal gangs. It will be also be found that the client will be more likely to report suspicious or untoward activity.

3. "Would you want your daughter working as a sex worker?"

You mightn't want your child to be packing shelves in a supermarket, to be a police officer in a dangerous neighbourhood, a fisherman or a boxer but that is not a criteria for banning an occupation. Sex workers are entitled to earn a living just like others. No employment is 100% perfect as well. Also the less stigma attached to being a sex worker the less stigma attached to everybody else. The prejudice they suffer from many ill informed observers who assume that they are all victims is one of their main gripes. Please see the following link which helps us see the wood from the trees:

http://www.londonmet.ac.uk/research-units/iset/projects/esrc-migrant-workers.cfm

4. "Most prostitutes start underage."

This is untrue and a discredited argument. A survey in 2003 asserting this was found to be poorly carried out and not taking proper samples. See the following letter in the Irish Times highlighting this from an experienced sex worker:

"A Chara,

I am an Irish sex worker of 17 years experience and although I now live in Scotland, I lived and worked in Ireland until 2003.

The current consultation around paid sex is in danger of being derailed. Much of the "evidence" is badly presented and seriously skewed. One of the chief advocates for criminalising the consensual and essentially private acts we engage in is Ruhama, who have based their campaign on the following statement - "75% of all sex workers enter the industry as children". That statement is based on a study (Melrose, 2002) which had as its subjects a mere forty six women, three quarters of whom were engaged in street work. As only 10% of all sex work is conducted on the street, the 75% figure is not statistically allowable. It is being manipulated purely to create a moral panic. It is not based on fact.

Some facts - 81.7% of Irish clients said they had never met an escort they suspected was being physically abused. (Irish Escort Clients Survey, 2006).

Following decriminalisation in New Zealand, 93.8% of sex workers reported feeling that they had health and safety rights under the law (Abel, Fitzgerald and Brunton 2007).

In the UK, 440 sex workers were interviewed and only 7% reported that being paid meant that they handed control over to the client. 85% of the women were aged 26 and over. 32.9% of the women had degrees whilst 18% held post-graduate qualifications (Jenkins, 2009).

Ireland has for many years laboured under the shame of its treatment of unmarried mothers in Magdalene laundries. It is time to stop marginalising and stigmatising sex workers who, ultimately, are inheriting identical practices.

The International Union of Sex Workers campaigns for the human, civil and labour rights of those who work in the sex industry, and for policy which is based on evidence. Evidence, please.

Is mise le meas,

Laura Lee

International Union of Sex Workers"

5. "It is immoral."

Consenting adults having sex where money is involved is not any more or less immoral than homosexual or lesbian couples having sex or having intercourse outside marriage. I've also touched on this topic above while discussing state interference in citizen's bedrooms.

6. "Sex workers have panic attacks"

To try and make the public believe that all sex workers suffer seriously from mental health problems as a result of their activities is a twisting of the facts to suit a certain agenda. A well respected ex-sex worker was asked if prostitutes suffer from panic attacks and this was her response which helps put the issue in context:

"A lot of people are in sex work BECAUSE they suffer panic attacks too badly to be able to handle any other kind of work well enough to make a living.

People who are waiting to lose the roof over their heads, or the children they love because they have no money have panic attacks.

I have panic attacks when I have to deal with community welfare officers, doctors or similar. This predates sex work and is largely unrelated to it, and, last but not least, a sex work related panic attack AIN'T NOTHING to the kind of panic attack you get when you realise a scumbag from the Sunday Times has just breached ethics and handed your real name to Sarah Benson!"

7. "If legalised the state could force you to be a prostitute."

This myth was based on a highly inaccurate report in a newspaper about a woman in Germany allegedly forced to take up a job as a prostitute. It was later shown to be untrue. The prostitute job was advertised as a different post and the employment agency said that they would never force someone to work as a sex worker. So people should look for solutions and not problems.

8. "There isn't the political will in Ireland to accommodate sex work"

This is a defeatist attitude and we should recognise that something exists and not put our heads in the sand. After all it could be said at one stage that there wasn't the political will have smoke free workplaces and pubs.

The following points are recommendations which I am making:

- The clients of sex workers should NOT be criminalised. Neither should sex workers.
- The government must work with the client. That way everybody can be vigilant and look out for criminal activity.
- Sex workers should be allowed to work in groups larger than one to increase their own safety.
- Stringently vetted and reputable security guards and landlords who are put on a register and have no criminal record could be allowed to be employed or used by sex workers.
- A simple, user friendly and confidential method of registering with authorities could be adapted by sex workers. This will reduce the role for criminal gangs.
- Zoning in certain non-residential streets which would include a Garda presence also should be considered.
- The authorities need to communicate with all sex workers especially those who don't speak English fluently.
- The setting up of alternative employment for those who wish to exit the profession should happen.
- Health checks for everyone involved in the industry must be encouraged.

- Websites advertising escorts need to be held to a certain standard. Every advertisement on the site should be investigated internally and/or externally to make sure that it does not support the exploitation of sex workers.
- Further study should happen of the sex work laws in New Zealand which has one of the most advanced legislation in this field resulting in a situation where the majority of those concerned are satisfied and where undesirable activity is reduced.
- The encouraging of sex workers to organise and the funding of sex work led organisations must happen. These should be consulted on legislative reviews rather than NGO's with discredited and highly controversial ideas. They could also liaise with a government body set up to oversee the industry. From my experience of talking to escorts or ex-sex workers they do not agree with the objectives of Ruhama and the Immigrant Council of Ireland and feel unlistened to or spoken down to by them.

As a conclusion I believe that we should be brave and be bigger than discredited individuals and groups who want to undermine hard fought civil liberties. Ireland should say no to both the "brush it under the carpet" culture of decades past and the misandry that has taken hold in the establishment in Sweden. It is also the way forward for those who are passionate about a safe and proper working environment for sex workers and who believe in treating them with respect. We should be brave enough to find our own solution to our own problems. Anything else is a missed opportunity and a snub to those who fought hard for our liberties.

Yours sincerely,

A citizen who cares.

A Robinson

to whom it may concern.

Re: Human Trafficking and Exploitation Bill.

I am writing to give my support to the full implementation of the above Bill, tabled by Lord Morrow. Please make note of my view in your consultation process. This is a real chance to deal with this shocking matter in N. Ireland. Please be aware that firm measures taken in countries like Sweden have not driven the practice underground and will not necessarily do so here.

Thank you for your attention

Yours faithfully. Mrs A. Robinson

Action of Churches Together in Scotland

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30th October 2013

Dear Sir or Madam,

Submission concerning the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill in the Northern Ireland Assembly by the Scottish Churches Anti-Human Trafficking Group.

1. As Convener of the Scottish Churches Anti-Human Trafficking Group (membership listed below) I write on behalf of the Group to offer our support for the above bill in the Northern Ireland Assembly.

2. The Scottish Churches Anti-Human Trafficking Group was established in June 2011 and has representation from the Baptist Union of Scotland (awaiting confirmation) Church of Scotland, Church of Scotland Guild, Methodist Church, Religious Society of Friends (Quakers), Roman Catholic Church, Salvation Army, Scottish Episcopal Church, United Reformed Church. It exists to exchange information concerning the member churches' activities and policies against human trafficking and their support for the victims of human trafficking. It is also seeks to work toward the formulation of joint policies in the churches concerning human trafficking.

3. Christians believe that people are made in the image of God and are loved equally by God. Therefore no man, woman or child should ever be treated as a commodity or possession. The Biblical tradition, including the words and actions of Jesus, urges Christians to stand up against injustice and help those who are vulnerable, seek freedom for those in bondage and offer protection to all in need. Human trafficking violates the sanctity of the human spirit. In addition insights from a liberation theology perspective, with its focus on freedom from oppression, consider the actions of the trafficker not just the victim in an analysis of power and wealth as part of the quest for justice.

4. **Clauses 1-8.** We recognise the complexities of human trafficking and the actions of traffickers which cross international boundaries and are a form of serious and organised crime. We therefore believe that it is vital that across the jurisdictions of the United Kingdom there are robust human trafficking laws and protection and support for victims. We view the steps that the Northern Ireland Assembly is taking to be trail blazing in this regard and we sincerely hope that similar legislation will soon follow in the both the Scottish and UK Parliaments.

5. **Clauses 9-14.** In line with our theological rationale we welcome the victim focussed nature of the proposed Act. We welcome the provision for the non-prosecution of victims of human trafficking and we are particularly pleased to see measures to ensure the proper support of victims of human trafficking including the granting of financial compensation to victims. Recognising that the experience of giving evidence against a trafficker takes great courage on the part of the victim we are pleased to see the measures within the bill which seek to minimise the potential of secondary trauma.

6. **Clauses 15-16.** We welcome the measures within the proposed Bill for prevention and reporting through the publication of a strategy and the appointment of an independent Northern Ireland Rapporteur on trafficking.

7. We would wish to offer particular comment on **Clause 6** of the proposed Act.

8. We are specifically pleased to see within the Act proposals to make paying for sexual services an offence (section 6.) We believe that human trafficking and prostitution are inextricably linked and the theological rationale which leads us to reject human trafficking as an acceptable form of behaviour also extends to prostitution.

9. We concur with the view of the Swedish government that 'international trafficking in human beings could not flourish but for the existence of local prostitution markets where men [and women] are willing and able to buy and sell [men], women and children for sexual exploitation.'[1] This would have major implications for the safety, health, wellbeing and dignity of those women, young people and men who are involved in prostitution. We also believe that measures to tackle demand for prostitution will therefore be effective in reducing the numbers of men, women and children, trafficked into Northern Ireland for sexual exploitation.[2]

10. We are encouraged that evidence from Scotland[3] indicates that those who have purchased sex do see that legal or financial penalties or public exposure could act as an effective deterrent to purchasing sex if sufficiently well enforced and we believe attitudes in Northern Ireland are likely to be similar. This potential reduction in demand for sexual services therefore could lead to a reduction in the number of people trafficked into Northern Ireland for the purpose of sexual exploitation. Evidence from Sweden, on whose legislation this clause is based, would suggest that following the introduction of similar legislation to that which is proposed, not only has demand for prostitution reduced[4] but Sweden has also become an 'unattractive environment' for human trafficking and the incidences of human trafficking for sexual exploitation have dropped.

11. Thank you for the opportunity to respond to this consultation. We do not wish to be considered to give evidence to the committee.

Yours faithfully,



Revd. Lindsey Sanderson
Convener, Scottish Churches Anti-Human Trafficking Group

1 Swedish Ministry of Industry, Employment and Communication (2004) Fact sheet: Prostitution and Trafficking in Women

2 According to the UK Government's National Referral Mechanism published statistics between Jan-March 2012 18 people were referred from Scotland as potential victims of human trafficking of whom 15 were trafficked for sexual exploitation. Between April and June 2012 22 people were referred from Scotland as potential victims of trafficking of whom 5 were trafficked for sexual exploitation. http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism/statistics

3 Macleod J., Farley M., Anderson L.,& Goulding J. Challenging Men's Demand in Scotland: A research report based on interviews with 110 men who bought women in prostitution. (Women's Support project, Glasgow 2008 pp.26-27)

4 Extract from the Swedish government report SOU 2010:49 The Ban against the purchase of sexual services. An Evaluation 1998-2008. Section B English summary of the report p. 9

Alan and Rosemary Dawson

7th October 2013

Dear Justice Committee,

We warmly welcome Lord Morrow's Bill: 'Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill'.

We very much support this bill and ask that you do likewise, in order to protect and help those who are so vulnerable and are being exploited in our province – men, women and children.

We gather the adoption of the Bill will also help fulfill obligations set out in the 'European Directive and the Council of Europe Convention'.

We particularly welcome clause 6 of Lord Morrow's Bill which criminalises paying for sex. Clause 6 would therefore directly address the principal source of demand for trafficking and do so more effectively than our current laws.

Yours faithfully,

Alan & Rosemary Dawson

Alan Braddock

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

Dear Sir or Madam,

May I express my welcome for the above Bill and my support for it.

The Bill is essential because it will make a real difference in the lives of some of the most vulnerable men, women and children who are exploited in the province of Northern Ireland. It will also help to ensure that Northern Ireland properly fulfils its international obligations as set out in the European Directive and the Council of Europe Convention.

I am sure that the primary reason for trafficking into Northern Ireland is for sex, and so I particularly welcome Clause 6 of Lord Morrow's Bill which criminalises paying for sex. This clause would thereby directly address the principal source of demand for trafficking and should be more effective than the current laws.

Yours faithfully,

Alan Braddock (Mr)

Alistair McNeice

The Human Trafficking and Exploitation Bill

Dear Sir/Madam

I would like to record my strong support for the above Bill which I warmly welcome as an essential step in protecting some of the most vulnerable people in our society and in preventing their exploitation. I believe that this Bill will ensure that Northern Ireland properly fulfils its obligations as outlined in the European Directive and Council of Europe Convention.

Recognising the sad fact that the primary reason for trafficking into Northern Ireland is for the sexual exploitation of those caught up in this heinous activity, I particularly welcome Clause 6 of Lord Morrow's Bill which criminalises paying for sex. This will allow the principal source of demand for trafficking to be addressed in a more effective manner than is possible under our current legislation.

Thank you for your attention in this important matter.

Yours faithfully

Alistair McNeice

Amnesty International

Human Trafficking and Exploitation (Further Provision and Support for Victims) Bill

Submission to the Northern Ireland Assembly Justice Committee

1 November 2013

Amnesty International UK
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02890643000
www.amnesty.org.uk/ni

Introduction

Amnesty International UK (AIUK) is a national section of a global movement of over three million supporters, members and activists. We represent more than 230,000 supporters in the United Kingdom. Collectively, Amnesty International's vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. Our mission is to undertake research and action focused on preventing and ending grave abuses of these rights. We are independent of any government, political ideology, economic interest or religion.

Amnesty International is one of the leading nongovernmental organisations that campaigned for a robust approach to the prevention and combating of human trafficking during negotiations on the text of the Council of Europe Convention on Action against Trafficking in Human Beings (Human Trafficking Convention), and that continues to work to promote states' ratification of and compliance with this Convention.

Amnesty International has a wealth of experience working on this issue at local, national and international level. This includes campaigning for the UK government to sign and ratify the Convention. We have also contributed to a range of reports, including those published by UK Anti-Trafficking Monitoring Group (ATMG), which was established in May 2009 to coincide with the entry into force of the Council of Europe Convention on Action against Trafficking in Human Beings in the UK. The ATMG monitors the UK Government's implementation of the Convention and examines all types of trafficking, including internal trafficking and the trafficking of UK nationals. The Group promotes a human rights based approach which prioritises the well-being and best interests of trafficked persons.

In Northern Ireland, AIUK have worked extensively to ensure the protection and promotion of the rights of trafficked victims. This includes, but is not limited to, lobbying for a Department of Justice (DoJ) engagement group on trafficking, a rights based information leaflet for victims of trafficking, contributing to the DoJ's organised crime communications strategy, inputting to joint DoJ and DHSSPS guidance on the welfare and protection of adult victims of trafficking, lobbying for the implementation of recommendations of ATMG reports and providing support and secretariat to the All Party Group on Human Trafficking.

AIUK recognises and welcomes the strong cross party political will that exists to bring an end to human trafficking in this region. We welcome the clauses of this Bill that provide further support and provision for victims of trafficking. We also recognise that this Bill amalgamates some existing legislation into one single act, a legislative approach for which we see some merit. However, whilst we recognise the legitimate aspirations of this Bill, we believe it fails to

provide a comprehensive approach to the issue of human trafficking, particularly with regard to measures to improve research and data collection on the extent of human trafficking in the region, and the human rights impact on those who have been trafficked.

We are also concerned that the approach of combining legal measures to address human trafficking with legal measures to address prostitution, both complex issues, will not be an effective nor appropriate approach in this instance. Indeed one particular clause poses a potential risk to the human rights of vulnerable people involved in selling sexual services in Northern Ireland.

We will outline our concerns in this evidence paper and make a number of recommendations on several clauses of this Bill but the weight of this document is on one particular area of concern – clause 6. We are calling for Clause 6 to be removed from the bill and for further action from the DoJ.

Oral evidence Amnesty International would welcome the opportunity to discuss this paper at an oral evidence session with the Northern Ireland Assembly Justice Committee. Our evidence would be given by Grainne Teggart, Northern Ireland Campaigner for AIUK and lead on anti-trafficking work. Grainne is AIUK and Northern Ireland representative on the UK Anti-Trafficking Monitoring Group, has advised members of the All Party Group on Human Trafficking, the DoJ and is a member of DoJ Engagement Group.

Contact details to make arrangements are provided on the cover.

Detailed comments on proposed legislation

Clause 4

- This clause requires amendment to clarify that this minimum sentence provision does not apply to children and is not, therefore, in contravention of international human rights standards[1].

Clause 6

- AIUK does not support the inclusion of Clause 6 in this bill.
- Those engaged in selling sexual services and human trafficking are two very complex social phenomena which would require more considered separate policy and legislative responses.

Concerns

- The Trafficking Convention and the EU Trafficking Directive expressly provide measures to be taken for discouraging and reducing the demand for trafficking victims; the criminalisation of the purchase of sexual services is not one of the measures they recommend.
- AIUK is concerned that, in the absence of thorough evidence-based research on the links between human trafficking and those who sell sexual services in Northern Ireland, there is potential for clause 6 to be counter-productive by driving trafficking for sexual exploitation and those who sell sexual services further underground, thus increasing the already vulnerable position of those involved.
- We are also concerned with the potential for diversion of criminal justice resources away from tackling trafficking in this region.
- These concerns are reflected by the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) in their third general report which states that ‘’The impact of criminalising the purchase of sexual services, seen as an anti-trafficking

1 Convention on the Rights of the Child http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx

measure in some of the States evaluated by GRETA, must be assessed in the light of all possible consequences. This includes ensuring that the measures taken do not drive victims of trafficking for the purpose of sexual exploitation underground or make them more vulnerable, and also that they do not mobilise investigation units and prosecution authorities to the detriment of investigations of traffickers."[2]

- AIUK is concerned that clause 6 seeks to outlaw the paying for sexual services of a person as a standalone measure, **without** further provision and support provided for those who will be directly affected as a result of this step, nor crucial protection and support for those seeking to exit the selling of sexual services. Further provision and support should be fully informed by a strong evidential base, which would include independent research and consultation with a range of stakeholders including those who sell sexual services – see Evidence section below.

Research and evidence

- AIUK proposes that further research be conducted to establish the degree to which legislation – together with administrative, educational, social, cultural or other measures - could serve to reduce the demand that fuels trafficking, including for the purpose of sexual exploitation.
- Regarding measures to address demand, the Council of Europe Convention's Explanatory Report advises that, among the minimum measures set out in Article 6, "An essential one is research on best practices, methods and strategies for discouraging client demand effectively."[3]
- The most recent GRETA report also states "…that the effectiveness of anti-trafficking measures, should be subject to **thorough independent** assessment to avoid any negative unintended consequences" and that there is a need for evidence-based research to inform policy-making

  "only a well-grounded understanding of the empirical situation and a rights-based approach to human trafficking can ensure that vulnerable populations and victims are able to realise and exercise their rights and that people are not harmed by ill-devised, often ideologically driven, schemes to save them"[4].
- There is an insufficient evidential basis how this would reduce the demand for human trafficking for sexual exploitation to this region.
- 'Swedish model' – Much of the debate on this clause has centred on the Swedish Sex Purchase Act and its effects. At best there is conflicting evidence regarding how effective this model has been. Studies on the effectiveness of this form of legislative approach vary too much for a definitive argument to be made that it is effective in pursuit of respect for victims' rights, protection of victims, and prevention and combating of trafficking.
- The Swedish National Council for Crime Prevention has found little or no evidence that the Swedish law criminalising the buying of sex had any significant impact on decreasing trafficking for sexual exploitation. Evidence has been presented to show one of the effects was to drive the problem underground and into the realm of modern information technologies, such as the internet and mobile phone technology.[5]

2 Page 6, 3rd General report on GRETA's activities, covering the period from 01 August 2012 to 31st July 2013. Published October 2013. http://www.coe.int/t/dghl/monitoring/trafficking/docs/Gen_Report/GRETA_2013_17_3rdGenRpt_en.pdf

3 http://www.conventions.coe.int/Treaty/EN/Reports/Html/197.htm

4 (point 75, page 40) 3rd General report on GRETA's activities, covering the period from 01 August 2012 to 31st July 2013. Published October 2013. http://www.coe.int/t/dghl/monitoring/trafficking/docs/Gen_Report/GRETA_2013_17_3rdGenRpt_en.pdf

5 The Organisation of Human Trafficking: A Study of Criminal Involvement in Sexual Exploitation in Sweden, Finland and Estonia. Bra (Swedish National Council for Crime Prevention), Stockholm, 2008. p.77

- Country context is highly important – Not only are there questions as to the effectiveness of the 'Swedish model' in the country itself, but there are further questions on its transferability to other country contexts. AIUK believes this merits more in depth research and consultation in Northern Ireland before legal measures are proposed to address the selling of sexual services.
- The proposed bill departs significantly from the 'Swedish Model' in that it makes no provision to lessen the criminal burden on people involved in selling sex in Northern Ireland, many of whom may be vulnerable individuals. It simply seeks to introduce further criminalisation around sex work and provides no exploration of, or guarantees against, the potential consequences of such a move.
- Inclusion: The wide range of voices of those engaged in the selling of sexual services should be actively engaged with on this issue. The impact of such a change has not been fully explored in relation to those likely to be impacted by potential legal changes, and the range of experiences that exist. There are many areas of policy that would need to be addressed. It is obvious that one of these areas is the impact on already vulnerable people and their safety and wellbeing.
- The Global Commission on HIV and the Law has recently recommended that states ". . .enforce laws against all forms of child sexual abuse and sexual exploitation, clearly differentiating such crimes from consensual adult sex work[;] and ensure human trafficking laws are used to prohibit sexual exploitation, as opposed to consensual sex work."[6]

Clause 10

- We welcome this clause on support provision for victims.
- We feel this clause would benefit from clarifying the responsibilities of both Department of Health Social Services and Public Safety (DHSSPS) and DoJ so this is clear in statute.
- AIUK would recommend the overarching requirement for support be placed in primary legislation with a requirement for the DoJ and DHSSPS to set out the detail by Order in secondary legislation. Human trafficking is not a static issue and will change and evolve over time, as will the needs of victims. Northern Ireland policies, processes and legislation must retain a degree of flexibility and be easily amended to ensure they can adequately respond to upholding the protection and promotion of the rights of victims. Secondary legislation will be easier to amend at a later point.

Recommendations

AIUK recommends that;

- Clause 4 is amended to clarify that this minimum sentence provision does not apply to children.
- Clause 6 is removed from this bill and the selling of sexual services is addressed separately.
- Clause 6 - The DoJ undertake further research on the selling of sexual services, including its nature and extent in Northern Ireland, a full needs analysis of the range of people involved in the sex industry and a human rights compliant impact assessment of any further legislation. Research is necessary to provide an evidential base on which to construct a comprehensive approach to address concerns re: the selling of sexual services.

6 2012 Global Commission on HIV and the Law Report, supra note 14, at 10.

- Clause 6 - AIUK is calling on DoJ to commit to a legislative vehicle to enact the removal of six month statute bar in respect of Article 64A of Sexual Offences Order – where a woman has been subject to force.
- Any visit to Sweden or other countries by Northern Ireland Assembly Justice Committee for comparative purposes is balanced to enable our Committee members to come to a fully informed decision. In Sweden this must include those organisations that work with and on behalf of those who sell sexual services, independent NGOs and academics.
- Clause 10 is amended to clarify the responsibilities of both DHSSPS and DoJ and that the overarching requirement for support be placed in primary legislation with a requirement for the DoJ and DHSSPS to set out the detail by Order in secondary legislation.

Anna

Collective co-operation between political parties would enforce this bill and will bring improvements to the current situation, for the purpose of stopping perpetrators and the damage suffered by innocent individuals. I am writing in the hope that all shared opinions, pro and against, will become one, loud, clear voice, in the fight against human trafficking and prostitution.

Due to my personal safety and my status as a victim of human trafficking, certified by SOCA, I will not disclose my name. But what I will do is reveal my personal experience and give every person the chance to understand the real face of traffickers, and the experience of enslaved women and men.

Families are being broken into pieces and victims have nobody to trust or understand them. There is a world of individuals trying to hide these facts under society's rug.

People are afraid of being judged if the sex buyers are friends, relatives, parents or young individuals with little understanding.

I am a woman who was kidnapped, abused, and raped by over 1000 men, beaten for various reasons and purposes, with my identity stolen. Now I have no hope of a healthy family life. I have serious health issues and death threats.

I was forced to provide sexual services, day by day to people from Northern Ireland and Ireland. I wouldn't have known the real face of crime and the level of it's extent if my ''pimps" hadn't 'procured' me from the middle of the street and moved me into these two countries.

After 4 months of daily beatings, being starved to the extent of malnutrition, men who raped me daily were paid a large sum for me to provide sexual services under mental and physical abuse. I was sold for 20,000 euros to a wider web of international pimps.

From 10 customers a day I was then to provide the pimps money for sex with 20 people a day - under threat. But I took a different path out of their obscure, hidden and dirty world. I escaped and I am alive. The purpose of the pimps, be they men or women, is that they need to satisfy their need for money and power.

The purpose of sex buyers - rapists - is that they need to satisfy their inhuman condition by forcing weak people - who are under bondage to their 'life-owners/pimps' - to get their sexual needs fulfilled and their mental condition and cause even more harm to the people they abuse.

I was part of a European wide investigation and there was no current law to keep my perpetrators more than 7 years in jail. There was only one chance of survival; a witness protection scheme which would put me in isolation for the rest of my life.

This was an impossible place to be, carrying the heaviness of the past, day-by-day, with no help and no hope that somebody would actually understand the level of my personal trauma, added to by an incomplete legal system which was only half effective in my circumstances.

I would like to mention that the Swedish model is used currently world-wide as an example and as an inspiration. It's been effective, proven legally and supported by so many, in their efforts to do something in relation to human trafficking and prostitution.

Northern Ireland has Lord Morrow and a team of professionals, trained in social policies and the best way to bring people to justice. They need support in order to fulfil and achieve this country's best interests. It is not easy to fight for something that so many would just avoid or condemn.

After close examination of this bill I believe that you would empathise with my story and think about the right way of applying this in order to crash empires like; the sex-industry,

money laundering and slavery for any purposes. These are all complete breaches of all 31 paragraphs of the Human Rights Declaration.

The role of this bill is to strengthen society and defend its future by not allowing these monstrosities to happen to any other citizen and future generations. The children shouldn't pay for the mistakes of their parents, but neither they should suffer for the fact that their parents did'nt protect their future lives.

What happened to me could happen to any person, child, young or adult person. The only difference is that I am alive and able to share something that many would not even know about unless special circumstances might allow otherwise.

What we can do is to make sure that the casualties can be reduced and you will not watch more people being injured or killed in the near future for the sexual and financial benefit of others.

I firmly believe that sticking with my principles, being faithful to this nation and being a supporter and protector of human rights as a victim, will elevate this bill into the highest position within any governmental organisation in Northern Ireland. I will not end this fight unless I know that it will be active, respected and implemented for the purpose of a better life quality in Northern Ireland.

I urge you to think about this as a national problem. If you allow it to grow there will be nothing to stop it

Anna

15.01.2014

Anne Johnsen

Dear Justice Committee,

Regarding the The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill - Committee Stage Clauses 1-8:

On criminalising the purchase of sexual services (aka The Nordic / Swedish Model)

My name is Anne Johnsen and I live in Norway. We have had the Sex Purchase Law (Nordic Model) for nearly five years now, and it has created a lot of misery and harm for the ones it affects. And one way or another, the law affects all.

In short, there are some points that I urge you to consider:

- Research done by FAFO* suggests that this law enables sex trafficking as it forces the market underground http://www.forskning.no/kortnytt/329381 (Norwegian article)
- Sex workers are prone to much more violence and riskier practices after the implementation of this law
- Sex work has not decreased at all - it has merely been force underground
- The police have become the sex worker's enemies instead of a protective and cooperating unit
- Last year The Danish Government turned around and struck down the proposal of implementing the Nordic Model as the majority realized the dire consequences of this law. (http://drum.co.za/2012/11/21/denmark-drops-plan-to-criminalise- prostitution/)
- Some months ago, The Scottish Parliament also turned voted down the proposal to criminalise the purchase of sexual services
- UNAIDS and UN Women strongly urge to decriminalise sex work (*Fafo is an independent and multidisciplinary research foundation focusing on social welfare and trade policy, labor and living conditions, public health, migration and integration, and transnational security and development issues. Fafo works within both a domestic Norwegian and larger international context)

Good luck with your work!

Kind regards,

Anne Johnsen

Anonymous North Down resident

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

01.11.2013

Re: The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill - Committee Stage.

Dear Sir or Madam,

I do not support human trafficking, coercion and exploitation in any form.

I object to clause 6 of the Human Trafficking and Exploitation Bill.

It is claimed that targeting the clients of sex workers will fight trafficking. I do not agree as transparency will be eroded. Criminalising demand and imposing prohibition creates a black market which serves as a financial incentive for traffickers and is therefore a flawed and dangerous logic. Sex workers and their clients are best placed to identify potential victims of trafficking. Criminalisation will make clients and sex workers less likely to report a potential trafficking victim or to refer them to agencies who can offer them support.

I would like the democratic process to take account of the opinions and experiences of the root and branch people involved. Specifically police officers – not just the high-ranking officers – involved in countering human trafficking, should be canvassed for their opinions as to how to tackle this crime. Just as sex workers must also be canvassed for their opinions as to how human trafficking can be tackled.

Additionally, the Policing and Crime Act 2009 contains powers well beyond those contained in clause 6 of the proposed Bill, introducing a strict liability offence.

It would seem that when taking the Policing and Crime Act 2009 and the Sexual Offences Act 2003 together the police have more than adequate powers to detect and bring to justice any trafficker, exploiter or coercer. It is obvious that the police, given adequate resources, is well able to carry out this task using the existing laws.

Victims are not created by the client or the sex worker. Victims are created by the exploiter, the coercer, the trafficker, the pimp and those living of immoral earnings, and each of those acts are already illegal. The victim is also created by the failure of the existing laws to be properly enforced.

Banning the exchange of sexual services for money is an issue of liberty not of exploitation, coercion, trafficking, pimping and living off immoral earnings.

If clause 6 comes into force the police will be faced not only with detecting human traffickers without the co-operation of sex workers or their clients, but will be forced commit scarce resources to arrest and prosecute frustrated husbands, young men out on the town for the night, lonely singles and a plethora of others attempting to find an outlet for their sexual passions.

Yours sincerely, a North Down resident.

Anonymous Scottish sex worker

Dear Committee Members,

I write with regards to Human Trafficking and Exploitation Bill, clause 6 in particular. Clause 6 of the Bill will turn the offence of paying for sex with a coerced prostitute into an offence of paying for sex with any adult person. I'm afraid I feel compelled to oppose this; and I believe that being an adult person, who is regularly paid for sex, provides me with sufficient experience to make an informed opinion.

To begin with, I find the way clause 6 is worded rather alarming. It criminalises paying for sexual services of a person, not a prostitute. I am not familiar with the finer details of law in Northern Ireland; I don't know how many times a person should sell their sexual services, or how many buyers of sexual services a person must have - is one enough? - before they are considered a prostitute in the eye of the law, but it's irrelevant here because the Bill talks about a person, not a prostitute. Quite frequently a person who provides sexual services to another person in exchange for housing, paid bills, meals and shopping trips is known as a wife, a girlfriend or a mistress. And housing, shopping trips and meals fall neatly under your definition of payment. You don't seriously think that a law, once made, is only ever used for the purpose politicians have in mind. An alarming number of politicians will become offenders overnight if you pass this Bill, all you need is a prosecutor who can read. If I could suggest an amendment to this clause, then, keeping in mind your aim of fighting human exploitation rather than all sex between persons above 18, I would change "a person" for "a coerced individual". But no, wait! An offence of paying for sexual services of a coerced individual already exists! So what exactly are you trying to achieve by re-wording the law that's already in place?

However, semantics aside, common sense tells me clause 6 is aimed at clients of prostitutes, not just any person, consenting or coerced. I would like to ask you to consider this. If some imaginary country were to prohibit alcohol, would the rate of contraband alcohol in this country rise or fall? The logical guess is "rise". If this country were to ban smoking, would all smokers just quit? Maybe some would, but the majority would secretly smoke anything that's smuggled in, regardless of its quality. It seems logical then to assume that if this country were to criminalise paying for sex, people will still pay for sex. Only now this country created a market for controlled sex providers - those who won't be able to blackmail the buyer, or report the buyer to police, or to complain to anyone about the way they are treated. Why not make a country instead where people selling sex with full protection of the law will create sufficient competition for traffickers?

In my experience, the majority of people involved in prostitution are there because of poverty and inequality, because selling sex is their last resort. You can't possibly believe that by removing their last resort you'll be reducing the ways in which they are exploited. On the contrary, by doing so you'll force a lot of prostitutes to seek help from third parties, those who will promise to find clients for them. This is what I would have to do if such a law was passed in Scotland where I am based. And, same as in Scotland, you don't seem to consider making an offence of buying prawns, haddock or salmon, even though a simple google search provides you with a lot of articles and research into exploitation of immigrant workers involved in the sea fishing industry in Northern Ireland. Would it be because you know that not buying fish isn't going to help those exploited workers? How is sex different? Because you have moral objections to it? Is this reason enough to throw a few hundred women in Northern Ireland in the river? This act would only reinforce the public perception that prostitutes are expendable and disposable. That's ok if they get hurt as long as we save those few trafficking victims, right?

Human trafficking is a complex issue, with main contributing factors being global inequality and the lack of rights by parties affected, not to mention restrictive migration laws. A

successful fight against human trafficking and exploitation should involve reforms on a global level and a human rights based approach. This is achieved by actually giving people rights, not by taking their last source of money away from them. With clause 6 as it is, you're increasing human trafficking and exploitation, not reducing it. I urge you to throw it in the bin where it belongs.

Regards,

Anonymous Scotland sex worker.

Anti-Slavery International



today's fight for tomorrow's freedom

Anti-Slavery International
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Submission by Anti-Slavery International to the Committee on Justice on the proposal of Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

1. Introduction

1.1 Anti-Slavery International is the world's oldest human rights organisation (founded 1839) and is committed to eradication all forms of slavery throughout the world including forced labour, bonded labour, trafficking of human beings, descent-based slavery and the worst forms of child labour. Slavery denies millions of people their basic dignity and violates their fundamental human rights. Anti-Slavery International works to end these abuses by:

- Research and advocacy – lobbying and influencing governments, businesses and civil society;
- Advocating for the enactment and implementation of national and international legislation, policies and practices to prevent and eliminate slavery;
- Building coalition and movements to hold the international community to account;
- Empowering individuals and communities vulnerable to slavery to demand respect for their human rights, access effective remedies and obtain protection from slavery.

Anti-Slavery International is the oldest international human rights organisation in the world and the only UK charity that solely deals with issues of modern day slavery, including trafficking in human beings. The organisation has a consultative status with the United Nations and a participatory status with the Council of Europe. Anti-Slavery International is a member of the Home Office's Joint Strategic Group on Human Trafficking and co-chairs two of its thematic sub-groups. Anti-Slavery International also chairs and hosts the Anti-Trafficking Monitoring Group.

1.2 This submission was drafted by Ms Klara Skrivankova, the Trafficking Programme Coordinator and expert on the issue Anti–Slavery International. Ms Skrivankova has been working in the area of anti-trafficking since 2000 and has been involved in assistance to many trafficked persons and provided expert advice in a number of trafficking cases. Between 2000-2005, she worked as a project manager in La Strada Czech Republic, a non-governmental organisation that has since 1995 supported hundreds of trafficked persons. La Strada Czech Republic is internationally and nationally recognised expert anti-trafficking organisation. It is a partner within the government victim protection scheme and has provided expertise in the drafting process of anti-trafficking legislation and guidelines. From 2005, she has been working in Anti-Slavery International leading its anti-trafficking programme. I am responsible for the anti-trafficking work of the organisation. Between 2005-2008, Ms Skrivankova acted as an expert with the Council of Europe in their campaign on the Convention on Action against Trafficking in Human Beings. In 2007, she co-founded the Trafficking Law and Policy Forum in the UK. From 2008, she has been a member of the Group of Experts on Trafficking in Human Beings advising the European Commission. Since June 2009, she has been a

member of the Advisory Board of the Forced Labour and Modern Day Slavery Programme of the Joseph Rowntree Foundation. In March 2009, she has been appointed to the Board of Trustees of the UN Voluntary Trust Fund on Contemporary Forms of Slavery and in November 2010 to the Board of the UN Voluntary Trust Fund for Victims of Trafficking. She is also currently working as an external consultant for the Joseph Rowntree Foundation Forced Labour Programme and acts as a resource person for the consultation on effective remedies for trafficked persons convened by the UN Special Rapporteur on Trafficking in Persons, Especially Women and Children. Ms Skrivankova was a specialist contributor (I authored two chapters on compensation and on forced labour) to the The Human Trafficking Handbook: recognising trafficking and modern-day slavery in the UK', edited by P. Chandran and published by Lexis Nexis in 2011.

2. What we know about trafficking in the UK

2.1 We expect that the Committee will have received a number of separate submissions on this. For this reason, Anti-Slavery has decided to focus its evidence to the Committee on two specific themes which utilise the evidence and experience of Anti-Slavery International. We would also like to note that we welcome the inclusion of specific provisions on victim protection and assistance in Part 2 of the Bill. These are paramount to any successful anti-trafficking efforts. We further note with appreciation the inclusion of a clause to set up an independent rapporteur to monitor the implementation of anti-trafficking measures in Northern Ireland, directly accountable to the Assembly.

The themes covered by this submission are:

(1) Forced labour and the significance of equal treatment of all victims, regardless of what purpose they have been exploited for and the clarification of offences of modern day slavery

(2) Proposal to criminalise the paying for sexual services of a person

3. Forced labour and the significance of equal treatment of all victims regardless of what purpose they have been exploited for

3.1 Forced labour can be both and outcome of trafficking in human beings (one of the purposes for which trafficking occurs as defined in Art.3 of the Council of Europe Convention on Action against Trafficking in Human Being) or a separate offence.

3.2 While **trafficking is a process**, consisting of three inter-dependent elements[1], the final purpose of which is exploitation, including in forced labour, forced labour is **maintaining a person in a situation** where they are involuntarily forced to perform a service of labour under a menace of penalty. For further information, please see **Between Decent Work and Forced Labour: Examining the Continuum of Exploitation**, Joseph Rowntree Foundation, 2010.

3.3 Both trafficking and forced labour are found in Northern Ireland. This has been extensively documented in research by the Joseph Rowntree Foundation that also included a study specifically on Northern Ireland.

3.4. The introduction of an offence in 2009 of Slavery, servitude and forced and compulsory labour under section 71 of the Coroners and Justice Act was to close the legislative gap where only trafficking offences were criminalised, rather than all forms of modern day slavery, including forced labour as required by the ILO Convention No. 29, of which the UK is a signatory.

3.5 We note with appreciation that reference is made in Art.1 (b) of the proposed bill to section 71 of Coroners and Justice. It is important that all forms of modern day slavery be covered

1 See Art. 3 Council of Europe Convention on Action against Trafficking in Human Beings

under unified piece of legislation reflecting that trafficking and forced labour can occur both concurrently and consequently.

The Bill should also strive to clarify the offences and making them easily applicable in prosecution. We consider that the definitions of offences included in the Bill can be improved as follows:

a) include a single definition of trafficking that mirrors the definition of the EU Trafficking Directive (2011/36) that specifically included trafficking for forced criminal activity and begging

b) keep a separate forced labour definition that refers to the ILO Convention 29. This should be accompanied by providing the criminal justice actors with lists of indicators developed by the ILO (International Labour Organisation) for identification of situations of forced labour

3.6. Protections under Art.8 and Part 2 of thr Bill shall include victims of all forms of modern day slavery, not just trafficking. As demonstrated in cases of forced labour uncovered in England and Wales (the so-called 'Connors cases' of mainly British men that have been kept in forced labour in England for up to 20 years), victims of forced labour need the same protection and assistance as victims of trafficking. These victims have been able to benefit from assistance under the NRM, however, this assistance should be guaranteed, so that all victims of modern day slavery have equal access to protection and assistance.

The proposed Bill must not create a "hierarchy of suffering" or categories of "deserving and undeserving" victims. It is also to be noted that the ILO is discussing introducing a protocol to the Forced Labour Convention No. 29 to bring in binding protection requirements for victims of forced labour in future.

3.7. The total number of cases of trafficking for forced labour (in all its forms including domestic servitude and forced criminal activities) has in 2012 it the UK[2] exceeded the number of cases of trafficking for sexual exploitation. Hence, it is paramount that focus of the Bill concentrates on ensuring that all victims of forced labour are recognised and assisted.

4. Proposal to criminalise the paying for sexual services of a person

4.1. Anti-Slavery International's view is that the term "modern day slavery" should refer to all forms of recruitment into slavery and slavery-like exploitation, including trafficking and forced labour and that the term should not be confined to recruitment into prostitution.[3]

4.2. Anti-Slavery International endorses the definition contained in Article 4 of the Council of Europe Convention and the EU Trafficking Directive 2011/36 and regards this as an appropriate framework on which to base its own work against trafficking. Similarly, Anti-Slavery endorses the definition of forced labour contained in the ILO Convention No.29 and regards it as an appropriate framework for combatting forced labour.

4.3 Anti-Slavery International is also aware of the international polarised debate with organisations supporting abolition of prostitution on one side and those supporting legalisation of prostitution on the other side. However, there are no sufficient grounds for Anti-Slavery to work against prostitution as it is not a form of slavery. Anti-Slavery International, as one of the parties involved in the negotiations, endorses the Council of Europe Convention. In line with the opinion of the Council of Europe, we follow the distinction between prostitution and trafficking in human beings:

2 Data from UK Human Trafficking Centre

3 As was implied by the main international standard in existence before the adoption of the Protocol in November 2000 - the 1949 UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others.

4.4 The Council of Europe, based on the Council of Europe Convention, suggests drawing a distinction between the two phenomena: "It must be clear that the forms of exploitation covered by the Convention are not limited to sexual exploitation. Moreover, trafficking in human beings differs from "prostitution" in that it is a new form of slavery which can include sexual exploitation, but not necessarily. Prostitution can only be qualified as "trafficking in human beings" if one of the actions e.g. "recruitment" and means, "threat or use of force referred to under at. 4 of the Convention have been used."[4]

4.5 Anti-Slavery International also accepts the position of the ILO on forced prostitution and forced labour:

> *"While the (UN) Trafficking Protocol draws certain distinction between trafficking for sexual exploitation on one hand, and trafficking for forced labour or services (and also slavery, slavery-like practices and servitude) on the other, this would not be taken to imply that coercive sexual exploitation does not constitute forced labour. Indeed, the ILO supervisory bodies have regularly dealt with forced prostitution and sexual exploitation under Convention No.29."*[5]

4.6 In conformity with the Council of Europe Convention on Action against Trafficking in Human Beings and other existing international standards[6], Anti-Slavery International will continue to oppose any cases of child prostitution involving girls or boys less than 18 years of age.

4.7 Arguments are often presented, mainly by experts from Sweden, suggesting that criminalising the buying of sexual services of a person is a solution to trafficking for sexual exploitation. However, Anti-Slavery International has not been able to find robust enough evidence that any measures aimed at regulation of prostitution or criminalising the purchase of sexual services have any significant impact on reduction of trafficking.

4.8. The Swedish National Council for Crime Prevention found no evidence that after a decade in place, the Swedish law criminalising the buying of sex had any significant impact on decreasing trafficking for sexual exploitation in Sweden. In fact, evidence had previously been presented to show one of the effect was to drive the problem underground and into the realm of modern information technologies, such as the internet and mobile phone technology." The number of women involved in the online sex market is often higher than, for example, the number of women working for trafficking networks engaged in street prostitution…..In most Swedish cases, the contacts between clients and organisers or the woman or girl take place when the clients send e-mail or call a phone number in the ad."[7]

4.9 The Trafficking in Persons Report of the US Department of State continues to report about cases of trafficking for sexual exploitation in Sweden (see for example reports for 2011, 2012 and 2013).

4.10 Anti-Slavery International understands from the Swedish trade unions and service providers that as a result of the law prohibiting the buying of sex, there has been over focus on trafficking for sexual exploitation in Sweden, to the detriment of those trafficked for forced labour. In the past three years, cases of labour trafficking in Sweden have been increasing, for instance those of victims from south-east-Asia exploited in the north of Sweden as berry pickers. These victims were supported by local communities, as there is absence of assistance provisions for victims of labour trafficking in Sweden.

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4 Statement by the Head of the Minorities, Media and Equality Department, Directorate General of Human Rights, Council of Europe as published in Proceedings from the regional seminar in Riga, September 2006. Directorate General of Human Rights, Council of Europe, Strasbourg, 2007.

5 A Global Alliance against Forced Labour.International Labour Office, Geneva, 2005.

6 Notably the ILO's Worst Forms of Child Labour Convention (Convention No. 182 of 1999), and the UN Convention on the Rights of the Child (1989).

7 The Organisation of Human Trafficking: A Study of Criminal Involvement in Sexual Exploitation in Sweden, Finland and Estonia. Bra (Swedish National Council for Crime Prevention, Stockholm, 2008. p.79

4.11 In 2008, Swedish authorities failed to prosecute members of the Connors' gang for trafficking and exploiting in forced labour men, including British men, in Sweden. This was the same gang members of whom were finally convicted of forced labour in the UK in 2012 and 2013.

4.12 n 2012, Anti-Slavery International participated in a seminar where a representative of EUROPOL from the unit that deals with trafficking confirmed in his presentation that across Europe, there is no evidence to show that any laws on prostitution (be it regulative or prohibitive) have had any significant impact on the issue of trafficking. He went on to argue that while there might be some links, these were essentially two separate issues.

4.13 Data both from the Eurostat[8] and the US Department of State Trafficking in Persons Reports show that both countries with regulative approach as well as those who have adopted the so-called "Swedish model" continue to report cases of trafficking in human beings for sexual exploitation.

Key recommendations by Anti-Slavery International

Anti-Slavery International recommends the following key amendments for the Committee's Consideration:

1. Offence of trafficking in human beings in all its forms shall be defined in the Bill in a single definition, adopting the definition of the EU Trafficking Directive 2011/36

2. Offence of forced labour (servitude and slavery) should be defined in the Bill by adopting the definition of the relevant UN Conventions, especially ILO Convention No. 29

3. Article 6 of paying for sexual services of a person should be removed from the Bill as it covers acts other than trafficking and forced labour. The article should be replaced by an article prohibiting the knowing use of the services of a victim of any form of trafficking as provided in Art. 19 of the Council of Europe Convention and Art. of the EU Directive.

For further information, please contact: k.skrivankova@antislavery.org; Tel: 020750189201

Anti-Slavery International will be happy to provide oral evidence to the Committee. As there are a number of areas of commonality, we will be happy to do so in a joint session with Amnesty International NI.

8 Trafficking in Human Beings,Eurostat, 2013

B A Rushby

29 October 2013

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

Dear Sir or Madam

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

I understand that there is a call for evidence on the part of the Justice Committee and in response I would say that I very much welcome and support the Bill.

This Bill would really help and make a difference to the lives of vulnerable people - men, women and children - who so sadly are being exploited.

Clause 6 is particularly important as it will criminalise paying for sex and reduce the demand for trafficking.

Yours sincerely

B A Rushby (Mrs)

Ballymena Borough Council

Dear Sir/Madam

Further to your letter of 3 October 2013 I can advise that Ballymena Borough Council, at its Monthly Meeting held on Monday 7th October 2013, adopted the following Resolution -

"That Ballymena Borough Council –

1. Recognises that human trafficking and exploitation is a growing problem in Northern Ireland;

2. Believes that existing statistics regarding the number of people trafficked in to Northern Ireland do not reflect the scale of the problem and are only the "tip of the iceberg" in regard to the scale of the problem;

3. Believes that no human being should be subjected to: sexual exploitation, enforced labour or domestic servitude and condemns those who engage in human trafficking;

4. Believes that more action should be undertaken to support those who have escaped from exploitation and to punish those who exploit them; and, accordingly

5. Calls upon the Northern Ireland Assembly to endorse the Human Trafficking and Exploitation (Further Provision and Support for Victims) Bill."

I hope this is of use to you but should you require any further information please do not hesitate to contact me.

Kind regards

Anne

Anne Donaghy
Town Clerk & Chief Executive

Banbridge Policing and Community Safety Partnership

Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013.

A Response on Behalf of Banbridge Policing and Community Safety Partnership.

Summary Response to the Key Principles

- Banbridge Policing and Community Safety Partnership supports the overall principles contained within the new Bill.
- Clause 4, we would agree with the concerns raised by the Department of Justice in relation to the compulsory minimal sentence that it would "apply equally to children and adults and also that judicial discretion would be compromised." Whilst there is a need for a clear sanction, we would also support a greater level of judicial discretion.
- We welcome the inclusion of "any financial advantage" in Clause 6 to include non-monetary payment, such as food, shelter, alcohol, drugs and clothing.
- Essentially from a Policing and Community Safety perspective, we anticipate that PCSPs could positively assist as a delivery mechanism in raising awareness of the issue of human trafficking and to highlight some of the prevention measures and local strategy measures that are being employed to tackle this issue. To date Banbridge PCSP has supported "Freedom Acts", a local organisation set up to raise awareness of human trafficking.
- Within the NI Community Safety Strategy, there is a focused target on encouraging reporting of crime and criminal activity. From a Policing and Community Safety perspective, PCSPs are well placed to support enhanced reporting on human trafficking incidents. For example Banbridge PCSP has worked collaboratively with Crimestoppers, Freedom Acts and the PSNI to raise awareness of the issue locally and encourage reporting mechanisms.
- We also welcome Lord Morrow's response in relation to working co-operatively with "non-governmental and other relevant organisations" as we believe agencies working together in collaboration can help to support the overall awareness raising approach. These agencies can assist with heightened public awareness of the legislative changes, the impact, encouraging reporting of potential trafficking and also developing preventative approaches and support programs for those who have been victims of crime.
- In relation to Criminal Assets Funds, we support the fund being used both for law enforcement and community funds, however there remains a continued need to develop supportive programmes for those who are victims of trafficking. Therefore we are supportive of the move to ensure that adequate resources are made available to victims, and those who are most vulnerable within society as a result of being trafficked.
- Information sharing, data protection and collaborative working across agencies continue to present challenges at strategic and operational levels as demonstrated through recent child protection inquiries throughout the UK and beyond. We would encourage guidance measures at policy level to support discussion and exploration on best practice on how best to safeguard sensitive information and yet ensure effective communication amongst agencies and professionals in order to best safeguard rights and also support criminal investigations.

This response was created on behalf of Banbridge PCSP by:

Alison Beattie
PCSP Officer
Banbridge PCSP
Banbridge District Council
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Belfast Feminist Network

Response to the proposed Trafficking & Exploitation (Further Provisions and Support for Victims) Bill

Belfast Feminist Network is a community collective representing the views of over 900 people. Established in April 2010, the group is committed to providing an open and inclusive space for discussions of gender inequality in Northern Ireland. Belfast Feminist Network has been responsible for organising a range of public events on issues affecting women's lives such as rape and sexual violence, political participation, reproductive justice and human trafficking. We have engaged a number of MLAs and Ministers of the Northern Ireland Executive at these events, most recently welcoming the participation of MLAs at the launch of our anti-rape campaign "The way I see it."

This response to the proposed "Trafficking & Exploitation (Further Provisions and Support for Victims) Bill" reflects a number of discussions involving Belfast Feminist Network (BFN) members, through the medium of our online community, through our monthly group meetings and at a public meeting which we hosted in October 2013.

Introduction

As a feminist group, the members of BFN welcome the focus on human trafficking in the Northern Ireland Assembly. It has been highlighted by women's organisations and human rights bodies for some time as an issue that has devastating consequences for women. A global commitment to address human trafficking has led to the introduction of new legal frameworks and directives at the European and international level. It is obviously important that our own legal frameworks develop in order to strengthen the domestic law protecting people from this abuse and providing access to both support and justice for those who have been victims. BFN would have expected draft legislation to be brought forward by the Department of Justice in the near future. The current private member's bill brought by Lord Morrow contains a number of important provisions with regards to tackling human trafficking but also raises some significant problems. In particular, the inclusion of Clause 6 that would criminalise those who pay for sexual services brings a dimension to this bill that conflates all sex work or prostitution with human trafficking.

We are concerned about the creation of a hierarchy of victims when it comes to human trafficking, fuelled by sensationalist interest in sexual exploitation, that hides the prevalence of trafficking for other purposes. There is already an assumption that the majority of human trafficking in Northern Ireland is for sexual exploitation due to the fact that detection rates of this type of trafficking are higher. This does not mean other types of trafficking are not rapidly proliferating – it simply means we haven't been looking for it to the same extent.

The provision within Clause 6 is based on an ideology that claims to be able to reduce sexual exploitation through reducing demand for prostitution. Attaching criminal sanctions to the purchase of sexual services is a contested model of reducing the demand for prostitution. The positive evidence for this having an effect on the number of purchasers comes from jurisdictions that enjoy much more gender equal social, political and cultural contexts than Northern Ireland. The evidence that this approach has more of an impact on human trafficking than approaches that favour liberal legislative frameworks is also conflicting.

In general, BFN does not presume to have the expertise to speak to the effectiveness of the Bill in terms of the provisions for dealing directly with victims of human trafficking in all of its forms. The expertise in this area lies with frontline service providers and statutory agencies supporting victims and pursuing perpetrators. Campaigning organisations like Amnesty International are also vital due to their strategic involvement in national and international

monitoring bodies and insight into global trends in trafficking activity. **However, we would like to comment further on the problems presented by Clause 6 and recommend that the Assembly does not support the Bill in its current form.**

The Complexity of Prostitution: Challenging false dichotomies

Despite the extreme marginalisation of sex workers and the lack of space for their voices to be heard, when this is possible through research, blogging or sex worker advocacy organisations, it is clear that sex workers are not a homogenous group. In debates about how to legislate the sex industry in order to reduce harm, a false dichotomy is often held up which seems to suggest that there are only exploited victims on one side and a 'privileged few' on the other, who willingly participate and could leave at any time. This is of course not the case. Women and men involved in selling sexual services have a range of experiences that lie along a complex spectrum and that may change and develop over time.

BFN has consulted with service providers who support sex workers through addiction outreach services. They have expressed that there is a great deal of resistance to restrictive law from those involved in sex work that is rooted in:

- Suspicion of moral crusades by people who are religiously motivated to end what is seen as sexually immoral.
- Suspicion of the 'rescue complex' that seeks to label all sex workers as victims in need of saving from a terrible life.
- Anger that no consideration has been given to the practical impact of restrictive law that may not criminalise them directly but criminalises activity they are involved in and therefore forces them into working conditions that are more dangerous.

It is obvious that Lord Morrow's Bill contains all 3 of these elements and therefore it is unsurprising that many involved in sex work would be unhappy about its imposition.

BFN recommends that new laws governing the purchase or sale of sex in Northern Ireland should not be introduced without the meaningful participation of those whose lives will be affected by it. The marginalisation of this diverse group of people is not an excuse for progressing legislation without their direct involvement.

Evidence based law and policy

It is our understanding that the Assembly seeks to promote evidence based policy and law-making in Northern Ireland. Fulfilling this aim requires a commitment to evidence gathering in our own jurisdiction as well as learning from others. In the area of prostitution there is a great deal of value-laden research. Much of what is available from other countries has been produced to support an already agreed policy position. We are aware of positive evidence that supports the success of the Swedish or 'Nordic' model of criminalising the purchase of sex. However, just as much material exists to suggest that this model is not as successful as is often promoted. The most significant issue comes when we look at testimony from Swedish sex-workers who are increasingly coming forward to talk about how the introduction of the Swedish Sex Purchase Act in 1999 has resulted in them becoming further marginalised.[1]

When similar legislation was proposed in Scotland by MSP Rhoda Grant, the Scottish Prostitutes Education Project (SCOT-PEP) submitted a consultation response that provides a useful overview of the international research reflecting the negative impact of criminalising the purchase of sex. In particular they noted the problems with assuming it will reduce trafficking for sexual exploitation pointing to the fact that this analysis is too simplistic. They state:

1 Sex workers critique of Swedish anti-prostitution policy http://www.petraostergren.com/pages.aspx?r_id=40716

> *It is often claimed that targeting the clients of sex workers will fight trafficking. In fact, the evidence suggests that such an approach can have precisely the opposite effect. Criminalising demand and imposing prohibition creates a black market which serves as a financial incentive for traffickers and is therefore a flawed and dangerous logic. Sex workers and their clients are best placed to identify potential victims of trafficking. Criminalisation will make clients and sex workers less likely to report a potential trafficking victim or to refer them to agencies who can offer them support.*[2]

The reality in Northern Ireland is that, regardless of the balance of competing research from other countries, we know next to nothing about the nature of prostitution in our own jurisdiction. We have no reliable information about the number of women and men (including those who are transgender or have a transgender history) who are involved in selling sexual services, the conditions under which they are involved in prostitution or their views on what would help reduce harm and exploitation within the sex industry.

BFN recommends that no attempt to criminalise the purchase of sex should be progressed without access to adequate information about the nature of prostitution in Northern Ireland. The study soon to be undertaken by the Department of Justice provides an opportunity to improve the data available. BFN recommends that this research should also encompass a needs assessment in order to ensure sex workers views can be heard.

The potential impact on sex workers: Tackling marginalisation must come first

Clause 6 of Lord Morrow's Bill is presented as a means of reducing prostitution but is not accompanied by any measures whatsoever that focus tackling the marginalisation of sex workers. With no commitment to improving services for sex workers or facilitating their participation in policy making that effects them, there is no way to monitor the impact of law or policy changes. There is a serious concern among those who do attempt to deliver services to people selling sex that making the legislative framework more restrictive than it currently is will have the effect of driving prostitution further underground. Evidence from Sweden suggests that the creation of a 'black market' in sexual services has made sex workers more vulnerable to manipulation by criminal gangs. Sex workers we have heard from in Northern Ireland have expressed fears that their ability to remain independent and autonomous when they work may be at risk if Lord Morrow's Bill passes. This could force them to engage in activities that are more under the control of paramilitaries. Criminalisation of the industry makes it harder for sex workers to engage with the police and health services, and results in less reporting from clients if they think someone has been exploited. In an attempt to reassure nervous clients, sex workers tend to engage in more risky decision making about which clients to take on and where to work. Swedish sex workers have reported that the climate of fear created by the Swedish law has reduced the time they have to make decisions and assess risk when engaging with a new client, something that can lead to them ending up in harmful situations they may previously have been able to avoid. Although not criminalised themselves, sex workers in Sweden have reported experiencing an increased 'stigma' when they try to access health services, with an expectation that they do not 'deserve' support unless they are willing to leave prostitution.

In order to properly understand the potential impact on sex workers, there has to be meaningful engagement. BFN believes this level of participation does not mean a 12 week consultation on a bill that has come about without any understanding of their lives and their needs. When a marginalised group will be disproportionately affected by a change in law or policy, they have a right to be involved in the process. Meaningful engagement means a commitment to improving services, creating an accessible infrastructure for service provision, adopting a harm reduction approach that is non-judgmental, listening and assessing needs and removing the stigma. If we increase the criminalisation of prostitution without a commitment to any of those things it is dangerous and irresponsible law-making.

2 SCOT PEP, Dec 2012 Accessible at http://scot-pep.org.uk/sites/default/files/reports/scot-pep_response_to_rhoda_grant_consultation.pdf

Particular attention should be paid to the fact that prostitution is an area that engages a disproportionate number of migrant women who face multiple barriers to accessing services, often in the context of fear around their immigration status. Those who have been sexually exploited, forced or coerced often face a punitive approach when engaging with the immigration and asylum system with problems having already been documented around the National Referral Mechanism and its inability to successfully identify victims of human trafficking. Without significant commitments to tackle the factors that make it extremely difficult for these women to escape exploitation and get access to justice and support, a more restrictive legal framework could further exacerbate these barriers.

BFN recommends that the Northern Ireland Executive adopt a joined-up approach to tackling the problems associated with the sex industry and sexual exploitation, in accordance with the commitment in the Programme for Government to cross-departmental working. The first step should be developing a strategy for tackling the marginalisation of all those who sell sexual services.

The reality of tackling demand

BFN are supportive of the vision of a Northern Ireland that is unwelcoming to traffickers. However, the Council of Europe Convention on Trafficking in Human Beings suggests that tackling the demand for trafficking can be achieved through educational, social, cultural and legislative means. We will not tackle exploitation with law alone. The Swedish model itself is not simply a law but includes measures like feminist education in schools. Nordic countries consistently score highly on the World Economic Forum's Gender Gap Report with Finland, Norway and Sweden finishing 2nd, 3rd and 4th in the 2013 report. Northern Ireland has a very different cultural context with more indicators of gender inequality such as poor representation of women in public life, more restrictive law pertaining to reproductive choice, a more conservative approach to sex education in schools, higher levels of socio-economic disadvantage for women and poorer conviction rates for rape and sexual violence. Introducing law wholesale from another country with no understanding of the importance of context would be at best naïve. Without a significant shift in culture and the status of women in Northern Ireland, the motivation of clients involved in buying sexual services is unlikely to be reduced.

BFN recommends that departments of the Northern Ireland Executive consider the full range of cross-cutting measures necessary to effectively tackle gender inequality in Northern Ireland.

Socio-economic factors

For the service providers we heard from, economic pressures were the key issue pushing women into the sex industry. While tackling demand is important, the reasons women participate in prostitution will not simply go away. We have heard reports of women returning to street prostitution on an ad hoc basis because of cuts to benefits, and the struggle to make ends meet. Some see it as a safer option than going to loan sharks, which is often their only other option. If we really care about helping women out of prostitution then we should be committed to policy and law that recognises their socio-economic rights such as the right to welfare and the right to an adequate standard of living, protected in international law. The austerity policies dominating the current approaches of some parties in the Northern Ireland Assembly make any move to impose further constraints on vulnerable women seem quite hypocritical. We recognise that sex work should not be viewed as a desirable option for women with very constrained choices. We would love to see a society founded on gender equality where women are not subject to the level of degradation that fuels the exchange of intimate sexual services for money, placing them at risk of abuse. We are deeply aware of the problems associated with the fact that there is very little real choice exercised by someone in serious poverty. However, the fact that some women feel it is an option that helps them cope at a particular point in their lives means that we should respect the choices they have made and commit ourselves to ensuring they have more choices in the future. While many of us

would prefer that no woman ever had to engage in prostitution we must remember that many women who do would resent any attempt to enforce a label of 'victimhood' upon them.

BFN recommends that the Northern Ireland Assembly should not support the Bill in its current form and should call for the removal of Clause 6. The important debate that this has opened up about the sex industry should not be swept aside. This should be seen as an opportunity to bring forward measures to engage with those involved and develop services, policy and a legislative framework more suitable to their needs.

Belfast Health and Social Care Trust

Belfast Health and Social Care Trust

Trust Headquarters
A Floor, Belfast City Hospital,
Lisburn Road, Belfast. BT9 7AB

Tel No 028 95040100

Via email – committee.justice@niassembly.gov.uk

FAO Ms Christine Darrah,
Clerk of the Committee of Justice
NI Assembly

Dear Sir/Madam

Belfast Trust would respond as follows to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

The overall purposes of this Bill cannot be disputed: - to protect victims of human trafficking and exploitation, provide support for victims and tackle the demand for trafficking.

An evidence based framework is evident and includes recommendations contained in reports from organisation such as GRETA and the Anti-Trafficking Monitoring group who have knowledge and expertise within this area.

The bill has identified models of best practice which appear to have been successful with legislation in that it reduces demand for paid sex and makes it more difficult for and shifts those criminals involved in trafficking to look at other areas to further their illegal activities. The Bill highlights areas who have or are looking at changing the laws mentioned. It identifies Norway and Iceland with specific interest in the Swedish model which makes it illegal/an offence I to purchase sexual services

The Motivation and sentiments of this Bill and the debate surrounding the bill has added significant public interest and this therefore has to be positive in raising awareness of the issue that may lead to further vigilance within this area. It also sends out a strong message in relation to perpetrators.

Many of the clauses have positive messages in relation to support, protection sentencing and compensation for the victims. However there is a requirement for an individual tailored approach for victims within NI to avoid a hierarchy of victims.

Clause 6 of the Bill:

BHSCT is currently the only Trust who provides a specific drop-in service for those involved in prostitution. This service has over twelve years experience in providing public health services including sexual health screening, referral to secondary care services, advice and support including harm reduction and personal safety of the service user. We operate a drop-in low threshold model of service provision while adhering to professional codes of practice. The service is a non- judgemental service concerned with the holistic well- being of the service user both male and female and public health protection re the spread of sexually transmitted infections. The service has been proactive in developing multiagency partnership working that will safeguard and enhance services for this client group including looking at exit Strategies with the Department of Justice.

It has been our experience that for the majority of our service users who work at the lower end of the scale prostitution is an exploitive and destructive lifestyle with mortality and ill health rates higher than that of the general population.

Health issues are complex and diverse for this client group and are often exacerbated by addictions that assist in enabling many services users to continue working.

When considering prostitution and human trafficking we need to recognise that there are elements of both that are inextricably linked but also acknowledge that we are looking for two distinct definitions both requiring different ways of support and different required outcomes.

It is felt that the hidden nature of both Human Trafficking and Prostitution requires a concerted effort of joined up working if it is to be addressed effectively within this Bill.

The BHSCT service has identified a decline in the numbers working in street prostitution since the introduction of the sexual offences 2008. Making it illegal to soliciting, curb crawling sell or purchase sex from a car. However anecdotal evidence working with these groups would not indicate a going away but rather a hiding away with many of our service users advertising on social network media and using mobile contacts instead being picked up on the street.

There is an increase in Brothel pop-up working with anecdotal evidence that some of the vulnerable sex workers have now risen to a position of control and are offering those more vulnerable and desperate work within the brothels. This in turn could make the already vulnerable more vulnerable.

It has been our experience that some of our services users may now be in further danger of exploitation, sexual ill health and may even be prevented in attending the service except when circumstances have sometimes reached a crisis.

There is also we believe still a paramilitary involvement within the sex and drug industry in NI and therefore payment may not always be for economic reward but other kinds of rewards.

One of the central tenets of the Bill is to make it a criminal offence to purchase sexual services for any person not just from a prostitute subjected to force as already is the case.

It is also worthy of note that the Swedish model introduced its laws as a gender equality issue not a challenge to human trafficking and not to punish the female prostitute but deter the purchaser they site women as the weaker party.

Experience within NI areas would suggest prostitution is not always male dominance and female subordination and those working at the higher end of the scale look on it as a credible business. It is also worth noting that many of those involved in prostitution at both ends of the scale will have had experienced care backgrounds, many will have suffered sexual and physical abuse when growing up or in domestic violence situations and in turn will have children of their own in the care system. It may be useful to see if this is the case within the Swedish experience.

As expressed earlier the hidden secretive nature of prostitution within NI even when you have known the service user for a long time makes it difficult to gather statistics and carry out research as many stories will hold poetic licence .However this does not take away the need to address the issue and provide services that effectively address the health and social care needs of this group.

We would advocate that the same empathy expressed within this bill in clause 8,9,10 and 11, 13 will apply to those in prostitution.

We welcome clause 12 but suggest it is unacceptable that the clause applies equally to children and adults as a compulsory sentence for children runs contrary to “the best interests of the child” which advocates using custody as a last resort and with the shortest possible sentence

We would welcome:

- Joined up working that acknowledges the changing nature of prostitution and the need to reconfigure services to address this issue.
- Legislation that advocates the best interest of the most vulnerable
- Further training and awareness into recognising signs and symptoms of trafficking and Prostitution including risks and triggers

- Enhanced prevention programmes
- Incentives that will help those wishing to exit prostitution
- Training and education tailored to meet individual needs of the victims
- Health and social care services that address the holistic health of this client group
- Support when relapsing due to life circumstances
- Ensuring that whatever method of tackling these problems is selected will be one that makes the most impact and the best difference.

CLAUSE 10

Unaccompanied children seeking asylum in Northern Ireland, are the responsibility of Social Services and are therefore afforded assistance and support, which incorporates the 'best interest' principle guaranteed by the UN Convention on the Rights of the Child.

These children are some of the most vulnerable and traumatised in our society. Many have fled war torn countries, under horrific circumstances and have had no recent contact with family members. Concerns exist when children are brought into the country as refugees to join their parents but have not been escorted by a family member. Proving a family link without correct information such as dates of birth can be difficult, as the risk exists that these children may be trafficked without knowledge. Tighter controls are needed at Port Health to minimise this situation.

Overall this Bill provides a more robust legal framework to the growing problem of trafficking and exploitation in this country. The appointment of a Child Trafficking Guardian is most welcome in safeguarding the child's best interests. By recognising that children have very different and specific needs than that of adults will hopefully ensure they are not "lost" in the process.

I trust these comments are helpful.

Yours faithfully



Cecil Worthington
Director of Social Work Children's Services

Bill Cameron

To: Members of the Justice Committee Northern Ireland Assemby

Re: Lord Morrow's Human Trafficking and Exploitation Bill

I am writing to welcome and support the above Bill, believing that it will make a real difference to vulnerable individuals living in Northern Ireland.

Not only will it help the Assembly to meet international obligations with regards to trafficking and exploitation, in clause 6 of the Bill the whole issue of paying for sex is addressed. As this is the main driver for the demand for trafficking it sends a clear signal that the Assembly is serious about human dignity and justice for those individuals trapped in prostitution.

Yours sincerely

Bill Cameron

CARE in Northern Ireland

CARE in NI Submission

To the Justice Committee on

The Human Trafficking and Exploitation

(Further Provisions and Support for Victims) Bill

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Introduction to CARE

1. CARE (Christian Action Research and Education) is a well-established mainstream Christian charity providing resources and helping to bring Christian insight and experience to matters of public policy and practical caring initiatives. CARE demonstrates Christ's compassion to people of all faiths and none believing that individuals are of immense value, not because of the circumstances of their birth, their behaviour or achievements, but because of their intrinsic worth as people.

Summary

2. CARE in Northern Ireland strongly supports the Human Trafficking and Exploitation Bill. We believe that it will make a real difference for victims of human trafficking and exploitation in our province.

3. Our submission will set out:
   - Key facts about human trafficking in Northern Ireland.
   - Our international obligations and how the Bill helps us better meet them.
   - A clause by clause analysis of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill showing that the Bill introduces the changes that are needed to enable Northern Ireland to address properly the challenge of human trafficking through the provision of a better legal framework for: securing the prosecution of traffickers, addressing the demand for trafficking and caring for the victims of trafficking.

Human trafficking in Northern Ireland

4. The Government has only in recent years started to collect statistics on victims of human trafficking. The table records the numbers of people who have been rescued and processed via the National Referral Mechanism (NRM).

Table 1: Potential Victims Referred to the National Referral Mechanism

Year	Potential Victims Recovered	Motive
2008/09[1]	11	6 Sexual Exploitation 3 Forced Labour 2 Domestic Servitude
2009/10[2]	25	17 Sexual Exploitation 3 Forced Labour 2 Domestic Servitude 3 Unclear

1 Organised Crime Task Force, *Annual Report and Threat Assessment 2009*, page 19
2 Organised Crime Task Force, *Annual Report and Threat Assessment 2010*, page 14

Year	Potential Victims Recovered	Motive
2010/11[3]	23	18 Sexual Exploitation 5 Forced Labour
2011/12[4]	33	24 Sexual Exploitation 9 Forced Labour
2012/13[5]	16	9 Sexual Exploitation 2 Domestic Servitude 5 Unknown

Table 2: Number of Potential Victims, Adults/Children and Minors
(Note this data is not complete but records what has been published.
Suggests 18 children 2009/10-2012/13)

Year	Potential Victims Recovered	Adults, Children and Gender
2008/09[6]	11	All adult women
2009/10[7]	25	4 children
2010/11[8]	23	3 children[9]
2011/12[10]	33	18 women, all but 1 for sexual exploitation 7 men for labour exploitation 8 children, 7 of whom were trafficked within the UK
2012/13[11]	16	3 children (one of who has now turned eighteen)[12]

5. The data in Table 1 demonstrates that the largest numbers of those trafficked into and within Northern Ireland are brought here to work in coerced prostitution. There is also evidence that a mixture of indigenous and foreign organised crime groups are involved in organised

3 Organised Crime Task Force, *Annual Report and Threat Assessment 2011*, page 12
4 Organised Crime Task Force, *Annual Report and Threat Assessment 2012*, page 15
5 Organised Crime Task Force, *Annual Report and Threat Assessment 2013*, page 15
6 *Annual Report and Threat Assessment 2009*, *Op Cit*
7 *Annual Report and Threat Assessment 2010*, *Op Cit*
8 *Annual Report and Threat Assessment 2011*, *Op Cit*, 2 children being supported by social services
9 This number supplied in Northern Ireland Assembly Question AQW 16753/11-15
10 *Annual Report and Threat Assessment 2012*, *Op Cit*
11 Organised Crime Task Force, *Annual Report and Threat Assessment 2013*, page 15
12 NGO Engagement Group Minutes http://www.octf.gov.uk/Publications/Human-Trafficking/Minutes-from-the-third-meeting-of-the-Engagement-G.aspx These figures were provisional at publication

prostitution, using websites to advertise trafficked victims for "off street" prostitution and using brothels and hotels.[13]

Our International Obligations: EU Anti-Trafficking Directive and the European Convention

6. In June 2010 the Home Secretary Theresa May announced that the UK would not be opting into the European *Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims 2011*. After much lobbying, in March 2011 the Government U-turned and announced that it would opt-in.

7. Since Justice has been devolved to Stormont, responsibility for achieving compliance with the Directive rests with the Northern Ireland Assembly. The Department of Justice made two limited changes through the Criminal Justice (NI) Act 2013 to ensure compliance with the Directive:
   a) When offences are carried out abroad, British citizens and residents of Northern Ireland can be prosecuted in Northern Ireland (Sections 6 and 7); and
   b) A loophole which allowed trafficking for labour exploitation within the UK is closed and becomes a crime (Section 7).

8. To only propose these two primary legislative changes in response to the Directive is disappointing given the number of changes mandated by the Directive and the opportunity for Northern Ireland to take a lead in this area. The disappointment with the Northern Ireland Executive's response has been compounded by the fact that Northern Ireland has not even managed the small number of changes advanced by the England and Wales Government introducing so-called "special measures" to protect all victims of trafficking giving evidence in court and during police investigations.

9. The UK ratified the *European Convention on Action Against Trafficking in Human Beings* in December 2008. On 12 September 2012 the Council of Europe's Group of Experts (GRETA) (the Treaty monitoring body) published its first analysis of UK compliance with the European Convention. The Report highlights many areas where steps need to be taken to improve our response to human trafficking in Northern Ireland. [14]

[13] *First Annual Report of the Inter-Departmental Ministerial Group on Human Trafficking*, 2012, paragraph 3.18, page 25 and paragraph 7.35, page 76

[14] GRETA (Group of Experts on Action Against Trafficking in Human Beings), *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom*, GRETA(2012)6, 12 September 2012

Introducing the Human Trafficking & Exploitation (Further Provisions & Support for Victims) Bill

10. Given the sad reality of trafficking in Northern Ireland today, CARE believes that Lord Morrow's Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill is very important. It will introduce the changes that are needed to enable Northern Ireland to properly address the challenge of human trafficking through the provision of a better legal framework for: securing the prosecution of traffickers, addressing the demand for trafficking and for caring for the victims of trafficking. **It will also make good the limitations of the Department of Justice's implementation of the Anti-Trafficking Directive through the Criminal Justice Act, and provide a welcome means by which Northern Ireland can seek to implement the GRETA recommendations. The Bill would put Northern Ireland very much in the lead in tackling human trafficking within the UK.** We would be the first UK nation to have a focused Human Trafficking Act. We will now consider the Bill clause by clause.

Clause 1: Definition of Human Trafficking and Slavery Offences

11. Clause 1 sets out what the Bill means by a human trafficking offence and a slavery offence. The Bill does not create new trafficking offences, nor does it suggest that the current offences are not compliant with the EU Directive. Clause 1 is a mechanism to refer to the "people trafficking offences" listed in Written Answer AQW 18870/11-15, that is:
    - Sections 57 to 59 of the Sexual Offences Act 2003 (SOA) that cover sexual exploitation (and would cover the new offence 58A introduced by the Criminal Justice Act;
    - Section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004 (A&IA) that covers labour exploitation and exploitation for organ/body parts.

12. The Bill also relates to slavery offences. We fully supported Lord Morrow's decision to extend the Bill's remit to include the offences set out in Section 71 of the Coroners and Criminal Justice Act 2009[15] following the consultation process. These offences are applied in "those cases where it is difficult to prove trafficking to the criminal standard or where there is no direct evidence of trafficking."[16]

13. Forced labour is a dreadful crime. The 2011 Joseph Rowntree Foundation set out the evidence of forced labour in Northern Ireland and this Bill aims to ensure that it is not tolerated in our province.[17] Victims of this crime, no matter whether or not they have been trafficked, should be supported effectively and perpetrators should be brought to justice.

15 http://www.legislation.gov.uk/ukpga/2009/25/section/71

16 IDMG Report, October 2012, *Op Cit,* para 4.7, page 32

17 Joseph Rowntree Foundation, *Forced Labour in Northern Ireland: Exploiting Vulnerability,* June 2011

Clause 2: Consent irrelevant for victim of human trafficking or slavery offences

14. Human traffickers or perpetrators of slavery offences may attempt to argue that the individual concerned gave their consent to the criminal activity being committed against them. The Bill outlines a list of factors, such as the victim being a child, which will make evidence of consent or agreement irrelevant.

International Obligations

15. This clause implements:
    - Article 2(4) of the European Directive – "The consent of a victim of trafficking in human beings to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in paragraph 1 has been used"; where paragraph 1 refers to "*by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits*".
    - Article 4(b) of the European Convention – "The consent of a victim of "trafficking in human beings" to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;" where (a) refers to "*by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person*."

Evidence of Need

16. CARE understands the Minister's position is that this clause is unnecessary because consent is "not relevant under the current law" (Second Stage Debate, p52, Tuesday 24 September). However, this does not seem to be the case in practice. The 2013 Anti-Trafficking Monitoring Group (ATMG) Report addresses this particular point, saying,
    "The UK has restricted its interpretation of the international trafficking definition by requiring only the establishment of the "act" and "purpose", excluding the need for ascertaining the means element which operates to explicitly negate the supposed consent of the trafficked person to their exploitation[18] *…However, it is common for both the prosecution and defence to draw on the trafficked person's consent to their trafficking in such trials to substantiate their case. This was confirmed by [the GRETA report] 'the British authorities have stated that all the means under the Convention are inherent in trafficking without being articulated in the legislation. By establishing how a trafficker exploits the vulnerability of a victim through force, threats or deception, this would also cover fraud, abuse of power, coercion or abduction, all of which are means acknowledged in case precedent'. Unfortunately, as the concepts of*

[18] This is referring to para 74 of the Convention's Explanatory Report which says that trafficking has to have three components: (i) the action of recruitment, transporting someone etc; (ii) the means of threat, coercion, fraud etc and (iii) for the purpose of exploitation.

deception or other forms of coercion do not appear in this offence's equation, this may result in the misunderstanding of trafficking as a crime by CJS actors and a lay jury."[19]

17. The report goes on to say that: *"…examples were presented to the ATMG relating to a misunderstood definition in terms of a trafficked person's consent. The international binding definition is clear that any initial consent of a person is void if s/he is a victim of trafficking. The ATMG was presented with cases where the trafficked person agreed to travel to the UK, not knowing about the real purpose of their trip. Their initial consent was perceived as complicity in their exploitation, despite the established deception, use of threats and long working hours for little or no recompense once in the UK. An incorrect view seems to persist that a trafficked person needs to be abducted or forced to come to the UK against their will*."[20]

18. This clause is needed to ensure situations like that reported in the 2010 ATMG Report do not occur. This report noted cases "*where authorities concluded that victim agreed to come to the UK for work, they could not have been trafficked despite the fact that the deception and abuse should, render such consent irrelevant*."[21]

How this Clause Will Help

19. This clause would bring clarity to the issue of consent and ensure that the situation surrounding this is crystal clear.

Clause 3: Aggravating factors

20. This clause will ensure that a judge sentencing an individual for the criminal offences of human trafficking or slavery offences will consider aggravating factors, such as whether the offence was committed against a child or vulnerable adult, or where serious violence was used. The additional aggravating factors added after the consultation process which take account of the role of families in trafficking are extremely welcome.

International Obligations

21. This clause fulfils the requirements of Article 4 of the Directive and Article 24 of the Convention. The Directive specifies that there must be a penalty of a maximum of ten years imprisonment for trafficking offences where factors listed in 4(2) are present. Since the maximum penalty in Northern Ireland is 14 years, no penalty is stipulated within this section; rather the aggravating factors will be taken into account for sentencing up to 14 years.

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19 *In the Dock, Examining the UK's Criminal Justice Response to Trafficking*, The Anti-Trafficking Monitoring Group, June 2013, page 28

20 *Ibid,* page 35

21 *Wrong Kind of Victim? One Year On: An Analysis of UK Measures to Protect Trafficked Persons*, The Anti-Trafficking Monitoring Group, June 2010, page 12

Table 3: Comparison of Clause 3 with International Obligations

Aggravating factors in Clause 3	In European Convention	In European Directive	Factors Mentioned in R v Pis
Committed by a public official in relation to duties	24(c)	4(3)	
Committed by a family member			
Victim was a child	24(b)	4(2)(a)	
Victim was a vulnerable adult		4(2)(a)	
Use of threats against victim's family			Para 25 (9)
Deliberately or by gross negligence endangered the life of the victim	24(a)	4(2)(c)	
Committed by use of serious violence or caused serious harm		4(2)(d)	
Person has previous trafficking or slavery conviction[22]			

Addressing Concerns about Clause 3

22. There are two arguments made against this clause. Firstly, that the clause is not needed because His Honour Judge Burgess covered the aggravating factors that should be taken in to account in trafficking cases in R v Pis (2012 NICC 14). CARE notes that the factors raised at paragraph 25 of the judgment are as follows:

(1) Large-scale commercial operation.

(2) High degree of planning or sophistication.

(3) Large number of people trafficked.

(4) Substantial financial (in the region of £5000 and upwards or other gain).

(5) Fraud.

(6) Financial extortion of the victim.

(7) Deception.

(8) Use of force, threats of force or other forms of coercion.

(9) Threats against victim or members of victim's family.

[22] Being a previous offender is recognised as an aggravating factor in the Sentencing Guidelines on Overarching Principles: Seriousness (para 1.22, page 6)

(10) Abduction or detention.

(11) Restriction of victim's liberty.

(12) Inhumane treatment.

(13) Confiscation of victim's passport.

23. This list includes only one factor that is in the list included in Lord Morrow's Bill. We also note that this list is drawn from the England and Wales Sentencing Guidelines for the Sexual Offences Act 2003. Hence, there is a question whether they would apply to trafficking for forced labour cases.

24. The second concern is that of limiting judicial discretion, which was raised by number of MLAs during the Second Stage debate. In response, we make three points:

- Firstly, this clause does not allow the Assembly to interfere in particular cases, but sets out a framework for judicial decisions, as does the sentencing guidelines.

- Secondly, while there is a preference for guidelines rather than legislation setting out the framework, we note that there is a precedent for aggravating factors in legislation in Section 4A of the Misuse of Drugs Act 1971, as introduced by the Section 1, Drugs Act 2005, although we recognise this section applies only in England and Wales. From this, we conclude there is no reason such factors cannot be brought in through legislation.

- Thirdly, on other occasions the Minister has argued that there is no need for a consolidating function because international obligations already exist, i.e. these factors already exist in international law **and therefore should be taken into consideration by judges**. CARE believes it is helpful to have these factors in statute rather than guidance which can change. For instance, we note that the England and Wales Sentencing Guidance on Sexual Offences has just been subject to consultation for a revised set of guidance. In this, the "non-exhaustive" list of "Other aggravating factors" are listed below; these factors are different again to those cited by Judge Burgess.[23]
  Other aggravating factors
  Failure to comply with current court orders
  Offence committed whilst on licence
  Deliberate isolation of victim(s)
  Victim(s) children left in home country due to trafficking
  Exploitation of victim(s) from particularly vulnerable backgrounds
  Threats made to expose victim(s) to the authorities (immigration or police)
  Threats of harm to the victim's family/friends
  Victim(s) previously trafficked/sold/passed around
  Victim(s) passport(s)/identity documents removed

[23] Sentencing Council, Sexual Offences Guideline Consultation, December 2012, page 281
http://sentencingcouncil.judiciary.gov.uk/docs/sexual_offences_consultation_guideline_(web).pdf

Victim(s) prevented from seeking medical treatment
Use of drugs/alcohol or other substance to secure victim's compliance
Food withheld
Earnings of victim(s) withheld/kept by trafficker or evidence of excessive wage reduction, debt bondage, inflated travel or living expenses, unreasonable interest rates
Any steps taken to prevent the victim(s) reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution
Attempts to dispose of or conceal evidence

How this Clause Will Help

25. Clause 3 makes clear that the factors set out in the European Convention and EU Directive would be taken into account for **all** trafficking cases and for slavery offences. CARE believes it is helpful to have these factors in statute rather than guidance which can change.

Clause 4: Minimum sentence for human trafficking and slavery offences

26. Clause 4 introduces a minimum sentence for offenders convicted of human trafficking or slavery offences.

27. We recognise that statutory minimum sentences are rare. Consequently, the inclusion of such a statutory minimum is an indication of the serious nature of these criminal offences. We believe that incorporating such a statutory minimum sentence would send a strong signal to perpetrators about the consequences of trafficking. Internationally, a number of countries have incorporated statutory minimum sentences with regard to human trafficking offences. According to the US Trafficking in Persons Report[24], these include the following:

- Canada - Section 279.011 of the Canadian Criminal Code sets out that a five year statutory minimum sentence should be made for the trafficking of an individual under 18 years of age.[25]
- Luxembourg - Article 382 of the 2009 Law on Trafficking in Human Beings sets down a minimum sentence of three years for those convicted of human trafficking offences.[26]
- India - In April 2013, the government adopted the Criminal Law Amendments Act of 2013, which introduced a number of changes to the Indian Penal Code. Section 8(2) of this Act set out that there should be a minimum sentence of seven years for those convicted of trafficking offences with regard to adults while section 8(4) of this Act sets out that there should be a minimum sentence of ten years if a child has been trafficked.[27]

[24] http://www.state.gov/j/tip/rls/tiprpt/2013/
[25] http://yourlaws.ca/criminal-code-canada/279011-trafficking-person-under-age-eighteen-years
[26] For an English Translation of the Legislation see the following http://www.qub.ac.uk/slavery/?page=countries&country=100&category=8
[27] For an English Translation of the Legislation see the following

- Bosnia and Herzegovina - Article 186(1) of the Criminal Code of Bosnia and Herzegovina sets out that there is a one year statutory minimum sentence for adults convicted of trafficking offences and Article 186(2) sets out that there should be a five year statutory minimum sentence for those convicted of trafficking a child.[28]
- Liberia- Section 7 of "An Act to Ban Trafficking in Persons within the Republic Of Liberia July 5, 2005" sets down a statutory minimum sentence of one year for those convicted of trafficking victims with regard to adults. If the victim is a child, a statutory minimum sentence of six years should be set down.[29]

28. We also note that the use of minimum sentences has been used in the UK on a number of occasions: for drug trafficking, domestic burglary and firearms in England and Wales. There is a minimum sentence in NI through the Firearms (Amendment) (Northern Ireland) Order 2004, Article 70.

Addressing Concerns about Clause 4

29. A number of MLA's during the second stage debate raised concerns with regard to this clause.

30. Basil McCrea MLA said, "*it destroys the fundamental aspect of our relationship with the judiciary, which is that there is separation between the legislator and the judiciary*" (p44). We disagree with this claim since there is precedent for minimum sentences (see paragraph 28). This clause would not seek to instruct the judiciary on particular cases but rather set out legislative principle, therefore it would not interfere with judicial discretion.

31. The Minister for Justice has said that there is no need for action because in R v Matyas Pis, His Honour Judge Burgess indicated that there would be a two-year starting point for involvement at any stage of the trafficking process into the UK (paragraph 33) based on the starting point used in the current England and Wales Sentencing Guidance for the Sexual Offences Act 2003.[30] We are concerned whether this "minimum starting point" will remain at this level for two reasons:
    - In R v Chen, Judge Stephens rejected the use of "*the 2007 guidelines in relation to the use of a starting point"* (paragraph 33) and said there were *"ambiguities*" about how the 2007 Sentencing Guidelines apply in Northern Ireland (paragraph 32).[31]
    - In addition, proposals for revised England and Wales sentencing guidelines for sexual offences, could significantly alter the starting points if the offender was considered to be minimally culpable to between 26 weeks and 18 months custody.[32]

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http://egazette.nic.in/WriteReadData/2013/E_17_2013_212.pdf

28 For an English Translation of the legislation, see the following http://www.qub.ac.uk/slavery/?page=countries&category=1&country=22

29 For an English Translation of the legislation, see the following: http://www.qub.ac.uk/slavery/?page=countries&country=96&category=4

30 http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2012/[2012]%20NICC%2014/j_j_2012NICC14Final.htm

31 http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/PublishedByYear/Documents/2012/[2012]%20NICC%2026/j_j_STE8525Final.htm

Potential Amendments

32. We suggest that two amendments are considered to Clause 4:
    - The inclusion of the word immediate in 4(2) to ensure that there is an immediate custodial sentence and not a suspended sentence.
    - An amendment to ensure there is different treatment for child offenders compared to adult offenders.

How this Clause will Help

33. We believe that this clause will send a powerful signal that human trafficking and slavery offences are serious crimes.

Clause 5: Amendments to the Asylum and Immigration (Treatment of Claimants etc.) Act 2004

34. Clause 5 amends Section 4 of the A&IA 2004 so that additional definitions, including forced begging, are expressly included in the Act.

International Obligations

35. Clause 5 seeks to ensure that section 4 of the A&IA 2004 mirrors Article 2 of the European Directive in relation both to what is known as the "means" by which a person is trafficked (i.e. the methods used to exert control over that person) and the nature of their exploitation (the "purpose" for which they have been trafficked):
    - Article 2 (1) of the Directive sets out the *means* by which control is exerted as "the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation." Currently the Asylum and Immigration Act 2004 only refers to the use of force, threats or deception as means of exerting control. Clause 5 would insure the full definition of the EU Directive would be applied.
    - In relation to the type of *exploitation* Article 2(3) of the EU Directive defines exploitation as including "as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs." At present the A&AI Act makes specific reference to forced labour, slavery or practices similar to slavery and servitude, provision of services and acquisition of benefits

[32] Sexual Offences Guideline Consultation, *Op Cit*, page 280

of any kind, and organ removal. It does not make any reference to forced begging or to forced criminal activity.

Evidence of Need

36. GRETA has said that, "the offence of trafficking people for exploitation **does not cover all the means included in the Convention, such as other forms of coercion, abduction, fraud or abuse of power**…the inclusion of all means under Article 4 of the Convention as constituent elements of the trafficking offences in all relevant Acts would bring the definitions of THB for the purpose of sexual and non-sexual forms of exploitation closer to the Convention."[33]

37. We believe that this clause is necessary to **make sure that the definitions of exploitation in Article 2 are explicit in NI law – including forced begging and criminal activities**. Otherwise, there is an argument for not having any definitions in section 4 of the Asylum Act at all.

How this Clause Will Help

38. This clause would bring clarity to the law in this area.

Clause 6: Paying for sexual services

39. The clause substitutes a new Article 64A of the Sexual Offences (Northern Ireland) Order 2008 for the Article introduced by the Policing and Crime Act 2009. Rather than making it an offence to pay for sexual services if the person in prostitution is subjected to force (the current law), this new clause creates a simple offence of paying for sexual services.

Detail of the Clause

40. The new Article 64A:
    - makes it an offence to obtain sexual services from a person over the age of 18 in exchange for payment, whether payment is made directly or through a third party (paragraph 1);
    - allows the offence to be *triable either way* and sets out the maximum penalty for the offence as a one year imprisonment (paragraph 2), which reflects the maximum penalty in Sweden;[34]
    - Defines payment (paragraph 3);
    - Ensures that the person who is selling sex is not guilty of aiding and abetting this offence (paragraph 4);
    - Requires the Department of Justice to raise awareness of the offence in its first year of operation (paragraph 5);
    - Requires the Department of Justice to collect data to review the operation of the offence and report to the Assembly after three years (paragraph 5).

[33] GRETA Report, *Op Cit,* para 69, page 24

[34] In July 2011, the maximum penalty was raised from six months to one year imprisonment. http://www.government.se/sb/d/4096/a/119861

41. We believe this clause should apply to those involved in what would be regarded as prostitution and that the term "sexual services" should not extend to lap dancing nor phone sex lines. We understand that some confusion has arisen over the scope because of the word "person" in the new offence rather than "prostitute". However, we note that in the Department of Justice's (DOJ) 2011 research, the DOJ said "*it is important to recognise that women, or indeed men, who have been trafficked, are not "prostitutes" even though they are forced to work in the sex industry."*[35] We believe wording in this clause reflects this understanding.

42. We note that Article 58(2) of the Sexual Offences (Northern Ireland) Order 2008 defines prostitute and prostitution as where *"a person (A) who, on at least one occasion and whether or not compelled to do so, offers or provides sexual services to another person in return for payment or a promise of payment to A or a third person."* This definition uses the same term "sexual services" clause 6 and appears in the same Part of the same legislation as would the new Section 64A inserted by this clause. Since the current definition is interpreted not to apply to lap dancing or telephone sex lines, the same should be the case with clause 6.

43. The inclusion of the provision to ensure that a person selling sex was not guilty of aiding and abetting this offence was made in response to concerns that this offence could both criminalise the purchaser and seller of sex, which was not the original intention, and would have taken the law beyond current provisions. New Article 64A(4) also reflects the position in Sweden where the "legislation only targets buyers of persons in prostitution. The persons who are exploited in prostitution, the victims of male violence, are not subject to any kind of criminal or other legal or administrative repercussions."[36] It was suggested at the Second Stage debate that this might hamper successful prosecution and encourage soliciting.[37] A similar approach does not appear to have had any negative effect in Sweden either in bringing prosecutions or increasing prostitution – quite the reverse. Provisions already exist under Northern Ireland law to deal with soliciting (Article 59 of the Sexual Offences (NI) Order 2008).

44. During the second stage debate some suggested that without Clause 6 this Bill would be pointless. This is not the case. This Bill is a 19 clause Bill and it would remain of real utility without clause 6. However, we passionately believe that the Bill would prove to be more effective *with* clause 6.

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35 Department of Justice, *Research paper investigating the issues for women in Northern Ireland involved in prostitution and exploring best practice elsewhere*, January 2011, page 8 http://www.dojni.gov.uk/index/publications/publication-categories/pubs-policing-community-safety/final_research_paper_-_women_in_northern_ireland_involved_in_prostitution.pdf

36 Ekberg G, The Swedish Law that prohibits the purchase of sexual services (2004) Violence Against Women 2004; 10:1187-1218

37 Second Stage Debate, Official Report, 23 September 2013, page 88

International Obligations

45. It is important to state that this clause is not explicitly required by the European Directive or Convention. However, Clause 6 is within the spirit of:
    - Article 18 of the Directive which requires member states to take "appropriate measures…to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings" and
    - Article 6 of the Convention which required that "to discourage demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, each Party shall adopt or strengthen legislative, administrative, educational, social, cultural or other measures".

Evidence of Need

The Need to Tackle Demand

46. Sexual exploitation is the primary form of modern day slavery in Northern Ireland. The largest numbers of those trafficked into and within Northern Ireland are brought here to meet local demand for the sale of sex - see Table 1 above, which shows that 74 out of 108 (69 per cent) potential victims recovered between 2008/9-2012/13 were trafficked for sexual exploitation. There is also evidence that a mixture of indigenous and foreign organised crime groups are involved in organised prostitution, using websites to advertise trafficked victims for "off street" prostitution and using brothels and hotels.[38] We cannot successfully tackle trafficking in Northern Ireland without addressing the main source of demand for trafficking. This is why clause 6 of Lord Morrow's Bill is so important since it criminalises demand for paid sex.

47. GRETA's report encourages "continuing efforts to reduce demand for sexual services" of those who have been trafficked (Recommendation 16) and their report refers to the explanatory notes accompanying the Convention which states, "This article places a positive obligation on Parties to adopt and reinforce measures for discouraging demand…By devoting a separate, free-standing article to this, the drafters sought to **underline the importance of tackling demand in order to prevent and combat the traffic itself**."[39] (emphasis added)

The Current Article 64A

48. The current legislative mechanism for tackling demand – **the current Article 64A** – has not proved effective. There have been no prosecutions under this offence in Northern Ireland, and very few in England and Wales.[40] We acknowledge that the Minister for Justice has indicated that he plans to raise the time bar from six months to three years with regard to proving coercion for this offence. This is clearly a positive step. However, we are still of the

38 IDMG Report, October 2012, *Op Cit,* paragraph 3.18, page 25 and paragraph 7.35, page 76

39 Paragraph 108 of the Explanatory Notes to the European Convention

40 Northern Ireland Assembly Question AQW 15565/11-15; Hansard House of Commons 19 November 2012 Column 292W

view that as a caveated offence it will not be nearly as effective as the law which currently applies in Sweden.

49. Finland introduced an offence in 2006 which made it an offence to purchase sexual services from an individual who had been trafficked.[41] A report commissioned by the Ministry of Justice in Finland published in September 2013 has concluded that the current legislation is unworkable and does not do enough to protect victims of human trafficking and exploitation. The report recommends Finland adopts a full ban on the purchase of sexual services which the Minister of Justice has announced she will propose to her colleagues in the Finnish Government.[42]

50. We should make clear that the lack of success on this offence does not mean CARE is arguing *all* trafficking offences are unsuccessful. That is not the case. We recognise that there have been successful prosecutions (albeit only two) under legislation designed to prosecute those who traffic people for sexual exploitation. However, there have been none for the existing offence which addresses the *demand* for this trafficking.

The need to address all forms of exploitation

51. Not all those selling sex have been trafficked but the majority have experienced exploitation and abuse of some kind. This makes it entirely appropriate that this Human Trafficking and Exploitation Bill, which addresses both trafficking and exploitation, should contain this timely measure. The Bill contains measures to improve our response to those subjected to slavery and forced labour where there is no evidence of trafficking. In a complementary way this clause acknowledges and seeks to address exploitation through prostitution:

    - Evidence suggests that many individuals working in the sex industry enter **before they have reached the age of 18**. A 2013 study conducted by Eaves, which involved interviews with 114 women working in the sex industry in both on and off street prostitution, found that 32 per cent of those interviewed had entered the sex industry before the age of 18.[43] Other studies conducted around the world have found higher numbers than this. For example, in a study conducted in nine countries in 2003 it was found that 47 per cent of those in the sample had entered

41 http://news.bbc.co.uk/1/hi/world/europe/5103132.stm and http://nppr.se/2009/10/12/finlands-prostitution-law-and-the-hope-of-nordic-unity/comment-page-1/#comment-1139

42 http://yle.fi/uutiset/justice_minister_to_seek_full_ban_on_purchasing_sex/6814089

43 Julie Bindel et al, *Breaking down the barriers: A study of how women exit prostitution,* Eaves/LSBU http://i1.cmsfiles.com/eaves/2012/11/Breaking-down-the-barriers-a37d80.pdf 2012 page 4

prostitution before they reached 18 years of age[44] and a 2004 UK study found a figure of 52 per cent.[45]

- Home Office figures reveal that **homelessness, living in care, debt and substance abuse, are all common experiences prior to entering prostitution**.[46] Research also shows that many of those in prostitution have suffered abuse or violence in the home; as many as 85 per cent report physical abuse in the family home, with 45 per cent reporting familial sexual abuse.[47] One author notes that international studies have consistently found that "the majority of prostituted persons- somewhere between 55 per cent and 90 per cent [depending on the study] - were subject to sexual abuse as children."[48]

- **Drugs are used by many in prostitution** to numb the reality of what providing paid sex involves and others enter prostitution in order to service an existing drug habit. A staggering 80-95 per cent of women involved in street based prostitution are addicted to class A drugs.[49] Moreover, pimps often use drug dependency as a form of control. Professor Roger Matthews writes: "*Street prostitutes frequently report that they work to support not only their own habit but also that of their boyfriend, pimp or partner. In some cases male drug users/dealers will seek out female prostitutes as 'partners' since they make good customers and providers."*[50]

- **Prostitution is one of the most dangerous occupations in the world**. Those involved risk physical assault, sexual violence, and verbal abuse every day.[51] In evidence given to the Dail Committee for Justice, Defence and Equality by the Irish Medical Organisation, a representative body for 5,000 medical practitioners in the Republic of Ireland, the physical consequences of working in the sex industry for women in particular were outlined. They pointed to an HSE women's health project in 2007 which showed that the majority of women who came to the project involved in prostitution recorded symptoms related to sexually transmitted infections, reproductive tract infection or other health complications related to prostitution, including bacterial vaginosis, thrush, hepatitis A and B, chlamydia, vaginal-genital warts, urinary tract infections and cervical cell abnormality. They further pointed to the fact that one study in London has found that mortality rates are estimated to be

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44 Melissa Farley et al, Prostitution and Trafficking in Nine Countries: An update on violence and Posttraumatic Stress Disorder, published in Melissa Farley (Ed.) *Prostitution, Trafficking and Traumatic Stress*. Birmingham, New York: Haworth Maltreatment & Trauma Press, 2003, page 40

45 Marianne Hester & Nicole Westmarland, *Tackling Street Prostitution: towards an holistic approach*; Home Office, 2004, page 61

46 Paying the Price: A Consultation paper on prostitution, Home Office, July 2004

47 Ibid, page 11

48 Max Waltman, Sweden's prohibition of purchase of sex: the law's reasons, impact and potential, Women's Studies International Forum 34, 2011, p451

49 Paying the Price, *Op Cit*, page 11

50 Roger Matthews, *Prostitution, politics and policy*, Routledge-Cavendish, 2008, page 48

51 Melissa Farley, Isin Baral, Merab Kiremire, Ufuk Sezgin, *Prostitution in Five Countries: Violence and Posttraumatic Stress Disorder*, 1998

12 times higher among women involved in prostitution than the national average.[52] Working in prostitution often has seriously detrimental effects on the physical and mental health of those involved. We note that a recent survey in Ireland suggested low alcohol and drug use for those working as independent escorts (ie not involved with a pimp) but even then 57.4 per cent of those who responded detailed experiences of abuse whilst working as an escort.[53] In the 2011 NI research, the authors stated that "many women in prostitution in Northern Ireland are subjected to extreme violence."[54]

How this Clause Will Help

52. **Clause 6 tackles the main driver of human trafficking in Northern Ireland:** Any Bill on human trafficking which did not address the demand for sexual services would be a Bill with a significant hole in it. Table 1, above, shows that the major reason victims are trafficked into Northern Ireland is for sexual exploitation. We must address the markets into which people are trafficked if we are to have any hope of impacting trafficking itself. As Lauren Hersh, New York Director of Equality Now argues, "to combat trafficking effectively, we must shrink the market, holding buyers and traffickers accountable and support those driven into prostitution."[55]

53. This clause recognises the link between trafficking and prostitution, which was cited in the DOJ report of 2011 when they said, "The phenomenon of "human trafficking" is closely interlinked with prostitution."[56]

54. **Clause 6 is based on an approach used successfully in other countries**. Sweden introduced a similar law in 1999. Since then:

- **Street prostitution has decreased**
  - An evaluation of the Swedish law concluded that the number of persons, mainly women, exploited in street prostitution in Sweden has been halved since 1999. In 2008, the number of those in street prostitution was estimated to be three times higher in the neighbouring countries of Denmark and Norway than in Sweden (see Figure 1 below).[57] Such has been its success that Norway has now changed its laws in

[52] Evidence to the Dail Committee for Justice, Defence and Equality, 12th December 2012. http://oireachtasdebates.oireachtas.ie/Debates%20Authoring//WebAttachments.nsf/%28$vLookupByConstructedKey%29/committees~20121212~JUJ/$File/Daily%20Book%20Unrevised.pdf?openelement page 3

[53] *Crime and Abuse Experienced by Sex Workers in Ireland*, Victimisation Survey, Uglymugs.Ie, September 2013, pages 2 and 47, http://uglymugs.ie/wp-content/uploads/ugly-mugs-september-2013.pdf

[54] Issues for women in Northern Ireland involved in prostitution, *Op Cit*, page 40

[55] Hersh, L. Letter to the New York Times 24 September 2012 http://www.nytimes.com/2012/10/01/opinion/ending-the-demand-side-of-prostitution.html?emc=tnt&tntemail1=y&_r=1&

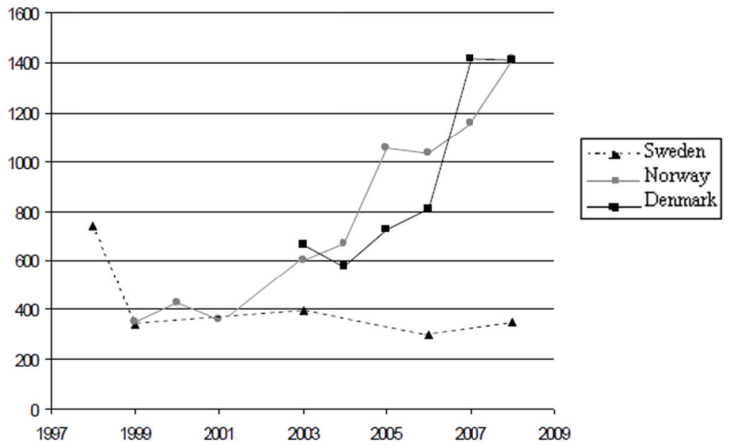
[56] Research paper investigating the issues for women in Northern Ireland involved in prostitution and exploring best practice elsewhere, *Op Cit*

[57] *Swedish Government Report SOU 2010:49 The Ban against the Purchase of Sexual Services. An evaluation 1999-2008, English Summary*. Available here:

line with the Swedish approach and when they did so there was an "immediate, dramatic reduction of street prostitution" in Bergen, one of Norway's larger cities.[58]

- One author notes that "according to both Swedish NGOs and government agencies in Stockholm, Gothenburg and Malmo, prostitution virtually disappeared from the street right after the sex purchase law came into force… Street prostitution eventually came back, but at a reduced level. As reported in 2007, in Stockholm social workers encounter only 15 to 20 prostituted persons per night, whereas prior to the law they encountered up to 60. In Malmo social workers encountered 200 women a year prior to the law, but one year after the law there were only 130, and in 2006 only 66."[59]

Figure 1: Number of individuals engaged in street prostitution in Sweden, Norway and Denmark, 1998-2008[60]



Sources: The Swedish National Board of Health and Welfare, Pro Center Norway, the Danish National Board of Social Services, and information from prostitution groups (Sweden, 2008).

- **Overall prostitution levels are significantly lower than they would otherwise be**
  - From 1996 to 2008 the number of Swedish men reporting the experience of purchasing sex in the national population samples fell from 13.6 per cent to 8 per cent.[61] This demonstrates that the law has a significant deterrent effect on men in Sweden with regard to paying for sex.
  - The Government evaluation of the Swedish Law found that "while there has been an increase in prostitution in our neighbouring Nordic countries in the last decade, as far as we can see, prostitution has at least not increased in Sweden. There may be several explanations for this but, given the major similarities in all other respects between the Nordic countries, it is reasonable to assume that prostitution would also have

http://www.government.se/content/1/c6/11/98/61/73d97eb9.pdf

58 *Ibid*

59 Max Waltman, *Op Cit*

60 Swedish government report SOU 2010:49, Chapters 4 and 5, http://www.government.se/content/1/c6/11/98/61/2ac7d62b.pdf

61 Holmström & Skilbrei eds. *Prostitution in the Nordic Countries Conference Report,* 2009, page 29

increased in Sweden if we had not had a ban on the purchase of sexual services. Criminalisation has therefore helped to combat prostitution."[62]

- The evaluation also concluded that although there has been an increase in prostitution advertising on the internet in Sweden since the law was introduced "However, the scale of this form of prostitution is more extensive in our neighbouring countries, and there is nothing to indicate that a greater increase in prostitution over the Internet has occurred in Sweden than in these comparable countries. This indicates that the ban has not led to a change in arenas, that is, from street prostitution to the Internet, in Sweden."[63]
- Following Norway's introduction of a law criminalising the purchase of sex there appears to have been a **reduction in both on street and off street prostitution**.[64] Advertisements for off street prostitution reduced by 28 per cent in the first year after the law was introduced.[65] It is noteworthy however, that this reduction was much smaller than that for on street prostitution (50 per cent) suggesting that the industry that remained could not simply go "underground" but continued to seek clients through advertisements.

- There has been a **deterrent effect on human trafficking** as a direct result of this law.
  - In 2009, the National Rapporteur said "It has been discovered through wiretapping and surveillance that traffickers consider Sweden a bad market. These criminals are businessmen and calculate profits. Victims of human trafficking confirm that the traffickers talk about Sweden as a poor market."[66]
  - The Swedish National Criminal Police confirm this, reporting that "It is clear that the prohibition against buying sexual services, known as the sex purchase law… is still functioning as a barrier that is preventing human traffickers and pimps from becoming established in Sweden."[67]
  - In 2007, the police in Skåne County, in the south of Sweden, collaborated with the police in Denmark on a case involving Thai women who were invited to Sweden by individuals living there. Instead of travelling to Sweden, the women ended up working in prostitution in Denmark. Academics and others have suggested that it is likely that the Swedish sex purchase law had a deterrent effect on the human traffickers who could not see much point in trafficking the women beyond Denmark to Sweden, where purchasers would be discouraged by the risk of prosecution and conviction.[68]

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62 Swedish government report SOU 2010:49 English Summary, *Op Cit*, page 36

63 Swedish government report SOU 2010:49, Chapters 4 and 5, *Op Cit*

64 Pro Sentret Oslo Kommune "New Conditions, New Opportunities?", http://prosentret.no/publikasjoner/pro-sentrets-reports-in-english/ 2009 Annual Report, page 22

65 *Ibid,* page 22

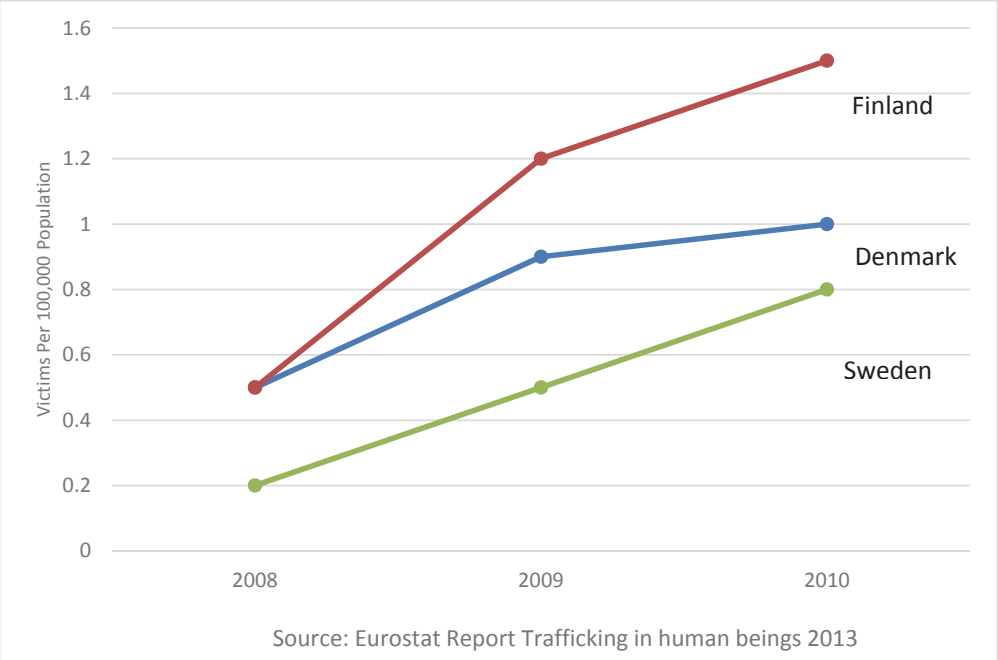
66 *Report from the European Conference on Human Trafficking*, December 2009. Statement by Kajsa Wåhlberg, the Swedish national Rapporteur on Trafficking in Human Beings, Conference on the "Preventing and Combating Trafficking in Human Beings and Reducing Prostitution and Sexual Exploitation", Czech Republic, 3 June 2009 page 20

67 Swedish National Criminal Police, *Trafficking in human beings for sexual and other purposes, Situation Report 9*, 2009 covering data for 2006, page 9, section 3.1.2

68 Kajsa Claude, *Targeting the Buyer: The Swedish Example,* The Swedish Institute 2010, page 17

- Authors reviewing the data on prostitution and trafficking concluded that "countries that implement harsher laws regarding prostitution seem to get a lower prevalence of trafficking."[69] The graph below shows trafficking data for Finland, Denmark and Sweden published this year by the European Commission.[70] Data showing similar numbers of potential victims has been published by the US State Department[71] and by the Council of the Baltic Sea States.[72]

Figure 2: Number of identified and presumed victims of all forms of trafficking



- Changing the law in Sweden has had a **transformative effect on public attitudes with regard to paying for sex.**
  - In 1996, before the law to criminalize payment for sexual services was passed, a survey showed that only 45 per cent of women and 20 per cent of men were in favour of such a change.[73] In 1999, the year the law was passed, support increased dramatically with 81 per cent of women and 70 per cent of men being in favour.[74]
  - This strong public support has been maintained, with a survey conducted in 2008 showing that 79 per cent of women and 60 per cent of men continue to favour the

69 Niklas Jakobsson and Andreas Kotsadam, *The Law and Economics of International Sex Slavery: Prostitution laws and trafficking for sexual exploitation*, Working Papers in Economics No 458, University of Gothenburg, June 2010, Revised May 2013, page 15, page 17

70 Eurostat Report *Trafficking in Human Beings* 2013

71 US Trafficking in Persons Report, 2013 http://www.state.gov/j/tip/rls/tiprpt/2013/

72 *Human Trafficking 2013 - Baltic Sea Region Roundup* http://www.cbss.org/wp-content/uploads/2012/11/TFTFB-raport_PRINT_all_crop_web.pdf

73 Sven-Axel Månsson (2000). Commercial Sexuality. In Bo Lewin (Ed.), *Sex in Sweden: On the Swedish sexual life* 1996 (pp. 235–263) cited in Waltman (2011)

74 *Ibid*

law.[75] What this shows is that passing a law to criminalise paying for sex has an impact on societal attitudes to paying for sex.

55. **Clause 6 introduces a stiffer penalty than the current Article 64A offence.** A 2009 London study of 103 men who buy sex, 77 per cent agreed that a "greater criminal penalty" would deter them from purchasing sex compared with only 47 per cent who would be deterred by a requirement to attend an educational programme.[76] This shows how effective clause 6 could be at reducing demand.

56. **Clause 6 is a socially just response to both human trafficking and prostitution:** Lord Morrow's Bill seeks to address exploitation that is wider than just trafficking. It is about promoting human rights and justice. Reducing the market for sexual services will be a positive benefit not only for those who have been trafficked but all who are made vulnerable through involvement in prostitution, which we believe is to be welcomed.

57. CARE would welcome greater support for projects which assist people to exit prostitution, alongside the introduction of this Bill. In Sweden section 11 of the Social Services Act 2001[77] contains an obligation for local municipalities to provide support services to victims of crime and highlights in particular the need to provide support to women who are victims of violence including people in prostitution.[78]

58. **Clause 6 is a much more effective approach than the legalisation and regulation of prostitution:** The idea of regulation is that the dangerous unregulated market is replaced by a safe regulated market. However, provision of a regulated market does not result in the demise of an unregulated market. Not surprisingly given connections with organised crime (see paragraph 46), many pimps don't want to pay taxes. Thus the dangerous unregulated market coexists with a new regulated market. [79]

59. Evidence suggests that in countries which have adopted either of these approaches, there are:

- **Higher levels of trafficking**:
  - Germany and the Netherlands, which have some of the most widely regulated prostitution sectors, were both ranked in the group of top destination countries listed

[75] Jari Kuosmanen (2008). Tio år med lagen: Om förhållningssätt till och erfarenheter av prostitution i Sverige [*Ten Years with the Law: On Approaches to and Experiences of Prostitution in Sweden*]. In Holmström & Skilbrei eds., 2009, page 29

[76] Melissa Farley et al, *Men who buy sex- who they buy and what they kno*w, Eaves, London, 2009, page 22

[77] Social Services Act 2001:453 For an English translation of the legislation see: http://www.scribd.com/doc/32167396/Social-Services-Act-in-Sweden

[78] Ekberg G, 2004, *Op Cit*. See for example details of the service provided by the Stockholm municipality (Swedish) http://www.stockholm.se/prostitutionsenheten

[79] Suzanne Daley (2001) http://www.nytimes.com/2001/08/12/world/new-rights-for-dutch-prostitutes-but-no-gain.html?pagewanted=all&src=pm; Dina Siegel (2009) 'Human trafficking and legalized prostitution in the Netherlands', http://www.doiserbia.nb.rs/img/doi/1450-6637/2009/1450-66370901005S.pdf

by the UN Office of Drugs and Crime in their 2006 report on trafficking in human beings.[80]

- A retired German chief police detective has described Germany as a "centre for the sexual exploitation of young women from Eastern Europe, as well as a sphere of activity for organized crime groups from around the world."[81] Chief Superintendent Helmut Sporer from the Augsburg police recently said "The sex buyers are looking for fresh meat. Nowadays, the average woman in prostitution in Germany is an 18-20 year old trafficked girl from Romania." [82]
- In the Netherlands, the US Trafficking in Persons Report 2012 confirms that trafficking victims continue to be exploited in the regulated sex industry and notes the issue of local pimps coercing vulnerable young women into prostitution.[83]
- In a study carried out by the Dutch National Police on trafficking in the regulated prostitution sector, researchers estimated between 50 per cent and 90 per cent of women in legalized brothels were 'working involuntarily'.[84]
- A 2008 *New York Times* article quoted a Dutch report that over 75 per cent of Amsterdam's 8,000 to 11,000 prostituted persons are from Eastern Europe, Africa and Asia. In the same article, the mayor of Amsterdam is quoted as saying that "we realize that this [legalization] hasn't worked, that trafficking in women continues… Women are now moved around more, making police work more difficult."[85]
- Ten years after the introduction of the New Zealand Prostitution Reform Act 2003, a leading politician has recognised the likelihood of trafficking into prostitution.[86] Campaigners in New Zealand say "in recent years there has been media exposure of the plight of some foreign women, lured to work illegally in New Zealand's decriminalised sex industry, yet finding themselves in 'slave-like' conditions."[87] The 2012 US Department of State Trafficking in Persons report highlights the particular problem of internal trafficking of young people for sexual exploitation in New Zealand.[88]
- Two recent academic studies have concluded that legalizing or decriminalizing prostitution leads to higher levels of human trafficking within a country. One

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80 UNODC, Trafficking in Persons: Global Patterns, June 2006, http://www.unodc.org/pdf/traffickinginpersons_report_2006ver2.pdf

81 Manfred Paulus quoted in Der Speigel 30 May 2013 http://www.spiegel.de/international/germany/human-trafficking-persists-despite-legality-of-prostitution-in-germany-a-902533.html

82 Chief Superintendent Helmut Sporer speaking at a European Women's Lobby seminar at the European Parliament 1 October 2013 http://www.womenlobby.org/Actualite/EWL-News/article/ewl-seminar-addresses-the-reality?lang=en

83 US Trafficking in Persons Report 2012, pages 263-4 http://www.state.gov/j/tip/rls/tiprpt/2012/

84 Korps landelijke politiediensten. Schone Schijn: De signalering van mensenhandel in de vergunde prostitutiesector [Keeping Up Appearances: The Signs of Human Trafficking in the Legalized Prostitution Sector] (KLPD, Driebergen, 2008), www.om.nl/onderwerpen/mensenhandel_en/@148766/de_signalering_van/

85 Marlise Simons (24 February 2008) Amsterdam Tries Upscale Fix for Red-Light District Crime. New York Times http://www.nytimes.com/2008/02/24/world/europe/24amsterdam.html?pagewanted=all&_r=0

86 http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10875922

87 http://www.scoop.co.nz/stories/PO1206/S00285/sex-trafficking-under-spotlight.htm

88 US Trafficking in Persons Report, 2012, *Op Cit,* page 265

published by Cho et al, which involved an empirical analysis of 150 countries worldwide, found that "on average countries where prostitution is legal experience larger reported human trafficking flows."[89] Marinova et al. also found this to be the case.[90]

- **Safety has not improved**
  - One academic notes that "women… claim that legalization increases competition and demands for unsafe and dangerous sex acts."[91]
  - In Australia, the brothel The Daily Planet in Melbourne has alarm buttons in every room. According to one of the bouncers who works there, the use of these buttons – after the woman has been hit or assaulted – is not uncommon.[92]
  - After New Zealand changed their law, 35 per cent of those surveyed had felt unable to refuse a client they didn't want in the previous 12 months, and violence continues to be experienced by those in prostitution with most still reluctant to report these incidents to the police.[93]
  - The lack of regulation in New Zealand permits abuses, particularly of young people, to go unchecked.[94] Under the Prostitution Reform Act Police in New Zealand have no right of entry to brothels and no powers to request age identification documents, nor are brothel owners required to maintain a record of age identification of sex workers. Recent press and community reports have suggested girls as young as 13 are involved in prostitution.[95]
  - As Monica O'Connor, the co-author of a study into the Irish prostitution industry published in 2009, put it in her evidence to the Dail committee for Justice, Defence and Equality, "it is incredibly naïve and flies in the face of the overwhelming evidence to believe that we can make prostitution safe. It is an inherently harmful, abusive, exploitative and coercive industry."[96]
  - A Police Chief Superintendent from Augsburg, Germany recently said that the normalization of prostitution, through the German legislation has brought more vulnerability for prostituted persons. He reported a dramatic increase in the number of women in prostitution (30 per cent in his area), mainly in bars and private brothels,

89 Seo-Young Cho et al, Does legalized prostitution increase human trafficking? World Development Volume 41, 2013, page 61

90 Marinova, N and James, P The tragedy of Human Trafficking: Competing theories and European Evidence. Foreign Policy Analysis 8, 2012, pages 231-253

91 Waltman, *Op Cit*, page 461

92 Sheila Jeffreys, 'Prostitution and Trafficking in Australia: 20 years of liberalisation', paper delivered at the Seminar on the Demand Question, Helsinki, 1 December 2006

93 The New Zealand Prostitution Law Review Committee (PLRC), 2008, pages 46, 55-56

94 *Ibid*, page 109

95 http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10874035; http://www.stuff.co.nz/auckland/local-news/manukau-courier/8512918/Families-pimp-girls-warden

96 Evidence to the Dail Committee for Justice, Defence and Equality, 12th December 2012. http://oireachtasdebates.oireachtas.ie/Debates%20Authoring//WebAttachments.nsf/%28$vLookupByConstructedKey%29/committees~20130116~JUJ/$File/Daily%20Book%20Unrevised.pdf?openelement page 22

where they are isolated: "Women are afraid to tell the truth to the police".[97] A Government evaluation of the German Prostitution law has said "As regards improving prostitutes' working conditions, hardly any measurable, positive impact has been observed in practice."...The Federal Government will examine to what extent the protection of victims of trafficking in human beings and forced prostitution can be improved... The Prostitution Act has not recognisably improved the prostitutes' means for leaving prostitution."[98]

- **Prostitution appears to have increased**
  - The New Zealand Prostitution Law Review Committee (PLRC) noted in 2008 that street prostitution in Auckland more than doubled in just one year (2006-2007), with press reports and local support services suggesting even higher increases.[99]
  - They recommended that those working in street prostitution should be encouraged to move into off street work, but five years later the problem remains. Concern about the situation has led to the introduction of a Private Members Bill by a Member of Parliament to amend the PRA making street prostitution illegal.[100]
  - The number of people in prostitution in Germany rose from an estimated 60,000-200,000 in 1996 to 400,000 in 2006.[101]
  - Germany has become a destination for sex tourism, with more sex buyers travelling to Germany to visit the brothels, and a business place for pimps.[102]

Addressing Concerns about Clause 6

Whether the Situation in Northern Ireland is Different from Elsewhere?

60. We recognise that the North is not exactly the same as the South, but since the nature of prostitution does not tend to change from place to place, we urge the Committee to scrutinize the June 2013 report from the Houses Of The Oireachtas Joint Committee on Justice, Defence and Equality which when it reviewed the law on prostitution concluded **by supporting the Swedish approach** saying: It "**found compelling the accounts that it heard during its visit to Sweden from witnesses including police**… The evidence indicating that using the criminal law to tackle demand for prostitution has reduced trafficking" (p68) and that support for the Swedish approach came from a broad cross-section of society (p68).

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97 Chief Superintendent Helmut Sporer, *Op Cit,*

98 *Report by the Federal Government on the impact of the Act regulating the legal situation of prostitutes (Prostitution Act) Federal Ministry for Family Affairs, Senior Citizens, Women and Youth*, 2007, pages 79-80

99 PLRC, *Op Cit,* page 118

100 Asenati Lole-Taylor MP introduced the Prostitution Reform (Control of Street Prostitution) Amendment Bill in February 2013, consultation draft http://www.parliament.nz/en-NZ/PB/Legislation/ProposedBills/2/1/6/50HOH_MEMBILL185_1-Prostitution-Reform-Control-of-Street-Prostitution.htm

101 Michèle Hirsch, Plan of action against traffic in women and forced prostitution 1996, http://www.coe.int/t/dghl/monitoring/trafficking/Source/PDF-EG(96)2_E.pdf; TAMPEP National Report on HIV and Sex Work, Germany 2007 http://tampep.eu/documents/Germany%20National%20Report.pdf

102 Chief Superintendent Helmut Sporer *Op Cit*, Also http://www.theguardian.com/world/shortcuts/2013/jun/12/germany-now-europes-biggest-brothel

Evidence from Sweden

61. A number of Members raised questions about the evidence from Sweden in the Second Stage Debate.

    a. Some members and Department of Justice Officials specifically referred to a report from the Swedish Board of Health and Welfare in 2007 (or other reports which cite this study) which said that it is difficult to discern whether prostitution has increased or decreased.[103]

        - This report along with other reports and data was considered by the Swedish Government evaluation of the Sex Purchase Law in 2010, chaired by Anna Skarhed, which concluded: "The overall picture we have obtained is that, while there has been an increase in prostitution in our neighbouring Nordic countries in the last decade, as far as we can see, prostitution has at least not increased in Sweden. There may be several explanations for this but, given the major similarities in all other respects between the Nordic countries, it is reasonable to assume that prostitution would also have increased in Sweden if we had not had a ban on the purchase of sexual services. Criminalisation has therefore helped to combat prostitution."[104]
        - The fact is that prostitution markets are fluid and determining the scale of the market necessarily has an element of estimation. The findings of the National Board of Health and Welfare did not prevent the later evaluation of the Swedish law from concluding that the law had had a positive impact restricting the extent of prostitution.

    b. Basil McCrea MLA quoted the Swedish National Rapporteur on Human Trafficking as reporting "a general lack of knowledge concerning the extent of trafficking for sexual purposes in Sweden."[105]

        - The report that Mr McCrea refers to is a Swedish Government Strategy Document from 2009 which introduced several Government initiatives to address trafficking.[106] The comments made by Detective Superintendent Walhberg were made in the context of introducing a new training programme to improve police enforcement as part of the Government's new Action Plan (and new injection of funding) for combating human trafficking from 2008-2010.
        - Immediately after the sentence quoted by Mr McCrea the report states "The number of cases detected and reported depends on the police's priorities and the resources they set aside for surveillance and other police work." In the context of launching the new training programme and operational resources it is unsurprising that the Swedish Government would point to areas needing improvement.

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103 Eriksson, A. & Gavanas, A. National Board of Health and Welfare, *Prostitution in Sweden,* 2007, page 63 http://www.socialstyrelsen.se/lists/artikelkatalog/attachments/8806/2008-126-65_200812665.pdf

104 Swedish government report SOU 2010:49, *Op Cit,* section 4.3

105 Official Report, 23 September 2013, page 47

106 *Swedish Government Report Against Prostitution and Human trafficking for Sexual Purposes*, 2009 http://www.government.se/sb/d/11503/a/133671

- The most recent Situation Report on Human Trafficking from the National Rapporteur has reported that the Action Plan and accompanying resources resulted in increased prosecutions for human trafficking, pimping, purchase of sexual services and other related offences.[107]
- The extensive annual Situation Reports produced by the National Rapporteur in Sweden demonstrate a good knowledge and understanding of trafficking in Sweden, but also as recognised in the latest IDMG Report, human trafficking is "difficult to detect because of its hidden nature"[108].
- It is clear from the Situation Reports that the Swedish police consider the sex purchase law a key tool in gaining intelligence about and combating trafficking for sexual exploitation.

Policing the Offence in Northern Ireland

62. There have been a number of concerns raised about policing this offence. We believe the evidence shows that this offence can be effectively enforced:

- We note that the Joint Committee in the Republic concluded that "a ban on purchase a sexual service **can be effectively and efficiently enforced by the Gardaí**. Most prostitution is currently advertised through websites that can be readily found; similarly, contact numbers and premises used by prostitutes are easily identified. This will facilitate enforcement by disabling or diverting phone numbers, apprehending purchasers at premises, and identifying and prosecuting organisers. Monies recovered from those who organise prostitution can be used to offset the cost of enforcement." (p71, emphasis added)

- When the law was first discussed in Sweden, the police force raised concerns. Chief Detective Inspector Per-Uno Hågestam of the Stockholm Police District Anti-Trafficking Group in particular was highly critical when the law was introduced; however, on retiring he commended the effectiveness of the new approach.[109] The implementation of the law included a package of training and awareness-raising about the underlying principles, together with resources dedicated to enforcement and monitoring of the law. Over a decade into the implementation of this law, **the Swedish police report that criminalisation of the purchaser is an effective way of finding pimps and traffickers although effectiveness depends on access to resources and the crime being given sufficient priority by police and within the judicial system**.[110]

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107 *Swedish National Police Situation Report on Trafficking in Human Beings No.13*, 2012, page 6

108 *Second Report of the Inter-Departmental Ministerial Group on Human Trafficking*, October 2013, page 4

109 G. Skagerlind, 'Polischef Per-Uno Hågestam: Sexköpslagen fungerar over förväntan' [transl. Chief Criminal Inspector Per-Uno Hågestam: The Law that Prohibits the Purchase of Sexual Services Functions Beyond Our Expectations]. Morgonbris 4, 13, October 2004, cited in Gunilla Ekberg , 2004; *Op Cit*

110 Swedish Government Report SOU 2010:49, English Summary, *Op Cit*, page 39

- Some, including members of the police, have suggested that introducing clause 6 would prevent people reporting suspected trafficking and hinder in intelligence gathering.[111] However, the indications from Sweden are that this will not be the case. The evaluation of the Swedish law found "**There are no indications that the criminalization of sex purchases has made it more difficult for people being exploited in street prostitution to get in touch with the authorities. In connection with the measures targeting street prostitution, including those from the police, it appears that the opportunities to seek help from and contact with authorities have become better, not worse**."[112] The National Board of Health and Welfare Prostitution in Sweden report 2007 particularly noted "the Göteborg Police …report that they have received anonymous tips from clients who suspect human trafficking."[113]

The Impact on Prostitutes

63. A number of Members raised concerns that Clause 6 would have a detrimental effect on those currently involved in prostitution. We believe the evidence from Sweden does not reflect this.

- The evidence from Sweden indicates that criminalising the purchase of sexual services **does not drive prostitution underground**: Kajsa Wahlberg, Swedish National Rapporteur on Human Trafficking speaking at the European Conference on Human Trafficking in December 2009, said: "In Sweden there is relatively little prostitution. The perception that this is because prostitution has gone underground is not true. Prostitution cannot go underground because the buyers need to be able to find the women. Prior to the law prohibiting the purchase of sexual services the pimps could easily send the women out looking for buyers. Nowadays they have to advertise and make arrangements which means that the risk of getting caught increases."[114]

- Claims that changing the law has also made **prostitution more dangerous** for individuals working in the industry have also been consistently shown to be unfounded. The National Board of Health and Welfare in Sweden stated in 2003 that "Police who have conducted a special investigation into the amount of violence have not found any evidence of an increase. Other research and the responses of our informants indicate a close connection between prostitution and violence, regardless of what laws may be in effect." [115] The 2008

111 http://www.belfasttelegraph.co.uk/news/local-national/northern-ireland/criminalising-people-who-pay-for-sex-wont-help-antitrafficking-fight-says-police-chief-29553457.html

112 Swedish government report SOU 2010:49, *Op Cit*, section 4.6.3

113 National Board of Health and Welfare, Prostitution in Sweden, *Op Cit,* page 48

114 Report from the European Conference on Human Trafficking, December 2009, *Op Cit*

115 National Board of Health & Welfare, *Prostitution in Sweden 2003*, 2004, Authored by Eva Ambesjö, Annika Eriksson, & Merike Lidholm. Stockholm: Socialstyrelsen. http://www.socialstyrelsen.se/Lists/Artikelkatalog/Attachments/10488/2004-131-28_200413128.pdf page 34

prostitution inquiry conducted in Sweden also established that the claims made by opponents about a worsening situation were baseless.[116]

- Recent data from Norway shows a decrease in severe violence against those in prostitution. The research showed a halving of the number of people in prostitution who had experienced rape since purchase was criminalised in 2009 compared to those surveyed in 2008. Violence from pimps was also halved and violence from clients was down from 89 per cent to 74 per cent.[117]

- Mr McCrea MLA raised the concern that people would be more likely to engage in unprotected sex as an unforeseen consequence of clause 6. He referred to the presence of condoms being viewed as evidence of people having sex by the police in Sweden.[118] The National Rapporteur's most recent Situation Report reports that "the great majority of people reported for purchasing sexual services admit the crimes."[119] Furthermore the evaluation of the Swedish Law reports that "It is considered difficult to prove attempted crimes, with the result that, in connection with street prostitution, the police deliberately wait until the sexual act has begun before intervening, and the offence has thus been committed in full."[120] The National Board of Health and Welfare reported in 2007 that many individuals advertising sexual services on the internet make stipulations about condom use.[121] This suggests Clause 6 should not lead to more unsafe sexual behaviour.

The Need for More Research?

64. We are concerned by the way in which the Department of Justice has gone about announcing that they are commissioning additional research into prostitution. The announcement by the Department that it was commissioning research three weeks before the Second Stage debate appears to be a delaying tactic since they have indicated that it is "unlikely" that the research will be completed by the end of the Committee stage. The Department of Justice knew that this Bill was coming from the time Lord Morrow began his consultation in August 2012. Lord Morrow introduced his Bill to the Assembly in June of this year. Why did the Department not commission the research prior to September 2013?

65. The Minister for Justice stated in the Second Stage debate that the purpose of the research "is to establish the extent and nature of prostitution in Northern Ireland; it is not to put out any proposals. It is to establish what the situation is. We can then develop proposals on whether legislation is appropriate or necessary and how we would go about it." We are not clear how this will this differ from the 2011 research which set out "to publish a research paper which would investigate the issue for women in Northern Ireland involved in prostitution and to

116 Swedish government report SOU 2010:49 English Summary, *Op Cit,* pages 37-38

117 64 per cent raped in 2008, ProSentret *Dangerous Liaisons* report (2012) http://prosentret.no/publikasjoner/pro-sentrets-reports-in-english/ pages 16, 26

118 Second Stage Debate, Official Report, 23 September 2013, page 86

119 Situation Report 13, *Op Cit,* page 21

120 Swedish government report SOU 2010:49 English Summary, *Op Cit,* page 40

121 Prostitution in Sweden, 2007, *Op Cit,* page 56

explore best practice elsewhere"[122] and therefore what benefit this new research will bring to this debate. We note that in the 2011 research 40 to 100 women were identified working in prostitution but that the report stated it is hard to estimate the exact numbers due to the hidden nature of prostitution.[123]

Clause 7: Requirements for resources for investigation or prosecution

66. Clause 7 requires the Department to provide suitable training and tools to ensure effective investigation or prosecution of human trafficking offences and slavery offences. There would be little point in having legislation to tackle human trafficking and slavery if investigators and prosecutors lack the requisite tools and training to identify victims and prosecute perpetrators.

International Obligations

67. Clause 7 will ensure that we comply with Article 9 and 18(3) of the Directive which require that states "take the necessary measures to ensure that persons, units or services responsible for investigating or prosecuting [human trafficking offences] are trained accordingly" and "that effective investigative tools, such as those which are used in organised crime or other serious crime cases are available to persons, units or services responsible for investigating or prosecuting the offences" and "regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings aimed at enabling them to identify and deal with victims and potential victims.

68. The Convention recommends that there should be provision or strengthening of "training for relevant officials in the prevention of and fight against trafficking in human beings" (Article 29(3)).

Evidence of Need

69. Currently there have been only two successful prosecutions in Northern Ireland. The GRETA report on the UK notes that this low level of prosecutions has a detrimental impact on victims and fails to provide them with the option of claiming compensation from the offender in the framework of a criminal trial."[124]

70. This duty also requires training to **investigate forced labour cases** that are not necessarily related to trafficking. The Joseph Rowntree Foundation said in its report "there needs to be more detail [in regard to training] about forced labour where trafficking is not present."[125] Similarly, in 2010, the ATMG said that there is, "a concern that the police in general do not

[122] Issues for women in Northern Ireland involved in prostitution, *Op Cit*, Executive Summary
[123] *Ibid*, page 40
[124] GRETA Report, *Op Cit*, para 353, page 79
[125] Joseph Rowntree Foundation, *Regulation and Enforcement to Tackle Forced Labour in the UK: A Systematic Response*, 2012, page 44

respond appropriately when information about cases of domestic servitude or forced labour, involving men as well as women, [are] brought to their attention."[126]

71. The GRETA report made a number of recommendations on training: [127]

- Recommendation 9 urged training "periodically in order to improve the detection of potential victims of trafficking, the formal identification of victims and the provision of assistance to them. Such training should be provided to law enforcement officers, immigration officials, staff working in immigration removal centres, staff working in shelters for victims of trafficking, local authorities staff, diplomatic and consular staff, health professionals, social workers and labour inspectors."
- Recommendation 10 invited the UK "to step up the training provided to prosecutors and judges on the issue of [human trafficking] and the applicable legislation and case-law, by stressing the importance of applying a human rights-based approach on the basis of the Council of Europe Convention and the case-law of the European Court on Human Rights."
- Recommendation 34 further states there should be continuing "efforts to train law enforcement officials to detect cases of [human trafficking] and to step up proactive investigations, including through co-operation between the police, UKBA and other relevant actors and the setting up of more units of specialised investigators."

How Will This Clause Help

72. We would hope that this clause will help to increase the number successful prosecutions in the Province.

73. We are particularly concerned about the potential implications of the National Crime Agency (NCA) not operating in Northern Ireland and the impact that may have on trafficking operations. This may make this clause even more essential. We note that the Minister for Justice has said that the PSNI will "not be able to draw on the direct operational support of the NCA in Northern Ireland, except where there are immigration offences".[128]

Potential Amendments

74. We acknowledge that this clause may require amendment as a consequence of the reference to the "Department" made at the opening of the clause. We suggest that either each department is listed in a subsection to this clause or a general phrase such as "all Departments and agencies responsible for investigating or prosecuting a human trafficking offence or slavery offence shall take the necessary measures." This would mean that the responsibility for all training does not lie just with the Department of Justice.

126 *Wrong Kind of Victim? Op Cit*, page 70
127 GRETA Report, Op Cit, pages 84 and 88
128 AQW 26625/11-15, Answered 10/10/13

Clause 8: Non-prosecution of victims of trafficking in human beings

75. Clause 8 would ensure that no prosecution or imposition of penalties on victims of trafficking occur if a victim commits a crime under duress associated with trafficking or if the victim was a child at the time. This clause does not apply to victims of forced labour.

International Obligations

76. Article 8 of the EU Directive requires that "Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence" of being trafficked.

77. Article 26 of the Convention has a similar requirement that States should "provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so."

Evidence of Need

78. In the ATMG Report published in 2013, it was argued *that* "It remains the case in the UK that trafficked children are prosecuted for crimes they are forced to commit while being exploited and under the control of traffickers, while their traffickers go unpunished." The report went on to say that "It is reported that, despite the ACPO and CPS guidance, many children, in particular Vietnamese young people, are being arrested when found in cannabis farms and sent to prisons or Young Offenders Institutes."[129]

79. In Northern Ireland, the Law Centre have submitted that victims have been prosecuted and detained before establishing whether actions were the result of coercion.[130]

80. The Centre for Social Justice Report *It Happens Here* published in March 2013 found that the existing CPS policy on non-prosecution of victims of trafficking is "not widely known about" and "not being adequately implemented across the criminal justice sector." The report recommends creation of "a statutory statement of policy of non-prosecution of victims of modern slavery, creating an obligation across all sectors of the criminal justice system." The report states that this statutory protection is crucial if the duty of non-prosecution is to be taken seriously, affirming that to do so would not create wholesale immunity or a loop hole for people who would wish to exploit it. Rather that it would create a clear statement that it is in the public interest for victims to be formally identified, for their victim status to be considered and that the offences for which they have been charged are considered in the light of the pressures exerted on them through their experience of exploitation and trafficking. [131]

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[129] *In the Dock, Op Cit*, June 2013, pages 116 and 117

[130] GRETA Report, *Op Cit*, para 332, page 75

[131] Centre for Social Justice, *It Happens Here*, March 2013 page 97

81. CARE in NI welcomes the PPS in Northern Ireland's recently published "Policy for Prosecuting Cases of Human Trafficking."[132] While it is positive that the PPS has outlined that "should evidence or information be available to the prosecutor to support the fact that the person has been trafficked and has committed the offence whilst in a coerced situation, this will be considered a strong public interest factor mitigating against prosecution"[133], we remain unconvinced that this policy goes far enough in looking to protect victims of human trafficking from prosecution.

82. In our evidence to the consultation on the Prosecution Policy, we raised two concerns:
- The CPS Policy for Prosecuting Cases of Human Trafficking, which applies in England and Wales has stronger wording stating that, "Where there is clear evidence that the suspect has a credible defence of duress, the case should be discontinued on evidential grounds".[134] We recommended that the policy on non-prosecution in cases of duress be strengthened, including listing factors that would indicate the offence has been committed under duress.
- The non-prosecution policy does not specifically cover the case of children who are trafficked and should be treated as victims. The CPS Policy for England and Wales says,[135] "Where young people are involved and where there is a credible suspicion that the child or youth might have been trafficked and exploited through criminal activity, then that would generally provide a defence of duress. If new information or evidence supports the fact that the child or youth has been trafficked and has committed the offence whilst in a coerced situation, then there is a strong public interest to stop the prosecution." We recommended that the case of children committing offences because of being trafficked should be specifically covered in the Northern Ireland policy.

How this Clause Will Help

83. Given the evidence above, we are deeply concerned by how the policy of non-prosecution on grounds of interest is actually working in practice. We submit that a legislative solution may be a better approach in light of the fact that some individuals in the UK have been charged with offences that they were forced to commit due to their trafficked status.

Addressing Concerns about Clause 8

84. We understand that a number of criticisms were levelled against this clause during the Second Stage debate, including concerns around judicial discretion and the argument that this clause

132 Public Prosecution Service for Northern Ireland, Policy for Prosecuting Cases of Human Trafficking, September 2013 http://www.ppsni.gov.uk/Branches/PPSNI/PPSNI/Files/Documents/Publications/Policy%20for%20Prosecuting%20Cases%20of%20Human%20Trafficking.pdf

133 *Ibid*, page 20

134 http://www.cps.gov.uk/publications/docs/policy_for_prosecuting_cases_of_human_trafficking.pdf, page 30

135 *Ibid,* page 31

effectively provides "blanket immunity" for those who have been trafficked. We acknowledge that amendments to this clause may be appropriate, but we do believe that it is important that legislation makes clear that victims of trafficking in human beings should not be prosecuted for offences they committed as a consequence of being trafficked.

85. It is important to note that the clause does not in fact provide for a "blanket immunity". It provides only for prosecution to be waived or for penalties not to be imposed where the victim "has committed a criminal act as a **direct consequence** of the trafficking in human being" and where the victim has been **compelled** to commit the criminal act as a direct consequence of being subjected to threats, abduction, fraud, deception, etc. Thus, it does not provide a "get out of jail free" card for victims of trafficking to avoid all prosecution. This clause would only apply where the offence would not have occurred but for the offender being themselves a victim of human trafficking and subjected to the coercion of another.

86. The above criteria retain the necessity for prosecutorial and judicial consideration both in determining the relationship between the offence and the offender's status as a victim of human trafficking and (for adult offenders) the connection between the criminal act and the coercive actions of their trafficker.

Clause 9: Victim of trafficking in human beings

87. This clause employs useful terminology already used in England and Wales for the purpose of defining a victim so that it is possible to refer to victims in later clauses in Parts 2 and 3 of the Bill to ensure that victims are able to receive particular services and support which are open to them.

88. A victim is defined by:
- their identification by a competent authority – currently through the National Referral Mechanism; and
- the definition of "trafficking in human beings" used in the European Convention on Human Trafficking.

89. The Department of Justice has suggested that this clause is unnecessary. However, we note that Lord Morrow could have been faced with criticism if there had been no definition of a victim for Parts 2 and 3 of the Bill. By ensuring that clause 9 is included, this problem is avoided.

90. It is also salient to note that the Government at Westminster felt that they needed to define a victim in the Legal Aid Act 2012 and did so in relation to the European Convention. This clause is based on the wording used in the Legal Aid Act.[136]

[136] See Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 1, Part 1, Paragraph 32

Clause 10: Requirements for assistance and support

91. Clause 10 sets out a number of obligations on the Department of Justice and the Department of Health to provide assistance and support to victims of human trafficking.

International Obligations

92. Articles 11 and 14 of the Directive and Article 12 of the Convention set out the details of the practical assistance and support that states must provide to victims.

93. Article 11 requires Member States:
- "to ensure that assistance and support are provided to victims before, during and for an appropriate period of time after the conclusion of criminal proceedings";
- "to ensure that a person is provided with assistance and support as soon as the competent authorities have a reasonable-grounds indication" for believing that the person might be trafficked;
- "to ensure that assistance and support for a victim are not made conditional on the victim's willingness to cooperate in the criminal investigation, prosecution or trial"; and
- "to establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims, in cooperation with relevant support organisations."

94. The "assistance and support" should be provided on "a consensual and informed basis, and shall include at least standards of living capable of ensuring victims' subsistence through measures such as the provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate" There should also be particular help for those victims with special needs.

95. Article 14(1) sets out the measures that need to be taken to assist and support child victims. There must be a "durable solution" for the child and access to education for child victims and children of victims. Article 14(3) says where appropriate and possible assistance and support should be available to the family of a child victim if they are in the Member State's territory.

96. Article 12 of the Convention sets out similar requirements to Article 11 and sets out that the assistance "shall include at least:
- standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
- access to emergency medical treatment;
- translation and interpretation services, when appropriate;
- counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;

- assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
- access to education for children."

97. An addition requirement of the Convention that is "Each Party shall adopt the rules under which victims lawfully resident within its territory shall be authorised to have access to the labour market, to vocational training and education."

Evidence of Need

98. The provision of proper assistance and support for victims of trafficking is one of the key emphases of the GRETA report. This is especially seen in recommendation 26 of the report, which states that the UK should "ensure that all potential and actual victims of trafficking are provided with adequate support and assistance from their identification through to their recovery." GRETA specified that this should include:
    - "adopting clear support service minimum standards for victims of trafficking and the provision of adequate funding to maintain them; -
    - ensuring that all children victims of trafficking benefit from the assistance measures provided for under the Convention, including appropriate accommodation and access to education
    - enabling victims of trafficking to have access to the labour market, vocational training and education as a form of rehabilitation;
    - ensuring that victims of trafficking who need it can benefit from translation and interpretation services;
    - improving the provision of legal advice or assistance to victims on various matters (NRM, asylum criminal proceedings, compensation)."[137]

99. The Anti-Trafficking Monitoring Group noted a number of difficulties with regard to support services for victims. In their 2013 report, they stated that in Northern Ireland "the availability of ongoing specialist support services or interpreters trained in dealing with cases of trafficking is patchy. Many victims do not receive the counselling they need and are entitled to."[138]

100. The Law Centre has also noted significant issues with regard to access to support services. In their briefing paper on the new working arrangements for adult victims of trafficking in Northern Ireland, they noted that "In practice accessing specialist support services for victims has been ad hoc and inconsistent. Many victims are not ready to engage with specialists so soon after escaping from their traffickers and while they are in a period of reflection and recovery. In addition, some victims need more comprehensive and long term support."[139] While praising aspects of the guidance published by the Department of Justice, the Law Centre

137 GRETA Report, *Op Cit*, page 86

138 In the Dock, *Op Cit*, page 126

139 http://www.lawcentreni.org/Publications/Law%20Centre%20Information%20Briefings/LCNI-Briefing-Trafficking-March-2013.pdf page 4

noted that "it is very brief on any detail about how social services, in particular, can assist in the welfare and protection of adult victims of human exploitation recovered here."[140]

How this Clause Will Help

101. Although services are currently provided by Migrant Help and Women's Aid, they are not mandated by law and without this protection they exist simply at the pleasure of the current administration. Clause 10 would make the provision of assistance and support for victims of trafficking secure. It could not be compromised without the full scrutiny and approval of the Northern Ireland Assembly.

102. Since the publication of Lord Morrow's draft Bill the Minister of Justice has intimated an interest in introducing secondary legislation to ensure that practical assistance and support is provided to victims of human trafficking.[141] However, in light of Lord Morrow's Bill, he has opted to wait and see what happens to the Bill as it makes its way through the Northern Ireland Assembly.

103. We are very pleased that there seems to be consensus on all sides with regard to this clause and that both the Minister for Justice and the Minister for Health are supportive of it. We are of the view that it would be preferable for it to be in primary rather than secondary legislation, but the important point for us is that it is in legislation rather than in guidance.

Potential Amendments

104. We understand that the Department of Health, Social Services and Public Safety has concerns about the limiting of assistance in 10(1)(b)(i) to the families of child victims in this clause. 10(1)(b)(i) is intended to meet the requirements of Article 14(4)(3) (see paragraph 95 above) but also to ensure that if the family of the child was involved in the trafficking there would be no recourse to assistance. We understand that there is conflict with other obligations (e.g. emergency medical care) so we recommend that the words "if and only if they are not suspected to have a committed a human trafficking offence" be removed.

Clause 11: Compensation for victims of trafficking

International Obligations

105. Article 17 of the EU Directive requires that victims of trafficking have "access to existing schemes of compensation to victims of violent crimes of intent".

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140 *Ibid*, page 6

141 NGO Engagement Group Meeting Minutes p6 http://www.octf.gov.uk/Publications/Human-Trafficking/Minutes-from-the-second-meeting-of-the-Engagement-.aspx

106. Article 15 of the European Convention says that there should be a right for victims to gain "compensation from the perpetrators" [15(3)] and in 15(4) "Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be funded by the assets resulting from the application of measures provided in Article 23."

Evidence of Need

107. In 2010, the Anti-Trafficking Monitoring Group set out the potential avenues of compensation for victims:[142]
    - A compensation order in criminal proceedings (which was highlighted by the PPS in their draft policy on Human Trafficking Offences)
    - Application to Criminal Injuries Compensation Authority
    - Civil litigation
    - In some cases going before an employment tribunal.

108. Clearly there are routes for individuals to claim compensation, but the Anti-Trafficking Monitoring Group has consistently raised concerns about whether victims do in practice receive the compensation due:
    - In 2010, they said there were "**numerous practical and legal barriers**" facing victims of trafficking if they wish to seek compensation;[143]
    - They argued that the Government was failing to provide access to compensation by preventing victims from staying in the UK to pursue compensation since "policy for resident permits does not include grants of leave for the purpose of the victims seeking compensation." They recommended a change to this policy.[144]
    - In their latest 2013 Report, the ATMG said, "the current compensation avenues are ineffective in securing compensation for trafficked persons and do not fulfil the spirit of the requirement for compensation in the Convention or Directive".[145]

109. The figures in Northern Ireland add to the evidence, since there have only been two cases of compensation paid out through the Criminal Injuries Compensation Scheme while there have been over 90 potential victims of human trafficking found in Northern Ireland since 2009.[146] We note that six cases of compensation have been lodged in 2013.[147] While there is some support provided by Victim Support NI,[148] this is for victims of violent crime and some individuals who are trafficked may not fall within this definition. Since there have only been

142 Wrong Kind of Victim? *Op Cit,* footnote 251, page 117
143 *Ibid,* page 117
144 *Ibid,* pages 68, 117 and 75
145 In the Dock, Op *Cit,* page 91
146 AQW 25270/11-15
147 AQW 25620/11-15
148 http://www.victimsupportni.co.uk/what-we-do/compensation

two prosecutions in Northern Ireland, there has been little scope for victims to be awarded a compensation order by the courts, although we note that one confiscation order was made.

110. GRETA noted that "very few victims of trafficking seek compensation" and said in their Recommendation 29[149] said the UK "should adopt measures to facilitate and guarantee access to compensation for victims of trafficking", and in particular to:
- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- ensure that all victims of trafficking are eligible for compensation under the existing compensation scheme;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;
- encourage prosecutors to request compensation orders to the largest possible extent;
- enable victims of trafficking who have left the UK to benefit from the possibilities to claim compensation."

How this Clause Will Help

111. Clause 11 of Lord Morrow's Bill seeks to break down the barriers facing human trafficking victims and improve their access to compensation by requiring that the Department of Justice set out – potentially through guidance:
- The procedures available for victims to claim compensation;
- What arrangements will be available to assist someone in their claim (e.g. information, legal aid etc); and
- What arrangements will be available to assist someone who is seeking leave to remain to claim compensation.

Clause 12: Child Trafficking Guardian

112. Clause 12 requires a child trafficking guardian to be appointed as soon as a child is identified as a possible trafficking victim if there is no suitable person with parental responsibility available.

Detail of the Clause

113. Clause 12(1) requires a guardian to be appointed when a child is identified as a possible trafficking victim and they have no person with parental responsibility available, as defined by subsection (3). The guardian should be safeguarding the child's best interests.

114. Clause 12(2) sets out the responsibilities of a child trafficking guardian and seeks to encompass the UNICEF expectation that "The role of a guardian is to be an advocate for the child in a wide range of discussions and decisions about what should happen to the child, in particular to

[149] GRETA Report, *Op Cit,* pages 8 and 87

ensure that the decision-making process primarily considers the best interests of the child. The role is also to be a link between the child and the various agencies the child comes into contact with, to ensure the child is kept informed of any relevant developments with respect to him or her, and to accompany the child in a physical way, in particular when she or he is moved between various places."[150]

115. Clause 12(3) sets out the conditions that apply for a child to have a child trafficking guardian, that is if the person who has parental responsibility for the child:
    - is suspected of taking part in a human trafficking offence;
    - has another conflict of interest with the child;
    - is not in contact with the child; or
    - is in a country outside of the UK (ie the child is unaccompanied).

116. Clause 12(4) defines who can be a child trafficking guardian:
    - employees of a statutory agency;
    - employees or volunteers of a "recognised charitable organisation".

117. Clause 12(5) requires relevant agencies to recognise the authority of the child trafficking guardian in relation to a particular child.

118. Clause 12(6) defines a relevant agency as a person or organisation which provides services to the child (e.g. housing, education) or to which the child needs access in relation to being a human trafficking victim (e.g. courts, CPS, police).

119. Clause 12(7) states the Department:
    - Shall by order set out the arrangements for appointing a child trafficking guardian as soon as possible after identification of a trafficked child;
    - May set out rules on training for child trafficking guardians, in a similar way to magistrates (see Courts Act 2003, section 10(4));
    - Shall by order designate which organisations can be a recognised charitable organisation. This is in place to ensure that only specialised NGOs could be involved in being a child trafficking guardian.

<u>International Obligations</u>

120. This meets the requirements of Articles 14(2) and 16(3) of the EU Directive. Article 14(2) outlines the following: "Members States shall appoint a guardian or a representative for a child victim of trafficking in human beings from the moment the child is identified by the authorities where, by national law, the holders of parental responsibility are, as a result of a conflict of interest between them and the child victim, precluded from ensuring the child's best interest and/or from representing the child." Article 16(3) states: "Member States shall take the necessary measures to ensure that, where appropriate, a guardian is appointed to unaccompanied child victims of trafficking in human beings."

[150] Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe, UNICEF, 2006, page 117

121. The Convention requires that an unaccompanied child who is identified as a victim shall have representation "by a legal guardian, organisation or authority which shall act in the best interests of that child" (Article 10(4)).

Evidence of Need

122. Table 4 sets out key facts about children trafficked in Northern Ireland. Children who are identified as trafficked are recognised as "looked after children" and are the responsibility of Health and Social Care Trusts under the Children (NI) Order 1995. The guidance on care for trafficked children[151] suggests that in some circumstances the Trust will take parental responsibility.

Table 4: Key Facts about Children Trafficked in Northern Ireland

Key Facts
18 trafficked children identified after April 2009[152]
8 children cared for by Health and Social Care Trusts[153]
6 children have been subject to a care order up to December 2012, all of them foreign nationals[154]
These 6 children were allocated a guardian ad litem (GAL) and the Trust established parental responsibility[155]
3 children have gone missing[156]
One of these missing children had a GAL[157]

123. The fact that three rescued trafficked children in care in the Province have gone missing (despite the fact that at least one must have had a guardian ad litem) should be a matter of real concern for legislators. Every single child matters and we must do everything we can to protect these vulnerable children and young people.

151 http://www.dhsspsni.gov.uk/oss_working_arrangements_for_the_welfare__safeguarding_of_child_victims_of_human_trafficking.pdf pages 7-8

152 See Table 2 above

153 AQW 166676/11-15, Answered 26 Nov 2012

154 AQW 25367/11-15, Answered 13 Sept 2013

155 AQW 166676/11-15, Answered 26 Nov 2012

156 *Ibid*

157 AQW 25159/11-15, Answered 13 Sept 2013

124. We recognise that some of these children have received a guardian ad litem, but this is a much narrower role than that proposed in this Bill. Guardian ad litems only represent a child in care proceedings when a care order is made. However, not all trafficked children are subject to a care order, as demonstrated in Table 4. In addition, these children will also have other agencies to deal with if they are subject to asylum and immigration matters or if they need to be a witness in a criminal case related to the trafficking and exploitation to which they have been subjected.

125. It is recognised **international best practice to have a guardian role in trafficking cases**: the UN[158] and UNICEF[159] recommend this role. In its recommendation on the UK, GRETA said it "is essential"[160] and repeated the need in Recommendation 22, saying that the UK should "ensure that all unaccompanied minors who are potential victims of trafficking are assigned a legal guardian".[161]

126. In the last 12 months:
    - The Law Centre (NI) has said that, "Every separated child should have immediate access to an independent advocate" and "There should be "an expanded role for the Guardian ad Litem Agency" so that they can "advise other decision makers (such as UKBA and the Asylum and Immigration Tribunal) of the child's best interests." [162]
    - The introduction of a guardian was recommended as an action for the UK by the US State Department in the 2013 Trafficking in Persons Report.[163]
    - In Westminster the Joint Committee on Human Rights has said: "There may also be a role for other individuals to advocate the best interests of unaccompanied migrant children. We are persuaded that providing children with a guardian could support children more effectively in navigating asylum, immigration and support structures and help them to have their voices heard. We therefore support establishing pilot programmes in England and Wales to examine the case for guardianship in more depth." [164]
    - *Still at Risk*, a major new Home Office funded Children's Society and Refugee Council study, recommended "A system of protection needs to be developed which includes an independent trusted adult appointed to a separated child as soon as they come to an authority's attention. This person's role would ensure that all potential victims of trafficking are able to understand their rights, ensure that their voice is heard in decisions

158 Prevent. Combat. Protect. Human Trafficking. Joint UN Commentary on the EU Directive – A Human Rights-Based Approach, November 2011, pages 76-77

159 See Guidelines on the Protection of Child Victims of Trafficking, UNICEF technical notes, September 2006, section 4.2, page 17 and Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe, UNICEF, 2006, section 5.2, page 51 and pages 117-8, Check List for Guardians: Roles and Responsibilities

160 GRETA Report, *Op Cit*, para 245, page 57

161 GRETA Report, *Op Cit,* page 86

162 Improving the system for responding to separated children in Northern Ireland: a reflection paper, Law Centre (NI), March 2013, Recommendations on page 7

163 US Department Trafficking in Persons Report 2013, *Op Cit,* page 378

164 Joint Committee on Human Rights, Human Rights of unaccompanied migrant children and young people in the UK, HL Paper 9, HC 196, June 2013, page 5

that affect them and are supported effectively through the different legal processes they are engaged in."[165]

How this Clause will Help

127. Having a child trafficking guardian would ensure effective support could be given to children who have been trafficked into Northern Ireland. Trafficked children are particularly vulnerable to re-trafficking. The child trafficking guardian proposed here will provide someone who will be a constant, able both to accompany and speak on behalf of the child throughout its interactions with the state.

128. The clause sets out who can be a child trafficking guardian and that they should be recognised by relevant agencies working with the child. This recognition is essential for the guardian to fulfil his or her role effectively. Clause 12 makes provision for Northern Ireland to address a very serious problem and in so-doing to put itself very much at the cutting edge of international best practice, leading the way in the UK and also at potentially very little cost (as seen in the USA[166]). The clause does not set out how a system of child trafficking guardians should be implemented which gives flexibility to the Department of Health: it makes provision for trained volunteer child trafficking guardians as well as the option of paid guardians. Volunteer guardians would only require training and regulatory resources.

129. We are very pleased that the Minister for Health has decided to back the introduction of Child Trafficking Guardians in Northern Ireland and hope that members from all sides of the Assembly will back this clause as it goes forward.

Clause 13: Protection of Victims in Criminal Investigations

130. Clause 13 requires the Chief of Police to ensure that there is no secondary victimisation of a victim and that special care is taken in the case of child victims.

International Obligations

131. Clause 13 fulfils the requirement of Article 12(4) and 15(3) of the European Directive.

- Article 12(4) requires to "ensure that victims of trafficking in human beings receive specific treatment aimed at preventing secondary victimisation" by avoiding:
  - unnecessary repetition of interviews during investigation, prosecution or trial;
  - visual contact between victims and defendants including during the giving of evidence such as interviews and cross-examination, by appropriate means including the use of appropriate communication technologies;
  - unnecessary questioning concerning the victim's private life.

[165] http://www.refugeecouncil.org.uk/assets/0002/9408/Still_at_Risk-Report-final.pdf page 9

[166] A paper which we have produced outlining the costs of the system which operates in the US is available on request.

- Article 15(3) covers child witnesses so that:
  - interviews with the child victim take place without unjustified delay after the facts have been reported to the competent authorities;
  - interviews with the child victim take place, where necessary, in premises designed or adapted for that purpose;
  - interviews with the child victim are carried out, where necessary, by or through professionals trained for that purpose;
  - the same persons, if possible and where appropriate, conduct all the interviews with the child victim;
  - the number of interviews is as limited as possible and interviews are carried out only where strictly necessary for the purposes of criminal investigations and proceedings;
  - the child victim may be accompanied by a representative or, where appropriate, an adult of the child's choice, unless a reasoned decision has been made to the contrary in respect of that person."

132. Article 30 of the Convention, requires protection of the victim's private life, and where appropriate, identity and ensuring the victim's safety and protection from intimidation during judicial proceedings. Special care must be taken of children's needs in court proceedings.

Evidence of Need

133. Clause 13 is similar to sections 3 and 4 of the Trafficking People for Exploitation Regulations 2013[167] which were introduced by the British Government to make England and Wales compliant with the Anti-Trafficking Directive Articles 12 (4) and 15 (3). It is unfortunate that Northern Ireland should have now fallen behind England and Wales in this regard which need not have happened had the Criminal Justice Bill made these provisions.[168]

134. The 2013 Regulations use the word "complainant" whereas clause 13 uses the word "victim" since victim is defined in clause 9.

How this Clause Will Help

135. Clause 13 would ensure that there is no secondary victimisation of a victim (13a), covering the requirements of Article 12(3), and that special care is taken in the case of child victims (13b) covering the requirements of Article 15(3). It would provide for victims of trafficking to receive special treatment during police investigations and seeks to protect them from additional stress and anxiety during the investigation process caused by unnecessary re-telling of their story, personal interrogation or contact with their accused traffickers. We believe that this could be of real value for victims. We are very pleased that the Minister for Justice

167 http://www.legislation.gov.uk/uksi/2013/554/pdfs/uksi_20130554_en.pdf

168 Lord Morrow argued for such an amendment: http://www.niassembly.gov.uk/Documents/Official-Reports/Plenary/2012-13/Microsoft%20Word%20-%20@@aims-hansard-20130219221648953.pdf page 10

supports this clause and hope that members from all sides of the House will back it going forward.

Clause 14: Amendments to the Criminal Evidence (Northern Ireland) Order 1999

136. In Northern Ireland vulnerable witnesses are eligible for so-called "special measures" under the Criminal Evidence (Northern Ireland) Order 1999 (CENIO). Victims of trafficking for sexual exploitation are automatically entitled to special measures under the CENIO. This clause extends the provisions to trafficking for other types of exploitation and extends special measures for children in particular circumstances.

137. The protections available under CENIO include:
- Article 11: Screening witness from accused;
- Article 12: Evidence by live link;
- Article 13: Evidence given in private;
- Article 15: Video recorded evidence in chief.

International Obligations

138. Clause 14 builds on the requirements of Article 30 of the Convention (see paragraph 132 above) and Article 12(4) (see paragraph 131 above); in particular, Article 12(4) requires that a victim does not have to give evidence in open court. Article 15 address measures required for child witnesses: that they can give video evidence and without members of the public being present.

Evidence of Need

139. Clause 14 is similar to, but goes further than, the Schedule of the Trafficking People for Exploitation Regulations 2013[169] which were introduced by the British Government to make England and Wales compliant with the EU Directive. It is unfortunate that Northern Ireland should also have now fallen behind England and Wales in this regard which could similarly have been avoided through appropriate provisions in the Criminal Justice Bill.[170]

140. The ATMG said in their 2013 Report, "Special measures should be granted as a matter of course in all trafficking trials given that trauma may be suffered by trafficked persons for sexual and non-sexual exploitation. All trafficked persons arguably fit within these categories. However, only cases involving sexual offences are the victims afforded automatic rights to apply for special measures and they may not be put in place unless requested. Currently persons trafficked for labourdo not qualify for automatic entitlement to special measures and prosecutors have to argue why these individuals are vulnerable and intimated witness. There

[169] See footnote 167
[170] Lord Morrow argued for such an amendment, see footnote 168

are no guarantees that such arguments will be successful and an order made. There were reported cases of forced labour where some special measures were not granted. It should be good practice for all police forces/CPS to request these protection mechanisms for all trafficked persons. A better option would be to make them automatically available in all trafficking cases rather than having to make application to the court for them. This would bring the UK in line with its obligation under the Convention and Directive."[171]

How this Clause Will Help

141. **Clause 14** amends the CENIO, so that:
    - A trafficking victim should automatically be eligible for special measures under the CENIO. Clause 14(a) amends Article 5(4) so that it covers trafficking for labour as well as any sexual offence (which covers trafficking offences for sexual exploitation);
    - Evidence can be given in private for a labour trafficking victim. Clause 14(b) amends Article 13(4)(a);
    - If the age of a victim is uncertain and is believed to be under the age, the witness shall be presumed to be under 18. Clause 14(c) amends Article 21 and clause 4(f) amends Article 39.
    - An offender may not cross examine a labour trafficking victim. Clause 14(d) amends Article 22.
    - An offender may not cross examine a child victim of an labour trafficking offence – 14(e)(a) amends the criteria in Article 23(3) so that it includes new paragraph 23(3)(cd). Clause 14(e)(b) ensures that the a child who is under the age of 17 is protected for labour trafficking offences as well as sexual exploitation offences.

142. These special measures will make it much easier for trafficking victims where there is no element of sexual exploitation to act as witnesses in criminal trials. Giving evidence at trial can be a stressful experience for witnesses and this can be especially so for trafficking victims, whatever form of exploitation they experienced. Consequently, any measures which help to make this process easier (without jeopardising the trial process) would be valuable. In particular, the protection from having to give evidence in open court face to face with their abuser is a vital provision. It is hoped that in making it easier for trafficking victims to give evidence in Court, this clause will help the courts to secure more convictions of traffickers, an area where Northern Ireland and indeed the UK as a whole has not been strong up to now.

Potential Amendments

143. At Consideration Stage, there should be an amendment to change the word "victim" to "complainant" in the amendment proposed to Article 21 in clause 14(c) so there is consistent use of terminology across the Criminal Evidence (Northern Ireland) Order 1999.

[171] In the Dock, *Op Cit*, page 85

Clause 15: Prevention

144. Clause 15 obliges the Department of Justice to publish a strategy annually on raising awareness and reducing trafficking and slavery offences in "co-operation with non-governmental organisations and other relevant organisations."

International Obligations

145. Such a strategy would help ensure that Northern Ireland is compliant with the spirit of:
    - Article 18 of the European Directive – "Member States shall take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings" and "appropriate action…aimed at raising awareness and reducing the risk of people, especially children, becoming victims of trafficking in human beings." would be helpful in keeping the Department of Justice focused on tackling human trafficking and slavery offences and holding the Department to account if they fail to take effective action on these issues.
    - Article 35 of the European Convention – "Each Party shall encourage state authorities and public officials, to co-operate with non-governmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention.

Evidence of Need

146. Raising awareness of human trafficking is one of GRETA's core themes. This is particular seen in recommendation 14 of the report, which states the UK "should plan future information and awareness-raising campaigns with the involvement of civil society and on the basis of previous research and impact assessment. More should be done to raise awareness of internal trafficking and the risks of trafficking of British nationals abroad, with a special emphasis on trafficking in children. More attention should also be paid to raising awareness of the risks of trafficking in men."[172]

147. We also believe that it is important that members of the Committee are cognisant of the fact that GRETA in its report raised concerns about data collection on human trafficking. They said, "concerns have been raised about the lack of reliable data on adult and child victims of trafficking in Northern Ireland. Different bodies are involved in collecting data but there is no central data collection and analysis point, which is crucial for planning policies to protect and assist victims of trafficking."[173] This is exactly the sort of thing that could be addressed in an annual strategy.

[172] GRETA Report, *Op Cit,* p84
[173] *Ibid,* para 132, page 36

How this Clause Will Help

148. The Minister of Justice, despite initial opposition, has recently decided to introduce an annual action plan on a non-statutory basis. The first plan was published in May 2013.[174] This is a welcome step. However, **we believe that it would be better if the report was statutorily required.** At the current time, the Minister could decide to withdraw the annual report without any scrutiny from the Assembly. Statute would ensure that this could not be done. Moreover, the report proposed in Clause 15 **would also cover slavery offences** where there is no element of trafficking.

Clause 16: Northern Ireland Rapporteur

149. This clause requires the Department of Justice to set up a new body, independent of government, to report to the Assembly on the performance of this Act and on other related matters.

International Obligations

150. This clause would fulfil:
    - Article 19 of the European Directive, which requires each state to take measures to establish "national rapporteurs or equivalent mechanisms". The Directive says that "the tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close co-operation with relevant civil society organisations active in the field, and reporting."
    - Article 29(4) of the European Convention which says that "Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements."

Evidence of Need

151. The Inter-departmental Ministerial Group (IDMG) on Human Trafficking has been acting as the UK's National Rapporteur.[175] Whilst this might technically meet the demands of the Directive as drafted, it is generally recognised that Rapporteurs are **independent** of the body they are overseeing. We note that there is now independent NGO representation on the IDMG[176] but this is still not enough to meet the spirit of the requirements for a National Rapporteur.

[174] http://www.octf.gov.uk/Publications/Human-Trafficking.aspx
[175] GRETA Report, *Op Cit,* page 95
[176] Second Stage Debate, Official Report, 24 September 2013, page 56

How this Clause Will Help

152. This clause would ensure an independent body in Northern Ireland would be able to hold the relevant departments to account. We recognise that the rapporteur is required at the national level, not the regional level, but the Northern Ireland Assembly cannot legislate for the whole of the UK.

153. We are cognisant of the fact that the Home Secretary announced on 25 August that there should be a "modern slavery commissioner" for the United Kingdom and that this will be introduced through a Modern Slavery Bill for England and Wales.[177] To our mind, what is important is that there is a rapporteur providing independent scrutiny of the work of the PSNI and relevant departments in Northern Ireland. If it can be shown that it would be better if this was provided for the whole of the UK, we would be supportive of that. We believe that this clause should be retained until more detail is confirmed of how this Commissioner would work in the Northern Ireland context. We understand that a draft Bill will be published in this session of Parliament and a final Bill introduced in the next session.[178]

Clauses 17-19

154. The final three clauses of the Bill are administrative in nature. Clause 17 sets out definitions in the Bill. Clause 18 confirms that any orders in the Bill should be made by affirmative resolution and clause 19 sets out the title and commencement. CARE has no comments on those aspects of the Bill.

Costs of the Bill

155. We note that there is some concern about the potential costs of this Bill. Introducing any new costs at a time of fiscal constraint needs to be justified, but given the impact on human lives we think an additional estimated £1.3m of new spending is not unreasonable. We also note that during the Second Stage Debate there was comment on the £28m spent on policing recent protests.[179]

156. A recent report on the costs of organised crime also puts the cost of the Bill in context. The Home Office estimated the scale of human trafficking of foreign women for sexual exploitation (but not labour exploitation or domestic human trafficking for sexual exploitation) at a sum of

[177] Confirmed in Second IDMG Report, October 2013, *Op Cit,* paragraph 5.53, page 39

[178] https://www.gov.uk/government/news/home-secretary-begins-evidence-sessions-on-modern-slavery

[179] Second Stage Debate, Official Report, 23 September, page 87

£130m available to traffickers and the social and economic costs to those who are trafficked and the ensuing costs (excluding policing costs and the UK Border Agency) at £890m.[180]

157. The 2013 IDMG report suggested that trafficking in Northern Ireland made up 1 per cent of the all of the trafficking in the UK, in which case the **scale of organised crime in Northern Ireland would be approximately £1.3m and the social and economic costs would be approximately £8.9m**.[181] In this context, the costs of the Bill look to be value for money.

Conclusion

158. CARE in Northern Ireland believes that the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill is an extremely important piece of legislation. The Bill would mean Northern Ireland is taking the lead in combating trafficking within the UK. This would be excellent news for the victims of trafficking in Northern Ireland, very bad news for the traffickers and positive for the people of Northern Ireland as a whole. It will help Northern Ireland to reconnect with its great abolitionist tradition and see the Northern Ireland Assembly make a decisive difference for some of the most vulnerable individuals already here and who come to the Province. We are happy to provide oral evidence to the Justice Committee if they would find that helpful in their deliberations.

October 2013
CARE in Northern Ireland Public Policy Team,
East Belfast Network Centre, 55 Templemore Avenue, Belfast, BT5 4FP

mark.baillie@care.org.uk

[180] Home Office, Understanding Organised Crime: Estimating the Scale and the Social and Economic Costs, Research Report 73, Authored by Mills H, Skodbo S and Blyth P, October 2013, Page 10.

[181] Ibid, These figures tie up with Table A1.22, page 86

Carrickfergus Borough Council

Hi Christine

I would confirm that the minutes were adopted last night, therefore the Council's position outlined in Anne Beacom's email to you (below) has remained unchanged.

Kind Regards
Janet

From: Anne Beacom [mailto:Anne.Beacom@carrickfergus.org]
Sent: 31 October 2013 11:47
To: +Comm Justice Public Email
Cc: Sheila McClelland
Subject: Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Christine
I refer to your letter dated 3 October 2013 seeking views/comments on the above Bill.

This matter was submitted to Council for consideration at a recent meeting of the Chief Executive's Office, when Members agreed to recommend that Council support the broad principles of the Bill, while recognising that further discussions were required on specific issues.

This recommendation will be submitted to Council for adoption at its meeting on 4 November 2013. Should there be any change to this position, I will let you know.
Regards, Anne.

Castlereagh Borough Council

CASTLEREAGH BOROUGH COUNCIL
Stye Braes o Ulidia Burgh Cooncil

CLERK TO ASSEMB
-4 OCT 2013
RECEIVED

Stephen Reid BSc MBA
Chief Executive

Mr Trevor Reaney
Clerk to the Assembly/Director General
Northern Ireland Assembly
Parliament Buildings
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Stormont
Belfast
BT4 3XX

2 October 2013

Our Ref: 12/CEP021013/01

Dear Mr Reaney

Human Trafficking and Exploitation (Further Provision and Support for Victims) Bill

I would refer to the above Bill which was the subject of a Notice of Motion at the September Council meeting. The Council resolved unanimously to support the following and forward it to the Northern Ireland Assembly.

This Council:

- Recognises that human trafficking and exploitation is a growing problem in Northern Ireland,
- Believes that existing statistics regarding the number of people trafficked in to Northern Ireland do not reflect the scale of the problem and are only the "tip of the iceberg" in regard to the scale of the problem;
- Believes that no human being should be subjected to: sexual exploitation, enforced labour or domestic servitude and condemns those who engage in human trafficking;
- Believes that more action should be undertaken to support those who have escaped from exploitation and to punish those who exploit them and, accordingly;
- Calls upon the Northern Ireland Assembly to endorse the Human Trafficking and Exploitation (Further Provision and Support for Victims) Bill"

I would be grateful if you could advise me of the outcome of the Council's request for the Assembly to endorse the Bill.

Yours sincerely

Stephen Reid
Chief Executive

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Clondalkin Women's Network

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Local, Accesible, Feminist

The Committee Clerk
Room 242
Parliament Buildings
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Belfast BT43XX.

7th September 2013

Dear Chairman and Committee Members,

RE: Submission to the Northern Ireland Justice Committee on the Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)

Clondalkin Women's Network have been campaigning against sex trafficking, which is the most widely spread form of human exploitation in the European Union. For this reason we are active members of theTurn Off The Red Light[1][1], which aims at ending prostitution and sex trafficking in the Republic of Ireland. It is being run by an alliance of 68 civil society organisations, unions, umbrellas and services with a joint representation exceeding 1.6 million people in Ireland.

Trafficking of women and girls for the purposes of sexual exploitation is modern slavery and a prevalent from of exploitation. We believe that the best way to combat this is to tackle the demand for prostitution by criminalising the purchase of sex, and maintaining services to those trafficked and affected by prostitution, ensuring that they are not criminalized and re-victimised.

We are deeply concerned about the spread of the prostitution industry, which exploits women and children in both the Republic of Ireland and Northern Ireland, and we wish to add our voice to those who are seeking to change our legal systems in Northern Ireland to criminalise the purchase of sexual services, while protecting the rights and dignity of those prostituted.

We therefore readily welcome the proposed Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims), and particularly Clause 6 of the Bill, which would specifically legislate for the criminalization of the purchase of sex, as a measure to discourage demand that fosters sex trafficking and exploitation through prostitution. As the Republic of Ireland's Government considers the introduction of similar legislation, up on unanimous recommendation of the Joint Oirechtas Committee on Justice, we would be very encouraged to see this measure come into effect in Northern Ireland.

Attacking the commercialised sex business through the introduction of penalties for the buyer has proven to be an efficient approach that best responds to the nature of a trade which thrives on threats, abuse and violence. This is an essential part of the campaign against

1 [1] www.turnoffthered light.ie

human trafficking as the majority of human trafficking victims are trafficked for the purposes of sexual exploitation.

While the Policing and Crime Act of 2009 was a welcome advance in Northern Ireland's anti-trafficking legislation its impact has been limited by the requirement of proof of coercion within a very limited timeframe. Thus, unsurprisingly, there have been no successful convictions made in Northern Ireland to date.[2][2] This failure is in line with that of other countries which have introduced similar legislation, such as Finland and the Republic of Ireland at present. Legislation which is limited to proven victims of coercion has been shown to have little or no effect on demand for trafficked victims.

We believe that every Government owes it to the vulnerable people and children trapped in prostitution, as well as to the society which they represent, to ensure that the demand for sexual services from exploited and trafficked individuals is effectively tackled.

We trust that the Northern Ireland Justice Committee will ensure that the public consultation is concluded in a timely manner, and we hope that the consultation will lead to the passing of the Human Trafficking and Exploitation Bill as soon as possible.

Thank you for your attention.

Yours sincerely,

Anne Doyle
Development Worker
Clondalkin Women's Network
developwork@cwn.ie
Tel: 01 4670748

2 [2] Northern Ireland Assembly Question AQW 15565/11-15

Contemporary Christianity

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

Background

The EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims requires to be implemented by all parts of the UK. The Northern Ireland Executive has proposed only two changes to the law to be compliant with the EU Directive – firstly that where offences are carried out abroad, individuals can be prosecuted in Northern Ireland and secondly, that internal trafficking within the UK is made a crime. As this falls short of the EU Directive, a private members Bill has been proposed by Lord Morrow to enable NI to reduce demand, tackle trafficking and support victims.

What the Bill proposes

The Bill is comprised of 5 parts:

Part 1 deals with Human Trafficking offences and to comply with the EU Directive, it sets out that the consent of a victim to any action related to trafficking is irrelevant where the victim agreed to the action because of threats, abduction, fraud, deception, the abuse of power or a position of vulnerability, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person or because the victim was a child when the trafficking took place.

When the court is considering sentencing, certain '**aggravating factors**' are proposed that the court should take into account so as to make the crime more serious and therefore giving the criminal a longer sentence. These factors include offences committed by a public official or person who is a member of a criminal organisation, offences committed against a child or vulnerable adult, offences endangering the life of the victim or committed by use of serious violence.

The Bill also creates an offence where a person makes or promises payment for the sexual services of a prostitute.

The Bill provides for the investigation and prosecution of human trafficking. It proposes that the Department of Justice shall take necessary measures to ensure that those responsible for such investigation or prosecuting are trained accordingly and given the necessary effective investigative tools.

Comment – The above is positive as it ensures there the trafficker cannot argue that the victim in some way agreed to the action related to trafficking. Consideration is being given to the situation which the victim was part of.

It has been considered that one of the primary reasons for human trafficking is for the purposes of prostitution. At present it is only illegal to pay for a prostitute if it can be ascertained that there was coercion involved. The Bill therefore makes it an offence simply for those who pay/promise to for a prostitute. The punishment for this is simply a fine and the question is whether this is severe enough and should sentencing extend to imprisonment. More generally, there are other factors that precipitate human trafficking but the Bill narrows these to prostitution based on the higher number of those who are both the victims of trafficking and sexual exploitation. There is no breakdown of the gender, age or nationality however of those victims so it is difficult to determine whether the 'aggravating factors' that a judge will have to take into consideration will be effective in increasing sentences and thereby deter trafficking – one of the purposes of the Bill itself.

More generally, it is a positive measure that training is provided. The Bill however is very general in its wording and there is no reference to the extent or level of training or how it is to be assessed or if any contemplate any accountability as to the standard of that training.

Part 2 of the Bill covers assistance and support of the victims. The test of whether a person is a victim is where there are 'reasonable grounds' to believe that they are a victim. The Bill provides for support until 3 months after criminal proceedings are completed and particular reference is given to child victims.

The Bill also provides that Legal Aid should be made available to those who are victims. In addition, compensation should also be made available to victims.

Each child who is a victim of trafficking is to have a 'legal advocate' appointed to represent them and to ensure all decisions are taken in the child's best interest.

Comment – One of the important purposes of the Bill is to provide support and assistance to the victim. The concern is however that this is limited to only 3 months after the criminal proceedings against the trafficker are completed. While resources are limited and it is perhaps prudent to have some kind of restriction put in place, it seems to leave the victim again potentially vulnerable, a relatively short period of time after the court proceedings have taken place. In addition, with regards to children the Bill sets out to promote the long-term welfare of that child and it is questionable if this can be achieved if post-court support only is to last for that 3 month period.

The provision of a legal advocate is positive given the particular vulnerability of children and especially if they are of different nationality without any family assistance while here in Northern Ireland.

Part 3 of the Bill deals with amendments to related legislation.

Part 4 of the Bill deals with prevention and makes it a requirement of the Department of Justice to annually publish a strategy on raising awareness of and reducing trafficking.

Part 5 of the Bill deals with its general legal interpretation.

Comment – the publication of an annual strategy is a positive measure as it ensures that a continual role of the Department is to raise awareness of and to consider ways of reducing trafficking. Both of these are emphasised as requirements under the EU Directive. The wording again is wide and the level of the requirements is left open to speculation, rather than more definite proposals.

Conclusion

The Bill is positive in that it takes on the responsibility of addressing the issue of trafficking in Northern Ireland. It is particular to this jurisdiction as it focuses on what causes the demand for trafficking, namely prostitution. It provides for the protection and support and assistance for victims and also for the requirement to provide a strategy to raise awareness and to reduce trafficking.

The Bill is narrow in the fact that it criminalises only one element of the cause for the demand in trafficking, whereas it is recognised by the EU Directive that there are other factors that increase such a demand. There may also be concerns as to why there is cut off of support to the victim after 3 months following court proceedings, especially if that victim is a child and how they can be afforded long-term welfare following such an ordeal.

Caroline Chambers
On behalf of the Board of Contemporary Christianity
October 2012

Cookstown District Council

Cookstown
DISTRICT COUNCIL

COMHAIRLE CHEANTAR NA COIRRE CRÍOCHAÍ
DISTRICK COONCIL O COOKESTOUN

A. McCreesh, MSc, Dip IoD, MCIM
Chief Executive (Acting)
chief.executive@cookstown.gov.uk

CS/7/1/00

12 December 2013

Committee of Justice
Room 242
Parliament Buildings,
Ballymiscaw
Stormont
Belfast
BT4 3XX

For the attention of the Committee Clerk: Christine Darrah

Dear Sir

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

At the Council meeting on 10 December 2013 the following Notice of Motion was unanimously resolved:

"That this Council recognises that human trafficking and exploitation is a growing problem in Northern Ireland; believes that existing statistics regarding the number of people trafficked in to Northern Ireland do not reflect the scale of the problem and are only the "tip of the iceberg" in regard to the scale of the problem; believes that no human being should be subjected to sexual exploitation, enforced labour or domestic servitude and condemns those who engage in human trafficking; believes that more action should be undertaken to support those who have escaped from exploitation and to punish those who exploit them and, accordingly calls upon the Northern Ireland Assembly to endorse the Human Trafficking and Exploitation (Further Provision and Support for Victims) Bill."

Yours sincerely

A McCreesh
Chief Executive (Acting)

Council Offices, 70 Burn Road, Cookstown, Co. Tyrone BT80 8DT
Tel: 028 8676 2205 Fax: 028 8676 4360 Text Phone: 028 8676 5827
www.cookstown.gov.uk

D.L Lumb

Dear members of the Committee,

I am so pleased this Bill is being put forward, and I fully support it.

I recognise the primary reason for trafficking into Northern Ireland is for sex, and I therefore especially welcome clause 6 of Lord Morrow's Bill which criminalises paying for sex. This clause recognises that is the prime source of demand for trafficking, and would directly address that problem.

It is tragic that today so many people across the world are being lured unsuspectingly into what becomes enslavement, particularly for the sex market, and governments need to be taking much more action to deal effectively with this cruel and dehumanising practice, particularly in their own country.

I understand there is a European Directive along these lines, backed by the Council of Europe, and this Bill will help ensure that Northern Ireland properly fulfils its international obligations.

I therefore ask you to be very much influenced along these lines in furthering and even strengthening this Bill.

Yours sincerely,

D L Lumb

David McCracken

Ireland's Prostitution Debate.

This is an issue that needs to be treated with a sense of urgency. It is Ireland's issue but Dublin appears to be on a different page to Belfast and more likely in a different chapter. This could have serious consequences.

To prosecute users of prostitution (the johns) is bound to have a remarkable effect on their numbers. When you investigate the 'Swedish model' of dealing with prostitution you will uncover a success story within Sweden, but the problems associated with the purchase of sex have migrated elsewhere. Prostitution has largely been removed from Sweden's streets, but has it also been driven underground? If so, this would make it much more difficult to control and possibly more violent for the victims of human trafficking. Most research has shown that the numbers of trafficked women and girls into Sweden have been reduced however this form of illicit trade can rarely produce accurate numbers due to the secrecy of black market trading.

Although more inconvenient, Swedish johns are simply going somewhere they will not face prosecution - Denmark and Germany for example are receiving more sex tourists. There is even evidence to suggest that Thailand and Cambodia are also receiving more although this might be because other developed nations are exporting more sex predators. The sex trade in South East Asia unfortunately continues to expand and is a hub for human traffickers acting with apparent impunity – an example briefly outlining what happens when left unchecked will be looked at later.

Dublin and Belfast really need to work together on this issue by getting policies and legislation implemented within the same time frame. If not, Belfast will see their problem rapidly decrease while Dublin will be likely to see an influx of johns, an increase in organized crime and even more women and girls trafficked in - and it doesn't stop there. The three countries on the other side of the Irish Sea need to follow suit or they will also experience an increase in sexual predation. Some people may argue that the problem will migrate from Ireland, but this issue is about girls being trafficked into the horrific brutality of serial rape and torture in sexual slavery.

Strong political will and general support from the people exists and Ireland will reap the reward of fast action. Countries that have not prioritized the issue now have organized crime syndicates that have become so advanced and well established that they can stay ahead of the law. They have managed to infiltrate the political and legal systems and corrupt decision making appears to be part of these countries' accepted culture.

It is shameful to our country to hear our unmistakable accent in parts of South East Asia known for paedophilia. It is a mammoth task for dedicated organizations like the IJM (International Justice Mission) and APLE (Action Pour Les Enfants) to collect enough evidence against paedophiles to make a conviction. Often it takes years of surveillance and evidence gathering in order to make a conviction. Even then the offender can still walk away due to the fact that his home country has not established a legal relationship with the country in which the offence took place. Ireland could do a huge amount by joining the few existing countries, like the US, who have laws in place to prosecute their nationals who travel and prey on the vulnerability and the innocence of children.

The illicit sex trade and sex tourism really has had a devastating effect on many nations and it matters not what stage of development they happen to be in. It has changed the thinking processes of many who are subjected to poverty (and greed) in ways that are inconceivable to our society. Poverty forces people to take risks and in so doing children's futures are endangered by traffickers making false promises. Parents are also literally selling their own

daughters into the sex industry in the hope that the financial returns will buy them food, shelter, a bike or a car, an electronic gadget or education fees for their sons. After the initial transaction the family often will never see their daughter again or receive any more money. Sex tourism also removes males from legitimate employment because the illicit trade in people is much more lucrative. It encourages corruption within government and develops a police force that cannot, and indeed must not, be trusted. Many police officers in South East Asia get protection money from pimps and brothel keepers or actually own the brothels. If developed countries like Ireland collaborated, much could be done to reverse this growing trend.

While discussing prostitution and human trafficking we must never forget to include pornography. Stockpiles of magazines and DVDs are evidence of a continuing slave trade where women, often beaten into compliance, are objectified and subjected to ridicule and insults. Pornography is widely used to 'train' children so that they can learn how to satisfy the men who prey on them. The majority of women in pornography are there because they are poor, desperate, addicted to drugs and trafficked; many have been sexually abused as children and many indeed are children. They are there because they have very limited choices.

Testimonies from women have described how pornography was used to break their self-esteem, to blackmail them into prostitution and to keep them there. They have told how it was used to humiliate them and how it stimulates and condones the rape and abuse of children. No matter what form it comes in, pornography has a destructive effect on the life of its victims. Rape and other forms of abuse are styled to cater to the sexual fantasies and perversions of male customers.

The viewing of pornography has been directly linked to instances of rape and gang rape as men are stimulated and want enact what they have been watching. It has been linked with increased sexual violence and male hostility towards females. Men using pornography experience one-way sex. In body and mind they are totally dominant over the female, demonstrating clear abuse of power over the powerless.

The absolute control of a pimp or brothel keeper over their trafficked victims needs to stop. Girls with barcodes on their flesh which display their ownership takes us back to skin branding hundreds of years ago to the time of the transatlantic slave trade. Girls who are forced to hand out cards (that sometimes they cannot read) explicitly detailing their sexual services to potential customers remind us of the slave markets. Incidentally one such market selling children was recently uncovered in Guanzhou, China. Those who are forced to endure this extreme loss of dignity and basic human rights deserve our attention not our ignorance. They have been forcibly denied a voice, so through our action, legislation and political will we must represent them. Just because they might not be on Irish turf does not mean that we should shun them.

A question that is asked worldwide during discussions on our contemporary slave trade is 'why don't they try to escape'? The simple answer is they do try, but they don't always know which country they are in and often don't speak the language. They may be forcibly hooked on drugs to make them compliant or may be locked up. Some are murdered in front of their fellow captives when they do try to escape, or are brutally beaten and gang raped. Without a passport, money or even shoes, where would they go? Western Europe is still at the stage of arresting victims of trafficking, holding them in detention centres and then deporting them back into the hands of their initial traffickers.

We need to separate victims from criminals and develop policies that treat such victims with dignity, providing assistance and a safe place to stay. The criminals who control trafficking, if left unchecked, can rot our society. Luckily it looks as if Ireland has caught this issue before it's completely out of control, unlike so many of our near neighbours in Europe and countries in Asia.

Modern slavery, in all its forms, is blight on humanity but one which can be treated and cured. Ending slavery forever will be a long and extremely difficult task. It will involve the compliance of the UN, governments and strong political leaders. It will fail if there is no political will and little funding made available to combat the traffickers and the slaveholders. Wealthy countries need to stop creating the demand. They need to stop exploiting an abundant cheap labour and sex market in their ever-increasing desire to maximise profits. Likewise, governments of the developing world need to stop creating the supply by not selling their own people. Incorruptible legal systems and harsh sentencing of criminals should be mandatory. Systems need to be in place to recognise and rehabilitate victims instead of treating them as illegal immigrants and deporting them. This often returns them to their traffickers and locks them in a repetitive cycle of trafficking and abuse.

Every time we ignore human trafficking we condemn the poor, the voiceless and the vulnerable to exploitation. We need to inform everyone that slavery exists. We need to raise awareness and force governments to act. We should never doubt that we can do something - and talking about it is a great start.

David McCracken

David Wallace

Ladies & Gentlemen of the Justice Committee

At the outset I would like to welcome this Bill and I would encourage you to support it also. Just as some people from Ireland bravely opposed slavery by vested interests in the 1700s I would love to see MLAs from all backgrounds take a stand against human trafficking.

The best way to curtail trafficking is by reducing the demand for prostitutes and this can be done most effectively by criminalising the purchasing of sex. You will be aware that our locally born prostitutes are overwhelmingly from very difficult backgrounds. Many will have been abused as children and many will be suffering from addictions. Men who pay for sex from such women are preying on their vulnerability.

I'm sure no girl in her early teens sets her sights on a career in prostitution. Rather it is something that she either slides into or is coerced into. As a society we do not permit poor people to sell body parts to wealthy people. Why then should we allow vulnerable women to sell their bodies to men risking disease, robbery, vicious assaults and even death.

Thank you

David Wallace

Deirdre O'Reilly

27.10.13.

Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

TO committee.justice@niassembly.gov.uk

Dear Committee,

I include below my comments on several proposed clauses of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

I trust that these comments will be considered by yourselves in regard to the Committee Stage of the Bill.

Yours sincerely,

Deirdre O'Reilly, M.Ed.

Clause 6 - Paying for Sexual Services

The new proposed clause makes it an offence to pay for sexual services.

This has been found to be an effective way of tackling trafficking in other countries such as Sweden and Norway.

Although the present situation in Northern Ireland is that it is illegal to buy sex from someone who is being coerced, in practice this is difficult to prove within the required timeframe and no convictions have as yet been secured.

An added advantage of criminalisation of paid sex would be that this would cover a wider range of situations, including those of exploitation where trafficking has not been involved. Many of those involved in prostitution have experienced difficulties such as debt, living in care, homelessness, substance abuse, sexual abuse as children. [cf Paying the Price: A Consultation paper on prostitution, Home Office, July 2004 and Max Waltman "Sweden's prohibition of purchase of sex: the law's reasons, impact and potential" Women's Studies International Forum 34 (2011) p451

While it may be feared that to criminalise the purchase of sex might drive prostitution underground, this has not been the experience of Sweden, where Kajsa Wahlberg, Swedish National Rapporteur on Human Trafficking, claims that prostitution cannot go underground because the buyers need to be able to find the women. Prior to the law prohibiting the purchase of sexual services the pimps could easily send the women out looking for buyers. Nowadays they have to advertise and make arrangements which means that the risk of getting caught increases. In fact the Swedish police fell that this is an effective way of tracking down pimps and traffickers.

Clause 8 - Non -Prosecution of Victims of Human Trafficking

There has been a problem in Northern Ireland regarding the prosecution of some victims of human trafficking before it has been established whether or not the offending behaviour was a direct result of being trafficked [cf Greta (Group of Experts on Action Against Trafficking in Human Beings), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, GRETA(2012)6, 12 September 2012, p75]

The proposed Clause 8 would provide immunity ONLY where the offending behaviour is a direct consequence of being trafficked.

Clause 10 - Requirements for Assistance and Support

The requirements for states regarding the support and practical assistance which should be given to victims are outlined in Article 11 of the EU Directive and Article 12 of the European Convention. GRETA, which oversees compliance with the European Convention against Human Trafficking, recommends that the UK ensures proper assistance and support for victims [including translation/interpretation services and legal counselling and representation].

The present situation in Northern Ireland is that Migrant Help and Women's Aid provide services but these are not statutory. The new Clause 10 would make much more robust legal requirements.

Clause 11 - Compensation for Victims of Trafficking

While Article 17 of the EU Directive outlines the requirement that victims of human trafficking should have access to existing schemes of compensation to victims of violent crime of intent, in practice Northern Ireland has paid compensation to only two victims of human trafficking. GRETA has outlined some of the difficulties faced by victims wishing to claim compensation. The new proposed Clause 11 would ensure that clear procedures are available for the victims to access in claiming compensation.

Clause 12 - Child Trafficking Guardian

It has been internationally recognised that the most effective help for a trafficked child is to have a Guardian. [cf UNICEF, GRETA and US STATE DEPARTMENT]

Rescued trafficked children are at risk of being re-trafficked. Three of the eight trafficked children rescued in Northern Ireland between January 2009 and September 2012 subsequently went missing.

Trafficked children are involved with immigration officials, police officers, solicitors and social workers. There is need for one key adult who would be able to assist the child in all his/her interactions with the officials.

The proposed Clause 12 would ensure that a trafficked child is given a Trafficking Guardian as soon as the child is identified unless there is a suitable person with parental responsibility available.

Clause 15 - Prevention

The European Directive emphasises the need for a strategy for raising awareness and reducing both trafficking and slavery offences.

At the moment, there is, in Northern Ireland, need for improvement in the detection and prosecution of slavery offences [cf Anti Trafficking Monitoring Group – ATMG, In the Dock, 2013, p123]

Although the Minister of Justice has decided to introduce an annual action plan regarding the strategy for raising awareness and reducing both trafficking and slavery offences, this action plan is not statutory and a more robust statutory situation would result from the implementation of Clause 15

Clause 16 - Northern Ireland Rapporteur

It would seem helpful if a body were appointed to oversee the work of Government agencies and report to the Northern Ireland Assembly regarding the trafficking/slavery situation. While the UK Government has indicated that it plans to introduce a Modern Slavery Commissioner, the responsibilities of such a post have not yet been clarified and there is no definite time-scale given yet for the implementation of this plan.

Thus, it would seem helpful, at least in the meantime, if there was a body such as a Northern Ireland Rapporteur, independent of Government, to report to the Assembly on the situation.

Dr and Mrs David Hart

Dear Sir/ Madam,
We welcome Lord Morrow's Human Trafficking & Exploitation Bill, & are supportive of it. There are a number of Clauses to it, but may we briefly comment on Clause 6, paying for sexual services.
It's introduction, we believe, would help to reduce the demand for paid sex & therefore reduce the incentive for traffickers to bring people into Northern Ireland to work in prostitution.
Clause 6 addresses exploitation where there is no element of trafficking present. It is known that such things as substance abuse, homelessness, & living in care are all common experiences before entering prostitution.
These points really only touch the surface of what is a human tragedy for an increasing number of women & children. Thankfully we have the opportunity of trying to do something to effect change for the better in our society.
We are grateful for this opportunity of communicating with you over this issue.

Yours sincerely,

David Hart

Dr & Mrs David C Hart

Dr Brook Magnanti

Please find attached my submission concerning the The Human Trafficking and Exploitation Bill.

Regards

Dr Brooke Magnanti
Scientist and journalist
committee.justice@niassembly.gov.uk

6. Paying for sexual services of a person

Unfortunately the main flaw with this bill lies in this section: the conflation of sexual labour (sex work, including prostitution) with trafficking is a misuse of the term trafficking, as the vast majority of people in all forms of sex work are not in fact trafficked. This includes both native-born and migrant populations in sex work.

In spite of exaggerated claims made about the commercial sex sector and trafficking in Northern Ireland there have been just 2 prosecutions in the past 10 years. Why is this?

The first reason is because paid sex in public places is relatively rare in Northern Ireland. Studies have shown only a handful of the more vulnerable street based workers in Belfast as opposed to comparable cities like Glasgow.

The second reason is because looking at trafficking as an exclusively sex-related offence means most other cases will be missed. Data shows that the majority of forced labour and trafficking cases are non-sex related, such as agricultural and domestic labour. However, because there is less funding and less NGO pressure to clean up labour abuses in these sectors, there is very little discussion of those problems, in favour of a highly emotional and largely evidence-free "discourse" around sex work.

Data from places where prostitution has been decriminalised (as opposed to legalised) have shown that sex workers report improved relationships with social services and with the police, facilitating relationships where useful and real addressing of forced labour can be investigated and prosecuted.

Additionally, data from places employing the so-called "Swedish model" of criminalising customers of sex workers has been shown to drive the trade underground, resulting in more intrusion of criminal elements, more trafficking rather than less, and more abuses by police and other law enforcement.

For example in Norway where similar laws have been enacted, the industry has become progressively criminalised, with police targeting landlords who rent property to sex workers. This has had the effect of making sex workers homeless, and once their work is known, unable to find any housing situation.

Such laws have also prevented the spread of vital "Ugly Mugs" schemes in several countries, where sex workers protect each other by sharing information on bad customers. These laws give customers the upper hand when negotiating with sex workers, and this can lead to violence.

As a result of such laws sex workers have become more vulnerable, not less, and a greater strain on social services.

Therefore I feel it is necessary that the discussion of trafficking, which should be addressed, does not single out sex work as a uniquely improper sector of labour, and further, that other elements of anti-trafficking strategy be bolstered to provide support for where the true victims are: domestic and agricultural labour.

The opportunistic international organisations who seek to eliminate sex workers entirely, even if it means actual harm to the women and men involved, have seized on “trafficking” to try to push their agenda, and the Assembly should not be fooled by their intentions.

Further to this, in section 8, it has been shown even when laws are written seeming to codify non-prosecution of victims of trafficking, this is often contingent upon their cooperation in investigations. The coercion results in two problems: workers claiming to have been trafficked even if not to prevent deportation, and victims who put themselves at considerable risk by being publicly involved in the investigation. Both situations are undesirable.

In addition concerns about the rights to privacy of non-trafficked workers have been of concern, as the considerable stigma from being publicly identified as a sex worker has led to preventable deaths such as the death of ‘Petite Jasmine’ in Sweden at the hands of her abusive ex-husband after her children were taken away. In spite of living in a country where she was supposedly not ‘criminalised,’ the system nonetheless withdrew its support for her valid concerns of being the victim of violence - which led directly to her murder.

This is one of the many reasons why, although there appear to be provisions in the bill to prevent harm to sex workers, most do not believe those provisions will have a positive effect.

It is apparent from the bill that no organisations comprised of sex workers themselves were consulted. The labour rights of sex workers are important, as too is the issue of trafficking. I highly recommend close work with groups of current sex workers who are engaged in activism and advocacy to make sure the law does not produce unintended consequences, at the price of the safety, health, and lives of sex workers.

There are many people who claim to support women’s rights yet deny the rights of large numbers of women whose lives they don’t approve of. Evidence shows that places where prostitution is tolerated or decriminalised produce better outcomes for the people involved.

Attacking visible signs of prostitution results in more criminality, not less. There is no such thing as “ending demand”. This is documented by research, by statistics. Anyone who supports criminalisation is basically saying to me and people like me, ‘women’s rights are important, except of course for women like you.’ In a modern and compassionate society that simply is not and should not be acceptable.

Dr Graham Ellison

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

Written evidence to the Justice Committee

Dr Graham Ellison
School of Law
Queen's University, Belfast

Email: g.ellison@qub.ac.uk

I would like to thank the Committee for the opportunity to provide written evidence in respect of the above Bill. I am a Reader in Criminology in the School of Law, Queen's University Belfast where I have taught and researched for the past decade. My principal research interests over the years have concerned policing and its governance, but also how particular social problems can best be regulated by law enforcement and other officials in terms of a broader harm reduction strategy. To this end I am currently principal investigator on a project funded by the British Academy to investigate the policing and regulation of male *and* female prostitution in four cities where the regulatory framework differs significantly. The cities in the study are Belfast, Manchester, Prague and Berlin. The project has a number of aims but one of these is to assess the regulatory models in these cities in light of sex purchase legislation that exists in some of the Nordic countries, of which the so-called 'Swedish model' is perhaps the best known.

I have concerns about a number of clauses in the Bill, but since some of these have been highlighted already by the Department of Justice (DoJ) in its oral evidence to the Justice Committee I will confine the thrust of my remarks to Clause 6 and Clause 7 in particular.

Clause 6:

1 Tackling demand

In the explanatory memorandum accompanying the Bill it is noted that one of the objectives of the Bill is for 'tackling the demand for trafficking' (p.1). An ostensible aim is to extend Northern Ireland's compliance, over and above the situation in GB, with the *European Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims* (2011). This of course is laudable but there is nothing in this directive that specifically requires criminalising the payment for sex. In fact, many EU jurisdictions fully comply with the directive but have *different* regulatory models regarding prostitution and brothel keeping. Some such as Austria, Germany, Switzerland, the Netherlands, and Greece have decriminalized prostitution, which is legal, and permit licensed brothels. This is not necessarily to make a case for decriminalization but simply to acknowledge that the proposed Bill has focused on a rather narrow range of experience from one jurisdiction (Sweden) when in fact there is a wealth of research material from within the EU and internationally that could usefully be drawn upon in order to obtain a 'bigger' picture. Many city councils and local government authorities across the UK have developed quite innovative strategies for dealing with prostitution and these might also be usefully assessed.

In terms of tackling demand the only apparent mechanism in the Bill that proposes to deal with the demand side of the trafficking equation is Clause 6 and then *only* in relation to sexual exploitation which it seeks to do by introducing a new offence of paying for 'sexual services' (as above). This however, raises a number of issues:

For example, the emphasis of the Bill collectively is about dealing with trafficking issues but the focus seems to be *primarily* on ending demand for sexual exploitation through Clause 6. Dr Dan Boucher, Parliamentary Advisor CARE Northern Ireland, stated in his oral evidence to the Justice Committee[1] that '*prostitution and trafficking are inextricably linked. [and] by far the greatest reason for trafficking is for paid sex'*. Certainly while *is* a relationship between sexual exploitation and trafficking there is also evidence from Northern Ireland and elsewhere in the UK that labour exploitation, including forced labour, is prevalent in a range of sectors and may have remained hidden given the attention on sexual exploitation. For example, in relation to Northern Ireland, Allamby et al identify '*problems of forced labour in the fishing, mushroom and catering industries and among Filipino and Romanian Roma migrants'*.[2] Similarly, a recent Home Office Research Report (October 2013), noted that sexual exploitation accounted for only around 31% of victims identified by the Human Trafficking Centre with the remainder (69%) concerning various forms of labour exploitation.[3]

Arguably, the proposed Bill needs to engage more widely with other dimensions of trafficking such as forced labour in the seasonal agricultural and service sectors. At the very least the emphasis on sexual exploitation and prostitution in particular, might inadvertently create the suspicion that the ostensible purpose of the Bill has little to do with trafficking per se but is a back-door way of attempting to criminalise prostitution.

2 The Swedish model

It is clear that the purpose of Clause 6 is in some way to emulate the Swedish *sexköpslagen* – the 1999 law that criminalised the payment for sex. This is evidenced, for example, in the testimony of Ms Gunilla Ekberg to the Justice Committee and also in the references by Lord Morrow, the proposer of the Bill, to the perceived "success" of the Swedish legislation. However, it should be pointed out that *sexköpslagen* has been controversial – even in Sweden.[4] Some Swedish academics and policy makers have questioned the veracity of the claims made about the *sexköpslagen* and whether in fact it has resulted in a 'real' reduction of prostitution or simply displaced it to other areas (indoor, online etc.).[5] The commonly cited "50% reduction" relates

[1] 11th October, 2012.

[2] Allamby, L., Bell, J., Hamiliton, J., Hansson, U., Jarman, N., Potter, M., & Toma, S., (2011) *Forced Labour in Northern Ireland: Exploiting Vulnerability.* Joseph Rowntree Foundation.

[3] Mills, H., Skodbo, S., Blyth, P., (2013) Home Office, *Understanding Organised Crime: estimating the scale and social and economic costs,* Research Report 73, October. Home Office: London

[4] Dodillet, S. & Östergren, P. (2011) 'The Swedish Sex Purchase Act: Claimed Success and Documented Effects', Conference paper presented at the International Workshop: Decriminalizing Prostitution and Beyond: Practical Experiences and Challenges. The Hague, March 3 and 4, 2011. Available: http://www.plri.org/sites/plri.org/files/Impact%20of%20Swedish%20law_0.pdf

[5] Dodillet, S. & Östergren, P. (2011) 'The Swedish Sex Purchase Act: Claimed Success and Documented Effects', ibid.

specifically to street-based prostitution but there is some doubt whether here *has* been a reduction in street-based prostitution[6] and if there has whether the *sexköpslagen* was even responsible for this.[7] First, the Swedish government does not have prevalence figures for *before* the Act came into force and has no way of measuring the effect of the law. Even the Swedish government's National Board in its 2007 report could not answer the question of whether prostitution had increased or decreased in the country following the *sexköpslagen.*[8] Second, if there has been a reduction in street-based prostitution it is likely to be symptomatic of the trends elsewhere in Europe. The development of the Internet is now the primary vehicle for transacting sexual commerce. An investigation of prostitution in Sweden and the Netherlands conducted by the Norwegian Ministry of Justice and Police noted however, that collecting data on 'up market' prostitution in Sweden - that which takes place in hotels and massage parlours - is notoriously difficult to quantify given its hidden nature.[9] However, there is evidence that Sweden, as is common in other countries, has a growing indoor prostitution scene.[10] Several managers of an online escort business that has expanded into Sweden and Norway in recent years indicated to me that in spite of the legislation both jurisdictions were becoming a highly competitive and lucrative market for the company. One representative even suggested that theoretically the worst possible business scenario for the company would be the legalisation of brothels in the countries in which it operates since this would take business away from the online escort sector.[11]

Gender Equality, Harm Reduction and the Swedish model

Contrary to the claims made by some feminists both here and in Sweden that the *sexköpslagen* reduces gender inequality; other commentators (including feminists) have claimed that the law has actually increased *gender inequality* and severely impacted on the lives of those disadvantaged women who sell sex.[12] There are

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[6] Dr Jay Levy for example, points out that some Swedish charities and NGOs have suggested that in their opinion the numbers involved in street based sector has remained fairy static over the years and has been augmented by increasing numbers of migrant sex workers. See Levy, J. (2011) 'Impacts of the Swedish Criminalization of the Purchase of Sex on Sex Workers', paper presented to *British Society of Criminology,* 4th July

[7] Ministry of Justice and the Police Norway, (2004) *Report by a Working Group: Legal Regulation of the Purchase of Sexual Services,* Ministry of Justice and the Police Norway; Ann Jordan, (2012) 'The Swedish Law to Criminalize Clients: A Failed Experiment in Social Engineering', Programme on Human Trafficking and Forced Labour, Issue paper 4, April. American University, Washington D.C.

[8] See Jordan, A. (2012) ibid.

[9] *Purchasing Sexual Services in Sweden and the Netherlands: Legal Regulation and Experiences,* Ministry of Justice and Police: Norway. Ibid.

[10] For example, research from Malmo's state funded prostitution programme provides evidence that the Internet is increasingly used to sell sexual services in Sweden. See *När prostitutionen flyttade in i vardagsrummet* (When prostitution moved into the living room) Malmo Prostitution Programme (2010). Available: http://www.malmo.se/download/18.1e58ca66127664b20f4800033776/Nar_Pros_flyttade_in_i_vardagsrummet.pdf#search='prostitution'

[11] Interview with online escort business conducted by Graham Ellison (October, 2013).

[12] In practice the law has impacted disproportionately on street sellers who are very often migrants and those who have addiction problems. As Pye Jackobsen from Rose Alliance has noted, for the majority of Swedish indoor sellers the law has had no impact on their business. See: 'An interview with Pye Jackobsen, a Swedish sex worker, on the criminalization of clients of sex workers in her country', Available: http://www.youtube.com/watch?v=7D7nOh57-I8

potentially a plethora of human rights concerns with this Bill: Harm reduction does not appear to be a strategy that is applied to commercial sex work in Sweden and sellers are stigmatised further to the point where they are denied access to a range of benefits and healthcare provision and in some cases they are deemed to be 'unfit mothers' and have had their children removed and taken into custody.[13] Contrary to the stated aims of the Swedish *sexköpslagen* that it only seeks to criminalise the buyer *not* the seller this does not work out in practice. It is impossible to criminalise only *one* actor in an exchange relationship such as that involving transactional sex. In practice, what has happened is that street-based prostitution is dispersed to more dangerous and out-of-the-way locations and sellers are forced to participate in more risky forms of sexual activity, thus increasing the potential for sexually transmitted infection and transmission.

Policing and Enforcement Issues

One issue in relation to the enforcement of the *sexköpslagen* is that it is difficult to bring evidence to secure a conviction. If a defendant pleads 'not guilty' then evidence must be gathered and secured by the police as in any other criminal trial. This has however, resulted in a high number of charges being dropped and a relatively low conviction rate. As Professor Don Kulick has noted 'It is very difficult to obtain precise statistics about the numbers of clients who have been prosecuted under the law… [there] have been 86-110 arrests per year. Three quarters of these arrests never get prosecuted, and of those that do 65% of cases end up being dismissed.'[14] The principal problem appears to be the difficulty proving that money has in fact changed hands particularly when 'both parties deny it occurred, which of course they have a strong incentive to do'.[15] If we are speaking about consensual encounters negotiated between adults (which the majority of these interactions are) then I would question whether Clause 6 is the best use of police resources (given the many serious problems facing the PSNI already) and indeed the police here have acknowledged the difficulties it would pose for them.[16] The PSNI in Northern Ireland already have strong powers to deal with trafficking for sexual exploitation or sex with someone who is underage or otherwise vulnerable so I am unsure how Clause 6 would add anything over and above what is already in place.

Developing a joined up prostitution strategy

Clause 6 deals with only one end of the equation i.e. that relating to demand. It is difficult to see how criminalising clients will address other issues in relation to prostitution such as the *reasons* and *motivations* why some men and women choose to sell sex. This is particularly pertinent to the street-based scene. It is arguably the case that many men and women who work on the street have comparatively fewer choices

[13] Levy, J. (2011) 'Impacts of the Swedish Criminalization of the Purchase of Sex on Sex Workers', paper presented to *British Society of Criminology,* 4th July; Levy, J. (2011) 'Impacts of the Swedish Criminalization of the Purchase of Sex on Service Provision for Sex Workers', paper presented to *Correlation Final Conference,* Ljubljana, December; The Local (2013) 'Sex Workers cry foul over activists death', 17th July. Available: http://www.thelocal.se/49120/20130717/

[14] Kulick, D. (nd). 'The Swedish Model', talk delivered at Beijing Plus Ten Meetings, Available: http://www.globalrights.org/site/DocServer/Don_Kulick_on_the_Swedish_Model.pdf

[15] Kulick, ibid. p.2

[16] 'Criminalising people who pay for sex won't help anti-trafficking fight says police chief', *Belfast Telegraph,* 5th September, 2013. Available: http://www.belfasttelegraph.co.uk/news/local-national/northern-ireland/criminalising-people-who-pay-for-sex-wont-help-antitrafficking-fight-says-police-chief-29553457.html

and selling sex is often one of the only available opportunities open to them. What package of benefits, what kind of childcare provision, what provision to address addiction and substance abuse issues, homelessness, and domestic violence will be put in place? In many ways Clause 6 is tinkering with the symptoms of a myriad range of social problems (though this is not to say that *all* street workers experience these problems) rather than provide any realistic means to address the harder-to-do structural issues that demand a co-ordinated agency response from across a number of government departments.

3 The commercial sex sector in Northern Ireland

I feel that aspects of the proposed Bill (though Clause 6 in particular) may be the equivalent of taking a sledgehammer to crack a nut. I would argue that Northern Ireland has a comparatively small commercial sex sector relative to other cities such as Manchester, Dublin, Edinburgh, Liverpool, Birmingham and London.[17] I am also convinced that whatever issues arise from prostitution in Northern Ireland can be dealt with via existing legislative provision but *also* the adoption of a much more effective multi-agency partnership approach to harm reduction for those sellers who operate on the street (both male and female). The Justice Committee could perhaps consider alternative regulatory approaches - as practiced in other UK cities that take harm reduction as their central objective.

Clause 7: investigation & prosecution of offences

In general terms it is not clear to me in what ways the current proposals in the Bill for the investigation of offences dovetail with the National Referral Mechanism (NRM) which is *the* statutory framework in the UK for identifying victims of human trafficking. In particular, the Bill does not adequately make clear who or what determines when a "victim" becomes a victim in the newly proposed arrangements and what the respective roles of the NRM, PSNI and the UK Border Agency will be in this process. I am just concerned in that in a fiscally challenged environment this Bill will needlessly add another level of bureaucracy and confusion to existing structures. In some respects the Bill seems to muddy rather than clarify existing service provision in respect of support for victims of human trafficking.

General Observation

Evidence and disputed claims regarding prostitution research

Mr Paul Givan from the DUP raised a very important question during one of the Justice Committee hearings when he asked Ms Gunilla Ekberg why academics seem to be so divided on issues relating to prostitution research. I am not sure, however, that Ms Ekberg satisfactorily answered Mr Givan's question insofar as she implied that this was because the 'evidence' was interpreted differently. However, it is not simply an issue of differing interpretations. Where a lack of consensus is manifest it occurs between those who adopt *ideological* and *scientific* positions. The former are often advocacy campaigners who usually adopt fixed positions or standpoints. The latter tend to actually conduct empirical research on the ground and subject the various claims and evidence to empirical testing. Most researchers who have

[17] I am willing to provide my estimation of prevalence statistics to the Justice Committee on request.

conducted research in the field and have spoken to sex workers, activist groups, clients, NGOs and other health professionals, using appropriate methodologies and without an agenda to push, concur on a number of issues relating to prostitution. In this sense there is in fact a high degree of consensus among those researchers who have actually studied prostitution and sexual commerce. This is why it is important that the Justice Committee seek to obtain as wide a range of viewpoints and evidence as possible – and this includes the viewpoints of sex workers and those who would be impacted by the legislation.

Dr Jay Levy

Response to The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

My Background

My name is Jay Levy, and I have conducted research in Sweden since 2007 on the results of their 1999 criminalisation of the purchase of sex, and have conducted additional fieldwork in Norway on their sex purchase law. Fieldwork involved over three years in the field. This research was conducted as a member of the Department of Geography at the University of Cambridge, where I also taught undergraduates between 2007 and 2012, at which point I completed my PhD. I now work for an NGO in London, and am additionally a consultant for several organisations on issues surrounding sex work legislation and policy, as well researching and writing on drug legislation, policy, and harm reduction.

I have interviewed and conducted participant observation and ethnographic research with people who sell sex in Sweden; furthermore, respondents were interviewed due to their work or expertise surrounding prostitution, and included politicians, NGO workers, spokespeople for lobby, activist, and rights groups, police, healthcare providers, and social workers. I have gathered a large quantity of data, with transcriptions from interviews coming to over 400,000 words.

Response to the Bill

Clause 6 of the Bill: Paying for sexual services of a person

To begin with, I find it concerning that, as with Sweden's legislation, 'sexual services' is assumed to have a meaning, and thus is not defined. Similarly, 'payment' is open to interpretation. Someone being promoted at work at a result of having sex with a superior, for instance, would certainly fall under the auspices of this legislation, having supplied 'sexual services' – in a loose, sense, as allowed by the term.

Of course that sort of thing would not be prosecuted; instead, what will result is a very selective enforcement of very broad legislation. In Sweden, the focus has been almost entirely on street sex work and migrant sex work, which is assumed by default to be human trafficking (and this legislation is premised with concerning conflation of consensual sex work with human trafficking – This is despite a wealth of information highlighting the nuanced and variable nature of the sex industry in terms of both motivation for and experience of sex work). Similarly, this legislation could well be used to selectively police public space by destabilising visible sex work, and displacing sex work into clandestine space (a notable outcome of Sweden's law). That the law purports to be for the benefit of those who are victims of abuse and exploitation in the sex industry would be somewhat misleading.

I wish to respond to the Bill in terms of **what could likely be the results of criminalising the purchase of sex**. In short, and based on my knowledge of and research on criminalising legislation, and a criminalisation of the purchase of sex in Sweden and Norway, I do not support the proposed Bill. Criminalising the purchase of sex is associated with a plethora of negative outcomes. This activity should not be constructed as an offence, and I would assert that increased penalty serves simply to displace, marginalise, and exclude to a greater extent (on the part of both those who sell, and those who buy, sex). There already exists legislation criminalising coercion

Response to The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Dr Jay Levy
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and force throughout the EU – Further legislation, asymmetrically criminalising activity between two consenting adults, is unnecessary and counterproductive.

To begin with, Sweden's criminalisation of the purchase of sex has not, as is suggested by some (including Ms Gunilla Ekberg, who I note has fed into the political discussion in Northern Ireland), resulted in any demonstrable diminution in levels of prostitution *or* trafficking. My research and that of others (for example see Östergren and Dodillet) casts doubt on whether levels of street prostitution have decreased on a permanent basis (respondents with long-standing experience of street prostitution called this into question), and levels of prostitution generally are extremely difficult to monitor, where the vast majority of prostitution is off street and online. There is absolutely no robust data suggesting levels of prostitution (or trafficking) have, overall, declined following 1999 (as was the law's intention). If I may quote the Swedish national board of health and welfare:

> "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".
> (Socialstyrelsen 2008: 63)

Furthermore, negative outcomes of the criminalisation of the purchase of sex have been considerable and numerous. Sweden's legislation has resulted in prostitution becoming increasingly clandestine (this is hardly surprising, given that it is the result of many similar criminalising laws). Several of my respondents had moved from selling sex on the street to indoors when the law was introduced. Furthermore, respondents reported increasingly hurried negotiations with agitated clients, concerned about being arrested, with this impinging on the time available to negotiate transaction or take stock of potential risk. In short, some sex work has become more dangerous.

Respondents reported increased competition, resulting from a drop in clients willing to buy sex publicly following the law's introduction.[1] Some resorted to stealing to buy drugs and/or alcohol previously financed by selling sex. Increased competition has resulted in a pushing down of prices in street prostitution; where propensity to take risks when selling sex correlates with financial desperation, offering unsafe sex and 'alternative' sexual activities appears to be more common due to the law (also see Östergren and Dodillet 2011).

In addition to increased difficulties in the street, clients buying sex online are more reluctant to give any identifying information, fearing police detection; for those who need money more urgently, accepting these untraceable clients leaves them all the more vulnerable to abuse (and respondents had, indeed, experienced such difficulties following 1999).

[1] I should re-stress that there is no evidence that there are fewer people selling sex – On the street, levels of sex work did decrease immediately following 1999, but there is some evidence that they have increased to their previous levels. Further, a diminution of clients willing to buy sex publicly is not indicative of off-street sex work in the slightest, which is notoriously hard to monitor, and to reiterate, this makes up the majority of sex work in Sweden.

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Dr Jay Levy

An idea that the law will protect people who sell sex from legal repercussion is additionally erroneous - police can and do use pimping, procuring, and pandering laws to interfere with people who sell sex directly. Respondents noted people who sell sex being evicted from property, being evicted from their hotel rooms (with police deliberately informing landlords/venues that an individual was selling sex from their premises, thus forcing the eviction – This included migrant sex workers). I additionally interviewed one individual who had been harassed by the police directly at her place of residence, with police threatening to go after her clients. I would be concerned that legislation would be used similarly were this legislation passed in Northern Ireland, alongside use of the criminalisation of the purchase of sex to disrupt the lives of the most vulnerable sex workers (street-working sex workers).

Crucially, the **law has acted as a disincentive for clients to report suspected/witnessed trafficking or abuse**, for fear of repercussions resulting from an essential confession of being a sex buyer. One respondent recalled two or three instances where he had not contacted the police to report suspected trafficking, for fear of legal consequences, and other respondents (sex workers and service providers) reported that clients had expressed similar concerns.

Furthermore, entrenched discriminatory police attitudes remain, with respondents noting police abuse and discrimination. In response to **Clause 7**, where it notes that there should be proper training for those engaging with people who have been trafficked, sex workers, and migrant sex workers assumed to be trafficking victims have noted police refusing to take their statements to report crime and rape, while others not been allowed to get dressed during police raids. Sex workers' reports of police abuses and unprofessionalism were numerous during my fieldwork.

Respondents noted further **difficulties with deportation in the case of migration and human trafficking**. It is worrying that though legislation purports to protect sex workers, as well as victims of trafficking, from legal repercussion, people who work in the sex industry are still deported as immoral and dishonest (one sex worker in particular was deported with 'she has not earned her living in an honest manner' stamped on her passport as a reason for deportation a year or so ago – I have a copy of the deportation order). Victims of trafficking are also deported, and are usually only granted temporary residency if they agree to testify at a trial; thereafter, they are deported.

Many thanks for the opportunity to submit evidence. If any further information is required vis-à-vis the results of my research and fieldwork, I will be happy to provide it. In terms of some further reading, some preliminary and limited results of my research on the outcomes of the criminalisation of the purchase of sex are available here:

http://cybersolidaires.typepad.com/files/jaylevy-impacts-of-swedish-criminalisation-on-sexworkers.pdf

Also see, for example:

Gould, A., 2001, The Criminalisation of Buying Sex: the Politics of Prostitution in Sweden. *Journal of Social Policy* 30, 3: 437–456

Kulick, D., 2004, Problems encountered so far in Sweden, in Hidden Stories: Male Sex Work in Northern Europe. *Proceedings of ENMP, Stockholm 23-24 May*

Östergren, P. and Dodillet, S., 2011, The Swedish Sex Purchase Act: Claimed Success and Documented Effects. Presented at *The International Workshop: Decriminalizing Prostitution and Beyond: Practical Experiences and Challenges*. The Hague, 3-4 March

Socialstyrelsen (Swedish National Board of Health and Welfare), 2008, *Prostitution in Sweden 2007* (http://www.socialstyrelsen.se/lists/artikelkatalog/attachments/8806/2008-126-65_200812665.pdf last accessed 30/09/13)

Dr Norma C Grindle

Dear Sir,

I am writing in response to the call for evidence by the Justice Committee in relation to the above Bill.

I warmly welcome this bill and wholeheartedly support it. I regard it as essential to the lives of the most vulnerable men, women and children in N. Ireland.

In addition, it will help ensure that NI properly fulfills its international obligations as set out in the European Directive and the council of Europe Convention.

Given that the primary reason for trafficking people into Northern Ireland is for the purpose of sexual exploitation, I particularly welcome Clause 6 of Lord Morrow's Bill which criminalises the paying for sex. This clause would thereby directly address the principal source of demand for trafficking and do so more effectively than our current laws.

I urge you to act accordingly.

Yours sincerely,

Norma C Grindle (Dr)

Dr Ruth Gray

The Committee Clerk

With regards to the Human Trafficking Bill clauses 9-12, I would like there to be some provision included for long term support for children who are born in N.Ireland due to their mother becoming pregnant in this country whilst being a victim of trafficking.

Regards

Dr Ruth Gray

Dr Teela Sanders and six other academics

The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill: 2012-13, Northern Ireland.

Response from a group of seven UK-based academics experts, 29th October 2013.

This response is from seven academics with combined expertise of many years researching sex work and related issues, funded by a variety of governmental research councils, charities and higher education institutions. All are considered key experts on the sex industry in the UK. Collectively, we have made several representations to UK and Scottish governments, including expert statements to the on-going All Party Parliamentary Group for Prostitution, England and Wales, as well as responding to other national policy consultations to the Home Office. Biographical details are included in the Appendix. We wish the contents of this letter to be made public and disclosed in any analysis of findings. Representatives from this group would also be happy to attend any parliamentary sessions to give expert advice and to assist deliberations.

Response

Whilst we support the proposed Bill's intentions of introducing offences relating to trafficking, (in line with other countries and specifically to England and Wales) and providing resources for investigating and prosecuting, we have a number of concerns. We are very concerned about the very problematic conflation of trafficking with all forms of prostitution and the implied causality that criminalising the purchase of sex would reduce demand for trafficking. We also would strongly advise against introducing Clause 6 - 'a new offence of purchasing sexual services to reduce demand for trafficking individuals'.

Our objections are derived from the research evidence and information from many projects across the UK who work directly with sex workers. Our four main points of objection are as follows:

1. Rejection of the 'Swedish Model' as a means to address exploitation and trafficking.

- We do not support the assertion in Clause 6 that trafficking will be reduced by criminalising purchasing sex. Trafficking is a much wider and multi-faceted issue than this Bill recognises. Prostitution is also too complex an issue to view through the narrow lens of 'trafficking and exploitation'. By collapsing the two a more comprehensive and effective regulatory approach, in which criminal law is but one of the responses, is denied.

- While much is made of the Swedish position in the consultation paper which preceded the draft Bill, research evidence is in fact mixed as to the effects of this law (see Scoular, 2004; Kulick, 2003; Dodillet and Ostergren, 2011). The credible research there is suggests displacement of sex work and further threats to the safety of workers (Kulick, 2003; Scoular, 2004; Hubbard et al, 2008; Dodillet and Östergren 2011). It is important to acknowledge that sex workers are a diverse group, as with any section of society. People enter sex work for a range of reasons, which may include to pay off debt, to finance their studies, to provide for their family, or to earn sufficient income to ensure a reasonable standard of living. Many may have limited alternative options available to them. While this should concern for government and society, criminalising aspects of their work does not give them further options, but takes away the one solution currently available to them. Recent studies of the criminalisation of purchase in Sweden (e.g. Dodillet and Östergren 2011; Jordan, 2012) have questioned the evidence that the change in the law has led to a reduction in the number of sex workers or people purchasing sex, or of trafficking into prostitution. The implications of the criminalisation of purchase of sexual services, are, however that there is a likelihood of an increased risk of violence, as sex workers are working in more hidden locations to avoid the police, and fewer reports of actual abuse are likely to be made, by either clients or sex workers, because of fear of prosecution. The evidence also suggests that the criminalisation of clients in Sweden has increased social stigma relating to sex work. This then further undermines the rights of sex workers and presents a significant obstacle to accessing support for their health and safety needs[1].
- In England and Wales, the 'Tackling Demand' Home Office Review (2008) considered the Swedish model of making it a crime to pay for sex, which was rejected in favour of a specific crime relating to the purchase of sexual services by someone coerced or forced.
- Both the Scottish attempts in 2012 and the England and Wales proposals were met with significant criticism from academics across the UK.

2. Negative effects of criminalisation on sex workers in particular on reporting violent crimes against sex workers

- Extensive evidence demonstrates how any form of criminalisation of the sex industry has a detrimental effect on sex workers, in particular their safety and reporting of crimes. Existing evidence (e.g. McKeganey and Barnard, 1996; Pitcher et al, 2006) and on-going research by Jane Pitcher in her current study shows that an environment of enforcement can lead to sex workers being reluctant to approach the police or other agencies when crimes are committed against them. Rosie Campbell's research also identifies that in terms of the existing laws on soliciting, "kerb crawling" and brothel keeping, an enforcement-based approached creates a climate which works against the

[1] For politicians to take a balanced and informed approach to this issue, it is important that this more critical literature is read alongside promotional papers by government and its supporters.

reporting of violent and other crimes by sex workers and leaves sex workers unprotected.

- Relevant to this bill is the Ontario Charter Challenge, wherein three sex workers in Ontario, Canada have challenged the constitutionality of Canadian prostitution law. The Bawdy House Laws, preventing individuals from working together in inside spaces have been twice struck down in the Ontario Superior Court of Justice and the Ontario Court of Appeal. Judges ruled the laws un-fit for purpose and in violation of the Charter Rights of Canadian citizens to life, liberty and security of the person. The case has been heard in the Supreme Court of Canada with the outcome pending, but that the Bawdy House Law has been struck down twice reflects the research evidence that laws which criminalise adult sex workers and customers involved in consenting commercial transactions creates a legal framework which tends to generate an adversarial relationship between sex workers and the police, deters reporting, and contributes to cultural and structural factors which lead to violence.
- Further criminalisation, including of the purchase of sex, will serve to reduce sex workers' protection and increase their isolation, as they will be even less likely to trust in the law to protect them (and this will become known by more dangerous individuals who target sex workers because of their vulnerability). Criminalising the purchase of sex in Clause 6 which will not impact positively upon the experiences of violence, nor right to life, liberty and security of sex workers. It will, in fact, have negative material consequences and simply add another layer of complexity to the deeply problematic circumstances in which sex is bought and sold.

3. Lack of recognition of voluntary adult sex work

We do not wish to minimise the seriousness of violence that is perpetrated against sex workers, as we feel strongly that incidents of violence and other crimes against sex workers should be addressed (and have campaigned for many years for such recognition).

- Treating all sex work as exploitation or violence against women, however, both trivialises actual violence and ignores the fact that many adult sex workers, not only women, but also men and transgender people, enter the sex industry of their own volition and have taken a decision to undertake the work, based on consideration of the options available to them (O'Connell Davidson, 1998; O'Neill 1996, 2001, Sanders et al, 2009).
- Our own current and previous research, and that of other academics undertaking robust and ethical research with sex workers, has found that many adult sex workers have entered sex work because they find it preferable to other forms of work which are often less satisfactory, not only in terms of income, but also their relative autonomy compared with many service sector jobs where they have felt exploited. More than anything else, criminalising the purchase of sex and using increased criminal justice interventions is a very blunt and ineffective tool when the overall objective is to reduce exploitation and improve social justice (Scoular and O'Neill, 2007, 2008).

- By assuming that the economic, social, welfare, educational, health and psychological factors that lead people into prostitution can be reduced through the criminalisation of the purchase of sex itself ignores possible alternative political and legal strategies that might be more effective in achieving safety, security, equality and social justice for people in prostitution. Importantly, by banning the purchase of sex, the law and the state closes off alternative models that have been used in other countries to make sex workers safe. For instance, the safer option of legalised premises (as evidenced in Nevada and Holland) which have directly reduced the exploitation and abuse sex workers experience by providing regulatory alternatives.

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About the authors of this response:

Teela Sanders in a Reader in Sociology at the School of Sociology and Social Policy, University of Leeds. Her research focus is on the intersections between gender, regulation and the sex industry, with a focus on exploring hidden economies. She has represented evidence from her research to various Parliaments, called as an expert witness and is a regarded expert in this field at an international level. Alongside 3 edited collections and over 40 peer reviewed journal articles, her monographs include *Sex Work: A Risky Business* (2005) and *Paying for Pleasure: Men who Buy Sex* (2008). *Prostitution: Sex Work, Policy and Politics* (Sage, 2009) is co-written with Jane Pitcher and Maggie O'Neill. With Kate Hardy, Sanders has recently completed a large scale project funded by the ESRC on the lap dancing industry. This project uncovered working conditions of dancers and will be detailed in the forthcoming book, *Flexible Workers: Labour, Regulation and Mobility in Lap Dancing* (Routledge, 2014). An ESRC Follow on award for further dissemination and impact from this study has been awarded. Working with Rosie Campbell, the project aims to influence Sex Entertainment Venues licensing policy and create innovative impact by creating an Iphone App for dancers with safety, self employment rights and tax awareness information.

Jane Scoular is Professor in Law at the University of Strathclyde. She has published a number of books, refereed articles and research reports on the subject of prostitution. Her research combines both empirical investigation (in Scotland, the UK and internationally) with theoretical analysis and has been funded by Joseph Rowntree Foundation, the ESRC and the Scottish Executive. Key works include: 'What's law got to do with it? How and why law matters in the regulation of sex work' 2010 37(1) *Journal of Law and Society* 12-39; (with O'Neill, M.) 'Regulating Prostitution: social inclusion, responsibilisation and the politics of prostitution reform' 2007 *British Journal of Criminology* 47(5) 764-778; (with Sanders, T. eds) *Regulating Sex/Work: From Crime Control to Neo-liberal Regulation* (Wiley Blackwell, 2010); 'Criminalising 'Punters': evaluating the Swedish position on prostitution' (2004) *Journal of Social Welfare and Family Law* 26, 195-210; (with Hubbard, P.J. and Matthews, R.); 'Re-regulating sex work in the EU: prostitute women and the new spaces of exception' (2008) 15:2 *Gender Place Culture* 137-152; and a forthcoming

monograph on '*The Subject of Prostitution: Sex/work, Law and Social Theory'* to be published by Routledge/Cavendish. Jane was a Visiting Scholar at the Universities of Stockholm in Sweden in 2003 where she researched the Swedish law relating to prostitution. She was a member of the Scottish Parliament's Expert Panel on Prostitution advising on 'Being Outside: Constructing a Response to Street Prostitution.

Jane Pitcher is a researcher with a longstanding experience of undertaking policy research and evaluation, in academic, public and voluntary sector organisations, including the University of Warwick and Nacro. Over more than ten years she has carried out a number of studies with a diverse range of sex workers in many different settings in the UK, including leading a Joseph Rowntree Foundation-funded study in England and Scotland with other academics (published as *Living and working in areas of street sex work: from conflict to coexistence,* Policy Press 2006). Other publications include: *Prostitution: sex work, policy and politics* (with Sanders, T and O'Neill, M, Sage, 2009); 'Support services for women working in the sex industry' in Campbell, R and M O'Neill (eds) *Sex work now* (Willan, 2006); and 'Sex Work, Communities and Public Policy in the UK' in Ditmore, M, A Levy, and A Willman-Navarro (eds) *Sex Work Matters: beyond divides* (with O'Neill, M, Zed Books, 2010). She is currently undertaking an ESCR-funded PhD at Loughborough University into off-street sex work in Great Britain, drawing on in-depth interviews with nearly 40 female, male and transgender sex workers in parlours and saunas, flats and independent sex work. She is joint academic representative on the Board of the UK Network of Sex Work Projects and in this role has undertaken reviews of effective practice in delivering services to sex workers. She has also been a volunteer for the past 12 years with a project providing support to street-based and off-street sex workers in Coventry.

Mary Laing is a Lecturer in Criminology, at Northumbria University. She has been doing research on sex work in various capacities (as a PhD student, as a post-doctoral candidate and as a lecturer) for the past 8 years. She is the author of several articles and book chapters on the sex industry, and her research thus far has focused on male sex work and the gendered policy context in England and Wales. Most recently she has been working on a project focusing on the adult entertainment industry in Canada, and also a peer-based research project in Newcastle upon Tyne. She has approximately 8 years 'on the ground' experience as a volunteer outreach worker in both the UK and Canada. She has experience delivering harm minimisation services and provision to both male and female street based sex workers, as well as massage parlour based female sex workers. Mary is the joint academic board representative for the UK Network of Sex Work Projects and has been engaged with this network since 2005.

Rosie Campbell OBE is a sociologist who has carried out academic research on sex work and sexual exploitation for 17 years, in a number of regions throughout the UK and a range of sectors of the sex industry. In 2013 Rosie received an OBE for services to women, showing her extensive involvement in sex work politics in the UK

and beyond. She is considered an expert on the sex industry and support service provision in the UK. She is currently a freelance consultant and completing her PhD at Durham University which has examined Merseyside's policy of addressing crimes against sex workers as hate crime. She has published widely on sex work and is co-author of the book "Sex Work Now" (2006) with Professor Maggie O'Neill. As a founder member and Chair (2002-2009) of the UK Network of Sex Work Projects (UKNSWP), she worked with sex work projects at local, national and international level and been a member of a range of national advisory groups, e.g. Association of Chief Police Officers National Prostitution Working Group (2010-2012) and Home Office Advisory Group on Effective responses to Prostitution (2010-2011). With a colleague she carried out the National Ugly Mugs Development Project, proposing a model for a national scheme, which the Home Office made a decision to fund as a pilot. She has carried out frontline outreach and support work in Liverpool for 13 years and been active in establishing and developing a number of sex work support projects in both a trustee and manager role. Between 2005-2008 she was Co-ordinator of Armistead Street & Portside (off street), female sex work outreach and support projects, within Liverpool PCT she established a number of innovative provisions such as the first specialist Independent Sexual Violence Advisor for Sex Workers.

Maggie O'Neill is Professor in Criminology at Durham University and has conducted extensive research on sex work and sexual exploitation since 1990. Her work is instrumental in the development of the sociology of prostitution/sex work in the UK. Research activity and outcomes include the development of theory; a focus upon innovative biographical, cultural and participatory research methodologies; and the production of praxis - knowledge which addresses and intervenes in public policy. Most of her research involves the use of participatory action research and she often uses visual methods. Books include: Prostitution: Sex Work, Policy and Politics (October 2009) co-authored, Sanders, T., and Pitcher, J. London: Sage; Prostitution and Feminism (2001) Cambridge: Polity Press; Sex Work Now co-edited with Rosie Campbell (UKNSWP) (2006) Devon:Willan; and Prostitution: a Reader co-edited with Roger Matthews (2002) London: Ashgate. See for example:

http://www.walsallartsintohealth.co.uk/safetysoapbox/ and

http://www.jrf.org.uk/publications/living-and-working-areas=street-sex-work

Phil Hubbard is Professor of Urban Studies in the School for Social Policy, Sociology and Social Research at the University of Kent. He has researched and written on the geographies of the sex industries over two decades, with a particular focus on the forms of spatial governmentality that have been used to police sex workers, past and present. His work has encompassed studies of the policing of street sex work, the regulation of sex shops and sexual entertainment venues, and the licensing of massage parlours and brothels in different jurisdictions. On this basis, he has sought to promote a harm-reduction perspective in which sex work is not subject to forms of regulation which make it less safe. His work has been cited in NSW parliamentary reviews of Best Practice in Brothel Regulation, and he gave evidence to the APPG on Prostitution in 2013. His work is summarised in Sex and

the City: geographies of prostitution in the urban West (Ashgate, 1999) and Cities and Sexualities (Routledge, 2011).

9

Dr Thomas Todd

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

Dear Justice Committee members,

I am writing to show my support for Lord Morrow's Human Trafficking and Exploitation Bill.

As well as showing general support for the entire bill I would like to draw particular attention to a few of the clauses, such as **'Clause 6: Paying for sexual services'.**

Although it is currently illegal in Northern Ireland to buy sex from someone if they are coerced, the offence has been very difficult to prove and has not worked in practice. There have been no convictions or even prosecutions to date. Criminalising paying for sex would simplify the current offence and make it workable so that a clear message can be sent to traffickers, especially as the majority of trafficking in Northern Ireland is connected with the sex industry.

This clause will help to reduce demand for paid sex and therefore reduce the incentive for traffickers to traffic vulnerable men, women and children into Northern Ireland to work in prostitution. It introduces a much more effective approach to tackling demand than the current offence under the Policing and Crime Act 2009, which requires proof of coercion within a tight timeframe.

The offence outlined in Clause 6 has already been proven to work well in other countries such as Sweden and Norway. Although there are concerns that criminalising the purchase of sexual services would drive prostitution underground, the evidence from Sweden indicates otherwise.. Kajsa Wahlberg, Swedish National Rapporteur on Human Trafficking has said,

> *"In Sweden there is relatively little prostitution. The perception that this is because prostitution has gone underground is not true. Prostitution cannot go underground because the buyers need to be able to find the women. Prior to the law prohibiting the purchase of sexual services the pimps could easily send the women out looking for buyers. Nowadays they have to advertise and make arrangements, which means that the risk of getting caught increases."*

'Clause 12: Child Trafficking Guardian'

Child victims of human trafficking are particularly vulnerable to re-trafficking. When identified and located these children have to deal with many different agencies such as immigration officials, police officers, solicitors, and social workers. All this can be very daunting for them Clause 12 requires a child trafficking guardian to be appointed as soon as a child is identified as a possible trafficking victim. Having a child trafficking guardian would ensure effective support could be given to these children The child trafficking guardian would be a constant adult who would be able to both accompany and speak on behalf of the child throughout these interactions. Being a constant adult in the child's life would also provide the child with someone they could trust, an important need in the light of how adults have treated them previously.

The 2013 "Still at Risk" report recommended that trafficked children should have a "trusted adult" who would help them navigate the different processes and agencies they will encounter and ensure that the child's voice is heard.

In Northern Ireland between January 2009 and September 2012 eight children regarded as victims of trafficking were taken into local authority care. Six of these children were allocated a *guardian ad litem*, a role that is restricted narrowly to the courts and has a much more limited brief than a child trafficking guardian. Three went missing. While a child guardian may not have necessarily prevented them absconding it certainly would have provided an extra level of support and security.

The provision of a child trafficking guardian is internationally recognised best practice for preventing the loss of rescued trafficked children. The provision of child trafficking guardians was recommended by GRETA in 2012, and the US State Department in June 2013. UNICEF has recommended and defined the role, which provides the model for Clause 12.

Although I am in support of the entirety Lord Morrow's Bill, I particularly feel that the four clauses which I have highlighted are essential if Northern Ireland is to fully and adequately implement the relevant EU Directive, and where they go beyond that Directive, namely the criminalisation of paying for sex, they are necessary if we are to properly and adequately abide by the spirit of that Directive.

Yours sincerely,

Thomas Todd.

Doctor Thomas Todd (PhD, MTh, BD (Hons.), Cert.Ed.)

Dungannon and South Tyrone Borough Council

Committee for Justice
Room 242, Parliament Buildings
Ballymiscaw
Stormont
Belfast BT4 3XX

13th November 2013

Dear Committee

RE: Human Trafficking Bill

Dungannon & South Tyrone Borough Council provides its support to the proposed Human Trafficking Bill.

Council supports the proposals to change the law to offer greater protection and support to victims of human trafficking and would encourage this to be for an adequate level and period of time to ensure that victims to not fall back into a vulnerable situation.

Greater conviction of traffickers and addressing the demand for trafficking is to be welcomed to seek to alleviate this worrying practice of 'slavery in a modern society'. As stated in your proposals evidence of where these policies are working is also to be welcomed.

Yours sincerely

Alan Burke
Chief Executive

Eaves

The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill – Evidence Submission – Eaves.

1. Eaves is a London-based charity established in 1977 that provides high quality housing and support to vulnerable women. We also carry out research, advocacy and campaigning to prevent all forms of violence against women.

1.1 At Eaves, we put the needs of women first. We are determined to give a voice to the most excluded women in society and provide direct, innovative services to support and empower women to help themselves.

1.2 Specialist services we provide include the London Exiting Action Project which supports women to exit prostitution, the Poppy Project, which provides support, advocacy and accommodation to women who have been trafficked, and the Amina project, a unique peer mentoring service for women who have experienced sexual violence.

2. We applaud the inclusion in the Bill of Clause 6, which criminalises paying another person for sexual services.

3. We also applaud the fact that the person from whom sexual services are being bought will not be criminalised for participating in this transaction. Our recent report, Breaking Down The Barriers (Bindel, J., Brown., L., Easton, H., Matthews, R. and Reynolds, L., 2012), identified criminalisation as one of the key barriers preventing women from exiting prostitution.) However, we feel that this should be made more explicit in the Bill, and that Clause 8 should be extended to apply to those who have been paid for sexual services, as well as victims of trafficking.

4. Criminalising the demand for prostitution is an important step in tackling human trafficking for sexual exploitation, in reducing the number of women involved in prostitution, and thereby the harm caused to women in prostitution, and in making a statement that women should have the right not to be bought for sex when made vulnerable, whether this vulnerability is caused by economic need or other difficulties.

4.1 In Sweden and in Europe, police have noted that the Swedish criminalisation of the purchase of sex has made Sweden an undesirable destination for traffickers, as it is too laborious for them to successfully exploit women in prostitution there without risking detection.[1]

4.2 Criminalisation of buyers has been shown in Sweden to have decreased the size of the on-street sex industry by half, prevented the growth of the off-street sex industry (compared to in neighbouring countries which did not criminalise demand, where this area has massively increased).[2]

4.3 Women involved in prostitution (both indoor and on-street) experience high levels of violence, including sexual violence. Our study, Breaking Down the Barriers, found that 71% of the women interviewed had experienced violence (physical, mental or emotional) from male buyers of sex. 50% of the women we interviewed also had experienced coercion to enter or to remain in prostitution. Conversely, a recent study from Norway has shown that serious violence against women involved in prostitution has decreased in the years since demand was criminalised.[3]

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1 Evaluation of the ban on purchase of sexual services
http://www.government.se/sb/d/13358/a/149231

2 Ibid

3 New research shows violence decreases under Nordic model
http://feministcurrent.com/7038/new-research-shows-violence-decreases-under-nordic-model-why-the-radio-silence/

4.4 The Swedish criminalisation of the purchase of sex has had a strong normative effect, resulting in the number of male sex buyers being reduced almost by half[4]. Research we conducted on male sex buyers in the UK in our report Men Who Buy Sex (Farley Bindel & Golding, 2009) also shows that in the UK the criminalisation of the purchase of sex would be a strong deterrent to buyers. (84% said they would be deterred by the prospect of prison time, and 80% by the prospect of a fine.)

5. However, it is of great concern to us that while excellent provision is made under this bill for the support of victims of trafficking, there is no mention of provision for, or obligation to provide, services to support women who are engaged in selling sex, in order to help them exit from prostitution.

6. Women attempting or wishing to exit from prostitution are faced with multiple barriers – many of which are or derive from the factors which pushed them towards prostitution in the first place. Our recent report, Breaking Down the Barriers identifies the key barriers women wishing to exit prostitution face.

6.1 These barriers were: problematic drug use (83% of women interviewed), housing problems (77%), poor physical and mental health (79%), experiences of violence as children leading to feelings of worthlessness (72%), criminalisation (49% prostitution related offences, 67% non-prostitution related), money – debts (52%) and disposable income that is hard to give up, coercion from others (50%), lack of qualifications or training (39%), early age of entry (32% before 18) leading to difficulty accessing services, and in imagining a different life.

6.2 Our study identified that specialised exiting programs can be a cost-effective and surprisingly quick way to help women to exit prostitution. Accordingly women should, regardless of legislative approach, be offered exiting services (whose funding should be protected by law) tailored to their own personal needs and circumstances, and coordinated between different services, to help them overcome the barriers they face to exiting.

7. We also feel that the resources for investigation outlined in Clause 7 should also apply to the investigation of cases where a person has paid for sex, as these cases have been found to be crucial for police in countries where the purchase of sex is criminalised, for the investigation of trafficking operations.

8. Women involved in prostitution experience many of the same vulnerabilities as women who are trafficked, and many of their experiences intersect with women who are trafficked, as our report, Breaking Down the Barriers, has shown. Accordingly they require many of the same services and protections both in general and when proceeding through the criminal justice system as a witness. Therefore we believe that Clauses 9, 10, 11 and 13 should be extended to include women who have been paid for sexual services as well as people who have been trafficked.

4 "A decrease in the number of sex buyers. According to a research report in 2008 from the Nordic Gender Institute, the number of sex buyers in Sweden has declined since the introduction of the sex purchase law. A poll was taken to determine whether the law had influenced individual patterns of behavior. The results, compared with those of a similar poll taken in 1996, revealed the following: the number of male sex buyers had decreased from 13.6 percent to 7.9 percent. Each poll questioned 2,500 individuals between 18 and 74 years of age." Targeting the Sex Buyer (Kajsa Claude and the Swedish Institute, 2010) http://www.si.se/upload/Human%20Trafficking/Targeting%20the%20sex%20buyer.pdf

Edwin Bell

Dear Raymond

I am writing to you to request your support, for those caught within Human Trafficking.

The true figure of those unfortunate people being trafficked, is impossible to accurately determine, but a staggering estimate of 27 million persons presently being trafficked worldwide, speaks for itself.

The criminal proceeds from Human Trafficking is second only to drug dealing, and these crimes are often interlinked.

In order to effectively combat human trafficking, it is vitally important that all parties act as one, to pass laws which provide strong support for victims of trafficking, and provide a strong deterrent to those in our society who support and engage in the misuse of clearly vulnerable persons.

I urge you to support all clauses within the Bill proposed by Lord Morrow, in particular clause 6.

There is evidence within Sweden and Norway, that laws including clause 6 wording, has had a positive effect in the support and protection of vulnerable persons within society, and in turn sends a clear strong message to those engaged in trafficking persons, particularly within the sex trade.

I would ask you to consider that the effect on **demand** for the sexual exploitation of vulnerable persons, will directly and positively affect the **supply** of persons trapped within this trade.

It is of particular note that the laws within Southern Ireland, are moving forward to make a positive stand against this plight within our world and society. Should we be lagging behind in our support for those unfortunate people caught within Human Trafficking?

Northern Ireland may become a safe environment to traffic people. Do we want that to be the case?

There are still those in our society who dismiss prostitution as something which will always be within our society, and therefore to be disregarded and swept under the carpet. Without prostitution, to provide a hidden cover, within which human trafficking thrives, vulnerable girls and children will continue to have their freedom and basic human rights stripped away from them.

Please ask yourself, is this the society, is this the world, we would want our children to grow up into, and perhaps become actual victims of trafficking themselves.

By supporting Lord Morrows bill a strong message will be sent to those engaged in the exploitation of vulnerable people within our world and society, and will provide a realistic and effective support for victims caught within this situation through slavery and through wider social deprivation and despair.

Please consider Lord Morrows bill carefully and support all clauses, particularly clause 6.

Yours Faithfully,



Edwin Bell.

Dear Sean

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Dear Rosie

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There are still those in our society who dismiss prostitution as something which will always be within our society, and therefore to be disregarded and swept under the carpet. Without prostitution, to provide a hidden cover, within which human trafficking thrives, vulnerable girls and children will continue to have their freedom and basic human rights stripped away from them.

Please ask yourself, is this the society, is this the world, we would want our children to grow up into, and perhaps become actual victims of trafficking themselves.

By supporting Lord Morrows bill a strong message will be sent to those engaged in the exploitation of vulnerable people within our world and society, and will provide a realistic and effective support for victims caught within this situation through slavery and through wider social deprivation and despair.

Please consider Lord Morrows bill carefully and support all clauses, particularly clause 6.

Yours Faithfully,



Edwin Bell.

Dear William

I am writing to you to request your support, for those caught within Human Trafficking.

The true figure of those unfortunate people being trafficked, is impossible to accurately determine, but a staggering estimate of 27 million persons presently being trafficked worldwide, speaks for itself.

The criminal proceeds from Human Trafficking is second only to drug dealing, and these crimes are often interlinked.

In order to effectively combat human trafficking, it is vitally important that all parties act as one, to pass laws which provide strong support for victims of trafficking, and provide a strong deterrent to those in our society who support and engage in the misuse of clearly vulnerable persons.

I urge you to support all clauses within the Bill proposed by Lord Morrow, in particular clause 6.

There is evidence within Sweden and Norway, that laws including clause 6 wording, has had a positive effect in the support and protection of vulnerable persons within society, and in turn sends a clear strong message to those engaged in trafficking persons, particularly within the sex trade.

I would ask you to consider that the effect on **demand** for the sexual exploitation of vulnerable persons, will directly and positively affect the **supply** of persons trapped within this trade.

It is of particular note that the laws within Southern Ireland, are moving forward to make a positive stand against this plight within our world and society. Should we be lagging behind in our support for those unfortunate people caught within Human Trafficking?

Northern Ireland may become a safe environment to traffic people. Do we want that to be the case?

There are still those in our society who dismiss prostitution as something which will always be within our society, and therefore to be disregarded and swept under the carpet. Without prostitution, to provide a hidden cover, within which human trafficking thrives, vulnerable girls and children will continue to have their freedom and basic human rights stripped away from them.

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Please consider Lord Morrows bill carefully and support all clauses, particularly clause 6.

Yours Faithfully,



Edwin Bell.

Equality Now

EQUALITY NOW

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Committee for Justice
Room 242, Parliament Buildings
Ballymiscaw, Stormont
Belfast, BT4 3XX
Submitted by email: committee.justice@niassembly.gov.uk

1 November 2013

Dear Members of the Committee

I am writing to you on behalf of Equality Now, an international women's rights organisation dedicated to ending violence and discrimination against women and girls around the world. We work to end trafficking in women and girls and partner with many grassroots organisations, several of whom are survivor-led, to end the commercial sexual exploitation of women and girls.

Equality Now welcomes the Committee's consultation on the *Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill* and appreciates the opportunity to contribute with the present submission.

Specifically, Equality Now strongly supports the criminalisation of the purchase of sex and the decriminalisation and support of those selling sex as measures to promote equality between women and men and to reduce prostitution and organised crime surrounding it, including trafficking for sexual exploitation. As such, this submission will focus mainly on Clause 6 of the Bill, with further comments on some of the other clauses.

Please find our detailed response below.

Thank you for your attention and for taking the above into consideration in your deliberations on the bill. If we may provide any further information or clarification, please do not hesitate to contact me.

Yours faithfully

Andrea Matolcsi

Programme Officer for Sexual Violence and Trafficking
Equality Now
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EQUALITY NOW WORKS FOR THE CIVIL, POLITICAL, ECONOMIC AND SOCIAL RIGHTS OF WOMEN AROUND THE WORLD

*Registered in England and Wales • Company Registration Number 4926476 • Registered Charity Number 1107613

Submission by Equality Now to Justice Committee of the Northern Ireland Assembly on the *Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill*

Clause 2 – Consent irrelevant for victim of human trafficking or slavery offences

While we do not believe that an individual can consent to their own exploitation, we consider it vital to include in the law an enumeration – in line with international and European legislation – of circumstances in which a victim's consent shall be considered irrelevant. Either in the text of the law or its explanatory note, it should be elaborated what types of situation can constitute 'vulnerability', including at a minimum, but not limited to, poverty, drug addiction etc.

Clause 3 – Aggravating factors

As a point of principle, we consider trafficking for sexual exploitation always to involve violence and harm and, as such, the penalties for trafficking-related crimes should be commensurate with its severity and damaging effects.

That said, if the revised legislation enumerates specific aggravating factors, we would propose to add when the perpetrator is related to, has legal guardianship over, or is in a position of trust or authority in relation to the victim.

Clause 6 – Paying for sexual services of a person

Equality Now fully supports the criminalisation of the purchase of sex and the decriminalisation of the selling of sex, or the so-called Nordic model, as has been implemented in Sweden, Norway and Iceland, and is currently under consideration also in the Republic of Ireland, France and Finland. Importantly, this is the approach advocated for by many survivors of commercial sexual exploitation worldwide[1].

Prostitution is based on, and sustains gender and other inequalities in society (the vast majority of people in prostitution are women and the vast majority of those paying for sex are men), and is directly and inextricably linked to human trafficking and organised crime. Legislation legalising/regulating prostitution has been shown in several locations to make monitoring of trafficking, organised crime and exploitation more difficult for police because crimes are now occurring under the cloak of the legal sector, while it furthermore has been shown in several places to fail to improve the health, safety and social standing of people in prostitution [2].

[1] See: http://www.equalitynow.org/take_action/sex_trafficking_action511; Westcott, L. (2013) 'Survivors Question U.N. Focus on Legalising Sex Work', IPS, 23 September, available at: http://www.ipsnews.net/2013/09/survivors-question-u-n-focus-on-legalising-sex-work/.

[2] See: Equality Now (2012), "Does Legalizing Prostitution Protect Women and Girls?", available at: http://www.equalitynow.org/sites/default/files/Does_Legalizing_Prostitution_Protect_Women_and_Girls_EN.pdf; Hunt, Jacqui (2013), "Debunking the myths: why legalising prostitution is a terrible idea", Huffington Post, 3 April, available at: http://www.huffingtonpost.co.uk/jacqui-hunt/legalising-prostitution-is-a-terrible-idea_b_2644337.html.

On the other hand, the Nordic model, ie legislation criminalising the purchase of sex, while decriminalising and providing services to those selling sex – including support in exiting – sends the clear message that women and girls are not for sale, thereby promoting gender equality. This approach is thus key to promoting gender equality, to reducing prostitution and crime surrounding it (including trafficking for sexual exploitation) and to protecting the most vulnerable in society.

At the level of the European Union (EU), it has been increasingly recognised, and reflected in EU policies, that there is an inextricable link between the demand for commercial sex and sex trafficking[3]. As such, reducing demand for commercial sex is an integral part to combating sex trafficking.

In Northern Ireland, as an NIA research paper notes, '[t]he current legislation which criminalises users of sexual services of trafficked women is not a sufficient deterrent', and the authors note that the evidence from interviews with key stakeholders 'suggested that the criminalisation of the procurement of sex in general would be more effective[4]'. In Finland, where a similar offence has been in force since 2006 (criminalising the knowing use of the services of a victim of trafficking), police have recently reported they are not able to effectively enforce the law, which has prompted renewed calls from the Finnish Minister of Justice to introduce a full ban on the purchase of sex in line with the Nordic model. Meanwhile, countries that have legalised and regulated prostitution, including Germany and the Netherlands, are increasingly recognising that their systems are failing to reduce sex trafficking and organised crime or to improve the situation of people in prostitution as envisaged by the legislation.

By criminalising the purchase of sex and decriminalising and supporting those selling sex, the Government of Northern Ireland would be sending the strong signal (already enacted by others – including Sweden, Norway and Iceland –that it will not tolerate sex or other inequality, that human beings are not for sale and that targeting the demand for sexual services is key to reducing prostitution and the trafficking supplying it. In amending its legislation in line with this approach, Northern Ireland would be taking the lead within Great Britain in enacting this progressive approach in combating sexual exploitation and sex trafficking, and at the same time promoting gender equality through tackling one of its most blatant manifestations and sustainers.

For the avoidance of doubt, we believe that those selling sex should not be criminalised and this should be made explicit in all relevant legislation while at the same time ensuring that those who profit from prostitution, including those who buy sexual services, are punished.

Finally, we propose that the provision also criminalise the use of sexual services paid for by a third party, and payment should include non-monetary payment such as food, shelter, alcohol, drugs, clothing, etc.

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[3] http://europa.eu/rapid/press-release_MEMO-13-331_en.htm; http://europa.eu/rapid/press-release_SPEECH-13-763_en.htm?locale=en

[4] Potter, M. and Egerton, L. (2012) 'Human Trafficking in Northern Ireland', p. 31.

Part 2 – assistance and support (Clauses 9-12)

Due to the devastating psychological and physical effects that trafficking and exploitation has on victims, and the time and resources necessary for even partial recovery, we would propose an extension to the time period for which victims are provided assistance and support, from three months to at least six months. Furthermore, we propose that, as set out in Article 11(2) of the European Directive, this assistance is not to be linked to victims' willingness to cooperate in any criminal investigations or proceedings.

In addition to the measures outlined in Articles 11 of the European Directive, we propose furthermore that, whenever possible, victims are given a choice to receive assistance – especially psychological assistance and counselling – from professionals of the same sex. For example, a victim repeatedly raped by men may experience renewed trauma at having to recount her experiences to a man, and/or may not feel secure enough to disclose any information at all. Furthermore, whenever possible survivors should have the choice to receive counselling/support from professionals trained in cross-cultural counselling, and/or from counsellors of the same community.

An integral pillar of the Nordic model, in addition to criminalising the purchase of sex and raising public awareness of the realities of prostitution, is providing exiting and other assistance to people in prostitution. The provision of exit and other support services to people in prostitution is vital. This must have a statutory foundation which guarantees government funding for such programmes and measures.

Part 3 – protection of victims of trafficking in human beings in criminal investigation and proceedings (Clause 13 and 14)

In addition to the measures outlined in Articles 12 and 15 of the European Directive, we propose that, whenever possible, victims are given the choice to be interviewed by law enforcement or prosecution professionals of the same sex, and staff that has received training on cultural diversity and/or staff from the same community.

Clause 15 – Prevention

We welcome the proposal for the Department of Justice to be required to publish an annual strategy. In order to help ensure an holistic approach, in addition to involving representatives of civil society (namely organisations carrying out victim assistance and prevention), this should be developed in cooperation also with other relevant government agencies (eg the Departments of Health, Social Services and Public Safety, Education, and Social Development).

Esclavitud XXI

Dear friends.

My name is Dani Banegas and I am the president of the anti-trafficking association Esclavitud XXI that operates in Spain.

As Esclavitud XXI we agree with the clauses presented in The Human Trafficking and Exploitation Bill for Northern Ireland. We believe that they are a good strategy to tackle human trafficking as we can see in countries like Sweden, Norway or Iceland.

Dani Banegas

Web: www.esclavitudxxi.org
Blog: www.esclavitudxxi.wordpress.com/
Canal Youtube: http://www.youtube.com/user/EsclavitudXXI
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Twitter: @EsclavitudXXI

European Women's Lobby

Dear Ms Darrah,

We have received your letter of 3 October offering us the opportunity to comment and express our views on the Human Trafficking and Exploitation Bill, introduced into the NI Assembly on 24 June 2013. I would like to thank you very much for your letter and your interest in our work.

I would like to comment on the article 6 of Part 1 "Paying for sexual services of a person". The EWL very much welcome the recognition, through this clause, of the direct link between the demand for prostitution, and sexual exploitation and trafficking.
You could propose to add, amongst the sanction, the possibility to ask the perpetrator to attend a course/workshop raising awareness on the reality of prostitution and on gender equality. This proposal should never be an alternative to the formal sanction – fine or imprisonment), but it should be considered as a complementary proposal to bring long-term change to mentalities.

In the section on aggravating factors (article 3, part 1), there could be a non-exhaustive list of situations where an adult is considered vulnerable: due to a disease, any form of disability, or being pregnant (non-exhaustive list).

We believe it would be important to guarantee, for victims, as long as the criminal procedure is taking place, access to temporary residence permit.

Part 4 about prevention should also include reporting on the measures prohibiting paying for sexual services of a person. Prevention should include sustainable and adequate funding for prevention activities, as well as for services to support and assist persons in prostitution and victims wishing to exit the system of prostitution. We strongly welcome the involvement in NGOs in the elaboration of strategies to raise awareness and reduce prostitution and trafficking.

Addressing trafficking and the demand for prostitution should be accompanied by a strengthening of the legislation criminalizing all form of pimping and procuring. We hope that this is foreseen in the discussions and proposals. We strongly welcome the bill and its provisions, and we want to stress on the crucial importance to address the system of prostitution and the phenomenon of trafficking from a broad perspective, that is including measures to support and assist victims, prevent women and girls from entering prostitution, and strong social services to provide exit programmes, alternatives and successful reinsertion into social life.

Would you have any question about those comments, please don't hesitate to contact me.
I thank you again for giving us the opportunity to comment on the bill.

Best regards,

Pierrette Pape
Policy Officer & Project Coordinator / *Chargée de politiques et Coordinatrice de projet*
Violence against women / V*iolences faites aux femmes*
European Women's Lobby / *Lobby européen des femmes*



Watch the campaign clip here!
Take the pledge for a Europe free from prostitution! Sign here

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The European Women's Lobby (EWL) is the largest umbrella organisation of women's associations in the European Union (EU), working to promote women's rights and equality between women and men. EWL membership extends to organisations in all 28 EU member states and three candidate countries, as well as to 20 European-wide bodies, representing a total of more than 2000 organisations.

Think before you print / Réfléchissez avant d'imprimer

Evangelical Alliance

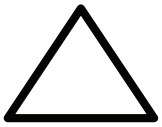
Comments by the Evangelical Alliance Northern Ireland on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Introduction

We appreciate the opportunity to respond to the Justice Committee at this stage. We thank our political representatives across the parties for their efforts to raise awareness of human trafficking and for the real progress in legislation and engagement in this area. Northern Ireland is leading the UK in terms of practical human trafficking policy development and we believe that this bill is an important contribution to this process.

It is to be commended that this bill aims to provide comprehensive services for victims of human trafficking and exploitation and to reduce demand for sex-trafficking.

At a very basic level, every type of people-trafficking involves three groups – traffickers, victims and users.



An effective response must deal with all three aspects of the trafficking triangle. We welcome the fact that this bill aims to strengthen legislation in respect of all three areas.

Victims must be rescued and offered appropriate care and rehabilitation. This bill puts forward important provisions in this regard which we welcome, particularly around the proposal for child trafficking guardians.

Traffickers must be pursued and brought to justice. The recent provision in the Criminal Justice Bill 2013 for all trafficking offences to be made indictable-only sends out a clear message about the severity of this crime. We welcome the aim of clause 4 to provide a further disincentive against traffickers.

However, what is often overlooked is the user, those who drive the demand for cheap goods, cheap labour or sexual services. We believe that this is the important area where we can begin to change culture and where more focus is required. We welcome the visionary aim of this bill to tackle sexual exploitation and the demand for sex trafficking head on.

Summary of Response

- We welcome and commend the important work carried out by our public representatives to date on human trafficking and exploitation.
- We welcome the genuine aims of this bill and commend the awareness of human trafficking and exploitation which the bill has raised. We welcome the public discussions about prostitution and the challenge this bill presents to the commoditisation of people.
- Clause 3 - We ask whether the legitimate aim of this clause might be best served within judicial guidelines.
- Clause 4 - Further clarity is required as to what are 'exceptional circumstances'.
- Clause 6 - We support the basic premise to reduce the demand for sex trafficking and to send out a message that people should not be bought for sexual services. In respect of clause 6 we have a number of suggested amendments to, or alternatives to, clause 6. Any change in this legislation needs to be followed up by a wide-ranging public awareness campaign, similar to the successful drink driving campaign that we have had here in Northern Ireland.
- Clause 8 – We feel this requires further consideration. Each crime committed by a victim of human trafficking should be considered in its own merit regarding the severity of the crime.
- Clause 10 – We very much welcome, particularly if clause 6 passes. It would be important to have practical support services in place to help those women who have been prostituted or engaged in prostitution and wish to exit the industry.
- Clause 11 – We question whether it is required. The procedures for criminal and civil compensation are already clear. Perhaps training is need for those who work with victims to help them point victims to the appropriate systems for compensation.
- Clause 12 - We welcome guardians for victims of child trafficking. We would propose that a similar concept is extended to all victims of trafficking.
- Clause 13 – How we treat victims of human trafficking is vital. We support measures to protect victims from re-traumatisation. We suggest this could be extended to other victims of abuse and exploitation.
- Clause 15 – We support the idea of publishing a regular strategy on human trafficking and exploitation.
- We welcome the focus this bill has created on the inherent worth of the human being. We encourage this opportunity to raise awareness of other instances of exploitation (e.g. domestic violence, child abuse and grooming, bullying etc.) under the same framework of the dignity of the human person and the value of healthy relationships.

Part 1

Clause 3 aggravating factors
We do not disagree with the list of aggravating factors and welcome efforts to ensure that those convicted of serious trafficking offences receive serious sentences. Our question is whether these aggravating factors should have a statutory basis or take the form of judicial guidelines? There is a danger of Clause 3 making judicial independence and separation of powers real or perceived issues. Sentencing is a matter for the judiciary and they have discretion to decide on and apply aggravating or indeed mitigating factors to their sentences. There is already an appeals mechanism for unduly lenient sentences in place for offences including trafficking. Perhaps it is better to leave the application of aggravating factors to the Judicial Studies Board Northern Ireland rather than direct intervention by legislators in this specific instance.

Clause 4 Minimum sentence for human trafficking and slavery offences
We welcome the aim behind clause 4 of the bill, which calls for a minimum sentence for human trafficking and slavery offences as a deterrent to traffickers. A minimum sentencing provision exists in Sweden's trafficking legislation and we suggested consideration of such a clause in our previous response to Lord Morrow's original consultation.

However in referring to section 2 of the clause, we would suggest the need for further clarity around the wording *'exceptional circumstances relating to the offence or the offender* '. We suggest that these exceptional circumstances include:

- The offender is under 18
- The offender was coerced themselves
- The offender was a vulnerable adult

We acknowledge the comments which we made about clause 3 and judicial independence and separation of powers. We acknowledge that this clause too could be viewed as an interference with the separation of powers. If the words 'exceptional circumstances' are sufficiently defined so as to allow judicial discretion then we are satisfied that a balance could be struck between the legislator and judiciary with regard to these offences.

More generally, if the words 'minimum sentence' are causing difficulty perhaps this clause should be worded in terms of a mandatory sentence. This is accepted language and accepted practice in the Northern Ireland criminal justice system. There are a number of precedents or examples of offences where there are mandatory sentences which in some circumstances are effectively minimum sentences. For example, if someone is convicted of causing death by dangerous driving there is a mandatory sentence of at least 2 years in prison. If someone is convicted of drink driving or dangerous driving the court has no discretion, with respect to banning the person from driving for a period. There are other scheduled offences where there is a mandatory way in which that person must be dealt with, e.g. certain sexual offences and the requirement to be placed on the sex-offenders register.

We support the overarching aim of this clause, namely; if someone is convicted of a trafficking or slavery offence, i.e. of taking away the freedom of another human being, the very least they should risk is their own freedom. This is an important

opportunity to show through legislation the value our society places on freedom and human dignity.

Clause 6 Paying for sexual services of a person
This clause has gained notoriety as the most controversial of the bill. We welcome the aim of this clause in the comprehensive context of the bill. We welcome this bold attempt to reduce the demand for paid sexual services which in turn fuels sex trafficking.

Like Lord Morrow, we are of the opinion that the existing offence, Article 64A of the Sexual Offences (Northern Ireland) Order 2008, is not an effective deterrent. At the moment those found guilty of using a prostitute subjected to force can be fined a maximum of £1000. This is a strict liability summary offence. There have been no convictions to date.

We are aware that the Department of Justice is currently considering extending the time limit for prosecution of this offence to three years. While we welcome this extension in time limit, there is no change proposed to the penalty. We believe the penalty of £1000 fine is inappropriate and remains an insufficient deterrent to men who are willing to purchase trafficked sex.

Our campaign
At this point we should declare that we have been running a campaign around this particular issue of reducing the demand for sex trafficking.

We believe that the current maximum penalty of a £1000 fine is disproportionately lenient given the gravity of the crime and human rights abuses concerned. So in April 2012 Evangelical Alliance Northern Ireland launched a campaign, which gained over 1100 signatures, calling on the Northern Ireland Assembly to change the law so that anyone convicted of using a trafficked person faces at least the possibility of prison and being put on the sex offenders register. Our aim was to use the possibility of a serious criminal conviction as a deterrent - a serious penalty for a serious crime.

Practically, this would involve turning the existing offence into a hybrid offence which extends the time limit and penalties involved. This gives greater flexibility and discretion as to how the offence is best prosecuted. An indictable offence would also need to be added to the schedule of offences which attract a period on the sex offenders register or we would encourage judicial consideration of a SOPO, a sexual offenders prevention order.

The aim of the sexual offenders register or indeed a SOPO is to protect the public, or any particular members of the public, from serious sexual harm from the Defendant. Some may argue that it would be an abuse of such instruments to use them in these cases of men who have purchased sexual services from a prostitute subject to force. There are clearly differences between rape and the crime of paying for the sexual services of a prostitute subjected to force (e.g. the strict liability nature of the offence, payment and the perceived consent involved at times). However, it can be argued that someone convicted of using the services of someone *forced* to have sex with them is a danger to particular members of the public who are selling sexual services and who are already particularly vulnerable to exploitation. These men are the willing participants in a crime of forced sex. Crimes such as exposure and voyeurism are scheduled offences which can attract a period on the sex offenders register. The crime of paying for forced sex is as serious, if not more so, than these offences.

We do not deny that this could potentially be a very serious conviction. We would refer to the offence of sexual relations with a minor as found in the Sexual Offences Order 2008 Articles 12-15. Whether the child consented or not to the act is irrelevant. A child under 13 does not, under any circumstances, have the legal capacity to consent to any form of sexual activity. The maximum penalty for rape or sexual penetration of a child under 13 is life imprisonment. For sexual assault the maximum penalty is 14 years. The key issue is the inability to consent. Lack of consent is also critical in the case of paying for sex with a prostitute subjected to force. A trafficked women has not consented and is therefore the victim of rape. The penalty should be comparable to that for rape, whereas the current legislation compares it to riding the train without a ticket (£1000 fine).

Our campaign occupies the same territory as Lord Morrow's bill in tackling the demand for sexual services. Our campaign focuses on retaining the strict liability nature of the existing offence and in targeting those who paid for the sexual services of someone subjected to force. Lord Morrow's clause 6 aims to simplify the matter and to criminalise payment for any sexual services. We welcome the clear and bold statement that clause 6 makes in saying to society that it is not acceptable to commoditise people by buying sex.

In light of our campaign and Lord Morrow's proposals we have suggested several possibilities for clause 6 and the law around paying for sexual services. The first two options involve amendments to the existing Article 64A. The third suggests amendments we would make to clause 6 as proposed by Lord Morrow. The final proposes a third way, a two tier offence which could help differentiate between prostitution and sex trafficking:-

- Simply amending Article 64A into a hybrid offence. The hybrid nature could give greater flexibility as to prosecution in terms of timescale and penalty.
- Amending Article 64A into a scheduled hybrid offence. Add the indictable offence to the schedule of offences capable of attracting a spell on the sex offenders register. We would argue that one of the penalties faced under indictment should be prison and would encourage consideration of a SOPO or use of the sex offenders register as a serious deterrent to purchasing forced sex.
- In terms of clause 6 as proposed we welcome it as a hybrid offence. We would encourage the timescale for prosecution to be extended to three years if tried summarily. This would avoid the situation where time runs out before a prosecution can be brought. We would also call for the consideration of more serious penalties.
- There has been some criticism that clause 6 conflates the issues of prostitution and trafficking. This could be countered by differentiating between the offence of paying for sexual services and paying for sexual services of someone subjected to force. This would take the form of a two-tier offence where the act of purchasing sex is illegal in both instances but if force is proved then the penalty becomes much more serious.

Clause 6 (5) states that the Department must raise awareness of this offence within the first year of it coming into effect. We certainly welcome this proposal. Without such awareness, the change in legislation alone is less likely to effect change in public attitudes and wider culture. The drink-driving and road safety adverts are great local examples of how an advertisement campaign can effectively compliment legislation in changing culture and social attitudes.

Efforts have been made to prevent human trafficking in Sweden through awareness raising campaigns to reduce the demand for sexual services, as shown in figure 1. During 2008, the local government in Stockholm conducted an awareness raising campaign targeted at taxi drivers and hotel and restaurant personnel who are likely to come into contact with victims of trafficking. Posters and television advertisements provided information on how the public can report suspected instances of trafficking.



Figure 1. Human trafficking campaign used in Sweden targeted at the purchasers of sex.

New York has also launched the “Let’s Call an End to Human Trafficking” campaign, aimed at raising awareness and encouraging New Yorkers to report potential trafficking situations. The campaign, which encourages New Yorkers to “See it, Know it, Report it,” features public service announcements in print and video. The campaign featured bus shelter advertisements and an anti-trafficking website to provide more information on the plight of human trafficking.

Building on the *blue blindfold* campaign, we could use the example of other countries to create an information campaign targeting the public at large and the purchasers or potential purchasers of sexual services. The goal is to stop men buying sex by changing their attitudes, by enabling them to see the worth of women and the dangers of the commoditisation of sex. The campaign should be highlighted on TV, social media, billboards, public toilets in bars and restaurants etc. It would also be useful to educate boys in the later years at school and young men through sports networks like the GAA, IRFU and IFA.

Clause 7 Requirements and resources for investigation or prosecution
Again we welcome the intentions behind this clause. There may be no issue whatsoever, however, we would cautiously raise the need for operational and budgetary independence for the PSNI, PPS and other agencies. We would also raise the danger of the precedent of prioritising resources for one particular issue in statute.

Clause 8 Non prosecution of victims of trafficking in human beings
Again we recognise the intention behind this clause, that a victim of human trafficking should not be unfairly penalised for criminal acts which they were forced to do.

However we have concerns about establishing a statutory basis for the non-prosecution of a group of people.

Although clause 9 defines the meaning of 'victim' for parts 2 and 3 of the bill, the term victim is not defined in Part 1 of the Bill. This creates an issue of defining the group of people to whom this non-prosecution is extended. Does it apply to suspected victims, to those who self-identity as victims, to those who co-operate with criminal investigations, to those who are successful in the NRM process or to all of these?

Crimes are often committed for a number of reasons which can be hard to separate. Clause 8 states that the criminal act must be 'as a direct consequence of the trafficking in human beings'. This could be difficult to prove in many instances. For example take someone who was trafficked into Northern Ireland 2 years ago and has since escaped from exploitation. However, they struggle to rehabilitate and often commit petty crimes while intoxicated, attributing this behaviour to their trauma. Will they be prosecuted? Will there be a time bar between trafficking and offences committed or does the offence only apply to offences committed while they were being trafficked?

We are also concerned that this immunity may create a hierarchy of victims whereby the non-prosecution of victims of human trafficking who commit crimes could diminish the justice, needs and views of their victims.

There are victims who may have risen to a position of power becoming a trafficker themselves. In these cases, victims may have committed a very serious offence such as trafficking, murder or rape. The intention of this clause is certainly not to provide an excuse for serious organised criminals despite their real or bogus claims of being trafficked themselves. It will be difficult in these very complex cases to decide which offences were committed because of coercion and the 'direct consequence of human trafficking' and those committed through free will and choice. The line between coercion and an individual's own responsibility needs to be drawn more clearly. Such cases should be considered on their own merits and having regard to the seriousness of the crime committed.

There could be a conflict of legal interpretation under the bill as it stands. If a trafficked person who has been coerced into becoming a trafficker themselves is convicted of a trafficking offence how are they to be treated? Under clause 4 they may be subject to a minimum sentence however under clause 8 they could actually argue that they should not have even been prosecuted at all.

We also have concerns as to how this clause would fit alongside the independent role of the PPS. In every case the PPS has discretion whether to prosecute or not built into the public interest element of the test for prosecution. There is a real danger that this clause could, or be seen to, interfere with the independence of the PPS.

Again we want to reiterate the fact that we welcome the intentions of this clause; to protect vulnerable people from prosecution for crimes which they would not have committed but for being trafficked. However, as it stands, we fear the clause could be abused by traffickers themselves. It may be better to highlight the broad aim of this clause to the PSNI, the PPS and the Judicial Studies Board Northern Ireland, leaving the decision to charge, prosecute or impose penalties to each of these organisations.

Part 2

Clause 10 Requirements for Assistance and Support
Some victims of trafficking and exploitation are freed in a police operation or by sudden events. However, we recognise that for many exiting a situation of trafficking or exploitation is far from a one-off process, but rather typified by stops and starts. Victims of human trafficking are often enslaved by physical or psychological dependence on the traffickers or users. This will compete with the practical difficulties to be faced on exiting, and the uncertain benefits of doing so without guarantees of formal and informal support.

Consequently, there is a need for a well-funded programme to support victims who want to break away from these dreadful circumstances in which they find themselves. Cooperation is required across Government departments in order to develop targeted "exit strategies" which includes health support, counselling, education, income support and retraining. We need to ensure that victims have the freedom to leave exploitative situations.

We would like to see this assistance and support extended to prostituted people and those exploited in providing sexual services. This is especially important if clause 6 comes into effect if we are to deal with the issue in a victim centred and holistic way. In Sweden, after the purchase of sexual services was criminalised, sixty percent of prostitutes took advantage of the well-funded programmes and succeeded in exiting prostitution. In addition to providing the incentive “for women wanting to escape prostitution to seek the assistance they need”, Swedish NGOs reported that prostituted women and girls “contact them in greater numbers to get assistance to leave prostitution”.

Such measures also act as a preventative for a future generation of marginalised individuals who could be vulnerable to entering the industry.

Clause 11
We would simply raise the question as to whether this clause is needed. Compensation Services, a branch within the Department of Justice has already set out procedures on how to apply for criminal injuries compensation. The procedures for compensation within civil law are quite different and are already provided for within the High Court and County Court rules. Perhaps instead of legislation, those working with victims would be best placed to point them towards the existing statutory frameworks within which to seek compensation for criminal injuries or loss within the civil law.

Clause 12
We welcome this provision for guardians for child victims of child trafficking and the role that they would provide in being a stable and safe influence.

We would suggest that this concept of guardians be offered to all victims of trafficking. The numbers of victims recorded are perhaps small enough that this would not be a large additional cost. The services already provided by Migrant Help, Woman's Aid and social services are excellent. However we feel there would be an added benefit to the victim in having a guardian assigned to them; one person they consistently deal with to steer them through the complicated legal, healthcare, immigration procedures they face. An adult 'guardian' may have different legal functions and a different name to avoid legal confusion. However the main roles as

described in 12 (2) a-k could easily be applied to the circumstances of any victim, child or adult.

Our reasoning for this suggestion is that those identified as victims are often in an extremely vulnerable position; perhaps far from home, without the English language, traumatised, confused etc. In the cases of children, a guardian would be appointed automatically. In the case of adults, could the services of a 'guardian' at least be offered? Again the value we see to the victim is in providing stability, helping them to co-ordinate the best care and to consistently join the dots.

Part 3

Clause 13 Protection of victims in criminal investigations
Again we warmly welcome the intention behind these clauses to prevent secondary victimisation and re-traumatisation. In relation to clause 13 we would simply raise the question as to whether primary legislation is the best format in which to set out these measures. Are there already robust procedures and guidelines in place within the PSNI and Police Ombudsman to deal with these concerns? Could this clause be extended beyond trafficking into investigations concerning other forms of exploitation? For example, domestic violence, abuse and intimidation.

Part 4

Clause 15 Prevention
We welcome the regular requirement to produce a strategy which will be made available to the public. Whether the strategy document is published every one, two or three years, the important thing is that there is flexibility to respond to changing trends in trafficking. It is essential that the strategy ties into up to date figures to give us the best picture possible of the number of victims, traffickers and users involved so that resources can be diverted effectively. Figures on the numbers of people reached through awareness-raising efforts are also important to shape the effectiveness of future strategies.

Again we would suggest that a strategy to raise awareness around human exploitation is not strictly limited to trafficking and slavery. These are grave abuses of freedom, human rights and the dignity of the person. However, we would suggest that raising awareness of these issues presents an even greater opportunity when engaging with the public or training frontline workers.

We propose that any training and awareness-raising begins with a framework around the dignity of the human person and why these issues matter. This consistent context and framework could help to change our culture into one where any exploitation of another person becomes much more difficult and unacceptable. From this point, very brief awareness and training can be given on recognising signs around a whole range of other issues such as domestic violence, abuse, bullying etc. (Recent figures on domestic violence show that 1 in 5 women in Northern Ireland have been affected and that the PSNI receive approximately 3 calls per hour on this issue).

The Evangelical Alliance, formed in 1846, is the largest body serving the two million evangelical Christians in the UK. We have a membership of denominations, churches, organisations and individuals. In the UK we work across 79 denominations, 3,300 churches, 750 organisations and thousands of individual members.

We are a founding member of the World Evangelical Alliance, a global network of more than 600 million evangelical Christians.

Our Northern Ireland office was established in 1987 and for the last 25 years we have been contributing to public life here.

Our mission is to unite evangelicals to present Christ credibly as good news for spiritual and social transformation.

Our 2 main objectives are bringing Christians together - Unity, and helping them listen to, and be heard by, the government, media and society - Advocacy.

We seek to benefit all of society by speaking biblical truth boldly with love.

For more information please contact:

The Evangelical Alliance Northern Ireland
First Floor Ravenhill House, 103-113 Ravenhill Road, Belfast, BT6 8DR
Public Policy Officer: David Smyth /d.smyth@eauk.org / 028 90 739 079

Extern

Human Trafficking & Exploitation (Further Provisions and Support for Victims) Bill 2013

Comments offered by Extern

Extern welcomes the fact that a more robust framework is envisaged to strengthen protection for people in a vulnerable position in Northern Ireland and criminalises the purchase of sex in Northern Ireland under Clause 6 of the Bill.

This Bill is notable in its determination to enable Northern Ireland to lead the way to challenge human trafficking and sexual exploitation.

Whilst concern has been raised pertaining to Clause 3 and 4 around the issue of Judicial discretion, the clarity offered for instance around aggravating factors is commendable. The intent to ensure with regard to Clause 5, that "forced begging" is expressly stated in statute offers transparency and clarity.

Whilst the intent in Clause 6 is plausible it must be noted that Extern concurs with the focus to reduce the incidence of trafficking into the sex industry but would not want prostitution to be driven underground or there to be a negative impact upon reporting. It is however valid to take note of research in the Netherlands where a report for the Ministry of Justice concluded that where prostitution has been legalised there has been no significant improvement in the situation of persons in prostitution and apparently emotional well-being is low.

Extern concurs with Clause 9 and 10.

Extern welcomes Clause 11 – compensation for victims of Trafficking – that guidance has been issued, victims are to be given advice on securing compensation and Northern Ireland is taking account of the European directive.

Extern notes that the Department of Justice is minded to legislate in areas covering Clauses 10, 13 and 14. This is welcomed.

Extern feels Clause 15 is important in terms of Prevention and the publication of a Strategy about awareness and reducing trafficking and slavery offences is vital.

Extern recognises that Human Trafficking and the sexual exploitation of women are human rights issues. Support measures for women are necessary to ensure their safety, health and well-being and significantly to encourage them to seek help without fear of criminalisation, marginalisation or deportation.

Extern is a charity that works in Northern Ireland and across the Island of Ireland. It works with vulnerable Children and Families, Adults affected by the Criminal Justice System and Adults who are vulnerable, who have had traumatic experiences and those experiencing Homelessness and who may also be challenged with addiction, mental health or physical health difficulties. Extern provides a service to refugees and asylum seekers who have been granted "Leave To Remain".

Fermanagh District Council

FERMANAGH DISTRICT COUNCIL

COMHAIRLE CHEANTAR FHEAR MANACH

Our ref: 1/mm

Brendan Hegarty B.S.Sc. F.C.A. Chief Executive

3 December 2013

Northern Ireland Assembly
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Dear Sir/Madam

At its meeting on Monday, 4 November 2013, Fermanagh District Council passed the following Notice of Motion:

Fermanagh District Council:

(a) Recognises that human trafficking and exploitation is a growing problem in Northern Ireland;
(b) Believes that existing statistics, regarding the number of people trafficked into Northern Ireland, do not reflect the scale of the problem and are only the "tip of the iceberg" in regard to the scale of the problem;
(c) Believes that no human being should be subjected to sexual exploitation, enforced labour or domestic servitude and condemns those who engage in human trafficking;
(d) Believes that more action should be undertaken to support those who have escaped from exploitation and punish those who exploit them and, accordingly,
(e) This Council calls on the Northern Ireland Assembly to progress the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill to its next stage, where evidence can be taken from those agencies who deal directly with the problems of sexual exploitation and human trafficking and further detailed consideration be given to the Provisions and for the Bill to be amended where considered appropriate.

I would be grateful if this matter could be given consideration.

Yours sincerely

Brendan Hegarty
Chief Executive

Townhall, 2 Townhall Street, Enniskillen, County Fermanagh, Northern Ireland, BT74 7BA
Tel: 028 6632 5050 Textphone: 028 6632 7969 Fax: 028 6632 2024
Email: fdc@fermanagh.gov.uk Web: www.fermanagh.gov.uk

Gillian Moore

Dear Paul

I am writing to you to request your support, for those caught within Human Trafficking.

The true figure of those unfortunate people being trafficked, is impossible to accurately determine, but a staggering estimate of 27 million persons presently being trafficked worldwide, speaks for itself.

The criminal proceeds from Human Trafficking is second only to drug dealing, and these crimes are often interlinked.

In order to effectively combat human trafficking, it is vitally important that all parties act as one, to pass laws which provide strong support for victims of trafficking, and provide a strong deterrent to those in our society who support and engage in the misuse of clearly vulnerable persons.

I urge you to support all clauses within the Bill proposed by Lord Morrow, in particular clause 6.

There is evidence within Sweden and Norway, that laws including clause 6 wording, has had a positive effect in the support and protection of vulnerable persons within society, and in turn sends a clear strong message to those engaged in trafficking persons, particularly within the sex trade.

I would ask you to consider that the effect on **demand** for the sexual exploitation of vulnerable persons, will directly and positively affect the **supply** of persons trapped within this trade.

It is of particular note that the laws within Southern Ireland, are moving forward to make a positive stand against this plight within our world and society. Should we be lagging behind in our support for those unfortunate people caught within Human Trafficking?

Northern Ireland may become a safe environment to traffic people. Do we want that to be the case?

There are still those in our society who dismiss prostitution as something which will always be within our society, and therefore to be disregarded and swept under the carpet. Without prostitution, to provide a hidden cover, within which human trafficking thrives, vulnerable girls and children will continue to have their freedom and basic human rights stripped away from them.

Please ask yourself, is this the society, is this the world, we would want our children to grow up into, and perhaps become actual victims of trafficking themselves.

By supporting Lord Morrows bill a strong message will be sent to those engaged in the exploitation of vulnerable people within our world and society, and will provide a realistic and effective support for victims caught within this situation through slavery and through wider social deprivation and despair.

Please consider Lord Morrows bill carefully and support all clauses, particularly clause 6.

Yours Faithfully,

Gillian Moore

Gregory Carlin

The Committee Clerk,
Room 242, Parliament Buildings,
Ballymiscaw, Stormont,
Belfast BT4 3XX.
committee.justice@niassembly.gov.uk

The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill - Committee Stage

1st November, 2013

Dear Committee

I campaigned as a colleague of Janice Raymond, Co-Executive Director, Coalition Against Trafficking in Women in relation to sex trafficking linked to lap-dancing clubs in Ireland and Scotland.

(Clause 6) I recommend the criminalization of buying sex re: prostituted women. I am supporting clause 6, for the same purpose Janice Raymond has endorsed the Swedish model, and because no other model anywhere else has been successful.

"Shall we tell women and girls in prostitution that they must continue to do what they do because prostitution is inevitable, or because that's the way men are? Sweden's law against the buying of "sexual services" has been a model that should be emulated elsewhere. There is an urgent need for governments to put male buyers of women and children in prostitution on the policy and legislative agenda, taking seriously that the problem of global sex trafficking will not be dented unless those who create the demand for prostitution are addressed and punished. Sweden has clearly chosen to resist the legalization/regulation of prostitution and to address prostitution as a form of violence against women." Public Hearing on "The Impact of the Sex Industry in the E.U," Committee on Women's Rights and Equal Opportunities, European Parliament January 19, 2004

(Clauses 15 and 16)

It is of paramount importance to anticipate and rectify infiltration of counter-trafficking structures by transgressive groupings and criminal elements. I advise the Department of Justice, PSNI, and OCTF, to develop mechanisms for identifying threats. I refer to measures studied and implemented by the International Organization for Migration as a template.

Respectfully submitted

Gregory Carlin

(Notes re: Clauses 15 and 16)

Infiltration of counter-trafficking work.

Preventing such infiltration is equally important as fighting organised crime with the tools of the criminal justice system. Some EU States are fairly advanced in implementing this new approach, while others only recently discovered it.

http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/index_en.htm

On Thursday 19 February 2004, IOM and the European Parliament co-hosted a meeting in Brussels to discuss the findings of a worrying report focusing on the infiltration by criminal networks of counter-trafficking structures in participating EU, EU candidate and selected neighbouring countries.

http://www.seetv-exchanges.com/archive/videos/coverage-of-events/2004/trafficking-in-human-beings.790.html

BELGIUM - Infiltration of Counter Trafficking Structures By Criminal Networks - On Thursday IOM and the European Parliament will co-host a meeting in Brussels to discuss the findings and action-oriented recommendations of a

14-month research and networking process focusing on the infiltration by criminal networks of counter-trafficking structures in participating EU, EU candidate and selected neighbouring countries.

The meeting will bring together representatives and experts from the European Commission, European Parliament, participating governments and non-governmental sector in order to develop further recommendations and counter-trafficking initiatives to be implemented at the European and international level.

The research, funded by the European Commission Justice and Home Affairs Directorate's Hippokrates Programme 2002, surveyed both law enforcement and other agencies working to combat human trafficking, and NGOs and other victim support agencies.

Of 100 expert participants surveyed, 25 claimed to have direct experience of infiltration. 37 had indirect experience with infiltration and were aware of specific cases. 91 out of 100 respondents admitted that a problem existed and recognized the need for measures to protect their structures from infiltration.

63 out of 100 respondents stated that they were concerned or very concerned by the problem of infiltration in their respective countries. 55 out of 100 believed that the risk of infiltration is likely to grow in the future.

The project, launched in January 2003, established a clear link between counter-trafficking work and infiltration and other security risks stemming from the activities of criminal organisations with a vested opposing interest. It also identified a need to respond to the problem of infiltration both to protect victims and counter-trafficking workers, and to uphold law enforcement and judicial systems.

The project above all calls for more co-operation, information exchange and research. Among its proposals for future action, it includes a comparative legislative and policy review; the setting up of multi-agency co-ordination groups to address related problems; establishment of specific legal provisions and measures to increase physical, judicial and data protection for victims and counter-trafficking personnel; the strengthening of relevant management practices; and a code of conduct for personnel.

Training and awareness raising activities are also recommended to support counter-trafficking practitioners including the judiciary, police, NGOs and social workers.

THE IOM HANDBOOK ON DIRECT ASSISTANCE FOR VICTIMS OF TRAFFICKING

http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/books/CT%20handbook.pdf

The guidance below is recommended at the initial contact with trafficking victims. All members of staff engaged in this type of activity should also bear in mind that proven cases of infiltration of victim assistance programmes have already been identified and staff should always remain alert to this risk.

Hamilton Consultancy

Submission to the Justice Committee on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

26th October 2013

Submission by Lois Hamilton, Solicitor : Profile/Specialist Experience

I qualified from Queens University, Belfast in 1992 with a law degree and worked in a small general legal practice in Belfast.

In or around 2000 I started work in the voluntary sector with the Law Centre (NI) and remained employed as a legal advisor in the Law Centre (NI) up until September 2013. At the beginning of October I set up my own private legal practice and consultancy working from home, Hamilton Consultancy.

My work in the Law Centre involved the provision of specialist legal advice to the general public, member organisations, legal professionals and other statutory, non-statutory and NGO groups. The work involved providing specialist training, detailed policy responses to a range of legal and policy issues, publication of written commentary and articles on a range of relevant issues and representation and advocacy on behalf of clients in the Northern Ireland (NI) Court system.

In October 2008 I was invited to represent the UK at a specialist international conference on compensation for victims of human trafficking in Washington D.C. as at that time I was only one of very few lawyers in NI who worked with victims. Since then I have continued to specialise in all work relating to human trafficking and have represented victims across the range of types of exploitation. In addition I have regularly spoken at conferences and events on the subject, provided detailed submissions on guidance in the area, including the recent Public Prosecution Service Guidance to Prosecutors in Human Trafficking cases. In addition I have provided specialist training across NI on the subject. I am considered to be a specialist in the field and continue to be consulted in all aspects of this horrendous crime including ongoing campaigning and lobbying for a cross-agency consistent approach to ensure that our criminal justice and immigration systems are victim centred. I continue to work closed with the Police Service of Northern Ireland to develop more effective responses in the identification, referral and investigation of these cases.

In 2010 I was approached to contribute and co-author a chapter on human trafficking in the NI devolved administration for a new UK wide Human Trafficking Handbook published by LexisNexis in 2011 and co-written by a range of UK specialists in the field.

In October 2011 I was awarded the Marsh Award by the Human Trafficking Foundation & Marsh Christian Trust for Outstanding Contribution to the fight against human trafficking which was presented to me in the House of Lords.

The Anti-Trafficking Monitoring Group (ATMG) was established in 2009 to coincide with the Council of Europe's Convention on Action against Trafficking in Human Beings entry into force in the UK. The ATMG is a coalition of nine UK-based organisations working to monitor the UK's compliance with the Convention, particularly with regard to protecting the human rights of trafficked persons. I actively contributed to the first two reports published in 2010 & 2011 respectively, Wrong kind of victim? One year on: an analysis of UK measures to protect trafficked persons & All Change: Preventing Trafficking in the UK. Following publication of both these reports I was actively involved, along with Amnesty NI, in lobbying the Department of Justice in relation to the recommendations contained in the reports. In 2012 ATMG requested that I conduct the research on its behalf in NI with all key stakeholders, NGOs and relevant

others into prosecutions in human trafficking cases in this jurisdiction. The third report by ATMG In the Dock: Examining the UK's Criminal Justice Response to Trafficking was published and launched at the Inner Temple, London in June 2013.

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

Introductory Comments:

This private member's Bill introduced by Lord Morrow in June 2013 has to a degree obtained an important objective in raising awareness of these crimes and opening up important discussions in respect of the NI criminal justice response to human trafficking and the protection measures in place for victims that are identified here including those for children. For that reason alone it is to be welcomed however the Bill as it stands is not sufficiently comprehensive and requires significant amendment to achieve its policy objective as set out in the Explanatory and Financial Memorandum. More importantly the controversial new offence set out in Clause 6 of Part 1 should be deleted in its entirety for the reasons I set out below.

However is the Bill the right approach to be adopted in NI at all?

It should be acknowledged that the Department of Justice has implemented significant and positive change in NI in this area and has continued to commit to keep human trafficking as a priority on the Organised Crime Strategy for 2012-2014. The second report of the Inter-Departmental Ministerial Group on Human Trafficking published in October 2013 gives an indication of the NI position in relation to its response when compared to the rest of the UK and it seems that there is clearly a need for much more work to be done in order to properly address the lack of referrals of victims here along with an incredibly low prosecution and conviction rate for specific human trafficking offences in NI . The most worrying aspect is the 63% decrease in referrals to the National Referral Mechanism (NRM) from NI despite an overall increase of 31% in England, 48% in Wales but only 3% in Scotland. This is set against indications that there is an upward trend in the referral of victims of human trafficking in the UK and this seems set to continue throughout 2013 with the threat of this crime remaining high. This is unacceptable and must be addressed as a matter of urgency to determine why victims are not being identified and referred to the NRM in NI.

The NI criminal justice response may require the implementation of new provisions such those proposed in Lord Morrow's Bill but what seems to be an obvious question and of serious concern is why there remains a continuing inconsistent "overall" approach being adopted throughout the UK in addressing the threat of human trafficking. This needs proper consideration by the UK Government if the threat of human trafficking is to be adequately responded to given is it widely accepted that the approach to tackling human trafficking needs to be robust, consistent and co-ordinated.

Human trafficking cannot be solely addressed as simply a criminal justice issue as it overlaps with key issues in immigration along with other areas of social justice including health, education and employment. The fact that Scotland and NI are devolved administrations results in an ad hoc overall UK wide response where the identification, referral and protection of victims , the conviction and prosecution of traffickers, measure to tackle demand, education and awareness programmes and the provision of support to victims appear to vary widely within the UK? Surely the response to human trafficking should be a UK wide one and any criminal justice response should be reflected equally in each area of the UK? The fact that NI, Scotland and England & Wales all have differing proposals currently underway will surely only lead to further confusion?

For example, trafficking specific measures in the Protection of Freedoms Act 2012 came into force on 6 April 2013 enabling the prosecution of trafficking offences committed abroad to

be prosecuted in England & Wales with different but equivalent legislation being adopted and implemented in Scotland and NI. The UK Government has recently announced that it is proposing a Modern Slavery Bill to consolidate existing offences on human trafficking and make law enforcement options administratively simpler and operationally clearer, including provision for Trafficking Prevention Orders, in England and Wales. In Scotland Jenny Marra, MSP, has this week published a consultation in connection with a draft proposed Human Trafficking (Scotland) Bill ? Surely further variations in the applicable legislation in different parts of the UK as it relates to human trafficking and related offences does not appear to be the simplest solution?

The intrinsic links to immigration law also pose difficulties in that the NI administration cannot legislate on these specific areas despite their impact on cases involving victims who have immigration status issues. These issues tend to cause significant concerns for victims in addition to concerns around criminal justice and therefore to adopt a holistic approach to addressing human trafficking I would submit that any Bill should incorporate all other relevant areas of law including other related offences that cannot be determined by the NI Assembly but are Westminster driven. This should also include the potentially wide ranging and applicable civil matters especially around breaches in the employment law field as they relate to human trafficking. What is required is an all encompassing human trafficking Bill that applies consistently and in a uniform manner throughout the UK to ensure that victims are treated equally no matter where they are identified.

It is also of note that healthcare is a devolved issue. It is submitted that we should be applying the provisions of Article 12 of the European Convention in relation to the provision of specialist counselling and assistance for victims of human trafficking identified here. The explanatory report at para 150 states ;

> *"The aim of the assistance provided for in sub-paragraphs a. to f. is to "assist victims in their physical, psychological and social recovery". The authorities must therefore make arrangements for those assistance measures while bearing in mind the specific nature of that aim."*

I would suggest, based on my specific experience in the representation of victims in NI , that there is a significant absence of appropriate and specialist support for victims here. Absence of rehabilitation is also a breach of article 14 of the UN Convention Against Torture, Inhuman and Degrading Treatment. It is unclear from the Bill what practical measures will be put in place despite the inclusion of Clause 10(1)(b)(v) (See the Helen Bamber Foundation report (published by the OSCE)http://www.osce.org/cthb/103085)

Specific Comment on the Contents of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Due to personal time constraints I only intend to make submissions on one specific provision within the Bill as this is the most controversial and unnecessary. The majority of the other clauses are to be welcomed and to a degree provide an opportunity to at least place the policy issues around human trafficking and the National Referral Mechanism on a domestic legislative basis. In particular the provisions around the provision of a guardian for child victims are to be welcomed and considered necessary although this is stated in light of what is set out above.

Clause 6: Paying for sexual services of a person

This clause distracts from the purpose of the Bill and should be deleted. Prostitution and human trafficking whilst related in some very specific instances are two very distinct issues and while it is accepted that some victims are found in prostitution it is not to say that all those involved in prostitution are exploited. In fact it is not at all clear what evidential basis this clause is based upon. Much has been made of the so called successful models in Sweden and/or Norway but NI is a distinct and separate jurisdiction with its own specific history, influencing factors and pressures. The criminalisation of prostitution in Sweden has not resulted in a reduction of human trafficking and recent cases have highlighted this.

To date very little, if any, detailed data is available around what actually occurs in NI in the provision of prostitution services. There has been little or no detailed research into this area and therefore it is submitted that to legislate in such generalised terms is quite frankly to put the "cart before the horse" so to speak! There is a very real risk that the inclusion of this clause could actually force victims further underground and create an impossible environment for anyone involved in the provision or purchase of sex who observes that there maybe a situation of exploitation coming forward or approaching the authorities for assistance. To suggest that criminalising prostitution will reduce human trafficking or that all prostitutes are exploited is simply not backed up by any accurate evidence or accurate data in NI.

More concerning is that it also appears that at no stage have those involved in sex work in NI been asked for their input in relation to this or in fact how this would impact on them or their lives or on family members. The Bill provides no suggestions or opportunities around exit policies or provisions for those who are currently involved in sex work but who want to leave. On the face of it the clause further stigmatises those involved in sex work and is likely to result in further marginalisation of those working in the sex industry.

Further the clause does not address at all the issue of demand. The suggestion that the creation of an offence for buying sex will reduce demand for trafficking is not supported by any evidence nor does it make sense. To create an offence does not negate or reduce demand and whilst it may deter some users for fear of prosecution it is likely that most will simply seek services elsewhere or the market will go further underground placing those involved at potential further risk of significant harm.

The clause simply results in a diversion from the key issues. In addition it is to be expected in the current economic climate that extra resources will not be made available to the PPS or PSNI and therefore it is likely that manpower and resources would actually be diverted away from the identification, referral, investigation and prosecution of human trafficking offences towards offences committed under this provision. This is a clear contradiction of purpose.

It is understood that the DOJ has now announced new research into prostitution in NI and therefore surely it would be prudent and sensible to await the findings on this before introducing or considering such important and significant legislation. We need a comprehensive set of accurate factual information and in depth impact assessment including the human rights impact on victims and others as it relates specifically to this jurisdiction before consideration of the introduction of such a significant change in our criminal legislation relating to the provision of sexual services.

Prostitutes are not per se victims of trafficking and the issues are distinct and different. Neither the EU Directive or the Protocol on trafficking require States to abolish all forms of prostitution but only child prostitution and prostitution that involves the use of persons subjected to force , threat, coercion and deception etc. In other words those individuals who are sexually exploited and not there as a matter of choice. To seek to regulate and legislate for offences to be committed simply by the purchase of sex goes too far and is a completely separate issue to that of human trafficking. Article 64A (Paying for sexual services of a prostitute subjected to force etc..) already exists and the proposal by the DOJ to extend the strict liability 6 month timeframe around this offence is to be welcomed given that has prevented successful prosecution under this offence to date.

It has been suggested by supporters of this clause that too much focus has been placed on this clause and I would concur with this but note that is exactly why it should be deleted. If it is not central to helping the plight of victims of human trafficking then why is it included at all.

Please note that I am more than happy to be considered to give oral evidence to the committee on the content of my submission but also in relation to any other content of the entire Bill if necessary or requested.

Hampshire Women's Institute

Dear Sirs,

I am a member of Hampshire Women's Institute. We in Hampshire are particularly concerned about prostitution, the reason for this is the health & safety of the girls concerned.

I have been round the world investigating at the different situations. I would hate to see situations like Amsterdam and Nevada in our Country. However, as I am sure you are aware New Zealand has decriminalised prostitution and while it is not the perfect solution, it is my opinion that this is definitely the right way to go. I understand that you are looking at criminalising the "man", you cannot compare Sweden with our country. I understand that there are approximately 1500 sex workers in Sweden, where over in the United Kingdom and Northern Ireland we have 80,000. Not all these people are on drugs, the majority are women have children who are trying to strive for a better life, I feel that by criminalising the man we are forcing it back underground, surely it is so much better to have this topic discussed out in the open. To my knowledge the Scottish & Irish parliaments have discussed what you are going to discuss and the motions have been defeated. Furthermore I have given you some examples of what is happening in Sweden:

Following the murders of two women, Dora Özer and Petite Jasmine, on the 9th and 11th of July, sex workers, their friends, families, and allies are coming together to demand an end to murders and other violence, criminalisation and stigma. Demos, vigils, and protests in front of Swedish and Turkish embassies or other symbolic places have been organised in 25 cities – for more info see: jasmineanddora.wordpress.com.

On 11 July, Petite Jasmine, a sex worker in Sweden, was murdered by her ex-husband. Her good friend and colleague Pye Jakobsson, Rose Alliance, commented:

> *"Our board member, fierce activist and friend Petite Jasmine has been brutally murdered. Several years ago she lost custody of her children as she was considered to be an unfit parent due to being a sex worker. The children were placed with their father regardless of him being abusive towards Jasmine.*
>
> *He threatened and stalked her on numerous occasions; she was never offered any protection. She fought the system through four trials and had finally started seeing her children again. Yesterday the father of her children killed her.*

Ms Jakobsson also commented on how the 1999 Swedish Sex Purchase Law which criminalised sex workers' clients, has increased discrimination and stigma against sex workers and led to tragedies of this kind:

> *"The law builds on the idea that women who sell sex are weak and exploited. Sex workers have been reduced to "victims" by professionals, politicians and others in authority. Abuse and discrimination has increased as a result, including police raids against sex workers in their own home. More sex workers are being judged as unworthy mothers and losing custody of their children with devastating consequences. Jasmine always said "Even if I can't get my kids back I will make sure this never happens to any other sex worker". We will continue her fight. Justice for Jasmine!"*

I do hope you will take some interest in this letter and I am extremely happy to discuss this further at any time.

Yours Sincerely

Jean Johnson

Hazel Allen

I want to express my support for this Bill which will help in the fight against human trafficking of vulnerable men, women and children in this province and against modern day slavery.

I realise that one of the main reasons for people being trafficked into Northen Ireland is for sex and so clause 6 making it illegal to pay for sex will be a huge step forward in the battle.

Thank you for taking the time to read this email,

Hazel Allen

Heather Hunter

I am writing to say how glad I am that we have this bill before the Assembly and to ardently support it. This piece of legislation seems to me to be a strong robust response to the abuse and exploitation of people who are the weakest and most vulnerable in our society, and if we are to hold our heads up high in this country we need to be looking after precisely these people most of all.

I welcome clause 6 which tackles the root cause of trafficking which is the sex trade, by criminalising paying for sex. This can help the sex workers who are forced into this trade and make men/women who are engaging in this act (many of them married) think again. It is imperative that strong action is needed in a society which has sexualized our children, has a multi-million pound porn industry and enslaved others as sex slaves. Lets send out a strong message that this country defends families and stable relationships and renders slavery obsolete.

Finally this bill will ensure that Northern Ireland meets the directives of the European Directive and European Convention.

Yours Faithfully

Heather Hunter

Hilary Lynas

Dear Sir/Madam

I am writing in a response to the call for evidence on the part of The Justice committee in relation to Lord Morrows Bill against Human Trafficking.

I write this short letter of support to coincide with today's EU Anti-trafficking Day.

I sincerely welcome this Bill and support it. I believe it will make a real difference in the lives of the most vulnerable men, women & children who are exploited in our province. I have met one young girl recently who has been trafficked into the sex trade through no fault of her own and her story is horrid and currently little has been done to counteract such cases.

Surely this Bill is absolutely necessary and will help ensure that Northern Ireland properly fulfils its international obligations as set out in the European Directive and the Council of Europe Convention.

I'm aware that this Bill covers many individuals who are working in Northern Ireland in industry of one kind or another and are victims of forced labour, working, for example, on mushroom or cannabis farms.

However, I recognise that the primary reason for trafficking into Northern Ireland is for sex and I particularly welcome clause 6 of Lord Morrow's Bill which criminalises paying for sex. Clause 6 would thereby directly address the principal source of demand for trafficking and do so more effectively than our current laws.

I feel it would be similar to Sweden's approach to dealing with prostitution and human trafficking and surely that's good, cause right now trafficking is nothing but slavery!

Through my short letter plus the many others you'll receive, I urge the members of the Committee to take on board this serious issue and to act favourably in the passing of this necessary Bill.

Already I'm sure you're aware that Lord Morrow's Bill has strong support throughout Northern Ireland.

Yours sincerely

Hilary Lynas (Mrs)

Immigrant Council of Ireland

Promoting the rights of migrants
Independent Law Centre
2 St Andrew Street
Dublin 2 Ireland
Web: www.immigrantcouncil.ie

The Committee Clerk
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT43XX.

16th October 2013

Dear Chairman and Committee Members,

RE: Submission to the Northern Ireland Justice Committee on the Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)

Turn Off The Red Light is a campaign to end prostitution and sex trafficking in the Republic of Ireland. It is being run by an alliance of 68 civil society organisations, unions, umbrellas and services with a joint representation exceeding 1.6 million people in Ireland. Trafficking of women and girls for the purposes of sexual exploitation is modern slavery and a prevalent from of exploitation. We believe that the best way to combat this is to tackle the demand for prostitution by criminalising the purchase of sex, and maintaining services to those affected by prostitution, ensuring that they are not criminalized and re-victimised.

We are deeply concerned about the spread of the prostitution industry, which exploits women and children in both the Republic of Ireland and Northern Ireland, and we wish to add our voice to those who are seeking to change our legal systems to criminalise the purchase of sexual services, while protecting the rights and dignity of those prostituted.

We therefore readily welcome the proposed Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims), and particularly Clause 6 of the Bill, which would specifically legislate for the criminalization of the purchase of sex, in line with the Swedish model. As we are currently lobbying the Republic of Ireland's Government to introduce similar legislation we would be very happy to see this measure come into effect in Northern Ireland.

Clause 6 substitutes a new Article 64A of the Sexual Offences (Northern Ireland) Order 2008 for the Article introduced by the Policing and Crime Act 2009. Rather than making it an offence to pay for sexual services if the person in prostitution is subjected to force (the current law), this new clause creates a simple offence of paying for sexual services. Attacking the commercialised sex business through the introduction of penalties for the buyer has proven to be an efficient approach that best responds to the nature of a trade which thrives on threats, abuse and violence. This is an essential part of the campaign against human trafficking as the majority of human trafficking victims are trafficked for the purposes of sexual exploitation.

While the Policing and Crime Act of 2009 was a welcome advance in Northern Ireland's anti-trafficking legislation its impact has been limited by the requirement of proof of coercion within a very limited timeframe. Thus, unsurprisingly, there have been no successful convictions made in Northern Ireland to date. [1] This failure is in line with that of other countries which have introduced similar legislation, such as Finland. Legislation which is

limited to proven victims of coercion has been shown to have little or no effect on demand for trafficked victims. In contrast to this in Sweden where it has been illegal to purchase any sexual service since 1999 there have been a significant number of convictions. There has also been a dramatic decrease in the numbers of people being trafficked into Sweden, as the demand for the market has decreased. The introduction of the 1999 legislation in Sweden, as well as similar legislation introduced later in Norway, have not resulted in the prostitution industry "going underground". Instead of this, countries like Sweden and Norway have seen a decrease in severe violence against those in prostitution.

Concerns that such legislation is unworkable have been disproved by the success of the Swedish model. We would suggest that in line with the Swedish experience the law should be implemented with a package of training and awareness-raising about the underlying principles, together with resources dedicated to enforcement and monitoring of the law for the Police Force of Northern Ireland.

Clause 6 also incorporates the human-rights-based approach to tackling exploitation and trafficking as laid out by the Council of Europe Convention on Action against Trafficking in Human Beings. As we view the buying of all sexual services as a form of exploitation of (predominantly) women and children, this bill will also address the gender inequality which the prostitution industry perpetuates in all societies. As well as this it will endeavour to protect the some of the most vulnerable in society, both victims of trafficking and others, from an industry which is dangerous and damaging, both mentally and physically.

We believe that every Government owes it to the vulnerable people and children trapped in prostitution, as well as to the society which they represent, to ensure that the demand for sexual services from exploited and trafficked individuals is effectively tackled.

We trust that the Northern Ireland Justice Committee will ensure that the public consultation is concluded in a timely manner, and we hope that the consultation will lead to the passing of the Human Trafficking and Exploitation Bill as soon as possible.

Thank you for your attention.

Yours sincerely,



Denise Charlton,
CEO Immigrant Council of Ireland

[1] Northern Ireland Assembly Question AQW 15565/11-15

IMPACT Trade Union

IMPACT trade union
Nerney's Court
Dublin 1

The Committee Clerk
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT43XX.

Friday 25th October 2013

Dear Chairman and Committee Members,

RE: Submission to the Northern Ireland Justice Committee on the Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)

IMPACT trade union has been campaigning against sex trafficking, which is the most widely spread form of human exploitation in the European Union. IMPACT is the largest public sector trade union in the Republic of Ireland. We represent 60,000 workers in health, local government, education, the civil service and a range of state agencies and former state enterprises.

Because sex trafficking is such a severe and widespread form of human exploitation, in which the human rights of trafficked persons are continually violated, we are active members of the Turn Off The Red Light Campaign[1][1], which aims at ending prostitution and sex trafficking in the Republic of Ireland. It is being run by an alliance of 68 civil society organisations, unions, umbrellas and services with a joint representation exceeding 1.6 million people in Ireland.

Trafficking of women and girls for the purposes of sexual exploitation is modern slavery and a prevalent from of exploitation. We believe that the best way to combat this is to tackle the demand for prostitution by criminalising the purchase of sex, and maintaining services to those trafficked and affected by prostitution, ensuring that they are not criminalised and re-victimised.

We are deeply concerned about the spread of the prostitution industry, which exploits women and children in both the Republic of Ireland and Northern Ireland, and we wish to add our voice to those who are seeking to change Northern Ireland's legislation to criminalise the purchase of sexual services, while protecting the rights and dignity of those prostituted.

We therefore readily welcome the proposed Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims), and particularly Clause 6 of the Bill, which would specifically legislate for the criminalisation of the purchase of sex, as a measure to discourage demand that fosters sex trafficking and exploitation through prostitution. As the Republic of Ireland Government considers the introduction of similar legislation, following a unanimous recommendation of the Joint Oireachtas Committee on Justice, we would be very encouraged to see this measure come into effect in Northern Ireland.

Attacking the commercialised sex business through the introduction of penalties for the buyer has proven to be an efficient approach that best responds to the nature of a trade which thrives on threats, abuse and violence. This is an essential part of the campaign against

1 [1] www.turnofftheredlight.ie

human trafficking as the majority of human trafficking victims are trafficked for the purposes of sexual exploitation.

We believe that every Government owes it to the vulnerable people and children trapped in prostitution, as well as to the society which they represent, to ensure that the demand for sexual services from exploited and trafficked individuals is effectively tackled.

IMPACT, in addition to our campaign partners, hopes that the consultation will lead to the passing of the Human Trafficking and Exploitation Bill as soon as possible.

Thank you for your attention.

Yours sincerely,

Niall Shanahan
Communications Officer

IMPACT trade union
Nerney's Court
Dublin 1
003531 817 1549 / 0035387 264 8092

Institute for the Study of Conflict Transformation and Social Justice

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

Written evidence submitted to the Justice Committee on November 1st 2013

Dr. Susann Huschke
Institute for the Study of Conflict Transformation and Social Justice
Queen's University Belfast
Email: s.huschke@qub.ac.uk

I would like to thank the Committee for the opportunity to provide written evidence in respect of the above Bill. I am a visiting fellow at the Institute for the Study of Conflict Transformation and Social Justice at Queen's University Belfast. I have been conducting anthropological research on sex work in Northern Ireland since June 2013, focusing particularly on health and the mental, emotional and social well-being of female, male and transgender sex workers. My study includes in-depth interviews with sex workers and service providers as well as a review of the existing literature on prostitution. I have furthermore conducted a three-year study on access to healthcare and the health status of undocumented migrants in Germany (2008-2011).

In the following, I would like to comment on **Clause 6** of the above-mentioned Bill. I propose that Clause 6 should be omitted from the Bill without replacement for the following reasons:

(1) Conflating sex trafficking and sex work

This Bill aims to increase support and service provision for victims of human trafficking. Clause 6, however, addresses the selling of sexual services involving two consenting adults. Trafficking for the purpose of sexual exploitation and sex work are **not the same issue**, and should not be conflated. In a recent study in the UK for which 100 migrant sex workers were interviewed, 6% felt that they "they had been deceived and forced into selling sex in circumstances within which they had no share of control or consent," while 94% explained that they worked in the sex industry because it allowed them to provide for themselves and their families financially, and that they had not been deceived or forced to do so.[1] Accordingly, the working conditions and the social, emotional and health-related needs of male, female and transgender (migrant and non-migrant) sex workers and those of victims of human trafficking differ significantly. The legislations and services directed at these different

[1] Mai, Nick (2009): Migrant Workers in the UK Sex Industry – Final Policy-Relevant Report. ESRC final project report. http://www.londonmet.ac.uk/research-units/iset/projects/esrc-migrant-workers.cfm

groups should take this diversity into account and address these issues separately in order to ensure that they actually have the intended effects (e.g. protection from violence, support for victims of violence, harm-reduction, provide exit strategies for those who wish to leave the sex industry).

(2) Existing legislation

Paying for sex with someone who is coerced (trafficked or otherwise) is **already illegal** in Northern Ireland. There is no need for a new law; there is need for better implementation of the existing laws and more support for victims.

(3) Reducing demand?

The clause aims to reduce or even abolish prostitution by "reducing demand". However, there is no evidence that criminalising the purchase of sexual services has this effect. Criminalising clients will not abolish sex work. According to the 2000 National Survey of Sexual Attitudes and Lifestyles, 3.5% of men in the UK had paid for sexual services in the preceding 5 years.[2] Only 5% of them said they would stop buying sexual services if it was criminalised.[3] The absence of a change in (expected) behavior may be partially due to the fact that many clients are simply not aware of the legal regulations around sex work in detail. As one Belfast-based sex worker told me in an interview: most of her clients are of the impression that prostitution is illegal in Northern Ireland. Therefore, further criminalising it would not change much. It would **not reduce the demand**.

(4) Harmful effects

Instead, criminalization of clients has **harmful effects** on those this bill aims to protect: women, men and transgender people selling sexual services in Northern Ireland. The harmful effects include:

a. Criminalising clients will drive the sex industry further underground. A recent report by UNAIDS argues that criminalization renders sex workers **less visible** and reachable for public health services and crime prevention. The report points out that in countries in which the selling and/or buying of sexual services is criminalised, sex workers' consequently have insufficient access to adequate health services including contraception, post-exposure prophylaxis

[2] Groom, Tamsin, and Rak Nandwani (2006): Characteristics of men who pay for sex: a UK sexual health clinic survey. In: *Sexually Transmitted Infections* 82(5): 364–367.
[3] TAMPEP (2009): Sex work, migration, health. A report on the intersections of legislations and policies regarding sex work, migration and health in Europe. Online: http://tampep.eu/documents/Sexworkmigrationhealth_final.pdf

following unprotected sex and rape, management of sexually transmitted infections and drug treatment.[4]

b. The more criminalised sex work is, the more **vulnerable** sex workers are to violence, including rape and physical and psychological abuse because they are discouraged from safety measures such as calling the police when they are threatened or working together with other sex workers for protection. Criminalization may also drive some sex workers to rely on organised crime gangs and pimps rather than working independently and thus renders them more vulnerable to (financial) exploitation and (emotional and physical) abuse.[5]

c. Stigma is one of the main issues (socially, emotionally and mentally) for sex workers. It increases their risk of mental health issues such as depression, stress, panic attacks, insomnia, eating disorders and manic depression, as for example a study conducted over the course of over 15 years with London-based sex workers has shown.[6] Criminalising clients would further increase the **stigma** attached to sex work as "immoral" and "criminal" behavior and would thereby increase the harm done to those who sell sexual services to earn a living.

(5) Alternative measures

Criminalization often goes hand in hand with reduced funding and support for **services beneficial to sex workers**, such as sexual health services and specialized social work, as the premise of the legislation is that prostitution should be eradicated altogether. Providing services to sex workers is then viewed as "encouraging prostitution".[7] However, if the intention of this legislation is to decrease violence and exploitation, proactive support measures should be considered as an alternative to increased criminalization. These measures could include, for example, outreach health services and exit programmes for those who want to leave sex work.

Also, instead of criminalising clients, they can be included in efforts to fight sex trafficking, as demonstrated by the success of the Crime Stoppers/Report Anonymously Campaign in the Netherlands, commissioned by the Ministry of

[4] UNAIDS (2009): UNAIDS Guidance Note on HIV and Sex Work. Online: http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf

[5] Harcourt, Christine, Sandra Egger and Basil Donovan (2005): Sex Work and the Law. In: *Sexual Health 2*: 121–128.

[6] Day, Sophie (2007): On the Game. Women and Sex Work. London: Pluto Press.

[7] Levy, Jay (2011): Impacts of the Swedish Criminalization of the Purchase of Sex on Sex Workers. Paper presented at the British Society of Criminology Annual Conference, Northumbria University, 4 July 2011.

Security and Justice and directed at clients of sex workers. Websites and posters were used to point out the signs of forced prostitution and trafficking and encouraged clients to report suspicions anonymously. A recent press release states that the number of reports on forced prostitution has increased with 76% since the start of the campaign in June 2012. The increase of reports on possible under-aged victims is especially striking: 1 in 4 reports concerned under-aged victims, compared to 1 on 8 in 2011. Between June 2012 and May 2013, the information received from anonymous calls contributed to the arrest of 12 traffickers and 4 solved cases.[8] A similar programme in Turkey was equally successful: three-quarters of the calls to a national anti-trafficking hotline came from sex worker's clients.[9]

[8] For more information see: http://www.meldmisdaadanoniem.nl/english/human-trafficking/
[9] TAMPEP (2009): Sex work, migration, health. A report on the intersections of legislations and policies regarding sex work, migration and health in Europe. Online: http://tampep.eu/documents/Sexworkmigrationhealth_final.pdf

International Committee on the Rights of Sex Workers in Europe



Amsterdam

November, 31st, 2013

Dear Lord Morrow, dear members of the Northern Ireland Assembly,

Please find below the submission from the International Committee on the Rights of Sex Worker in Europe. Our regional network includes 68 organisations of sex workers and organisations supporting sex workers rights in Europe and Central Asia.

We would like to limit our comments to the section 6 “Paying for sexual services of a person” of the Human Trafficking and Exploitation Bill.

The criminalisation of the purchase of sexual services or Swedish Model has been evidenced as not only having no proven effect in the reduction of clients, sex workers or trafficked persons but as having detrimental effects on the health, well-being and access to justice of sex workers themselves.

Most international organisations including World Health Organisations, International Labour Organisation and UNAIDS have explicitly called for decriminalisation of sex work.

The UN's Global Commission on HIV and the Law calls for countries to "repeal laws that prohibit consenting adults to buy or sell sex". This is based on evidence that shows that the criminalisation of the purchase of sex only endangers sex workers by forcing them to work underground, unable to report abuse to the police, and with difficult access to health services.

The International Committee on the Rights of Sex Workers is demanding that Northern Ireland join the growing list of countries that are committed to the realisation of sex workers’ human and labour rights. Only by consulting directly sex workers and our organisations, and by including us meaningfully in policy-making, will Northern Ireland be able to protect those facing exploitation and abuse.

We attached to our submission an extract from our guide providing evidence against the criminalisation of clients of sex workers. We are hopeful that you will look closely at the evidence contained in the reports quoted in this document and will base your decision on proven facts and not the dangerous ideology.

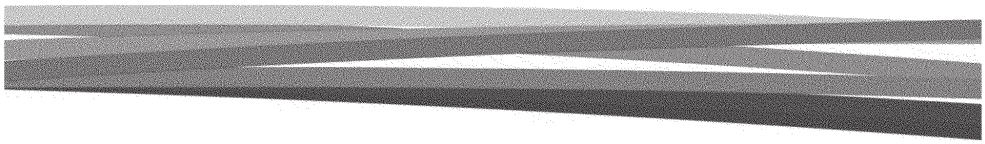
We are available to provide oral evidence if needed.

Sincerely,

Luca Stevenson,

Coordinator International Committee on the Rights of Sex Workers in Europe

www.sexworkeurope.org



WORKSHEET #3

The Evidence

1 Responses from Swedish Academics/Activists

Dodillet S., and Östergren P. 2011. The Swedish Sex Purchase Act: Claimed Success and Documented Effects

EVIDENCE: There is no evidence that the criminalisation of clients reduces the number of sex workers, or trafficked sex workers.

QUOTE: "The Sex Purchase Act **cannot** be said to have decreased prostitution, trafficking for sexual purposes, or had a deterrent effect on clients to the extent claimed"

EVIDENCE: Since the criminalisation of the purchase of sex street workers are being displaced, which makes it harder to know how many workers there are.

QUOTE: "According to social workers interviewed by the National Council for Crime Prevention (in Sweden) it has become more difficult to count the number of sex workers, since they have moved to side streets and cover a larger area than before."

EVIDENCE: Any potential decrease in street based sex workers can be attributed to other factors, such as the growing use of new technologies.

QUOTE: "This shift from street to indoor is believed not to be necessarily a result of the Sex Purchase Act, but part of the general trend of decreasing street-based prostitution. The Board of Health and Welfare writes that prostitution has developed along with society in that new technology is being used, and that buyers and sellers of sexual services now make contact with each other by multifarious means."

EVIDENCE: The Ban on the Purchase of Sex does not have the support of the general population, nor has it changed the views of the population.

QUOTE: "Newsmill, a much-read on-line debating forum, routinely lets their readers express their feelings ('mill') on the topics of the articles. As we write this article, 49 articles have been posted on the topic of the Sex Purchase Act where 13,855 people have voted on the question 'How do you feel about: The Sex Purchase Act', out of whom 81 percent are 'angry' with the ban, 12 percent are 'happy' with it, 4 percent are 'bored' and 1 percent are 'curious'.

EVIDENCE: The law has negative effects for sex workers, including increased stigmatisation.

QUOTE: "The most common and perhaps most serious complaint regarding sex workers themselves is that they experienced an increased stigmatisation after the introduction of the Sex Purchase Act. Some also state that the ban is a violation of their human rights, and many say that they don't feel fairly or respectfully treated: they are not regarded as fully worthy members of society. Sex workers object to the fact that they were not consulted in the making of the law. Since sex workers feel they are not able to influence their legal or societal situation, they feel powerless. And since the ban builds on the idea that women who sell sex are victims, weak and exploited, many claim that the law propagates stereotypical notions about sex workers."

EVIDENCE: Sex workers have less trust in the police and the legal system.

QUOTE: "The National Board of Health and Welfare report that due to the ban sex workers feel less trust in social authorities, police and the legal system, and half of the respondents in the RFSL 22 study say that the current legislation prevents people seeking help. Instead of the police being a source of protection, sex workers feel hunted by them, and are subjected to invasive searches and questioning."

WORKSHEET #3

EVIDENCE: Sex workers increasingly rely on third parties or 'pimps' to find clients.

QUOTE: "Some report that there is an increased dependency on third parties. Now that it is difficult to make direct contact with clients, sellers must rely on agents/pimps/helpers to find clients."

EVIDENCE: General working conditions have worsened.

QUOTE: "When the negotiating has to be done in a more rapid way (due to the clients' fear of being caught) it increases the risk of the sex worker making a faulty assessment of the client. And when clients are more stressed and frightened of being exposed, it is also more difficult for the seller to assess whether the client might be dangerous. On top of this, services have to be carried out in even more hidden, and therefore more unprotected, areas. There has not been any specific research done on levels of violence, but several sex workers express fear of increased violence, as well as an actual increase. This situation is summarised by one of the informants in the Norwegian Inquiry:

"The Swedish street prostitutes experience a tougher time. They are more frequently exposed to dangerous clients, while the serious clients are afraid of being arrested. Prohibition will never be able to stop the purchase and sale of sex. It could only make conditions worse for the prostitutes. They have less time to assess the client as the deal takes place very hurriedly due to fear on the part of the client. They (the prostitutes) are exposed to violence and sexually transmitted diseases. If the client demands unprotected sex, many of the prostitutes cannot afford to say no. Harassment by the police has increased and the clients no longer provide tip-offs about pimps, for fear of being arrested themselves. The social workers working on the streets have problems reaching them. They (the prostitutes) use pimps for protection." – *The Norwegian Ministry of Justice*

LINK: http://www.plri.org/resource/swedish-sex-purchase-act-claimed-success-and-documented-effects

WORKSHEET #3

2 Responses from International Academics/ Activists

Jordan, A. 2012. The Swedish Law to Criminalize Clients: A Failed Experiment In Social Engineering

EVIDENCE: There is no evidence that the criminalisation of clients reduce the number of sex workers.

QUOTE: "In the thirteen years since the law was enacted, the Swedish government has been unable to prove that the law has reduced the number of sex buyers or sellers or stopped trafficking."

LINK: http://rightswork.org/wp-content/uploads/2012/04/Issue-Paper-4.pdf

Mai, N. 2009. Migrant Workers in the UK Sex Industry

EVIDENCE: Criminalisation of clients drives the sex industry underground and leaves sex workers vulnerable to exploitation.

QUOTE: "The research evidence strongly suggests that current attempts to curb trafficking and exploitation by criminalising clients and closing down commercial sex establishments will not be effective because as a result the sex industry will be pushed further underground and people working in it will be further marginalised and vulnerable to exploitation. This would discourage both migrants and UK citizens working in the sex industry, as well as clients, from co-operating with the police and sex work support projects in the fight against actual cases of trafficking and exploitation."

EVIDENCE: The majority of migrant sex workers are not victims of trafficking, but consciously decide to work in the sex industry

QUOTE: "Interviews with 100 migrant women, men and transgender people working in all of the main jobs available within the sex industry and from the most relevant areas of origin (South America, Eastern Europe, EU and South East Asia) indicate that approximately 13 per cent of female interviewees felt that they had been subject to different perceptions and experiences of exploitation, ranging from extreme cases of trafficking to relatively more consensual arrangements. Only a minority, amounting approximately to 6 per cent of female interviewees, felt that they had been deceived and forced into selling sex in circumstances within which they had no share of control or consent."

"Contrary to the emphasis given in current public debates about cases of trafficking and exploitation, the evidence gathered in the context of this project shows a great variety of life and work trajectories within the sex industry. Almost all interviewees felt that the most advantageous aspects of their involvement in the sex industry were the possibility of earning considerably more money than in other sectors, the availability of time and the possibility of meeting interesting people, travelling and experiencing new and challenging situations. In most cases by working in the sex industry migrants were able to bridge an important gap in their aspirations to social mobility and felt that they were able to enjoy better living and working conditions."

"Most interviewees underlined that they enjoyed respectful and friendly relations with colleagues and clients and that by working in the sex industry they had better working and living conditions than those they encountered in other sectors of employment (mainly in the hospitality and care sectors). The research shows that most interviewees consciously decided to work in the sex industry and that only a minority felt that they had been forced to."

LINK: http://www.londonmet.ac.uk/research-units/iset/projects/esrc-migrant-workers.cfm

WORKSHEET #3

3 Responses from the International Community

Ham, J. 2011. Moving Beyond 'Supply and Demand' Catchphrases (Global Alliance Against Trafficking in Women)

"Evidence has shown that 'end demand for prostitution' approaches:

- Don't reduce trafficking;
- Ignores trafficking into other sectors;
- Tends to rely more on ideology rather than sound evidence;
- Confuses trafficking with sex work;
- Increases stigma against sex workers; and
- Is more focused on punishing men who pay for sexual services, rather than protecting women's rights."

EVIDENCE: The term 'tackling demand' does not take into account the diverse trajectories into the sex industry for migrant workers, nor does it consider sex workers' agency.

QUOTE: "Defining trafficking as a simplistic 'supply and demand' equation can miss other nuances that could help clarify anti-trafficking strategies. Commodifying workers through demand-based discourses ignores the very real fact that trafficked persons, migrants and workers are people who are trying to access labour and migration opportunities for themselves and their families, and who often try to resist or escape exploitative situations.

EVIDENCE: The 'supply/demand' framework, which reduces sex work and trafficking to the 'demand' of 'men' does not reflect the complex interplay of supply and demand in contemporary sexual labour markets.

QUOTE: "Many casual references to supply/demand and trafficking seem to assume that demand creates the supply, particularly in debates about prostitution. However, supply and demand can impact each other in various ways; for example, supply can shape demand. For example, studies have found that a supply of cheap domestic workers can create a 'need' that wasn't otherwise there."

LINK: http://www.gaatw.org/publications/MovingBeyond_SupplyandDemand_GAATW2011.pdf

Global Alliance Against Trafficking in Women, (ed). 2007. Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World

EVIDENCE: In a decriminalised environment sex workers face reduced levels of exploitation and better working conditions. Outreach is also made easier, facilitating the identification of those potentially trafficked or exploited.

QUOTE: "The state government of New South Wales (which encompasses Sydney) has reported that the decriminalisation of sex work has reduced levels of exploitation of women who had previously worked for illegal and organised crime syndicates. As a result, the government reports that migrant women working in the sex industry enjoy safer working conditions and increased access to health services [...] Decriminalisation and legalisation of the sex industry in Australia has meant sex worker outreach groups are able to provide advice on issues to migrant women in the sex industry much more easily, such as information about laws, health and safety. As a result, it is easier to identify and assist those in trafficking or exploitative situations. Those who wish to move out of the sex industry can obtain information about their options and be linked with support groups, education courses or skills training programmes."

LINK: http://www.gaatw.org/Collateral%20Damage_Final/singlefile_CollateralDamagefinal.pdf

WORKSHEET #3

Global Commission on HIV and the Law. 2012 Risks, Rights and Health

EVIDENCE: The Swedish Model displaces street workers and increase vulnerability to violence of all sex workers.

QUOTE: " Street-based sex work is halved in Sweden, according to the police, but the sex trade remains at pre-law levels. It has simply moved further underground, to hotels and restaurants, as well as the Internet-and to Denmark. The Swedish State Criminal Department warns that the sex trade may now be more violent. Especially worrying is the trade in foreign women, who often fall entirely under the control of pimps."

EVIDENCE: The implementation of the law is not workable

QUOTE: "Sweden's Alliance of Counties says that resources for social work are scarce, as the money has been siphoned to policing. In spite of over 2,000 arrests, only 59 clients have been reported suspected of buying occasional sex. Only two have been convicted, after pleading guilty. No one has been jailed, and only low fines have been imposed, as per the law. Evidence to prove a crime is nearly unattainable. Workers do not consider themselves to be victims and are almost always unwilling to testify against their clients."

LINK: http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/hiv-and-the-law--risks--rights--health.html

UNAIDS Guidance Note on HIV and Sex Work. 2012

EVIDENCE: Criminalisation of sex work, including criminalisation of clients drives the sex industry underground and limit sex workers access to health and other services,

QUOTE: "In many countries, laws, policies, discriminatory practices, and stigmatising social attitudes drive sex work underground, impeding efforts to reach sex workers and their clients with HIV prevention, treatment, care and support programme."

EVIDENCE: Criminalisation of sex work, including criminalisation of clients, does not reduce the number of sex workers.

QUOTE: "There is very little evidence to suggest that any criminal laws related to sex work stop demand for sex or reduce 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. 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. Where sex work is criminalised, sex workers are very vulnerable to abuse and extortion by police, in detention facilities and elsewhere."

LINK: http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublication/2009/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf

International Justice Mission

Response to Consultation on The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

October 2013



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Section

1. Who we are
2. IJM's work globally
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4. Comments on the Bill
5. Recommendations



www.ijmuk.org www.ijm.org

1. Who we are

International Justice Mission is a human rights agency founded in 1997 that brings rescue to victims of slavery, sexual exploitation and other forms of violent oppression. IJM lawyers, investigators and aftercare professionals work with local officials to secure immediate victim rescue and aftercare, to prosecute perpetrators and to ensure that public justice systems - police, courts and laws - effectively protect the poor

Our Vision: To rescue thousands, protect millions and prove that justice for the poor is possible.

Our Mission: To protect the poor from violence by rescuing victims, bringing the criminals to justice, restoring survivors to safety and strength, and helping local law enforcement build a safe future that lasts.

2. IJM's work globally

IJM investigators, lawyers and social workers intervene in individual cases of abuse in partnership with state and local authorities to ensure proper support for the victim and appropriate action against the perpetrator. Such collaboration is essential to obtain convictions against individual perpetrators and to bring meaning to local laws that are meaningless if not enforced.

IJM casework covers:

- Sex Trafficking
- Forced Labour
- Sexual Violence
- Citizenship Rights
- Illegal Property Seizure
- Illegal Detention

Obviously, our work in the first two areas, is most pertinent to this Bill.

In all of our casework, IJM has a four-fold purpose:

1. Victim Relief
IJM's first priority in its casework is immediate relief for the victim of the abuse being committed.

2. Perpetrator Accountability
IJM seeks to hold perpetrators accountable for their abuse in their local justice systems. Accountability changes fear expectations: When would-be perpetrators are rightly afraid of the consequences of their abuse, the vulnerable no longer need to fear them.

3. Survivor Aftercare
IJM aftercare professionals and trusted local aftercare partners work to ensure that victims of oppression are equipped to rebuild their lives and respond to the complex emotional and physical needs that often arise as a result of abuse.

4. Structural Change
IJM seeks to prevent abuse from being committed against others at risk by strengthening the community factors and local judicial systems that will deter potential oppressors. Based on our extensive casework, we are able to clearly identify where the justice system is broken, enabling us to work with governments and local authorities to put in place transformation projects to fix the underlying structural issues e.g. lack of training of local police and judicial authorities in India and Cambodia.

Our approach, the different types of casework and global presence gives us a unique insight into:

- The nature and causes of human trafficking on a global as well as local level
- The abuse of power and human rights for personal gain or gratification, by those with power, influence and money against the poor and the outcasts of society.
- The consequences of trafficking from a victim's perspective, their needs for physical and emotional healing and the support required to enable them to reintegrate successfully into society and ensure they are not re-trafficked.
- An understanding of the signs of trafficking and the dynamics of this type of criminal activity
- How governments and local communities are responding to the challenge and what they, as well as individuals and businesses, can do to help bring this global injustice to an end, support the victims and prevent future abuses.

Since 2005, IJM has provided relief to over 15,000 victims of slavery, sex trafficking and violence around the world

3. Successful Anti-Slavery Models and Learning

Project Lantern

After four years of IJM casework in Cebu, the Philippines, outside auditors found a stunning **79% reduction in the availability of children for commercial sexual exploitation**. Thousands of girls who would have been exploited never will be because now, traffickers and pimps know they will pay for their crimes.

To see this change, IJM partnered with local and regional government agencies and non-government organisations to reduce the availability of trafficked women and children for sexual exploitation in commercial sex establishments and street-based prostitution in Metro Cebu.

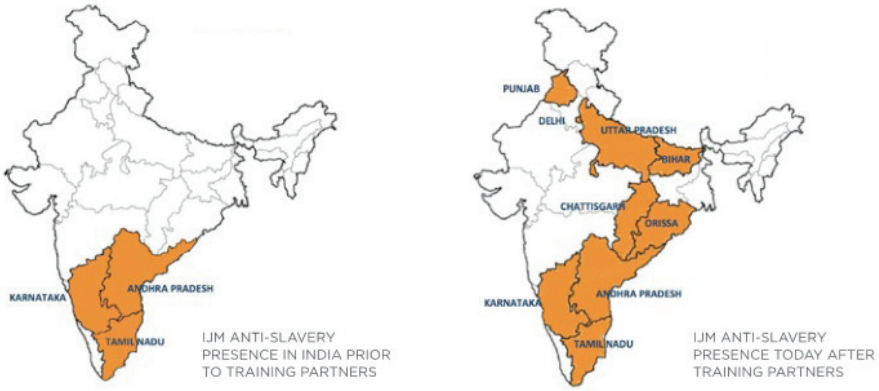
IJM built the capacity of local counter-trafficking stakeholders in Cebu through training and professional support. It was believed that as a result of this, local authorities would arrest more suspected sex traffickers and there would be an increase in the number of successful prosecutions of sex traffickers. IJM believed that the increase in arrests and prosecutions of suspected traffickers in Cebu would result in an increased expectation of criminal sanction for individuals engaged in sex trafficking, deterring existing and potential sex traffickers. The deterrent impact of effective law enforcement would cause a significant reduction in the number of individuals engaged in trafficking in Cebu and a corresponding reduction in the number of women and girls victimized by sex traffickers. The results reflected these beliefs were correct.

Structural Transformation

IJM currently has eight field offices working on structural transformation models to fix broken justice systems in Guatemala, Kampala (Uganda), Chennai and Bangalore (India), Cambodia, and Cebu, Manila and Pampanga (The Philippines).

India – Forced Labour Slavery

In India, we have already seen success in IJM's largest anti-slavery advocacy campaign ever, with goals to significantly improve the enforcement of anti-slavery laws and create additional accountability mechanisms for states and districts. With financial support from Google, we are now training other organisations across India in our approach and methods of operation, to address the problem nationally. Through this, we are multiplying the impact of our casework. We have helped rescue more than 1,300 people since the project began in early 2012 (figure correct at end of June 2013).



4. **Comments on The Human Trafficking and Exploitation and (Further Provisions and Support for Victims) Bill**

We would like to begin by thanking the Justice Committee for taking into account this submission in your considerations of the above Bill. The issue of human trafficking is one which must be tackled – but also one which, we believe, can be tackled. Therefore, we welcome the new Bill as one which gives, among other things, greater protection for victims and greater clarity on the definition of trafficking.

We would make the follow specific comments:

- Clause 2 – We welcome this clarity on the situations where consent is nullified, especially point 2(1)g which sets out that consent is nullified when the victim was a minor at the time of the offence. Minors should always be categorised as victims whatever the circumstances. Further, in IJM's work, we have found that in instances of human trafficking, the use of force to keep victims from leaving the situation of exploitation or speaking out, and the use of deception to trap them into exploitation in the first place, is widespread. Trafficking often occurs because perpetrators believe they can abuse the power they have over someone else, and can do so with impunity.

- Clause 3 – As shown through our work detailed above, such as Project Lantern, we have seen evidence that stronger law enforcement acts as a deterrent to existing and would-be traffickers. Therefore, we welcome this clarification of aggravating factors, which would potentially increase sentences and therefore, act as a stronger deterrent.

- Clause 4 – In our experience, prison sentences for traffickers play a major part in deterring existing and would-be traffickers. We would argue that two years for the minimum sentence is not strong enough, and may not provide the incentive required. For example, in the Philippines, where we have seen great progress as outlined above, the penalty for trafficking of children is automatically life.

- Clause 7 – We welcome a commitment to the provision of specific training and equipment for those involved in investigating and prosecuting human trafficking crimes. In IJM's work, we have found that training is required to help various stakeholders understand the specific nuances of human trafficking, the specific needs of victims and international best practices.

- Clause 8: We strongly support holding harmless victims of the crime of trafficking who are compelled to commit criminal acts that are a direct consequence of their status as a trafficking victim.

- Clauses 10 and 11 – IJM has found that adequate aftercare for victims is essential in order to mitigate the risks of re-exploitation. Therefore, we welcome this clause which would lengthen the time a victim is entitled to assistance, and ensure assistance includes accommodation, counselling, education (if a minor) and compensation. We welcome the provision that does not make victim assistance conditional on their willingness to participate in prosecution. In IJM's field experience, victims should never be forced to

participate in prosecutions though many are willing to do so once they have received appropriate counselling and aftercare services.

- Clause 12 – We agree that minor victims of exploitation need extra arrangements to protect them during the process after rescue. As subsection 7(b) sets out, training specific to the needs of a trafficked child is essential for any individual taking on the role of a guardian.

- Clause 13 – A victim of trafficking has usually gone through an immense amount of trauma, and so it is vital to put practical measures in place which will minimise the risk of further distress during any investigations and court proceedings. We agree that the use of communication technologies, where possible, is necessary, as well as minimising the number of interviews a minor victim has to undergo. We have found in our work that victim testimony is often key in securing convictions, so measures to make this process easier for victims are to be embraced.

- Clause 15 – Part of the work of our Belfast-based office is to educate on issues of global injustice and violence against the poor more generally, and human trafficking particularly. Our focus is on the global issues as that is what our work entails, but this helps people to see a bigger picture of how Northern Ireland fits on the global stage. We would be happy to be part of any consultation with the Department looking into the effectiveness of efforts in this area.

5. Recommendations

In summary, our recommendations are based on our 16 years of experience of tackling the issue of human trafficking (specifically for sexual and labour exploitation) around the world. We have seen much progress as a result of our holistic response which entails working with law enforcement to perform victim rescue, aftercare of survivors of trafficking, prosecution of those involved in carrying our trafficking crimes and working with local governments to address underlying structural issues.

In light of that, we reiterate:

- Our support for this Bill, especially those clauses outlined above, as it incorporates an holistic approaching, for example, strengthening both law enforcement but also aftercare for survivors.
- Under Clause 4, we would recommend a stronger minimum sentence than two years.

International Union of Sex Workers

Dear Lord Morrow,

I have been a sex worker for 20 years and spent a large proportion of that time working in Ireland, so I am speaking from a base of vast experience. Over those years I have met very many other sex workers, who worked on the street, in flats and as escorts. They also came from a very wide socio-economic background.

In all of my years of working I have never once encountered a sex worker who was forcibly trafficked into the trade. In my experience the driving force behind some of the sex workers who would rather not be working is poverty and drug addiction and as a society it is these we should be looking at, not consenting adults having sex.

Having regard to clause six, the legislation is already in place to target and convict traffickers and it is already an offence to have sex with a coerced sex worker. When the United Nations have called for the decriminalisation of sex work around the world then I struggle to see why you would seek to contravene their expertise and research.

I'm aware that my colleagues at SCOT-PEP have provided you with an excellent essay with why the Swedish model is at best, problematic, but in summary -

- There is no evidence of a reduction in the number of clients.
- There is no evidence of a reduction in the number of sex workers.
- There IS evidence of an increase in danger to sex workers through more dangerous forms of work and less opportunity to screen clients.
- There IS evidence of higher rates of STI's/ HIV because outreach services find it so much more difficult to reach the most vulnerable to assist with condom provision and testing.

Lord Morrow, I call on you to remove clause six as a matter of urgency and introduce in it's place a new charge of aggravated trafficking , allowing those of us who choose to work in the sex industry to continue to do so in safety.

Further, I ask that I may be allowed to give evidence in person to the NIA.

Yours sincerely,

Laura Lee
International Union of Sex Workers

From: Laura Lee [mailto:laurasdelight@googlemail.com]

Sent: 12 January 2014 13:42

To: Austin, Marie

Subject: Re: Committee for Justice - Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Hi Marie,

The IUSW is a small closed organisation of ten individuals, none of whom are based in NI.

Douglas Fox no longer has anything to do with the organisation.

I want to make it clear that although our membership is small, on a personal level I have a lot of support from many individual sex workers who contact me regularly and thank me for my efforts in speaking up for them, particularly in the North of Ireland.

Thanks,

Laura

On 10 January 2014 13:28, Austin, Marie <Marie.Austin@niassembly.gov.uk> wrote:

Great - thanks

From: Laura Lee [mailto:laurasdelight@googlemail.com]

Sent: 10 January 2014 13:29 To: Austin, Marie

Subject: Re: Committee for Justice - Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Hi Marie,

I have emailed away for the information and will be back to you asap.

Best,

Laura

On 10 January 2014 11:58, Austin, Marie <Marie.Austin@niassembly.gov.uk> wrote:

Hi Laura – hope you got home safely yesterday.

At the meeting you agreed to forward information on how many members are in the union and how many members are from Northern Ireland. I should be grateful if you could forward this information to me as soon as possible.

Many thanks

Marie

Irish Congress of Trade Unions

STRONGER TOGETHER
CONGRESS
Irish Congress of Trade Unions
Northern Ireland Committee

The Committee Clerk
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT43XX.

23 October2013

Dear Chairperson and Committee Members,

RE: Submission to the Northern Ireland Justice Committee on the *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)*

On behalf of the Irish Congress of Trade Unions, I am writing to support the Human Trafficking and Exploitation Bill which is currently at consideration stage within the Assembly.

The Irish Congress of Trade Unions passed a motion at its 2010 Women's Conference which called for action on human trafficking for the purposes of sexual and labour exploitation to be taken in both jurisdictions of this island (see attached motion). The motion also called for support for the Turn off the Red Light Campaign. We are now active members of theTurn Off the Red Light[1], which aims at ending prostitution and sex trafficking in the Republic of Ireland. It is being run by an alliance of 68 civil society organisations, trade unions, umbrellas and services with a joint representation exceeding 1.6 million people in Ireland.

Trafficking of women and girls for the purposes of sexual exploitation is modern slavery and a prevalent from of exploitation. We believe that the best way to combat this is to tackle the demand for prostitution by criminalising the purchase of sex, and maintaining services to those trafficked and affected by prostitution, ensuring that they are not criminalized.

We are deeply concerned about the spread of the prostitution industry, which exploits women and children and we are adding our voice to those who are seeking to change our legal systems in Northern Ireland to criminalise the purchase of sexual services, while protecting the rights and dignity of those prostituted.

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4-6 Donegall Street Place
Belfast BT1 2FN
T +44 (0)28 9024 7940
F +44 (0)28 9024 6898
info@ictuni.org

www.ictuni.org

[1] www.turnoffthered light.ie

Head Office: Irish Congress of Trade Unions, 32 Parnell Square, Dublin 1 T +353 1 8897777

General Secretary David Begg

STRONGER TOGETHER
CONGRESS
Irish Congress of Trade Unions
Northern Ireland Committee

We therefore welcome the proposed *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)*, and particularly Clause 6 of the Bill, which would specifically legislate for the criminalization of the purchase of sex, as a measure to discourage demand that fosters sex trafficking and exploitation through prostitution.

However we would endorse the call made by the Women's Aid Federation NI for support systems to be put in place to enable women and children to get routes out of sexual exploitation:

We strongly urge that further support measures are necessary to support women in prostitution to ensure their safety, health and well-being and to encourage them to seek help without fear of criminalisation, marginalisation or deportation, as well as the creation for clear routes out of prostitution for those that wish to exit. The Swedish or Nordic model is based on simultaneous criminalisation of buyers and decriminalisation of those in prostitution and this support-based model is essential to the success of Clause 6. Excerpt from NI Women's Aid Federation Position Paper.

We would also like to add our voice to the other groups and organisations endorsing the broad thrust of the position expressed in the Women's Aid position paper which reflects, we believe the majority opinion on this matter. Recently more than 53 MEPs and over 200 Civil Society organisations came together to issue the *Brussels Call: Together for a Europe Free from Prostitution*. By supporting the Brussels' Call, MEPs make it clear that prostitution is a form of violence against women and a violation of human dignity. They address 6 key recommendations to EU Member States: the suppression of repressive measures against prostituted persons; the criminalisation of all forms of procuring; **the development of real alternatives and exit programmes for those in prostitution;** the prohibition of the purchase of a sexual act; the implementation of policies of prevention, education, to promote equality and positive sexuality; the development of prevention policies in the countries of origin of prostituted persons.[2]

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Head Office: Irish Congress of Trade Unions, 32 Parnell Square, Dublin 1 T +353 1 8897777

General Secretary David Begg

[2] http://www.womenlobby.org/news/ewl-news/article/meps-call-for-a-europe-free-from-5535?lang=en

STRONGER TOGETHER
CONGRESS
Irish Congress of Trade Unions
Northern Ireland Committee

Attacking the commercialised sex business through the introduction of penalties for the buyer has proven to be an efficient approach that best responds to the nature of a trade which thrives on threats, abuse and violence. This is an essential part of the campaign against human trafficking as the majority of human trafficking victims are trafficked for the purposes of sexual exploitation.

While the Policing and Crime Act of 2009 was a welcome advance in Northern Ireland's anti-trafficking legislation its impact has been limited by the requirement of proof of coercion within a very limited timeframe. Thus, unsurprisingly, there have been no successful convictions made in Northern Ireland to date. [3] This failure is in line with that of other countries which have introduced similar legislation, such as Finland and the Republic of Ireland at present. Legislation which is limited to proven victims of coercion has been shown to have little or no effect on demand for trafficked victims.

We believe that every Government owes it to the vulnerable people and children trapped in prostitution, as well as to the society which they represent, to ensure that the demand for sexual services from exploited and trafficked individuals is effectively tackled.

We trust that the Northern Ireland Justice Committee will ensure that the public consultation is concluded in a timely manner, and we hope that the consultation will lead to the passing of the *Human Trafficking and Exploitation Bill* as soon as possible.

We are happy to discuss the content of this submission further.

Yours sincerely,

Peter Bunting
Assistant General Secretary, Irish Congress of Trade Unions.

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[3] Northern Ireland Assembly Question AQW 15565/11-15

Irish Country Women's Association

Turn Off the Red Light
End Prostitution and Sex Trafficking in Ireland

Irish Countrywomen's Association
Bantracht na Tuaithe

58 Merrion Road, Ballsbridge, Dublin 4, Ireland

The Committee Clerk
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT43XX.

8th October 2013

Dear Chairman and Committee Members,

RE: Submission to the Northern Ireland Justice Committee on the *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)*

The Irish Countrywomen's Association has been campaigning against sex trafficking, which is the most widely spread form of human exploitation in the European Union. For this reason we are active members of theTurn Off The Red Light[1], which aims at ending prostitution and sex trafficking in the Republic of Ireland. It is being run by an alliance of 68 civil society organisations, unions, umbrellas and services with a joint representation exceeding 1.6 million people in Ireland.

Trafficking of women and girls for the purposes of sexual exploitation is modern slavery and a prevalent from of exploitation. We believe that the best way to combat this is to tackle the demand for prostitution by criminalising the purchase of sex, and maintaining services to those trafficked and affected by prostitution, ensuring that they are not criminalized and re-victimised.

We are deeply concerned about the spread of the prostitution industry, which exploits women and children in both the Republic of Ireland and Northern Ireland, and we wish to add our voice to those who are seeking to change our legal systems in Northern Ireland to criminalise the purchase of sexual services, while protecting the rights and dignity of those prostituted.

[1] www.turnofftheredlight.ie

We therefore readily welcome the proposed *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)*, and particularly Clause 6 of the Bill, which would specifically legislate for the criminalization of the purchase of sex, as a measure to discourage demand that fosters sex trafficking and exploitation through prostitution. As the Republic of Ireland's Government considers the introduction of similar legislation, up on unanimous recommendation of the Joint Oirechtas Committee on Justice, we would be very encouraged to see this measure come into effect in Northern Ireland.

Attacking the commercialised sex business through the introduction of penalties for the buyer has proven to be an efficient approach that best responds to the nature of a trade which thrives on threats, abuse and violence. This is an essential part of the campaign against human trafficking as the majority of human trafficking victims are trafficked for the purposes of sexual exploitation.

While the Policing and Crime Act of 2009 was a welcome advance in Northern Ireland's anti-trafficking legislation its impact has been limited by the requirement of proof of coercion within a very limited timeframe. Thus, unsurprisingly, there have been no successful convictions made in Northern Ireland to date. [2] This failure is in line with that of other countries which have introduced similar legislation, such as Finland and the Republic of Ireland at present. Legislation which is limited to proven victims of coercion has been shown to have little or no effect on demand for trafficked victims.

We believe that every Government owes it to the vulnerable people and children trapped in prostitution, as well as to the society which they represent, to ensure that the demand for sexual services from exploited and trafficked individuals is effectively tackled.

We trust that the Northern Ireland Justice Committee will ensure that the public consultation is concluded in a timely manner, and we hope that the consultation will lead to the passing of the *Human Trafficking and Exploitation Bill* as soon as possible.

Thank you for your attention.

Yours sincerely,

Liz Wall
National President

[2] Northern Ireland Assembly Question AQW 15565/11-15

Jackie McKelvey

Dear Paul

I am writing to you to request your support, for those caught within Human Trafficking.

The true figure of those unfortunate people being trafficked, is impossible to accurately determine, but a staggering estimate of 27 million persons presently being trafficked worldwide, speaks for itself.

The criminal proceeds from Human Trafficking is second only to drug dealing, and these crimes are often interlinked.

In order to effectively combat human trafficking, it is vitally important that all parties act as one, to pass laws which provide strong support for victims of trafficking, and provide a strong deterrent to those in our society who support and engage in the misuse of clearly vulnerable persons.

I urge you to support all clauses within the Bill proposed by Lord Morrow, in particular clause 6.

There is evidence within Sweden and Norway, that laws including clause 6 wording, has had a positive effect in the support and protection of vulnerable persons within society, and in turn sends a clear strong message to those engaged in trafficking persons, particularly within the sex trade.

I would ask you to consider that the effect on **demand** for the sexual exploitation of vulnerable persons, will directly and positively affect the **supply** of persons trapped within this trade.

It is of particular note that the laws within Southern Ireland, are moving forward to make a positive stand against this plight within our world and society. Should we be lagging behind in our support for those unfortunate people caught within Human Trafficking?

Northern Ireland may become a safe environment to traffic people. Do we want that to be the case?

There are still those in our society who dismiss prostitution as something which will always be within our society, and therefore to be disregarded and swept under the carpet. Without prostitution, to provide a hidden cover, within which human trafficking thrives, vulnerable girls and children will continue to have their freedom and basic human rights stripped away from them.

Please ask yourself, is this the society, is this the world, we would want our children to grow up into, and perhaps become actual victims of trafficking themselves.

By supporting Lord Morrows bill a strong message will be sent to those engaged in the exploitation of vulnerable people within our world and society, and will provide a realistic and effective support for victims caught within this situation through slavery and through wider social deprivation and despair.

Please consider Lord Morrows bill carefully and support all clauses, particularly clause 6.

Yours Faithfully, Jackie McKelvey.

Jackie McKelvey.

Ardstraw Against Trafficking

Dear Stewart

I am writing to you to request your support, for those caught within Human Trafficking.

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The criminal proceeds from Human Trafficking is second only to drug dealing, and these crimes are often interlinked.

In order to effectively combat human trafficking, it is vitally important that all parties act as one, to pass laws which provide strong support for victims of trafficking, and provide a strong deterrent to those in our society who support and engage in the misuse of clearly vulnerable persons.

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Please ask yourself, is this the society, is this the world, we would want our children to grow up into, and perhaps become actual victims of trafficking themselves.

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Please consider Lord Morrows bill carefully and support all clauses, particularly clause 6.

Yours Faithfully,

Jackie McKelvey

Jackie McKelvey.

Ardstraw Against Trafficking

Janet Black

To the Members of the Justice Committee, with regards to Lord Marron's Human Trafficking and Exploitation Bill.

I am writing to support the above mentioned Bill, and would appreciate your consideration of my views. As a mother and grandmother of both genders - and basically as a human being! - I feel we need to do all and everything in our power to

protect the young and the vulnerable from any form of abuse and exploitation. I believe that Lord Morris's Bill is a step towards our society beginning to act in care of them.

Yours sincerely,

Janet Black

Janis White

The Justice Committee
Parliament Buildings,
Ballymiscaw,
Stormont,
Belfast,
BT4 3XX

Dear Sir/ Madam,

I am writing in support of Lord Morrow's **Human Trafficking and Exploitation** Bill . I would greatly welcome this Bill as I feel it would protect the vulnerable and the victims of trafficking, and also prosecute the perpetrators of this heinous crime. I would especially support Clause 6 as this would prosecute those who pay for sex which is ultimately the main reason why trafficking is taking place in Northern Ireland. If we can criminalise paying for sex, it should impact the perpetrators by reducing the demand here. I know this will not stop trafficking and that it will still exist in other parts of the world, but we would be sending out a strong message that Northern Ireland will not have any part of it. This is a despicable crime akin to slavery in our own country, and needs strong action to have any effect. I applaud Lord Morrow for this Bill and wholeheartedly support it.

Yours sincerely,

Janis White

Jason Blean

Dear Justice Committee,

I very much welcome and support the above Bill and would like to express my support of it as a response to the call for evidence Stage of this Bill's passage through the Assembly.

I believe this Bill will assist greatly in ensuring Northern Ireland properly fulfills its international obligations as set out in the European Directive and the Council of Europe Convention, the directive giving good guidelines but not sufficient legal powers to states to enforce its key principles.

Along with many others I acknowledge that the main reason for trafficking into Northern Ireland is for sex and therefore welcome clause 6 of Lord Morrow's Bill in particular, which criminalises paying for sex. Clause 6 would thereby directly address the primary source of demand for trafficking and do so more effectively than our existing laws.

I believe this Bill is absolutely necessary because it will make a tangible difference in the lives of some of the most vulnerable men, women and children who are exploited in our province.

Sincere regards,

Jason Blean BSc MA (TESOL).

Joan Lister

To The Committee Clerk

I wish to add my support for Lord Morrow's Human Trafficking Bill and in particular clause 6 which criminalises paying for sex. If this were to be passed it would surely greatly reduce the demand for trafficking and safeguard the many victims of this practice. I therefore call upon the government of Northern Ireland to fulfill its international obligations as set out in the European Directive and the Council of Europe Convention.

Yours sincerely

Mrs. Joan Lister

John and Ann Steer

Dear Sirs,

just a short email in support of the above proposed Bill.

We hope that the Northern Ireland Assembly will seek to protect a form of slavery that so often goes unnoticed but is extremely controlling and a nightmare for those caught up in it.

The Bill if passed will send a message to the perpetrators, and is likely to galvanise other countries which have a similar problem, but have not faced up to it yet.

Thank you for the opportunity to make our concerns known.

Yours faithfully,

John and Ann Steer.

Joseph Rowntree Foundation

Response to the Committee for Justice

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

Submission by the Joseph Rowntree Foundation

November 2013

The Joseph Rowntree Foundation (JRF) is one of the UK's largest social policy charities.

We fund a UK-wide research and development programme to reduce poverty and strengthen communities across all ages. Our strategic aims address:

- The root causes of poverty and injustice
- Housing, communities and cities
- The challenges and opportunities of our ageing society

We seek to inform policy and practice based on high quality evidence, and to inspire positive social change. More information about JRF can be found at www.jrf.org.uk

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Introduction

The Joseph Rowntree Foundation welcomes the opportunity to comment on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, in the NI Assembly, during the Committee for Justice's scrutiny of the legislation.

JRF has supported a programme of research and policy development work which aims to improve the evidence base on forced labour in the UK and improve support for victims of forced labour. The programme has focussed on forced labour and labour exploitation in the UK, including trafficking for labour exploitation. The research JRF has funded is based on sectors where the work itself is legal e.g. cleaning, picking crops, catering and construction.

We have only included commentary on the questions in the consultation that are relevant to JRF's evidence base on forced labour in the UK. JRF has not undertaken projects that cover trafficking for sexual exploitation and child trafficking. Although we recognise these are very serious crimes against vulnerable individuals, we will not be commenting on these areas as we do not have our own evidence base upon which to draw.

Key points

JRF responded to the consultation by Lord Morrow MLA in October 2012.

In this submission, we welcomed the focus of the Bill on better assistance and support for victims of human trafficking and exploitation whilst encouraging the inclusion of forced labour as a consideration in the legislation.

The fact that the Bill has brought a renewed focus on to the area of human trafficking and forced labour is to be commended. In regards to individual clauses in the Bill, JRF's position can be summarised as follows:

- We welcome the fact that the amended Bill places more emphasis on trafficking for labour exploitation through connecting with Section 71 of the Coroners and Justice Act 2009;
- We welcome that Clauses 13 and 14 will allow victims of forced labour access to the same protection in criminal investigations available for other trafficking victims;
- On requirements for an Annual Action Plan (Clause 15), we welcome the extension of this clause to include victims of forced labour;
- We acknowledge and welcome moves by DOJ to make forced labour a greater priority through the Human Trafficking Annual Action Plan and the DOJ / Crimestoppers "Read the Signs" campaign which is aimed at raising awareness around forced labour;
- We understand that the clause which deals with compensation does not apply to victims of forced labour. We would encourage further discussion with relevant justice agencies and the Department for Employment and Learning (NI) on how victims of forced labour can be supported. We would suggest that all assistance and protection measures should be available to victims of both offences that relate to modern day slavery, i.e. human trafficking and forced labour.

Brief summary of relevant messages from JRF's research on forced labour

- The ICR-led (JRF-funded) project, "Forced Labour in Northern Ireland: Exploiting vulnerability" (Allamby et al, June 2011) was the first piece of research to try to assess the scope of forced labour in Northern Ireland. A number of issues arose from the report:
- Evidence of forced labour and exploitation in the mushroom industry and the catering industry and among Romanian Roma and Filipino workers. It is relatively little known phenomenon and difficult to research.

- The researchers used the ILO indicators of forced labour to examine the cases they came across in the research. Examples included: isolation, restricted movement, verbal and physical abuse, serious health and safety violations, pay lower than the minimum wage.
- The research showed that people put up with working in poor conditions and extreme levels of exploitation because it was better than the options available at home.
- Migrant workers after often vulnerable because of their lack of English language skills, limited access to social networks and a lack of local knowledge.
- The need to raise awareness and understanding of the issue in Northern Ireland among trade unions, employers' bodies and with key government departments. Community organisations can have an important role in supporting exploited workers.
- Most victims of forced labour and exploitation in our research in Northern Ireland were EU citizens (this trend is also reflected in our other research on forced labour). However, immigration status and vulnerability to forced labour are linked.
- Forced labour can be seen as being at one end of the spectrum starting in decent work, through increasing levels of exploitation, to forced labour at the other end. This framework of a continuum of exploitation has been useful for researchers directly investigating forced labour. A key element to understanding forced labour is to look at the concept of coercion in the modern economy. The terms 'forced labour' and 'human trafficking' are sometimes conflated and there is a literature on the use of the terms in international conventions, policy and national law.
- A more systematic framework of enforcement and regulation is required to respond to forced labour in the UK. A number of different public agencies are involved in tackling different aspects of forced labour and a multi-agency response / investigation is often needed.
- As well as a legal response, businesses and individual consumers have a role to play in tackling forced labour. Our research has looked at the way certain businesses strategies that can facilitate forced labour.

We have drawn upon the findings of this research in formulating our response to the individual clauses within the Bill.

Detailed comments on clauses in the Bill

Clause 7 - Requirements and resources for Investigation and prosecution

Clause 7 requires the Department to provide suitable training and tools to ensure effective investigation and prosecution of human trafficking offences. We welcome the recognition in the Bill that resources need to be made available to mount such operations.

Our research has explored the issues with mounting investigations into forced labour and human trafficking for labour exploitation in detail. Investigations need to involve multiple agencies (such as the police, the Gangmasters Licensing Authority, UKBA and HMRC) and are often complex operations. The 2013 Anti-Trafficking Monitoring Group report also recommended improved PSNI training to identify all forms of trafficking, especially forced labour and child trafficking, and that it should be ensured that training is mandatory for all police officers. We therefore welcome the extension of this clause to cover investigation of offences committed under Section 71 of the Coroners and Justice Act 2009, offences of forced labour without trafficking.

We understand that there is a wider debate on whether this clause should be enshrined in primary legislation or whether a policy approach might be more appropriate. Whilst this is ultimately for legislatures to decide, we would encourage forced labour to be considered in any policy or legislative amendments.

We would also encourage Lord Morrow and the Department of Justice to recommend to the UK Government to extend the power of the GLA (Gangmasters Licensing Authority) to be the lead investigative agency on trafficking for labour exploitation and forced labour. The GLA has been the centre of excellence in the areas where they are currently mandated, however, research funded by JRF has showed the urgent need to extend its powers and resources to cover forced labour investigations and to act in all relevant sectors where exploitation and forced labour have been identified and workers remain most vulnerable.

Clauses 9 – 11 Assistance, Support and compensation

JRF welcomes sections of the Bill that set out assistance that should be available to victims. However, we understand that the clause which deals with compensation does not, as currently proposed, apply to victims of forced labour.

Providing better services to victims should mean that more victims are able to come forward and potentially contribute to making human trafficking and forced labour a higher risk crime. It is very important that more successful prosecutions take place in Northern Ireland and this was emphasised in the recent GRETA report.

Our research shows that it is very difficult for workers who have been victims of forced labour or high levels of exploitation to come forward to make a complaint or to contact the authorities. Our research (Scott et al (2012)) also talks about a 'justice gap' for victims of forced labour and exploitation.

We would recommend that all assistance and protection measures should be available to victims of offences that related to modern day slavery, i.e. both trafficking and forced labour. We would therefore encourage Lord Morrow, the Justice Minister, the Justice Committee and the Minister for Employment and Learning to liaise to explore options for support mechanisms for victims of both forced labour and human trafficking for labour exploitation. The inclusion of a commitment to "review of measures for trafficked victims of labour exploitation in Employment Tribunals" in the DOJ Annual Action Plan on Human Trafficking is welcome and we would encourage continued focus on this area.

Clause 13 – 14 - Protection of victims in criminal investigations

JRF welcomes the inclusion of support mechanisms for victims of forced labour within Clause 13 and 14 of the Bill. These clauses mirror the text of the EU anti-trafficking directive and seek to ensure that protections outlined are available to all victims of human trafficking, whether subject to sexual exploitation or forced labour.

Clause 14 will ensure that all victims of human trafficking are supported and protected during criminal proceedings against traffickers. In Northern Ireland, vulnerable witnesses are eligible for so-called special measures and under the Criminal Evidence (Northern Ireland) Order 1999, victims of sexual offences are automatically entitled to such protection.

We welcome the fact that clause 14 seeks to extend the provisions to victims of trafficking or other types of exploitation such as forced labour. Providing victims of trafficking with special measures in trial scenarios will make it much easier for them to act as witnesses in criminal trials. As referenced above, providing better services to victims should mean that more victims are able to come forward and potentially contribute to making human trafficking and forced labour a higher risk crime.

Clause 15 – Prevention and an Annual action plan

JRF welcomes the inclusion of an annual action plan within the legislation and feels that enshrining this commitment in law will ensure a guaranteed commitment from the DOJ in future.

We note that since our initial consultation response in October 2012 much progress has been made. In particular, the Department of Justice has already committed to publishing an

Annual Action Plan and we welcome this first plan published in May 2013. We particularly welcome the Action Plan's commitment "to ensure a victim-centred approach to human trafficking across the Criminal Justice System" and its "review of measures for trafficked victims of labour exploitation in Employment Tribunals" (point 13) in conjunction with DEL and the PPS. We are also encouraged to see this annual strategy includes a data collection element. It is vital for this to continue if we are to be able to monitor incidences of human trafficking and forced labour in Northern Ireland and to track progress.

JRF also welcomes the DOJ / Crimestoppers campaign on forced labour announced in January 2013. This 'Read the Signs' campaign highlights that people are trafficked into Northern Ireland for forced labour and encourages the public to report their suspicions. Our research shows that this type of awareness-raising is a key requirement in tackling forced labour.

We also welcome the updated clause in Lord Morrow's Bill that extends the scope of the action plan to include "co-operation with non-governmental organisations and other relevant organisations."

We believe that any strategy to prevent forced labour/trafficking for labour exploitation needs to look at working with the private sector. It would also be important to consult with businesses about prevention methods (reducing demand for labour exploitation) and what works in terms of raising awareness within the private sector.

For further information about JRF research on forced labour (including electronic versions of both summary and full reports of research funded through the programme), please visit: http://www.jrf.org.uk/work/workarea/forced-labour

JRF
October 2013

Josephine Butler Society

Clerk to the Committee for Justice,
C. Darrah.

Dear Ms. Darrah,

Thank you for your letter of 3rd October inviting an input from the Josephine Butler Society.

We comment thus:

Clause 6

New Article 64A

1. Criminalising the buyer will ignore the real criminals who are traffickers, coercers and enslavers, who control their victims and benefit from the earrnings that their victims make.

2. To combat trafficking for sexual purposes by criminalising the non violent, non coercive buyer is to criminalise the wrong person. Sadly, it is often the case that the Law, when it attempts to help in the problems around prostitution, often impinges elsewhere where criminal activity can be completely absent, i.e.in this case, the freely prostituting person whose clients are 'friends'. Where consenting adults are concerned, this is surely their own business. Also, criminalising the buyer will make people who are otherwise law abiding, into criminals and this could well result in family breakdown and all the social problems that can follow from that.

3. The Swedish Law which criminalises the buyer has been critised by a Swedish M.P. Camilla Lindberg, as being ineffective.

4. For the real criminals, the proposed interruptions of their business could well push prostitution further underground and the vulnerable harder to reach by agencies engaged in helping and encouraging exiting from prostitution.

CLAUSE 7 [1] We agree.

We suggest that more and better immigration control at all points of entry into the UK, also abroad especially countries of origin and transit, by those specially trained to seek out trafficked people, would be a better way to stop trafficking. It would then be a preventative measure instead of one of rehabilitation and possible deportation, actions which are expensive monetarily and in suffering.

7 [2] We agree. We also suggest that the victim, if she/he requests, be allowed to return home, if it is safe for her/him to do so, before the trial instead of being kept for the sake of prosecution purposes and the judge.

7 [3] We agree.

CLAUSE 11 Compensating victims. We are concerned about this. Where would the monies come from for this proposal? From monies confiscated by the police and which at present help to pay for the expensive proactive police investigation, or the Common Purse, i.e.the tax payer? Would this monetary compensation encourage people to set up ways to obtain these monies?

In Conclusion:

We are not in favour of criminalising all people who buy sexual services. Where consenting adults are concerned this is surely their own business. Josephine Butler clearly believed that we have a God given free will and as adults should make our own decisions without the Law

being involved. Surely equality includes freedom of choice for men and women. Abuse of children and the unwilling is wrong, but there is Law already in place criminalising these two instances.

Please contact me via email if any further clarification is needed. I will be sending you a hard copy of this.

Yours truly,

Valerie Gore, Chairman,
Josephine Butler Society,
c/o SWISH,
THT, 314-320, Gray's Inn Road,

London,WC1X 8DP

Judith Willcox

Dear Sir

I would like to put forward the following comments for inclusion in the consultation process.

I very much welcome Lord Morrow's Bill, and support its aims. It has the potential to make a real difference in the lives of some of the most vulnerable men, women and children who are exploited in the povince, and for whom very little protection is afforded even when the authorities take action against those responsible.

The primary reason for trafficking into Northern Ireland is in connection with the sex trade. I therefore welcome particularly Clause 6 of the Bill, which criminalises paying for sex. Doing this will address the principal source of demand for trafficking and I believe deal more effectively with the problem than our current laws do.

This Bill will also ensure the Northern Ireland fulfils proerly its international obligations under the European Directive and Council of Europe Convention.

I myself do not live in the province but very much hope that the rest of the UK will follow Northern Ireland's lead in putting this much-needed legislation on the Statute book.

Yours faithfully

Judith Willcox

Karen Barkley

Dear Members of the Justice Committee

I am writing in response to your call for evidence with regard to Lord Morrow's bill on human trafficking and exploitation. I wholeheartedly support this bill and believe it will make a real difference for victims in our province as well as helping to stamp out this crime and tackle its root causes.

Clause 6: Paying for sexual services

I support clause 6 because:

- I was shocked to learn that N.Ireland, per head of population, has the highest demand for paid sex in the whole of Europe! The demand for paid sex is the single biggest driver of trafficking to Northern Ireland. Clause 6 will help to reduce demand for paid sex and therefore reduce the incentive for traffickers to traffic vulnerable men, women and children into Northern Ireland to work in prostitution.
- Clause 6 would introduce a much more effective approach to tackling demand than the current offence under the Policing and Crime Act 2009, which currently requires proof of coercion within a tight timeframe. To date there have been no successful convictions in Northern Ireland. Clause 6 would introduce a much more effective approach.
- Clause 6 very significantly addresses exploitation where there is no element of trafficking. This will help to protect extremely vulnerable people, many of whom have been subject to sexual abuse as children.
- A similar clause has worked successfully in Sweden and Norway.
- The evidence from Sweden indicates that criminalising the purchase of sexual services does not drive prostitution underground. Kajsa Wahlberg, Swedish National Rapporteur on Human Trafficking has reported that, instead of pimps sending the women out to look for buyers, they now have to advertise which leads to an increased risk of getting caught.
- Clause 6 can be effectively enforced in spite of initial police concerns. When the law was first discussed in Sweden, the police force raised concerns. Chief Detective Inspector Per-Uno Hågestam of the Stockholm Police District Anti-Trafficking Group in particular was highly critical when the law was introduced. However, on retiring he commended the effectiveness of the new approach. The introduction of the law included a package of training, together with resources dedicated to enforcement and monitoring of the law. Over a decade later, the Swedish police are supportive and have found criminalisation of the purchaser to be an extremely effective way of finding pimps and traffickers.

Clause 8: Non-prosecution of victims of human trafficking

I support Clause 8 because:

- Victims are often pursued in court, with the result that they are forced to face one trauma after another.
- The GRETA report has found evidence that some "victims of trafficking have been prosecuted and detained in Northern Ireland before it was established whether their involvement in unlawful activities had been due to coercion."
- The clause does not provide a blanket immunity from prosecution but only applies non-prosecution as a direct consequence of having been trafficked.

Clause 10: Requirements for assistance and support

I support clause 10 because:

- Trafficking and slavery are very traumatic to victims. There is currently no long-term assistance available to victims in N.Ireland.
- Clause 10 incorporates obligations as set out in Article 11 of the EU Directive and Article 12 of the European Convention.
- Clause 10 would make the provision of assistance and support for victims of trafficking secure. Currently these services are provided by Migrant Help and Women's Aid, but they have no foundation in law and without this protection they exist simply at the pleasure of the current administration
- The provisions in Clause 10 are in line with recommendation 26 in the Greta Report in 2012 e.g. translation and interpretation services, legal counselling and representation.

Clause 11: Compensation for victims of trafficking

I support clause 11 because:

- Having clear compensation procedures in line with article 17 of the EU Directive will help to ensure that victims of human trafficking will be able to easily discover how to claim compensation for what has happened to them.
- There are only two cases of compensation paid to human trafficking victims in Northern Ireland. Current measures are inadequate. This is highlighted in Recommendation 29 of the Greta Report.

Clause 12: Child Trafficking Guardian

I report this clause because:

- Having a child trafficking guardian would ensure effective support could be given to children who have been trafficked into Northern Ireland. Trafficked children are particularly vulnerable to re-trafficking (3 out of 8 such children went missing in Northern Ireland between January 2009 and September 2012)
- The provision of a child trafficking guardian is internationally recognised best practice. UNICEF has recommended and defined the role and it has been recommended by GRETA in 2012, and the US State Department in June 2013 and the Still at Risk report, funded by the Home Office in 2013.

Clause 15: Prevention

I am pleased that the Minister of Justice, despite initial opposition, has recently decided to introduce an annual action plan on a non-statutory basis. However, it would be better if the report was required by law.

I support clause 15 because

- The Anti-Trafficking Monitoring Group has highlighted the current low levels of detection and prosecution of slavery offences in Northern Ireland. This is an area that needs attention and monitoring.

Clause 16: Northern Ireland Rapporteur

I support clause 16 because:

- Introducing a national rapporteur would be positive in ensuring that the work of Government agencies could be scrutinised effectively.

In summary, the Department of Justice has taken some positive steps to protect victims and punish perpetrators. However, I don't think that the Department of Justice has gone far enough to deal with the root causes of human trafficking and to ensure that victims are adequately protected. Lord Morrow's Bill rises to this challenge. The Bill will also make a real and very positive difference for the many people in Northern Ireland who have suffered

exploitation and slavery but who have not been trafficked. This includes many individuals working in prostitution in Northern Ireland who have entered the industry, due to poverty or vulnerability, as well as those who are victims of forced labour.

I wholeheartedly support this comprehensive bill and hope that it will be fully endorsed by all members of the Justice Committee.

Yours sincerely

Karen Barkley (Mrs)

Ken and Elma Neely

Justice Committee
Stormont

Dear Sir/Madam

We are writing to you to express our support for Lord Morrow's bill on human trafficking currently before the Justice Committee.

We feel that this bill is sorely needed to combat the horrific crime of human trafficking in Northern Ireland. The knowledge that men, women and children are being brought into Northern Ireland to be exploited in this manner must surely fill every right thinking person with revulsion.

We welcome all aspects of the bill, including clause 6 that criminalises paying for sex. One of the primary reasons for trafficking in Northern Ireland is for sex and we believe clause 6 will address this particular problem at its source.

We know that this clause has caused considerable controversy and is widely debated in the media and in academic circles. People with genuine conviction are on both sides of the argument and it is sometimes hard to judge the various positions. For us, however, we are persuaded that the experience of Sweden is hard evidence that a law that criminalises paying for sex works. This has been further confirmed by an article in the News Letter dated 28th October 2013 which reports an interview with Detective Superintendent Kajsa Wahlberg, the Swedish Rapporteur on Human Trafficking (copy enclosed). To quote from comments made by Ms Wahlberg in the article: *"In fact, very soon it became clear that the law is an excellent tool to hold individuals that purchase a sexual service accountable for their actions. But it also allows us to use it to reach and investigate those who organise prostitution activities in Sweden - whether they are local organised crime elements or cross-border traffickers."*

Comments by Dr Graham Ellison of Queen's University, reported in the same article in the News Letter, that the Swedish ban on men buying sex "reeks of hypocrisy" because "one Swedish champion of the law was jailed for rape and purchasing sex" and other officials have been convicted are very concerning from such a prominent opponent of clause 6. Far from reeking of hypocrisy we see this as the application of the law to all sections of Swedish society and a positive confirmation of the rectitude of the majority of police and judicial authorities in Sweden, even allowing for Dr Ellison's accusation of "patchy" enforcement across Sweden. As Ms Wahlberg, commenting on this in the Article, also states, *"no legislation works 100%. Do you have such a law in Northern Ireland? We have laws regarding fraud and theft too and these laws are being broken all the time. When that happens, no one blames the law."*

This is an important Bill, not only for Northern Ireland but also for its implication for the rest of the UK and Ireland. We believe we will be setting an important precedent that will ensure that we fulfil our obligations under the European Directive and the Council of Europe Convention.

Yours faithfully

Ken & Elma Neely

HUMAN TRAFFICKING

NO PROSTITUTION WOULD MEAN NO SEX TRAFFICKING – CLAIM

Top Swedish police officer defends anti-slavery law proposed by MLA

BY PHILIP BRADFIELD
p.bradfield@newsletter.co.uk
@Phil_Bradfield

The lead police officer on human trafficking in Sweden has defended criminalising men who buy sex from women in prostitution – a proposal currently being debated by MLAs.

DUP MLA Lord Morrow's bill, intended to tackle sex trafficking, is modelled on a Swedish law introduced in 1999 and is currently being backed by the DUP and Women's Aid.

But it has been challenged by Amnesty International, some MLAs including Justice Minister David Ford and several senior PSNI officers. Nine investigate those who organise prostitution activities in Sweden — whether they are local organised crime elements or cross-border traffickers."

She refers to the "comprehensive evaluation of the effects of the law" which was led by the Swedish Chancellor of Justice, Anna Skarhed, as evidence that the law is effective.

The report's methodology has been hotly contested internationally by advocates of decriminalised prostitution.

Ms Wahlberg's last report as national rapporteur concluded: "When the ban on the purchase of sexual services came into force in 1999, there was speculation that the police authorities would face difficulties in applying the



district councils and counting have backed it so far, with cross-party support.

Detective Superintendent Kajsa Wahlberg is the Swedish Rapporteur on human trafficking, an EU appointee responsible for monitoring the implementation of anti-trafficking policy.

"The police authorities in Sweden have used this legislation for over 15 years," she told the News Letter. "Initially, some police authorities were doubtful about the possible effectiveness of the law, and how to enforce it."

She adds: "In fact, very soon it became clear that the law is an excellent tool to hold individuals that purchase a sexual service accountable for their actions. But it also allows us to use it to reach and legislation. That has not been the case.

"The enquiry concerning the effects of the law on the purchase of sexual services showed that police and prosecutors now believe that its application is working well, but that its effectiveness depends on access to resources and the priorities that are set within the judicial system."

She added: "I would like to underline the importance of basing any conclusions regarding this legislation on the extensive experience and evidence that is available in Sweden, through such channels as Ms Skarhed's report.

"This is after all a legislation that functions as a barrier for the development of a local prostitution market."

She particularly reflected



A woman is led away by police, after a human-trafficking raid on a house on the Lisburn Road in south Belfast last year

on claims she has read that prosecuting men who buy sex in Northern Ireland could stretch PSNI resources away from human trafficking investigations.

She responded: "If men don't buy women in prostitution, we will have no human [sex] trafficking cases to investigate. Wouldn't that be less resource intensive?

"I have spent 15 years listening to various police forces at international meetings asking for stronger legislation on human trafficking, more resources to combat it, more investigative techniques etc.

"If I then ask if we can do something on the demand side, there is either silence or it raises extreme frustration."

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www.newsletter.co.uk

'Success rate of 46 per cent'

Ms Wahlberg confirms that some police officers, one prosecutor and four judges have been convicted of buying sex in Sweden since 1999. She adds: "No legislation works 100pc. Do you have such a law in Northern Ireland? We have laws regarding fraud and theft too and these laws are being broken all the time. When that happens, no one blames the law.

"About 5,000 police reports have been drawn up since 1999 for buying sex. Almost half of the cases, 46pc are being cleared. This is a very good result compared with other crimes."

She adds: "Most men confess on the spot, they are being fined and therefore not prosecuted."

She says mobile phone records are used as evidence against buyers. Victims may be given temporary residence or be returned home in cooperation with the International Organisation for Migration.

'WIRE-TAPS CONFIRM TRAFFICKERS DETERRED'

'Statistics can't tell full story'

The Swedish rapporteur on human trafficking says that many factors have made it difficult to measure the effects of their fight against the crime.

The law against the purchase of sexual services was introduced in 1999 and a law against human trafficking in 2002, Ms Wahlberg says.

Around the same time, mobile phone and internet usage became common among the public and Baltic countries entered the EU, making immigration much easier.

"Around these years, a lot of things happened at the same time and it can be difficult to measure the effect [of the laws]."

Nevertheless, she is clear that outlawing the purchase of sex has "a deterrent effect" on traffickers. Her force also intervenes informally "in many cases" where someone is about to buy sexual services.

"Victims of human trafficking for sexual purposes have told the police that traffickers and procurers talk about Sweden as a bad market for prostitution activities," she says. "The police also have evidence from wire-tapped conversations between members of organised crime networks, that these networks prefer markets in countries where prostitution activities are legalised or tolerated."



Swedish officer Kajsa Wahlberg

QUB ACADEMIC HITS OUT

Swedish approach 'reeks of hypocrisy'

Dr Graham Ellison of Queen's University, a vocal advocate of state regulated brothels, say the Swedish ban on men buying sex "reeks of hypocrisy".

One Swedish champion of the law was jailed for rape and purchasing sex while a chief prosecutor, judges, police officers and senior government ministers have also been convicted, he says.

"The overwhelming majority of cases are dismissed through lack of evidence, wasting valuable police resources," he says, demanding to see evidence the law works. "Enforcement is "patchy" across Sweden, he says. There are claims police abuse vulnerable sex workers, while migrant sex workers are unceremoniously deported, he adds.

Labour Party in Northern Ireland

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.

Larne Borough Council

LARNE
Borough Council

Our Ref C/11/13

31 October 2013

The Committee Clerk
Committee for Justice
Room 242
Northern Ireland Assembly
Ballymiscaw
Stormont
BELFAST BT4 3XX

Dear Ms Darrah

Human Trafficking & Exploitation (Further Provisions and Support for Victims) Bill

I refer to the above and the request to submit views by Friday 01 November 2013.

Council welcome the opportunity to comment and please find enclosed draft response. Members are due to further consider the draft response at the Council Meeting to be held on Monday 04 November.

I should be grateful if any amendments, which can be provided to you on Tuesday 05 November 2013, could be considered alongside the draft submitted.

Yours sincerely

Geraldine McGahey
Chief Executive

Enc

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DRAFT

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

Larne Borough Council – Written Evidence

In relation to the Bill, the following motion was recently debated by Council.

"That this Council,

1. *Recognises that human trafficking and exploitation is a growing problem in Northern Ireland;*

2. *Believes that existing statistics regarding the number of people trafficked in to Northern Ireland do not reflect the scale of the problem and are only the "tip of the iceberg" in regard to the scale of the problem;*

3. *Believes that no human being should be subjected to: sexual exploitation, enforced labour or domestic servitude and condemns those who engage in human trafficking;*

4. *Believes that more action should be undertaken to support those who have escaped from exploitation and to punish those who exploit them and, accordingly;*

5. *Calls upon the Northern Ireland Assembly to endorse the Human Trafficking and Exploitation (Further Provision for Victims) Bill"*

Its relevance in relation to the Holding Centre operated by the UK Borders Agency, which is located within the Council boundaries, was discussed and it was noted that the Minister for Justice had recently launched a leaflet entitled 'Human Trafficking Know Your Rights' which was aimed at the victims of human trafficking, and which is available in different languages.

Whilst there was general agreement on points 1 – 4, an amendment was introduced to point 5, the intention being to reflect that the Bill is entering Committee Stage and with both the DOJ and PSNI having some outstanding concerns there may yet be changes to be made..

This amendment was accepted by Council;

"Welcomes the fact that the issue of human trafficking is being addressed by the Northern Ireland Assembly in the Human Trafficking and Exploitation (Further Provision for Victims) Bill and supports the Bill in principle".

No specific issues of concern were raised in relation to any clauses in the Bill although some members noted that as it progressed, there was a possibility that amendments could be introduced and they would consider these further at the appropriate time.

Thursday 31 October 2013

Law Centre NI

Justice Committee: Law Centre comments on Human Trafficking and Exploitation Bill



Law Centre (NI) comments on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Background

The Law Centre provides specialist legal advice and assistance to victims of trafficking. We have assisted victims who have been subject to trafficking for labour exploitation, sexual exploitation, domestic servitude and trafficking of minors.

Our involvement in trafficking cases usually begins once the victim has already been referred into the National Referral Mechanism.[1] We do not therefore have expertise in the process of identifying and recovering victims from places of exploitation. To date, we have only involved in cases where the victim is subject to immigration control and where the Home Office is acting as the Competent Authority. We therefore do not have direct experience of 'internal' trafficking.

Support for Bill

In general, we support the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. We commend Lord Morrow for bringing this Private Member bill forward. In our view the bill contains a number of innovative features: it has potential to protect victims of forced labour as well as victims of human trafficking; it gives victims a clear legislative entitlement to support and assistance; it provides for a child trafficking guardian and creates a Northern Ireland rapporteur. We believe all these provisions would be extremely valuable.

We are conscious that some aspects of the bill are covered in existing legislation and policy and therefore do not necessarily need to be in this bill. We also recognise that some provisions could be obtained through secondary legislation. The case for secondary legislation is that it can be more easily amended to take into account trafficking developments, whether policy or caselaw. At present, there is no detailed proposal for introducing secondary legislation within a short timeframe. In the absence of this, we think there is value in a single Bill, which draws together provisions found elsewhere, and which sends out a strong signal to the public, perpetrators and victims that Northern Ireland is serious about tackling human trafficking. For these reasons, we are broadly supportive of the bill's content although we do not support Clauses 3 and 4. In addition, we do not support the inclusion of Clause 6 for reasons set out below.

[1] For some information about the National Referral Mechanism, see here: http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism



PART 1

Clause 1
We welcome the fact that the definition outlined in Clause 1 provides an expansive interpretation of victims as it includes both 'trafficking offences' as well as 'slavery offences'. As the Committee is aware, not all victims of slavery meet the trafficking definition: some victims of forced labour may not be victims of trafficking but nonetheless have endured extreme situations of exploitation and require assistance. However, Part 2 of the Bill restricts assistance only to those who have been trafficked. This means that a victim of forced labour is not eligible to receive the support and assistance outlined in Clause 10. We understand Lord Morrow's rationale for restricting assistance – currently, only potential victims of trafficking have a legal right to remain in UK – however, we would like the Bill to offer equal protections to both types of victims rather than seek to differentiate between the two.

Clause 2
No comment.

Clause 3
This clause includes a list of factors that the court must treat as aggravating factors. The Law Centre's view is that sentencing guidelines are preferable as they afford flexibility, enabling the courts to respond to new issues as they arise.

Accordingly, we do not support Clause 3. However, if this Clause is adopted, we think it should include an offence committed by an organised crime network or trafficking ring.

Clause 4
This clause imposes a minimum sentence where an individual is convicted of a human trafficking/slavery offence. A two year custodial sentence will apply unless the court is of the opinion that there are 'exceptional circumstances'.

The Law Centre has concerns about this clause, partly because it reduces judicial discretion but also because it may impact on plea bargaining, which can be a very useful tool for prosecutors to obtain information. Therefore, we do not support Clause 4.

Clause 5
We think this clause, which clarifies that forced begging is covered by trafficking/slavery law, is useful.

Clause 6
As a general principle, we support Clause 6 for the following reasons:

- We view prostitution as exploitation and a form of violence against those who work in the sex industry and who are primarily women. Thus, we view prostitution as being incompatible with gender equality and we have no difficulty in supporting measures that seek to eliminate prostitution.

- We are mindful that a harm-reduction approach to prostitution, often brought about through legalisation and regulation, can bring some benefits to those working within the sex industry, especially in relation to improved health and safer working conditions. However, such models seem only to benefit persons who have a legal right to work. Our clients tend to be undocumented migrants who are not lawfully permitted to work (and therefore have no entitlement to employment protections, healthcare, etc.) and therefore would not benefit from a harm-reduction approach.

- We acknowledge the libertarian argument that promotes a woman's right to choose how she uses her body and that rejects the introduction of an offence that will effectively restrict this choice. We recognise that there may be a small minority of women (and men) who make an informed and genuine choice to work in the sex industry. However, none of our clients fall within this group and it is our clients' experiences that is informing our thinking on this issue. Furthermore, we believe that, for the majority of those involved, prostitution is rooted in poverty, marginalisation and desperation and is linked to histories of abuse and violence;[2] we believe that policy makers should focus on the majority rather than the small minority.

- We hold in high regard the organisations that developed and support the Republic of Ireland's 'Turn off the Red Light campaign', which includes a number of migrant organisations, human rights organisations, feminist groups and unions. There needs to be consistency across the island of Ireland with criminal laws around prostitution so as to avoid a situation where prostitution from the Republic re-establishes itself in Northern Ireland or vice-versa.

Notwithstanding our principled support, we are aware that a change in legislation could have harmful implications if it is not properly thought through. For this reason, we think a full consultation and informed policy debate needs to take place *before any such a provision is introduced.* This process would examine prostitution in its broader sense rather than in the context of reducing trafficking, which is how discussions have hitherto been framed. We welcome Minister Ford's commitment to conduct research that will give policy makers a much better understanding of the nature of prostitution in Northern Ireland, and, importantly, an understanding of any

[2] See Department of Justice, 'Research paper investigating the issues for women in Northern Ireland involved in prostitution and exploring best practice elsewhere' (2011)



adverse impacts that legislation could have. A timeframe of completing the work within a year should be agreed and published for this work and close arrangements should be put in place with the Irish government. We think the work should include:

- An assessment of the extent to which PSNI / Crimestoppers receive intelligence on possible trafficked victims from those who pay for sex. We are mindful that prostitute users/clients can be 'allies' in the fight against human trafficking[3] and we would not want any measure to be introduced that would diminish the prospect of victims of trafficking being reported to law enforcement. However, at the moment, we simply do not know if any victim in Northern Ireland has been identified by virtue of information being provided by a user.

- An evaluation of the (current) offence to pay for sexual services from a prostitute subjected to force;[4]

- Targeted consultation with prostitutes, former prostitutes and professionals who support both groups including the Belfast Commercial Sex Workers Service.

- An assessment of the role of the land border in trafficking cases[5] and, crucially, some thinking on how the legislative approach taken in the Republic could impact in the North. We note that Scotland has dropped the proposal to introduce a criminal offence. It would be useful to learn more about this and to consider what this might mean for Northern Ireland.

- An assessment of how policing would be affected if purchasing of sex were to be criminalised. Would, as some stakeholders fear, the PSNI's anti-trafficking investigative resources be diluted? If so, can this risk be countered?

- The availability and assessment of the effectiveness of exit strategies for prostitutes. If a law is going to be introduced, it is essential that there resources in place to assist women and men find alternative and *safe* forms of income.

[3] Turkey's anti-trafficking hotline, which is run by the International Organization for Migration, reports that the highest percentage of its calls come from Turkish clients of victims United States Department of State, *2011 Trafficking in Persons Report - Turkey*, 27 June 2011. We understand, however, that the IOM notes this phenomenon as unusual.
[4] Article 64A of the Sexual Offences (Northern Ireland) Order 2008
[5] Some information has been collected by NGOs, however, knowledge is limited. See: Dudley, R. (2006) 'Crossing Borders: Preliminary Research on Human Trafficking in Northern Ireland'. Belfast: Women's Aid Federation and Allamby, L et al (2011), 'Forced Labour in Northern Ireland, exploiting vulnerability' (Joseph Rowntree)



If, after thorough consideration of the issue, it is decided to introduce a criminal offence, then our preference would be to this through existing criminal justice legislation rather than through this Human Trafficking Bill. This is because we are conscious that although there are links between trafficking and prostitution it may be more beneficial to keep the issues separate so as not to detract attention from other forms of exploitation.

For these reasons, we do not think Clause 6 should form part of this present bill.

Clause 7
We welcome this clause which will ensure that those tasked with investigation and prosecution of offences are properly trained and resourced.

Clause 8
Although the Law Centre is deeply concerned that some victims of trafficking are being charged with criminal offences (we have been involved in a number of such cases), we are uneasy about there being a blanket prohibition on prosecution. Although we are not aware of any case to date, we can just about conceive a situation where a victim of trafficking commits an offence where there is a strong public interest for a prosecution. Furthermore, we recognise that blanket immunity would impede the work of the Director of the Public Prosecution Services in discharging his statutory obligations to review each case received from the investigator in accordance with the Code for Prosecutors.

Rather than blanket immunity, we would prefer this clause to be cast as a presumption against prosecution.

PART 2

The Law Centre believes that this Bill really 'comes into its own' in Part 2. This Part will give victims of trafficking a clear entitlement to services. We are strongly supportive of this.

Clause 9
No comment.

Clause 10
While we welcome the thrust of Clause 10, we are concerned that subsection (1) appears to restrict support to victims where there are criminal proceedings. For various reasons, some trafficking cases do not involve criminal proceedings, however, it is essential that victims in such cases are not excluded from the protections offered by this Bill.



In addition, we believe the Bill should specifically make provision for dependents of victims of trafficking to access support services. The Bill currently makes reference to education (Clause (2)(h)) but makes no mention of medical treatment and other services for victims' dependents. Some Law Centre clients have given birth during the trafficking process; we want to be absolutely sure that any children have a clear entitlement to access services.

We would also like the Committee to consider what assistance and support can be provided to those persons who get a positive 'Reasonable Grounds' decision but then a negative 'Conclusive Grounds' decision. This is a very challenging (and current) issue. The Law Centre has represented a number of victims who have successfully challenged a negative 'Conclusive Grounds' decision. By virtue of there being no right of appeal within the National Referral Mechanism, the only challenge to a decision is by way of Judicial Review, which can take several months, if not longer. If this clause, as currently crafted, were to become law, such victims would not benefit from its protections as the moment they receive a negative decision, they would be excluded from the Bill albeit they may ultimately be recognised as a victim of trafficking and granted immigration status accordingly. Moreover, in Britain there are proposals currently out for consultation to reduce access to judicial review and we would be concerned if similar measures were to be adopted in Northern Ireland.

We also wish to highlight that some people who, despite there being compelling circumstances, are not conclusively recognised as victims of trafficking (this is partly due to the relatively high standard of proof required in trafficking cases and also due to the problems in providing and collecting evidence in very difficult circumstances). These individuals may nevertheless have a number of support needs requiring urgent and compassionate assistance. This should be available on a discretionary basis.

Clause 11

We welcome this clause which should make it easier for victims to obtain compensation. Compensation is necessary, both in terms of restorative justice and in giving the victim some financial security. This is important because poverty can make a person vulnerable to re-trafficking / exploitation.

Clause 12

We support this clause that would introduce a child trafficking guardian.

We think it would be beneficial for this clause to make direct reference to Article 12 UNCRC (i.e. right to be heard).



Access to legal representation for children is *always* essential and therefore we recommend the deletion of “where necessary” in Clause 12 (2)(c).

Clause 12 (2) (d) suggests that the child trafficking guardian would have a role in advising the child. We believe that the guardian’s role should complement rather than substitute the work of legal advisers: it is imperative that the child benefits from advice provided by qualified legal practitioners. For this reason, we recommend that the word “advise” is removed.

PART 3

Clause 13 Protection of victims in criminal investigations
Again, we support this clause although have some comments about the drafting:

a) Clause 13 (b) (ii): delete "where necessary" so as to ensure that all interviews are conducted in a ‘child friendly’ environment. This is essential both in terms of the well-being of the child and in terms of the quality of information provided by the child during the interview.

   Clause 13 (b) (iii): delete "where necessary" so as to ensure that only appropriately trained persons conduct interviews with children.

   Clause 13 (b) (vi): delete "may" and insert "should" so as to ensure that a child has a right to be accompanied by an appropriate adult during the interview.

As a more general point, we note that this clause can only protect victims from secondary victimisation that occurs during police interviews. As currently drafted, it cannot provide protection during interviews conducted by immigration officials. Please see comments on Clause 16, below.

Clause 14
We welcome this clause.



PART 4

Clause 15
We welcome the duty on the Department to publish a strategy every year. We note and commend the Department's Action Plan, which was published in May 2013, and believe that this could be a useful template for a strategy under this clause.

Clause 16
We are conscious that there have been various calls for different types of an oversight mechanism: this Bill calls for a Trafficking Rapporteur; the Anti Trafficking Monitoring Group calls for a Trafficking Commissioner; the Centre for Social Justice calls for an Anti-Slavery Commissioner. We note that the Home Secretary has recently expressed a willingness to consider a Modern Slavery Commissioner.

The Law Centre is very supportive about the concept of an oversight mechanism. This is necessary because there are no appeal rights within the trafficking process which means there is very limited judicial scrutiny of decisions.

Whatever form the oversight mechanism takes, the terms of reference should encompass forced labour in its widest sense including human trafficking.
The person/body must have an entirely independent function, a wide remit, strong investigative powers and should really be able to hold the Executive and agencies to account. We also feel that it is essential that the remit of the person/body goes beyond transferred matters in order to have traction with the Home Office. The Home Office plays a crucial role in the trafficking process: it regularly acts as a First Responder; it is the decision maker for victims who are subject to immigration control; and it is responsible for taking enforcement action against those who are not eligible to remain in the UK. Therefore, while we recognise that immigration is a reserved matter, it is of vital importance that the rapporteur/commissioner is able to scrutinise the Home Office's functions in respect of victims identified in Northern Ireland.

Conclusion

The Law Centre would be happy to provide further evidence to the Committee if that would be helpful.

November 2013

For further information about this consultation response contact:
Policy Unit
Law Centre (NI)
124 Donegall Street
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Leonard Fahrni

Dear Sirs

I write in response to your proposed Human Trafficking and Exploitation Bill, specifically section 6. While I agree completely that human trafficking and exploitation are heinous acts, I submit the opinion that section 6 will work in opposition to the goal of stopping these practices.

Suppose the client of a sex worker suspects that human trafficking is going on. A responsible, law-abiding citizen would report their suspicions to the authorities. Now suppose that this citizen knows that by reporting their concerns, they will make themselves liable for arrest. The rational course of action would be to preserve themselves. An immediate report with a credible witness becomes much more unlikely

Suppose an otherwise law abiding citizen who previously used the services of sex workers continued to do so under the provisions of this act. even such a person who scrupulously insisted on ensuring that they did not interact with a trafficked person will under this law become a criminal. Thus, where no offense existed before, you will have created a new class of criminals. Some folks will chose to alter their behavior in response to this law and they are exactly those for whom obeying the law is important. Thus, the clientele for sex workers will come from a smaller group in which the negative elements of society that previously existed have not diminished and those who were previously law-abiding have been reclassified as criminals. For women at the margin for whom the choice to enter prostitution seems their best chance, the element of personal danger will be increased by the persecution of their clients. None of this aids society in addressing the problem of human trafficking.

If your goal is to decrease prostitution on moral grounds then you ought to state it as such rather than conflating consensual act between adults with trafficking and slavery. It seems illogical that an act - consensual sex - which will remain legal under this law will become illegal because there is an economic exchange. Nearly all of our actions as human beings are undertaken because we perceive some advantage for ourselves and the business of selling sex will not disappear because of legislation. Instead, sex work becomes more dangerous for those who are providers. They, by the way, are uniquely situated to help ferret out illicit competition, a result which gives them an economic boost and provides the state with another avenue of discovering trafficking victims. By further marginalizing them, you drive away potential allies.

I note with alarm the provision that the Department must raise awareness of this offense within a year. I suspect this will be effected by a series of arrests and subsequent publicity rather than a campaign of public service announcements on the radio and at town meetings. The need to conduct raids and operate stings will make it possible for the police to ask for more personnel, but the reason that more of them will be needed is because you will have legislated into existence a new class of criminals who have nothing to do with your stated intentions in passing this law.

I am surprised that there are not already laws on your books to prevent these crimes. In fact, I rather suspect that proper enforcement of existing statutes would be sufficient except that it is not politically expedient. I urge the removal of this clause and I wish you all the success in the world in catching kidnappers who abuse their victims.

Leonard Fahrni

Colorado USA

Lisburn City Council

LISBURN
CITY COUNCIL

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www.lisburncity.gov.uk
Norman Davidson *Chief Executive*
normand@lisburn.gov.uk

Our Ref: ND/BS

26 September 2013

Dear Minister

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

At a Meeting of Lisburn City Council on 24 September 2013 the undernoted resolution in connection with the above Bill was agreed:-

"That this Council:

- recognises that human trafficking and exploitation is a growing problem in Northern Ireland;
- believes that existing statistics regarding the number of people trafficked into Northern Ireland does not reflect the scale of the problem and are only the 'tip of the iceberg' in regard to the scale of the problem,
- believes that no human being should be subjected to sexual exploitation, enforced labour or domestic servitude and condemns those who engage in human trafficking
- believes that more action should be undertaken to support those who have escaped from exploitation and to punish those who exploit them, and accordingly,
- calls upon the Northern Ireland Assembly to endorse the Human Trafficking and Exploitation (Further Provision and Support for Victims) Bill.

The Council would be grateful if the Council's resolution could be brought to the attention of the Justice Committee.

Cont'd/.....

Adrian Donaldson MBE DL
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Colin McClintock
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LISBURN THE CITY AT LIFE
INVESTORS IN PEOPLE

26 September 2013

Yours faithfully

N DAVIDSON
Chief Executive

Mr David Ford MLA
Minister for Justice
Department of Justice
Block B
Castle Buildings
Stormont Estate
Belfast BT4 3SG

Copy to: Mr Paul Givan MLA, Chairman – Justice Committee
Room 242, Parliament Buildings,
Ballymiscaw, Stormont,
Belfast, BT4 3XX

Liz Moore

In response to the Justice Committee's call for evidence, I wish to register my support for the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

I commend the Bill in full, viewing every Clause as being important if we are to provide adequate protection for vulnerable people, especially women and children. This will have a significant impact for good on the lives of many.

As the main purpose of trafficking into N Ireland is for sex, I particularly welcome clause 6 which criminalises paying for sex. The Bill will ensure that N Ireland meets its international obligations as defined in the European Directive and the Council of Europe Convention.

Thank you.

Liz Moore

London Assembly Conservative Group

In response to Article 6, Paying for sexual services of a person

Implications of the law

Tackling trafficking and the exploitation of prostitutes is a commendable aim; however article 6 of this policy is a cause for concern.

A law that criminalises all those paying for sexual services while removing any criminality from the sex worker promotes an idea that is simply not true – that paying for sexual services is always an act of violence. There is firm academic evidence (Sanders, O'Neill and Pitcher, 2009) that this is not always the case. Men and women we have worked with in London who sell sex off-street have told us that they have chosen this profession because it suits them for financial or lifestyle reasons or even enjoy their work. Domestic servants are also often at high risk of abuse in London; however domestic work is not a vice in itself, simply because many of us would not choose to do it. Sex work is no different. Anything that attempts to ignore sex workers' agency and this type of common experience of many off-street sex workers, is simply engaging in a simplistic, non-evidence based discourse which will lead to laws that are not based on reality and so pose risks as a result.

This proposed law - by claiming all sex work is violence - also trivialises violence that is actually committed against sex workers. This indirectly promotes a view that by being a willing sex worker you have chosen to experience violence (since all sex work is violence) and therefore reinforces a dangerous view that they somehow deserve the abuse they receive, if they are a victim of an assault. Evidence (Boff 2012) has shown that some criminals specifically target them and the authorities can be dismissive of sex workers' reports of crimes against them precisely because of this prejudice. This Bill will reinforce this prejudice and make sex workers more vulnerable as a result.

Effects

On policing

Resources are scarce and the police have to prioritise the most serious crimes. This Bill does not do this. Article 6 would guide an already stretched police force to target otherwise law-abiding clients along with those who do commit more objectively agreed crimes against sex workers, such as violence and robbery. The former 'crime' may well be easier and more tempting for the police to pursue but this will happen at the expense of the more serious crime which we should be targeting (Boff, 2012 and 2013).

It has been publicly acknowledged by the police, including ACPO, that not enough serious crimes committed against sex workers are dealt with by the police. Any law therefore looking to protect sex workers should look at this matter rather than encouraging police to earn easy points targeting law-abiding citizens instead. Indeed evidence shows that criminalising aspects of prostitution to 'protect' sex workers has led conversely to sex workers becoming less safe (Boff 2012).

On safety

Those working with sex workers state that criminalisation of either the client or sex worker can result in dangerous and sometimes fatal consequences for sex workers. This is particularly the case for on-street sex workers, since criminalisation often leads to displacement, forcing sex workers to work in less well lit, more dangerous and less well known areas.

Laws

The consequences of Article 6 of this Bill will not be to stop men and women working in sex work. The decision by the former British Government to criminalise all brothels (Sexual Offences Act 2003), including even those working in twos, has not led to all sex workers choosing to work alone in London. Rather evidence (Boff 2012) demonstrates that they choose instead to work illegally. Therefore this Bill is unlikely to stop sex workers' activities.

Laws need to work with the community they govern; imposing laws will not lead to the desired result of obedience but simply push activities underground, making them more dangerous, and making vulnerable people more vulnerable. Instead the consequence of such a Bill will be to remove sex workers' more 'legal' client base, and inevitably force them to take risks by going with more 'risky' clients. Evidence (Westminster City Council, 2013) shows that women are already having to take more risks now and this, rather than demand itself, should be the main concern.

Holistic response

In London a focus on ridding the capital of prostitution, rather than a holistic focus on safety, has not had successful results. Sex workers have been displaced to less safe areas to work, they are reporting fewer crimes to police now than before, gangs increasingly see sex workers as more of an easy target because of the newly perceived breakdown in relations between the police and sex workers (Boff 2012), and prostitution, including street prostitution involving migrant women has increased (Eaves, 2013).

Exit schemes have not been shown to have had huge levels of success. Evidence instead suggests that a holistic approach of supporting sex workers – many of whom do at some point want to exit - by focusing on safety and access to services, rather than on exiting per se, has led to more sex workers leaving prostitution and more sex workers reporting crimes. Merseyside police worked more holistically with sex workers and service providers and this led to an increase in the number of women leaving sex work, with 95% of those they worked with quitting prostitution. Merseyside agencies also saw a 400% increase in sex workers willingly reporting violence to the police in the first 18 months of implementing the model and there was an 83% conviction rate for all cases going to court, compared to only one conviction achieved during the previous five years

The lack of success of schemes in London and the success of the Merseyside scheme suggests that sex workers choose to exit when they feel supported, not when they are simply ordered to join an exit scheme.

In response to combining a focus on human trafficking with the issue of prostitution

Limited amount of trafficking in brothels and wasted resources

Prior to the Olympics the police decided to try and tackle human trafficking and particularly focused on trafficking in brothels in London. However, with half a million pounds to fund this project, the police found no more human trafficking cases in brothels than the year before – indeed they found only four (Boff 2013).

Research (Dr Mai 2011, Westminster City Council 2013) has shown that most brothels in London do not have victims of trafficking in them and that claims that brothels are filled with trafficked victims mistakenly conflates migrant sex workers with trafficking. The Salvation Army's recent evidence to the Home Affairs Committee revealed that they had seen more labour trafficking cases than sex trafficking cases. Therefore the half a million pounds the Metropolitan Police had to tackle sex trafficking in brothels should perhaps have been directed elsewhere.

Improving the number of trafficking victims coming forward

This Bill appears to disproportionately focus on prostitution in terms of the anti-trafficking agenda and this risks letting down other victims of trafficking (Boff 2013). There is also a concern that making prostitution illegal does not help victims come forward. Victims of trafficking usually feel complicit in their circumstances and are often convinced they will be arrested if they go to the authorities (Boff 2013), therefore making prostitution a criminal offence (even if it excludes the sex worker themselves) will not help in reassuring them.

Evidence from Assembly Member Andrew Boff, Leader of the GLA Conservatives, and a Member of the National Working Group (formerly ACPO) on Prostitution and Exploitation, and Tamara Barnett, Senior Researcher for Policing and Crime, Greater London Authority

Lord Chief Justice

Dear Sir/Madam.

I write on behalf of the Lord Chief Justice. The Chief Justice is grateful to have been provided with information about this Bill. He has no comment to make.

Joanne McDermott

Joanne McDermott
Operations and Policy Branch
Office of the Lord Chief Justice

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Lorna McFarland

Dear Committee,

I am writing to you to request your support, for those caught within Human Trafficking.

The true figure of these unfortunate people being trafficked, is impossible to accurately determine, but a staggering estimate of 27 million persons presently being trafficked worldwide, speaks for itself.

The criminal proceeds from Human Trafficking is second only to drug dealing, and these crimes are often interlinked.

In order to effectively combat human trafficking, it is vitally important that all parties act as one, to pass laws which provide strong support for victims of trafficking, and provide a strong deterrent to those in our society who support and engage in the misuse of clearly vulnerable persons.

I urge you to support all clauses within the Bill proposed by Lord Morrow, in particular clause 6.

There is evidence within Sweeden and Norway, that laws including clause wording, has had a positive effect in

the support and protection of vulnerable persons within society, and in turn sends a clear strong message to those engaged in trafficking persons, particularly within the sex trade.

I would ask you to consider that the effect on DEMAND for the sexual exploitation of vulnerable persons, will directly and positively effect the supply of persons trapped within this trade.

It is of particular note that the laws within Southern Ireland, are moving forward to make a positive stand against this plight within our world and society. Should we be lagging behind in our support for those unfortunate people caught within Human Trafficking?

Northern Ireland may become a safe environment to traffic people. Do we want this to be the case?

There are still those in our society who dismiss prostitution as something which will always be within our society, and therefore to be disregarded and swept under the carpet. Without prostitution, to provide a hidden cover, within which human trafficking thrives, vulnerable girls and children will continue to have their freedom and basic human rights stripped away from them.

Please ask yourself, is this the society,

Is this the world, we would have our children to grow up in, and perhaps became actual victims of trafficking themselves.

By supporting Lord Morrows bill a strong message will be sent to those engaged in the exploitation of vulnerable people within our world and society and will provide a realistic and effective support for victims caught within this situation through slavery and through wider social deprivation and despair.

Please consider Lord Morrows Bill carefully and support all clauses, particularly clause 6.

Yours faithfully,

Joanna McFarland
Ardstraw Against
Trafficking

To campaign at all levels to see Human Trafficking end within our lifetime.

To assist in the rescue of victims of Human Trafficking.

To assist in the protection and rehabilitation of victims of Human Trafficking.

To ensure prosecution for those responsible.

Our Group seeks to see an end to the apathy, and bias, where the plight of those caught in trafficking is ignored and belittled.

Without your support and your voice, the demand to manipulate vulnerable people for selfish sexual gratification and for greed, will not only continue, but will increase.

Useful web sites.
care.org.uk
A21
Hope for Justice. uk
International Justice Mission.

What do you do if you come across a case of Human Trafficking ?

Do not investigate yourself, this could place yourself and the victim in danger.

Ascertain as many facts as ~~safely~~ possible and contact :-

//UK Human Trafficking Centre.
Tactical Advise number
08447782406.

If life is in danger, ring 999 and speak to Police.

Crime stopper

ARDSTRAW AGAINST TRAFFICKING.

ARDSTRAW
Against Trafficking.



A BLIGHT ON OUR SOCIETY WHICH NEEDS URGENT ACTION BEYOND PARTY POLITICS.

The Facts.

What is Human Trafficking?

THE SALE, TRANSPORT AND PROFIT FROM PEOPLE WHO ARE FORCED TO WORK FOR OTHERS AGAINST THEIR WILL.

Why do we need to Act ?

We need to act, to become educators of the Church and general public, not only to provoke a greater awareness of Human Trafficking, but to inspire actions.

Ardstraw Group.

As a group we seek, with Gods help, to provide a voice for the victims of Human Trafficking, and to raise awareness of this growing cancer within our society.

To be a good neighbour, is our hope and prayer to all those who are lost and enslaved

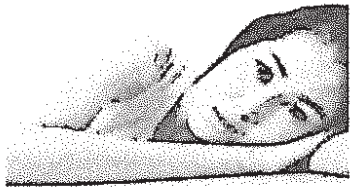
Whatever your age, circumstances

or background,

You can Help.

2

Lord, you know the hopes of the helpless. Surely you will hear their cries and comfort them.
You will bring justice to the orphans and the oppressed, so mere people can no longer terrify them.
Psalms 10 v 17 - 18. NLT.



How can you help.

Pray for freedom for those trapped within Human Trafficking.

Check out Care NI on the internet www.care.org.uk.

Get involved in a group to learn more.

Educate your friends and family.

Be the eyes, ears and voice of those trapped within this situation.

Be a good neighbour today.

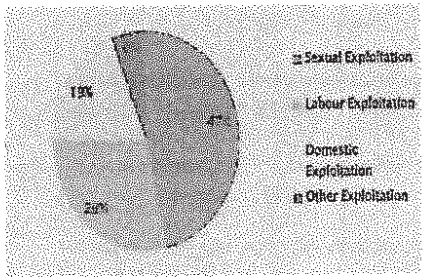
Did You Know ?.

Over 27 Million people are enslaved in the misery of Human Trafficking.

47% of people enslaved in Human Trafficking are used in the sex trade, many are young girls and children.

Human Trafficking is a hidden crime, which is hard to detect. Some victims may be in a foreign land, without friends and support, and live in fear of everyone around them.

Most of their basic human rights have been stripped from them, and they truly live in a world where they see no hope of freedom and happiness.



People are living in slavery within our own areas.

DUNSILLY
HOTEL

Ms L Mcfarland
23 Coolaghy Road
Newtownstewart
OMAGH
BT78 4LG



27/10/13

Dear Alban

I am writing to you to request your support, for those caught within Human Trafficking.

The True figure, 27 million being trafficked worldwide is Scarey, so lets open our eyes and do some thing, you have the power, I don't.

Get all parties to act as one and get this bill through.

There has been a positive effect in Sweeden and Norway.

Let Northern Ireland become a safe place, no more trafficking!

Don't let Northern Ireland become a safe place for Traffickers!

Please ask yourself, is this the Society, is this the world, we would want our children to grow up into, and perhaps become actual victims of trafficking themselves.

The Bill is essential because it will make a real difference in the lives of some of the most vulnerable men, women

DUNSILLY HOTEL
20 Dunsilly Road, Antrim, Co. Antrim, Northern Ireland, BT41 2JH.
Tel: (028) 9446 2929 Fax: (028) 9446 5801 E-mail: info@dunsillyhotel.com Website: www.dunsillyhotel.com

Company Reg: NI 47590 VAT Reg. No. 820 9137 44
A MEMBER OF McKEEVER HOTELS

and children who are exploited in our province.

Ardstraw Against Trafficking Group.

Lana McFarland.

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

Lynn McKenzie

I welcome and in support of Lord Morrow's Bill, my letter is in response for a call to evidence by the Justice Committee.

I believe this Bill is essential because it will make a real difference in the lives of some of the most vulnerable men, women and children who are exploited in our province.

The Bill will help ensure that Northern Ireland properly fulfils its international obligations as set out in the European Directive and the Council of Europe Convention.

I recognise that the primary reason for trafficking into Northern Ireland is for sex and thus you particularly welcome clause 6 of Lord Morrow's Bill which criminalises paying for sex. Clause 6 would thereby directly address the principal source of demand for trafficking and do so more effectively than our current laws.

Sometimes it falls on a generation to be great...you can be that generation...

Lynn McKenzie

Maureen

Dear Sir or Madam

I warmly welcome the above Bill and wish to express my support for it. I feel that;

- The Bill is essential because it will make a real difference in the lives of some of the most vulnerable men, women and children who are exploited in our province.
- The Bill will help ensure that Northern Ireland properly fulfils its international obligations as set out in the European Directive and the Council of Europe Convention.

I recognise that the primary reason for trafficking into Northern Ireland is for sex and thus you particularly welcome clause 6 of Lord Morrow's Bill which criminalises paying for sex. Clause 6 would thereby directly address the principal source of demand for trafficking and do so more effectively than our current laws.

Thank you for all your efforts to prevent the enormous suffering that trafficking incurs.

May God bless you all.

Maureen

Melanie Leath

Dear Sir / Madam,

I would like to add my support for the Human Trafficking and Exploitation Bill(further Provisions and Support of victims) Bill introduced by Lord Morrow.

I recognise that the primary reason for trafficking into Northern Ireland is for sex and so I particularly welcome Clause 6 of Lord Morrow's Bill, which criminalises paying for sex. Clause 6 would directly address the principal source of demand for trafficking and do so more effectively than our current laws.

Yours sincerely,

Melanie Leath

Mia de Faoite

Submission to the Justice Committee Northern Ireland Assembly

The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013. Focus: Clause 6.

24th October 2013.

Thank you for this opportunity to make representation on the Human Trafficking and Exploitation Bill 2013, and in particular the critically important Clause 6 – which creates a criminal offence for the purchase of sex. This Clause is the focus of my submission. I have lived experience and feel strongly that this piece of legislation is an opportunity to both combat human trafficking and the exploitation of prostitution but also to create a more equal and humane society. Below I outline my lived experience of prostitution; first-hand knowledge of sex trafficking and; my message on the issue of criminalising the purchase of sex to the Justice Committee members of the Northern Ireland Assembly as legislators, but also and critically, as human beings. My experience occurred in the Republic of Ireland however, prostitution and trafficking on the Island of Ireland knows no borders and legislation for the whole Island will be critical to combat the evil of trafficking and degradation of prostitution.

My name is Mia and I think, therefore I am, for I will never deny where heroin and prostitution brought me but I refuse to let it define who I am today, because if it defines me, it becomes me and it is not all I am.

I have chosen now to let you in to the place that it brought me, to share my thoughts on what happened during my time on the Burlington Road in Dublin, by day it is a beautiful, elegant street where old charming houses stand tall and proud but by night it becomes something far more sinister, for it is the place where men come to purchase human beings for sex. I was one of those human beings for over 5 years.

My Definition

Prostitution is when a human being ceases to be seen as that human being in the eyes of others, and becomes a trapped mind in a body that no longer belongs to her/him.

How that trapped mind copes depends on a wide range of things, but mainly we cope by increasing the very thing that brought us to the street, our addictions, in fact, I only ever met one Irish woman who hadn't a drink, drug or underlying psych problem. I can only speak for myself with regards my intake of heroin and how it affected me physically and how I used it to block out what I had become but I witnessed the deterioration of other women over the years, many of whom did not even realise it, that was the saddest thing, some of them believed this was the only place they could be, many were second generation addicts, or were children of alcoholics, where sexually abused, grew up in the care system or worse, where homeless from their teenage years. They were women who mostly had never known anything but trauma and had had dramatic lives, so it was all that they knew, this was just the way it was, nobody ever told them it could be different, or they could be something else, for many it would appear that their life script had already been written.

The dynamics of the street are quite complex, as we led quiet complex lives, you do not just arrive on the Burlington Road one night and decide "I'm working from here". Oh no, a lot of women have been there long before you and have earned their spot, so to speak. There is a hierarchy system in play and the "normal" stages of group dynamics happen. I wandered around aimlessly for a couple of months, standing at different spots but I knew the one I wanted, it was right across from the side entrance of the Burlington Hotel, I figured it was the

safest place because if I needed to run from danger, the hotel was always open. So I kept returning to it and after a while it became my spot, at which I would stand and be purchased for the next 5 years. If anyone would have told me that I would still be there in 5 years I would never have believed them but my mind was beginning to get trapped and I got lost in a paradox.

The Paradox

Society assumes many views on the issue of choice but they forget one thing, your ability to see choices becomes extremely compromised by the effects of trauma and disconnection from society in general. For me as an addict, I was fortunate, an education, a work ethic, a basic sense of right and wrong, but obviously my life was not perfect, my self-esteem/worth was lost somewhere as I picked heroin up at the age of 33yrs, having never taken any kind of drug before that. In fact it was the set of values I was raised with that actually brought me to the street, as I had an expensive habit but crossing the line into crime, robbery, etc was not an option for me but I knew I had a valuable commodity, for I had a female body which I could sell.

And so the paradox begins, at first you believe you can be strong enough to cope for the short time until you sort your mind out, figure out getting clean. I had a sick child at home so she was my priority, I couldn't be away from her for very long, I was her full-time carer. In fact, the only time we were ever really parted for any length of time was when I went out to work. As I've said before I never believed when I walked out on the street that first night that it would not only own me within a very short time but that it would take from me everything I thought I once was. Initially it does what it's intended to do, it pays for your habit but other things were happening that you're not fully aware of at the time, I was now completely cut off from family, the shame was too much for them; I hadn't a friend in the world that could maybe remind me of who I was. My only human contact was with the men who bought me and the women who sold themselves beside me. That isolation is painful but the most dangerous thing for me was I had become comfortably numb and disconnected, I had to, and how I did this was to increase my heroin habit, I went from smoking one bag a day to keep the physical withdrawals away, to two bags a day because I needed one every-night I returned home in order to sleep, it wasn't a case of getting stoned as I had a child to care for, more just a numbing affect, so I let my eyes water up but I'd never cry, I'd get angry but never scream, heroin is an expert at shutting down your feelings.

And then the evitable happens, rape/sexual assault, for me it came in the form of a gang rape that lasted for what seemed like forever, and in many ways it will, for form that night on, I no longer lived, I just existed in a world where I thought humanity no longer existed and even if I saw traces of it, I didn't trust it. So, now as stated heroin becomes the lifeline to cope with being bought, where it began with selling yourself to cope with heroin, welcome to the paradox, that so very few of us escape from. I am one of the lucky few.

The Reason it is a Crime

Firstly you must ask yourself one question: Do you believe that people have the right to buy other human beings? When I ask anyone this question, of course they say "No", but when I ask them: "Do you believe that people have the right to buy other human beings for the purpose of their own sexual gratification?", they sometimes hesitate. I understand where this hesitation comes from, because they think "well if she/he is offering it", what's the problem, two consenting adults, a business transaction!! I say no, this question requires a yes/no answer. You either believe it or you don't, end of. I stood on that street selling myself but I always knew they had no right to buy me. There are many reasons why women/men find themselves in prostitution and all of them have nothing to do with feeling empowered and even if they did feel delusionally empowered, I don't care if he/she is offering themselves

up in a gold bikini on a silver platter in the pent house suite of the Berkeley Court, No One actually has the right to buy them, period!!

Rape

This part is so hard to talk about never mind writing it down. For I fear this is the ultimate crime committed against us that will forever go unpunished. For it is near impossible to prove, unless you are left in intensive care. So we don't really talk about it, we might mention it to each other but then we move on but we are never the same, well I wasn't anyway.

It was December, it was freezing cold, there were more then usual out because it was close to Christmas, I got an offer to do a job with another girl, it was for a Christmas party, she said there would be only a few men and that she knew one of them well and we'd be fine. I was a little naïve as I was only on the street for 5mths and the thought getting one large sum of money meant I would not have to come out again until after Christmas, so I went. It turned out to be 8 men in total. I was nervous now but we agreed the terms, what was allowed, what wasn't, etc, we were paid in full and we got on with it.

There was alcohol and cocaine offered, I took cocaine but I didn't drink alcohol my whole time in addiction, I always thought better to stay away from it, one substance was hard enough to cope with. So you can imagine what went on, not all the men wanted something from us and I did feel somewhat in control, but was aware my friend was getting drunk and the men were as well and getting loud. When the time was up we were left alone for a minute, I collected my things and told my friend to get ready to leave, I went in to the other room and said, "right guys, we're gonna go and thanks", or words to those effect, but I could feel something had changed, the atmosphere, you could feel it, the hairs at the back of my neck began to stand up, one of them said "you're not going anywhere, we're not finished". I tried to reason by saying "c'mon fair is fair lads" but I looked at the door and glanced in the bedroom where my friend was still not ready. I couldn't just run and leave her. The next thing my hair was pulled and I was pushed over the sofa and then it began, I was dragged back into the bedroom where myself and my friend were subjected to an unimaginable horror; we were raped, both anally and orally as well. We were like ragdolls, not even, we were just objects to be passed around, my skin was crawling, my insides felt like they would come right up my throat, I wanted to die. I looked at my friend and I couldn't protect her, she was much younger then me, much thinner and weaker. I looked at the man who was on top of me, I looked straight into his eyes, I thought can't you see me, cant you hear me scream and I will never forget the eyes that looked back at me, for they were blank, he looked straight through me. I have spoken to a couple of women who describe the same blank stare, it is frightening. They tried to insert objects inside us; my friend was placed on a chair with her legs wide open. I'm sorry but I cannot speak about what happened next but eventually it ended and they left, thankfully they didn't take their money back off us so we could get out of there. I picked my friend up, half dressed her and myself and we left. I left the building with a bruised body and face, smelling of urine and bleeding from my rectum.

Do you now understand how I couldn't see the choices anymore? As for my friend: she died. I don't know the day she died, I only know when I hadn't seen her for a few months after I asked and someone told me, she died of an overdose. It might have been heroin in her arm the day she died but I know what really killed her.

I have gone over that night a thousand times in my head, not the whole night, as sometimes I feel if I go there again I might never come back, but I mean I've tried to understand why it happened. I don't believe when those men picked us up that night that that was what they knew they would do, something changed during the course of the night, it might have been the cocaine use, although I don't know if all of them took it but put that with alcohol and it's a dangerous combination, and fuel it with ego and power and a mob mentality, I believe a frenzy began and it over took them. This is not to say that I justify what they did do us in any way whatsoever but understanding what happened helps me cope. And then I look at the bigger

picture, they were men connected to the Celtic tiger, they were men who had made money during this time, I know that by some of the conservations I heard, they felt powerful, we were taken to a building which is now owned by NAMA.

A lot of values were lost during the Celtic tiger years, ordinary people valued materialistic things, people spoke about how much they're house was now worth, etc. We were already considered the lowest of the low, for I was a "junkie whore". What I'm trying to say is if you set up the conditions of rape, it will happen. I don't mean myself and my friend alone in a appt with 8 men, we as prostituted women are a prime target for any man who wants to fulfil the sexual fantasy of rape - only with us they can do it for real and get away with it, and both society and the laws that govern it have a major role in keeping it that way, and it will remain unpunishable while it remains legal to buy another human being in the first place.

I returned to the street 3 weeks after that night, but I returned in a different way. I was no longer living, I felt my body no longer belonged to me. I now existed. How I coped with this existence was through disassociation, a skill the mind can develop in order to cope with trauma, I had done it as a child. So during the day I was a mother and cared for my child, smoked heroin in the morning like medication to keep the feelings a bay but at night I became someone else, who was strong, streetwise and not an addict but would return home every night with something to help me sleep. They had separate clothes, separate toiletries, they were very different and yet the same. No I do not have a personality disorder; it is a learned coping skill.

At night I learned to read and understand the behaviour of the men who bought me, I worked out who I would be safest with, I took everything into account from their body language, their tone of voice, their profession, their personality traits, everything went into the equation. I would spend hours working out based on all the information, where in their lives they felt inadequate or lacking in power that they were down here replacing it, you work that out and you have the power, some do not take to kindly to this, that was their problem not mine. I was assaulted on two more occasions, when I was caught off-guard, grabbed from behind on the Burlington Rd. But I heard many stories of rape and beatings from the girls but like I said before, it's mentioned and then it's not discussed again. I remained strong on the outside but inside my heart as broken.

Trafficked

I didn't get to meet many foreign women, I only met one who was trafficked on to the street in those years, for obvious reasons they are kept away, locked up, moved around, in fact I didn't really know the extent of the problem until last year. When I realised how big is was, I was so full of shame and appalled that my country had let it get to this stage. We are connected both prostitutes and trafficked women, although that initial introduction may be different but we are connected because we are bought, used, exploited, humiliated and raped by the same men. They are often gang-raped into submission, to break them down; I understand that only to well. But I find it unimaginable to think of what it must be like to be in a country where you know no one; maybe you don't even speak the same language.

I was working one night, it was a quiet night when I heard a language I recognised, I had not heard it in some years but I knew it immediately. I looked towards the end of the road and saw a woman talking on the phone. As she approached me, I smiled and asked if she was speaking …. She said yes, do you speak it, I said no but I had been to that part of Africa and recognised it. She was overjoyed; we sat down and spoke for ages about her homeland, good and bad.

We began a friendship but I soon began to notice things, she would have marks on her face, arms and legs, I had a feeling she was working for someone. She began to open up, that someone had trafficked her from home, right across Europe and finally landing in Ireland. At this stage she had been completely broken down, his control was all that she knew. He would

beat her if she was challenging, kept her passport, she was put out to work at 6pm and worked continuously until 5a/m every night, she was addicted to crack cocaine and he was the dealer, she had to return with every 100 euro's she made. She made nothing.

He barred her from speaking to me, but we met at secret places and she kept my number under different male names. I was the only friend she'd had in years. Together we had many chats, we laughed at things many would be shocked at, it was our way of coping but we also had hard times. I challenged him, she suffered for it, I challenged the men who bought her when I found out they actually knew the conditions she lived in, one of them said to me, "I know its terrible, I was thinking about moving her somewhere safe, a nice clean appt", I said are you mad, he replied "it just seems like the right thing to do". I lost it then and replied "a man who has continued to buy a trafficked woman is trying to tell me about the right thing to do", "firstly she is a chronic crack addict, how are you going to fix that and secondly she has a twisted sense of loyalty and an unhealthy attachment to her trafficker, I don't suppose you've got a clinical psychologist lined up, you just want to play the hero, this is not a movie, this is her reality and the best thing you can do for her is grab your ego and go home to your wife", too many men come not only buy us but to try be our saviours as well, so they feel not only powerful but protective - more like deluded and bewildered! It would almost be funny, only it's not: for these men messed around with the minds and bodies, of some of the most damaged women I've ever met and they were my friends and I cared about them and I miss them - and every day of my freedom, I will fight for theirs.

I will end the story of my African friend with one of the saddest things I ever seen and for me it puts it into perspective. I was at home one night alone, as my daughter had become very ill and needed some in-patient care. My phone rang and it was Mr. Hero himself but he was different this time, extremely anxious and had my friend with him, there had been a row between her, her trafficker and another girl. He said it was bad and could he please bring her over, she had never been to my home, I kept work and home completely separate but I said yes, as I was on my own.

She arrived, crying uncontrollably, I'd never seen her so upset. I told him to go and I'd look after her. I hugged her and checked her wounds, as she had blood all over her hands, thankfully everything was superficial. It doesn't really matter what the fight was about, control, drugs, etc. I made her coffee and we had a cigarette together. I said I would run her a bath and get her some pj's, she looked exhausted. I ran the bath with bubbles, left out a towel and called her in. I left her to relax and went in the other room, I was closing the window, when she called me. I turned around and what I saw shocked me to the core, for there in front of me my friend stood naked, but she had the body of a child, her rips stuck out, there were no breasts, it was covered in old bruises, new bruises, scratches. She looked like someone who'd just been released from a concentration camp. My eyes welled up but I didn't want her to see me cry, so I brought her into the bathroom again. She had called me to wash her hair for her as her arms were sore, I washed her hair, took her out of the bath. She put the pj's on and she sat in between my legs on the floor as I brushed and blow-dried her hair, she was humming just like a child. I put her to bed and sat beside her until she fell asleep. And then I cried and cried for the lost child I had just put to bed, I'll never forget the image I saw but this wasn't a concentration camp, in Poland in 1945, this was my apartment, Dublin, 2010, there was no war but there is no law to protect either.

I recently got to go on an outing with some of the survivors of trafficking organised by Ruhama, it was to Dublin Zoo, I took my adored granddaughter with me, she's 15mths old as I knew some of the women would have their children and there happened to be a little girl approximately the same age as her, they played together as children do, for children don't see colour, only adults do. We had stopped to see the giraffe's, they have a new enclosure since I'd last been there and a new baby giraffe. I picked the little girl up to show her, they're giraffes I said and they come all the way from Africa, she wasn't that bothered, she like all toddlers was more concerned with trying to climb the fence or attempt to climb the rock, my

granddaughter just had managed, normal toddler adventures, yes, she like my granddaughter kept us on our toes that day.

But I looked back around at the giraffe's, beautiful, graceful creatures from Africa, and then it occurred to me, we bring these animals to our country so that children get to see them. We treat them so well, give them to appropriate shelter, food and settings so they can grow, be healthy and happy, and rightly so. But they are not the only thing that we now import to Ireland – the whole Island of Ireland - for we now import women and children from Africa to satisfy the needs of a certain type of men and it is not to be admired and treated with respect like the giraffe's. Oh no, it is for very different reasons and none of them have anything to do with admiration and respect. I picked up that little girl again, I hugged her and kissed her cheek and I apologized to her on behalf of Ireland. I apologized for what has happened to her beautiful mother but I told her things were about to change. I did not continue on to see the rest of the African plains. How could I after making that connection in my head, could you?

Silence

Silence is golden, they say, no it is not, peace and serenity is golden, silence can be deadly. Why have we on this Island stayed silent for so long regarding the purchase of human beings for sex? Is it because it places a different value on women like me and a different value on the women that are trafficked into this country? It is something most people would not admit to, placing the value of one woman over another, sometimes they don't even see it. But I only have to think what would be happening if the women where being trafficked in from America or Germany, do you think we would tolerated it then? I think not. So if I was a woman born to a "respectable" family from Manhattan, I would be rescued, supported and returned home safely, for America is of great value to us, but if I am born into poverty, uneducated and tricked into coming here from a Eastern European country, I am not entitled to the same treatment because that country is of no value to us. How do we decide this? What right do we have to decide which human being is more valuable than the other?

Haven't we had enough of silence and secrets, report after report, dirty secrets about exploitation and sexual abuse, but we have acknowledged the wrongs that were done and now we are questioning and looking for answers from the ones who stayed silent and rightly so. It is a most shameful part of our history and are we now willing to create another? I am not, and I, just like history, will not recall the actions of my enemies but the silence of my friends.

Protecting the Good Citizen

I believe this is where we struggle because for the most part the men who buy human beings for sex are exactly that, they are good citizen's, in that they are in gainful employment, so they pay their taxes, they pay their rent or buy homes with their partners, they have 2.4 children, they tick every box the society deems to be correct, so we allow them this little indulgence, how we allow it is again through silence and keeping it legal. For the men who bought me and all the other women, the men that feed this twisted industry, they walk among you every day, they are fathers, husbands, colleagues etc we don't want to acknowledge that the good citizen can be a bad human being, I understand that fear, for we hate to upset societies little applecart.

I, on the other hand would be viewed as a bad citizen: I didn't have a job, I was supported by the State, I was a heroin addict and, worst of all, I stood on a public street displaying my wears, luring these good citizens to me, as if they had no choice. But I am a good human being, I always have been. This is the balance you must find: between the good citizen and the good human being and which one of us comes first in the queue for protection.

THOSE WHO SERVE AND PROTECT

I never met an officer or a detective who didn't want to system to change. But they often seemed frustrated, annoyed, not towards us but the offenders. I now understand their frustration, for their hands are tired. Many of the officers have watched women work 20yrs on that street; they have witnessed and heard many horrific stories of rape and abuse. They know more than most that none of us are there because we want to be.

In those years, I never witnessed any officer being disrespectful or inappropriate towards me or any of the women, in fact at times they had to handle women who were angry, high on cocaine, unpredictable and inappropriate, they seemed to understand or they are trained well. I was shown compassion many times by the officers that got to know me, they were a little curious as to how, an articulate, intelligent woman, who worked for a government department for 10yrs, could come to be here. They were curious but never judged me.

I received many cautions for soliciting, I never minded getting a caution for two reasons, one it proves that I existed on that street and two when the figures are done up at the end of the year, if there were no cautions, people may be inclined to believe street work had disappeared and would forget.

I was brought to court once and charged with soliciting but the officer involved did not show up and it was dismissed. I went to work that night, and that officer came looking for me, I found out that he had no intention of showing up, for it was not me he wanted to convict but the man who purchased me. He said he also felt I would find my way out of the street one day and he didn't want me to have a conviction. I couldn't see that possibility at the time, but I'm very grateful to him now.

To the officers at the top who are involved in the discussions and debates, if the debate comes down to the counting of numbers, 15 children trafficked in 2011 in the Republic, how many in the North? The fact that there are any children found here in sexual slavery is appalling. The fact that the traffickers are getting smarter. These officers must keep in touch with their front line, the officers who see the damage and pain first hand, the ones that rescue women or find them in the middle of the night on a street they don't know, having just escaped. Often when you have been away from the frontline, you can get a little disconnected, and it's about budgets and staffing and figures. If that is where your struggle is, then you need to reconnect and remember why you where you are, to serve and protect.

To Those In Power

"We must take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented. Sometimes we must interfere. When human lives are endangered, when human dignity is in jeopardy, national borders and sensitivities become irrelevant. Wherever men and women are persecuted because of their race, religion, or political views, that place must - at that moment - become the centre of the universe."

Elie Wiesel,

Holocaust Survivor

Nobel Prize winner

Protector of Freedom

The above quote just about sums up all you need to take into account. For human trafficking is the modern day slavery and sexual slavery is the most appalling of crimes, for it removes human beings of all their human rights and dignity. To do nothing is to play an active role in it happening. The world over is waking up to this, my country has no choice but to stand up to it. For freedom is something Ireland had to fight for itself, so we should have no struggle with fighting to protect the freedom of other, no matter what country they come from.

To the Lawmakers

You must end this struggle and take a brave but challenging step towards change for the good of all, that is the job of the lawmakers, to protect, to implement laws the maintain social security, and strive to find the ideal. Laws have a direct impact on behaviour, believe me if Clause 6 of this Bill is implemented, things will change.

Our strict anti-trafficking laws are vital but I must now make you aware that in fact, there is no anti-trafficking law which is more powerful than getting the use of another man's slave.

Those That Oppose

You only support legalisation if you have a vested interest in it, it doesn't make sense otherwise. This interest can be academic, political, financial or personal. There is sometimes an awful glamour attached to taking the wrong side.

Groups like the SWA (sex workers alliance), all I can say is that I never heard of them until last year, does that not tell you something? It should, for they claim to represent who I was, yet I never met one, they never came down to the street to introduce themselves, they didn't have a helpline if any "worker" who was in trouble.

I know what this tells me, it tells me that they only care for an elite group, and that is a very different argument, and it is based more on a need to have their own behaviour sanctioned to serve their own needs and wants, and that argument has nothing whatsoever to do with freedom, justice and equality.

There are some that say they are happy to be there, I never met one but there are a few out there but the liberty of a few should never come before the freedom and human dignity of so many.

To End

I end my submission now, and you will forgive me if all my words to not run smoothly, this as been an incredibly hard piece to write as it is so personal to me. As for me, I do believe it is not the first time you will read my words, and not because I intend to write a tell all book, no, because I aim in 10 years' time, to be on the panel of experts that will be formed to review the legislation criminalising the purchase of sex - which I hope will be shortly enacted in both Northern Ireland and the Republic of Ireland.

On Monday the 3rd of Sept 2012 I walked through the gates of the University of my Dreams, to do a specialised degree in humankind. I survived because I questioned and challenged, I have a mind that can adapt, and I have a love of wisdom, yes my life was tragic but it was never absurd, and that is because, my learned friends, I have always had the Audacity of Hope and the ability to reason.

I leave you with the words of someone who lost their freedom & their life, there is a reason why we remember these words,

"At any moment, anyone can do something to make the world a better place"

Anna Frank

And if you haven't realised it by now, this is your moment, don't let it pass you by.

True healing begins when someone bares witness. My real name is Mia de Faoite and I have just born witness.

My Fathers Words

I stand by everything my daughter is, everything she was and everything I know she will be.

My Daughters Words

My mother thinks I'm the strong one, but she is the bravest person I know, she's a little odd at times but only because she sees the world a different way, I love my mother and I love the way she sees the world.

My Sisters Words

As children, the games my sister and I played, mammy's and daddy's, wheeling our babies around, dressing them and us up, happy care free days, children's imaginations at work, the way it should be. Many years later my baby sis is a survivor of many things, the things of the worst horror movie you can imagine…. You know the ones that to you are unbelievable or un-survivable and therefore only a story! But the truth is for many these horrors are a daily reality, children playing not the games of yours or my childhood but a reality game invented by Adults who have stolen their innocence and sold their bodies to the highest bidder.,

I look at my sister now some of that sparkle of our childhood will never return, then I look at my daughter and I know this has to stop As human beings so called civilised, we need to unite and CRIMINALISE THE SEX BUYER NOW. I could not protect my baby sis - that guilt never leaves me but perhaps supporting this will protect your baby sis! So help us and turn it off!

Michael Barbour

Dear Justice Committee

I should like to add my wholehearted support to lord Morrow's Bill. Although I do not live in the Province, I do live in a borough where many people are suffering the same indignities and exploitation as the Bill is attempting to deal with, and it is a response to the call for evidence on the part of the Committee.

The Bill is essential because it will make a real difference to some of the most vulnerable adults and children who are exploited in your province.

The Bill will help ensure that Northern Ireland properly fulfils its international obligations as set out in the European Directive and the Council of Europe Convention.

As is the case in England and Wales, the primary reason for trafficking into Northern Ireland is for sex and so I particularly welcome clause 6 of Lord Morrow's Bill, which criminalizes paying for sex. This clause would directly address the principal source of demand for trafficking and do so more effectively than current laws.

Yours sincerely

Michael Barbour

Nexus NI

Response to the request for written submissions on the Human Trafficking and Exploitation Bill

29th October 2013

Pam Hunter
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Nexus offer counselling and support to survivors of sexual abuse, victims of sexual violence including those who have experienced rape or sexual assault. Nexus have nearly 30 years' experience in providing a professional counselling service helping people to survive sexual violence in Northern Ireland. Nexus have 4 offices in Belfast, L'Derry, Enniskillen & Portadown and operate with over 35 staff. Nexus also provide education and raise preventative awareness of the issue of sexual violence across Northern Ireland.

Nexus supported over 1,500 clients from Sept 2012 to Sept 2013 alone and it is with this experience that Nexus understands the complexities of sexual abuse, violence and rape and the service provision necessary to overcome this trauma. One example of this is that 80% of Nexus clients have suicidal thoughts. There has been little research specifically in Northern Ireland over the prevalence of sexual abuse, the nature and extent of this, and even less or none with the addition of trafficking.

Introduction

Nexus fully endorse the legitimate concerns that the Human Trafficking Bill seeks to address and the need for additional support to victims of trafficking. As a service provider to people who have experienced rape and sexual violence, we are concerned with one clause of this Bill – Clause 6 which seeks to outlaw the paying of sexual services of a person. Therefore, this submission focuses on that clause. Nexus is concerned that this Bill, as currently proposed conflates two issues in a way that is unhelpful to those affected. Whilst we accept that people are trafficked to Northern Ireland for sexual exploitation, we recognise that trafficked victims and those who sell sexual services are two separate and complex groups. The bill does not address the complexities of sex work outside of those trafficked for prostitution.

Nexus are concerned over the complexity of this issue and indeed this was further demonstrated in consultation with a sex worker representing organisation. Nexus feel it is important to ensure every area of this is consulted with.

Concerns & Comments

- Nexus believe that it is unacceptable for the bill to move forward in its present format as, from our client's perspective, it does not introduce any supportive methods for the victims and survivors of rape and sexual violence through trafficking.
- Nexus believe more research is required to know the nature, scale and extent of sex work, specifically in Northern Ireland, to make informed decisions regarding the supports that

are required (both around exiting prostitution and support required for those who choose not to exit yet).

- Nexus believe that there has not been sufficient research and consultation with individuals involved in sex work in Northern Ireland in order for their range of needs to be sufficiently addressed, ranging from safety, sexual health and support with reporting, amongst others.
- In Nexus we aim to improve the possibility of a client engaging in support services and reach out to all potential clients without judgement. The inclusion of Clause 6 has the potential to further isolate those in need of and make it harder for them to look for support.
- Nexus note what is already in legislation to regulate demand for sexual services:
    - Obtain for payment the sexual services of a child under the age of 18, whether money has changed hands or not, or whether that payment, or promised payment, is to the person or a third party. (article 37 SO0);
    - Pay for the sexual services of a prostitute subject to force – whether or not the man is aware the woman has been forced is irrelevant. (article 64A SO0)
    - Solicit for the services of a prostitute in a public place. (article 60 SO0); and,
    - although with a much wider application, it is an offence to:
    - Have any sexual activity with a person without their consent. Consent is agreement by choice and with the freedom and capacity to make that choice;

In summary, those who organise supply – causing or inciting prostitution for gain (article 62 SO0), or controlling prostitution for gain (article 63 SO0), or who 'keep' a brothel (article 64 SO0), are involved in illegal activity and can face sentences up to seven years. In addition, traffickers will face charges of trafficking for sexual exploitation with maximum sentences of 14 years.

Further existing brothel offences include:

- Allowing a child over 4 and under 17 to be in a brothel (section 23 of the Children and Young Persons Act (Northern Ireland) 1968 and permitting or letting premises for a brothel 9 section 13 of the Criminal Law Amendment Act 1885).
- For those who buy sex, they can face life for paid sex with a person under 18; they can be fined for soliciting to buy sex in a public place or for buying the sexual services of a prostitute subjected to force; they can face charges of rape (article 5 SO0), assault by penetration (article 6 SO0) and sexual assault (article 7 SO0) for having sex with a prostitute without consent.
    - Nexus need to be confident in the Criminal Justice System in order to effectively support clients who wish to move towards prosecution, our clients can be reluctant for fear of safety, mistrust of services, shame and guilt, fear of not being believed, amongst other reasons which demonstrate the complexity of the issue of sexual violence. The issue of sexual violence against sex workers adds another level of complexity which would need to be explored through in depth independent research to provide an evidential base for further legislation.
    - Nexus question the extent to which the Swedish Model would be a successful fit for Northern Ireland context without a strong evidence base. It is Nexus' opinion this Bill's approach does not take into account the transient nature of this social issue and the subsequent repercussions on our society, for example taking account of technology advances that enable both trafficking and sex work.
    - Nexus fear that the inclusion of such a Clause 6 has the potential to push the purchase of sex further under the radar, increasing the risks to those involved. Nexus believe that the isolation of prostitutes already makes them a highly vulnerable and

targeted population for perpetrators of sexual violence. Clause 6 would increase this vulnerability. Nexus is concerned for the safety of those who work in the sex industry, criminalising the purchase of consensual sex could increase their vulnerability for the future and decrease their options to look for support including exiting prostitution.

- Nexus know that the issue of sexual abuse itself is already vastly underreported, as evident in the 40% referral increase Nexus experienced during the Savile enquiry. This was and continues to be an increase in people who have experienced sexual abuse and rape, not necessarily at the hands of Savile but who have been impacted by the increased media surrounding the enquiry and felt they had to look for help from Nexus. One such client was 85 years old who had never talked about her experiences of child sexual abuse.
- Nexus appreciate that trafficking and prostitution overlap as they are complex social phenomena. However, Nexus would be concerned that this could create a hierarchy of victimhood amongst victims of trafficking with an emphasis placed on those who are trafficked for sex over those trafficked for other purposes.
- Nexus believe that further research is required to understand the particular needs of the LGB&T community who are engaged in sex work and are being exploited. This again is another level of complexity this Bill fails to even begin addressing.

Nexus NI recommends:

- Clause 6 is removed from the bill and is addressed separately , included in cross departmental joint working and policy strategies such as the DVSV strategy currently being developed by the Departments of Justice and Health
- More research is carried out to provide a clear picture of sex work / sex industry in Northern Ireland. Such research should include the voice of sex workers and the range of experiences that exist to ensure any further policy and legislation is fit for purpose.
- DoJ commit to a piece of legislation to bring about the removal of the 6 month statue bar in Article 64A of the Sexual Offences Order. This would allow the PSNI more time to gather evidence for better conviction rates. Nexus endorse the PPS suggestion that this should be extended to 3 years to allow for the complexity of the investigations and increase the likelihood of successful prosecutions.
- More survivor informed support is provided for those women and men in need of assistance through trafficking.

As in current legislation, Nexus believe that forced sex and harm to any person is wrong and will continue to support those in need.

NIACRO

NIACRO works to reduce crime and its impact on people and communities

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Christine Darrah
Clerk to the Committee for Justice
Northern Ireland Assembly
Parliament Buildings
Ballymiscaw
Stormont
BT4 3XX

18th October 2013

Dear Christine,

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

Thank you for your letter of 3 October 2013 in which you invite further views or comments on the contents of the above draft legislation.

Having previously responded to an earlier consultation on this matter, we have nothing further to add at this stage, save for welcoming the Department of Justice's intention to conduct research into the nature and extent of some of these issues, and the Bill's intent to strengthen protections for victims of human trafficking in Northern Ireland.

We look forward to continuing to work with you on other legislative proposals in the coming months.

Yours sincerely,

O. Lyner

Olwen Lyner
Chief Executive

INVESTORS IN PEOPLE | Silver

NIACRO
Recognised by the HMRC as a charity XN 48280 Company Limited by Guarantee No. NI 18121
Chairman: S McDowell; Chief Executive: O Lyner; Chairman Finance Committee: Patrick L Farry BSc FCCA

NICCY

Briefing on Lord Morrow's Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

30 October 2013

Introduction

This paper is not intended to provide a comprehensive response to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill but instead draws attention to key aspects of the Bill which may impact on the rights and best interests of children and young people and which are of concern to the Commissioner.

NICCY notes the need to ensure there is a collective and unified approach across the Northern Ireland Executive and the Assembly in order to effectively address trafficking, exploitation and abuse which threaten the most fundamental of human rights to life and protection. It is particularly important that a cohesive response to these concerns is developed when significant issues affecting exploitation and abuse in Northern Ireland are considered, including the porous land border with the Republic of Ireland and the growing understanding of the internal trafficking of children for the purpose of sexual exploitation.

It should also be acknowledged that trafficking and exploitation must be understood as being concerned with a wide range of abuses across sexual exploitation, labour exploitation, domestic servitude, slavery and other forms of abuse and are not confined to offences within one of these areas. Further to this, there should be clarity concerning both definitions and understandings of trafficking and exploitation and recognition that while they may be closely interrelated they are not always interdependent.

General principles

- The principle of developing unified legislation on trafficking and exploitation is welcomed and the need for the UK to address the consequences of having in place a range of relevant legislation was noted by the Council of Europe's Group of Experts on Action Against Trafficking (GRETA) in their report on UK compliance with the Council of Europe Convention.[1]
- It is important that the Bill has clearly defined children as being under 18, which is not currently the case with all existing relevant legislation. Consideration should be given to providing particular protections for young people up to the age of 21 years where they are care experienced or have a disability.
- All forms of trafficking and exploitation against children and young people under 18 should be considered an offence, including paying for sexual services.

Guardians for potential child victims

- It is of particular significance that the Bill includes the provision of a legal guardian for potential child victims to represent their best interests. However as required

1 GRETA (2012) Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom

by international child rights standards[2] and advocated by the four UK Children's Commissioners[3], government should ensure that all separated children subject to immigration control (SCSIC), of which separated children subject to trafficking will be one sub-group, have access to a guardian.[4]

- The recent evaluation of the Scottish Guardianship Service for SCSIC highlighted that that the process of disclosure for victims may be lengthy and complex and noted cases where victims of trafficking had been identified by guardians rather than statutory agencies involved with the child.[5]
- It is important to clarify the need for this specific provision for separated children who are subject to complex interactions between immigration, welfare, trafficking and other processes and Northern Ireland child victims.

Investigation and prosecution

- It is welcome that the investigation and prosecution of trafficking will not be dependent on securing a victim complaint or report.
- It is welcome that special measures for victims will be ensured and it should be noted that a child protection approach must be the basis of responses to all cases of trafficking and exploitation where children are involved, including where young people may be subject to age assessment processes.
- In relation to the non prosecution of victims it is important that child victims are not prosecuted and/or detained in justice facilities following involvement in criminal or immigration offences due to having been subject to trafficking or exploitation. However, in complex cases the principle of unconditional immunity may offer protection to individuals who (although they have been subject to trafficking or exploitation) go on to commit serious crimes of violence and abuse, including against children.
- In relation to minimum sentencing it is not convention for this to be set out in primary legislation and it should be noted that recent guidance highlights that aggravating and mitigating factors should be considered in the particular circumstances of each case.[6] Minimum sentencing should not, in principle, be applied to children and young people.

Other comments

- It is important to ensure that clauses which list, for example, forms of irrelevant consent and aggravating factors, do not in practice have the unintended consequence of restricting the factors that will be considered in the investigation and prosecution of cases. In relation to consent, the preamble to the EU Directive is unambiguous in its statement that in regard to children consent should never be considered valid.[7] In relation to aggravating factors, action taken in cases involving child victims should always reflect this in prosecutorial and sentencing decisions.
- It may be helpful to consider where clauses would be more appropriately dealt with in secondary legislation or statutory guidance which can also be amended with greater ease to reflect changes in understanding and evidence in relation to trafficking and exploitation.

2 UN Committee on the Rights of the Child (2005) General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin

3 UK Children's Commissioners (2011) Midterm report to the UK State Party on the UN Convention of the Rights of the Child; (2008) Report to the UN Committee on the Rights of the Child

4 NICCY will be publishing commissioned research on guardianship for separated children subject to immigration control in 2014.

5 Crawley H. and Kohli R. (2013) She Endures With Me: An Evaluation of the Scottish Guardianship Pilot

6 PPS (2013) Policy for Prosecuting Cases of Human Trafficking

7 Directive 2011/36/EU Preventing and Combating Trafficking in Human Beings and Protecting its Victims

- The provisions of the Bill should apply equally to all forms of trafficking and exploitation and not have the unintended consequence of creating a differential or hierarchical framework of exploitation and abuse.

Conclusion

As Northern Ireland seeks to ensure that a rigorous and robust response to trafficking and exploitation is embedded, a unified approach is required. At a time when a range of developments regarding trafficking are being considered (such as Lord Morrow's Bill, the Justice Minister's consideration of secondary legislation, the new Public Prosecution Service Policy for Prosecuting Cases of Human Trafficking and the development of a Modern Slavery Bill by the UK Government) this approach must be focused and cohesive. In relation to potential child victims, this response must at all times have children's rights and best interests at its core.

North Down ACT and Flourish

Response to Justice Committee re Lord Morrow's Private Members Bill on Human Trafficking

Respondees: North Down ACT (Active Communities against Trafficking)
Flourish (a recently formed charity to support victims of human trafficking)

NORTH DOWN ACT has been active in the local community since March 2012. We take part in awareness events in schools, community groups etc. and work with PSNI,PCSP a local councillors.We are a local expression of the global movement of Stop The Traffick

FLOURISH is a new charity formed to support victims of human trafficking and to help build a new life for them.

Clause 10 We collectively believe this Bill would be a move in the right direction in the fight against human trafficking in Northern Ireland, especially as it gives the potential to bring about more convictions due to the recommended extension of time for PSNI officers to bring cases to court.

We feel that NI lags behind Scotland and England in relation to the after care of rescued victims.

As Clause 6 has caused so much controversy over recent months we feel it has been a drawback in the process of this bill and we would urge you to consider amending the bill by removing clause 6 at present. As this does address the issue of demand we would like this raised as a separate issue for debate.

Clause 11 Article 17 of the EU directive states there should be "access to existing streams of compensation to victims of violent crimes of intent". Compensation to our knowledge has never been awarded to any victims in Northern Ireland and considering how henious a crime human trafficking is where a human beings dignity and self worth is destroyed it should be considered.

Clause 12 A trafficked child should have a guardian. One who will be with them throughout the long drawn out process.

Clause 15 Strategy is important in the fight against human trafficking and it is vital NGO's are part of this strategy.

Clause 16 A NI Raporteur would be vital.

We are happy to participate in any further discussions.

Regards

Elizabeth McKee
Jill Robinson
Co Founders of NDACT and FLOURISH

Northern Ireland Catholic Council on Social Affairs

Dear Christine,

Thank you for your invitation to submit evidence in relation to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

NICCOSA does not wish to comment in detail on the content of the legislation at this stage.

We have already expressed our general support for the Bill in a letter to MLAs. Please see below.

If you have any further questions please do not hesitate to contact me.

Kind regards,

Nicola

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From: Marie Purcell
Sent: 08 October 2013 14:25
To: Marie Purcell
Subject: Cardinal Brady's letter to members of the Northern Ireland Legislative Assembly concerning the 'Human Trafficking and Exploitation Bill'

Catholic Communications Office

Irish Bishops' Conference, St. Patrick's College, Maynooth, Co Kildare
Tel: (01) 505 3000 Fax: (01) 601 6413 Website: www.catholicbishops.ie

Press Release – Tuesday 8 October 2013 - Immediate
Attn: Newsdesks, Photodesks and Religious Affairs Correspondents

Cardinal Brady's letter to members of the Northern Ireland Legislative Assembly concerning the *Human Trafficking and Exploitation Bill*

Dear Member of the Legislative Assembly,

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

I am writing to you as chair of the Northern Ireland Catholic Council on Social Affairs (NICCOSA), the council comprising women and men with wide ranging experience in issues of social justice and pastoral care who provide advice and support to the Catholic Bishops of Northern Ireland on social issues.

At the most recent meeting of NICCOSA, members gave detailed consideration to the *Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill* sponsored by Lord Morrow of the Democratic Unionist Party which is scheduled for discussion by the Northern Ireland Assembly in coming days.

At this meeting, support for the Bill and its provisions was unanimous. It was also agreed that I would write to you and to all MLA's on behalf of the members of NICCOSA to encourage your support for this Bill.

Human trafficking, in its many forms, is one of the most serious forms of injustice in our society. It is a crime that robs its victims, not only of their basic rights and freedoms, but of their very dignity as persons.

The Private Member's Bill from Lord Morrow, currently before the Northern Ireland Assembly provides you, as one of our elected representatives, with a crucial opportunity to make Northern Ireland a safer place for those vulnerable to, or victims of, the crime of human trafficking. In addition to ensuring adequate support is available to those who have been the victims of trafficking, we believe it is vital that robust legislation tackling the demand for trafficked persons, whether as illegal and poorly treated labour or for sexual exploitation, is essential.

A particular area of concern is addressing the demand for 'sexual services'. The majority of those rescued from situations of human trafficking in Northern Ireland to date have been victims of sexual exploitation. Representatives of the Catholic Church, including those who work voluntarily to provide protection, care and support to those who have been trafficked and exploited, have previously emphasised the need for legislation on prostitution and the purchase of 'sexual services' in both jurisdictions in the island of Ireland. Last year, having listened to those from the Church who work with the victims of prostitution and human trafficking, the Irish Catholic Bishops' Conference issued a statement in which they pointed out that: "All prostitution, even in cases where the individual has not been a victim of trafficking, reduces the human being to a commodity that can be bought and sold. It is damaging for those affected and for society as a whole. Criminalisation of the purchase of 'sexual services' would ensure that An Garda Síochána and the PSNI are empowered to take action to stop and prevent the exploitation of vulnerable people through prostitution. In addition, cooperation across Government departments is required in order to develop targeted 'exit strategies' to assist and support people wishing to leave prostitution, including access to health care, education and employment."

With the women and men of NICCOSA, the Catholic Bishops of Northern Ireland repeat this call and encourage you to give your full support for the Bill sponsored by Lord Morrow and to addressing the heinous and deplorable crime of human trafficking and exploitation.

With every good wish,

Cardinal Seán Brady
Archbishop of Armagh
Chair, Northern Ireland Catholic Council on Social Affairs

ENDS

Notes to Editors

- To access the text of the 2012 bishops' statement *Legislation on prostitution and human trafficking in the North and South* please see http://www.catholicbishops.ie/2012/09/26/autumn-2012-general-meeting-irish-catholic-bishops-conference/

- The list of members of NICOSSA is available on http://www.catholicbishops.ie/niccosa/

For media contact: Catholic Communications Office Maynooth: Martin Long 00353 (0) 86 172 7678 and Brenda Drumm 00353 (0) 87 310 4444

Northern Ireland Human Rights Commission

NORTHERN IRELAND HUMAN RIGHTS COMMISSION

Advice to the Committee for Justice on the 'Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

1. The Northern Ireland Human Rights Commission ('the Commission'), pursuant to Section 69(4) of the Northern Ireland Act 1998 is obliged to advise the Assembly whether a Bill is compatible with human rights. In accordance with this function the following statutory advice is submitted to the Committee for Justice ('the Committee').

2. The Commission bases this advice on the full range of internationally accepted human rights standards. The Northern Ireland Executive is subject to the obligations contained within the international human rights treaties that have been ratified by the United Kingdom. In the context of trafficking in human beings ('THB'), the relevant treaties include the:

   - UN Convention on Transnational Organised Crime;[1]
   - UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organised Crime ('UN Trafficking Protocol');[2]
   - UN Convention on the Elimination of All Forms of Discrimination Against Women ('UNCEDAW');[3]
   - UN Convention on the Rights of the Child ('UNCRC');[4]
   - UN Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography ('UNCRC Optional Protocol on Child Prostitution');[5]
   - Council of Europe Convention on Action against Trafficking in Human Beings ('CoE Trafficking Convention');[6] and,
   - European Convention on Human Rights ('ECHR'), as incorporated into domestic law by the Human Rights Act 1998.

[1] Ratified by the UK on 9 February 2006.
[2] Ratified by the UK on 9 February 2006.
[3] Ratified by the UK on 7 April 1986.
[4] Ratified by the UK on 16 December 1991.
[5] Ratified by the UK on 20 February 2009.
[6] Ratified by the UK on 17 December 2008.

3. Furthermore, the Commission references the international human rights treaties that the UK Government has not yet ratified but as a signatory has indicated an intention to comply, which in this context includes the:

    - CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse.[7]

4. In addition to the treaty standards, there is a body of 'soft law'. These standards are non-binding but are of strong persuasive value. The relevant standards include the:

    - UN OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking ('UN Recommended Principles'); and
    - UNODC Model Law Against Trafficking in Persons ('UNODC Model Law').

5. Finally, the EU issues Directives which form part of the domestic legal order once the transposition date has passed. From April 2013, EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims ('EU Trafficking Directive') can be relied upon by individuals in the domestic courts.

Definition of human trafficking and slavery offences (clause 1)

6. Clause 1 of the Bill sets out a definition of a human trafficking offence as an offence under the Sexual Offences Act 2003, Sections 57-59 and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Section 4. It also defines a slavery offence as an offence under the Coroners and Justice Act 2009, Section 71.

7. The UN Recommended Principles, Guideline 4 notes the 'urgent need to harmonise legal definitions … in accordance with international standards' and urges States to consider,

> amending or adopting national legislation in accordance with international standards so that the crime of trafficking is precisely defined in national law and detailed guidance is provided as to its various punishable elements.

Guideline 4 further notes that, 'an appropriate legal framework consistent with the international standards will also play an important role in the prevention of trafficking and related exploitation'.

[7] Signed by the UK on 5th May 2008.

8. The UN Trafficking Protocol, Article 3 and the CoE Trafficking Convention, Article 4 define THB as having three component parts: (1) the act - what is done; (2) the means - how it is done; and (3) the purpose - why it is done.[8] The EU Trafficking Directive, Article 2 mirrors this structure and requires that the following intentional acts are punishable:

> the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

9. Under the EU Directive, Article 2, a 'position of vulnerability' means 'a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.' Furthermore, if the act involves a child, then the offence of THB will not require any of the means enumerated in the preceding paragraph.[9] A child is to be understood as any person under the age of 18 years.[10]

10. EU Directive, Article 2 further notes that 'exploitation' shall include:

> as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.

11. The Commission notes that the structure of the domestic THB framework does not harmonise with the international standards and is spread across many different legislative instruments. For example, the general offence of 'trafficking people for exploitation' is found in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Section 4, as amended by the Criminal Justice Act (NI) 2013 and the Borders, Citizenship and Immigration Act 2009. Under the 2004 Act, an offence occurs if a person has committed the 'act' of 'intentionally arrang[ing] or facilitate[ing]' a person's entry into, exit from or travel within the UK for the purposes of exploiting (or believing that another person will exploit) that person. A person is deemed to have been exploited if:

> (a) he is the victim of behaviour that contravenes Article 4 of the Human Rights Convention (slavery and forced labour),

[8] CoE Trafficking Convention, Explanatory Report, para 74.
[9] See EU Directive, Article 5; CoE Trafficking Convention, Article 4(c); and UN Trafficking Protocol, Article 3(c).
[10] See CoE Trafficking Convention, Article 4(d); UN Trafficking Protocol, Article 3(d); and EU Directive, paragraph 22.

> (b) he is encouraged, required or expected to do anything—
> (i) as a result of which he or another person would commit an offence under section 32 or 33 of the Human Tissue Act 2004 as it extends to Northern Ireland; or
> (ii) which, were it done in Northern Ireland, would constitute an offence within sub-paragraph (i),".
> (c) he is subjected to force, threats or deception designed to induce him—
> (i) to provide services of any kind,
> (ii) to provide another person with benefits of any kind, or
> (iii) to enable another person to acquire benefits of any kind, or
> (d) a person uses or attempts to use him for any purpose within sub-paragraph (i), (ii) or (iii) of paragraph (c), having chosen him for that purpose on the grounds that—
> (i) he is mentally or physically ill or disabled, he is young or he has a family relationship with a person, and
> (ii) a person without the illness, disability, youth or family relationship would be likely to refuse to be used for that purpose.[11]

12. Furthermore, the narrower offence of 'trafficking for sexual exploitation' is contained within the Sexual Offences Act 2003, Sections 57-59, as amended by the Criminal Justice Act (NI) 2013. Under the 2003 Act, an offence occurs if a person has committed the 'act' of 'intentionally arrang[ing] or facilitate[ing]' a person's entry into, exit from or travel within the UK for the purposes of committing (or believing that another person will commit) a 'relevant offence'. A 'relevant offence' is defined in major part by reference to the offences contained within the Sexual Offences (NI) Order 2008.

13. In addition to the offences specified in clause 1 of the Bill, the Commission notes that there are other legislative instruments in NI which do not explicitly deal with trafficking or slavery but restrict related exploitation. For example, under the Gangmasters (Licensing) Act 2004, a gangmaster is defined as a person who supplies a worker to do work for another person.[12] 'Work' under the Act means: agricultural work; gathering shellfish; and processing or packaging any produce derived from agricultural work or shellfish, fish or products derived from shellfish or fish.[13] The Act makes it an offence to: operate as a gangmaster without a license; to be in possession of a false license or related document; and to enter into an arrangement with an unlicensed gangmaster.[14] In addition, the Sexual Offences (NI) Order 2008, as amended by the Police and Crime Act 2009, makes it an offence to pay for the sexual services of a person subject to exploitation.[15] 'Exploitative conduct' under the Order involves

[11] Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Section 4(4) (as amended by the Criminal Justice Act (NI) 2013 and the Borders, Citizenship and Immigration Act 2009).
[12] Gangmasters (Licensing) Act 2004, Section 4.
[13] Ibid., Section 3.
[14] Ibid., Sections 12 and 13.
[15] Section 15, Policing and Crime Act 2009, inserting Article 64A, Sexual Offences (Northern Ireland) Order 2008.

using force, threats, any other form of coercion, or any form of deception.[16]

14. **The Commission advises the Committee that it should scrutinise the domestic legislation to ensure that the totality of offences which constitute THB under the international standards are covered by the domestic law.**

15. **The Commission further advises that harmonisation of the domestic law with the international standards would be enhanced if the Bill is amended to state the international definition of THB as well as identifying the legislative instruments that address related exploitation.**

Minimum sentence for adult offenders (clause 4)

16. Clause 4 of the Bill seeks to establish a minimum penalty of two years imprisonment for trafficking and slavery offences. The Bill provides for the possibility that this minimum can be waived at the discretion of the court in exceptional circumstances.

17. The UN Convention Against Transnational Organised Crime, Article 11 stipulates that the commission of a trafficking offence[17] shall be liable to sanctions that take into account the gravity of that offence and that each Government,

> shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences covered by this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.[18]

18. The CoE Trafficking Convention, Article 23 and the EU Trafficking Directive, Article 4 require trafficking offences to be punishable by 'effective, proportionate and dissuasive' sanctions. Such penalties should allow for a deprivation of liberty.[19]

19. Furthermore, the European Court of Human Rights ('ECtHR') has determined that THB falls directly within the remit of ECHR, Article 4 which prohibits slavery and forced labour.[20] In order to ensure that the rights

[16] Ibid., Article 64A(3).
[17] As defined within the UN Convention on Transnational Organised Crime.
[18] UN Convention on Transnational Organised Crime, Article 11(2).
[19] CoE Convention, Article 23 and EU Directive, Article 4.
[20] *Rantsev v. Cyprus and Russia,* ECtHR, Application No. 25965/04 (7 January 2010), para 282.

guaranteed within the ECHR are practical and effective and not theoretical or illusory,[21] Government is under a positive obligation to institute effective penalties for conduct that violates an ECHR right.[22] The ECtHR considers the effectiveness of judicial decisions regarding penalties according to their efficacy, preventative and deterrent nature.[23]

20. In addition, the ECtHR will take into account the proportionality of the measure which requires a 'discernible and sufficient link between the sanction and the conduct and circumstances of the individual concerned'.[24] In this regard, the Court has found that certain blanket and indiscriminate provisions do not satisfy the proportionality test.[25] Furthermore, the UN Recommended Principles caution that legislatively mandated minimum penalties, particularly if set very high, may not satisfy the standard of proportionate sanction where the involvement in and benefit from the exploitation has been slight.[26]

21. The Commission notes that in NI, THB offences are triable on indictment only, with a maximum sentence of imprisonment up to 14 years.[27] Sentencing guidelines for the NI Crown Court are provided within the case law of the NI Court of Appeal. To date, the NI Court of Appeal has not issued sentencing guidelines for trafficking offences.

22. The Sentencing Council for England and Wales has laid down sentencing guidelines concerning trafficking for the purposes of sexual exploitation.[28] These Guidelines set out a starting point of two years for the offence of trafficking for the purposes of sexual exploitation where no coercion exists.[29] The Guidelines state as follows:

Type/nature of activity	Starting point	Sentencing range
Involvement at any level in any stage of the trafficking operation where the victim was coerced	**6 years custody**	**4–9 years custody**
Involvement at any level in any stage of the trafficking operation where there was no coercion of the victim	**2 years custody**	**1–4 years custody**

[21] *Nikolova and Velichkova v. Bulgaria*, ECtHR, Application No. 7888/03 (20 December 2007), para 61.
[22] *Siliadin v France,* ECtHR, Application No. 73316/01 (26 July 2005), para 142; *Rantsev v. Cyprus and Russia,* ECtHR, Application No. 25965/04 (7 January 2010), para 284-285.
[23] Ibid., para 143. *Opuz v Turkey,* ECtHR, Application No. 33401/02 (9 June 2009), para 170.
[24] *Hirst v UK,* ECtHR, Application No. 74025/01 (6 October 2005), para 71.
[25] Ibid., para 82.
[26] UN Trafficking Principles and Guidelines, 15.3.
[27] Criminal Justice Act (Northern Ireland) 2013, Section 8.
[28] Sentencing Council for England & Wales, 'Sexual Offences Act 2003', Part 6D: Trafficking.
[29] Ibid., p130-131.

23. In *Attorney General's Reference (Number 1 of 2008) Gibbons et al*., the NI Court of Appeal explained the relationship between NI courts and the England and Wales Guidelines:

> as we have repeatedly made clear, the guidance provided by the Sentencing […] Council must always be regarded as secondary to the guidelines provided by the Court of Appeal in this jurisdiction. There will be occasions where the guidelines accord with local experience in which case they may be followed but there will also be occasions where they should not be applied.[30]

24. In 2012, the NI Crown Court passed two judgments on THB offences within which it discussed the applicability of the England and Wales Guidelines: *R v. Matyas Pis,*[31] and *R v. Rong Chen*.[32]

25. In *R v. Matyas Pis*, the Court applied the Guidelines.[33] In *R v. Rong Chen* however, the Court did not apply the Guidelines in totality, identifying 'major difficulty' concerning the requirement to adopt a starting point and in particular, the six year starting point for coercion cases regardless of the degree of coercion involved.[34] Judge Stephens stated,

> I do not consider it appropriate that there should be no assessment of the degree of coercion before one increases a starting point by 4 years from 2 to 6 years custody. The difficulties with the feature of coercion continue because under the 2007 guidelines it is potentially an additional aggravating factor.[35]… I consider it more appropriate to form one overall view on the facts of a particular case as to the degree of coercion involved and to take that factor along with the other aggravating and mitigating factors into account in imposing an appropriate sentence within the overall sentencing range.[36]

26. The Commission notes that both cases are currently awaiting deliberation by the NI Court of Appeal and that in the absence of further guidance, the current starting point for sentencing to be applied following a conviction for trafficking for the purposes of sexual exploitation where there is no coercion is likely to remain as set out by the Sentencing Council at 2 years.

27. The Commission further notes that under both the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and the Sexual Offences Act 2003, it is possible to be convicted of a domestic THB offence

[30] *Attorney General's Reference (Number 1 of 2008) Gibbons et al*. [2008] NICA 41, para 44.
[31] *Queen v. Matyas Pis,* [2012] NICC 14.
[32] *Queen v. Rong Chen, Simon Dempsey and Jason Owen Hinton,* [2012] NICC 26.
[33] *Queen v. Matyas Pis,* [2012] NICC 14, para 9.
[34] *Queen v. Rong Chen, Simon Dempsey and Jason Owen Hinton,* [2012] NICC 26, para 33.
[35] Ibid.
[36] Ibid.

that would not constitute THB under the international framework, namely because the domestic legislation does not always require one of the 'means' specified within the international definition.[37]

28. **The Commission notes that the figure of two years proposed as the minimum sentence is not arbitrary but reflects a subtle increase on current sentencing practice.**

29. **The Commission advises however, that the existence of the exception under legislation should remain within the Bill to ensure that the sanctions imposed under clause 4 are considered proportionate for all THB offences, including those offences defined as trafficking domestically but which fall outside of the international standard.**

Minimum sentence for child offenders (clause 4)

30. Clause 4 of the Bill does not distinguish between child offenders and adult offenders concerning the implementation of the minimum sentence.

31. Under the international human rights standards, a child is defined as a person under 18 years old.[38] The UNCRC, Article 37(b) states that the 'imprisonment of a child … shall be used only as a measure of last resort and for the shortest appropriate period of time'. According to the UNCRC Committee:

> children differ from adults in their physical and psychological development, and their emotional and educational needs. Such differences constitute the basis for lesser culpability of children in conflict with the law … The protection of the best interests of the child means, for instance, that the traditional objectives of criminal justice, such as repression/retribution, must give way to rehabilitation and restorative justice objective in dealing with child offenders.[39]

32. **The Commission advises that the Bill should be amended to explicitly distinguish between child and adult offenders and reflect that the imprisonment of a child should only be used as a measure of last resort.**

[37] See for example, *Queen v. Matyas Pis,* [2012] NICC 14 where there was no coercion or other 'means' employed. In this case a 3 year sentence divided into 18 months imprisonment and 18 months on license was imposed for the trafficking offence.
[38] UNCRC, Article 1 states: 'a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.' In NI, the age of majority is 18 under the Age of Majority (Northern Ireland) Act 1969. See also Article 3 of the CoE Convention.
[39] CRC Committee, General Comment 10: Children's rights in juvenile justice (25 April 2007), para 10.

Aggravating factors (clause 3)

33. Clause 3 of the Bill sets out a number of aggravating factors to be considered by the court when sentencing for THB or slavery offences.

34. The concept of aggravating factors is an aspect of a proportionate sanction. The UN Recommended Principles, Guideline 4 states that:

> where appropriate, legislation should provide for additional penalties to be applied to persons found guilty of trafficking in aggravating circumstances, including offences involving trafficking in children or offences committed or involving complicity by State officials.

Similarly, the UNODC Model Law states that aggravating factors 'can be added to the law, if and in as far as this is in line with existing aggravating circumstances with regard to other crimes'.[40]

35. The CoE Trafficking Convention, Article 24 does not refer to the implementing instrument but states that the offence of THB should be regarded as aggravated where it:

- deliberately or by gross negligence endangered the life of the victim;
- was committed against the child;
- was committed by a public official in the performance of her/his duties;
- was committed within the framework of a criminal organisation.

36. The EU Directive 2011/36 further advises that 'where the offence is committed … against a particularly vulnerable victim, the penalty should be more severe'.[41] At the least, vulnerable persons should be understood to include all children, but could also include gender, pregnancy, state of health and disability.[42] Furthermore, according to the EU Directive, where the offence has involved serious violence such as torture, forced drug/medication usage, rape or other serious forms of psychological, physical or sexual violence, or has otherwise caused particularly serious harm to the victim, this should be reflected in a more severe penalty.[43]

37. In addition, the UN Model Law suggests that endangering life would also include exposing the victim to a life-threatening illness such as

[40] UNDOC Model Law, page 31.
[41] EU Trafficking Directive, paragraph 12.
[42] Ibid.
[43] Ibid.

HIV/AIDS.[44] A final aggravating factor added under the UN Model Law is where the offence involves more than one victim.[45]

38. The Commission notes that in both *R v. Matyas Pis* and *R v. Rong Chen,* the NI Crown Court applied the aggravating factors for the offence of trafficking for the purpose of sexual exploitation, as laid down in the Sentencing Guidelines for England & Wales.[46] The Guidelines state as follows:

Note: If the victim is under 13, one of the specific under-13 offences would normally be charged. Any commercial exploitation element would be an aggravating factor.

Additional aggravating factors	Additional mitigating factors
1. Large-scale commercial operation 2. High degree of planning or sophistication 3. Large number of people trafficked 4. Substantial financial (in the region of £5000 and upwards) or other gain 5. Fraud 6.Financial extortion of the victim 7. Deception 8. Use of force, threats of force or other forms of coercion 9. Threats against victim or members of victim's family 10. Abduction or detention 11. Restriction of victim's liberty 12. Inhumane treatment 13. Confiscation of victim's passport	1. Coercion of the offender by a third party 2. No evidence of personal gain 3. Limited involvement

39. The Commission notes that the domestic courts may consider additional aggravating factors at their discretion. Furthermore, domestic trafficking offences are structured so as, at times, aggravating factors constitute a component of the offence.[47]

40. **The Commission notes that neither the Guidelines, nor clause 3 of the Bill include on their face the entirety of the required aggravating factors provided by the international standards.**

41. **The Commission advises that if clause 3 of the Bill remains within the legislation, then it should be amended to include, at a minimum, the totality of aggravating factors laid down under the international standards, for example, where the offence was committed within the framework of a criminal organisation.**

[44] UN Model Law, p 31.
[45] Ibid.
[46] *Queen v. Matyas Pis,* [2012] NICC 14, paras 9, 25 and 33; *Queen v. Rong Chen, Simon Dempsey and Jason Owen Hinton,* [2012] NICC 26, para 36.
[47] For example, in the case of child sex offences where the child is under 13 years old.

42. **The Commission further advises that the Bill should explicitly state that the legislation does not restrict the court from taking into account additional aggravating factors.**

Paying for the sexual services of an adult (clause 6)

43. In the absence of exploitation, it is currently not a criminal offence to pay for the sexual services of an adult in NI. Clause 6(1) of the Bill aims to discourage the demand for THB by changing this aspect of the law and making it a criminal offence to pay for the sexual services of a prostitute over 18 years.[48] Clause 6(6) of the Bill further requires the Department of Justice to review the operation of this offence and report to the Assembly three years after the offence comes into effect.

44. The UN Trafficking Protocol, Article 9(5), the CoE Trafficking Convention, Article 6, the EU Trafficking Directive, Article 18(1) and the UN Recommended Principles, Principle 4 all require the adoption of appropriate measures or strategies to discourage the demand that fosters all forms of exploitation that leads to THB. According to the UN Trafficking Protocol, Article 9(5) and the CoE Trafficking Convention, Article 6, these measures can be, among others, legislative, social, cultural or educational. The Explanatory Report to the CoE Trafficking Convention notes that such measures represent a positive obligation on the State and that their aim should be the 'effective' dissuasion of client demand.[49]

45. According to the Legislative Guide on the UN Trafficking Protocol, 'dealing with prostitution and related matters outside the scope of trafficking in persons is specifically reserved for the laws and policies of individual States parties'.[50] The Commentary on the UN Recommended Principles further elaborates that governments:

> are not precluded by international law from regulating prostitution as they consider appropriate, subject, of course, to their obligation to protect and promote the human rights of all persons within their jurisdiction. Accordingly, rights based strategies to address demand for exploitative/trafficked prostitution can be considered either separately from or in conjunction with strategies aimed at addressing demand for prostitution more generally.[51]

46. In March 2012, the UN CEDAW Committee welcomed the introduction of an amendment to the Penal Code in Norway prohibiting the purchase of

[48] For discussion see, Lord Morrow, 'Proposed changes in the law to tackle human trafficking: Consultation Paper' (August 2012) p12.
[49] Explanatory Report to the CoE Trafficking Convention, paras 108 - 110.
[50] Legislative Guide on the UN Trafficking Protocol, para 33 and note 15.
[51] UN OHCHR 'Recommended Principles and Guidelines: Commentary' (New York & Geneva: 2010), p 101.

sexual services and implementing punishment of up to 6 months imprisonment.[52] However, the Committee also called upon the State to study the effects of the amendment 'on the type and extent of prostitution and trafficking, as well as on social perceptions on prostitution and on the purchase of sex services, as well as on women who engage in prostitution'.[53]

47. The ECtHR has established that private sexual activity between consenting adults is protected by the right to private and family life under Article 8 of the ECHR.[54] This aspect of Article 8 may be deemed to include an adult who offers him or herself for sexual services in exchange for payment. However, the right to private and family life can be restricted where it is deemed 'necessary in a democratic society'. Interference with the right will be considered 'necessary in a democratic society' if it is for a legitimate aim which answers a pressing social need and, in particular, if it is proportionate to the legitimate aim pursued and if the reasons adduced by the national authorities to justify it are relevant and sufficient.[55]

48. **The Commission advises therefore that the criminalisation of payment for the sexual services of an adult is neither required nor prohibited by the international human rights treaties.**

49. **The Commission further advises that if a decision is taken to introduce clause 6(1) of the Bill, an obligation to monitor and evaluate the Bill's effects should remain within the legislation.**

Paying for the sexual services of a child (clause 6)

50. Clause 6 of the Bill does not extend to paying for the sexual services of a person below 18 years.

51. The UNCRC, Article 32 recognises,

> [t]he right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

[52] Concluding Observations of the Committee on the Elimination of Discrimination Against Women, UN Doc. CEDAW/C/NOR/CO/8 (23 March 2012), para 25.
[53] Ibid., para 26.
[54] See for example, *Max Mosley v United Kingdom*, ECtHR Application no. 48009/08 (10 May 2011).
[55] See for example, *S. and Marper v United Kingdom*, ECHR Applications nos. 30562/04 and 30566/04), (4 December 2008), para 101.

In this regard, Article 32 requires Government to provide for: a minimum age or ages for admission to employment; and appropriate penalties or other sanctions to ensure the effective enforcement of this standard.

52. The UNCRC Optional Protocol on Child Prostitution recognises such work to include child prostitution and taken together, Articles 1, 2(b) and 3(1)(b) require the prohibition of child prostitution under the criminal law, including 'obtaining' or 'procuring' a child for prostitution. Similarly, the CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, stipulates in Article 19 that the conduct of 'having recourse to child prostitution' should be criminalised.

53. In July 2013, the UN CEDAW Committee directly considered the legislation in Northern Ireland concerning paying for the sexual services of a child, and urged the Government to:

> revise its legislation by shifting the burden of proof from the prosecution to the purchaser of sexual services. The Committee recommends that once the prosecution proves that the child was over 13 and under 18, and the accused purchased sexual services from the child, the purchaser should be required to establish that the purchaser did not reasonably believe that the child was under 18 years.[56]

54. The ECHR, Article 6(2) states that 'everyone charged with a criminal offence shall be presumed innocent until proved guilty according to the law'. According to the ECtHR in *Salabiaku v France,*

> Article 6 para. 2 … does not … regard presumptions of fact or of law provided for in the criminal law with indifference. It requires States to confine them within reasonable limits which take account the importance of what is at stake and maintain the rights of the defence.[57]

55. This principle however, has not been interpreted by the court as establishing substantive rules of criminal liability. For example, in *G. v. the United Kingdom,* the ECtHR stated,

> The contracting States remain free to apply the criminal law to any act which is not carried out in the normal exercise of one of the rights protected under the Convention and, accordingly, to define the constituent elements of the resulting offence. It is not the Court's role under Article 6 §§ 1 or 2 to dictate the content of domestic

[56] CEDAW Committee, 'Concluding Observations on the seventh periodic report of the UK' (26 July 2013), paras 40-41.
[57] *Salabiaku v France,* ECtHR, Application no. 10519/83 (7 October 1988), para 28.

criminal law, including whether or not a blameworthy state of mind should be one of the elements of the offence or whether there should be any particular defence available to the accused.[58]

56. Finally, the ECtHR has on occasion stated that the remit of the rights protected under the ECHR are positively influenced by the related UN instruments. In this regard, the ECtHR has referenced the UNCRC, Article 32.[59]

57. The age of consent in NI for sexual activity is 16 years old.[60] However, in the context of paying for the sexual services of a child, the Sexual Offences (Northern Ireland) Order 2008 acknowledges a child to be anyone under the age of 18 years old.

58. In the absence of exploitation, the Sexual Offences (Northern Ireland) Order 2008, Article 37, makes it an offence in NI: to intentionally pay for the sexual services of a child under 13 years old; and, to intentionally pay for the sexual services of a child under 18 years old where the purchaser did not reasonably believe the child to be 18 years or over. In the latter context, 'it will be for the prosecution to prove [beyond reasonable doubt] that [the purchaser] does not reasonably believe that [the child] is 18 or over'.[61] There are no publicly available statistics concerning the number of prosecutions under Article 37.

59. In England and Wales, the equivalent provision is the Sexual Offences Act 2003, Section 47 and in Scotland, the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, Section 9. In a recent State Report to the UN Committee on the Rights of the Child, the detail of the proceedings under these provisions was given as follows:

Number of defendants proceeded against at magistrates' courts and found guilty at all courts for selected offences, England & Wales, 2004-2009

	2004 Proceeded against (found guilty)	2005 Proceeded against (found guilty)	2006 Proceeded against (found guilty)	2007 Proceeded against (found guilty)	2008 Proceeded against (found guilty)	2009 Proceeded against (found guilty)
Sec 47 Paying for sex with a child	3 (-)	3 (-)	2 (2)	7 (3)	3 (3)	3 (5)

[58] *G v the United Kingdom,* ECtHR, Application no. 37334/08 (30 August 2011), para 27.
[59] *Siliadin v France,* ECtHR, Application No. 73316/01 (26 July 2005), paras 87-89.
[60] See Sexual Offences (Northern Ireland) Order, Article 16.
[61] Ibid., Article 37, Explanatory Memorandum. This defence is also available under the Sexual Offences (Northern Ireland) Order 2008 for other sexual offences committed against children of 13 years and over, such as the offences of inciting a child to be involved in prostitution or pornography, controlling the activities of a child relating to prostitution or pornography, and arranging or facilitating a child's involvement in prostitution or pornography. See Sexual Offences (Northern Ireland) Order 2008, Articles 38 - 40.

Persons proceeded against in Scottish courts for crimes against children[1] by crime type, 2005-06 to 2009-10

Procuration of sexual services from children under 18	2005-6	2006-7	2007-8	2008-9	2009-10
Proceeded against	0	0	0	1	0
Not guilty	0	0	0	0	0
Charge proved	0	0	0	1	0

60. In the same report, the UK Government stated that the prosecution could provide among others, the following types of evidence to prove that the defendant did not reasonably believe the child was over 18 years: (1) that the defendant had been told the age of the victim; (2) the circumstances in which the defendant knew the victim, including the length of time; and (3) the physical appearance of the victim.[62]

61. **The Commission notes that the Bill, if implemented in its current format, will make it easier to prosecute the offence of paying for sex with an adult than to prosecute the offence of paying for sex with a child over 13 years.**

62. **The Commission advises the Committee that if clause 4 of the Bill is enacted, it should be extended to include paying for the sexual services of a child.**

63. **The Bill should introduce an amendment to the Sexual Offences (NI) Order 2008, Article 37 to ensure that paying for the sexual services of all children is adequately criminalised and the development of the child is safeguarded.**

Non prosecution of victims of trafficking in human beings (clause 8)

64. Clause 8 of the Bill requires that there will be no prosecution of a victim of THB where he or she had committed a criminal act as a direct consequence of the trafficking.

65. The Commission notes that the CoE Trafficking Convention, Article 26 requires that:

> [e]ach party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties

[62] UN Doc. CRC/C/OPSC/GBR/1 (14 November 2012), para 31.

> on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

66. The Group of Experts on Action against Trafficking in Human Beings ('GRETA') responsible for monitoring the CoE Trafficking Convention, urged the British authorities to 'step up' their efforts to adopt a victim-centred approach when implementing Article 26 of the Convention by:

- Encouraging prosecution services to consider THB as a serious violation of human rights when assessing the public interest of prosecuting identified victims of trafficking;
- Ensuring that CPS, COFPS and ACPO guidance are fully applied in order to prevent imposing penalties on identified victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so;
- Ensuring that, while the identification procedure is ongoing, potential victims of trafficking are not punished for immigration-related offences.[63]

67. The UN Recommended Principles similarly address this issue stating that:

> Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.[64]

68. The Commission further notes that the ECtHR has explained that Article 4 ECHR 'entails a procedural obligation to investigat[e] situations of potential trafficking'. Noting that the 'requirement to investigate does not depend on a complaint from the victim or next-of-kin; once the matter has come to the attention of the authorities they must act on their own motion'.[65] In light of this, the Commission notes the primary duty to identify whether a suspected perpetrator of a crime is also a victim of THB.

69. The Commission recalls however, that 'judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible.'[66] Further, international human rights standards require an effective remedy for

[63] GRETA Report on the UK (12 September 2012), para 336.
[64] UN Recommended Principles, para 7. See also Guidelines 2, 4, and 5.
[65] *Rantsev v. Cyprus and Russia* (2010) Application No. 25965/04, para 288.
[66] The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985 United Nations General Assembly (1985) A/RES/40/34

individuals whose rights have been violated.[67] Any granting of immunity which would remove the access to justice and an effective remedy would run counter to these principles.

70. In 2013, the England & Wales Court of Appeal judgment in *L and Others v. R* demonstrated that despite guidance regarding protections for victims of trafficking, prosecutions of victims of trafficking, including children do occur in practice.[68]

71. **The Commission advises that an individual's status as a victim of THB constitutes strong, persuasive value not to prosecute that individual for a crime committed as a direct consequence of their situation as a trafficked person.**

Child trafficking guardian (clause 12)

72. Clause 12 of the Bill seeks to establish a child trafficking guardian who will exercise parental responsibility over the child in certain circumstances, such as where a child is separated or unaccompanied.

73. The international standards require that particular attention be paid to unaccompanied child victims of THB.[69] In this regard, CoE Trafficking Convention, Article 10(4) and EU Directive, Article 16 require that a guardian is appointed to act in the best interests of unaccompanied child victims of THB.

74. The UNCRC similarly calls upon States to appoint a guardian or adviser for all unaccompanied or separated children.[70] Specifically, the guardian or adviser should,

> have the necessary expertise in the field of childcare, so as to ensure that the interests of the child are safeguarded and that the child's legal, social, health, psychological, material and educational needs are appropriately covered by, inter alia, the guardian acting as a link between the child and existing specialist agencies/individuals who provide the continuum of care required by the child. Agencies or individuals whose interests could potentially be in conflict with those of the child's should not be eligible for guardianship.[71]

[67] UDHR, Article 8; ICCPR, Article 2; and ECHR, Article 13.
[68] [2013] EWCA Crim 991.
[69] EU Trafficking Directive, Article 23.
[70] CRC Committee, General Comment 6 'Treatment of unaccompanied and separated children outside their country of origin' (1 September 2005), para 33.
[71] Ibid.

75. Furthermore, the UNCRC Committee calls for review mechanisms to be established to monitor the quality of guardianship in order to ensure the best interests of the child.[72]

76. The Commission notes the joint guidance issued by the DHSSPS and the PSNI concerning the 'Working arrangements for the welfare and safeguarding of child victims of human trafficking' published in 2011 which states that child victim's of trafficking will be allocated a social worker who will liaise with the child regarding health, education and legal needs.[73]

77. The Commission also notes that in 2012, GRETA stated that:

> There is no system of legal guardianship for trafficked children at the UK level. According to the Government, existing measures of having a State-allocated social worker and advocate are adequate. However, a social worker or a voluntary advocate fall short of providing a legal guardian who can act independently with authority and uphold the child's best interests. A system of guardianship is essential to ensure the children's protection and rehabilitation, assist in severing links with traffickers and minimise the risk of children going missing.[74]

78. In addition, in a 2008 report to the UNCRC Committee, the four UK Children's Commissioners called for a formal guardianship scheme for asylum seeking children, noting that 'many asylum seeking children are not allocated their own social worker'.[75]

79. **The Commission advises the Committee that it should scrutinise the current social worker system for separated or unaccompanied child victims of THB against the international standards. This analysis should be with a view to establishing whether or not a separate system of legal guardianship is necessary for child victims of THB as called for within this Bill.**

[72] Ibid., para 34.
[73] DHSSPS and PSNI, 'Working arrangements for the welfare and safeguarding of child victim's of human trafficking' (February 2011), p 11-13.
[74] GRETA Report on the UK (12 September 2012), para 245.
[75] UK Children's Commissioners Report to the UNCRC Committee (June 2008), para 157.

NORTHERN IRELAND HUMAN RIGHTS COMMISSION

Mr Paul Givan
Committee for Justice
Room 242, Parliament Buildings
Ballymiscaw
Stormont, Belfast
BT4 3XX

13 March 2014

Dear Chair,

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

The Commission welcomes the opportunity to provide additional information to the Committee regarding the compatibility of the definition of human trafficking in the Modern Slavery Bill ('the Bill') with the definition contained within the international human rights standards.[1] The Commission's response relies on the following standards:

- UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organised Crime ('Palermo Protocol');
- Council of Europe Convention on Action against Trafficking in Human Beings ('CoE Convention'); and,
- EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims ('EU Directive').

[1] Committee for Justice letter to the NIHRC dated 4 March 2014.

As mentioned within the Commission's written advice to the Committee,[2] the international definition of trafficking in human beings as contained within these standards has three component parts: (1) the act - what is done; (2) the means - how it is done; and (3) the purpose - why it is done.[3] The exception to this rule is where the victim is a child in which case one of the 'means' is not required.[4]

The Bill's definition of human trafficking follows a different construction to the international standard; it separates out the 'act' component[5] but amalgamates the 'means' and the 'purpose' components under the overarching definition of 'exploitation'.[6] The result is that at times, the Bill's definition is broader than the international definition[7] and at other times, it may be interpreted as narrower.

For example, concerning the latter point, the Commission notes that the international definition includes circumstances where a person has been trafficked for purposes other than slavery, servitude, forced or compulsory labour, sexual exploitation and the removal of organs[8] and where the means exercised over the victim amounts to an 'abuse of power or of a position of vulnerability'.[9] Vulnerabilities can include those which occur as a consequence of the victim's 'social or economic' status.[10] By comparison, Clause 3(5) of the Bill acts as a 'catch-all' by making it an offence to traffick for a broad range of other purposes[11] but only where the victim has been subjected to force, threats or deception,[12] or in the absence of one of these means, where the victim is ill, disabled, young or related to the perpetrator.[13] The Commission advises the Committee that it is unclear whether or not an interpreting court would regard the Bill as encompassing all the abuse of power and vulnerability scenarios envisaged by the international standards.

The Commission therefore recommends that if the language of the Bill is adopted, the Assembly should make clear the intention is that the domestic definition should

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[2] NIHRC, 'Advice to the Committee for Justice on the 'Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill' (October 2013), available at http://www.nihrc.org/documents/Justice%20Committee%20on%20Morrow%20Bill%20advice.pdf.
[3] Palermo Protocol, Article 3(a), CoE Convention, Article 4(a), and EU Directive, Article 2(1).
[4] Palermo Protocol, Article 3(c), CoE Convention, Article 4(c), and EU Directive, Article 2(5).
[5] Modern Slavery Bill, Clause 2.
[6] Ibid., Clause 3.
[7] See for example, *Queen v. Matyas Pis,* [2012] NICC 14 where there was no coercion or other 'means' employed against two adults. In this case a 3 year sentence divided into 18 months imprisonment and 18 months on license was imposed for the domestic trafficking offence. (This example is applicable as the Bill consolidates existing definitions with minimal alteration to content.)
[8] For example, begging. See EU Directive, Article 2(3). See also CoE Convention, Explanatory Report, para 85-6 and Palermo Protocol, Legislative Guide, para 34.
[9] Palermo Protocol, Article 3(a), CoE Convention, Article 4(a) and EU Directive, Article 2(1).
[10] CoE Convention, Explanatory Report, para 83. See also Palermo Protocol, Legislative Guide, para 34 and EU Directive, para 12.
[11] This includes for example, begging and shop-lifting. See Modern Slavery Bill, Explanatory Notes, para 24.
[12] Ibid., Clause 3(5).
[13] Ibid., Clause 3(6) and Explanatory Notes, para 25.

be read to fully accord with the relevant international standards.[14] The Committee may wish to engage with the Minister for Justice to propose that Departmental Guidance be issued to this effect following Royal Assent and prior to any Act coming into force.

Please do not hesitate to contact us should you require any additional information.

Yours Sincerely,



John Corey
Interim Chair

[14] See above fn 3.

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NORTHERN IRELAND
Legal Services
Commission
The Office of Chairman
and Chief Executive

Ms Christine Darragh
Clerk, Committee for Justice,
Northern Ireland Assembly
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BELFAST BT4 3XX

14 October 2013

Dear Christine

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

I am writing to acknowledge receipt of your letter dated 3 October 2013 in which you sought the Commission's views/comments on the contents of the Bill.

I can confirm the Commission has no contrary views or comments on the specific clauses of the Bill. The Commission would, however, expect that a Legal Aid Impact Assessment would be completed prior to the implementation of the Bill.

The Committee will be aware of the funding pressures on the Legal Aid Fund ("the Fund"). Legislative developments which have not been factored into the Commission's forecast or budget can have a huge detrimental effect on the funding available for the Commission to discharge its statutory duties.

The Legal Aid Impact test is a mechanism whereby those involved with developing policy can assess if there will be an impact on the work of the Commission, both in terms of resources and funding. The Bill, when enacted, will create new offences for which criminal Legal Aid may be granted by the Courts. The creation of new offences could have an impact on the Fund.

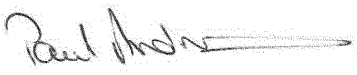
The Commission is tasked with managing the Fund and forecasting future expenditure. To assist with this process, the Impact Test would provide an estimation of the number of cases which might be prosecuted through the courts, the court tier in which these will be tried and an estimation of when prosecutions are anticipated to take place.

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The Commission understands that completing this test is not a simple process, but the information collated is vital to enable the Commission to arrive at an estimation of future expenditure and a time frame for this expenditure to become a liability on the Fund.

I trust this reply will be of assistance to the Committee.

Yours sincerely



Paul Andrews
Chief Executive

access
to justice

NUS-USI

Comments from NUS-USI for Committee for Justice on Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

(National Union of Students - Union of Students in Ireland)

NUS-USI consultation response

Introduction

The National Union of Students - Union of Students in Ireland (NUS-USI) was established in 1972 under a unique arrangement where both the British and Irish national student unions, National Union of Students (NUS) and Union of Students in Ireland (USI) respectively, jointly organised in Northern Ireland to promote student unity across the community.

NUS-USI student movement represents the interests of around 200,000 students in Northern Ireland and campaigns on their behalf in many different fields such as student hardship, health, prejudice and accommodation. We also provide an infrastructure that helps individual Students' Unions in the North of Ireland to develop their own work through our research, training and development functions.

Opening comments on the Bill

NUS-USI wishes to begin by thanking the Committee for Justice for enabling the opportunity for groups to submit their views on Lord Morrow's Human Trafficking Bill.

Human trafficking is an issue of extreme significance and must be tackled extremely robustly by the authorities. We believe that the issue requires tough legislation in order to combat it, but we have massive concerns about this bill in its current form.

Bill must address human trafficking alone

We believe that it is wrong and extremely unhelpful that the Bill appears to conflate the issue of human trafficking and sex work.

Any bill should be focusing on human trafficking and not any other issue. Human trafficking is such an important matter that any work or potential legislation regarding it should not be sidetracked or diluted by involving any other matter within it.

Human trafficking is an issue of such seriousness that it demands a bill focusing on it alone and anything else simply isn't acceptable.

The issue should be addressed in an apolitical way to ensure it is dealt with, and focused upon as effectively as possible.

NUS-USI strongly opposes clause six, part one

NUS-USI believes that clause six of part one of the Bill, which is titled 'Paying for sexual services of a person', could have very dangerous ramifications for sex workers.

This clause could drive sex work further underground, and could endanger the safety of women working, in addition to potentially making it more difficult to leave the industry if they choose to. It could prevent sex workers from speaking out and we believe that this clause seriously undermines the bill. We would strongly encourage that this clause is removed, and if not we believe that the bill should be scrapped and a new one created focusing solely on human trafficking.

We want to take this opportunity to acknowledge the significant effort that Lord Morrow has put into the bill, but we hope that he will understand its current flaws and consider amending it or tabling fresh legislation to reflect the need to address human trafficking alone within such a bill.

Many have expressed significant reservations about the Bill, including Detective Chief Supt Philip Marshall of the PSNI. The Justice Minister, David Ford, does not support the clause. We would strongly encourage the committee to act to help remove this clause as soon as possible.

The Swedish approach as regards sex work does not appear to work, and this bill should concentrate on human trafficking only, instead of trying to introduce legislation on any other issue.

The 2007 publication 'Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World', stated that: "anti-trafficking measures are still being used to justify a raft of measures which are aimed at suppressing sex work in general."

Other matters

On what should be a separate issue, NUS-USI believes that government here must fund comprehensive and extensive research into problems facing sex workers in Northern Ireland.

There is currently very little research on sex workers and we believe that a detailed study could provide information to help build policy and strategy to help safeguard people involved in sex work and to help those who wish to leave sex work to do so safely. This research could significantly help inform the provision of public services to deliver support for sex workers to help ensure their safety and to help those wishing to leave sex work to do so.

We strongly believe that there is a pressing need for government here to fund such research as soon as possible and they should involve organisations representative sex workers to ensure that they can deliver the widest response possible.

In conducting this type of survey it is also vital that the survey is conducted in a manner which encourages sex workers to take part and ensures their safety and anonymity.

In examining any matter it is essential that evidence is gathered and that an evidence base is built to understand demand and need for public services, for example, or to inform government policy. We believe that this type of comprehensive research work is essential to inform any debates and policy on this matter.

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NUS-USI - Women's Officer

I wish to make you aware of NUS-USI's strong opposition to clause of Lord Morrow's Human Trafficking and Exploitation (further Provisions and Support for Victims) Bill. The Justice Committee is examining the Bill in the coming weeks, and NUS-USI believes that clause six of part one of the Bill, which is titled 'Paying for sexual services of a person', could have very dangerous ramifications for sex workers.

This clause could drive sex work further underground, and could endanger the safety of women working, in addition to potentially making it more difficult to leave the industry if they choose to. It could prevent sex workers from speaking out and we believe that this clause seriously undermines the bill.

The bill as it stands conflates human trafficking with sex work. NUS-USI believes that human trafficking is such a serious issue that any bill created to address it, should focus on human trafficking alone, and no other issue.

We want to take this opportunity to acknowledge the significant effort that Lord Morrow has put into the bill, but we hope that he will understand its current flaws and consider amending it or tabling a new one to reflect the need to address human trafficking alone within such a bill.

Many have expressed significant reservations about the Bill, including Detective Chief Supt Philip Marshall of the PSNI. The Justice Minister, David Ford, does not support the clause. We would strongly encourage you to act in the committee stage of the bill to help remove this clause, and we would be very interested to hear your views on this issue. If possible, we would like to arrange a meeting with you/ your party on this issue, and we would be extremely grateful if you could contact us to arrange a meeting.

I look forward to hearing from you,

Many thanks,

Aisling Gallagher
NUS-USI Women's Officer

Omagh District Council

DANIEL McSORLEY Chief Executive

Omagh DISTRICT COUNCIL

Your Ref:
Our Ref: MS/1 M/L 16411
Date: 18 October 2013
Being dealt with by: Chief Executive's Dept
Email: daniel.mcsorley@omagh.gov.uk

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

Dear Sir/Madam

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

I am writing on behalf of Omagh District Council in response to the consultation on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

At the Council meeting of Tuesday 1 October 2013, the following motion was unanimously supported by Omagh District Council:-

"This Council:

1. Recognises that human trafficking and exploitation is a growing problem in Northern Ireland

2. Believes that existing statistics regarding the number of people trafficked in to Northern Ireland do not reflect the scale of the problem and are only the "tip of the iceberg" in regard to the scale of the problem

3. Believes that no human being should be subjected to: sexual exploitation, enforced labour or domestic servitude and condemns those who engage in human trafficking

4. Believes that more action should be undertaken to support those who have escaped from exploitation and to punish those who exploit them and, accordingly

5. Calls upon the Northern Ireland Assembly to endorse the Human Trafficking and Exploitation (Further Provision and Support for Victims) Bill"

Members agreed that legislation is required to deal with the atrocious crimes this Bill relates to, particularly those involving young children. In general the Council is content with the Bill as outlined. The importance of Clause 6 of the Bill was emphasised by Members as it was felt extremely important to providing appropriate protection for vulnerable victims.

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Employer Council for Western Area Group Environmental Health and Building Control Services

INVESTORS IN PEOPLE | Bronze

As requested in the consultation, the Council wishes to make the following comments on the individual Clauses:-

Clause 1 – The clarity of what is meant by a human trafficking offence is welcome and the extension of the Bill to include slavery offences is appropriate

Clause 2 – The list of factors outlined which makes evidence of consent or agreement irrelevant is welcome, particularly given the number of victims who are children

Clause 3 – The inclusion of aggravating factors in determining judiciary sentences is appropriate and sentencing up to 14 years depending on the nature of the offence and the aggravating factors is also appropriate

Clause 4 – Minimum sentencing which reflects the seriousness of human trafficking and slavery offences is a required deterrent for offenders or potential offenders

Clause 5 – the amendment to include additional definition, including forced begging involving children is welcome

Clause 6 – it is noted that the single biggest driver for trafficking to Northern Ireland is the demand for paid sex, so it is important that significance is given to dealing with this offence in the legislation. It is also noted that best practice approaches in Sweden and Norway relating to criminalising the paying for sex have been investigated to help inform the development of this clause. The inclusion of 'exploitation' in the Bill is also welcome

Clause 7 – it is appropriate to include a statutory provision to ensure adequate resources are available to provide for effective training and tools for investigation or prosecution of human trafficking offences

Clause 8 – it is appropriate and necessary to include this clause to ensure victims suffer no further detrimental impact from prosecution or penalties following their ordeal of committing a crime under duress

Clause 9 - to avoid ambiguity, the definition of a 'victim' is welcome

Clause 10 – it is appropriate to secure in the legislation the obligations of Government to supporting victims and to clearly list the types of assistance that should be provided to victims

Clause 11 – the stipulation of schemes of compensation for victims and procedures to accessing same are necessary and welcome

Clause 12 – As outlined in this clause, the proposal to put in place child trafficking guardians to safeguard a child's best interests as quickly as possible following a child being identified as being a possible victim of trafficking is an absolute requirement

Clause 13 – the provision of ensure special treatment for victims of trafficking during police investigations is appropriate and crucial to the effectiveness of the Bill

Clause 14 – the provision of protection and support for victims during criminal proceedings against traffickers is crucial to the Bill being effective

Clause 15 – the recommendation that the Department of Justice would statutorily be required to annually publish a strategy on raising awareness and reducing trafficking and slavery offences is noted

Clause 16 – the proposal that the Department of Justice would be required to establish a new body, independent of government to report to the Assembly on the performance of the Bill and other related matters is noted

In conclusion, Omagh District Council support the proposed 'Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill', viewing it as a necessary piece of legislation required to ensure that this vulnerable group in our society are appropriately protected.

On behalf of Omagh District Council, I wish to thank you for the opportunity to respond to this consultation and we eagerly await the outcome of the consultation.

Yours sincerely

D McSORLEY
Chief Executive

Outsiders Trust and Tender Loving Care Trust

Clauses 1-8 of Human Trafficking Ball

I write as the founder and coordinator of the Outsiders Trust, and founder of the TLC Trust. These provided support and services for disabled individuals with regards to their sexual lives. Many find it very difficult to enjoy sexual expression and find a partner.

They may hire a sex worker in order to learn what their bodies are capable of enjoying, and gain sexual confidence and positive body image. They may only have had their bodies prodded by doctors and experienced pain and embarrassment from them. Sex workers also teach them how to please a partner and gain confidence being with a partner. This is an essential journey for many, even non-disabled people. To criminalise the purchasing of such services is inhumane.

It is been statistically proven that criminalising the buying of sex does nothing to protect those who work in the sex industry, and nothing to reduce trafficking and slavery, which is a criminal activity and will continue to be so even when further criminalised.

Dr Tuppy Owens

> *"Organisations such as The Outsiders and TLC (Tender Loving Care) do invaluable work to recognise the sexual needs of disabled people, and do what they can to help - campaigning in a pretty forthright way."*
>
> Bel Mooney in the Daily Mail 18th August 2010

Parosha Chandran

Counsel's Expert Opinion on Clause 8 of Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

1. I provide this Opinion in relation to Clause 8 of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill ("the Northern Ireland Human Trafficking Bill").

2. I am a legal expert in the law relating to trafficking in human beings. I am also a practicing barrister at 1 Pump Court Chambers in London. A short CV is attached to this Opinion.

3. Clause 8 of the Northern Ireland Human Trafficking Bill provides:

> "Non prosecution of victims of trafficking in human beings
>
> 8. Where the victim (A) has committed a criminal act as a direct consequence of the trafficking in human beings, no prosecution or imposition of penalties shall occur if—
>
> (a) A has been compelled to commit the criminal act as a direct consequence of being subjected to—
>
> (i) threats, the use of force or other forms of coercion,
>
> (ii) abduction,
>
> (iii) fraud,
>
> (iv) deception,
>
> (v) the abuse of power or of a position of vulnerability, or
>
> (vi) the giving or receiving of payments or benefits to achieve the consent of a person having control over another person; or
>
> (b) A was a child."

4. Clause 8 of the Northern Ireland Bill has clearly been drafted with a focus on bringing Northern Ireland into compliance with the UK's obligations in relation to the EU Trafficking Directive Art 8.

5. Art 8 of the Trafficking Directive provides that:

> "Article 8
>
> Non-prosecution or non-application of penalties to the victim
>
> Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2."

6. The use of the term "Member States shall", when taken with the rest of the wording of Article 8, indicates that Article 8 requires Member States to provide a legally binding form of protection from prosecution, conviction and sentence for those victims of trafficking who satisfy the Art 8 test.

7. The phrase "Member States shall…take the necessary measures to *ensure that competent national authorities are entitled* not to prosecute or impose penalties" [Emphasis added] is to achieve harmonisation across the EU and is addressed to

those Member States which have mandatory systems of prosecution (unlike the UK) as such States will need to introduce new processes to entitle their courts to prevent prosecutions from continuing which satisfy the Art 8 test.[1]

8. It is critical to note that the Article 8 legal duty on the UK is not satisfied by a prosecutors' discretion as to whether or not to prosecute. The Article 8 duty falls on the Courts of a State as being the ultimate arbiter of justice and it is necessary therefore for there to be a legal framework which recognises this. Where there is not, there is a clear risk a country falling foul of its EU obligations under Art 8.

9. Furthermore, by enshrining the Art 8 duty in legislation, via Clause 8 of the Northern Ireland Human Trafficking Bill for example (which is perfectly put) this will directly impact on the minds of all those involved in the criminal justice system to consider whether a trafficked defendant is in fact culpable of the offences with which s/he is charged including for example the police, prosecutors, defence lawyers, court clerks, probation, social services and, importantly, the judges.

10. Such an approach as that proposed by Clause 8 must therefore be commended.

11. The recent landmark judgment of the Court of Appeal of England and Wales (Criminal Division) in *R v L and others* [2013] EWCA Crim 991 of 21st June 2013[2] is stark testament to the weaknesses of both prosecutorial discretion and the CPS's Legal Guidance when it comes to protecting trafficked victims' rights to non-punishment in cases involving highly vulnerable victims. The judgment concerned four human trafficking victims, three of whom were at the date of the commission of the relevant offences trafficked Vietnamese youths who had been convicted of cannabis cultivation offences and a fourth case involving a highly vulnerable female adult who had been a victim of extreme sex-trafficking and had been convicted of a false passport offence. In each of the cases there was relevant evidence of trafficking at the time of the prosecutions but the cases had each proceeded and had resulted in convictions and in sentences of imprisonment. On appeal each of the convictions was quashed by the Court of Criminal Appeal which applied the Art 8 duty and found that:

"13. …when there is evidence that victims of trafficking have been involved in criminal activities…[t]he criminality, or putting it another way, the culpability, of any victim of trafficking may be significantly diminished, and in some cases effectively extinguished, not merely because of age (always a relevant factor in the case of a child defendant) but because no realistic alternative was available to the exploited victim but to comply with the dominant force of another individual, or group of individuals."

And

"16…The court protects the rights of a victim of trafficking by overseeing the decision of the prosecutor and refusing to countenance any prosecution which fails to acknowledge and address the victim's subservient situation, and the international obligations to which the United Kingdom is a party."

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1 See **OSCE *"Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking"***, April 2013. Para 72, for example, provides this: "In legal systems of mandatory prosecution there is an obligation to prosecute where the facts indicating the commission of an offence are present. It is of paramount importance that in such systems, legal measures are adopted (or amended) in order to prevent prosecution of victims. The failure to do so can have very serious ramifications for trafficked persons, who may on the face of it have committed an offence, although they were not acting with free will." The OSCE Non-Punishment Recommendations publication provides vital guidance on the non-punishment principle and how it is to be implemented by States in accordance with legal obligations.
Note: The OSCE is the world's largest regional security operation and comprises 57 Governments including countries in Europe and the USA. I was consulted by the OSCE to provide expert advice in the drafting of these recommendations. The publication is available here: http://www.osce.org/cthb/101002

2 Available at: http://www.bailii.org/ew/cases/EWCA/Crim/2013/991.html

12. In its judgment in quashing the convictions of the four victims of trafficking who satisfied the Art 8 test the Court found that original prosecutions ought not to have proceeded at all.

13. This judgment demonstrates the reality of where the Art 8 duty is often not satisfied by the existence of prosecutorial discretion. However, where a victim of trafficking commits a criminal offence which he or she *was compelled to commit as a direct consequence of being trafficked*, that person is entitled not to be prosecuted, convicted or otherwise punished for that criminal offence. In the case of trafficked children, their vulnerability on account of their age alone is to be appreciated and this necessities a test that is absent any reference to compulsion (or any of the means by which an adult is trafficked), as Clause 8 reflects.

14. Only a person who satisfies that test can be protected under Article 8. It follows that Article 8, and indeed Clause 8 does not enable a blanket ban or any form of blanket immunity from prosecution for trafficked victims: those who are trafficked and yet commit crimes which are unconnected with their trafficking will be liable to face criminal charges and prosecution in the ordinary way.

15. The ethos behind the non-punishment provision is not only to protect the human rights of those who have been trafficked from being convicted or punished for crimes which but for their trafficked status they would not have committed at all. Indeed, the measure is also aimed at enabling the successful prosecution of traffickers.

16. In all cases known to me thus far where the trafficked victim was charged, prosecuted and convicted for the crimes of trafficker (such as the cannabis cultivation cases) or crimes which otherwise arose directly from the trafficking (for example the 'run-away crimes' where a trafficked victim has used a false passport to try to escape the trafficker in the UK) there has been no police investigation whatsoever into their trafficking. Each time it has been the trafficked victim who was wrongly treated as an ordinary criminal offender and exposed to the criminal justice system as a defendant whilst their trafficker, who had committed extremely serious crimes against the trafficked victim and had conducted financial crimes against the State, for example by unlawfully controlling prostitution or via highly lucrative drug manufacture enterprises (having intended or used the trafficked victim for one of those exploitative purposes) got clean away.

17. The deliberate use by traffickers of vulnerable human victims with the aim of exploiting them for their personal profit is, when coupled with the State's prosecution and conviction of trafficked victims for their traffickers' crimes, a perfect escape strategy for human traffickers across the EU.

18. As the OSCE's Special Representative on combatting human trafficking has found:

> "[4] The punishment of victims of trafficking for crimes directly related to their trafficking is a violation of their fundamental dignity. It constitutes a serious denial of reality and of justice. Such punishment blames victims for the crimes of their traffickers, for crimes that, but for their status as trafficked persons, they would not have perpetrated. The criminalization of trafficked victims maybe tantamount to persecution of victims by the State: not only does it fail to take into account the serious crimes committed against the victim by the traffickers, which should be investigated, it fails to recognize trafficked persons as victims and witnesses of those serious crimes and exacerbates their victimization and/or trauma by imposing on such persons State-imposed, unjust punishment. Instead of being treated as victims, they are treated as criminals. This practice furthermore promotes trafficking in human beings by failing to confront the real offenders, by dissuading trafficked victims from giving evidence against their traffickers and by enabling traffickers to exert even further control over their victims by threatening exposure to punishment by the State.

Traffickers will favour the punishment of victims as it simply plays into their hands: it ensures that their victims are the ones to bear the criminal penalties while the real offenders can operate with impunity."

19. I commend Clause 8 for confronting the realities that requires the State to comply with Art 8 of the EU Trafficking Directive. The adoption of Clause 8 would enable not only the protection of victims of trafficking in Northern Ireland from unlawful conviction and punishment in breach of EU obligations where the criminal acts they are prosecuted for arose through compulsion and as a direct consequence of their trafficking. It would also enable a highly critical focus in Northern Ireland on catching the perpetrators of the very serious crimes of human trafficking and would undoubtedly enable an increase in successful trafficking investigations and prosecutions in its territory.

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28 November 2013

Annex 1

Parosha Chandran Biography

Parosha Chandran is an award-winning human rights barrister who practices from 1 Pump Court Chambers in London. Called to the Bar of England and Wales in 1997, she is a recognised expert in the law relating to trafficking in human beings and has extensive experience in representing the interests of victims of trafficking. Many of her cases have led to significant legal developments in the protection of trafficked persons in the UK and beyond. Her precedent-setting trafficking cases have included the UK's leading asylum-recognition appeal case of SB *(Moldova)* [2008] UKAIT 00002; the landmark non-punishment criminal appeal in *R v O* [2008] EWCA Crim 2385; M. v UK, 16081/08 [2009] ECHR 1229 which was the first successful trafficking-related protection claim to be taken to the European Court of Human Rights against the UK; and *R v L and others* [2013] EWCA Crim 991, the recent successful criminal appeal cases concerning the application of the non-prosecution provision under the EU Trafficking Directive. Parosha contributed expert advice to the OSCE Special Representative on Combatting Human Trafficking's *Policy and Legislative Recommendations in relation to the Non-Punishment Provision,* April 2013, and participated as a member of the UNODC Group of Experts convened in 2012 to assist in determining the application, nature and scope of the legal term *'abuse of a position of vulnerability '('APOV')* in the human trafficking definition (UNODC Issue Paper and Guidance Note on APOV, October 2012). She is the General Editor of the textbook *"Human Trafficking Handbook: Recognising trafficking and modern-day slavery in the UK"* (LexisNexis, 2011). In 2008 she was awarded the Law Society's "Barrister of the Year" award for her pioneering legal work towards the protection of trafficked adults and children in the UK. Earlier this year she provided expert advice in relation to the Human Trafficking (Scotland) Bill 2013. She is currently instructed by Frank Field MP as an independent legal advisor in relation to the UK's proposals for a Modern Slavery Bill.

Pastor William Creighton

Dear Justice Committee Members,

As a Baptist pastor in County Down, I welcome the Human Trafficking Bill, as it would stop vulnerable people being exploited in Northern Ireland. I agree with clause 6 of the Bill, as this would make trafficking for sex a criminal offence in Northern Ireland and hence deter the problem.

Yours faithfully

Pastor W. Creighton

Sent from Windows Mail

Philip R Barnett

For the attention of The Committee Clerk

Dear Sirs,

I am responding in brief to the call for evidence with regard to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

First of all I want to say that I warmly welcome this Bill and fully support it for the good it will achieve.

The Bill is essential because it will make a real difference to the lives of some of the most vulnerable men, women and children who are or would be exploited in the province.

The Bill will also help ensure that Northern Ireland properly fulfils its international obligations as set out in the European Directive and the Council of Europe Convention.

I sadly recognise that the primary reason for trafficking into Northern Ireland is for sex, and thus I particularly welcome clause 6 of Lord Morrow's Bill which criminalises paying for sex.

Clause 6 would thereby directly address the principal source of demand for trafficking and do so more effectively than the current laws.

Yours faithfully,

Philip R Barnett

Poppy

Dear Sir/Madame,

I would like to submit evidence against clause 6 of the Human Trafficking and Exploitation Bill at committee Stage. I have reason to believe that creating an offense of purchasing sexual services would be counter productive and more harmful than helpful to existing Sex Workers in Northern Ireland.

Please find my attached submission, which details information showing how the Swedish model has indeed been detrimental and made conditions worse for Sex Workers, leaving them without support or health care. Is this really what you want for the women working in Northern Ireland?

I would suggest it better to act harder with the bill and legal resources already available, with longer sentences and sentences that fit the crime.

Yours faithfully,

Poppy

Submission to the Joint Oireachtas Committee on Justice, Equality and Defence by a Current Sex Worker

Review of Legislation on Prostitution 2012

Sex Worker

2/28/2013

This document reviews and analyses how new legislation may affect current Sex Workers in Ireland, who are largely working free of will and how the Swedish Model would have a negative impact on Sex Workers, including trafficked women wishing to be rescued.

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Personal Introduction

I am a Sex Worker and have been involved in this occupation for approximately 4 years. I started part-time in order to supplement my regular wage and soon discovered that I enjoyed the work and that I would be in a better position to pay off debts incurred through further education and maintain my financial responsibilities better by moving to full-time.

I am keen to improve my financial status and as such I do declare my taxes, so that I can get back into the black and pay off my debts in full. I did have the option to continue in my previous work, but this would have meant moving away completely and my son was studying for his GCSE's at the time, so for me it made sense to stay where we were and for me to continue with Sex Work.

While I am working, I am also furthering my own education, to broaden my choices at a later date. Where I am enjoying my work now, I can see that I will not always want to remain in this career and am making provision for my future, with the money earned.

As a Sex Worker who works independently I set my own boundaries and work well within them. I vet all my clients on the phone and if they sound abusive or misogynistic I refuse the booking. I am also at liberty to terminate a booking at any point during the time paid for, if I am not entirely happy. I have created a website that reflects my personality and encourages clients that suit me best. I largely enjoy the company of intelligent, polite and respectful men who are looking for good company.

In the four years that I have worked, I have never met a man who has abused me or encountered any violence. I have never been forced to do anything that I was not willing to do and where I do need money to pay for the cost of living, I am in a position where I can refuse work if I do not feel up to it due to fatigue, illness or wary of the caller and always put my health and well-being before money.

With further regard to my health and well-being. I attend a GUM clinic once every three months, where I have been honest and up front and told them of my occupation. They give me all the tests available and I have been immunised against the Hep B virus. If at any point I have any concerns with my health, I am at liberty to attend the GUM clinic at short notice, with their blessing and assistance. This information is anonymous and not held on record, which is reassuring. To date I have never had an STI and I believe this is because I am careful about how I work and precautions taken. I have a variety of condoms at my disposal, shower, lubricants etc. I would never entertain bareback sex and believe regulation would help to further reduce STI's generally within Sex Work, as up to date certificates would be a transparent way of making sure Sex Workers are clean and safe.

I have been working around the UK and Ireland touring for the last two years. Currently I work alone, although I feel there are many advantages to working in pairs, as this again would reduce the possibility of any abuse or violence, especially for the younger girls, who are still picking up life and social skills. I currently work from apartments and hotels and work discretely, so that other residents or guests are not aware of what I am doing. I believe discretion is important and would continue to be whatever the legislation. I personally would not choose to work for an Agency,

Brothel or be a Street Walker, but if ran correctly I'm sure they could be good avenues to take, as long as it is their choice, then it should not matter where you work.

Prostitution as a Positive to the Sex Worker and Community

Like most jobs there are negatives to Sex Work, but the majority of Sex Workers do choose to be in the occupation. It is a relatively easy job to start up in, with no training needed, although if you want to do well, you do need to be good with people and have a reasonable skill base. You work within your own boundaries and offer what you are comfortable with. No one tells you how much to charge or how to run your own business, so it is up to you as the Worker to do your homework and decide what you are willing to offer.

The wonderful thing about this line of work is variety. We all work differently, even though essentially we offer the same thing. For many of us there is a huge sense of community and we look out for each other to make sure that there is someone covering our back and if we do get into trouble, then there is someone to call and get help. We also share information via the internet, so that we know who the bad men are and can avoid them. This is an invaluable part of the working community and it would be tragic if we lost it, due to no longer being able to advertise or communicate on the internet. We would be placed in a lot more danger, as we would only be able to rely on our own source of numbers. For this reason it is vital that whatever future legislation comes into action, we are not removed totally from sight or unable to communicate with each other via forums, such as SAAFE and the Home Office approved 'Ugly Mugs' scheme in the UK.

Since I started working as a Sex Worker, I have gone from a woman who didn't think I was compatible with the opposite sex, after a failed marriage and three short lived relationships, to someone who is genuinely looking forward to the day where I am able to start a relationship and be with someone where we are equals. It is very easy to have your judgement coloured by the people around you and previous relationships. I have also learnt not to be shallow and only entertain people that are attractive to me. I have seen so much inner beauty in men that I deemed to be 'average' I no longer use looks as my first base of call when judging men. I believe I have become a much better, more tolerant and caring person for it.

Sex Workers work with all walks of life. We provide company, for many different reasons and rarely as selfish as just wanting to have sex with a woman for the sake of it. We are designed to be emotionally and physically close to one another. The first thing you do when greeting someone is to hold out your hand or hug them. Yet there are thousands of men who live totally isolated lives. Be it due to location, work or social deficiencies they have not had the experience of being loved, or being in a relationship. They may never have had a girlfriend; they may feel too shy to ask anyone on a date or just not had the opportunity. These men need intimacy just the same as the rest of us. We all need to be hugged, to feel close to someone and it is perfectly natural to want sex. After all, we are programmed to procreate and it is a perfectly natural urge, but some never get the opportunity to fulfil that urge. I don't think any of us would want them to live totally sexless lives, so there is no better alternative than paying a Sex Worker. There is no deception, as we both know that it won't go further, no one is drunk, so it is with full consent and we can enjoy the experience for what it is.

There are then, the elderly or the disabled. Men that have had good loving relationships, but perhaps their partner has passed away due to old age and they are left with many years in them and

still have the feelings, but most of all miss just being with someone and the closeness. Often they don't book for the sex and don't always indulge. In fact it might surprise you to know that many men do not indulge in full intercourse, but prefer companionship and the intimacy of being held. They are givers by nature and need a way to outlet that emotion.

Disability is one of those words that have a whole host of meanings. There are many disabled people who have never let their disability stop them and that also include relationships. However, for some life is not that easy and they are dealing with the side effects of their disability. This might be unable to communicate, immobile, unable to move body parts or show/recognise emotion. These people still have the same urges as everyone else and still want to feel close to another human being. They don't want to be pitied, they want to be liked and enjoyed, like everyone else. Why make life even harder for them, by telling them they have no other outlet than finding someone to love them? Isn't it hard enough to find love even when you are the classic alpha male?

I personally have met men that are suffering with depression, suicidal, going through divorce, recovering from divorce, virgins in their 40+, have Asperger's and various physical disability's including one young one man who was bed bound and unable to use his own hands to give himself relief. He showed me his testimony and as a fit young 15 year old he had a perfectly normal life, but by his mid 30's he was waiting to die and wishing he was dead. If my being with him for a little time made it easier to be alive, then who could possibly say it is wrong? With a bright mind, but unable to communicate clearly and decaying body, what alternative does he have? It's all very well to say, 'then why don't you see him for free?' Yet would you say that to any other professional service provider? Not forgetting the fears of rejection where there is a selection process. This eliminates that do a degree and allows uncomplicated consensual unions.

In this way I think that Sex Workers do provide for the community. We keep relationships that would likely die alive, so that families can stay together, we help to heal the wounds of those that are dealing with separation and divorce and maintain the man who works all hours and doesn't have time to get into a relationship, but doesn't want to risk hurting someone with a one night stand. We give back the confidence, we help to unwind and de-stress and bring laughter back to those that had forgotten where it was.

These men are not abusive, violent misogynists. They are men that want to feel whole and seek it with someone who is able and at a price gives their consent to intimacy that normally takes time and commitment to receive. There is no pretence, no dishonesty, just a clear cut agreement of what the terms will be and a willingness to enjoy each other's company.

The Issue of Choice

Where before the introduction of the internet it may have been in the main rarely a freely-entered choice, being set against a backdrop of abuse, poverty, low self-esteem, debt, addiction etc., I no longer believe this is the case. Today's Sex Worker is using the occupation to take control of their life and help them to take the foot up to bigger and better things.

It is widely acknowledged that women now turn to Sex Work to see them through further education and career based qualifications, or to subsidise their wages. I have known ladies who have entered into Sex work from various fields of work, such as lawyers, Nurses, Teachers and many more. These

women have used the Internet to set their path and advertise their work. They have no outside influence and are happy and willing, as it means they can fit their work in around their studies or jobs and fill any financial short fall ensuring that they are not left with a huge debt at the end of their studies.

Many jobs do not allow the flexibility needed to sustain a second job and ensure enough wages to pay for today's increasing costs. Where Sex Work is not suitable for everyone, it is an invaluable option for those that is does suit and is very empowering, with reaching goals and expectations.

In this way I do not feel that anyone who is working of their own choice should be discounted as 'selfish', saying that if they are able to earn money in other ways, then they should, but to understand that there are women who are happy to provide sexual gratification for those who want to buy it, as a way of income; which is not based on greed, but based on prospects, be that further education, seeing family through their schooling in a safe, warm environment, or starting a business with the capital earned.

I do not believe that poverty or debt are good reasons to say that there is no choice, as everyone works for an income and to raise their standard of living. Sex Work is no different in that respect. Many women choose Sex Work for its high earning potential, but also because of its flexibility and the opportunities it offers for the future.

Prostitution and Sex Trafficking Can Be Separated

There is no evidence to suggest that women and girls trafficked echo those of women who otherwise find themselves in prostitution.

Most Sex Workers enjoy a healthy relationship with the Garda/Police. While these lines of communication stay open, it will be relatively easy for them to know which ladies are working of their own free will and leave them to look for the ones that are not. There is also a crime line number that is known within the Sex Worker community and anyone found to be working against their will would be reported.

There are certain areas that are to be avoided by Sex Workers, as they will have increased trouble there, with regards to fake bookings and intimidation. These are the areas where Agencies are known to be active and by working together, we should be able to locate where they are, which phone numbers they are using and who is working for them. In this case there is no 'honour amongst thieves' as you might think, as we do have compassion and do not want to see women working against their will. However, working for an Agency does not automatically equal trafficked, as many foreign women do use them as a stepping stone to finding work in a Country where they have minimal to no experience of the people or language and it is important to determine if the ladies are working of their own free will or coerced.

Looking at the figures supplied by the Department of Justice, Equality and Law Reform Summary report of trafficking in human beings in Ireland for 2009 there were 66 cases of suspected or potential trafficked victims in Ireland. Broken down 8 of these were male, 49 female and 17 children (no gender given). There is no evidence to suggest what they were being trafficked for, but it is to be assumed that some may have been trafficked for Sex Work. There is also a possibility that some

were not victims and proven not to be trafficked at all (13 were concluded as no evidence of trafficking), as they had not investigated this possibility for 'potentially' trafficked people at this point.

In 2010 there were 58 cases of sexual exploitation recorded, with 51 being female and 5 being male and yet we never hear of the male prostitute needing to be helped or saved? There were also 19 cases of labour exploitation of which 8 were women and 11 were men. Out of the sexual exploitation category 41 were adults and 15 were minors. Bear in mind a minor is 17 or under in the Sex Industry, this should make it easier to identify, as they legally are not allowed to work within the Sex Industry and should be removed from it.

There are strong patterns of origin shown in the statistics that show a majority of trafficked humans coming from Africa, then with much lower numbers the EU. This in itself negates the comment made by Ruhama that it is impossible to distinguish between willing sex worker and someone who is trafficked, as there are definite trends to be found.

In contrast there were 37 reported sexually trafficked victims in 2011. 34 were female and 3 were male. Of the 37 total, 7 were minors (under 18). Again the majority were from Africa (29) with the rest divided between EU, Ireland, Asia and Latin America (in that order)

To further clarify the figures so they are up to date I spoke to Barra O'Duill, who said that figures for 2012, although at the moment estimated only show another reduction with 22 cases investigated in adults and 7 with children. I assume these are reference to sexual exploitation, although this may not be the case. Either way this shows a steady decline in cases over the last 4 years. It would be fair to say that efforts were raised in 2012 with various raids on known Sex Worker sites and yet still fewer cases have been found.

These statistics show a strong element of control over the situation. A good working relationship between the Garda and Sex Worker and that the Crime Stoppers line is also effective, where men who pay for sex may report any concerns they have for trafficked women within the industry. This healthy and co-operative relationship for both the Sex Worker and the buyer will cease to exist if the buyer is criminalised, making it virtually impossible for the Garda to protect those who need it most.

HIV/AID'S, STI's and Prostitution Legislation

Having looked at the records for STI's in Sweden, there is a general increase in most areas, with Syphilis, gonorrhoea and chlamydia. (1)

2012

Chlamydia infection - **2012** - 37708 - / - **2003** - 26801 (43.1% men/56.8%women)

Gonorrhoea - **2012** - 1098 - / - **2003** - 596 (69.4% men/30.5% women)

Syphilis - **2012** - 201 - / - **2003** - 177 (81% men/18.9% women)

There are two points of interest in these figures: The first being that STI's are continuing to rise. These are general and not specific to Sex Workers, but would suggest that people generally are taking more risks in Sweden and not using condoms. It has been suggested that Sex Workers in Sweden are scared to be found with condoms, as they are being used as evidence to criminalise their clients and this would be in line with these findings. The second interesting trend is that there is a huge increase in STI's with regards to men. On a personal note, I am wondering if there is an increase of sexual activity between men, as this is seen as less compromising than the threat of criminalisation if found with a female Sex Worker?

It was also noted in the statistics that the age group most likely to be affected by an STI is between the ages of 20 and 29, which is also the age bracket of the majority of Sex Workers.

Unfortunately Ireland does not have a database of facts in such an efficient order as Sweden, but I have found evidence, which I think will show that to bring in the Swedish Model, which may inhibit the use of condoms, would be a terrible set back to the already failing education for using precaution.

An article written by Deborah Condon from **Irishhealth.com** shows how Ireland is struggling to spread the word that the use of condoms is essential to prevent STI's. Here is the article.

> Ireland has seen a big increase in sexually transmitted infections (STIs) in recent years. The trend is related in part to the economic boom, but also the fact that we have a young, very active population. In addition, because Ireland has had a very mixed attitude to sex education, attempts to provide clear facts to young people have been the subject of repeated controversy and some resistance.
>
> A few years ago, the Department of Health launched a national awareness campaign,
>
> ***'Think Twice Every Time'. Its aims? To educate and inform 18-35 year-olds about their relationships and their sexuality.***
>
> One of the reasons for the campaign was the rise in the incidence of STIs.
>
> Speaking at the launch of the campaign, Health Minister, Michael Martin, said that the Government was setting out to achieve a major attitude and behaviour change.

"You can't run a fast campaign, toss out a bundle of leaflets and hey presto, people suddenly manage their sexuality differently", he said at the time.

Campaign failure

Of course, such a campaign needs to be carried out in a slow, measured and comprehensive manner. Unfortunately this did not happen - funding for the project was discontinued after a year in operation. Many aspects of the campaign, including a website, never saw the light of day and today, the incidence of STIs here continues to rise. It is a symptom of the lack of vision and understanding by some health authorities to serious issues. But it also points to the fact that many people are not being cautious in their sexual lives.

This is backed up by an article released **thejournal.ie** (3rd November 2012), which shows recent stats:

THE NUMBER OF cases of STIs in Ireland has risen significantly, with gonorrhoea now at the highest rate ever recorded for the country.

The report by the HSE's Health Protection Surveillance Centre found there were 13,259 notifications of STIs in 2011, an increase of just over 12 per cent on the previous year.

Gonorrhoea cases increased by one third (33.4 per cent) to 834 cases, and the incidence rate now stands at 18.2 per 100,000 population – a figure that is significantly higher than the European average (10.4) as well as being the highest incidence recorded in Ireland. Men made up almost 80 per cent of cases.

The report was compiled using data from STI clinics, laboratories, and GPs. Other findings include:

- ***Chlamydia remains the most common STI accounting for 48.3 per cent of cases last year.***
- ***Genital warts were the second most frequently reported STI at 18.5 per cent.***
- ***Almost 60 per cent of people with STIs were aged between 20 and 29.***
- ***There were 653 cases of syphilis in 2011, a slight increase on the previous year.***
- ***Genital herpes saw the single biggest jump in the number of cases with an increase of 39.8 per cent year on year.***

As a Sex Worker who currently works in Ireland (2013) I can tell you that there are many men who do not understand how important it is to use a condom, but as a Sex Worker, I insist on them being used. We are actively educating our clients to the risks of not using condoms and the majority of us will not entertain a client who is not willing to wear one.

There have been times where I have been asked if I will perform sex without a condom, or they have told me that they have had 'the snip' and therefore cannot get me pregnant, so will I allow bareback sex. These kinds of requests tell me that they have no idea of why we insist on condoms and that they are not there to stop pregnancy, but to stop the spread of STI's.

I am also very aware that Irish men rarely if at all attend clinics and do not attend regular tests to make sure that they are clean of sexually transmitted diseases. They assume that they would know if there was something wrong, even though it is common knowledge that some diseases like chlamydia for example, have no traceable side effects in the majority of people who have it. Yet this can stop their partner from having children if they pass it on without detection.

It is my opinion that Sex Workers offering unprotected sex should be illegal; regardless of their working status and that ladies who insist on using condoms for penetrative sex are legal, along with their clients. This is legislation that I would be keen to adopt.

Health should be taken very seriously and it concerns me that Ireland is not already pulling out all the stops to ensure that their young people are not fully prepared and aware of all the reasons why they need to be taking full protection with condoms. With this in mind, I think the Swedish Model would influence some Sex Workers to stop using condoms, especially if they have been targeted by the Garda and further exasperate an existing problem in Ireland that has not yet been combated.

Further to this there is also the issue of 'stigma'. In Sweden the criminalisation of clients has worked to further stigmatise Sex Workers and their clients and as such both clients and Sex Workers are not receiving the care that they need with regards to sexual diseases, including HIV/AIDS. The information below states:

> ***A fear raised by the Ombudsman was that the increased stigma would lead to worse prospects for health promotion and HIV-preventive work. It referred to UNAIDS, the Joint United Nations Programme on HIV/AIDS, that discourages criminalization for this reason: social stigma might influence the contact with social authorities, the health care system and the judicial system.***
>
> ***RFSL(2) also referred to UNAIDS and expressed its great concern for the Swedish situation: the organization has knowledge of several instances where HIV-preventive measurements aimed at clients were stopped with reference to the ban. It further believes that the point of view expressed by the evaluation, that "increased stigmatization is positive" is an almost counteractive attitude to harm reduction. For example, sex workers with whom the RFSL has been in contact have reported that stigma prevents them talking about their prostitution experiences when testing for HIV/STI. To strengthen the stigma will lessen the chances to reach people who sell sex and to conduct harm reduction measures, concludes RFSL. The organization also points out that HIV-preventive needs are greater amongst men who sell sex to men and transgender people, but that the official evaluation almost totally ignores this population. Studies done by RFSL showed that 38.5 percent of the men who sell sex never tested for STIs.***
>
> ***It is therefore possible that yet another negative consequence of the ban is an increased level of STI and HIV amongst sex workers and their clients. The Board of Health and Welfare, which also expresses concern about the consequences of an increased stigma, writes in its response that according to the 2010 Swedish UNAIDS report that only 18.5 per cent of drug-using sex workers used a condom during their most recent intercourse.***

Conclusion

> ***We believe that one has to look at several factors to understand the discrepancy between the stated success of the Sex Purchase Act and its documented effects. While there are some police, social workers and former sex workers who claim that the ban has indeed helped reduce prostitution and trafficking and deterred clients without any adverse effects, the reports and documents that have a scientific rather than ideological base do not support these success claims. Hence, as we and others have written elsewhere, we believe that it is in the ideological and cultural domains that the creation of the "unique" Sex Purchase Act and the above mention discrepancy must be found. It has to do with a desire to create and uphold a national identity of being the moral consciousness in the world; with notions or "good" and "bad" sexuality; with the whore stigma; with creating new forms of sexual***

> ***deviancy; with a communitarian, rather than liberal, political culture, and perhaps above all: a stereotypical and uninformed understanding of prostitution. (3)***

As mentioned previously, there is already a growing trend in STI's with regards to males in Sweden, which backs up the theory written above that men are at greater risk of not being treated for STI's, which is on the increase. With Ireland being behind with regards to sexual education and already unsupported with regards to educating people, this could be catastrophic to the population.

Analysis of the Swedish Model

> ***The "Swedish model" consists of several laws and regulations. The three main laws that criminalize or prevent prostitution involving adults are those addressing pandering, the forfeiture of rental apartments and rooms used for prostitution, and the purchase of sex.*** (4)

This means that Sex Workers if discovered by the Garda will likely find themselves evicted, as the landlords will be forced to drive them out or risk prosecution. The landlord may have had no idea, but the second they are informed they would have no choice but to act.

In the Spotlight document 'Prostitution regulation in Ireland: Which way now? It states that in Sweden prostitution is partially criminalised. The purchase of sexual services is a crime, but the sale of sexual services is not. The Swedish law aims for the promotion of equality for women and protection from violence. It aims for the abolition of prostitution in the long run and for public support for this aim.

The first fault I find with this is the 'promotion of equality'. Sex work is not only for females. Although it does have a majority female work force, both males and females can and do participate in prostitution. If they are looking for equality in the work force, then perhaps they should be looking in other fields of business where the majority of managerial positions are dominated by men and men earn more than women when doing the same job. Sex Work is one of the few occupations where a woman can earn money comparable with the higher end jobs that are normally denied them. This IS equality!

Violence! Yes Sex Work can be a volatile and dangerous occupation, but no more so than serving in the Military, being a Nurse/Doctor or Fire Person, to name but a few dangerous occupations. The work itself is not violence and should not be considered so, as long as both parties are consenting. Yes it is good to have measures in place in case of violence, but it should not be presumed as part of the occupation.

It also goes on to say that the Swedish Model is based on the perception that all prostitution is viewed as exploitation and involuntary. This however is incorrect and as such the reasoning behind it is unfair to both the purchaser and the provider. As someone who has chosen to be a Sex Worker, I can categorically say that I am not exploited, as I am paid well for my services and only offer services that I am comfortable with. I have the freedom to withdraw services at any point and I am at liberty to refuse services completely if I believe the client to be of any risk to myself.

I chose this occupation after carefully considering my skill base, time available and flexibility; it is totally voluntary. The majority of Sex Workers are Independent and have similar choices as myself.

Being Self-Employed I am a registered tax payer. Admittedly I do not use the title of 'prostitute' or 'sex worker' for my business due to the stigma attached and not wanting any impact on future jobs, but I am keen to pay my way and contribute to society. This also allows me to claim expenses and build up on my credit rating, which will improve my future with greater financial options. I think if Sex Workers were encouraged to feel that their work was legal and above board, more would opt to pay tax and like me contribute to Society financially. This does not mean that the government are profiting from sex, but profiting from self-employed people offering a service, which is exactly how it should be viewed by all.

I am not sure where the law would stand on this if our client base were made to be criminals? Would this not also make it even more ambiguous as the government could then be seen to be profiting from criminal activity? Surely it is better to encourage transparency and participating in contributing to the Country, where we reside most from earnings, without fear of discord? Also, if the person is paying tax, is it not more reassuring that they are working of their own free will and not an illegal immigrant, in turn creating another way to monitor trafficking.

Returning to the Spotlight document it argues that the Swedish model means that trafficked prostitutes will be more likely to seek help and get out of prostitution as they will not be prosecuted for selling sexual services. This makes no sense, as it is not illegal now, so what difference exactly is there to make it 'more likely?' Arguing against the approach it rightly acknowledges that ***'the criminalisation of the purchase of sexual services drives prostitution deeper underground, which makes it both more difficult to find and assist trafficked prostitutes and more dangerous for the prostitutes'.*** I am inclined to believe this is closer to the reality and as such there would be less approaching for help, as they would find it harder to reach out to any help offered, plus with the clients being too scared to report concerns there would be less co-operation in finding them out and on a more mercenary note. Sex Workers who do not wish to lose income will likely work elsewhere, leaving less choice for the purchaser; who may be more inclined to turn a blind eye, in the knowledge that his activities are criminal anyway. Please do consider that the more law abiding clients may have stopped visiting Sex Workers, leaving the less sympathetic purchaser behind, possibly encouraging Sex Workers to agree to bookings they may have previously rejected.

There are very few statistics to be found with regards to how much prostitution there was before and after the Swedish Model came into play, but with the figures that have been presented it would be a fair analysis to assume that there is no difference in the amount of people selling sex, but the way in which they work has changed in order to avoid the negative consequences of the legislation.

Accordingly to the Malmö Knowledge Centre, the changing technology has resulted in the "hidden" (indoor) prostitution now making up four-fifths (80%) of the overall prostitution prevalence, compared to two-thirds (67%) before the ban was introduced. This would leave us with a similar total number of people involved in prostitution as before the ban, or about 1,500 people.

In its 2007 report the National Board of Health and Welfare summarized the situation in the following manner:

> ***It is also 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. At most, we can discern that street prostitution is slowly returning, after swiftly disappearing in the wake of the law against purchasing sexual services. But as said, that refers to street***

> ***prostitution, which is the most obvious manifestation. With regard to increases and decreases in other areas of prostitution – the "hidden prostitution" – we are even less able to make any statements.***
>
> The National Board for Health and Welfare. (5)

In short prostitution has been driven underground and with it the trafficked minority, who would be even harder to find, rescue and help. This also makes the lives of the voluntary Sex Workers harder and more susceptible to violence, which would not be reported for fear of future surveillance. It also proves that the legislation ban cannot be claimed as a 'success' as they are not substantiated.

Furthermore apart from not actually having any evidence of reducing Sex Work in Sweden it can also be said that:

> ***The Sex Purchase Act can both be a hindrance to traffickers, but also a tool to improve market conditions, due to the higher prices for sex that the ban creates.*** (6)

This supports my belief that trafficking will become worse under this legislation and not work to improve conditions and accessibility to those who want to be found and rescued, but make more money for the sophisticated criminal. This is further evident by the following statement.

> ***Serious organized crime, including prostitution and trafficking, has increased in strength, power and complexity during the past decade. It constitutes a serious social problem in Sweden and organized crime makes large amounts of money from the exploitation and trafficking of people under slave-like conditions.***
>
> National Police Board press release March 2010 (6)

The Swedish Model legislation to criminalise the purchaser is not effective in combating trafficking and in driving prostitution underground it has encouraged more sophisticated criminals, which have a tighter grasp and money interest on exploiting women for sex work. This chart below shows the reported trafficked numbers and how many convictions generated. (7)

Year	Reported	Convicted
2003	21	2
2004	29	0
2005	44	7
2006	26	11
2007	15	2
2008	15	0
2009	31	0
2010	31	?

A negative unanticipated bi-product of the legislation has found purchasers being black mailed and fewer convictions against traffickers due to less willing witnesses to step forward.

> ***When it comes to clients, it seems they are less willing to assist as witnesses in cases in which profiteers who exploit the sexual labour of others are prosecuted, since they now find themselves guilty of a crime. Clients are exposed to blackmail and robbery, and the stigma***

> ***associated with buying sex means people often have to leave their jobs and positions, even on a mere suspicion.*** (9)

Consequently the last convicted Pimp/Trafficker was in 2007, despite 77 cases being brought forward between 2008 and 2010. This would support the theory that criminalising sex purchasers has made it harder to gain vital evidence in order for a conviction to be granted.

Religious, Feminist and Moralising Organisations

With regards to morals, this legislation is not really concerned with the morality of Sex Work. It should not really be a factor in today's society of whether it be right or wrong, but kept to the real facts that are about reducing trafficking and people (not just women and children) entering into a situation where someone else is profiting from them. It should also be about making the job as safe as possible, with regards to violence and health and this won't happen if we are further stigmatised by criminalising the very people that pay our wages.

It is difficult to see how representatives that are more interested in Feminism, religious beliefs and Morals can contribute impartially and I think the evidence shows this is the case with the existing Swedish Model as it stands.

On a final note it was concluded in the Etute-suede 2011:

> ***Our stance when it comes to policy regarding prostitution is that it has to be based on knowledge rather than morality or radical feminist ideology. We also believe that when policy is developed, the actors at the heart of this policy must be adequately consulted and duly respected. In our opinion, this has not been the case with regards to "the Swedish model".*** (10)

Isn't this history repeating itself? Is it not possible to learn from the mistakes of others and use them for the greater good of the whole community and not just sectors that disapprove? This legislation helps no one, but will do a lot of damage to the very people it is alleged to help.

The Sex Purchase Act

The Sex Purchase Act was introduced by feminist policymakers who argued that '*prostitution is a form of male violence against women, that it is physically and psychologically damaging to sell sex and that* ***there are no women who sell sex voluntarily****.'* Furthermore, it was claimed that *'if one wants to achieve a gender-equal society, then prostitution must cease to exist – not only for the above-mentioned reasons, but also because all women in society are harmed as long as men think they can "buy women's bodies". If the ban would have adverse effects for individual women who sell sex, or if it violates their right to self-determination would not matter. The gender-equal symbolic value of the Sex Purchase Act is more important.'*

We already know that the highlighted statement is not true. Many women are able to not just survive working within this industry, but prosper. It is condescending to suppose that women do not know themselves well enough to succeed as a Sex Worker without some form of damage, in the same way they would know if they were suited to the Military, being a gymnast or a Scientist. We all have different qualities to offer and select our work accordingly.

With regards to gender-equality and men not being able to see us as equals as long as they are able to "buy women's bodies" is ridiculous. More likely the objection is lack of control as many women control their men through their inherent need for sex and ration them depending on what they want from them. It is the man that is being controlled and lacking gender equality in relationships and sometimes in the workforce. Yet this goes overlooked? It is also possible for women to buy time from men or use their bodies as a bargaining tool, using their marital status as a carrot, knowing full well that in the eyes of God they are not able to obtain sexual relief anywhere else. The fact that some men choose to purchase sex makes that dangling carrot redundant and despite the fact they would argue not using their feminine charms to get what they want, it happens on a daily basis, with no one batting an eyelid. At least with purchasing sex there is no game playing, not agenda and no deception. It is a case of double standards.

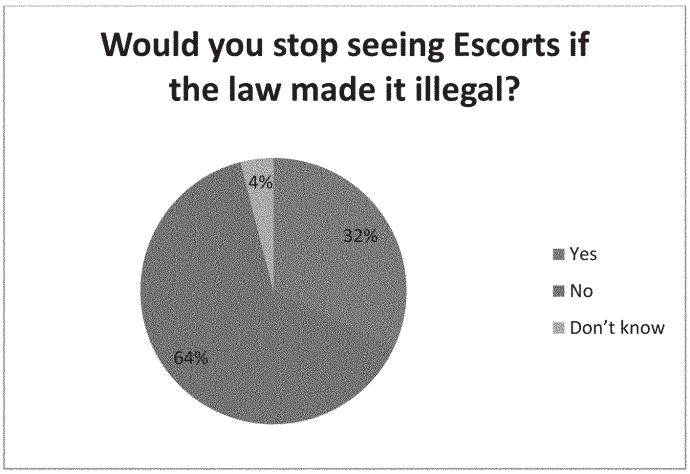
The overall implications of these laws is that no one can operate a brothel, **rent an apartment, room or hotel room,** assist with finding clients, act as a security guard or **allow advertising for sex workers.** This in turn implies that sex workers cannot work together, **recommend customers to each other**, advertise, work from property they rent or own or even **cohabit with a partner** (since that partner is likely to share part of any income derived from sex work). In addition, the law against pandering makes it difficult for the authorities to utilise harm reduction strategies. For instance distribution of condoms, although perfectly legal under the Social Services and Communicable Diseases Acts respectively, might be perceived by non-legal experts as encouraging prostitution, (4i)

The highlighted areas I would like to discuss. If I am unable to rent an apartment or room, then I am being forced onto the street, which is putting me in greater danger and exposure. If I am not allowed to advertise, then it means that I am going to have to go underground and offer different services to those actually offered. This means I will have more clients asking for services I am not happy to offer and make complications that could lead to an assault. Client recommendations are the best word of mouth way to know that you are dealing with a safe and trustworthy client. All businesses operate in this way and give priority to good customers. Cohabit with a partner. This is the worst rule I have read so far. This means that you are actively denying a Sex Worker a loving relationship. Where are the equal rights for women when a woman is denied a normal life outside of work? There is no relationship where the couple does not benefit from wages earned. It is that which gives them stability. How can a law be put in place to deny a woman a loving relationship or marriage? I would imagine living a life without love would be far more damning and psychologically detrimental than a life as a voluntary Sex Worker; otherwise there would not be such a thing as a Swinger, where they actively seek out sex with strangers for their own pleasure.

Looking at Sweden it seems that the legislation has not worked to stop men purchasing sex. They are either going to different Countries to indulge themselves or relating it to the same as a speeding fine, as the police acknowledge there is still a great demand for the purchase of sex.

> ***Many compared the illegal nature of buying sex with speeding; it is illegal to drive a car too fast as well, and one might or not get caught doing it – but it was still worth it.*** (8)

This is in line with a small survey conducted with 113 active sex purchasers in Ireland. As you can see from the pie chart the majority said that they would continue to purchase sex, if legislation criminalised the purchaser.



Conclusion

To wrap this up as simply as possible I have to ask myself. Would criminalising the purchasers of sex improve my life as a Sex Worker? Without doubt and categorically it would not and I strongly believe it would make my life much harder and put me in unnecessary danger. I would be constantly scared that I may be thrown out of the accommodation I was using. I would be constantly worried about being under surveillance and my clients being made criminals and as such I would be involved in various court cases as an accessory. I would feel unable to use local clinics in Ireland should an accident happen where a condom splits, in case questions are asked and I would not be able to tell them that I was a Sex Worker, as this information may be passed on to the Garda, who would then be checking my movements and questioning my clients.

Do I think it would help to rescue trafficked women forced into Sex Work? Quite the reverse! I think the nature of criminalising the client will force Sex Work further underground and with it the victims of trafficking. I believe there would be more victims of trafficking, as the demand would increase in line with Independent Sex Workers seeking work elsewhere.

Do I agree that all prostitutes are working against their will and violated? How can I believe that when I am one and don't fit that mould? I personally have never come across anyone who is working against their will and I have met many women all over the UK and Ireland. I interact with them on a daily basis on various forums and I have visited several in their work place, which ranged from homely to plush. Many of the women were in further education, or had families and thought of Sex Work purely as a job. There are no hang ups, no obvious side effects and in some cases we didn't even discuss work, but normal day to day topics, as of the real world.

It is wrong to label a whole sector of society as incapable of knowing what is best for them. It is wrong to suggest that they are not capable of making an informed choice and willingly choose to work in the sex industry. It is a job that takes a certain type of person and is not suited to everyone. It is not a job to be glamorised, but for those it does suit, it can provide a good quality of life, provide financial security and a path to a fulfilling future. Some of us enjoy touring and enjoy visiting new

places, new people and have more enriched lives. It is a great facilitator. I would also go as far as to say there is great job satisfaction to be had, where purchasers have made life changing differences to their lives, based on the experience they have had with us. It does happen and it will continue to happen. If you truly care about my life and my fellow workers, be them male, female or transgender. Please don't consider the Swedish Model of criminalising the purchaser. It will only make things worse for the willing Sex Worker and those that really need your help. The minority, the trafficked few!

Sources and Information

1. Smi – Smittskyddsinstitute
2. RFSL – Swedish Federation for Lesbian, Gay, Bisexual and Transgender
3. The Swedish Sex Purchase Act: Claimed Success and Documented Effects, by Susanne Dodillet and Petra Östergren
4. Etude-suede 2011 – page 3

4i Etude-suede 2011 – page 4

5. Etude-suede 2011 – page 11
6. Etude-suede 2011 – page 12
7. Etude-suede 2011 – page 13
8. Etude-suede 2011 – page 15
9. Etude-suede 2011 – page 21
10. Etude-suede 2011 – page 25

Presbyterian Church in Ireland

Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013

Submission to Committee for Justice – Oct 2013

Thank you for the opportunity to make a submission on this draft Bill.

As requested, we are commenting on specific clauses, and would be happy to meet the Committee if you considered that would be helpful to you in work.

Clause 4

It is not clear enough in this primary legislation as to under what circumstances the minimum sentence should be applied. It is important not to criminalise children any more than is absolutely needed, and we have concerns that this issue of the potential criminalisation of children needs to be more clearly addressed in the draft Bill. We would ask that special provision is afforded to children and that every attempt is made to keep them outside the Criminal Justice system.

Clause 6

We do NOT believe that the case has been adequately made for such a blanket provision on payment for sexual services. To be absolutely clear, we do believe that prostitution is an evil in our society, but in the absence of any clear and coherent policy on dealing with the issue of prostitution (which is much wider than human trafficking), we are not convinced that such a wide ranging clause should be introduced into a Bill that is primarily dealing with human trafficking. Such a clause should be considered as part of a different, but much needed, Bill on prostitution in Northern Ireland.

Clauses 9 / 10 / 11

We strongly endorse the emphasis on the support of victims and would stress our desire to see all victims of trafficking properly supported and protected

- the Presbyterian Church has consistently held (in dealing with human trafficking) that the protection of the victims of trafficking is of paramount importance
- (e.g. we responded to the 2006 Consultation on the UK Anti-Trafficking Action Plan)
- therefore we welcome the comprehensive measures contained in the Bill; including tackling the demand factors which drive trafficking, given that the issue is not confined to those trafficked for prostitution / sexual exploitation

In addition to the measures outlined in the Bill we would welcome additional safeguards:

(i) We suggest that the Bill could go even further in ensuring that a ‘reflective period ‘ is observed before trafficked victims are removed from the country

(ii) This would ensure that unconfirmed or suspected victims of trafficking are not removed from the jurisdiction until such time as they can be screened and a definitive judgment made as to whether they are trafficked or not.

(iii) To this ends it is vital that other agencies such as UKBA are involved in the process. We have real concerns that the potential of target driven responses by the UKBA

mitigates against proper support for victims. We fully accept that the proposed legislation does not directly affect the legislation under which the UKBA operates, but urge that the support services available and the liaison with the UKBA are to the highest possible standards rather than minimalist requirements to ensure high quality support.

(iv) We would also suggest that more specific attention is given in the draft Bill to the role of all the agencies involved in support and assistance – perhaps being much more specific about what is expected if them?

(v) Indeed we would be concerned that the media preoccupation with making payment for sexual services illegal would detract from the wider problems of those trafficked for bonded labour and domestic servitude – see comment on Clause 6 below

We acknowledge the resource requirements involved if this Bill is to become law

- We believe that it is necessary to commit to proper resourcing by all the agencies involved, not only to deal with the victims and the issues raised, but also to make a clear statement as a society that trafficking of human beings is totally unacceptable.

Clause 16.

Given the international nature of trafficking, we would be much more supportive of a UK wide rapporteur on human trafficking, rather than one limited to this work in Northern Ireland only.

Finally, we re-iterate our willingness to discuss the issues further with you if that were helpful.

Submitted by Very Rev Dr Norman Hamilton OBE on behalf of the Church and Society Committee of the Presbyterian Church in Ireland

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The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill - Committee Stage

Written evidence on Clause 6 which seeks to reduce the demand for trafficking and reduce exploitation by making it an offence to pay for sexual services.

Introduction

I am Professor of Sociology at the University of Nottingham, and have been involved in research on prostitution, sex tourism, the commercial sexual exploitation of children, and human trafficking for the past twenty years. In 2001, I was commissioned (with Professor Bridget Anderson, COMPAS, University of Oxford) by the Swedish Ministry of Foreign Affairs, SIDA and Save the Children Sweden to conduct a multi-country pilot study of the demand-side of trafficking, and coordinated survey and interview research on demand for sex and domestic workers in the following countries: Sweden, Denmark, Italy, Thailand, India and Japan. Professor Anderson and I subsequently conducted a four year Economic and Social Research Council funded research project on the markets for migrant sex and domestic workers in the UK and Spain.

1. The Justice Committee has taken evidence from Ms Gunilla Ekberg in which she suggested that research on men who pay for commercial sexual services has produced a uniform picture of their motivations and attitudes – "The responses, reasons and results are the same". However, the findings from the research on demand for prostitution that we conducted for the Swedish Ministry of Foreign Affairs actually pointed to diversity amongst men who pay for sex, both across and within countries, including variation in terms of their attitudes towards buying sex from trafficked persons. Many clients interviewed were repulsed by the idea of buying sex from those who are underage, desperate, vulnerable or coerced into prostitution by a third party. Asked 'What should clients do if they come across a prostitute who they believe is being forced into sex work against her will?' more than half of the 185 survey respondents who had ever paid for sex stated that they should report it to the police. If paying for sexual services were to be criminalised, an important source of information about trafficking would dry up, since clients would no longer be willing to report their suspicions about forced prostitution to the police. Other independent academic research in the UK and the USA also points to the conclusion that the motivations, attitudes, and practices of men who pay for sex vary widely, including in terms of their propensity to buy sex from visibly vulnerable women and girls, and to report concerns about exploitation and abuse to the authorities (for example, the research of Dr Teela Sanders, University of Leeds, and Dr Martin Monto, University of Portland).

2. The Committee also heard from Dr Dan Boucher from CARE, who stated that "If you imagine having two different groups of researchers — one that views prostitution as the exploitation of women and another that views it as a valid job — and gave them the Northern Ireland evidence to work on, they would reach entirely different conclusions. So, the important thing for you as a Committee is to decide what you think. Do you think it is a valid form of work or do you think it is, in the main, a form of exploitation?" This misunderstands the relationship between theory, value and evidence in social science research and ignores the very rigorous processes of peer review to which academic research is subject precisely to ensure that research findings do not simply express a predetermined set of value-judgments. It also oversimplifies the positions that different academics take on the issue of prostitution. It is possible to approach prostitution as both a form of work and a site of exploitation, for example, and there is not simply a choice between either criminalization of

buyers or regulation of prostitution as a 'valid form of work' - it is also possible to argue for decriminalization as a strategy of harm reduction. Indeed, if the aim is to produce evidence-based policy, I am surprised at the almost exclusive focus on the 'Swedish Model' and the lack of attention to research evidence on the impact of alternative regulatory models adopted in an effort to reduce exploitation and trafficking in the prostitution sector (such as the New Zealand model of decriminalization).

3. My research on prostitution shows that just as there is diversity amongst the men who pay for sex, so there is diversity in terms of the organisation of prostitution and the power relations that surround it. To speak of prostitution is not to describe one experience, but a continuum, stretching from the extremely abusive and non-consensual at one end, through to an opposite pole where women and men work independently, enjoy a high level of control over their work, and earn a good deal of money. It would be impossible to produce accurate figures on how many people are subject to forced labour in the sex sector, but we do know with certainty that not every person who works in prostitution is being forced to do by a third party pimp or trafficker. To base policy on the assumption that the very worst-case scenarios are typical is to use a sledge-hammer to crack a nut, and so to risk harming others who are not the object of your policy.

4. The scale of the problem is frequently exaggerated in media reporting, and the figures that get bandied about are often misleading. In the Republic of Ireland, some media reports concerning proposals to criminalise the sex buyer earlier this year stated that 1 in 15 Irish men have paid for sex, and took this to demonstrate that there is a substantial demand driving the trafficking of women and children. Closer inspection of the Department of Health and Children and the Crisis Pregnancy Agency (CPA) study which appears to be the source of that figure reveals that it reported 6.4% of its sample of Irish men stated they 'had ever' paid for sex; only 3.3% reported doing so 'in the last five years', and almost half of men who said they had ever paid for sex had only ever done so with one paid partner. As much of the contact of this latter group will have been with adult women and men who are working independently and voluntarily in prostitution, the problem is not of anything like the magnitude suggested by journalists and those advocacy groups campaigning for criminalisation of clients because they believe it is wrong to buy sex whatever the circumstances.

5. Clause 6 will affect those who work voluntarily in prostitution, as well as those subject to force. It is therefore also important to consider its potential impact on this group, which include the possibility that sex workers will choose to solicit in more concealed and so less protected settings, and to negotiate more quickly with clients, both of which heighten the risks associated with prostitution. It is also important to note that a sizeable section of the market for commercial sexual services involves men buying sex from other men. Though this would also be criminalised by Clause 6, there has been no real debate on the justification for criminalisation (are the majority of male sex workers also assumed to be victims of trafficking and serious exploitation? If so, where is the evidence supporting this assumption?), or on the wider implications of criminalisation. Given the unsavoury history of legal interventions into consensual sexual acts between same-sex adults, and the fact that as a sexual minority group, homosexuals are still often stigmatised and at risk of hate crime and other rights violations, there are reasons to exercise extreme caution in relation to any law that may re-criminalise sexual acts between consenting same-sex adults.

6. The Swedish sex buyer law is often said to carry a symbolic value, making it clear that 'in Sweden, women are not for sale'. However, unlike laws against smoking in public places which sought to change behaviour (and have been very effective in so doing) by stigmatising an activity that was previously regarded as socially acceptable, Clause 6 targets an activity (paying for sex) that is already very much a minority behaviour and already highly stigmatised. Second, it is important to consider what else is symbolised by the law. Because it indiscriminately criminalises purchase, so that it even becomes a crime to pay for sex with a consenting adult sex worker, the law is also saying women cannot agree to sex in the context of prostitution. To introduce any law in Northern Ireland that suggests that women lack

capacity in relation to their own bodies and sexuality could be viewed as a retrogressive step. Feminists have fought long and hard for women's right to say no to unwanted sex, I would urge the Committee to think very carefully about introducing legal constraints on women's right to say yes to other kinds of sex.

7. Dr Boucher commented that for 'the majority of women, [prostitution] is a place of exploitation' but recognized that by no means all women in prostitution in Northern Ireland have been trafficked. If this is so, it is important to think about the reasons why women choose to sell sex. Here, I would want to draw attention to the fact that in the UK, the current welfare and immigration regimes in particular serve to severely limit the alternatives open to poor women (especially lone parents) and to undocumented migrants and migrants whose immigration status denies them the right to enter paid work. Likewise, inadequately resourced support services for drug users, the homeless, victims of domestic violence and so on restrict the real options open to those who are affected by such problems. In this context, there are people for whom even highly exploitative and risky forms of prostitution will appear as a lesser evil than their alternatives. Clause 6 does nothing to address these problems.

8. The Swedish sex-buyer law was not originally designed to tackle human trafficking, but to express Swedish society's view of prostitution per se. In modeling itself on the Swedish law, Clause 6 also addresses prostitution in general, not human trafficking in particular. Its inclusion muddles the Bill, and makes its scope, object and purpose unclear. If the aim is to address human trafficking and exploitation, why would the Bill single out prostitution for special and particular attention but not other sectors where forced labour is also known to be a significant issue in Northern Ireland and the UK in general, such as domestic work, agriculture, catering and hospitality? I would urge the Committee to think very seriously about the dangers of allowing the Bill to become a means by which to smuggle into law extremely controversial provisions on prostitution.

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London, 31 October 2013

Re: Northern Ireland Human Trafficking and Exploitation Bill – comments on clause 6

Between 2007 and 2009, the public funded project 'Migrants in the UK Sex industry' research project gathered the stories of migration and work of 100 women, men and transgender people from the EU (including new accession countries), Russia, Ukraine, North and South America, Asia and Australia. We interviewed migrants working in the main commercial-sex businesses in London, including selling sex as independent escorts and in flats and lap-dancing. We contacted migrants primarily through their commercial contacts, but also through anti-trafficking and sex work support projects and the police, in order to tap into a greater variety of people than those usually researched. We addressed them as labour migrants, asking them the questions asked of others who have left their countries to work, rather than assuming they are inherently different or exploited because they are working in the sex industry.

The project was funded by the ESRC (Economic and Social research Council RES-062-23-0137), based at London Metropolitan University and directed by Professor Nick Mai.

Main Findings

The most relevant finding of our research for the purposes of this submission was that a minority of interviewees were expoited and trafficked. More specifically, approximately 13 per cent of female interviewees felt that they had been subject to different perceptions and experiences of exploitation, ranging from extreme cases of trafficking to relatively more consensual arrangements. Only a minority of these, amounting approximately to 6 per cent of female interviewees, felt that they had been deceived and forced into selling sex in circumstances within which they felt they had no share of control or consent. The purposive nature of the sample of the research and its qualitative approach mean that its findings are not strictly statistically representative. However, the fact that a small minority of female sex

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workers is trafficked has been subsequently by other independent studies[1] on the UK sex industry, which corroborates our findings.

The second most relevant set of findings finding for the purposes of this submission regards the issue of criminalization as a way to fight exploitation, abuse and trafficking in the sex industry.

Most interviewees thought that their rights could be more asserted and their vulnerability reduced by legalising rather than criminalising sex work and the people involved.

The few interviewees who had been exploited and coerced in the past underlined the key role played by clients in providing support when they managed to escape.

All interviewees thought that restrictive migration policies and the criminalisation of clients and sex workers would make people more likely to take risks and accept undignified and dangerous conditions.

Contrary to the emphasis given in current public debates to cases of trafficking and exploitation, the evidence gathered in the context of the project shows a great variety of trajectories within the sex industry, which were influenced by factors such as immigration status, professional and language skills, gender and sexuality. The following are just a few emerging results in this respect:

- Immigration status is by far the single most important factor restricting interviewees' ability to exercise their rights in their professional and private lives.
- Working in the sex industry is often a way for migrants, especially if undocumented or partially documented, to avoid the unrewarding and sometimes exploitative conditions they meet in the low skilled jobs available to them, such as: waiting in restaurants and bars, cleaning, food packaging, etc.
- By working in the UK sex industry, many migrants are able to maintain living standards hat they consider to be dignified while dramatically improving the living conditions of their families in the country of origin.
- The stigmatisation of sex work was the main problem interviewees experienced while working in the sex industry, as most felt they could not be open about their work with their partners, families and friends, both in the UK and at home.

[1] ACPO (2010) SETTING THE RECORD: The trafficking of migrant women in the England and Wales off-street prostitution sector. ACPO – Association of Chief Police Officers. Available online: http://www.acpo.police.uk/documents/crime/2010/201008CRITMW01.pdf
Platt L, Grenfell P, Bonell C, Creighton, S Wellings, K Parry, J and T Rhodes (2011) Risk of sexually transmitted infections and violence among indoor-working female sex workers in London: the effect of migration from Eastern Europe. Sexually Transmitted Infections doi:10.1136/sti.2011.049544.

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- Many underlined that the combination of the stigmatisation of sex work and lack of documentation made them more vulnerable to violence and abuse from customers, which is an exception to relations usually characterised by mutual consent and respect.

Implications for the current discussion of the Northern Ireland Human Trafficking and Exploitation Bill.

The evidence gathered in the context of the 'Migrant Workers in the UK Sex Industry' project shows that in relation to close 1 considerable attention should be paid to the fact that only a minority of sex workers are trafficked. This means that the vaste majority of sex workers decided to work in the sex industry and that they should not be treated as collateral damage and their livelihood disrupted in the name of moralising repressions of prostitution in the name of anti-trafficking. Moreover, the evidence gathered by our project strongly suggests that close 6 of the N.I. Human Trafficking and Exploitation Bill, by criminalising those who pay for sex will *de facto* criminalise sex workers, which as a result will be further marginalised, invisibilised and made more vulnerable to abuse, exploitation and trafficking.

In the absence of a shared understanding about what constitutes 'consent' and 'exploitation' between authorities and the sex working community, criminalising provisions will make sex workers more vulnerable to exploitation and less likely to pursue alternative life trajectories outside the sex industry, if they wish so. The material we gathered shows that sex workers will interpret and experience these measures as a general crackdown on the sex industry, that they will be more exposed to criminalisation and therefore exploitation and that they and their clients will be less incline to co-operate with authorities in fighting the limited cases of trafficking and exploitation taking place within the sex industry.

Best,

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Professor Ronald Weitzer

October 7, 2013

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

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

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 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 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.

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.

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 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 Finckenauer, "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.

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Response by the Progressive Unionist Party to Lord Morrow's consultation on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

The Progressive Unionist Party fully supports the objectives of this bill to help Northern Ireland meet its international obligations according the EU trafficking directive in terms of reducing demand, tackling trafficking for sexual and labour exploitation and successfully prosecuting cases. We especially welcome the protection and services for the victims of trafficking as proposed within this bill.

This party feels that there must be more done to prevent human trafficking and exploitation taking place in Northern Ireland as well as significantly improving the protocols in relation to identifying victims.

While we support the sentiments behind the bill, we have concerns that making "the paying for sexual services of a prostitute" as proposed in clause 6, a criminal offence could confuse the separate issues of consensual sex work and exploitation and trafficking.

This party has met with those who work in the sex industry to discuss the implications that clause 6 may have on them within the consensual sex work trade. Concerns that were raised include:

- there are no sufficient exit strategies in place for sex workers who wish to take a different career path if this law is passed and CRB checks declare "known prostitute" restricting them in career choice. Both of these barriers are more likely to condemn ex-sex workers to a life of poverty;
- sex workers who continue to provide consensual sex in return for payment will become more vulnerable as they will be less likely to report any crimes against them for fear of conspiracy charges and prosecution;
- making any part of sex work illegal further ostracises sex workers from society and encourages an attitude that they are disposable;
- studies have shown that street prostitutes in countries where the purchase of sex is an offence are more exposed to dangerous clients with less time to access them and are likely to use pimps for protection;
- clients are less likely to contact authorities if they have concerns regarding controlled prostitution or sexual exploitation for fear of prosecution resulting in victims being left unidentified; and
- there are also concerns that they will be in an unclear legal position, they may be forced to testify in a trial against a client but they neither enjoy the rights of the accused nor of the victim.

As warned by Amnesty International, the introduction of a law which criminalises the users of prostitutes may risk resources being diverted away from tackling existing human trafficking offences in order to tackle these other offences.

Northern Ireland currently meets the EU Trafficking directive requirement which criminalises the payment for the sexual services of a prostitute of any age where the prostitute has been subject to exploitation. We are aware that the criminalisation of the purchase of sex in the absence of exploitation is not one of the measures that are recommended by the EU Trafficking Directive in order to discourage and reduce demand for trafficking victims.

According to the Northern Ireland Human Rights Commission, the European Court of Human Rights has established that an adult who offers him or herself for sexual services in exchange for payment may be included under Article 8 – the right to private and family life. This party does not believe that there is sufficient evidence to suggest that there is a legitimate aim which answers a pressing social need which would justify interference with this right.

We must also raise the issue of irrational penalties set for offences relating to the purchase of sex. Currently, according to the Sexual Offences (NI) order 2008 article 64a, the maximum penalty for paying for sexual services of a prostitute who has been subjected to force is a fine up to level 3 on the standard scale (£1000). This Bill seeks to implement a maximum penalty of one year imprisonment in the absence of exploitation. We believe it would be more appropriate to introduce harsher maximum penalties for those who pay for the sexual services of a prostitute who has been subject to force.

This party also agrees with the NIHRC and the findings in the GRETA report that the Bill should include further measures to discourage the demand for domestic servitude and other forms of labour exploitation such as making it a criminal offence for an owner of a business to knowingly use trafficked workers made available by the trafficker ('Council of Europe Convention on Action against Trafficking in Human Beings' article 19).

Finally, we believe that setting a two-year minimum sentence for human trafficking and slavery offences as proposed in clause 4, could restrict the discretion of judges who are best placed to consider the circumstances of each case and to implement sufficient penalties for perpetrators of trafficking and exploitation.

Yours faithfully,

Billy Hutchinson
Leader of the Progressive Unionist Party

PSNI

To: Christine Darragh, Clerk to the Committee of Justice, Northern Ireland Assembly

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

PSNI Submission

Background

Human Trafficking remains a priority for the PSNI and any measures introduced that would assist in identifying victims or prosecuting persons involved in committing any form of Human Trafficking offence are welcomed. Work has been on-going over the last number of years to train and guide Police Officers in Human Trafficking detections and also to assist in initiating prosecutions. The PSNI have also been involved in extensive awareness raising within the Northern Ireland communities and this will continue with the assistance of Statutory agencies both locally and nationally. The PSNI have had several successful prosecutions supported by the PPS and the PSNI are also leading European wide Joint Investigations Teams, which has led to the development of specialist expertise in Human Trafficking investigations and covert operations which are internationally recognised.

In response to your letter and request of 3rd October 2013, the Police Service of Northern Ireland have been invited to examine the content of the proposed bill and make comment for the consideration of the Justice Committee.

Part 1

Offences

1. Definition of human trafficking and slavery offences

The suggested definitions are accurate and provide valuable clarity in the area of human trafficking offences.

2. Consent irrelevant for victim of human trafficking or slavery offences

The circumstances surrounding 'facilitation' of travel vis a vis trafficking can overlap and be difficult to separate. An individual who has been the subject of illegal entry to the United Kingdom, may then on arrival be subject to exploitation and therefore be categorised as a Potential Victim of Trafficking. Likewise a victim who is facilitated may not realise that they will be exploited on their expected arrival and early interventions by law enforcement may not be able to identify the expected exploitation. A key component of trafficking is the fraud/ deception element which impacts on the issue of "true consent" of the victim, had they known the full circumstances and intentions of the trafficker.

3. Aggravating factors

The issue of sentencing is a complex matter. Sentencing guidelines set out the general principals which relate to aggravating and mitigating factors. In the recent successful conviction for human trafficking in Northern Ireland, R v Pis, the Lord Chief Justice issued additional guidance outlining the aggravating factors in relation to sexual exploitation. This guidance was used in the sentencing during R v Pis and the more recent R v Chen and Others. The role of the Trial Judge is to consider all facts relevant to the matter at hand and sentence utilising guidance accordingly. A number of these factors may make the trafficking offence more serious and have a greater impact on the victim. However, a Trial Judge would be conscious of such factors and can sentence accordingly within current guidelines.

Trafficking by its very nature is an infringement of ones individual human rights. The factors which can impact on the gravity of the crime are numerous however will vary in each individual circumstance. Therefore, caution should be exercised when trying to categorise levels of gravity without understanding of surrounding factors and victim impact.

We do not believe that there is requirement for additional legislation to define aggravating factors. The proposed legislation indicates that the Court "must treat the following as aggravating factors". It is suggested that this should remain at the discretion of the Court, and it may be more practicable to amend this to "may treat the following as aggravating factors".

4. Minimum sentence for human trafficking and slavery offences

As outlined in our response to clause three sentencing should be matter for the Court and one which a Trial Judge can address within current guidelines. It is not believed that this is an area that should require legislative parameters.

5. Amendments to the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004

The legislation surrounding forced labour is contained within the Asylum and Immigration Act 2004 and interpretation and enforcement of this legislation has proved difficult.

Concern exists around provision of evidence where "he believes that another person is likely to exploit" (Section 1b, 2b and 3b). The evidential test surrounding an individuals' belief is difficult to prove without significant supporting evidence. It is suggested that an amendment to include "that he should have reasonable cause to suspect" or similar terminology would be appropriate and would improve the ability to enforce this legislation.

Whilst the amendments to include begging and other forms of labour are welcomed it is suggested that the entire legislation surrounding forced labour is examined.

6. Paying for sexual services of a person

The issue of prostitution and trafficking for the purposes of sexual exploitation are very closely aligned, however they remain two very separate issues. A trafficked victim has had their ability to chose, withdrawn from them either by force, coercion, deception, threat or many other possible factors and therefore cannot make an informed decision regarding their conduct. A prostitute is a person, either male or female who engages in sexual activity for the purposes of personal financial benefit. Whilst many factors, and indeed life circumstances can lead someone into prostitution, the fact remains, unpalatable as it may be that some choice does exist. Legislation is currently enacted around prostitution activity that occurs in a public place, around brothels and latterly around purchasing sex from a person subject of coercion, that seek to address the public nuisance factor and the exploitation of trafficked victims.

The proposal as outlined would make it a criminal offence for a person to make or promise payment for the sexual service of a prostitute and this would present a number of challenges. The term "sexual service" would need to be clearly defined and referenced, as it would be open to a wide range of interpretations and moral comment. A spectrum range could stem from "sex phone line", voyeurism with no physical contact though to sexual intercourse.

The majority of prostitution within Northern Ireland is through independent prostitutes who are not trafficked or controlled by organised crime groups. Law Enforcement engagement with workers and groups involved in this area has resulted in information being supplied that has directly assisted in the identification of human trafficking offences. The proposal may potentially change the availability of prostitution within Northern Ireland, leading to it becoming more hidden and displaced to other parts of the United Kingdom and Republic of Ireland. This would lead to a change in how this activity is made available to the public and the ability of Law Enforcement Agencies to actively identify and rescue victims of human

trafficking. The current investigative methods utilise advertising and other internet material in order to investigate those individuals and organised crime gangs involved in trafficking and exploitation. There is a serious concern that displacement or movement into a hidden environment would seriously impede law enforcement capability. The proposal may also be difficult to enforce as Law Enforcement would require corroboration of a transaction between two parties involved. Alternative evidence gathering methods utilised by European Law Enforcement partners, who have criminalised this activity is not available to the PSNI.

The deterrent value of the legislation would be minimal, in that persons using prostitutes do so in a clandestine way. The legislation, as proposed around the purchase of sex, will present investigative difficulties and in reality would be difficult to police, given the requirement to prove who offered what for sale, and the specific details of the interaction between two or more persons. There is also concern that this would draw resources away from Human Trafficking investigations into a prostitution enforcement role.

Law enforcement activity to reduce demand for the product of organised crime has concentrated on public awareness rather than criminalisation. It is suggested that demand reduction is focused on awareness within the area of human trafficking.

Whilst there are many advocates of the Swedish Model in the criminalisation of the purchase of sexual services, there is conflicting information available. Recent PSNI experience and investigations in Sweden have highlighted concern that significant levels of trafficking and prostitution still exist despite the introduction of legislation to criminalise the purchase of sexual services. The prostitution environment in Sweden is not comparable to the situation existing in Northern Ireland, in that the majority of Prostitution is on-street or females involved in prostitution being transported to residences or addresses by Controllers or associates. In Northern Ireland the vast majority of prostitution is conducted from private residences where the prostitute resides. Therefore to draw similarities would be incorrect.

Investigation and prosecution

7. Requirements and resources for investigation or prosecution

The responsibility for the investigation of Human Trafficking rests with a number of Law Enforcement Agencies within Northern Ireland. Each Agency has existing processes in place to ensure they can effectively investigate particular crime types and work in partnership across Northern Ireland in order to maximize their impact. In addition, training in this area has been developed, implemented and remains under constant review given the ever-changing criminal methodology. Within PSNI, proactive investigations into trafficking are conducted by Organised Crime Branch, who retain oversight on all PSNI Trafficking Investigations.

The PSNI has developed and introduced training packages in order to educate and assist officers in detecting and investigating human trafficking offences. It is not believed that there is a requirement for legislation to determine, “persons, units or services be trained accordingly” within PSNI. It is unclear as to what “trained accordingly” is defined as being.

Furthermore “effective investigative tools” is not clearly defined, however, tactics used during organised crime investigations, have already been utilised in human trafficking operations within N.I. There is no requirement for legislation to direct investigative tools available, as these are deployed in all crime types dependent on the seriousness of the offence under investigation. Human Trafficking is deemed to be a serious offence and all investigative tactics are available to investigators.

7 (2) PSNI support this clause.

7 (3) PSNI support this clause.

8. Non prosecution of victims of trafficking in human beings

The non-prosecution of victims of trafficking is already addressed within current guidelines and legislation. It would be unwise to introduce automatic immunity from prosecution and every case should be examined on an individual basis. This should always be subject to the PPS prosecutorial test in each case.

Part 2

Assistance and Support

9. Victim of trafficking in human beings

No submission on this clause.

10. Requirements for assistance and support.

Legislation should not be required in this area as appropriate assistance and support networks are currently provided by DOJ and other partners. This has proved extremely successful in recent years and it is not assessed to be a legislative matter.

11. Compensation for victims of trafficking.

Legislation should not be required in this area as compensation procedures are available. Additional guidance to victims and all agencies involved would provide benefits and ensure that appropriate compensation is delivered to victims of human trafficking.

12. Child trafficking guardian

Any young person who is trafficked or suspected of being trafficked has a named, allocated social worker appointed with case management responsibility. Upon application by the Trust to the Court, to secure a legal order in respect of the child, a Guardian ad Litem will be appointed by the court. The Guardian ad Litem will subsequently appoint a legal representative to act on behalf of the child; each of these professionals may in circumstances act as a representative for the child. This is currently the case for all child victims of serious crime and legislation and processes exist to deal with this. There is no requirement for further legislation in this area.

Part 3

Protection of Victims of Trafficking in Human Beings in Criminal Investigation and Proceedings

13. Protection of victims in criminal investigations.

Whilst acknowledging a need, the rights of the victim need to be considered within the rights to a fair trial. Existing procedures for Special Measure applications exist and each case should be considered in isolation rather than a legislative blanket approach. Given the nature of trafficking, victims should be considered vulnerable and current procedures can continue to address this issue.

14. Amendments to the Criminal Evidence (Northern Ireland) Order 1999

No submission.

Part 4

Prevention and Reporting

15. Prevention

PSNI support this clause. The publication of a three to five year Northern Ireland strategy which complements the UK Strategy on raising awareness and prevention of human trafficking would assist in this area, and should be developed further within current existing structures. This could be adopted as best practice rather than a statutory footing.

16. Northern Ireland Rapporteur

PSNI do not support this clause. The existing oversight arrangements in N.I for PSNI and other parties in the justice sector should be sufficient.

Conclusion

Whilst the enactment of further legislation may assist in human trafficking investigations, many of the areas outlined are already being addressed successfully without the need for legislation.

The criminalisation of paying for the sexual services of a person is not supported at this time. It is suggested that further research is conducted into the prostitution environment in Northern Ireland and this may involve wide-ranging prostitution legislation. The support of persons involved in prostitution is also a concern and this legislation does not assist in such support.

Public Prosecution Service

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1 November 2013

Dear Ms Darrah

I refer to your letter to the Director, dated 3 October 2013, welcoming views/comments on the contents of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. The Director has asked me to respond on his behalf.

In responding it is recognised that legislative and sentencing policy is a matter for Ministers to determine and the implementation of sentencing policy in individual cases is for the Judiciary and therefore in considering the proposed Bill I am mindful that the proper role of the Public Prosecution Service (PPS) is to provide views from a prosecutorial perspective.

Clause 6

Clause 6 amends the Sexual Offences (Northern Ireland) Order 2008 by substituting Article 64A to create an offence of 'Paying for the sexual services of a person'.

The clause as currently drafted refers to 'sexual services' however there is no definition of sexual services contained within the Bill. If one looks to the Sexual Offences (Northern Ireland) Order 2008 'sexual' is defined as;

> *'penetration, touching or any other activity is sexual if a reasonable person would consider that—*
>
> (a) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual, or
>
> (b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both), it is sexual.

If the intention is that 'sexual services' would be defined with reference to the aforementioned definition contained in the 2008 Order then this could include acts such as, for example, paying for a lap dance, chat line or webcam.

It is opined that what consititutes 'sexual services' requires clarification.

Further, the fact that the proposed offence refers to sexual services of 'a person', whereas the existing offence at Article 64A refers to sexual services of 'a prostitute', widens the scope of the offence further and would therefore require clarification as to interpretation.

Clause 7

Clause 7(1)(a) requires 'the Department' to take necessary measures to ensure that services responsible for investigating or prosecuting a human trafficking offence or slavery offence are trained accordingly.

The clause does not define which Department is responsible, ie, is it the Department of Justice or the Department of Health, both of whom have responsibility for supporting victims of human trafficking. Nevertheless the clause places a responsibility on a Department to

ensure that Public Prosecutors are trained accordingly which will require the Department to provide the PPS with legal training and resources.

Clauses 7(2) and 7(3) provide that "the investigation or prosecution of a human trafficking offence shall not be dependant on reporting or accusation by a victim wherever the offence takes place" and "any criminal proceedings may continue even if the victim has withdrawn his or her statement".

The PPS will apply the Test for Prosecution in all cases referred to it by police regardless of whether the victim reports the offence, makes a statement or withdraws a statement.

The PPS Policy for Prosecuting Cases of Human Trafficking (the Policy), which was issued for public consultation this year, clarifies that the withdrawal of a complaint "does not necessarily man that the case will be stopped. As a general rule the PPS will prosecute all cases where there is sufficient evidence and prosecution is required in the public interest". The Policy also details the steps that will be taken by the PPS in such circumstances.

Clause 8

Clause 8 provides for the non prosecution of victims of human trafficking who may have committed a criminal offence as a direct consequence of the trafficking in human beings. The Public Prosecution Service cannot provide blanket immunity from prosecution. The statutory obligations placed on the Director of Public Prosecutions by the Justice (Northern Ireland) Act 2002 require Public Prosecutors to review each case received from investigators in accordance with the Code for Prosecutors to determine whether criminal proceedings should be instituted or continued. Every case must be considered on its own merits and having regard to the seriousness of the offence committed. However should evidence or information be available to the prosecutor to support the fact that the person has been trafficked and has committed the offence whilst in a coerced situation or as the direct consequence of the other factors contained in the clause, this will be considered a strong public interest factor mitigating against prosecution.

The PPS Policy for Prosecuting Cases of Human Trafficking, which was officially launched on 15 October 2013, includes a section (7) outlining this approach which will be taken in such cases.

In order to enable the prosecutor to consider such factors they must be provided with the information from police or other sources who suspect that the person may be a victim of trafficking. Further this is only relevant where the criminality is as a direct consequence of the trafficking situation. There must also be consideration of the extent to which the victim was compelled to undertake the unlawful activity.

Prosecutors will take into consideration all relevant information provided by police and other agencies, including any decision arising from the National Referral Mechanism when deciding where the public interest lies in relation to prosecution.

The Policy is compliant with Article 26 of the Council of Europe Convention on Action Against Trafficking in Human Beings 2005 and also includes reference to and complies with the Court of Appeal cases of R v O [2008] EWCA Crim 2835 and R v LM [2010] EWCA 2327. These cases highlight the need for prosecutors and defence practitioners to take all reasonable steps to identify victims of trafficking and to be pro-active in causing enquiries to be made and provide that prosecutors must consider the public interest in prosecution when the defendant is a trafficked victim and the crime has been committed when he or she was in some manner compelled to commit.

The type of offence committed is also a relevant consideration in determining whether duress can be a defence. Duress is not a defence to murder or attempted murder: R v Howe [1987] A.C. 417, HL. This also applies to a child of the age of criminal responsibility no matter how susceptible he might be to the duress: R v Wilson [2007] 2 Cr.App.R. 31, CA.

Further there should be recognition that the commission of an offence may have resulted in other victims of the offence who have the right to due process.

I hope this response if of assistance. Should you have any queries please do not hesitate to contact me.

Yours sincerely

Mairead Lavery
Policy & Information Section
Tel: 028 90897226

R E Allen

Dear Sir/Madam

I am writing to tell you that I warmly welcome and support the Bill and believe it is right that Northern Ireland tackle this issue of Human trafficking. This is essentially is a bill that will protect the most vulnerable in society. There are not only children but men and women who are trafficked into the province.

- The Bill will help ensure that Northern Ireland properly fulfils its international obligations as set out in the European Directive and the Council of Europe Convention.
- One of the most recognised reasons for human trafficking in my opinion, is for paid for sex. Particularly I welcome clause 6 of Lord Morrow's Bill which criminalises paying for sex.
- I believe Clause 6 would thereby directly address the principal source of demand for trafficking and do so more effectively than any of the current laws.

Thanking you for taking the time to read this email.

Yours faithfully

R. E. Allen (Mrs)

Research Project Korea

Lord Morrow
Room 222
Parliament Buildings
Stormont, Belfast
BT4 3XX

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

Dear Lord Morrow,

I am a German researcher currently based in Berlin. I graduated with a B.A. in Korean Studies at the School of Oriental and African Studies, a college of the University of London, and an M.A. in International Relations at the Graduate Institute of Peace Studies at Kyung Hee University, recipient of the UNESCO Prize for Peace Education. In 2014, I will commence a PhD programme at the Faculty of Law at Queens University Belfast to investigate the effects on sex workers and migrants of anti-prostitution and anti-trafficking legislation.

The latter has already been part of a research project, in which I investigated the impact of Korea's Anti-Sex Trade Law on sex workers' human rights. To that end, I collected data through interviews with sex workers as well as with representatives of governmental organisations and NGOs involved in the field of sex work (prostitution) in South Korea over a period of 12 months. The project is an outgrowth of my graduate thesis which analysed comprehensive methods to prevent human trafficking in Thailand and discussed some of the negative side effects of anti-trafficking policies in general.

I previously conducted field research in Thailand and Laos over a period of eight months, and I worked at DEPDC/GMS, a Thai community-based non-governmental organisation working to prevent children and youth from entering exploitative labour conditions, where I led a multicultural group research project to investigate the situation that temporary and permanent migrants and their children face in northern Thailand, and the policies currently in place to assist them.

Through my extensive research, I became aware of the collateral damage caused not only by uneven anti-trafficking measures but also by anti-prostitution legislation, in particular where sex workers and migrants are concerned. While my ongoing research project aims to add to the knowledge about the situation faced by sex workers in South Korea, I am also observing the discourse about sex work legislation in the international context.

I participated as a delegate at the Sex Workers' Freedom Festival in Kolkata, the Official Hub of the International AIDS Conference 2012 in Washington, attended several expert panel discussions to evaluate the German prostitution law (ProstG),1 and made a submission to the consultation process of the Scottish Parliament regarding the Criminalisation of the Purchase of Sex (Scotland) Bill (2).2

Since July 2013, I am member of the International Committee on the Rights of Sex Workers in Europe (ICRSE),3 and I am frequently in touch with sex workers from all walks of life,

1 Lehmann, Matthias "We still know very little." – 10 Years Prostitution Law (ProstG) in Germany" URL: http://wp.me/p294H2-tm (Accessed: October 25, 2013); Lehmann, Matthias "Sex workers against Human Trafficking" (About the "Law to Fight Human Trafficking and Control Brothels") http://wp.me/p294H2-HP (Accessed: October 25, 2013)

2 Lehmann, Matthias "A self-inflicted lack of information" – My response to Rhoda Grant's consultation process URL: http://wp.me/p294H2-u6 (Accessed: October 25, 2013)

3 ICRSE. Matthias Lehmann URL: http://www.sexworkeurope.org/users/matthias-lehmann (Accessed: October 25, 2013)

including those living and working in Great Britain. Thus, I learnt about your proposed bill, to which I hereby wish to submit the below evidence to the Committee.

I consent to the full publication of all information provided in this document, including my name. All statements by third parties quoted in this letter were taken from publicly available sources as indicated in the footnotes. Should you wish to edit any part of this document, please contact me before doing so to avoid any distortions.

Introductory Remarks

"[C]riminalization is criminalization and criminalized environments are criminalized environments."
- Esther Shannon4

All human beings have the right to be treated with respect, regardless of their gender, race, religion or occupation. I concur with Esther Shannon and believe that to reduce problems that do exist in the sex industry, the criminalisation of buyers of sexual services leaves sex workers no choice but to operate in criminalised environments. Therefore, I cannot support the proposed amendment of Article 64A of the Sexual Offences (Northern Ireland) Order 2008, to criminalise the paying for sexual services of a person as it will negatively affect the human rights of sex workers.[5]

Conflation of Sex Work and Human Trafficking for the Purpose of Sexual Exploitation

By criminalising paying for sexual services of a person, your proposed bill would further contribute to the already widespread conflation of consensual sex work and human trafficking for the purpose of sexual exploitation.

In the 2011 report into Human Trafficking in Scotland by the Equality and Human Rights Commission, Baroness Kennedy QC stated that the elements of "[c]oercion and deception are central to the UN's definition of trafficking in the Palermo Protocol and central to the Inquiry's recommendations."[6] Your bill, however, fails to acknowledge the difference between consensual and coerced sexual acts.

---

4 Esther Shannon is a feminist activist who has worked with community-based feminist organizations on a wide variety of women's issues and as a feminist journalist and researcher and as a communications specialist. She is a founding member of FIRST, a national coalition of feminists advocating for the decriminalization of sex work and for sex worker human and labour rights. This quote was taken from a public comment by Ms Shannon left on my website. URL: http://researchprojectkorea.wordpress.com/2012/10/31/sex-lies-and-abolitionists/#comments (Accessed: October 25, 2013)

5 "The term 'sex worker' is used to refer to all adults who sell or exchange sex for money, goods or services (e.g., transport). It is used to refer to people who sell or exchange sex even if they do not identify as sex workers, or consider the activity to be 'work'. The term is used to refer to sex workers including consenting female, male, and transgender people who receive money or goods in exchange for sexual services, either regularly or occasionally. Sex workers include consenting young people who are eighteen years or older. In circumstances where a person has been coerced into selling sex and is selling sex involuntarily, the preference is not to refer to the person as a 'sex worker'. This avoids unnecessary conflation of sex work and trafficking, or confusion of sex workers with people trafficked for the purpose of sexual exploitation. … Prostitution is a term that was commonly used in legislation enacted in the nineteenth and twentieth centuries to refer to sex work. The terms 'prostitution' and 'prostitute' have negative connotations and are considered by advocates of sex workers to be stigmatizing." In this letter, I shall use the same terminology as used in the UN report "Sex Work and the Law in Asia and the Pacific", compiled by UN agencies in cooperation with sex worker organisations.
UNDP, UNAIDS, UNFPA "Sex Work and the Law in Asia and the Pacific", URL: http://www.snap-undp.org/elibrary/Publication.aspx?ID=699 (Accessed: October 25, 2013)

6 Inquiry into Human Trafficking in Scotland. Report of the Equality and Human Rights Commission. URL: http://www.equalityhumanrights.com/uploaded_files/Scotland/Human_Trafficking_in_Scotland_/inquiry_into_human_trafficking_in_scotland-full-report_pdf_.pdf (Accessed: October 25, 2013)

Baroness Kennedy QC also stated that banning prostitution "was both unworkable in law and in practice." Ibid.[7] Besides being unworkable, laws that conflate sex work and trafficking negatively affect actual victims of human trafficking and sex workers, both of whom require appropriate assistance instead of measures that fight violence and exploitation in name only.

> *"The End Demand movement makes assumptions about sex buyers, characterizing them as deviants and the root of the trafficking problem. Legal frameworks and programs designed to punish and shame these buyers divert what scarce resources exist into unproven methods. Despite a lack of reduction in either trafficking or sex work, abolitionists have continued to push End Demand strategies, leading to changes in federal and state law which will continue to at best maintain the status quo and at worst harm sex workers by making their conditions worse."* [8]

On the adoption of the "Swedish Model" in Northern Ireland

The negative effects of the Swedish Sex Purchase Act, that - like your bill proposal - criminalises the purchase of consensual sexual services, include the following, as outlined by Dodillet and Östergren, who investigated the claimed success and documented effects of the so-called "Swedish Model".

> *"The most common and perhaps most serious complaint regarding sex workers themselves is that they experienced an increased stigmatization after the introduction of the Sex Purchase Act. Some also state that the ban is a violation of their human rights, and many say that they don't feel fairly or respectfully treated: they are not regarded as fully worthy members of society. Sex workers object to the fact that they were not consulted in the making of the law. Since sex workers feel they are not able to influence their legal or societal situation, they feel powerless. And since the ban builds on the idea that women who sell sex are victims, weak and exploited, many claim that the law propagates stereotypical notions about sex workers.*
>
> *The National Board of Health and Welfare report that due to the ban sex workers feel less trust in social authorities, police and the legal system, and half of the respondents in the RFSL 22 study say that the current legislation prevents people seeking help. 95 Instead of the police being a source of protection, sex workers feel hunted by them, and are subjected to invasive searches and questioning. There is also a problem in that they are in an unclear legal position – they can be made to testify in a trial but they neither enjoy the rights of the accused nor of the victim. Some report that there is an increased dependency on third parties. Now that it is difficult to make direct contact with clients, sellers must rely on agents/pimps/helpers to find clients."*[9]

In Germany, where sex work is legal, annual reports compiled by the Federal Office of Criminal Investigation state consistently that since the adoption of Germany's prostitution law in 2002, no significant changes could be detected where the overall situation in Germany is concerned with regards to completed investigations of cases of human trafficking for the purpose of

7 Ibid.

8 Stephanie M. Berger "No End in Sight: Why the 'End Demand' Movement is the Wrong Focus for Efforts to Eliminate Human Trafficking" Harvard Journal of Law and Gender, Vol. 35, 2012. URL: http://ssrn.com/abstract=2172526 (Accessed: October 25, 2013)

9 Dodillet, Susanne; Östergren, Petra. "The Swedish Sex Purchase Act: Claimed Success and Documented Effects". Conference paper presented at the International Workshop: Decriminalizing Prostitution and Beyond: Practical Experiences and Challenges. The Hague, March 3 and 4, 2011
URL: http://gup.ub.gu.se/records/fulltext/140671.pdf (Accessed: October 25, 2013)

sexual exploitation. The reports of the years 2010 and 2011 explicitly mentioned that the risk potential stemming from this area of crime remains limited.[10]

A report from New South Wales (NSW), where sex work is either legalised or largely decriminalised, states the following:

> *"NSW men are infrequent consumers of commercial sexual services, with only 2.3% purchasing sexual services in any one year, similar to the Australian average. The number of sex workers in Sydney brothels was similar to estimates from 20 years ago. These data confirm that the removal of most criminal sanctions did not increase the incidence of commercial sex in NSW."*[11]
>
> *As Basil Donovan, the report's lead author, states, "any moves to reintroduce bans or licensing of sex work would be a backward step."*
>
> *"Jurisdictions that try to ban or license sex work always lose track as most of the industry slides into the shadows. Prostitution laws are the greatest allies of the exploiters. In NSW, by contrast, health and community workers have comprehensive access to and surveillance of the sex industry. That access has resulted in the healthiest sex industry ever documented."*[12]

I question that in drafting your bill proposal, you have had such comprehensive access to people working in the sex industry.

To the contrary, your statements following the suggestion by Ch Supt Philip Marshall that "[t]here needs to be wider social debate and understanding about what prostitution actually is in Northern Ireland before we consider what the right policy might be.", suggest that you don't even wish to listen to human trafficking experts of the Police Service in Northern Ireland.[13]

A law that criminalises payment for consensual sexual acts will not only diminish the opportunity for others to engage with sex workers, it will also negatively affect the health and safety of sex workers, an already marginalised population.

Going back to the above mentioned quote of Esther Shannon and based on research about prostitution laws, I conclude that criminalised environments are counterproductive to harm reduction and effective measures to reduce human trafficking for the purpose of sexual exploitation.

In the following, I will quote passages from reports that support this conclusion.

1. Report of the UNAIDS Advisory Group on HIV and Sex Work

> *"When it decriminalised sex work and sex work-related activities in 2005, the government of New Zealand undertook a study of the impact of this change on the lives of sex workers. The study found that post-decriminalisation many sex workers felt more empowered to refuse difficult clients and more able to seek help from the police when they were the victims of crime or violence."*

10 Bundeskriminalamt "Lagebilder Menschenhandel" 2005-2011, URL: http://www.bka.de/DE/Publikationen/JahresberichteUndLagebilder/Menschenhandel/menschenhandel__node.html?__nnn=true (Accessed: October 25, 2013)

11 Donovan, B., Harcourt, C., Egger, S., Watchirs Smith, L., Schneider, K., Kaldor, J.M., Chen, M.Y., Fairley, C.K., Tabrizi, S., (2012). "The Sex Industry in New South Wales: a Report to the NSW Ministry of Health." Sydney: Kirby Institute, University of New South Wales. URL: http://www.med.unsw.edu.au/NCHECRweb.nsf/resources/SHPReport/$file/NSWSexIndustryReportV4.pdf (Accessed: October 25, 2013)

12 University of New South Wales "Sex work in NSW: healthiest in the world" URL: https://newsroom.unsw.edu.au/news/health/sex-work-nsw-healthiest-world (Accessed: October 25, 2013)

13 BBC News "Human Trafficking Bill: Lord Morrow criticises police comments" http://www.bbc.co.uk/news/uk-northern-ireland-24193952 (Accessed: October 25, 2013)

"Criminalisation of sex work and the application of non-criminal laws to sex work exacerbate the stigma and moral judgementalism experienced by sex workers. Law and law enforcement practices often open sex workers to extra-legal abuses, including sexual and physical abuse by police and violations of due process. In many ways, including by undermining sex workers' ability to organise to help each other, these violations of sex workers' rights are barriers to their access to comprehensive HIV services."[14]

2. UNDP, UNAIDS, UNFPA - Sex Work and the Law in Asia and the Pacific

"Criminalization increases vulnerability to HIV by fuelling stigma and discrimination, limiting access to HIV and sexual health services, condoms and harm reduction services, and adversely affecting the self esteem of sex workers and their ability to make informed choices about their health."

"Criminalization legitimizes violence and discrimination against sex workers (particularly from law enforcement officers and health care providers) and makes authorities reluctant to offer protection or support to sex workers. Criminalization reinforces stigma and discrimination, and perpetuates judgmental attitudes and myths about sex workers. Criminalization contributes to the vulnerability of sex workers to human rights violations, such as public disclosure and shaming of people for engaging in sex work. In communities where sex work is criminalized, sex workers are often reluctant to report sexual assaults to police for fear of further abuse by the police or prosecution for sex work."

"Punitive laws and police practices form barriers to sex workers' access to services and can result in sex work being conducted in venues and localities that are hidden, unsafe and without access to HIV services. Reports from sex worker organizations show that where sex workers are regularly targeted for arrest and prosecution, sex workers are less likely to access health services. In some countries, health service providers and outreach workers are harassed or jailed when reaching out to sex workers (e.g., India, Indonesia and Nepal)."

"Some countries have opted to criminalize clients of sex workers, rather than or in addition to sex workers. For example, Nepal criminalizes clients but not sex workers. A similar approach has been proposed in India. Laws have been enacted that criminalize clients in American Samoa, Bhutan, Cambodia, China, Fiji, Guam, Republic of Korea, Palau, and Taiwan. The UNAIDS Advisory Group on Sex Work has noted that there is no evidence that 'end demand' initiatives reduce sex work or HIV transmission, or improve the quality of life of sex workers. Efforts targeting clients sometimes encourage law enforcement officials to use condoms as evidence of involvement in sex work."

"In decriminalized contexts, the sex industry can be subject to the same general laws related to workplace health and safety and anti-discrimination protections as other industries. Legally enforceable workplace standards developed by the sex industry can contribute to a reduction in HIV transmission and improvements in overall working conditions." [15]

3. UNDP - HIV and the Law: Risks, Rights & Health

"Norway and Sweden arrest the clients of sex workers but not the workers themselves. This so-called 'Swedish approach' is seen as more just to sex workers, who are perceived as victims by its proponents. This approach has been applied in other countries and has actually resulted in grave consequences for the workers."

"For sex workers, especially those who are gender-nonconforming, the threat of violence - from both clients and police - is a daily reality. Criminalisation, in collusion with social stigma

14 UNAIDS "Report of the UNAIDS Advisory Group on HIV and Sex Work" p.8, URL: http://www.uknswp.org/wp-content/uploads/unaidsadvisorygrouponsexworkandHIVDec2011.pdf (Accessed: October 25, 2013)

15 UNDP, UNAIDS, UNFPA "Sex Work and the Law in Asia and the Pacific" pp. 1; 21-23; 29. URL: http://www.snap-undp.org/elibrary/Publication.aspx?ID=699 (Accessed: October 25, 2013)

makes sex workers' lives more unstable, less safe and far riskier in terms of HIV. There is no legal protection from discrimination and abuse where sex work is criminalised."[16]

Finally, as early as on the occasion of World AIDS Day in 2009, UN Secretary General Ban Ki-Moon stated that the "discrimination against sex workers, drug users and men who have sex with men only fuels the epidemic and prevents cost-effective interventions" and urged "all countries to remove punitive laws, policies and practices that hamper the AIDS response".[17]

As evident from the reports quoted above, legal frameworks that target the buyers of sexual services have been found to add to the discrimination of sex workers and negatively impact their health and safety. Further evidence to support this notion can be found in my answer to the following question.

In addition, criminalising the act of purchasing sexual services also reduces the avenues available to law enforcement to detect actual cases of human trafficking for the purpose of sexual exploitation since both clients and sex workers are far less likely to report possible suspicions or assist as witnesses for the prosecution.

"When it comes to clients, it seems they are less willing to assist as witnesses in cases in which profiteers who exploit the sexual labor of others are prosecuted, since they now find themselves guilty of a crime. Clients are exposed to blackmail and robbery, and the stigma associated with buying sex means people often have to leave their jobs and positions, even on a mere suspicion."

"The National Board of Health and Welfare report that due to the ban sex workers feel less trust in social authorities, police and the legal system, and half of the respondents in the RFSL 22 study say that the current legislation prevents people seeking help. Instead of the police being a source of protection, sex workers feel hunted by them, and are subjected to invasive searches and questioning."[18]

Pye Jacobsson, a sex worker and spokesperson for Rose Alliance, an organisation by and for sex and erotic workers in Sweden, states the following about the impact of the Swedish Sex Purchase Act.

"Especially for the women in the street this has been very, very bad because before they had this classic thing, hanging into the car window, having the discussion 'this is what I'm willing to sell, this is what I'm willing to do'. They don't have that time anymore because their clients are so jumpy, so they have to get into the car, drive off, and then negotiate. And then they are already in the car.

Also, the good clients, which means the safe clients, the non-dangerous clients, they think - which is true - the risk of getting caught is bigger in the streets, which means that they turn in to indoor workers, even if they prefer buying sex from outdoor workers, which left the outdoor workers with the bad clients, the dangerous clients, which they before had the opportunity to turn down. But now they can't afford to, because many of the good clients are gone.

In the sex industry there are people that are being abused, that are suffering, that are trafficking victims etc. But the normal way for the police to find out is not from sex workers, it's from clients. Because there are clients who are actually not assholes, they will say 'this

16 UNDP, Global Commission on HIV and the Law "HIV and the Law: Risks, Rights & Health", URL: http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/hiv-and-the-law–risks–rights–health/ (Accessed: October 25, 2013)

17 Ban Ki-Moon "Secretary-General's message on World AIDS Day", URL: http://www.un.org/sg/statements/?nid=4266 (Accessed: October 25, 2013)

18 Dodillet, Östergren (2011)

doesn't look good', they will call the police. And of course now they don't call the police anymore, because if they call the police they will be accused of a crime."[19]

Legal frameworks that target the buyers of consensual sexual services thus not only negatively impact the health and safety of sex workers, they also hamper the work of law enforcement agencies to detect and prosecute actual cases of human trafficking for the purpose of sexual exploitation. Where consent of either party is absent, criminal law already provides penalties, such as for rape or sexual assault.

Conclusion

Your proposal to criminalise the payment for consensual sexual services perpetuates stereotypes about sex work, rendering you complicit in the stigmatisation and discrimination of sex workers, which reports from various agencies of the United Nations and even the UN Secretary General himself described as harmful to the health and safety of sex workers.

In addition, there is sufficient evidence available, which indicates that your proposed bill would seriously hamper efforts to curb human trafficking for the purpose of sexual exploitation. Based on my academic expertise and the evidence presented in this letter, I thus reject the proposed bill and expect the honourable members of the Committee to come to the same conclusion.

Violent abuse or cases of human trafficking do occur in the sex industry, just as they do in any other industry.[20] Sex workers have a genuine interest to fight crime and reduce harm in their work environments. Given the challenges faced both by sex workers in particular and society in general, it is disappointing that time, efforts and taxes were spent to form a proposal that fails to address problems that do exist in the sex industry.

I am not a British citizen and I hope you will forgive me my lack of knowledge of inter-parliamentary communication between the respective parliaments in the United Kingdom. In Germany, communication between federal states occurs through various platforms, most prominently through the Bundesrat, the Upper House of the German Parliament. While I would not suggest that such communication is perfect at all times, I find it surprising that you apparently did not take notice of the two failed attempts to criminalise the purchase of sexual services in neighbouring Scotland, where experts of all shades provided evidence that led to the defeats of these bill proposals.

Surely, your tax payers' money as well as your own time could be put to better use than to propose and evaluate bill proposals that have been shown by a variety of experts, including from Sweden, to be harmful to the rights of the very people the bill allegedly proposes to help, and I like to end with a quote by Daniela Danna.

"Those who state they are defending women by prohibiting prostitution are actually deaf to the voices of those who decide to prostitute themselves and see in this activity many

19 Hungarian Civil Liberties Union "We want to save you! And if you don't appreciate it, you will be punished!" (2009). URL: http://tasz.hu/en/hclu-film/we-want-save-you-and-if-you-dont-appreciate-it-you-will-be-punished (Accessed: October 25, 2013)

20 "Of the total number of 20.9 million forced labourers, 18.7 million (90%) are exploited in the private economy, by individuals or enterprises. Out of these, 4.5 million (22%) are victims of forced sexual exploitation, and 14.2 million (68%) are victims of forced labour exploitation in economic activities, such as agriculture, construction, domestic work or manufacturing. The remaining 2.2 million (10%) are in state-imposed forms of forced labour, for example in prisons, or in work imposed by the state military or by rebel armed forces."
International Labour Organisation "2012 Global estimate of forced labour. Executive summary." URL: http://www.ilo.org/sapfl/Informationresources/ILOPublications/WCMS_181953/lang–en/index.htm (Accessed: October 25, 2013)

positive aspects, offering a service and relating on many levels—not exclusively sexual—with clients who seek sex and human contact."21

Best Regards,

Berlin, November 1st, 2013



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www.researchprojectkorea.wordpress.com

21 Danna, Daniela. "Client-Only Criminalization in the City of Stockholm: A Local Research on the Application of the "Swedish Model" of Prostitution Policy". *Sexuality Research and Social Policy.* March 2012, Volume 9, Issue 1, p. 92

Reverend Andy Heber

Dear Sir or Madame,

I am writing in support of Lord Morrow's Bill on Human Trafficking and Exploitation, having heard for the need for evidence from the Justice committee. I warmly welcome this bill as it will provide protection for some of the most vulnerable women, children and men in this country who are currently at risk of exploitation. This bill will vastly improve their chances of avoiding this exploitation and will provide significant protection for them.

Most trafficing occurs due to the demand for sex and in particular I welcome and support clause 6 of Lord Morrow's bill which will make paying for sex a criminal offence. This will directly address the principle cause for trafficking much more effectively than our current laws currently do.

In summary I warmly welcome and support this bill and hope and pray that it will be accepted and become legislation in this country.

Yours sincerely,

Rev Andy Heber

(Rector of Clogherny, Seskinore and Drumnakilly churches, Diocese of Armagh)

Reverend Steven Robinson

Dear Justice Committee,

Re: The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill introduced by Lord Morrow

This brief letter is a response to the call for evidence on the part of the Justice Committee in relation to the above Bill.

It is my own personal conviction that effective legislation should be enacted to ensure that perpetrators of the terrible crimes of human trafficking are punished and that appropriate provisions and support become available to human trafficking victims. Therefore, I warmly welcome the Bill introduced by Lord Morrow which I believe rises to the challenge of both putting in place (a) appropriate punitive measures for trafficking perpetrators and (b) support measures for protecting trafficking victims.

I believe that if this Bill were to become legislation in our province it would make a real difference for good in the lives of some of the most vulnerable men, women and children who are exploited. The Bill would also ensure that Northern Ireland is properly fulfilling its international obligation as set out in the European Directive and the Council of Europe Convention.

I realise that the primary reason for trafficking in Northern Ireland is for sex. Consequently, I particularly welcome clause 6 of Lord Morrow's Bill which criminalises paying for sex. This clause strikes at the root of demand for trafficking and does so much more effectively than our current laws.

I urge you, the Justice Commitee, to give your full support to this Bill.

Kind Regards,

Rev. Steven Robinson
Drumahoe, Derry-Londonderry

Rosemary Hall

31st October 2013

The Justice Committee
N Ireland Assembly
Stormont
Belfast

Dear Members,

In view of the call for evidence in relation to Lord Morrow's Human Trafficking and Exploitation Bill, I wish to state that I warmly welcome this Bill and strongly support its clauses.

Like many others I have been saddened by recent revelations of of how human trafficking is affecting victims in N Ireland. I believe there needs to be a very strong deterrent for those perpetrating this evil against the freedom and dignity of others.

The Bill has at its core an ethos of Christian care for the most vulnerable – in practical terms this commends our nation, as well as bringing standards in line with international best practice as set out in the European Directive and the Council of Europe Convention.

In particular, I welcome Clause 6 which seeks to criminalise the purchase of sex. This addresses exploitation apart from trafficking and would do much to address the issues at their principal source. In so doing, it would eradicate much suffering and wrong.

I urge you to give this important Bill careful consideration and not to miss the opportunity which it presents to bring about significant betterment for the most needy.

Yours faithfully

Rosemary Hall (Miss)

Ruhama

RUHAMA
Supporting Women Affected by Prostitution

Ruhama, Senior House, All Hallows College, Drumcondra, Dublin 9
Telephone: 353 1 8360292 Fax: 353 1 8360268 www.ruhama.ie

Ms. Christine Darrah
Clerk to the Committee for Justice
Room 242,
Parliament Buildings
Stormont,
Belfast BT4 3XX

4th November, 2013

Re: Submission to the Justice Committee, Northern Ireland Assembly – The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013: Clause 6

Dear Christine,

Thank you for taking my calls on Friday 1st November and I hope our Submission regarding the Human Trafficking and Exploitation Bill 2013 has subsequently arrived by email.

I am sending you a hard copy of our submission today and if requested, Ruhama would be available to meet with the Committee to discuss our submission further.

Yours sincerely,

Gerardine Rowley

Gerardine Rowley
Policy and Communications Manager

Directors: V. Judge (Chairperson), B. McNally, S. Murphy, C. O'Dwyer, P. O'Neill, F. Robinson, M. Scully, C. Joyce, C. Nolan.

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October 2013

RUHAMA
Supporting Women Affected by Prostitution

Submission to the Justice Committee Northern Ireland Assembly

The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013: Clause 6

October 2013

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October 2013

Ruhama Submission to the Justice Committee of the Northern Ireland Assembly

Introduction

This submission is made in response to the call for comment on the proposed Bill: ***The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill 2013***. While there are a number of clauses this submission focuses on the merits of Clause 6 (*Paying for sexual services)*. Rather than making it an offence to pay for sexual services if the person in prostitution is subjected to force (being the current law), this new clause creates a simple offence of paying for sexual services.

Ruhama supports Clause 6 as a critically important mechanism to reduce the exploitation of human trafficking for sexual exploitation on the island of Ireland.

In the Republic of Ireland, there has recently concluded a lengthy consultation process in relation to prostitution and human trafficking which produced a unanimous recommendation by the Oireachtas Justice Committee to enact legislation to criminalise the purchase of sex. In this submission, Ruhama highlights the value of such a measure for the whole island of Ireland and deals with a number of the arguments against such a measure, which have been a part of the current debate on the matter.

The submission contains commentary on the following points:

1. Introduction to Ruhama
2. The Connection Between Prostitution and Trafficking
3. Prostitution as a Form of Violence Against Women
4. The Issue of Choice
5. Clause 6 – Following the 'Nordic Model': Why Ruhama Supports this Legislation
6. Other Legal Options for Comparison (Full Criminalisation; Legalisation; Full Decriminalisation)
7. Responding to Some Common Arguments.
8. Will Criminalising the Sex Buyer Impact Negatively on the Population's Sexual Health?

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1. Introduction to Ruhama

Ruhama (www.ruhama.ie) is a Dublin based NGO, working on a national level with women affected by prostitution, since 1989. Due to the mobile nature of prostitution where women are moved around the island of Ireland, we work with women who are, or have been, involved in prostitution in Northern Ireland, including victims of trafficking.

Ruhama works with women…

- Currently involved in prostitution (street-based or indoor)
- Seeking to exit prostitution
- With a history of prostitution and
- Victims of sex trafficking

Ruhama's Mission Statement

- to reach out to and provide support services to women affected by prostitution and other forms of commercial sexual exploitation
- based on individual need, to offer assistance and opportunities to explore alternatives to prostitution and recovery from sex trafficking.
- to work to change public attitudes, practices and policies, which allow the exploitation of women through trafficking and prostitution

Values Informing Ruhama's Work

- Being non-judgmental
- Placing a high value on equality, inclusivity, cultural diversity, dignity and respect
- Affirming every woman's right to society's protection and respect
- Commitment to learning and to continual service improvement
- Accountability to funders and to the women we work with

Services Offered by Ruhama

- Individual casework support and advocacy
- Out of hours emergency response
- Provision of accommodation to vulnerable women in emergency situations
- Provision of one to one and group training and development opportunities
- Support into mainstream training and/or employment
- Support with resettlement (including social welfare, budgeting and tenancy agreements)
- Mobile Street Outreach in Dublin's "Red Light" areas
- Outreach service to other key agencies/services
- Emotional and psychological support including access to counselling
- Practical support (material needs) in certain circumstances
- Interpretative support
- Referral to other key agencies that can offer supports
- Delivery of training and awareness sessions to groups on the issue of prostitution and trafficking
- Advocating and campaigning on the issue of prostitution, including trafficking to raise awareness and support positive change in social attitudes and policies, and minimise the ongoing harm to women and girls through the sex industry

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It is the experience of working at the front line with thousands of women affected by prostitution for almost 25 years which primarily informs the recommendations outlined in this submission.
Note: *When speaking about those in prostitution; Ruhama's submission regularly refers to women, this reflects its front line work and client group. Ruhama wants to acknowledge that any recommendations outlined in this submission relate to all persons in prostitution and is gender neutral.*

2. The Connection Between Prostitution and Sex Trafficking

The proposed legislation is an anti-trafficking measure but given the inextricable links between prostitution and sex trafficking, the merits of Clause 6 are of particular importance in combatting this form of human trafficking. In Ruhama's direct experience, the backgrounds of those women and girls trafficked strongly echo those of women who otherwise find themselves in prostitution – usually through pre-existing vulnerability, poverty or other forms of abuse. This is what creates their vulnerability to being trafficked in the first place.

The commercial sex trade across the island of Ireland remains very active and highly organised. There are numerous criminal gangs organising and profiting from the prostitution of vulnerable women and girls without regard for borders, and in both urban and rural settings.

While Ruhama continue to work with significant numbers of Irish women, the majority of those exploited in the indoor sex trade are migrant women, and this is reflected by the fact that in 2011, Ruhama supported women of 36 different nationalities – an increase from 31, in 2010. This small island remains a destination for traffickers, pimps and procurers from all corners of the globe. For the women and girls, far from home, isolated and often highly controlled or literally coerced through trafficking, prostitution itself is an intrinsically dangerous and damaging experience.

There are documented cases in Ireland where victims of trafficking are being forced into prostitution in brothels where there are women who are in prostitution and do not fit the narrow definition of a victim of trafficking. The pimp and the trafficker are one and the same in these cases. Their attitude towards those in the brothel is arguably equally dehumanising and controlling: these women and girls are just commodities.

To separate trafficking out from organised prostitution defies logic, given the mechanisms by which the sex trade operates. Victims of trafficking are advertised in the same places as all other forms of the commercial sex trade, not in some separate corner of the internet restricted to trafficking. The same degree of fraud is used by pimps in prostitution advertisements: presenting women's ages, nationalities, and the range of sex acts they are willing to engage in, often without women's knowledge – in respect of trafficked and 'non-trafficked' women alike. Pimps and traffickers also organise their movement to ensure 'variety' across the country. This was amply highlighted in recent RTE investigations.[1] A cohesive approach to organised prostitution is also the means by which victims of trafficking can be identified and assisted. Equally, the inherent harms and risk of abuse outlined below affects those in prostitution across the board.

The connection between prostitution and trafficking is also recognised at European level. The EU Anti Trafficking Co-ordinator Myria Vassiliadou, on October 18th 2013 in her closing comments at the 7th EU Anti-Trafficking day conference in Vilnius stated: "There is a link between prostitution and trafficking. The European Commission recognises this."

[1] RTE Prime Time: '*Profiting from Prostitution', February 2012*

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3. Prostitution as a Form of Violence Against Women

Ruhama firmly believes that prostitution is both intrinsically harmful and violent to the women and girls (and small number of men and boys) involved.

This understanding of prostitution is based on over two decades of working as a front line service provider to women affected by prostitution and is supported by a vast amount of research, both nationally and internationally.

As well as the physical harm and damage, there is the emotional and psychological harm of being sexually objectified. Being in prostitution erodes self-esteem, self-confidence, and can cause depression and symptoms of post traumatic stress disorder. It can result in infertility, unwanted pregnancies, sexually transmitted infections, fissures and many other negative physical consequences.[2]

As well as the harm to each individual, there is the social, cultural and global impact – the damage to the social position and perception of women both nationally and globally, the proliferation of sex tourism and trafficking and the normalisation of all forms of violence against women. The sexual exploitation of prostitution is harmful to all women. If one woman is perceived as being for sale, the implication is that all women and girls are potentially for sale, and this directly undermines the potential for gender equality.

International studies show that women in prostitution experience extremely high levels of violence such as beatings, rape, sexual assault, terrifying and degrading treatment.[3] They face constant subjection to humiliations of all kinds, theft, as well as the health risks from very frequent, rough sex and also from being sometimes required to have unprotected sex. Sexual, emotional and physical violence is a common experience for women in prostitution.[4] The same experiences are reported across the globe, regardless of culture or race.

It is not claimed that all men who use women in prostitution are explicitly violent but, essentially, what they purchase is the power to be violent with the likelihood that there will be no sanctions. Even when the violence does not occur, the threat and the lack of protection are always there. The women that Ruhama work with report hypervigilance and constant tension due to the perpetual risk of the unknown that might occur when responding each day to knocks at the door from strangers who have paid to have sex with them. They also disclose feelings of isolation – from other people and from the rest of society; panic attacks, depression, and suicidal feelings.

The experiences of the women in the research published by Ruhama in 2005, called 'Next Step Initiative' established that the effects of prostitution are long-term and endure beyond their active involvement in prostitution. It also found that the survival and defence mechanisms, created by the women while involved in prostitution, are themselves the cause of serious long-term effects.[5]

Dissociation, the psychological process of banishing traumatic events from consciousness, is an emotional shutting down used by women in prostitution, similar to the experience of women being raped, battered, and among prisoners of war who are being tortured.[6]

Women with no history of drug or alcohol abuse prior to their involvement in prostitution, report resorting to drugs and alcohol to deaden the psychological trauma of prostitution.

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[2] Kelleher et al 2009, Lawless 2005
[3] Farley et al (1998) and Lawless, K. & Wayne, A., and Ruhama (2005) Ch.7. and Raymond, J., (1998)
[4] Farley et al (1998)
[5] Lawless (2005)
[6] Farley (2003)

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4. The Issue of Choice

Entry into prostitution for women is in the main, rarely a freely-entered choice and needs to be set against a backdrop of abuse, poverty, low self-esteem, debt, addiction and few, if any, other survival options.

For the vast majority, prostitution is not a positive career choice. It does not equate to deciding to enter a role based on genuine interests, talent and ultimate work satisfaction. It is, rather, a condition either forced upon individuals by third parties or selected as the best of a bad bunch of options.[7]

The reality is that women and girls do sometimes report making a decision to enter prostitution. However, the degree of meaningful choice involved for the majority is dubious, given the powerful social forces of poverty, violence and inequality that constrain this choice. The following are common factors which create a 'push/pull' into prostitution:

- Poverty
- Debt – small or large amounts
- History of abuse and/or severe neglect as a child or youth
- Institutionalisation as a child (in care)
- Partner abuse
- Homelessness
- Lack of family/social supports
- Addiction
- Grooming/coercion (family, partner, "friend")

Note: the above factors reflect a background very similar to the profile of victims of trafficking.

For many, if not most women, their so-called choice is preceded by and conditioned on earlier traumatic abuse and an interplay of personal and economic factors. Factors such as those noted above all combine to make the question of free choice almost meaningless. The question of consent or choice needs to be framed, not only in terms of the degree of freedom involved, but also in terms of the range of choices open to a particular individual, i.e. a choice between what options? Further, the harsh experience of many women is that they do not realise how hard it is to leave prostitution until it is too late.[8]

[7] O'Connell Davidson, J., (1998) p.198
[8] Lawless, K., and Wayne, A., (2005), Ruhama Report 'The Next Step Initiate' Chapter 6. 'Choice and the Absence of Alternatives', Ruhama also see mansson, S.A. & Hedin, U.C. (1999)

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5. Clause 6 – Following the Nordic Model (Criminalise Buying of Sex and Decriminalise Selling of Sex): Why Ruhama Supports this Legislation

At a time when the sex trade has increased and expanded throughout Ireland at an unprecedented rate, it is hugely important that we generate strong deterrents which will curb the demand for prostitution, which is fuelling the current market and creating huge profits for organised criminal gangs.

The law is used as a very effective educator; making society aware of the harmful effects of certain behaviour i.e. drink driving, passive smoking, driving without seat belts etc.

The criminalisation of certain behaviour acts as a deterrent, particularly for those who are in the 'potential perpetrator' category; they are less likely to commence behaviour that is classed as a criminal act.
In 1999, Sweden enacted legislation to criminalise the purchase of sex, while decriminalising the 'seller'. In 2008, Norway, and in 2009, Iceland followed suit with similar legislation.

In July 2010, the Swedish government published an evaluation of its 1999 law which prohibits the purchase of a sexual service (and not the selling of such service).[9] The evaluation was led by the Ministry of Justice.[10]

By tackling the demand, the prohibition to purchase sexual services functions as a barrier against the establishment of organised traffickers and pimps in Sweden.

According to the National Police, the law contributed to the fight against international networks of procurers. By tackling the demand and therefore reducing their possibilities to gain from the exploitation of prostitution, Sweden has discouraged criminal networks to invest on its territory.[11]

The number of persons exploited in street prostitution has halved and there is a general stabilisation of the number of prostituted persons, compared to the significant increase in neighbouring countries.

The evaluation of the Swedish law shows that:

- The number of persons exploited in street prostitution has halved since 1999, while it increased in Denmark and Norway for the same period – to the extent that Norway followed Sweden's example in legislation to criminalise the sex buyer in November 2008.
- Prostitution through the Internet has increased in Sweden as it has in other countries, due to the development generally of online technology. The numbers of individuals that are sold via Internet web pages/ads are much larger in similar neighbouring countries such as Denmark.[12]
- The proportion of prostituted persons from third-countries did not increase in the same way it exploded in neighbouring countries.

The law proves to have normative effects through the reversal of mentalities in 10 years: there is more than 70% of public support for the law.

While the majority of the Swedish population was opposed to the prohibition of the purchase of a sexual service before the adoption of the law, 10 years later three polls have shown that more than 70% of the population support it fully. The normative effect of the law seems even stronger as support to the law is higher amongst the young people who have grown up in a state where the purchase of another person's body for sex is deemed unacceptable.

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[9] Website of the Swedish government: http://www.regeringen.se/sb/d/13358/a/149231.
[10] It is interesting to notice that this positive assessment has been made by a government led by the political party which, 10 years earlier, had voted against the law as it was in the opposition side.
[11] This deterrent effect has been confirmed by police phone-tapping activities which reveal the lack of 'profitability' of procuring investment in Sweden.
[12] In 2007, the Swedish national agency for social affairs studied during 6 weeks the ads posted in the Internet and took inventory of only 400 persons proposing sexual services. In 2008, more than 800 persons in Denmark, and almost 1400 persons in Norway were proposing services on the Internet only. Source: http://www.assemblee- nationale.fr/13/pdf/rap-info/i3334.pdf (p. 226).

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The prohibition acts as a deterrent for the buyers of a sexual service: there is a decrease of the demand.

According to polls in Sweden, the proportion of men who buy sex has decreased. In 1996, 13.6% of Swedish men said they had bought someone for prostitution purposes. In 2008, it is only 7.8%. A large number of interviewed men said they don't buy sex anymore because of the law. The Swedish police consider that the legislation prevented many potential sex buyers from taking the plunge in the first place.[13]

Some opponents make a criticism of the Swedish laws by alleging that: *"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."*

On enquiry to the Swedish authorities and also the Swedish expert on violence against women (EWL Observatory), this allegation has been roundly refuted and no evidence has been demonstrated to support the claim. A verbatim response to the query about the allegations of the report by the **social work team** of the ***Stockholm Prostitution Unit*** is noted in Appendix 2. This team work independently and also in conjunction with the police and comprise the **only** frontline service that operate a dedicated service to those in prostitution on the streets of Stockholm.

Criminalising the purchase of sex, [provided that those 'selling' in prostitution are not criminalised] does not prove an impediment for those in prostitution seeking to access support, including health services, or make it more dangerous to be in prostitution. Prostitution is inherently dangerous no matter what the legal regime.

6. Other Legal Options to Compare

(A) Complete Criminalisation of Prostitution: is NOT a Positive Solution

States which take measures to criminalise all aspects of prostitution, including the seller, such as the majority of the States in the USA, fail to recognise and legislate for the vulnerability of those in prostitution. In such regimes, it tends to be overwhelmingly those prostituted rather than their buyers who are arrested and punished.

Ruhama does not advocate for such a legal approach, which in effect criminalises those in prostitution (including victims of trafficking and children) for their own exploitation.

(B) Legalising/Regulating Prostitution: Benefits Pimps /Traffickers /Profiteers of the Sex Trade – NOT Those in Prostitution

The call to legalise or regulate prostitution can sometimes come from a genuine concern for the welfare of women involved. The assumption is that if prostitution can be constructed as work, it will thereby lessen the threats of harm and stigmatisation.

Others making this argument, however, are promoters of the sex trade; pimps, procurers and traffickers. They have a vested interest in promoting this model of legislation as the benefits for them would be huge; they would no longer be considered criminals but would become legitimate businessmen/women. Once prostitution is considered as legitimate work, it is the responsibility of the health and safety officers to inspect brothels and no longer falls under the scrutiny of police. In fact, it heavily constrains police in identifying and intervening in potential exploitation because it is more difficult to enter 'legitimate business premises' than an illegal operation.

[13] Since the legislation coming into force in 1999, 4225 men have been apprehended.

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'Sex work' and 'sex worker' are part of a terminology and rhetoric used by those who seek to normalise prostitution. They promise that women in prostitution will achieve respect when prostitution itself is accepted as normal legitimate activity. It argues that prostitution is ordinary work, a legitimate form of work for women and a valid form of female economic empowerment. It presents prostitution as a job like any other, using traditionally female, low-paying service jobs as comparisons. It is argued that the more 'professional' the sex worker the more care she will take of herself.

However, a review of prostitution regimes in nine countries concluded that it is not feasible to treat sex work like any other occupation, integrate it into employment law or create the conditions in which women's health and safety can be protected.[14]

The evidence from jurisdictions where regulation and legalisation have been in place for over a decade demonstrates that aspirations to make prostitution a safe legitimate form of work for women were ill-founded. In Germany, an extensive evaluation published in 2007 indicates there is no evidence that women are safer, only a tiny number of women have accessed health insurance or registered as 'sex-workers', the illegal sector continues to grow and profit and the people who have benefited most are the organisers and owners of the businesses.[15]

Germany – Key Findings:[16]

- Sex trafficking on the rise (70% over a five year period) – including trafficking by German nationals
- No change on the stigma for women involved in prostitution (women not registering, health insurance discrimination)
- It has been found to be completely impractical to try to impose employment contracts without risking contractual bound exploitation – drawing the conclusion by police that prostitution simply cannot be considered in the same way as a 'normal job'
- Flat rate sex promotion in brothels, discount to cyclists – huge 'competition' in a now massive market
- No help for foreign prostitutes (no legal work permit)
- More prostitution of African women
- Increase of organised criminality
- Some prosecutions of traffickers but no jail time
- Failure to help women to leave prostitution (no 'exiting' supports resourced)

In the Netherlands, extensive evaluation of the industry has found that legalisation has not brought any more safety for women but rather a massive legal and illegal trade in migrant girls and women; that combating the exploitation of involuntary prostitution is 'virtually impossible'; that pimping is widespread and that the emotional well-being of women is now lower than in 2001 on all measured aspects, and the use of sedatives has increased.[17]

Netherlands – Key Findings:[18]

- Majority of women still under pimp control
- Increase of trafficking 'enterprises' (more than 750)
- 50-90% of women in prostitution estimated as being there involuntarily[19]
- Prostitutes' emotional well-being has decreased

[14] Kelly et al (2008)
[15] Kavemann (2007)
[16] Report by the Federal Government on the Impact of the Act Regulating the Legal Situation of Prostitutes, Berlin 2007, www.bmfsfj.de, US TIP Report 2010
[17] Daalder (2007)
[18] ibid
[19] KLPD (Korps Landelijke Politiediensten) – Dienst Nationale Recherche (juli 2008). Schone schijn, de signalering van mensenhandel in de vergunde prostitutiesector. Driebergen.

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- Very few registered formally as prostitutes (less than 5%)
- While some resources in place to support trafficking victims – almost none to support women wishing to exit prostitution
- Plans to close down businesses with links to organised crimes (including brothels) – some designated 'red light' areas already shut down
- In 2011, a deputy mayor of Amsterdam, Lodewijk Asscher, stated that decriminalising procuring has been a "national error[20] and that the government has been "reprehensibly naïve"
- Plans to raise the minimum age for selling sexual acts from 18 to 21 years old
- Plans to criminalise the use of services from 'trafficked' women

(C) Complete Decriminalisation of the Sex Trade: has a Similar Negative Effect to Legalisation ('Administration-light' regulation)

Prostitution was decriminalised in New Zealand in 2003 and after nearly a decade of this form of legislation, there is evidence to show that it has some disturbing consequences for the women involved, and has resulted in an increase in prostitution in at least some areas.

One can safely draw the conclusion that when prostitution is considered as work whether through legalisation, regularisation or decriminalisation, it results in the normalisation of the buying of sex and the sex trade increases.

The New Zealand Prostitution Law Review Committee (PLRC) noted that street prostitution in Auckland more than doubled in just one year (2006-2007), with press reports and local support services suggesting even higher increases.[21]

Decriminalised prostitution in New Zealand not only made prostitution acceptable and encouraged men to buy sex, but it also transformed prostitution into a more attractive option for young, poor women. In one of the PLRC's own surveys 25% of those involved in prostitution interviewed stated that they entered the sex trade **because** it had been decriminalised (PLRC 2008:39).[22]

Other concerns raised are in relation to the actual mechanisms in place to monitor and police the sex trade. The manager of support service 'Street Reach' in Auckland, which works with women in on-street and some off-street prostitution, has outlined serious concerns with the decriminalisation of prostitution, which reflect some of the same issues that arise also in the context of legalised prostitution.

- Increase in gang activity in organising prostitution/pimping. On-street prostitution in particular is highlighted: where pimping was not legal before the 2003 legislation, it now is and it is reported that there is more third party control of women.
- No meaningful change for women in terms of criminalisation, as they were largely not arrested before the law was introduced because selling sex itself was not illegal. The PLRC reported that, despite the continuation of violence and sexual abuse ("the majority of sex workers felt that the law could do little about violence that occurred"[23]) most women in prostitution continue to mistrust police and were reluctant to report crimes against them following the enactment of the law.[24]

[20] http://www.lemonde.fr/m/article/2011/12/23/pays-bas-flop-de-la-legalisation-de-la-prostitution_1621755_1575563.html.
[21] The New Zealand Prostitution Law Review Committee (PLRC) (2008) page 118
[22] Melissa Farley Women's Studies International Forum 32 (2009 311-315 citing The New Zealand Prostitution Law Review Committee (2008)
[23] PLRC, 2008: 14 & 57
[24] PLRC, 2008: 122

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- Increased challenge to police to ensure no exploitation. Once brothels are legitimate premises, the burden of evidence to acquire a warrant is very high. Police must go to court to acquire a warrant and serve notice of this which would of course allow any minors or exploited persons to be moved from the premises.
- Funding for exiting prostitution cut from services that assisted women seeking to leave prostitution. (Note: the New Zealand Prostitutes Collective, the largest lobbying group was established on foot of concerns about HIV prevention and offers no programmatic support such as job training/advocacy/exiting supports for women stuck in the sex trade).[25]
- The interpretation of trafficking in New Zealand does not allow for trafficking internally, which has been criticised by the US TIP report as a failing in responding to, and identifying trafficking. This legislation does not account for, or record instances of the internal trafficking of indigenous Maori girls, for instance.
- Even where a suspected minor is in a car with a buyer, police have no right to ask for age identification unless a sex act is actually taking place – therefore, violation of a child has already happened before police can intervene.
- Pimps are circumventing the need for regulation, certification and location of brothels provided for in the law by opting to establish a 'Small Owner Operated Business' or SOOB. This can be done by setting up premises with less than four prostitutes and SOOBs can be located anywhere without being susceptible to regulators. There are no figures as to how many SOOBs are operating as de-facto brothels, but similar to the Netherlands and Germany, there is a clear indication that an illegal trade becomes established in parallel to the 'legal/regulated' one. There is anecdotal evidence that this is the case in New Zealand, with this mechanism being a convenient way for pimps to do so.[26]

New Zealand explicitly rejected the regulation/legalisation model on the basis that a licensing regime would need extensive administrative and enforcement resources, and risked the creation of a two-tier industry, in which the legal side of the market would come under the control of big business and the illegal side would be populated by individuals who are most vulnerable to exploitation. While offering the benefits associated with the reduction of prostitution stigma and the greater visibility of those in prostitution (which was thought to render them less vulnerable to abuse), it was argued that decriminalisation may offer the added advantage of limiting state intrusion into the private lives of those in prostitution, and permitting them greater flexibility in their working practices.

However, significant issues outlined above are emerging in relation to this approach and equally serious questions need to be asked as to whether the law has in fact circumvented the acknowledged problems with legalising, and if it has in fact done anything significant to reduce exploitation and danger to those in, or vulnerable to, coercion into prostitution. The downside of a premise of a lack of state intervention (in the main to reduce 'administrative resources') in circumstances where pimping and brothel keeping are made legal, is that a lack of regulation simply permits abuses to go unchecked. In addition, the hands-off ethos of decriminalisation avoids difficult ideological questions about the status of prostitution as a form of condoned labour only at the cost of selective blindness to the harms that are inherent in the sale of sex.

[25] Farley 2009, WSIF. p 313
[26] All bullet points above, where not otherwise cited, are drawn from Debbie Baker, Manager 'Streetreach' Auckland. Presentation to Grosse Freiheit Conference on prostitution and trafficking, Copenhagen 8th May 2011

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7. Responding to Some Common Arguments

Might a ban on the purchase of sexual services drive prostitution further underground?
Since the enactment of legislation in Sweden, there has been no increase in 'hidden' prostitution. Social services and the police highlight that prostitution cannot completely 'go underground' as it needs some form of publicity to attract sex buyers (see Appendix 2).

Given the stigma associated with convictions for solicitation, could a Swedish style ban have undesirable consequences for persons convicted of an offence (which would be minor) of purchasing sexual services? AND: Would it have unacceptable knock-on effects on innocent parties, for example, the spouses or children of defendants?
The purpose of criminalising the purchase of sex is **specifically** to have a deterrent effect in much the same way as any other law, and therefore the consequences are, by definition, designed to draw public opprobrium on the activity – be it speeding, drink driving or buying sex. It is difficult to see why an argument should be made to protect the purchasers of sex because of the stigma associated with soliciting when in this country the media have historically had few pangs in relation to exposing **women** arrested and convicted of minor offences relating to prostitution: thereby exposing them, their families and children to pain and suffering. This two-tiered argument is highly hypocritical as it is the sex buyer who has the agency and can choose to buy or not buy sex with their disposable income, whereas those 'selling' are largely there through the absence of other viable choices. The exposure of sex buyers may indeed hurt their relationships and their reputations, but just as it is the case with drink driving, this is their own responsibility.

Would enforcement of a ban on the purchase of sexual services divert the PSNI from operations targeting serious and organised crime, including human trafficking and organised prostitution?
It is envisaged that this legislation would assist PSNI in the first instance by reducing the size of the sex trade through reduced demand and therefore reduced incentive to criminals to establish or expand prostitution in Ireland.

A very recent study demonstrates empirically, that the size of the prostitution trade in a jurisdiction has a proportionate impact on the numbers trafficked to service demand. In countries with a larger trade e.g. Germany, there are larger numbers of victims of trafficking and in countries where there is less overall prostitution e.g. Sweden, there is less overall trafficking in proportion.[27]

It is also envisaged that the policing of sex buyers would occur largely in the context of operations also targeting organised prostitution/trafficking. In Sweden and Norway this is the approach, combined with some co-ordinated and targeted operations annually, which focus on the buyer to ensure continued awareness that buying sex is an offence. This is resource effective and has the added benefit of keeping the law in the public perception, thereby increasing its normative and deterrent effect.

[27] Courant Research Centre 'Poverty, Equity and Growth in Developing and Transition Countries: Statistical Methods and Empirical Analysis' No. 96 *Does Legalised Prostitution Increase Human Trafficking?* Seo-Young Cho, Axel Dreher, Eric Neumayer. September 2011 (updated January 2012)

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8. Will Criminalising the Sex Buyer Impact Negatively on the Population's Sexual Health?

Ruhama assert that prostitution laws following the Nordic example of criminalising the purchase of sex while decriminalising those prostituted, as is the case with Clause 6 of the proposed Bill, are compatible with an effective and appropriate response to prevention and treatment of HIV/AIDS in Northern Ireland, as in the Republic of Ireland.

The report of the UNAIDS Advisory Group on HIV and Sex Work (Dec 2011) is a report that was highlighted during the recent evaluation of prostitution laws in the Republic of Ireland by some pro-prostitution parties arguing that criminalising the purchase of sex would negatively impact on the health of those in prostitution and buyers. This report echoes the arguments commonly put forward on this issue by pro-prostitution groups, and so offers a useful basis to refute such claims that criminalising the sex buyer will directly impact on poorer sexual health for those in this jurisdiction.

While Ruhama accept entirely the need to give due regard to population health issues and also the human rights of those involved in prostitution, there are a number of points in this report, considered in the context of Ireland – on both sides of the border – which merit a response given their potentially misleading nature.

Starting Position

The members of the *UNAIDS Advisory Group on HIV and Sex Work* have a clear record of taking a pro-prostitution position, in particular the Global Network of Sex Work Projects. There is no representation from groups working with those in the sex trade who take an abolitionist approach to prostitution.[28] Therefore, a presumed bias towards a pro-prostitution position should be expected.

Attitude to victims of Trafficking

This bias is evident in the report itself with persistent reference to pimps as 'managers' and the extraordinary reference at the bottom of page 17, which refers to victims of trafficking being supported to become more 'independently' involved in prostitution. This demonstrates that the report starts from the premise that prostitution in and of itself is not harmful. It is suggesting that even those who have been most horrifically abused within the sex trade can unambiguously transfer their experience of multiple rape in the sex trade to a more positive one of freely selling their bodies for sex 'with support from their fellow sex workers, their clients, their intimate partners and their managers or agents' (p.17). This report ignores and sidesteps the massive trauma of trafficking on the person, the broader physical and emotional health consequences of involvement in prostitution and the desire on the part of 90% of those in prostitution (including those not trafficked) to exit.[29]

The Importance of Context

It is important to acknowledge that the global combating of the HIV/AIDS pandemic is vital and should be taken very seriously. Education and prevention, and where required, treatment for all vulnerable groups is essential. However, remembering the context of considering **the law relating to prostitution in Northern Ireland** is critical if one is to consider the actual value of this report or arguments similar to those made therein, to the discussion.

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[28] 'Pro-prostitution' is taken to mean a position which favours the legitimising, regulating and legalising of all aspects of the sex trade. 'Abolitionist' is taken to mean a position that regards all forms of prostitution as intrinsically harmful and aims to eliminate it as a form of exploitation, particularly of women and girls.

[29] Farley et al 2003

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The *report of the UNAIDS Advisory Group on HIV and Sex Work* highlights a speech UN Secretary General Ban Ki-moon made to the International AIDS conference in 2008, in which he called for laws to protect those affected by prostitution, drug use, and homosexual sex among others. **"…In most countries, discrimination remains legal against women, men who have sex with men, sex workers, drug users, and ethnic minorities,"…"This must change. …In countries without laws to protect sex workers, drug users, and men who have sex with men, only a fraction of the population has access to prevention."**

Firstly, while this *report of the UNAIDS Advisory Group on HIV and Sex Work* purports to focus on "Sex Work & HIV", in fact the recommendations made largely draw on those made for '*all categories*' of vulnerable groups including intravenous drug users and men who have sex with men – not just those in prostitution.

Secondly, most examples of initiatives for HIV prevention in prostitution in this report focus on countries with a far higher prevalence of poverty, HIV/AIDS and/or far lower availability of services and health care for the general population overall (e.g. Kenya, Brazil, India). In the Republic of Ireland for example, the rate of HIV among the adult population (19-49 years) is 0.2%, compared with 6.7% in Kenya.[30]

Men Who Have Sex with Men

Homosexuality is not criminalised in Northern Ireland, and it is in jurisdictions where this is the case that are highlighted by the UNAIDS group as being those that put men who have sex with men at greater risk of contracting HIV.

It is important also for the purpose of this discussion to make a clear distinction between the rights of men who have sex with men engaging in consensual same-sex relations, and the experience of being sexually exploited in prostitution, which has no bearing on the sexual orientation of those prostituted, whether male or female.

Prostitution

In Northern Ireland, sexual health screening is provided through five Sexual Health Services (GUM) clinics and at least one dedicated STI clinic (source http://www.thinkcontraception.ie/Services-Information/Find-a-Service.152.1.aspx). Indeed, the whole population irrespective of ethnic status can avail of free testing in GUM (Genito Urinary Medicine) clinics. Equally, the prevalence of HIV among those in prostitution is far lower than the very high risk categories identified in Asia and other countries. The HSE's Women's Health Service indicated on enquiry that the numbers screened through their services in Dublin with HIV are extremely low.

General Support for Those with HIV/AIDS

There are a number of established support services operating support services for those living with HIV/AIDS in Ireland which can be accessed by individuals who fall into any of the above categories.

Mandatory Testing for HIV/AIDS

This **can** be discriminatory and repressive of the human rights of at-risk groups and is a punitive approach used in other countries, and **is not** policy in Ireland.

*Therefore, many of the contentions by this report do not have a significant bearing when considering both services available to at-risk groups and discriminatory practices that impact negatively on their ability to access sexual health services **in a Northern Ireland context**.*

[30] CIA World factbook: HIV AIDS adult prevalence 2011

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Education/Attitudes to Condom Use

Recommendations for education of men in changing attitudes to condom use are to be welcomed but should not and arguably **cannot**, be restricted to sex buyers. Such initiatives must (and generally do) target all men who are sexually active, who can be classed as 'potential buyers'. The UNFPA Broad Activity Achievement report, referencing the work of UNAIDS is clear that this is the approach taken, rather than initiatives for actual *acknowledged* sex buyers. The logistics of 'engaging' sex buyers as a separate cohort is not feasible – especially as the majority are married and unlikely to engage as a part of this categorised group.[31] The greatest barrier to condom use is the men who refuse to use them – whether with those in prostitution or other sex partners. The *report of the UNAIDS Advisory Group on HIV and Sex Work* expounds at length on the violence demonstrated towards those in prostitution by police, but alludes only vaguely to changing buyers 'attitudes' towards sex workers to encourage condom use. No allusion is made to potential violence/coercion by buyers themselves and the impact that this has on women's ability to negotiate condom use.

For women in prostitution, safe sex/reproductive health practices are encouraged by many of the services specifically accessed by them through both condom distribution and sexual health awareness sessions.

A law that does not criminalise those 'selling' in prostitution but does target those who buy sex should not impact on the availability or access to either sexual health services or education initiatives because these are already in place for those in prostitution – although they could be enhanced across the country. Any education initiatives for men will target a broader male population and not a narrow cohort of 'identified sex buyers' therefore a criminal offence in relation to this activity should not preclude general safe sex education.

Considering a Scenario Where the Sex Trade is Decriminalised/Legalised as a Mechanism to Reduce HIV

We know from the Irish context (Ruhama, HSE WHS and RTE Prime Time programme *'Profiting from Prostitution'*) that pimps and buyers actively encourage and expect harmful practices such as CIM (ejaculate/'cum' in mouth) and OWO (oral sex without a condom) from women in prostitution. A scenario where the legalisation of the sex trade would suddenly better 'empower' those women to negotiate safe sex does not seem reasonable. In the legal context, competition and danger are just as apparent due to the enlarged size of the trade and there is no reason to believe that in a European context there would be any shift *because of a change to the prostitution laws by decriminalising/legalising the trade* (as opposed to broader social education and awareness programmes for instance) to decrease this reality inherent in prostitution.[32]

> *"Men are constantly looking for sex without condoms, including anal sex, which I do not do… Men want more and more thing… not just normal sex. I have to move around… I do not stay in any one place for too long as they will get to know by the reviews that you will not do these things* (Floria)."[33]

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[31] Macleod, J., Farley, M., Anderson, L, and Golding, J. (2008*) Challenging Men's Demand for Prostitution in Scotland: A Research Report Based on Interviews with 110 Men Who Bought Women in Prostitution.* Glasgow: Women's Support Project.

[32] Reports from both the Netherlands and Germany find negative consequences to having legalised the sex trade. Additionally data can only be taken from the 'legal' trade and in parallel an 'illegal' trade has flourished in both jurisdictions. The health and wellbeing of those in prostitution in the 'illegal' side is likely to be even worse than that of those in the 'legal' sector. Reference: A.L. Daalder, Prostitution in the Netherlands Since the Lifting of the Brothel Ban, WODC (Research and Documentation Centre, Dutch Ministry of Security and Justice), 2007, www.wodc.nl/images/ob249a_fulltext_tcm44-83466.pdf Sozialwissenschaftliches FrauenForschungsInstitut an der Evangelischen Fachhochschule Freiburg, *The Act Regulating the Legal Situation of Prostitutes – implementation, impact, current developments*, 2007

[33] Kelleher et al (2009) p.99

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Buyers in Their Own Words

See Appendix 1 to read a sample of the attitudes of current sex buyers in Ireland towards the women they buy. These excerpts of 'reviews' men write online about women they buy sex with show the expectation of unprotected sex, the fact that they react negatively and even angrily when women refuse, and other indicators that sex buyers in the round do not have much interest in the welfare or wellbeing of the women they buy for sex. These same attitudes are borne out in several research studies of sex buyers.[34]

As buying sex is currently not illegal in Ireland, this exemplifies the fact that even when 'decriminalised', these individuals are not taking on board their 'responsibilities' to behave with respect towards the human right to bodily integrity and dignity of women in prostitution. This should not therefore be an argument against criminalising their actions.

A greater targeting of pimps and organisers of prostitution who have responsibility for encouraging/coercing unsafe sex practices will be easier for PSNI in the context of a smaller sex trade which would reduce if demand is criminalised. Prioritising policing of organised crime rather than making pimping a legitimate business activity will arguably also have a positive impact on the small minority of individuals 'independently' in prostitution, by reducing the risks of these criminals to their welfare.

[34] Farley et al 2011, *Comparing Sex Buyers with Men Who Don't Buy Sex: "You can have a good time with the servitude" vs. "You're supporting a system of degradation."* Paper presented at Psychologists for Social Responsibility Annual Meeting July 15, 2011, Boston, MA. San Francisco: Prostitution Research & Education, Macleod, J., Farley, M., Anderson, L, and Golding, J. (2008*) Challenging Men's Demand for Prostitution in Scotland: A Research Report Based on Interviews with 110 Men Who Bought Women in Prostitution.* Glasgow: Women's Support Project, Escort Surveys (Ireland) 2006.

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APPENDICES

APPENDIX 1 – Sex Buyers in Their Own Words

The quotes below are taken from an Irish escorting website, Escort-Ireland, which allows buyers to review those who they have bought, based on their satisfaction with the 'service'.

A large number of negative reviews are because buyers are angry that women would not perform OWO (oral sex without condom) or CIM (ejaculation in the mouth: 'cum in mouth'). In many cases, with some examples below, the buyer seems clearly aware that someone else (i.e. a pimp) has put up a woman's ad and indicated that she is available for sex acts, which it turns out she does not want to provide.

However, rather than understanding and compassion that they are probably buying sex with a woman controlled for prostitution who is likely vulnerable, they write a negative review. In some cases (again samples below), there appear to have been clear indications that women are unhappy – beyond their refusal to engage in undesirable and unsafe sex acts, which are ignored by these men in favour of complaining online about what a 'bad time' the buyer has had.

Still, other reviews clearly indicate the reductive and judgemental way sex buyers view women they buy; like no more than pieces of meat (e.g. referring to sex as the 'main course'), or blow up dolls rather than a human being (e.g. scoring points out of ten for performance). There is never anything to prevent a sex buyer making an anonymous report about a woman who they think is vulnerable and yet this rarely occurs. Reviews however, abound.

The sample below was compiled from sex buyer reviews on the largest 'escort-advertising' website in Ireland. **NOTE:** The names attributed to the buyers below are the ones they chose for themselves.

Complaints about refusal to engage in unsafe sex: No 'OWO' (oral sex without condom)

"T he Legend "

- met with [name] last nite 4 a late one ! nice on the fone so gave her a spin... no owo was a big let down and didnt fancy french kissing wit her .. anal available and decent ride ... nothing special just ok punt ... 6/10 for THE LEGEND ...
- dropped mrs. legend off at airport as she is go n home 4 two months - yippee ... anyway made a few
- calls - early and got [name]... agreed services and fees.. lovely looking girl - small petite and super body .. gave her a gud c n 2 and we both were breathless after a 5 star performance from us both ... sex was super and i highly recommend [name] ... anyway -- THE LEGEND is on the loose now so BEWARE !
- hi.. meet [name]at short notice. went to her place meet this very tall attractive girl fabulous figure and thats it. everything i asked was no ! no owo cim kissing just shag me and go.. big waste of time felt cheated and a total waste of money. we think 100 euros is cheap ? spend the xtra lads and get the value ! my advice is give this girl a big miss 1/10...

James Cork

- *In the bedroom: I am not a GFE man on first visit but didn't get the sense it was forthcoming anyway. Nice large boobs, nice shape. Foreplay was attempted, and condom was out faster than one could say Bernard Manning. Oral was good, but who can really tell when it is COVERED.*

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Espensen

- *Ok, nice girl, but NO OWO!!!!!!! I am tired of this kind of thing being listed and then not offered.*
- *She offered money back and I absolutely accepted. It's not her who writes the ad she says, so she should honestly lambast whoever IS writing the ad and REMOVE OWO. I had to travel there, it took time, the weather was crap, ONLY to have to LEAVE again.*
- *She's a nice pleasant girl, but I left with my money back.*
- *The niceness is a bit forced to be honest. And the big one, the dealbreaker, owo, NOPE!! That for me is an automatic RED.*
- *Nice girl, but AGENCY. NO OWO or TEABAGGING or KISSING, even though advertised.*
- *Whoever writes these ads for the girls should explain what these things are, so that they can remove them from their ads and avoid reviews like mine. Feckin hell!!*

Derogatory attitude to women

James Cork

- *First impressions: Dismay. I feel she made no effort whatsoever to make herself attractive to me the client. She looked a bit dishevelled and tired. Although under close scrutiny I am happy it is she in the photos, her presentation is nowhere near what I expected to greet me. She is somewhat older than the beauty the photos portray, and not as pretty, nor toned. Even if she had arranged her hair or had worn a touch of makeup, or even had worn a pair of heels she MAY have come near to the advertised profile. I felt she really didn't give a damn, and this I found disappointing.*

- *In the bedroom: Ok, here, she picked up a bit, OWO was good with acceptable technique. GFE was attempted and she was tactile throughout. But I didn't feel a sexy or sensual mood so allowed her to conclude with CIM. Boobs are delightfully natural but also looked tired. All in all, main course lasted about 10 minutes.*

Espensen

- *Photos are well, old and very touched up. And she is a bit overweight, so if you were expecting a slim woman from the photos, u will not get her. She is shall I say a bit heavy and if you don't believe me, then go for yourself.*

MILF Hunter

- *The Good: Good looking (and sexy) girl + firm boobs + Ok apartment + Nice pussy + 'Zero attittude'... which is always a plus + wore a uniform as requested + accurate pics + didnt have any issue with her english + avergae DFK which is ok + €80 price (OWO included) The Bad: Zero enthusiasm + Poor OWO + robotic service*

Pinkorbrown

- first of all she is not the girl in the photos, kept me waiting half hour met her at apartment then with another girl, had the choice of two, went with the so called [name], one good thing she has a tight pussy but thats where it ends, i would avoid

Indications of women unhappy in prostitution resulted in a 'bad review' on a public website rather than a compassionate response/contact with Gardaí.

John Rambo

- Well , the thing is , [name] is a smiley HOT lady with sexy body , but i was not satisfied with the service i got...Shes not that time watcher but i didnt feel she likes this job, I can understand why but i paid for a good time and i didnt get that...
- Met [name] today she is a very nice girl but she not a good escort she just did not want to be their, her English is very poor

SMAN

- Nice girl, but clearly didnt want to be touched, not a great experience.

Click-n-pick

- ill start with the worst and most horrid
- she has a very bad ****REMOVED****.
- no shower offered.
- the bed did not even have a sheet on it... very classy? i think not! no tissue of any sort to clean myself after,nice touch eh?
- this girl does not take care of herself.
- i did my biz and got the hell outta there as quickly as i could.
- not sure its her in the photos,dont think it is.
- no way i can recommend.

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Jack 78

- nice enough girl, very thin so if thats your thing then this is for you. Location was the familiar appt block ***removed*** not my fav in the city but seems to be where all the action is these days. OWO was good with nice ball licking but she had no real interest in being fucked lay on bed, no movement or sound and left me felling a bit shit for fucking her nad enjoying it, maybe i'm just fucked up in te head???[SIC]

MILF Hunter

- Met with [name] and her girlfriend for a 15 mins duo session yesterday around 8.30 pm

1. Dingy apartment @ basement of an old house in D8.
2. Her receptionist answers the call (OK English). Good directions.
3. Pics are FAKE. I decided to stay as I had travelled a long distance
4. NO kissing....

OK OWO (received from 1 girl only).

5. The other girl was cheeky...she put a condom on when I wasn't looking. FFS
6. No towel. No shower before and after.
7. Dirty room (you will have to pass through the kitchen which is also dirty)
8. Good hygiene. However, I had to ask her to use mouthwash before.
9. Both girls are extremely arrogant....didnt climax....had to go see another girl afterwards
10. Waste of time and money.
11. I would rather stick it in my neighbours dog

Pussyman

- Not the girl in the photos in my opinion. If she is they are photoshopped because not as attractive in the flesh. Was very quiet throughout our meeting and not much responsive to touch. Enjoyed the intercourse but not much else.
- Bit disappointing. First of all she's an agency escort, not an independent as advertised. Also none of the advertised services on offer -- only covered BJ and sex. My first impressions werent great but she has a great body when naked. Nice to talk to but left me with feeling she wanted me to come ASAP so that she could get dressed as quickly as possible.
- Pictures real -- most of them anyway. Looks more than 22 though -- probably in late 20's. I had hoped to see Sara but she was booked up. Nice girl. Very blunt and to the point which was a bit off- putting. Tall and leggy but tits quite small. Nice pussy but put limits on how long it could be touched. Gave me OWO and I came very quickly before we could have intercourse. Didnt really enjoy the experience but then she wasnt really my type. Others may prefer. Hopefully has cured me of punting for a while!

The Longman

- what a load of ***removed*** the worst of them all i have been with a lot of girls and most of them have been very good but this girl is rude i would have been better of my hand [sic]
- first of all i like to say this girl is not independent she works for agencie because the girl i talk to on the phone could speak english when i went to the apartment the girl could speak no english when i told her what i wanted she had to ring a girl and i had to tell her what i wanted then she had to tell [woman on phone] and it went down hill from there the sex was crap everything she does not like her job then she should stop this work lads stay away at all costs

Nineby three

- this is a strange one for me , I have no doubt that this is an an agency run in a kip of apartment. I had a conversation with [name] on the phone, good chat so i said i chance it. Arrived and was met by a lady i spoke to on the phone and she showed me into room. The real [name] was there exactly like her pics. Not a word of english only Hungary.
- will i stay or go ?I stayed and was pleasantly surprised. She was not bad at all eventhough i would say a bit innocent.
- All and all not the worst punt i ever had but far from the best.

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APPENDIX 2 – Social Welfare Services Outreach Unit of the Stockholm Prostitution Unit

Response from the only dedicated frontline outreach service to those in Street Prostitution in Stockholm, to the argument that the law has made things more dangerous for those on the street, and that it has pushed the indoor trade 'underground'.

"As you may well know, I do outreach work in the street here in Stockholm, and I many times hear from women (and men) that it´s easier for them to report crimes committed towards them (abuse, rape, robbery) because of the law. Many feel that they are being met with more compassion and understanding and less prejudice from the police and courts etc. And I would say that this is something we can see too. That other authorities in fact ARE being more compassionate and understanding towards the selling part in prostitution. They now understand that prostitution is NOT solely about money and that "the free choice" is merely an illusion.

Some opponents of the law here in Sweden (and abroad) say that since the law was enacted prostitution has moved from the street and went underground (with the help of internet). And therefore is more violent and dangerous now. We as a unit would say that this is NOT correct. Prostitution has ALWAYS been dangerous for the selling part. I have colleagues who worked before the law and women were being raped, abused, robbed etc. even then. And that the law has moved prostitution indoors is quite a strange thing to say. Around 1999, when the law was enacted, the use of internet and mobile phones increased tremendously. Everything is on sale on the internet now! And what does underground mean? It can´t be that hidden and underground since the buyers can find the women, right?

In conclusion, we are very positive about the law. I do believe that in a longer perspective the law is helping our clients, women and men, buyers and sellers. The law is establishing norms under which no woman, man, boy or girl can be sold and no one has the right to sexually exploit another human being. This is a question of values. Prostitution and human trafficking is a societal problem that touches all of us. But especially the women and men we meet that have sold themselves. And after understanding that and getting a deeper knowledge about what prostitution does to human beings, the deep hurt it inflicts upon the selling part (and from what we can see with our work with the buying part – sometimes the hurt inflicts even them…) you can´t but have a positive attitude towards the Swedish law.

…the police working on the street would say exactly the same thing as us and in Stockholm ONLY me and [my colleagues] do outreach (as you know, the number of women on the street isn´t that big) so we know what we´re talking about."

Direct quotes from Miki Nagata, (Social Worker, *Social Welfare Services Outreach Unit* of the *Prostitution Unit*)

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US TIP (Trafficking in Persons) Report 2010

Samuel Buchanan

Dear Justice Committee,

Re: The Human Trafficking and Exploitation (Further Provisions and support for Victims) Bill introduced by Lord Morrow.

This brief letter is a response to the call for evidence on the part of Justice Committee in relation to the above Bill.

It is my own personal conviction that effective legislation should be enacted to ensure that perpetrators of the terrible crimes of human trafficking are punished and that appropriate provisions and support become available to human trafficking victims. Therefore, I warmly welcome the Bill introduced by Lord Morrow which I believe rises to the challenge of both putting in place (a) appropriate punitive measures for trafficking perpetrators and (b) support measures for protecting trafficking victims.

I believe that if this Bill were to become legislation in our province it would make a real difference for good in the lives of some of the most vulnerable men, women and children who are exploited. the Bill would also ensure that Northern Ireland is properly fulfilling its international obligation as set out in the European Directive.

Kind Regards

Samuel Buchanan

SCOT - PEP

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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.

SCOT-PEP is a company limited by guarantee **Company No. 140511** and is a registered Scottish Charity **Scottish Charity No. SC 020657**.

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

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 Skarhead 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

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.

- 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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Sharon Smyth

Dear Mr Givan,

I belong to a group, Ardstraw Against Trafficking, which is a Christian group, formed to raise the awareness of the growing crime of Human Trafficking in Northern Ireland. Each of us in this group have decided to write to you, to request your support, for those caught within Human Trafficking.

The true figure of those unfortunate people being trafficked, is impossible to accurately determine, but a staggering estimate of 27 million persons presently being trafficked worldwide, speaks for itself.

The criminal proceeds from Human Trafficking is second only to drug dealing, and these crimes are often interlinked.

In order to effectively combat human trafficking, it is vitally important that all parties act as one, to pass laws which provide strong support for victims of trafficking, and provide a strong deterrent to those in our society who support and engage in the misuse of clearly vulnerable persons.

I urge you to support all clauses within the Bill proposed by Lord Morrow, in particular clause 6.

There is evidence within Sweden and Norway, that laws including clause 6 wording, has had a positive effect in the support and protection of vulnerable persons within society, and in turn sends a clear strong message to those engaged in trafficking persons, particularly within the sex trade.

I would ask you to consider that the effect on **demand** for the sexual exploitation of vulnerable persons, will directly and positively affect the **supply** of persons trapped within this trade.

It is of particular note that the laws within Southern Ireland, are moving forward to make a positive stand against this plight within our world and society. Should we be lagging behind in our support for those unfortunate people caught within Human Trafficking?

Northern Ireland may become a safe environment to traffic people. Do we want that to be the case?

There are still those in our society who dismiss prostitution as something which will always be within our society, and therefore to be disregarded and swept under the carpet. Without prostitution, to provide a hidden cover, within which human trafficking thrives, vulnerable girls and children will continue to have their freedom and basic human rights stripped away from them.

Please ask yourself, is this the society, is this the world, we would want our children to grow up into, and perhaps become actual victims of trafficking themselves.

By supporting Lord Morrows bill a strong message will be sent to those engaged in the exploitation of vulnerable people within our world and society, and will provide a realistic and effective support for victims caught within this situation through slavery and through wider social deprivation and despair.

Please consider Lord Morrows bill carefully and support all clauses, particularly clause 6.

Yours Faithfully,

Sharon Smyth

Simon Penhaligon

I am writing to express my grave concerns regarding the proposed Bill (Human Trafficking and Exploitation: Further Provisions and Support for Victims).

Firstly, it places undue emphasis on sex workers. Most victims of human trafficking end up working for a pittance (or nothing at all) in industries such as agriculture and construction: whereas the vast majority of illegal immigrants who enter the sex trade do so voluntarily (either because they came to the UK with that intent, or because they tried work elsewhere and then discovered that sex work was more lucrative), and are very well paid. Yes, some incur debts to people-smugglers, but al least sex workers earn enough to quickly pay off those debts, whereas those in other industries are trapped in poverty.

Secondly, actual instances of sexual slavery are extremely rare, and when they occur, they tend to be within tightly-knit immigrant communities: the services of such women are not made available to the general public. The reason for this is obvious: a genuinely enslaved prostitute could tell a customer of her plight, and he could then report the situation to the police (after all, HE has done nothing wrong).

Astonishingly, the Bill seeks to make all payment for sexual services illegal: even those delivered by British prostitutes. This has nothing whatsoever to do with “human trafficking”, and appears to be a covert attempt to push another agenda. Throughout the UK, an estimated 80,000 prostitutes cater for one-seventh of the entire adult male population: mostly married men whose wives have lost interest in sex. The attempt to turn all these men into criminals is being driven by ideology (generally either religious or radical-feminist). If it passes, a sexual act between freely-consenting adults will become illegal for the first time since “sodomy” was legalised in the UK. It is institutional bigotry directed against a minority with an “unusual” sexual preference.

In much of Scandinavia, where the criminalisation of the purchase of sex has already happened, the result has been an unmitigated disaster. Even supporters of the legislation can only point to a halving of observed on-street prostitution: here in the UK, only 15% of prostitutes are streetwalkers, so that would only translate to a 7.5% drop even if they all left the sex industry altogether. Of course, that’s not what is happening: the industry is being driven underground. While there may be a slight drop in illegal immigration into the sex trade (often referred to as “human trafficking”), there is no evidence of any reduction in the (already rare) cases of actual sexual enslavement. Meanwhile conditions for sex workers have deteriorated, and random unlucky men (generally good, decent men) are having their families and careers destroyed for no good reason.

In the US, where the provision of paid sexual services is illegal, police frequently book a hotel room, contact and book a prostitute, then arrest her when she arrives: she then has a criminal record, making it very difficult for her to gain any alternative employment (and of course she risks ending up in prison if she’s arrested again). Under the proposed legislation, presumably this sting operation will be reversed, with police either posing as prostitutes or staking out the premises of genuine prostitutes in order to catch random men whose only “crime” is to be unfortunately deprived of sex: in the UK, they would end up on the Sex Offenders Register along with paedophiles and rapists. Why should we assume that British police will behave any more responsibly than American police do? They have targets to meet, they need to be seen to be “cracking down on crime”…

The Bill could also run afoul of equality legislation. As it stands, the proposed legislation contravenes the Equality Act 2010 (which doesn’t apply in Northern Ireland, but presumably similar legislation exists or is pending), because it constitutes “indirect discriminaiton” against people with disabilities, who are unusually dependent on sex workers for sexual gratification. And has anyone considered the psychological effects of condemning a large chunk of the male population to involuntary celibacy? The spate of sex scandals involving

Roman Catholic priests indicates that even some of those who volunteer for celibacy can't handle it. And is it entirely a coincidence that Sweden's rape rate has doubled since similar legislation was introduced there? There is also likely to be a large increase in marital breakdown, divorce, and broken families (prostitution saves marriages).

As it stands, that portion of the Bill that seeks to criminalise the purchase of sex has repercussions that go far beyond the stated intent of addressing "human trafficking". Where it actually has relevance, it is likely to make matters worse. If it succeeds in reducing demand, prostitutes will be forced to accept clients they would previously have avoided, and will increasingly have to work with organised criminal gangs (as they would be dependent for their livelihood on a criminal activity). And if the legitimate, consensual sex industry shrinks significantly, demand for those who ARE victims of sexual slavery will increase accordingly: especially as prospective clients will be wary of approaching sex workers who advertise openly, being fearful of police stings.

The notion of widespread sexual slavery in the UK is propaganda designed to sell tabloid newspapers, promote ideologies (religious or otherwise), or give a veneer of respectability to racism directed against immigrants. That's why police raids keep failing to find actual victims of sexual slavery (e.g. the failure of Operation Pentameter: hundreds of people arrested, but not a single case of forced prostitution uncovered). it also explains why the clause within the Policing and Crime Act 2009 (and its Northern Ireland equivalent, the Sexual Offences (Northern Ireland) Order 2008) which makes it illegal to pay for the services of a coerced prostitute has apparently never been invoked: coercion of prostitutes is very difficult in a society where prostitution is legal but coercion is not, and in the rare cases where it has happened, the police have pursued the coercer rather than the client. Introducing further legislation in this area is entirely unnecessary, as existing legislation is more than adequate to deal with forced prostitution: more emphasis should be placed on policing the activities of gangmasters who exploit immigrant manual labourers.

Clause 6 needs to be removed entirely. It is being disingenuously presented as if it were a minor amendment to existing legislation, but is actually a fundamental restriction on human rights, because it simply erases the notion that coercion is a relevant factor in sexual relations. It suddenly becomes illegal to engage in a specific type of sexual activity, period: regardless of the free consent of those involved. How can this possibly be presented as a passing mention in a Bill devoted to another topic entirely?

Driving cars "creates a demand" for car theft: so this is equivalent to radical environmentalists amending legislation covering car theft so that "driving a stolen car" is changed to "driving a car", thereby quietly abolishing car ownership with minimal publicity. It is a dishonest attempt to subvert the democratic process.

Simon Penhaligon

South Eastern Health and Social Care Trust

1 November 2013

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

Dear Sir/Madam

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

The Trust welcomes the opportunity to respond to the above consultation.

The Trust has considered the consultation document and has no further comments.

Yours sincerely

Elaine Campbell
Corporate Planning & Consultation Manager

SPACE

SPACE

(Survivors of Prostitution-Abuse Calling for Enlightenment)

info@spaceinternational.ie

30th October 2012

To the Honourable Members of the Committee:

The submissions contained within are each from formerly prostituted Irish women and are presented to you now under the banner of SPACE – Survivors of Prostitution-Abuse Calling for Enlightenment – the international survivors' organisation we have formed in recent years. We have included submissions only from members who've been exploited on this island and we would like to make clear that two of these three submissions are by women who have been exploited in prostitution both in Northern Ireland and in the Republic of Ireland.

We would appreciate hugely if you would consider our submissions, each of which are drawn, painfully, from our personal life experiences, and keep them in mind during the process of the impending legislative change.

You will notice that our stories are very individual. This reflects the reality of women in prostitution generally, some of whom come to prostitution through destitution or the fear of destitution, others come to it through the grooming of sexual abuse; still others come to it through the horror of narcotic addiction.

Many women come to prostitution by a combination of these and other routes. Though we do not pretend to speak for every prostitute who ever lived, we assert our experience that *all* of the women we met in prostitution came to it though some negative circumstance and also that they were very obviously psychologically wounded by it. We would like to point out that, as a group, we have a combined life experience of prostitution that amounts to well more than a hundred years, and that on not one day of that time did any of us meet a woman who was happy in that lifestyle.

We believe our shared experience makes clear that the vast majority of women in prostitution are deeply unhappy and that no other logical conclusion can be drawn from it. We also know, however, that leaving prostitution is not an option for many women because they lack the supports we would like to see implemented, which would include assistance in education, training, housing and counselling services. We would like to see the right to access to these services worked into the working of this Bill.

We assert that prostitution is commercial sexual abuse; that this is how we lived it and this is how we witnessed it, and we are strongly in favour of clause 6, which criminalises

the demand for paid sex. We cannot state this strongly enough. We also believe that people who sell sex should not be criminalised, on the principle that no person should be criminalised for their own exploitation.

There needs to be a total social change in the way society perceives prostitution. We believe that this is possible, and if we look at how views have changed in recent years on the island of Ireland towards drink-driving and indoor smoking, we see two examples of how legislation and strong governmental leadership have led to radical shifts in long-held social beliefs. We see also the great benefits that have come about because of it.

We want to see this sort of strong leadership applied to the social harm we have lived. We have, each of us, been profoundly damaged by prostitution and we desperately do not want this human rights abuse to be considered tolerable anymore.

We wish to strongly state that we support Lord Morrow's Bill. It is an honourable effort towards social justice and we trust in it, and in him.

Yours sincerely,

Rachel Moran, Justine Reilly and the other members of SPACE

Rachel Moran
C/O Gill and Macmillan
Hume Avenue
Park West
Dublin 12

30th October 2012

Dear Members of the Committee,

I am a thirty-seven year old Dublin woman who was prostituted in Dublin, Limerick and Galway between the years 1991 and 1998, from the age of fifteen to twenty-two.

I left home a few weeks after my fourteenth birthday because my schizophrenic mother did not know how to grieve the recent suicide of my father, and took to mentally and emotionally abusing me as an outlet for her grief. I was taken into care and placed in a residential unit, then shifted from hostel to hostel, a number of state-funded B&B's, one foster home and then eventually expelled from school and thrown out of a hostel, where I found myself on the streets. I fended for myself through shoplifting and sleeping in squats and derelict buildings and then I met a man who had a great idea about how we could earn money and how I'd never have to worry about being homeless again. He was my boyfriend as far as I was concerned, and my pimp as far as everyone else was.

I cannot quantify the painful memories that followed that. I was used sexually by hundreds and hundreds of men before I reached my sixteenth birthday, and I quickly learned how to imagine myself away, how to pretend that I was not there, to pretend that it was not happening.

But it did happen - and it happened over and over and over and over again - and I am not pretending anymore. I have spent fifteen years trying to come to terms with this. I have spent the same length of time trying to learn how to live in the world. I am still learning, and some part of me fears that I probably always will be.

I did try to move on to the best of my ability. I returned to adult education at twenty-four and went to DCU the following year, where I completed a BA in Journalism. I spent most of my twenties trying to find my feet in the world, get my degree, secure a home in a decent area in which to raise my child. I did these things, normal things; I got a job. I had two relationships. I found though that the deepest part of me could not move on until I had done the one thing that would free me: tell the truth about prostitution; and so I returned again and again to the painful task of trying to write my book ('Paid For' released in the Republic, April 2013) I finally realised, in 2008, that I had spent the last ten years trying to move on in practical ways, while also trying to tell my truth, but I had done nothing to try to heal myself from the emotional and psychological trauma of prostitution, which had left me crippled with anxiety and the deepest sort of depression. It was a psychological wounding that went right to my

soul. I realised that if I was to truly move on I had to first truly heal, which meant confronting my past in therapy, and so I did that, for over three years.

I have found the timing of all this extraordinary, because just as I was coming towards the end of writing my book, prostitution had begun to heat up as a political issue in the Republic of Ireland. Two years ago I attended the launch of the Turn off the Red Light campaign in Dublin and I felt compelled to speak at that meeting, introducing myself as a former prostitute, before talking briefly about my experience of prostitution; about the homelessness that led to it, the harm caused by it and the relief I felt that prostitution and trafficking were being tackled together. I said that there was no difference worth regarding when this is only a matter of two different sets of circumstances bringing women to exactly the same place.

There is a great deal of healing to be done from the emotional and psychological torment inevitable for somebody who has been used sexually by thousands of unfeeling, uncaring and often contemptuous and violent strangers. This healing, I am thankful to say, has already begun, and it is greatly aided by the actions of men like Lord Morrow, who have undertaken to tackle the abuses of prostitution head-on, by criminalising the demand for paid sex itself.

I want to make the Committee aware that over the course of seven years I never met a woman who maintained that she was happy in prostitution. I have only ever come across that sort of talk on the internet; I never heard it anywhere in prostitution.

The arguments I have heard in favour of prostitutions legalisation or decriminalisation always ignore one vital truth, and that is the simple wrongfulness of society accepting one class of women should be set aside to be treated as less than human. We none of us, whether prostituted or not, would choose prostitution for the women close to us in our lives. Pimps and punters would not choose prostitution for the women close to them. Those who argue for the legitimacy of prostitution always argue, without fail, for the legitimacy of prostitution for *other* women; they do not argue for prostitution to be introduced into the lives of their own daughters, sisters, nieces and mothers. They argue for the *institution* of prostitution, but they do not argue for its touching the lives of the women they love. Women in prostitution are the very last people who will ever argue for prostitution to be introduced into the lives of women they love, and this, for me, tells its own story.

Many pro-prostitution arguments just do not stand up to the lived reality of prostitution. For example, I know people will make the point that sexually using the bodies of those under seventeen is already illegal. Please believe me when I say that the men who buy sex couldn't care less about that, and when they think of it (which is often) it is to give themselves the kinky little thrill they get from doing something they know to be illicit. Wherever prostitution is tolerated there will always be men seeking the bodies of underage girls to commercially sexually abuse. The truth is that adolescent bodies in prostitution are most highly sought after and most highly prized and making the sale of adult bodies acceptable will do nothing to erase this. We have only to look at Switzerland for evidence of this. In Switzerland, where the bodies of sixteen-year-old girls are legally for sale, a serious problem continues whereby clients are not satisfied with sixteen-year-old legal prostitutes and the problem of adolescents

younger than this being sexually commercially abused (and often trafficked for this purpose) in illegal prostitution continues to doggedly persist.

And this brings me to the issue of the persistent attempts to separate trafficking and prostitution. Having your body used sexually against your wishes is experienced as sexual abuse, whether it was a gun or a less obviously coercive scenario that was responsible for your acquiescence. There is no meaningful distinction to be made between the victims of trafficking and prostitution. Please imagine how unthinkable it would be if we were to divide domestic violence sufferers into two categories: genuine victims and misbehaved wives who were asking for it!

What I would like the Committee to know is that there is no such thing as autonomy in prostitution. People talk about a woman's right to do what she likes with her own body. Well, what this opinion ignores is that it is not the women in prostitution who choose what to do with their own bodies; it is the men who pay to use woman's bodies who choose what is to be done with them. In seven years of prostitution I never once had the opportunity to choose what was to be done to my body and I do not believe the nonsense that anyone else has because that is not how prostitution works. Once a body has been commodified autonomy is lost to the person who lives in that body and they then find themselves used to the whims of those who pay to use them. I have never known prostitution to operate any other way.

It is clear that what we need to do to reduce prostitution is to deter the demand for it. Many reports, including the 2011 Boston study 'Comparing Sex Buyers with Men Who Don't Buy Sex' and other recent studies closer to home, in London and Glasgow, point to clear deterrents in dissuading men from buying sex. One is public exposure, another is inclusion on the sex offenders register, and another is a criminal conviction.

I believe that criminalisation of demand is the only way forward, and that any other way is doomed to the same failure we have seen in all the countries that have implemented them.

I set up SPACE in recent years because I wanted us women to come together and work together to help in bringing about social change. When I think about what we are doing here, what we are campaigning for, I think of all the young girls on this island who go to sleep soundly in their beds every night, with no notion how welcome their bodies would be in the brothels if only the circumstances existed in their lives to place them there. I think about those girls as I campaign for change because I was one of the girls whose life conditions *did* place her there; and I would never forgive myself if I did not speak up and say something, and do something, to try to prevent the perpetuation of what happened to me and what I saw happen all around me.

I have heard it argued that disabled men should have a 'right' to sexual intercourse with women, and I have heard this view espoused as one of the arguments in favour of prostitutions legalisation. What I have never heard is anyone express the view that perhaps we should share the responsibility for disabled men being sexually satisfied equally among women; I have never heard anyone suggest that perhaps we could run a sort of lottery system, a public service duty, something akin to jury duty, which

would randomly select women from among the population to service the 'needs' of these men.

We all know how unthinkable such a suggestion would be. We do not have to think about it; we immediately see it for what it is; we immediately *sense* it for what it is. But let me put it to you that the institution of prostitution does just the same thing. In prostitution, women are randomly selected from the population because of homelessness, poverty, addiction, histories of childhood sexual abuse and other circumstances and combinations of circumstances beyond their control. Let me put it to you that this lottery is already in operation, and that I know because I was one of those selected.

Yours Sincerely,

Rachel Moran

I am a woman who worked as a prostitute for nearly 20 years. Like many I got into it for a so-called loving partner. The stories I read about how glamorous it's supposed to be make me ill. It's a hard cruel life filled with lies, beatings and rape. In the end you feel like a toilet. People call you terrible names when you get caught, even the ones you love turn on you.

What I'd like to ask is what about the men? They can do whatever they want to us and there is nothing we can do about it. Why aren't they named and shamed? What they are doing is pure abuse and they are doing it for fun so why isn't what they're doing a crime?

I was so lucky to get away from my pimp/partner and then leave the brothels behind me but I'll never leave the scars behind. If men were charged and named and shamed believe me there would be no prostitution, or very little of it.

The men that pay for sex are weasels, sad ugly-inside men who would never get a second look at the women they pay. If the men had been criminalised twenty years ago the cowards wouldn't have dared pay a woman and maybe my 'loving partner' would never have been able to sell me. Now I see a man's penis just as a sword of flesh, an object to hurt a woman. I know not all men are like that but that's all I've found in the brothels north and south on this island.

I'm so happy to be away from it but I will always be seen as a prostitute no matter how I better myself. It won't stop me trying. Maybe one day.

Justine Reilly

THE GROOMING.

It's difficult to pin-point my exact reason for entering the seedy, sordid world of prostitution, if I were to, it would possibly take years to write, that being a book within itself. Instead I will keep my story as brief as possible, although I would also like to draw attention to the fact that , most women, like myself have a story to tell, although not identical, have one common trait that is impossible to ignore and that is abuse. Abuse takes on many forms from physical violence, sexual violence, name-calling and neglect to name but a few. As a child I experienced, on a daily basis at least three forms of the above, making me the "ideal candidate" for prostitution-meaning I was vulnerable, suffered from extremely low self-esteem and from an early age knew that I had to depend solely on myself for survival.

My mother was and still is an alcoholic. My earliest memories of her were of her stumbling around the streets while holding mine and my brother's hand, spitting and screaming obscenities at strangers and passersby. We spent approximately a year in refuge with her where we were continuously monitored by social workers. To this day it still baffles me that we were legally allowed in her care, given how ill she actually was. My father was an extremely brutal violent man, it's fair to say that his behaviour bordered more on sadistic, although he was never violent towards my mother, it was always directed at me and my siblings.

After a year in refuge, we were given a council house in a disadvantaged area of the city, although I was delighted to finally have a "home" so to speak. My mother's alcoholism kicked off in full force, because she was now free to drink whenever she wished-which was all day every day until she passed out from a combination of booze and barbiturates. My father was absent for this and my sister was eleven, nearly twelve. I was so grateful for having her as it meant I had somewhat of a parental figure in my life, I was seven and didn't understand the concept of the fact that my sister was herself, just a child.

One summers evening, in her drunken stupor, my mother had cleared yet another bottle of Smirnoff vodka and advised a neighbour that she had been dreaming about drowning me and my brother and herself. A short period of time later my sister returned from school. At this stage, my mother was even more obliterated. She was sitting under the stairs with blood streaming from her head. A short while later two women came to our house and told us that my mother was very sick and need to go to get better. It didn't really make much sense to me at the time. My father was contacted at work and set about in his parenting role while my mother was sent to rehabilitation. His parenting role basically consisted of ordering us to keep the house clean and ensuring that my sister brought us to school, made lunches and essentially took on the role as my mother. Essentially, he was an absentee father, but to be honest I was glad deep down because when he was present he was nothing more than a brute and a bully.

I was free to run wild. I had no major parental influence in my life and I even started to have a boyfriend, who, for the sake of anonymity I will refer to as Derek, who was seven years older than me, but I liked his companionship. He would always tell me how pretty I was. I was pretty, but a child, with a flat chest and pigtails. Most evenings he would take me to a field nearby, French kiss me, look at my underwear and push himself up against me. I hated it but thought that it must be in some way normal. I was seven and knew nothing.

When my mother left rehabilitation, there were brief periods of normality and we move to a more up-market area of the city, where I was later to go to Secondary School. I started Secondary School aged thirteen and quickly began to realize that I received a lot of male attention which to me was fantastic at the time as I never believed that there was anything really good about me. This gave me a small sense of empowerment and security about myself. I also became friendly with a girl named Anita. I was warned by teachers, friends and my mother to avoid her at all costs as she was often referred to as "troubled". Of course, I didn't believe that – I knew her mother was unwell and had attempted suicide on several occasions, I guess in a way, I empathized with her as a result of my own family situation- it had been as a result of my grandmothers suicide that my mother's alcoholism had kicked off..

Anita's mother died as a result of suicide when she was just fifteen years old. A couple of months later she left school and moved to London by herself with money from her mother's inheritance. She would contact me from time to time saying that she was well and working in restaurants and bars for "cash in hand" as she wasn't old enough to claim benefits or work legitimately.

My home life remained chaotic and violent. I hated school and had no real interest. I willed for my sixteenth birthday to come around so that I could get away perhaps get a job. My mother would frequently refer to me as a "whore" and a "useless lazy bitch". My father's fists were his weapon. When I was sixteen, a neighbour named Mike took me for a drink. It was Christmas time and I was delighted that I was going to be out of the house for a while. I had two glasses of beer and returned home. My father was waiting at the gate for me. Mike wished me a happy Christmas while, my father, standing at the gate in his underwear called him a pervert and and a whore master. Mike continued walking. My father dragged me by the hair, along the cold pavement into the sitting room where he proceeded to thump me repeatedly into the face with his fists. The attack lasted about ten minutes until the intervention of my brother. Strangely, I didn't feel much pain, maybe because of shock, I was aware mostly of the taste of blood in my mouth. The following morning when I looked in the mirror, my face was beyond recognition. My lip was swollen, my jaw swollen and both my eyes were black and blue. My mother told me that I wasn't to go to a hospital, that my face would soon be OK. I couldn't eat for almost a week.

That Summer I completed my Junior Cert and found a boyfriend named Declan. Although, at my young age, it's fair to call it more puppy love than real love, but I cared about him and he minded me. I spent less and less time at home, we would hang out in his brother's apartment or go to the pub. He always thought that my home life was strange and we rarely went to my parent's house.

One particular evening Declan came to the house to the house to collect me. My father had started an argument with me in front of Declan. I think it was over something as trivial as a tea stain that had been left after a cup of tea that I had drank. He proceeded to thump me with full force into the face, fracturing my jaw. Declan took me to the hospital and later we moved into the spare room of his brothers apartment. He was appalled and horrified by what he had witnessed but to me it wasn't abnormal. I was so relieved to be away away from that house. Within a couple of months of living in extreme poverty, the relationship between me and Declan had broken down, I was forced to go back home again.

One day, killing time as I so frequently did back then I was wondering around the city centre and strolled into Penney's for a look around when I bumped into Anita. She told me that she was home for a few weeks and had

been trying to contact me. She looked great. Stylish hair, clothes and she was curvier than I remembered. She invited me to her apartment for tea. I was completely taken aback-her apartment was modern and bright and her fridge was full. I was so envious. To me her life had really gone full circle while mine had more or less remained the same.She invited me to come and stay with her for a while, that she wasn't working but still had money left over from her inheritance to pay for her apartment. I was delighted. Although, I loved staying there, most evenings she would "pop out for a bottle of wine" or so take away. And not return for a couple of hours.

One evening, after a couple of beers she was slightly merry and decided to let me in on a little secret. She told me that she had been coming home from a bar one evening in a red-light area of the city when a number of cars were lined up and one of the occupants asked her "how much?"She told me that she didn't have sex with him but that she had charged him sixty pounds for hand relief and that she charged, later that evening eighty pounds of oral relief. I remember laughing hysterically at this, because initially I didn't really believe her. She told me that it was handy cash and she didn't really view it as prostitution, because she didn't have full sex with them. She asked me to accompany her that evening; I explained that I wasn't going to do anything which she said was fine.

LOSING MYSELF

When it was dark enough, we walked down the street. I was gobsmacked at the amount of cars circling around us and that this was in fact a red-light district. Within a few minutes a BMW pulled up, Anita started talking to the punter. He told her that he wanted me but Anita explained that I didn't really work. After negotiating a price, she instructed me to wait at the top of the laneway while she entertained the punter. In less than ten minutes she emerged, pleased as punch and said she wanted "one more". I told her I wasn't feeling well and wanted to go home, she wasn't too happy but she was still on a high from her so called "easy money" that she just giggled and chatted the whole way home. I was in complete shock, but back at the apartment I laughed at how stupid and bizarre this man really was. She told me that with my looks that I could make a small fortune if I wanted. I laughed it off because a part of me still believed that this was something that she had done purely for kicks.

Within the next few evenings, she would leave at ten and return at 2am.She spent her days shopping for clothes, food, CDS, etc, she was earning a couple of hundred pounds per night. One evening, she came home, had a glass of wine and told me quite simply that it was time for me to "pay my way". I had been aimlessly job-hunting for weeks but with no real qualifications and just a few months waitressing experience, it was proving difficult. She urged me to come with her explaining how easy it was. She explained that just one trick would really help her out with the rent and bills. So when it got dark we went for a quick walk. Again there was an abundance of punters. We both got into a car. Anita confidently explained to the punter that it was my first time , that I was nervous and that she would be accompanying me, but that she would get out of the car as soon as he needed to get down to business.

So we drove to the nearby lane way and she got out. The punter was elderly and I explained that he wasn't allowed to touch me but that I would perform hand relief for sixty pounds. He was quiet and didn't say much and following Anita's advice, I requested cash up front, the transaction lasted a couple of minutes. I was glad when it was over. Although it was extremely brief, I think that from the moment that I had accepted cash for a

sexual service something changed inside me, almost like crossing a line that I couldn't go back. That line I still struggle with on a daily basis today.

Initially prior to turning that trick, I had been feeling quite hungry, but once the deed had been done, my stomach lurched and I actually felt quite sick. Anita was delighted that I was now a member of her club as she saw it. We purchased alcohol and fried chicken with gravy and chips. Returning to the apartment I couldn't eat. I scrubbed my hands continuously to try to get rid of that soiled feeling that the punter had left, but that feeling just wouldn't go away. Despite that, I was, in my innocence slightly giddy at the prospect of this fast cash. That was my initiation into street work. I worked the streets for approximately three months after that, maybe two or three nights a week and stayed with Anita until I had a deposit to get my own place.

My apartment wasn't much to write home about, but at least it was a roof over my head and near my place of work-the streets.

At aged seventeen, I was still a minor and looked every inch of it, yet it never seemed to bother the punters, there was always an abundance of them happy to pay me. The one thing that struck me about the streets was the fact that I always felt cold. Cold and invisible and when I would pass a certain block of apartments and see lights on and occasionally see the shadows of its occupants, watching me or when a taxi would pass full of party-goers, I would catch brief glimpses of myself and become acutely aware of the fact that I was not in fact invisible that I was now a stigma, a walking talking breathing marginalized member of society, yet I was a child. I don't actually remember owning any of my emotions back then, because in order to survive in this ugly sub-culture I had to disassociate myself completely from what I was doing.

HIGH CLASS PROSTITUTION.

Eventually, I moved on and got myself a job in a factory and distanced myself from Anita. I started to have a normal life, despite the fact that I felt tainted and angry all the time-my hangover from the street. I started to have friends, socialize, had a boyfriend and decided that I wanted more from life and for a while I genuinely did have all the happy things any young woman deserves from life. I saw Anita from time to time but neither of us really discussed the life on the streets. I was more than happy to leave it in the past.

I later found myself landing the job of my dreams. Although it was temporary I nearly had to pinch myself on a daily basis to see if it was real. For the first time in my life I decided to forgive myself for the past, to move forward and be confident and proud of who I was. I travelled a lot, made a lot of friends and had a decent salary-somewhat of a striking contrast between life on the streets.

When my contract finished I was devastated, mainly because it was the first time me my life that I had felt a part of anything .So, unemployed again, I emailed a number of companies in the hope of finding a similar position..

One Summers Evening, I bumped into Anita again and we decided to go for drink. I remember confiding in her my frustration at the volume of cvs I was sending and not getting a response. She advised me that she had just started working for an escort agency and that she was earning over a thousand Euros a night, that there were lots of lonely men out there willing to pay for a girl's companionship. To me it sounded great, you work four

nights a week and that sex with clients was at her discretion. She took me to the internet shop and showed me the site her boss owned. At the time it was Irishescorts.com and, just as Anita had stated the site promised the companionship of beautiful young women and also that anything that occurred was coincidental and at the discretion of two consenting adults. I later learned that this was just a legal loophole for that site to exist and also that this site was in fact attached to organised crime and had been assisted by an inmate at an Irish prison with the assistance of a mobile phone. Not the fairy-tale the site presented itself with. The women on this site were glamorous, happy and appeared to be enjoying their work.

Anita gave me the phone number, my voice quivering when I rang, although, the voice of the receptionist on the phone was soothing and put me at ease, asking me for my height, weight, eye-colour and bust size etc. She gave me an address of where to go to the following day where I would be shown the ropes by a woman named "Abigail". The next morning, I showered, dressed and packed a bag contain high heels, a black dress make-up and a hair straightener.

When I arrived at the apartment I was greeted like a long loss child by Abigail, who was warm and friendly to me but appeared to be arguing with a coloured woman over fifty euro. This woman didn't have much English and she left the apartment. Abigail referred to her as a greedy bitch advising me that this girl had made over four thousand euros. Abigail; was maybe in her forties but looked much younger as a result of cosmetic surgery. When she asked my age she looked surprised and rang the boss to tell him I looked about 17 and should advertise me accordingly. I then asked her about the dates, where I would be going what time my first date was, how I should behave and if she though my dress was appropriate. Abigail looked a little confused and then laughed asking if I knew what escorting really was.

When I explained my understanding of it she laughed and took me to a balcony and pointed to a block of apartments across the road, advising me to play my cards right and that I could have a deposit for one of those in less than a month if I wanted. She told me that it involved having sex with clients, but that it was essentially harmless as I would be well paid and more or less in control of what took place. She even gave me a working kit which consisted of usual brothel material, condoms, lube, baby oil and underwear. When I asked her how long she had been working she advised she had been working since she was thirteen, that her partner and children knew about it and were ok with it. Her phone rang from the agency; it was the boss informing her that a client was one the way. She told me to relax that she would see him, that I could relax, have a cuppa and familiarize myself with the apartment. When she returned she advised me that there was a client on his way to see me, that he was a regular and a gentleman.

When he presented at the apartment, I was surprised to learn that he was 27, a professional and paid for sex on a regular basis. He paid me €150 and took off his clothes and spent about 20 minutes chatting to me. At about half an hour into the encounter, my phone rang from the agency, the client advised that he want to stay for another hour and paid me €250.I couldn't quite fathom why a young attractive seemingly nice man would do this. The sexual encounter itself was extremely brief and in no way aggressive.

Looking back now I think this particular client was sent deliberately so I would see how easy it all was, because what was to follow was not easy, or in any way humane.

Three clients came to see me that evening and I had the company of Abigail so the whole operation had the illusion of somewhat of a pleasantness about it.

The following morning Abigail had left a note for me instructing me to do certain things such as never answer the door unless I got a call from the boss or his receptionist "Carla", always keep the sitting room door closed as this gave the illusion to the client that I had security present, tell them I was 17 and I was never to organise meetings outside work hour with clients. I was later to learn that a young woman spent two weeks in an apartment forced to work as a result of organising outside dates and that another received 20 stitches to her face as a result and also a young coloured woman could not see out of one of her eyes after been beaten to a pulp as a result of seeing clients outside of work hours.

That Sunday can only be described as an extremely ugly education. I started work at 11 am and finished at 2 am in the morning. There was very little of a time lapse between clients. At one point I remember explaining to the receptionist Carla that I needed some time so could shower and she told me that I didn't have time.

It was quite simply an assembly line of men, one after the next happy to pay for sex from what they thought was a minor. Strangely, I don't remember any of their names, faces or even how the conversations had gone. I had learnt to leave my emotions outside the apartment door with my soul and just my physical self inside the apartment. The following day was the same.

To my relief, the next day a young African woman named Maria presented for work, thankfully the receptionist had on this occasion made a mistake. I was more than happy to allow her to take over.

To this day that woman's story still breaks my heart. She had been raped on 15 different occasions and saw prostitution as somewhat of a bonus, although she did sit me down and warn me that the people we worked for were not nice and that we did a very dangerous job. The next day was my last day and I can't put into words he relief I felt. The"driver", an evil sadistic brute of a man, whom I later learnt had spent time in prison for rape, came to collect my money. When I got home I counted mine. There was over three and a half thousand Euros there. I remember looking in the mirror and looking myself in the eyes. I was no longer the sparkly eyed bubbly young woman that had presented for work that Saturday, my eyes looked like Marias, no sparkle, wounded and hurt.

I drank two bottles of wine that night trying to figure out the undertakings of the previous few days, because it was all so surreal. I put the money away and cried and cried.

The following morning I got up and booked a flight and went away for a few weeks, my reasoning behind it at the time was to find myself, but in reality, I really just wanted to get away from myself. I drank wine by myself religiously and suffered extreme panic attacks and I also couldn't wait to get rid of the money I had just made.

Upon my return I received a phone call from the boss; he was really pleased as I had done financially so well. He seemed extremely nice, chilled almost. I explained that although the money was great I didn't think I could do it again. To my surprise, he seemed to know more about me than what I originally thought-he knew I had worked streets. The way he saw it was this-I could earn a lot of money working from a secure, up-market apartment whilst keeping my anonymity and that he owned several business, that I could work someplace less busy if I

wished. He also told me that I was lucky because he was frequently inundated with telephone calls from women from all over the world wanting to work for his agency.

He was correct about a couple of aspects of things, such as his multi cultural workforce and also the fact that this particular website would, if for example a punter rang looking for a girl in Newry or Galway, his receptionist Carla would answer and give you directions to the apartment. Basically, this man had brothels everywhere in the country.

I later learnt that although some women were there by consent, some were trafficked, given fake passports and fake promises and sent to work. The ones that originally consented found themselves in situations of where the area of consent became extremely blurred. When describing consent, it's easy to think of as yes/no area, as definitive as black or white, however in the sex industry the only way to describe consent is the shades of grey in between, grey and murky.

The strange part about prostitution, although it is extremely lucrative, most of the women never make it rich, either through addiction, or quite simply getting rid of their earnings as soon as they are made. I was a combination of the two.

Stupidly, I went to work for a few days in another apartment and certain factors became very apparent. This was extremely well organised. Somebody different would collect money and that the four day shift pattern was essentially to avoid garda detection. Initially I was treated like royalty, because I was young and Irish, I made a lot of money.

One weekend, as I hadn't worked in a number of weeks funds were low and I decided to give the boss a ring. He put me to work in the apartment I had initially worked from. I knew this place was an assembly line of punters so I had to prepare myself mentally.

At this stage my personality was really beginning to change. I was anxious, depressed, moody and suspicious of everyone in my path. I bought two bottles of wine. My plan was to drink them after work, however as soon as the assembly line of punters started I knew I needed an anesthetic. I had seen a couple of clients and already I was drained in every sense. There was maybe an hour of quietness where I filled myself glass after glass of wine. To my surprise I topped it off fairly quickly and lay down on the bed. The warm haze of alcohol hit me; I closed my eyes and then sweet oblivion.

Then the banging, extremely loud banging and shouting "Open the fucking door". It took me a few minutes to realize where I was; when I did he was already in the hallway looking at me. Blue piercing eyes. "Who the fuck are you?" I asked, because of the shock my voice was barely an audible croak. "What fucking happened to you?" "I fell asleep". "Look at your phone. "Oh shit shit shit! There were 36 missed calls. He searched every room in the apartment and finally made his way to the kitchen, where the wine bottles were. I was rooted to tether spot. "Hide the bottles, he instructed, the boss is coming, and you have some explaining to do".

Within seconds 2 men entered the apartment, searched the rooms and came back to the sitting room where I was instructed to sit on the couch. From the corner of my eye, I saw them open a black hold all bag and produce bundles of cash, neatly stacked in bundles, where the two men negotiated together. There must have been at

least ten grand there. One of the men collected his share, winked at me, calling by my first name and left the apartment. The other man, the boss and the guy with the blue piercing eyes sat opposite me and I was instructed to strip to my underwear. I did exactly as I was told, the sheer terror I was feeling indescribable. "What the fuck were you doing for four hour?" The boss asked. I was aware of the guy with the piercing blue eyes watching every inch of my flesh. "I fell asleep", I mumbled. Then he quite cheerily asked me where his money was and asked if I wanted to count my share. I told him that I didn't and he responded "you weren't fucking getting it anyway. "He took the money and explained to me that as a result of this evenings escapades I would continue to work three more days at this apartment and another four in another extremely busy apartment to make up for loss of earnings. He also informed me that the apartment was watched and not to bother contacting Gardai as I would be very surprised as to who exactly he had on his payroll. I wasn't to move or there would be serious repercussions. The full reality of what I was really involved in winded me at that very moment. He then informed me that the reason he hadn't "split your pretty little face" was because I had been so honest with him.

So the next morning, I got up and prepared myself for the minefield that was to be my Sunday. I remember looking around that apartment that initially had felt so safe and welcoming and couldn't believe I had been so gullible. I remember standing on the balcony, watching the watery sun break through, the cars passing by, the chatter of voices below and it struck me how normal the world was below, yet, here I was in this apartment that had now become my prison. I wanted to scream from the top of my lungs, but my assembly line of punters was awaiting.

Knowing that consent was not an option I felt even more repulsed. I didn't say anything to the punters just took their money and carried on in autopilot, but it must have been clear to each one of them that I was petrified. Approximately 15 men came to the apartment that day and out of them all, there was only one with the humanity in his heart to see I was frightened. He left the money and the apartment disgusted and promised not to tell the boss.

Unfortunately, the next client wasn't quiet as nice. He informed me that he wanted to perform a particular sex act, one that I hadn't even performed with a boyfriend. I told him that I didn't do that particular act. He aggressively informed me that the receptionist had advised that I did this and since he was paying, he was entitled to do as he wished. I closed my eyes and allowed my soul to leave my body, find a safe place in the corner of the room and began doing algebra equations in my head. I felt no part of this repulsive act. The sound of oil passing through the radiators snapped me back to the room and it was over. He was finished. The next three days were the same, each as busy as the previous. To this day I'm shocked that I managed to leave that apartment with ounce of my sanity intact, because the option of throwing myself from the balcony was appearing more enticing. It was hell.

The following day, the driver was at the apartment to collect both me and the money. I was drained. He informed me that the apartment I was due to work in had been raided and I was to book a hotel room. After seeing four punters, the hotel rang informing me that I had to leave as I had "too many guests" visiting the room. I rang the bosses' receptionist who gave the address to a nearby hotel. The boss then rang telling me to hurry the fuck up, when I tried to explain what had happened, he cut me short screaming "Do you think this works like

fucking Disney land?" "Be in that hotel and ready to go in ten minutes or this time when I send my men to you, I'll send them to take your life".

When I arrived at the hotel the cheerful young man at reception informed me that there were no room available yet. Trembling I burst into tears and offered to do the house-keeping on the room myself. The young man told me to take a seat in the bar, have a drink and that he would be with me in a few minutes. I ordered a wine and tried to ignore the missed calls on my phone. The young man from reception appeared and asked if I was in some kind of trouble. It all came out of my mouth what was happening through hysterical sobs. He told me that they would stay with me until the guards arrived to make sure I was safe. Within a few minutes two plain clothed detectives arrived and took me to the station. They appeared to be familiar with my boss and his operation, they warned me that it was too dangerous for me to take public transport and told me not to answer my phone, they drove me home.

The following morning, when I turned on my phone, as expected a torrent of abuse was awaiting. One in particular which springs to mind was one from his receptionist, telling me how much she would enjoy cutting me to pieces as soon as she found me. I rang Anita, who was now living in Belfast where I'd worked before, packed a bag and just went. She was now working for a new agency in Belfast. I had enough money to lie low so I wasn't interested within a few weeks money was low and I decided to return home and found a job in a bar. Every time the door opened of the pub, I was convinced it was my previous boss or one of his henchmen; I was a complete nervous wreck.

MOVING ON, OR SO I THOUGHT...

Like with everything in life, no matter how painful the experience, the world doesn't stop turning and life goes on with or without you. Eventually, despite never having counselling for the most horrific chapter that was my life, I continued with life. I re-educated myself and I also became a mother. I remember once taking my child to the beach and feeling so grateful just to be in the presence of this beautiful person who loved and needed me for everything that I was.

A couple of years had passed since my experiences in Prostitution and I had myself convinced that I would never have to revisit it. However, circumstances proved me wrong. Last Summer I found myself having to return for a brief period. This time I worked for myself, taking out an add on escort-Ireland. My add was glamorous and enticing and my photos attractive. However the relity of my situation was not. This time I had to go back as a grown woman, eyes open to my profession and reopen those ugly wounds from the past. My clients ranged from Doctors, barristers, accountants a social worker and even a mental health professional and also a judge-a legislator. The everyday people everybody respects. These men were educated not stupid or blind to the reality that is prostitution, yet they don't care. Escort-Ireland has this warped sordid sub-culture glamorized to the point that to the untrained eye shows the world of prostitution as a sanitary and safe place where everybody is having harmless fun.

I'm out of Prostitution about a year now, but the sad part is I don't know if it every really leaves you, that part of yourself that you have to shut down completely in order to survive is the part of yourself that you have to rediscover in order to really heal again, which is a long and excruciating road, which I'm currently taking with a

qualified therapist on a weekly basis. Then there's the transition period into having a normal life which for me is extremely difficult as I find myself faced with the same issues that led me there in the first place such as poverty. Sometimes prostitution becomes somewhat of an institution to the women who find themselves in its constraints that it is quite simply because you lose so much of your sense of self in it that I found myself deluded into thinking I wasn't worth anymore.

THE NEED FOR LEGISLATIVE REFORM

Until 2007, it was not illegal to traffic another human being into the Republic of Ireland for the purposes of Commercial Sexual Exploitation. Thankfully that law has changed. International police operations know as Operation Gladiator saw the imprisoning of two of my previous bosses Carla aka Shamiela Clarke and TJ Carroll. Hundreds of young women were trafficked and forced into situations similar to my own, although the full brutality of their operation was never really highlight in the media. Unfortunately, the pair were charged with money laundering when the pair were eventually caught up with in Wales and served three year sentences. A much lesser conviction than what was deserved.

In the Republic, to date, nobody has yet been charged under the trafficking act, however, The Irish constitution itself explicitly recognises the unenumerated right to bodily integrity, given current legislation which penalises the women in this business rather than the purchaser it certainly begs the question if this is a right or just an aspiration, particularly if you consider that the purchase of sex from a minor or another vulnerable class of society is just the click of a button away?

Prostitution will probably always exist in society, I am aware of that, however I am not willing to accept that the purchase of sex from somebody with little or no option does not equate as rape. The legislation on rape in the Republic of Ireland always has and still remains to be draconian, the rights of the perpetrator being favoured over the rights and dignity of the victim, which must, in a court of law be "proved beyond a reasonable doubt". It is the victim that must prove their case. Out of every hundred rapes in Southern Ireland, less than three will see a successful prosecution.

It is easy to ignore or perhaps blame the women involved in this industry; however, it is imperative to highlight the role of the purchaser in this. Without the purchaser, the sex industry could not survive, which leads me to conclude that it is the purchaser that should instead be prosecuted instead of the prostituted person.

Escort-Ireland is a site hosted from the United Kingdom advertising sex for sale in Ireland. Beside the profile of each woman is a list of her "favourites" the sex acts that she is willing to perform in exchange for money. Operation Gladiator, although in my opinion, served two perpetrators of horrendous crimes with lenient sentences, it still highlighted that with the work of the Garda Siochana and the UK Police, that it is possible to trace and convict criminals with a simple IP address from a computer and a mobile number. If so, why are the perpetrators of Commercial Sexual Exploitation allowed to continue? In finish, I'd like to state that I, like all the women in my group, support Lord Morrow's Bill, most particularly clause 6, because without it stories like mine will continue to be commonplace.

Ailish Kingsley

Stephen Moore

I wish to register my support for the Human Trafficking and Exploitation (Further Provisions & Support for Victims) Bill in its entirety.

In particular I wish to commend the following clauses:

Clause 6: Paying for sexual services

Criminalising paying for sex will simplify the current law & make it effective so that a clear message will be sent to traffickers. The biggest single driver of trafficking to N Ireland is the demand for paid sex. The Bill will provide for a more effective approach to tackling demand than current legislation and addresses exploitation where there is no trafficking aspect. This has worked in other countries such as Norway and Sweden without driving prostitution underground (Kafsa Wahlberg, Swedish National Rapporteur on Human Trafficking). Initial police concerns (as in Sweden) can be overcome and the law properly enforced.

Clause 8: Non-prosecution of victims of human trafficking

No victims should be charged as a result of being forced into illegal activity by their traffickers. That this is the case currently is demonstrated by the GRETA Report. The clause will only apply to offences committed as a direct consequence of having been trafficked and so does not provide blanket immunity.

Clause 10: Requirements for assistance and support

Support for victims is critical and this clause would make secure such assistance as recommended by GRETA.

Clause 11: Compensation for victims of trafficking

As GRETA confirms, current measures have proved inadequate for the compensation of victims and so clear procedures are essential.

Clause 12: Child Trafficking Guardian

This would provide effective support for vulnerable children in line with the “Still at Risk” Report of 2013.

Clause 15: Prevention

This Clause would mean that the Department of Justice would be clearly focused on dealing with human trafficking and indeed slavery and held to account. The Minister of Justice’s recently introduced voluntary annual action plan should be required by law in accord with one of GRETA’s key themes - raising awareness.

Clause 16: N Ireland Rapporteur

The requirement on the Department of Justice to set up a new body, independent of government, to report on the Act’s outworking to the Assembly is important in providing effective scrutiny.

Many thanks.

Stephen Moore

The Church in Society Commission of the Church of Ireland

The Church in Society Commission of the Church of Ireland

Submission on the
NIA Bill 26/11-15 Human Trafficking and Exploitation
(Further Provisions and Support for Victims) Bill

Introduction

The Church and Society Commission of the Church of Ireland is a Committee of the General Synod of the Church of Ireland. The Commission's remit includes responding to proposed legislation, and addressing relevant issues in the public sphere, and resourcing the wider Church of Ireland in the discussion of these issues.

Executive Summary

The Church and Society Commission deplores anything that deprives innocent victims of their human dignity and personal freedom, and recognises the need for clear legislation to protect those who are vulnerable to trafficking, and to other related forms of exploitation. All human persons are made in the image and likeness of God and deserve to be recipients of God's love through the actions of their neighbour. Jesus Christ proclaimed his mission to be one that will 'let the oppressed go free' and any expression of such freedom that is protected under the law is to be welcomed. While asking a few specific questions, the Commission stands in favour of this general tone of this legislation and welcomes the Bill's progression through the Assembly.

This paper will address a number of points relating to specific clauses of NIA Bill 26/11-15, in numerical order. This is in response to the present consultation at the Committee Stage of the Bill's progress.

1. ***Definition of human trafficking and slavery offences***
   The Commission welcomes this clear definition, and notes in particular the value of connecting forced labour and servitude to the offence under 'slavery'.

2. ***Consent irrelevant for victim of human trafficking or slavery offences***
   This clause recognises the exploitative nature of trafficking and mitigates against perpetrators claiming that their victims have somehow consented to such abuses. The Commission welcomes this.

3. ***Aggravating Factors***
   This clause also recognises the particular nature of trafficking as a crime, insofar as it inevitably involves abuse and/or exploitation. Although there are potential issues around legislature specifically directing judiciary, the clause ultimately leaves the determination of aggravating factors to the sentencing judge. The Commission welcomes these factors being defined in the Bill.

4. ***Minimum sentence for human trafficking and slavery offences***
   As with clause 3, the question of the relationship between legislature and judiciary is pertinent. However, mandatory minimum sentences are not unprecedented, and the clause allows an opt out to such a minimum sentence in 'exceptional circumstances'.

5. ***Amendments to the Asylum and Immigration (Treatment of Claimants etc.) Act 2004***
   The Commission has no comment to make on this clause.

6. ***Paying for Sexual Services***
   Exploitation and Human Trafficking are invariably linked with payment for sexual services. Making payment for sexual services into an offence has the potential to act as an effective deterrent to trafficking by reducing the market for sexual services. This is probably the most significant single section of the Bill that addresses the link between payment for sexual services

and trafficking, and offers an effective means of prosecuting the latter by removing doubt regarding the former. Any fears about driving the commercial sex industry further underground may be adequately mitigated by assurances (within this Bill or elsewhere) that support for those who wish to exit prostitution is readily available.

While not specifically part of the scope of this paper, the Commission wonders whether this legislation would impact upon commercial sexual activity in other contexts such as telephone sex lines or lap dancing clubs and would ask whether further clarity is needed?

7. ***Requirements for resources for investigation or prosecution***
   The Commission welcomes this attempt to ensure robust procedures and resources that will ensure effectiveness in prosecution.

8. ***Non-prosecution of victims of trafficking in human beings***
   This clause seeks to further enhance the protections afforded in law to those exploited by trafficking. The Christian notion of justice is greater than simply 'following the law' and this clause recognises that especially when coercion is a real issue, justice may be best served by exempting people from prosecution through the law.

9. ***Victim of trafficking in human beings***
   Clearly defining a victim allows a frame of reference for the provision of services to victims alter in the bill.

10. ***Requirements for assistance and support***
    The Commission supports this clause.

11. ***Compensation for victims of trafficking***
    The Commission supports this clause.

12. ***Child Trafficking Guardian***
    The Commission welcomes this clause, which seeks to ensure victims are afforded appropriate protection, support and representation. It is important that identification of suitable individuals and appropriate resourcing and training remain part of and guardianship procedures.

13. ***Protection of Victims in Criminal Investigations***
    It is important that victims are not in turn victimised for being victims. Protection must be afforded to victims of Trafficking through the law.

14. ***Amendments to the Criminal Evidence (Northern Ireland) Order 1999***
    The Commission supports this clause.

15 ***- 19***
   The Commission has no comment to make on these clauses.

Conclusion

The Church and Society Commission welcomes this legislation, and fully supports the intention behind it to protect the most vulnerable in society, and to bring the perpetrators of human trafficking and exploitation to justice in the most effective ways possible.

The Integration and Support Unit

Turn Off the Red Light
End Prostitution and Sex Trafficking in Ireland



The Integration and Support Unit (ISU)
Mount Sion, Barrack Street, Waterford.

The Committee Clerk
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT43XX.

7th October 2013

Dear Chairman and Committee Members,

RE: Submission to the Northern Ireland Justice Committee on the *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)*

The Integration and Support Unit (ISU) have been campaigning against sex trafficking, which is the most widely spread form of human exploitation in the European Union. For this reason we are active members of theTurn Off The Red Light[1], which aims at ending prostitution and sex trafficking in the Republic of Ireland. It is being run by an alliance of 68 civil society organisations, unions, umbrellas and services with a joint representation exceeding 1.6 million people in Ireland.

Trafficking of women and girls for the purposes of sexual exploitation is modern slavery and a prevalent form of exploitation. We believe that the best way to combat this is to tackle the demand for prostitution by criminalising the purchase of sex, and maintaining services to those trafficked and affected by prostitution, ensuring that they are not criminalized and re-victimised.

We are deeply concerned about the spread of the prostitution industry, which exploits women and children in both the Republic of Ireland and Northern Ireland, and we wish to add our voice to those who are seeking to change our legal systems in Northern Ireland to criminalise the purchase of sexual services, while protecting the rights and dignity of those prostituted.

[1] www.turnofftheredlight.ie

We therefore readily welcome the proposed *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)*, and particularly Clause 6 of the Bill, which would specifically legislate for the criminalization of the purchase of sex, as a measure to discourage demand that fosters sex trafficking and exploitation through prostitution. As the Republic of Ireland's Government considers the introduction of similar legislation, up on unanimous recommendation of the Joint Oirechtas Committee on Justice, we would be very encouraged to see this measure come into effect in Northern Ireland.

Attacking the commercialised sex business through the introduction of penalties for the buyer has proven to be an efficient approach that best responds to the nature of a trade which thrives on threats, abuse and violence. This is an essential part of the campaign against human trafficking as the majority of human trafficking victims are trafficked for the purposes of sexual exploitation.

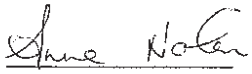
While the Policing and Crime Act of 2009 was a welcome advance in Northern Ireland's anti-trafficking legislation its impact has been limited by the requirement of proof of coercion within a very limited timeframe. Thus, unsurprisingly, there have been no successful convictions made in Northern Ireland to date. [2] This failure is in line with that of other countries which have introduced similar legislation, such as Finland and the Republic of Ireland at present. Legislation which is limited to proven victims of coercion has been shown to have little or no effect on demand for trafficked victims.

We believe that every Government owes it to the vulnerable people and children trapped in prostitution, as well as to the society which they represent, to ensure that the demand for sexual services from exploited and trafficked individuals is effectively tackled.

We trust that the Northern Ireland Justice Committee will ensure that the public consultation is concluded in a timely manner, and we hope that the consultation will lead to the passing of the *Human Trafficking and Exploitation Bill* as soon as possible.

Thank you for your attention.

Yours sincerely,



Anne Nolan, Coordinator

[2] Northern Ireland Assembly Question AQW 15565/11-15

The Men's Development Network Ltd

The Men's Development Network Ltd

30 O'Connell St. Waterford Tel. 051-844260/1 Fax: 051-855264

www.mens-network.net www.mensdevelopmentnetwork.ie men@mens-network.net

Registration Number: 307175, Charity Number: CHY 13634

Directors *: John Kinsella (Chairman), John Breen, Peter Kieran, Aiden O'Brien, Jim Dollard, Gerard Walsh, Joseph Byrne, Albert Nolan. Staff Rep.: Liam Bolger, Secretary: Alan O'Neill.*

Date: 21st October 2013

To: Chairman and Committee Members

Re: Submission to the Northern Ireland Justice Committee on the *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims*

From: The Men's Development Network

The Committee Clerk
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT43XX.

Dear Chairman and Committee Members,

The Men's Development Network have been campaigning against sex trafficking, which is the most widely spread form of human exploitation in the European Union. For this reason we are active members of theTurn Off The Red Light[1], which aims at ending prostitution and sex trafficking in the Republic of Ireland. It is being run by an alliance of 68 civil society organisations, unions, umbrellas and services with a joint representation exceeding 1.6 million people in Ireland.

Trafficking of women and girls for the purposes of sexual exploitation is modern slavery and a prevalent from of exploitation. We believe that the best way to combat this is to tackle the demand for prostitution by criminalising the purchase of sex, and maintaining services to those trafficked and affected by prostitution, ensuring that they are not criminalized and re-victimised.

[1] www.turnofftheredlight.ie

We are deeply concerned about the spread of the prostitution industry, which exploits women and children in both the Republic of Ireland and Northern Ireland, and we wish to add our voice to those who are seeking to change our legal systems in Northern Ireland to criminalise the purchase of sexual services, while protecting the rights and dignity of those prostituted.

We therefore readily welcome the proposed *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)*, and particularly Clause 6 of the Bill, which would specifically legislate for the criminalization of the purchase of sex, as a measure to discourage demand that fosters sex trafficking and exploitation through prostitution. As the Republic of Ireland's Government considers the introduction of similar legislation, up on unanimous recommendation of the Joint Oirechtas Committee on Justice, we would be very encouraged to see this measure come into effect in Northern Ireland.

Attacking the commercialised sex business through the introduction of penalties for the buyer has proven to be an efficient approach that best responds to the nature of a trade which thrives on threats, abuse and violence. This is an essential part of the campaign against human trafficking as the majority of human trafficking victims are trafficked for the purposes of sexual exploitation.

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We believe that every Government owes it to the vulnerable people and children trapped in prostitution, as well as to the society which they represent, to ensure that the demand for sexual services from exploited and trafficked individuals is effectively tackled.

We trust that the Northern Ireland Justice Committee will ensure that the public consultation is concluded in a timely manner, and we hope that the consultation will lead to the passing of the *Human Trafficking and Exploitation Bill* as soon as possible.

Thank you for your attention.
Yours sincerely,

__Alan O'Neill_____

CEO,

[2] Northern Ireland Assembly Question AQW 15565/11-15

The Methodist Church in Ireland

The Methodist Church in Ireland
Council on Social Responsibility
Northern Executive

Human Trafficking and Exploitation (Further Provision and Support for Victims) Bill, 2013

Principles

There must be an unambiguous declaration that human trafficking is a violation of human rights and is abhorrent.

As a society strongly influenced by Christianity, welcoming the stranger with generosity, hospitality and compassion should be embedded not only in its legislation but also in its treatment of individuals who have been trafficked.

Support the three-fold purpose of the Bill; we commend Lord Morrow's initiative and share his desire for social justice.

We recognise that there are three main categories of human trafficking: forced labour, sexual exploitation and domestic servitude. Due to the secretive nature of this "industry", it is difficult to establish the overall extent as to the total number affected or indeed by individual categorisation. There is an awareness gathered from recent research, however, that in terms of numerical order it might be as printed above: forced labour, sexual exploitation, domestic servitude. In order to best serve the targeting of resources, it would be helpful for that research to be validated.

We see legislation affecting four broad areas, accepting that each impinges on the other: prevention, detection, victim support and prosecution. Lord Morrow's desire that Northern Ireland should be a model for devolved institutions within the United Kingdom and other national legislatures within the European Union or further afield is to be highly commended; however, for that very reason, it is essential that minimum expectations are established and met. There should include;

- Concordance with all relevant Human Rights legislation, European Directives and advice from GRETA;
- Adequate funding to research and implement proposed changes;
- A multi-agency approach and "joined-up" strategy for implementation
- Humane, lenient and compassionate support offered for victims of human trafficking; and
- Clarity and coherence in legislation, prosecution and sentencing as an important signal that traffickers will be treated very robustly.

Any promptings and concerns are, therefore, offered in a spirit of only wishing to enhance further this personal conviction, to provide for better legislation, to root out all manifestations of human trafficking and to offer the best possible support to the victims during their time in Northern Ireland.

Prevention

Northern Ireland is part of an island where two jurisdictions share a common land border. For that reason, the closest co-operation and shared resolve are essential with the relevant national agencies of the United Kingdom and the Republic of Ireland. Legislation that seeks to be a model of best practice can only succeed if there is uniformity of purpose especially when there is a certain dependency on outside agency assistance.

Within the context of raising awareness within the Northern Ireland population, a number of suggestions are offered:

- The Blue Blindfold campaign may need revamping.
- Serious consideration to using social media as a way of raising awareness.
- Additional training for those who work in front line agencies such as PSNI, Health Service, Housing Executive and in the voluntary sector such as Women's Aid.
- Educational materials for schools.

Detection

Human trafficking highlights attendant issues of immigration status as well as assessment of victim needs. As there can be unnecessary confusion as to which agency should take the lead in initial detection, clarity of responsibility and clear lines of demarcation are essential.

- Therefore, it may be advisable to establish an independent agency for this purpose that uses the expertise and local knowledge of the PSNI.

Devolution of justice responsibilities brings a challenge between national and devolved institutions in many areas, not least with regard to human trafficking.

- Therefore, oversight and accountability need to be established with accepted and agreed protocols between the United Kingdom Border Agency and the PSNI / Department of Justice with regard to the screening at the Larne immigration detention centre.

The media seem to concentrate on prostitution as the main driver for human traffickers. Whether that is the case in reality or not,

- there needs to be greater understanding, detection and action taken against trafficking for forced labour and domestic servitude.
- irrespective of motive, more action is required to prevent, detect and prosecute the user and the trafficker.

Support of Victims

To be "controlled" and forcibly brought to a foreign destination, not knowing its language, culture or what agencies to avail of, must be exceptionally confusing, stressful and traumatising for the victims of trafficking.

- Where possible, a "one stop shop" approach to establish a team of dedicated, professional staff who can avail of educational, legal, linguistic, medical and psychological support and resources is strongly advocated.
- The possibility of availing of chaplaincy support such as that offered at Larne should be seriously considered also.
- Counselling / mentoring should be available as well through a "befriending" scheme to advise the victim(s) at each stage of the administrative and legal process.
- Accommodation facilities should be of the same standard as those provided by Social Services.
- All relevant protocols, directives and Conventions should be trawled for best practice in regard to the treatment of the victim and incorporated into this legislation as indication of support to the victims of trafficking and as a statement of intent, embedded in statute, of the compassionate imperatives. It will also provide a legislative benchmark for accountability to ensure best practice is actually delivered on an on-going basis.

An independent advocate or Commissioner should be appointed to be the "voice for the voiceless".

Prosecution

Before agreed statutes and clauses take legislative effect,

- Greater co-ordination between agencies within the United Kingdom as well as those of the Republic of Ireland should occur to maximise the detection and evidence gathering processes required for prosecutions.
- A review of the resources devoted to addressing trafficking should be undertaken to allow for maximum effectiveness.

For the sake of the victims of trafficking alone,

- the fastest process for dealing with trafficking, especially that which leads to prosecution of traffickers is advocated, bearing in mind due cognisance of the human rights of all.

As far as children are concerned, strenuous efforts should be made by all throughout to keep children immune from further hardships than have been imposed on them already so care needs to be made with drafting so that

- children are not criminalised any more than is absolutely required in particular individual circumstances.

Furthermore, every effort should be made to reduce the potential for (further) stress and trauma so

- it may be advantageous for legislators to consult with the Commissioner for Children and Young People and other relevant agencies and advocates before the final draft is presented to the Assembly.

With regard to **Clause 6** in particular, while we consider prostitution as a form of exploitation of vulnerable women and girls and would welcome any change in the law that reduces demand for sexual services, we need to state clearly that it can be difficult to distinguish between voluntary consensual prostitution from that which is forced. However, in the context of human trafficking we have concerns about unintended consequences as the focus could be entirely on those who use women who have been trafficked for sexual exploitation and those who are trafficked for forced labour and domestic servitude may be marginalised. If resources are stretched in policing those who purchase sex, it may be to the detriment of other equally vulnerable people who are trafficked into our country.

- Therefore, Clause 6 as it stands, whilst well-intentioned, reduces the prospect of dealing with human trafficking in its totality.
- Likewise, the issue of prostitution is much wider than the clause implies. A separate, multi-dimensional, cross-departmental campaign, which is evidence-based, leading to separate legislation in this areas is, therefore, advocated.

Establishing legislative standards or guidelines as an indication of minimum public expectation is one thing, it is, nevertheless, of utmost importance that judicial independence – and for that matter judicial discretion, is maintained. These cases are never the same, and judges must have the freedom to determine sentencing on a case by case, person by person basis. This is as true for the sentencing of traffickers and users as it is for the discretion needed when determining culpability of victims who either in extremis, necessity, or for whatever other reason, also transgress the law.

Concluding remarks

It has been stated above that;

(1) The closest co-operation and shared resolve are essential with the relevant national agencies of the United Kingdom and with the Republic of Ireland.

(2) Legislation that seeks to be a model of best practice can only succeed if there is uniformity of purpose especially when there is a certain dependency on outside agency assistance.

For those reasons, it is hoped that the issue of human trafficking becomes, if it is not already,

- a regular item on relevant North South Ministerial Council committees,
- a very relevant issue for the British Irish Council to consider, and
- a common position for Northern Ireland's European Parliamentarians to jointly advocate and promote.

End

The Rainbow Project

01 November 2013

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

Dear Committee Clerk,

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

I am writing to outline The Rainbow Projects opposition to Clause Six of the Human Trafficking and Sexual Exploitation (further provisions and support for victims) Bill currently being considered by the Committee.

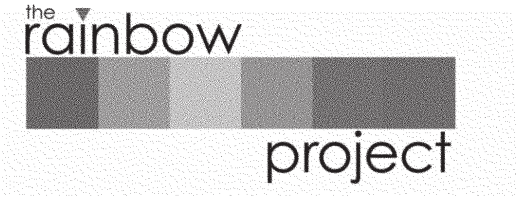
The Rainbow Project has previously carried out research around the needs of male sex workers in Northern Ireland and these are varied and complex. We believe that Clause Six of the Bill is a coercive citation and works on the basis that all sex workers are trafficked seeking therefore to criminalise them in Northern Ireland.

In reality the needs and experiences of male sex workers are complex and varied and research carried out by The Rainbow Project has identified that approaches taken to meet the needs of sex workers must be cognisant of these complexities and work across areas of 'prevention' 'stabilisation' and 'exiting' support, which includes support around:

- STI & HIV prevention & sexual health promotion,
- Policy campaigns,
- Life skills, business & commercial skills education & learning,
- Housing, benefit & immigration advice; and
- Industry standards/ Codes of practice

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☐ 20 Strand Road, L'Derry, BT48 7AB • Tel: (028) 7128 3030 • Fax: (028) 7128 3060
email: director@rainbow-project.org • web: www.rainbow-project.org

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Registered company office: 9-13 Waring Street, Belfast BT1 2DX



Cont'd….

We oppose Clause Six of the Bill as drafted and would be happy to provide oral evidence to the Committee around this issue and our research.

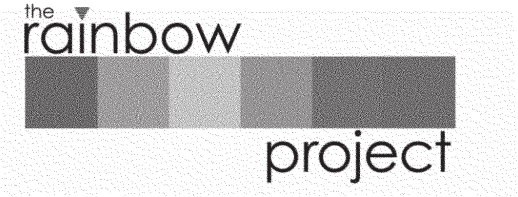
Yours Sincerely,

John O'Doherty

John O'Doherty
Director

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Paying for sexual services of a person

6.—(1) The Sexual Offences (Northern Ireland) Order 2008 is amended as follows.

(2) For Article 64A (Paying for sexual services of a prostitute subjected to force etc.) substitute—

"64A Paying for sexual services of a person

(1) A person (A) commits an offence if A obtains sexual services from a person (B) over the age of 18 in exchange for payment—

(a) if the payment is made or promised by A; or

(b) if the payment is made or promised by a third party.

(2) Person A guilty of an offence under this article is liable—

(a) on summary conviction to a fine not exceeding level 3 on the standard scale;

(b) to imprisonment for a term not exceeding one year or a fine not exceeding the statutory maximum, or both.

(3) In paragraph (1), "payment" means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.

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A company limited by guarantee No. NI30101 Rainbow Health Ltd
Registered company office: 9-13 Waring Street, Belfast BT1 2DX

The Reformed Presbyterian Church of Ireland

I am writing to you on behalf of the Public Morals Committee of the Reformed Presbyterian Church of Ireland. The Reformed Presbyterian Church has had a separate existence in Ireland for over 250 years and currently has 36 congregations in Northern Ireland and the Republic of Ireland.

The clerk to the committee for Justice has written to our Church seeking responses on the public consultation for the Human Trafficking and Exploitation (further provisions and support for victims) Bill.

Let me begin by expressing our support for efforts to counter the pernicious evil of the trafficking of men, women and children. We believe that it is the duty of Civil Government to act decisively against those wrongdoers (Romans 13.4).

We offer the following comments.

Firstly, we support the introduction of aggravating factors to be taken into consideration when sentencing (Clauses 3,4).

The bill proposes criminalising the client in all cases where sexual services are paid for . We propose that both the client and the prostitute should be liable to prosecution in the normal process of prostitution.

We believe that organised crime makes use of some persons from other jurisdictions who are willing participants in criminal acts. We are concerned that Clause 8 may place the burden of proof on the prosecution and thereby block on the proper prosecution of Foreign Nationals who have engaged in criminal behaviour. A defence of coercion is already available to persons who have committed criminal acts under threat of violence.

S.Drennan (Mr.)

The Convener
Committee on Public Morals
Reformed Presbyterian Church of Ireland
560 Doagh Road
Newtownabbey
BT36 5BU

The Superintendent's Association of Northern Ireland

Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

7th November 2013

Dear Ms Darrah

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

Thank you for your email in connection with the Bill and we are grateful for the extension of the deadline to facilitate our submission. The Superintendents' Association of Northern Ireland represents the Superintending ranks – the senior operational leaders – within the Police Service of Northern Ireland.

This Association welcomes appropriate measures that would go towards addressing the blight that human trafficking and exploitation represent. We do, however, have a number of concerns with the Bill in its current form.

Clause 6 sets out what can be regarded as a noble aim, but the enforcement thereof would present particular operational and evidential difficulties. As currently drafted, the clause would include prostitution; however, the sexual exploitation of trafficked persons is distinct from prostitution where the vendor may willingly engage in the various activities for a variety of reasons.

From a policing perspective, Clause 7 seems, on the face of it, unnecessary. Section 32 of the Police (Northern Ireland) Act 2000 adequately sets out the investigative responsibilities of the police. The mention of 'effective investigative tools' is ill-defined, and the clause seems to suggest the potential for or existence of a multi-tiered approach to such investigations.

It is this Associations' view that the establishing of a Northern Ireland Rapporteur (Clause 16) does not represent an efficient use of public funds. With the existence of the Northern Ireland Policing Board, Criminal Justice Inspection Northern Ireland and various Assembly Departmental Committees, there are sufficient oversight bodies and accountability mechanisms currently available.

Yours sincerely,



J A Kearney
Superintendent
Honorary Secretary

Thierry Schaffauser

Dear Madam or Sir,

I have been a sex worker for 11 years and I oppose the criminalisation of my work.

I am quite tired to try to explain that some people who pretend to have good intentions in fact never listen to what sex workers want, and what we want is not criminalisation.

Is it really surprising? Do you really think that we want our clients arrested?

How are we going to pay the rent if you stop us from working?

We are doing nothing wrong! If some people cant understand how we have sex with strangers for money because they wouldnt feel able to do the same then let them with their own lives doing what they want with their body.

In this case, we are talking about our body, not theirs!

I dont see what is feminist in treating us like children who are supposedly in need to be protected by the police, as if the police was the last feminist organisation to protect women.

Have you ever tried to report rape or domestic violence to the police?

How do you think the police is treating sex workers?

And now they are supposed to protect us against our clients? Are you kidding ?

Nothing is done to arrest the men who steal, rape or attack sex workers, so why do you want to arrest those who respect our conditions?

How do you think this is helping us?

I am not a child and I can say no to a client if I dont want to have sex with him.

I dont need the state to intervene and stopping me from having sex with who i want! Even if you criminalise sex work, i will still do it anyway!

I will still need the money, and the law will only push us into more poverty.

How can it be an improvement for sex workers?

The only aim is to say that prostitution is bad. So nowadays, the parliament is making laws just because they dont like something. Is it really serious?

You dont care about the consequences of criminalisation, do you?

You re talking about trafficking as if there was a lot of trafficking in Northern Ireland... Do you really think that criminalisation will help victims of trafficking? Do you think that wasting police resources in arresting the people who have nothing to do with trafficking is going to change something? Do you think that clients will report abuse when they will be at risk of arrest?

Do you think I will report any abuse if I risk to be known by the police and take the risk that my clients are identitied as a result?

What we want is labour rights! Sex work is work: this means we need the same rights as any other workers!

We are fed up with your bad laws. Leave us alone! We dont need your so called protection: we dont want to be rescued, we dont want your pity, we dont want your charity, we want rights!

Please read the reports from Agustin, Ostergren, Dodillet, Clausen, Levy, Jordan,

Please read the reports from UNAIDS, UNDP, WHO,

Please read the briefing papers from NSWP

Please read the critics from Judge Himel about the false evidence from Farley&co

Then realise that all the scientific evidence is against criminalisation.

Yours,

Thierry Schaffauser

Tom Oakley

I'm writing to say how appalled I am by the idea of criminalising consensual paid-for sex. There has to be a legal distinction between consensual and non-consensual sex, otherwise known as rape. Making prostitution illegal will not stop people selling sex, and all it will do is further marginalise people who do so. If a sex worker is raped, will they feel comfortable reporting their attack to the police when to do so will draw attention to themselves and criminalise their non-violent clients? No. If people cared about women in the sex industry they would support decriminalisation.

Tom Oakley

Turn Off the Red Light

Turn Off the Red Light Offices
Immigrant Council of Ireland
2 St. Andrew St
Dublin 2

The Committee Clerk
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT43XX.

25th October 2013

Dear Chairman and Committee Members,

RE: Submission to the Northern Ireland Justice Committee on the Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)

Turn Off The Red Light is a campaign run by by an alliance of 68 civil society organisations, unions, umbrellas and services with a joint representation exceeding 1.6 million people in Ireland. We campaign against sex trafficking, which is the most widely spread form of human exploitation in the European Union. We, the members of Turn Off the Red Light, aim to end prostitution and sex trafficking in the Republic of Ireland, and hope to these practices come to an end in other states.

Trafficking of women and girls for the purposes of sexual exploitation is modern slavery and a prevalent from of exploitation. We believe that the best way to combat this is to tackle the demand for prostitution by criminalising the purchase of sex, and maintaining services to those trafficked and affected by prostitution, ensuring that they are not criminalized and re-victimised.

We are deeply concerned about the spread of the prostitution industry, which exploits women and children in both the Republic of Ireland and Northern Ireland, and we wish to add our voice to those who are seeking to change our legal systems in Northern Ireland to criminalise the purchase of sexual services, while protecting the rights and dignity of those prostituted.

We therefore readily welcome the proposed Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims), and particularly Clause 6 of the Bill, which would specifically legislate for the criminalization of the purchase of sex, as a measure to discourage demand that fosters sex trafficking and exploitation through prostitution. As the Republic of Ireland's Government considers the introduction of similar legislation, up on unanimous recommendation of the Joint Oirechtas Committee on Justice, we would be very encouraged to see this measure come into effect in Northern Ireland.

Attacking the commercialised sex business through the introduction of penalties for the buyer has proven to be an efficient approach that best responds to the nature of a trade which thrives on threats, abuse and violence. This is an essential part of the campaign against human trafficking as the majority of human trafficking victims are trafficked for the purposes of sexual exploitation.

While the Policing and Crime Act of 2009 was a welcome advance in Northern Ireland's anti-trafficking legislation its impact has been limited by the requirement of proof of coercion within a very limited timeframe. Thus, unsurprisingly, there have been no successful convictions made in Northern Ireland to date. This failure is in line with that of other countries which have introduced similar legislation, such as Finland and the Republic of

Ireland at present. Legislation which is limited to proven victims of coercion has been shown to have little or no effect on demand for trafficked victims.

We believe that every Government owes it to the vulnerable people and children trapped in prostitution, as well as to the society which they represent, to ensure that the demand for sexual services from exploited and trafficked individuals is effectively tackled.

We trust that the Northern Ireland Justice Committee will ensure that the public consultation is concluded in a timely manner, and we hope that the consultation will lead to the passing of the Human Trafficking and Exploitation Bill as soon as possible.

Thank you for your attention.

Yours sincerely,

Aibhlín O'Leary
Anti-Trafficking Intern
Immigrant Council of Ireland
Antitraffic_intern@immigrantcouncil.ie
+353 1 674 0202, ext 245

Turn Off the Red Light
End Prostitution and Sex Trafficking in Ireland

Turn Off the Red Light Offices
Immigrant Council of Ireland
2 St. Andrew St
Dublin 2

The Committee Clerk
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast BT43XX.

15th January 2014

Dear Chairman and Committee Members,

RE: Query on Proof of Coercion raised during the Northern Ireland Justice Committee Hearing on the *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)* with Turn Off the Red Light representatives, Thursday 9th January 2014, 14.00-16.00.

I write on behalf of the Turn Off the Red Light Campaign in response to the query raised by Mr. Tom Elliott at our hearing last week, regarding proof of coercion.

During the hearing Mr. Elliott said:

"I noticed in your presentation that you talked about the limited time frame for the requirement for proof of coercion. What would you like to see it extended to? You were obviously indicating that the time frame was insufficient."[1]

As there were no legal experts in our delegation we requested permission to answer this query in writing.

We do feel that the timeframe given to prove coercion is insufficient. Prosecutors have only a 6 month window in which to do so: as it is a summary offence the charge must be brought within 6 months of the offence or else a charge cannot be brought. [2]It has proven impossible for the Public Prosecution Service to prove coercion within the six months limit. Raising the time limit to 3 years as proposed by the Department of Justice in Northern Ireland would

[1] http://www.niassembly.gov.uk/Assembly-Business/Official-Report/Committee-Minutes-of-Evidence/January-2014/Human-Trafficking-and-Exploitation-Further-Provisions-and-Support-for-Victims-Bill-Turn-Off-The-Red-Light/

[2] http://www.derbyshire.police.uk/Documents/About-Us/Freedom-of-Information/Policies/SummaryFiles,Preparationof-Guidance.pdf Section 5.

theoretically make it easier for prosecutors to successfully charge someone under the legislation.

However, I must stress that the real meaning of this point in our submission is that the requirement of proof of coercion at the time of the incident, regardless of timeframe, renders the legislation ineffective. As stated in our original submission: "Legislation which is limited to proven victims of coercion has been shown to have little or no effect on demand for trafficked victims". Coercion will always be extremely difficult to prove as a woman who has been coerced by a pimp or trafficker is highly unlikely that she will participate as a witness against them. Examples of the failure of a caveated offence, as is currently present in NI legislation under the Policing and Crime Act 2009 can be seen very clearly in Finland and the UK.

I hope that the above answers Mr. Elliott's query fully. If the Committee has any follow-up questions please do not hesitate to contact me again.

Thank you for your attention.

Yours sincerely,

Aibhlín O'Leary
Anti-Trafficking Intern
Immigrant Council of Ireland

Antitraffic_intern@immigrantcouncil.ie
+353 1 674 0202, ext. 245

Uglymugs.ie

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

A Submission to the Committee for Justice from UglyMugs.ie (Safe IQ Ltd.)

1 November 2013

UglyMugs.ie is a sex worker safety scheme for Irish sex workers operated by Safe IQ Ltd, Level 3, 207 Regent Street, London, W1B 3HH, UK, contact info@uglymugs.ie.

Re: Clause 6 Paying for sexual services of a person

Our primary concern is the safety of all people selling sex. We oppose the criminalisation of the purchase of sex, as we would expect it to drive sex work further underground, further stigmatise sex workers, and create excellent conditions for crime and abuse, including trafficking, to thrive.

The so called "Swedish Model" is a failed ideological experiment that harms all those selling sex. Northern Ireland needs evidence based anti-trafficking policies not moral panic influenced ones. We hope that academically rigorous research into prostitution and sex trafficking in Northern Ireland will be carried out before any decisions are made here, as that is sorely lacking currently.

We note that Northern Ireland's current prostitution policies put sex workers at an increased risk of crime and abuse, most notably sex workers can only work legally if they work alone, more than one sex worker working in the same premises is considered a brothel and illegal, so sex workers are forced into the vulnerable position of being lone workers.

We further note that sex workers in Northern Ireland frequently feel unable to go to police when a victim of crime. Many offenders recognise this and direct crime and abuse at sex workers because of the decreased risk of there being consequences to their offending.

A review of prostitution legislation is needed. Northern Ireland should also be looking towards Merseyside in the UK where police have defined crimes against sex workers as hate crimes, provide dedicated police sex work liaison officers and publicly send out the message that crime against sex workers will not be tolerated. Cooperation with ugly mug schemes like ours and the UKNSWP National Ugly Mug scheme should also be increased and adequate support services for sex workers should be provided.

The key features of UglyMugs.ie are:

- Free service available to all people selling sex in Ireland.
- Closed service, access is restricted to sex workers only.
- Full web-based ugly mugs scheme available 24/7 on computers and smartphones.
- Sex workers can confidentially report bad persons encountered or other dangers. Reporting is by SMS, email, phone and mainly online form.
- Each incident reported is reviewed by staff and a warning to all sex workers is then published.
- Sex workers can opt to subscribe to receive new reports by email and/or SMS alerts.

- The website features include highlighting of most recent incidents, the most serious incidents, repeat offenders, incidents by location, type of incident, lots of browse and search functionality.
- Sex workers can search for any phone number to see if there are any reports for that number.
- Private sex worker discussion forums and chat rooms where sex workers can talk with other sex workers about safety, health, legal, accommodation and other issues.
- We publish safety advice, legal information, news.
- Staff support is available 7 days a week online or by phone/email/SMS
- We provide referrals to support services.
- The service is available in 16 languages, English, Bulgarian, Czech, Chinese, French, German, Hungarian, Italian, Norwegian, Polish, Portuguese, Romanian, Russian, Spanish, Swedish and Ukrainian.
- Number check by SMS and report by-SMS service for if the sex worker is without Internet access.
- Earlier this year we launched an Android app that automatically screens incoming and outgoing calls and text messages, and alerts the sex worker if they have contact with a number that is in the UglyMugs.ie database. We currently have about 60 Irish sex workers testing this app.

UglyMugs.ie is a very successful scheme. It provides sex workers with information that greatly improves their safety. It is highly utilised by sex workers and over 4,000 incidents have been reported to us by Irish sex workers over the last 4 years. About half of reported incidents would be crimes. There are an awful lot of incidents of abusive and threatening behaviour, many robberies, assaults, and sexual assaults. We record both crimes and other types of incidents that are not crimes but sex workers define as abuse, for example undercover journalists photographing them.

Though our UglyMugs.ie work, we have built up a great deal of knowledge about crime and abuse of sex workers in Ireland, including sex trafficking into prostitution.

Given our critical role in sex worker safety in Northern Ireland and also the Republic of Ireland, we would hope to be called to give oral evidence to the committee.

Dear Members of the Justice Committee,

I am aware that you are continuing your evidence hearings regards the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill on Thursday and that the PSNI will be giving evidence then.

The attached communications have been sent to the PSNI today, re policing of sexx work. As you will be talking to the PSNI this week, they may be of interest to you.

I note that Lord Morrow's Bill offers no decriminalisation for the sellers of sex. Further, Clause 8, which offers immunity to trafficking victims, uses the strict Palermo Protocol definition of trafficking, rather than the much wider UK legal definition of trafficking, which in the case of sex trafficking has no requirement for force, deception or coercion. So, if Lord Morrow's Bill passes in it's current state, both sex workers and sex trafficking victims will still be prosecuted for prostitution offences as they are currently.

With Kind Regards

Lucy Smith
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Chief Constable Matt Baggott
Police Service of Northern Ireland
Police Headquarters
Brooklyn
65 Knock Road
Belfast
BT5 6LE

CC The Department of Justice for Northern Ireland

17 February 2014

Policing of Indoor Adult Sex Work in Northern Ireland

Dear Mr Baggott,

We are writing to you regards the policing of indoor adult sex work in Northern Ireland.

Sex work has traditionally been a low priority for UK police forces, especially so in regions like Northern Ireland, where there is little if any outdoor sex work taking place, rather almost all sex work is indoor sex work, carried on discreetly, away from public view.

However in recent years there has been an extremely high level of public concern about sex trafficking into prostitution in Northern Ireland and this has led to increased police attention on indoor sex work.

The PSNI's recent submission to the Justice Committee examining the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill acknowledged that the majority of persons selling sex are independent and not trafficked or controlled by organised crime groups. We agree with this assessment.

With regard to persons being trafficked into or exploited in sex work, to quote *UNAIDS Guidance Note on HIV and Sex Work* (2012), which we believe applies well to the current Northern Irish situation, "Sex workers

themselves are often best placed to know who is being trafficked into commercial sex and by whom, and are particularly motivated to work to stop such odious practices." We'd like to see sex workers more included in anti-trafficking efforts. Currently, whilst major resources are being directed at anti-trafficking work, and there are campaigns to include a wide range of people in this work, sex workers are largely being overlooked here. We believe sex workers could greatly assist the PSNI in combatting sex trafficking into prostitution.

At present, not all sex workers feel able to engage with police, many have valid concerns about doing so. But we believe the PSNI could create an environment where sex workers don't have to fear engaging with police.

We are also concerned that the current anti-trafficking agenda is increasing discrimination against sex workers, and putting sex workers, who are already at risk of violence and abuse, at even greater risk.

Numerous studies over many years have shown that sex workers are a group in society that can be at high risk of violence and abuse. There are many shocking UK statistics in relation to violence against sex workers, though most relate to outdoor sex work, which has consistently been shown to be more dangerous than indoor sex work, and thus do not apply well to the current situation in Northern Ireland where almost all sex work is indoor sex work. However key factors that are known to increase violence against sex workers are present in Northern Ireland, namely extreme stigmatisation of sex workers, partial criminalisation, most notably the brothel laws that force sex workers into the vulnerable position of being lone workers if they want to work legally, and a situation where sex workers frequently feel unable to go to police, which many offenders recognise as a decreased risk of there being consequences to their offending if they target sex workers.

Combatting abuse of sex workers is not only about sex worker safety, it is also about public safety. Offenders who target sex workers are also a danger to the wider public. People who offend against sex workers are known to frequently also offend or go on to offend against non-sex working adults and children. The current lack of reporting is leaving offenders unidentified by police and not brought to justice, so the offending can continue. This offending has financial implications also. The recent Westminster Sex Worker Task Group's report, *Violence Faced by Sex Workers in Westminster*, 2013, highlighted the low cost of changes that could be made to improve sex workers safety against the high costs of offenders not being dealt with. They estimated the total approximate cost of various violent incidents as £1.5 million for homicide, £96K for rape, £25K for sexual assault, £10K for violent assault, £7K for robbery and £66K for transmission of HIV/AIDS.

Whilst there is huge concern for potential victims of sex trafficking in Northern Ireland, there is not the same level of concern for non-trafficked persons in sex work. For those of us in the sex work community, it sometimes feels as if sex workers are now being viewed as people whose welfare can be ignored as they are choosing sex work, and whose welfare should be de-prioritised now in light of sex trafficking. But the PSNI has an obligation to address to the crime faced by sex workers, regardless of public opinion on sex work.

Northern Ireland is currently considering further criminalising sex work, by making it completely illegal to buy sexual services. If such a law is passed, we would expect it to increase violence and abuse towards sex workers, exploitation of sex workers and sex trafficking into prostitution. We would like to see decriminalisation of sex work, not further criminalisation, but there are no indications that this to likely to even be considered in the near future. However, regardless of the legal situation, we believe very limited reform processes within the PSNI could greatly improve policing regards both sex work and sex trafficking.

Some sex workers speak well of the PSNI. We know of numerous incidents where sex workers have contacted the PSNI for help and received help. Many such sex workers have spoken highly of the PSNI afterwards and recommended the PSNI to other sex workers. We also know of some cases where sex workers who have come in contact with police in Northern Ireland have not been happy with how they were treated. Very many sex workers simply don't feel able to engage with the PSNI for a variety of reasons.

We would like the PSNI to adopt a new strategy for policing indoor sex work, which encompasses prioritising sex worker safety and building good relations with the sex work community, so as together we can work against trafficking and exploitation, sex workers can conduct their work as safely as possible, and abusive persons who pose a risk to sex workers and the wider community can be more effectively dealt with.

Our recommendations for improved and consistent policing of indoor sex work in Northern Ireland are attached with this letter as *Proposed PSNI Indoor Adult Sex Work Policing Guidelines*.

We would appreciate it if the PSNI would consider our recommendations in regard to the policing of indoor adult sex work in Northern Ireland. We note that the 2011 Department of Justice, *Research paper investigating the issues for women in Northern Ireland involved in prostitution and exploring best practice elsewhere,* stated that at that time the PSNI were developing policies to ensure a consistent police response to prostitution and human trafficking in Northern Ireland, but we are unsure of the status of this work and the content of any existing PSNI policies on sex work and sex trafficking.

Yours sincerely,

Lucy Smith, UglyMugs.ie (Safe IQ Ltd.)
Laura Lee, International Union of Sex Workers (IUSW)

These proposals were drawn up in consultation with sex workers who are resident in Northern Ireland or regularly visit Northern Ireland, several of whom wish to co-sign this letter: Kate, Amy, Kelly, Sophie, Alyssa, Stella, Ms Smith, Ana and Rachel.

The proposals are also supported by:
Nine (Former UK sex work project worker)
Ruth Jacobs, Writer, Broadcaster & Campaigner
Wendy Lyon, Feminist Ire

Proposed PSNI Indoor Adult Sex Work Policing Guidelines

In these recommendations we frequently cite the latest Home Office and Association of Chief Police Officers of England, Wales and Northern Ireland (ACPO) good practice guidelines. These are contained in the Home Office's *A Review of Effective Practice in Responding to Prostitution* (2011) and ACPO's *ACPO Strategy & Supporting Operational Guidance for Policing Prostitution and Sexual Exploitation* (2011).

Prioritise Sex Worker Safety

Police forces have considerable discretion in deciding when and how to enforce laws. Home Office guidance is clear, police forces should recognise that persons involved in prostitution are vulnerable to harms, and take this into account when determining how they apply prostitution legislation. The Home Office is also clear, "The police's responsibility for public protection means that stopping attacks on those involved in prostitution, and catching and convicting those responsible, is a core part of reducing harm from prostitution." We would like the PSNI to make the safety of people selling sex a priority in sex work policing.

Public Message on Crime Against Sex Workers

We recommend the PSNI send out a strong public message that crimes against sex workers will not be tolerated. Currently some offenders target sex workers, because they believe there will not be consequences to their offending if the victim is a sex worker. In recent years it has increasingly become the case that such beliefs are held, due to the framing in the media of all sex work as rape, and of sex workers as persons who have no choices or rights or capacity to consent. A clear message from the PSNI that crimes against sex workers are unacceptable and will be treated extremely seriously would discourage crime against sex workers. Without this message offenders are more likely to think they can get away with crimes against sex workers, leading to further targeting of sex workers. Sending out this message reduces the risk of sex workers being the victims of crime. This message would also assure sex workers that the PSNI do take crimes against them seriously, which helps encouraging reporting of crime by sex worker victims.

Taking Crime Against Sex Workers Seriously / Hate Crime

Since September 2009 UglyMugs.ie has recorded 472 Northern Irish incidents, 173 of which would be crimes. This breaks down as 79 threatening or abusive communications, 62 incidents of in-person threatening or abusive behaviour, 15 of assault, 9 of sexual assault, 17 of robbery, 6 of impersonating police, 3 of stalking, 9 of exploitation, 4 of blackmail, 14 of fraud and 10 of criminal damage (Those figures don't add up to a total of 173, as some incidents would involve multiple categories of crime.) Of these 173 crimes, in only 8 (4.6%) cases did the sex worker indicate he/she had or was planning to report the crime to the PSNI.

This clearly shows that crime against sex workers is under-reported in Northern Ireland. It is a hidden problem where victims do not receive adequate support and perpetrators can continue to commit crimes without coming to police attention. It is recommended that the PSNI encourages the reporting of crimes by sex workers and ensures such crimes are taken seriously by officers and that sex workers receive the support they need as victims. We know, from talking to sex workers who have reported crimes to the PSNI, experiences of reporting crime to the PSNI are already generally positive, but we want to ensure good practice is standard, that sex workers are not sometimes faced with poor and outdated attitudes from officers, like perceiving crime as an 'occupational hazard' for sex workers or equating rape to not being paid.

In 2006, Merseyside Police designated crimes against sex workers as hate crimes. We would recommend this as the optimal means of ensuring the PSNI response to crimes against sex workers is best practice. This strategy, now known as the 'Merseyside Model', was formed under the leadership of Bernard Hogan-Howe, now Metropolitan Police Commissioner. Implementation of it led to unprecedented increases in the reporting of crimes by sex workers and the number of criminals being convicted. In 2010 the overall conviction rate in Merseyside for crimes against sex workers was 84%, with a 67% conviction rate for rape (the national average conviction rate for rape is 6.5%).

ACPO defines hate crimes and incidents as any crime or incident where the perpetrator's prejudice against an identifiable group of people is a factor in determining who is victimised. All hate crimes are hate incidents, but some hate incidents may not constitute a criminal offence and are therefore recorded as a hate incident only. The PSNI currently records 6 types of hate crime and incidents, the 5 categories recorded by all UK forces - disability related, homophobic, racist, religious and transphobic - plus sectarian. It is an option for any police service to add additional categories, as the PSNI has done in the case of sectarian.

Treating crimes against sex workers as hate crimes acknowledges that sex workers are a minority who are disproportionately targeted by criminals and as a group their victimisation fits within a number of the established definitions of hate crime.

Merseyside is now widely considered to be the lead nationally in terms of addressing violence against sex workers. Adoption of the Merseyside Model is recommended by ACPO. It is also recommended in the 2012 *Silence on Violence* report commissioned by the Mayor of London and undertaken by Andrew Boff AM, and the 2013 report *Violence Faced by Sex Workers in Westminster* by the Westminster Sex Worker Task Group.

It is clear from UglyMugs.ie reports that sex workers are a stigmatised and socially marginalised group who face abuse from perpetrators motivated by prejudice and hostility towards sex workers and targeting by criminals who view sex workers as 'easy targets', unlikely to report crimes committed against them or be believed by police if they did. In some UglyMugs.ie reports sex workers describe offenders who have directly made statements like "You can't report me to the police! You're a whore!"

Adding sex worker targeted hate crime to the types of hate crime recorded by the PSNI would bring this crime into the existing PSNI hate crime structure, where various procedures have to be adhered

to, and victims could be assured of the professional and supportive response that they need. It would also mean sex worker targeted hate crimes and incidents would be recorded for the first time, this data would be publicly available, and potentially a thematic review could be conducted by the Northern Ireland Policing Board.

The Merseyside Model is widely supported, not only by sex workers and sex worker organisations, but also by many anti sex work and anti sex trafficking organisations, who also believe persons selling sex need the hate crime police approach to crimes committed against them as part of a victim centred police response.

Offence Prioritisation

Although working as a sex worker is not illegal, some activities related to sex work are criminalised. Notably indoor sex workers must work alone in order to work legally. If two or more sex workers work together, both or all sex workers can be considered to be brothel keeping, which is illegal. The English Collective of Prostitutes (ECP) has frequently highlighted that sometimes when sex workers report crimes, police focus their attention on the sex worker(s) and any crimes related to sex work they may be committing, such as not working alone, rather than the original crime against the sex worker(s) that the sex worker(s) reported. As a result of this situation sex workers often feel that they cannot report crime to the police.

Police officers may feel they are in an impossible position here, that if a sex worker reports a crime, and in doing so reveals criminality, the police are compelled by the law to act on this. However police are allowed, in certain situations, to use discretion on what to prioritise when witnessing multiple crimes simultaneously.

Most forces have policies in place for prioritising victims of serious crime above the victim's own more minor misdemeanours in certain situations, for example in rape cases. It is this prioritisation that needs to occur in regard to crimes against sex workers, to remove the barrier to reporting for sex workers that is fear that the police may seek to prosecute them for an offence. This has been done successfully in Merseyside.

If sex workers felt more able to report crime to the PSNI, this would improve the PSNI's ability to identify and prosecute perpetrators of abuse against sex workers.

Liaison Officers

Some police forces have sex work liaison officers.

It is generally the case that victims of hate crime have access to a liaison officer. In Merseyside, where sex worker targeted hate crime is recognised by police, they have two police sex work liaison officers who have this role as part of their wider duties, and these officers work closely with the sex work community to encourage sex workers to report crimes and act as a link between the sex work community and police.

The provision of sex work liaison officers within the PSNI is considered essential, regardless of whether the PSNI formally includes sex worker targeted hate crime within the existing PSNI hate crime structure.

Currently persons selling sex have no contact point within the PSNI to turn to for help. Their only option is to walk into a police station or phone general police numbers, something which most people selling sex find an intimidating prospect, to the point that many will not do it in any circumstances, and those who are prepared to do it often find they do not get the help they need anyway, as the problem they are reporting is not understood by the officers they speak to, who lack experience of sex work policing.

In order for the PSNI to effectively tackle crime against sex workers and sex trafficking into prostitution, people selling sex must have easy access to a liaison officer who is friendly, approachable, understands their situations and can provide advice and support to them.

At the moment all victims of hate crime in Northern Ireland have access to a PSNI Hate Incident Minority Liaison Officer (HIMLO) and liaison officers are also appointed in regard to other communities or issues that are not hate crime related. The PSNI should create sex work liaison officers. This could be an additional role for selected officers, alongside the officer's wider duties. It is however important that sex work liaison officers do not also have an enforcement role in this specific area.

PSNI sex work liaison officers would increase contact between sex workers and the police, improve safety and reduce abuse of sex workers, and create and maintain the relationships of trust between the PSNI and sex workers which are essential for receiving intelligence regarding sex trafficking and other serious crimes.

Ugly Mug Schemes

Ugly mug schemes aim to improve the safety of sex workers and reduce crimes committed against them, by bringing sex workers together to share information with each other about potential dangers.

Two ugly mug schemes cover Northern Ireland, UglyMugs.ie and the UKNSWP National Ugly Mugs (NUM).

UglyMugs.ie does not routinely share information with the PSNI, but does so sometimes on an individual case basis. If the reporting sex worker agrees, NUM automatically shares details of offenders with the Serious Crime Analysis Section (SCAS) and the North West Regional Intelligence Unit (NWRIU) who then disseminate the information to intelligence contacts in police services in England and Wales.

It is recommended the PSNI provides a means for ugly mug schemes to share information with the PSNI. Currently Northern Irish sex workers reporting crime to ugly mug schemes do not have the

ability to anonymously share intelligence with the PSNI about violent offenders, exploitative abusers and other dangers they encounter in the course of their work. The PSNI should want to be aware of ugly mug incidents in order to help them effectively police abuse of sex workers and sex trafficking.

Home Office guidance outlines how local ugly mug schemes supported by police are a valuable intelligence source, and the effective use of local ugly mugs schemes can therefore be an effective part of policing prostitution. Further, ugly mug schemes can act as an intermediary between police and sex workers and encourage formal reporting of crimes to the police. Police can also use ugly mug schemes to communicate to sex workers both general messages to encourage police engagement, like that crimes committed against sex workers will be taken seriously, and specific messages about potential dangers the PSNI may be aware of.

Anonymity for Witnesses

Lack of anonymity for sex worker witnesses is a major deterrent to sex workers engaging with the criminal justice system. All victims of certain sexual offences, including rape, are entitled to anonymity. But there is no entitlement to anonymity for sex workers who are the victims of non-sexual offences or witnesses in criminal cases. Many sex workers greatly fear being 'outed' as a prostitute in the media and to family, friends and the wider public. If the PSNI could recognise that being publicly named as a prostitute can be uniquely damaging, and apply for special measures for sex worker witnesses, to prevent them being publicly named as a prostitute, this would make it easier for sex workers to engage with the criminal justice system.

Searches

Police searches - unannounced forced entry visits - are a frightening experience for sex workers. A large group of police officers breaking down your door and coming into your home/workplace shouting would likely be a frightening experience for anyone. Many sex workers are migrants or have experience of working in different countries. They may have had previous bad experiences with police or authorities. They may have been a victim of crime in the past. It is not uncommon for criminals who target sex workers to pose as police. Factors such as these can make searches especially frightening for sex workers.

Whilst there are circumstances where searches are necessary, it is recommended the PSNI recognises that searches are frightening for sex workers and discourage sex workers from engaging with police. Unnecessary searches should be avoided. Necessary searches should be as unintrusive as possible and all reasonable steps should be taken to show respect for the sex workers involved and try to minimise the distress caused.

Sex workers should be shown the same respect as would be shown to any other person in respect of their bodily privacy. Sometimes police may arrive upon sex workers in a state of undress. It is good practice for police to bring blankets with them, which they can supply sex workers, to wrap themselves in, while in police presence, and sex workers should be given adequate opportunity to dress as soon as possible. Whilst we are not aware of any recent complaints from sex workers in

Northern Ireland regards respect of their bodily privacy by police, sex workers in other areas of the UK, like Scotland, have reported experiencing disrespect for their bodily privacy from police recently.

The media should never be invited along on searches, to photograph sex workers and/or potential sex trafficking victims. This practice is universally detested by persons selling sex. Faces being blurred does not mean persons are not identifiable or make the practice acceptable. It is frightening enough to be caught up in a police search without then being subjected to the violation of journalists photographing your distress against your will.

There is a very poor relationship between people selling sex and elements of the media who regularly seek to 'expose' them. Being identified in the media as a sex worker can devastate a person's life. Many sex workers live in fear of the media. The PSNI should not be providing the media with opportunities to photograph sex workers and/or potential victims of sex trafficking. Regards the latter, a precedent here is that since 1976 victims of sexual offences have been automatically entitled to lifelong anonymity with it being a criminal offence for the media to reveal their identity.

It should also be noted that the media often continue to use photos long after the events a series of photos may relate to, to illustrate various general prostitution or sex trafficking related stories.

Evictions

Due to discrimination sex workers frequently face great difficulties with accommodation. Landlords and/or hotel staff exploiting sex workers is not uncommon. All sorts of people exploiting sex workers, under threat that they will get them evicted via reporting them to the police or their landlord/hotel, is not uncommon.

Sex worker evictions undermine sex worker safety. In the short-term sex workers can find themselves in the dangerous situation of being suddenly homeless. Moreover, sex workers find themselves pushed out of places they feel safe working in, into less safe working environments, making them more vulnerable.

Sex worker evictions are often the result of police actions. Northern Irish sex workers report that police sometimes contact hotels and letting agents / landlords to inform them that a sex worker or sex workers are staying in their accommodation. This invariably results in eviction for the sex worker(s). Police searches of premises can lead to sex worker evictions. Even 'friendly' police visits, where the police have in no way sought to cause any issues, can lead to sex worker evictions.

The police do have a responsibility to investigate complaints about anti-social behaviour related to an indoor sex work venue, but Home Office and ACPO guidance is repeatedly clear that police must prioritise the safety of sex workers when handling sex work related issues, and evictions clearly undermine sex worker safety.

Therefore the PSNI should view sex workers evictions as undesirable and adopt a policy of not seeking or contributing to sex worker evictions unnecessarily. Many police forces have brothel

closure guidelines and policies. ACPO recommends a risk assessment is conducted before police seek to 'close down' any sex work establishment. Where sex workers are evicted, police have to consider the safety of the sex workers, who may have nowhere else to go and find themselves in a dangerous situation as a result of the eviction.

Arrests / Prosecutions

Arrests and prosecutions of sex workers have increased in recent years. A recent FOI request (PSNI Request Number F-2014-00002) shows that in 2012 arrests for prostitution offences were up 238% from 2007 figures, similarly prosecutions for prostitution related offences were up 188%, and 11 persons (all women) were convicted of prostitution related offences (compared to none in 2007).

Working indoors as a sex worker is legal provided the sex worker works alone. But indoor sex workers that do not work alone are criminalised under brothel laws.

That sex workers who work together for safety are criminalised is a problematic situation for police.

Enforcement action against sex workers for not working alone clearly undermines sex worker safety.

A number of Canada's prostitution laws have recently been struck down by their Supreme Court for infringing the constitutional right of sex workers to security. The criminalisation of sex workers not working alone under UK law arguably violates their security rights under the European Convention on Human Rights (ECHR). The PSNI is required by the Human Rights Act 1998 to uphold and protect the fundamental rights and freedoms of individuals that are enshrined in the ECHR and the Northern Ireland Policing Board has a statutory duty, under the Police (Northern Ireland) Act 2000, to monitor the performance of the PSNI in complying with the Human Rights Acts.

Arrests and prosecutions of sex workers for not working alone occur in an inconsistent manner across the UK.

Many UK police forces state at different times that they have differing policies regarding the policing of sex work. Writing in *Silence on Violence* (2012), Andrew Boff AM said that in London the Metropolitan Police unit responsible for policing sex work and sex trafficking, SCD9, has stated they focus on forced prostitution only and do not intentionally target brothels that do not involve trafficked persons, further they focus specifically on those trafficked according to the International Labour Organisation (ILO) indicators or trafficking clearly linked to an organised criminal network, rather than targeting trafficking under the much broader UK legal definition of sex trafficking, which does not require force, coercion or deception. However there are sex workers in London who would argue this is not the case, the Metropolitan Police are not in reality restricting policing of sex work to only focusing on sex trafficking into prostitution.

Changes in public attitudes and community complaints often have an impact on how sex work is policed. Frequently there is not clarity in the way the law is applied.

We would recommend in regard to brothel laws that the PSNI adopts a policy of distinguishing between those involved in the management of brothels and sex workers working in brothels, and the latter should not be arrested or prosecuted, because to do so undermines sex worker safety and decreases the likelihood of sex workers reaching out to police when a victim of crime or if they are aware of serious criminality.

For sex workers arrest and prosecution can lead to consequences such as a criminal record, a jail sentence, being publicly labelled as a prostitute, losing custody of children and/or deportation. It is questionable whether there is any public appetite remaining in Northern Ireland for such harsh treatment of persons selling sex, given that even most of those who want further criminalisation of sex work, only want criminalisation of buyers of sex and argue that those who sell sex should not be law enforcement targets.

Police Misconduct

Sex workers in Northern Ireland do sometimes report to UglyMugs.ie that they have experienced poor police behaviour, for example offensive and insulting language used to address them. Historically and globally sex workers have frequently been subjected to a wide range of abuses from corrupt and criminal police officers, for example extortion of sexual acts in exchange for avoiding arrest.

A code of conduct for officers of all ranks dealing with sex workers would be useful. Sex workers, like everyone else, should receive good service from the PSNI. Officers who do not treat sex workers professionally should face disciplinary action and criminal proceedings in cases where criminal abuse has taken place. The PSNI should be committed to treating sex workers professionally. Details of how sex workers can complain, if officers behave unprofessionally, should be easily available.

Serious Crime

Serious crime related to sex work should be policed rigorously. The majority of sex workers want the police to do this. In fact a common sex worker complaint about policing of sex work at times is that the police are not taking action against serious crime related to sex work. Improved relations between sex workers and police would result in sex workers being more able to talk to police when they are aware of serious crime.

Trafficking

Trafficking is presumed to be a current PSNI policing priority.

One of the clear advantages of the PSNI prioritising the safety of sex workers is that sex workers are far more likely to alert the police when they are aware of trafficking, because they will not fear personal repercussions for doing so as a result of the trust and understanding built up with the police.

Clearly if people are being sex trafficked into prostitution, then sex workers are uniquely well placed to have the most useful knowledge of that activity.

The PSNI should actively encourage sex workers to report trafficking.

Home Office guidance provides a case study of the Greater Manchester Police Sexual Crime Unit, a police unit which focusses on the welfare of sex workers, and has found this has aided them in combatting sex trafficking. They say the assistance of people involved in prostitution has been vitally important in bringing trafficking prosecutions and the unit has found that many sex workers genuinely care about the welfare of trafficked persons and are quite willing to give statements or intelligence if they feel it will help the victim.

A change of priority from enforcement to protection in regard to sex workers also means sex trafficking victims are less likely to be treated as criminals. Victims of sex trafficking are also more likely to be identified.

People generally understand sex trafficking as involving force, deception or coercion, as per the Palermo Protocol definition. However the UK legal definition of sex trafficking does not require force, deception or coercion and therefore includes the movement of all sex workers, including willing sex workers.

Rather than persons who have been tricked into being a sex worker against their will, it is more likely that victims of sex trafficking under the UK legal definition are persons who choose to be sex workers. Their conditions of work may be exploitative, but they may only comprehend this gradually. Such persons are however unlikely to ever seek help from police or provide police with intelligence about trafficking if there is a hostile relationship between police and sex workers.

Friendly policing towards sex workers is therefore a vital component of policing sex trafficking. A person who has had a negative experience of the PSNI, like being caught up in a police search, is unlikely to go on to engage with the PSNI, whereas a person who received a friendly visit from the PSNI and was advised they could contact the PSNI if they ever needed help is far more likely to go on to engage with the PSNI in the future.

Specialist Unit

Some UK police forces have specialist sex work units. For example, in London, SCD9, Human Exploitation and Organised Crime, is a central unit of the Metropolitan Police that has overall responsibility for the policing of on and off street prostitution within its remit, although it also has other responsibilities.

The PSNI should consider whether it would be better if policing in relation to sex work was the responsibility of a specialist unit. With the current approach of no specialist unit, there is inconsistency in how sex work is policed, and many officers dealing with sex workers have little understanding or knowledge of sex work.

Belfast Harbour Police

The Belfast Harbour Police come in contact with sex workers as the small Port of Belfast area they are responsible for policing is an area where a number of indoor sex workers are based. Several sex workers have expressed to UglyMugs.ie that they've had an interaction with the Belfast Harbour Police where they would consider their treatment to have been poor. It would appear that the Belfast Harbour Police approach sex work somewhat differently to the PSNI and there is an inconsistency in the policing of sex work in Belfast as a result of this.

Various crimes or incidents that occur within the Belfast Harbour Police area are designated the responsibility of the PSNI. It is recommended that the PSNI and Belfast Harbour Police consider whether policing in relation to sex work being the responsibility of the PSNI would be a better arrangement, and if that arrangement is not suitable, look at how the Belfast Harbour Police can effectively police sex work alongside the PSNI in a consistent manner.

Condoms

In recent years condoms have been used by the PSNI as evidence to support prostitution-related charges. Confiscating condoms from sex workers or using condoms as evidence against sex workers is not recommended as it directly undermines HIV prevention and public health interventions. The negative consequences of condoms being used as evidence of prostitution by police, and why such practices should be discontinued in areas where they are still ongoing, has been covered by a number of major International reports in recent years, including Human Rights Watch's *Sex Workers at Risk, Condoms as Evidence of Prostitution in Four US Cities*, 2012.

Strategic Lead

A strategic lead for sex work should be appointed within the PSNI to oversee the policing of sex work.

ACPO Working Group

The PSNI should join the ACPO National Police Working Group on Prostitution, Chaired by the National Police Lead on Prostitution, ACC Chris Armitt, in order to keep up to date with national best practice in this area.

Community Engagement

Good policing of sex work requires effective partnerships between the police and others, including the sex work community. Sex workers are one of the few groups in society that are still often excluded from involvement on policies relating to them, yet sex workers are the experts on their own lives. In Manchester the Manchester Prostitution Forum including all they key agencies such as the police, health service, city council and voluntary sector organisations meets every six months and its purpose is to develop and maintain effective partnership working. In Northern Ireland the

Department of Justice has an NGO Engagement Group to tackle human trafficking, but no sex work group, and further, sex work related groups or individuals are not included in trafficking group. It is recommended that there be a group focused on sex work and that the sex work community is included in that group.

Support Services for Sex Workers

There is a lack of support services for sex workers in Northern Ireland, which is a clearly undesirable situation. Sex workers don't have easy access to advice and support or dedicated health services.

Security concerns appear to have been one factor that has held back development of services. It is noted that the small Belfast Commercial Sex Workers Service operates very discreetly to the point no contact details are publicly available. The 2011 Department of Justice, *Research paper investigating the issues for women in Northern Ireland involved in prostitution and exploring best practice elsewhere,* states that previous attempts by one organisation to provide outreach support to sex workers were abandoned following the PSNI advising it would not be safe for their workers to engage in outreach work with sex workers.

The lack of support services for sex workers in Northern Ireland directly negatively impacts on the PSNI's ability to police sex work effectively. It is recommended the PSNI reassesses the security situation regards service provision to sex workers and encourages the development of such services in future if possible.

Training

It is important that all officers who deal with sex workers receive adequate training. Officers should always be professional and respectful in their policing of sex work and the safety of persons selling sex should always be prioritised, regardless of any personal views the officer may have on prostitution.

As well as an understanding of how sex workers can be vulnerable to abuse and why abuse of persons selling sex needs to be taken seriously, officers should also understand the reasons why sex workers are often reluctant to engage with police, some of which are unique to sex workers, such as:

- Worry about being judged by police for being a sex worker
- Worry about not being believed by police because of being a sex worker
- Fear of being investigated by police for sex work related offences
- Fear of losing accommodation
- Fear of being exposed as a sex worker
- Fear of immigration problems
- Fear of police and/or previous bad experience of the police
- Feeling police will not been interested / do not care about sex workers
- Acceptance of abuse as a 'normal' part of sex work

Knowledge of the law is important. Encountering police who are not aware of the law is a common problem for sex workers. Sex workers frequently report being 'investigated' and sometimes being evicted as a result of officers who appear to erroneously believe all sex work is criminal and thus they are acting correctly in seeking to obstruct sex workers from conducting their business.

Recognise that sex workers are stigmatised and face discrimination. Many sex workers are also migrants and may also experience racism and discrimination as a result of this. Sex workers can also be male or trans* and some sex workers also face discrimination on the basis of their sexual orientation or gender identity.

People selling sex are a diverse group of people, who come from a wide range of backgrounds and are in sex work for a wide range of reasons. Sex workers are not all the same. Whilst most persons selling sex are doing so as a matter of choice, police could encounter victims of sex trafficking in prostitution.

People selling sex deserve to be treated with the same respect and kindness as any other person. Officers should be caring, compassionate and understanding towards people selling sex and especially try not to come across as aggressive, as sex workers may feel intimidated by police.

As individuals sex workers have the right to make their own informed decisions about their own lives. The autonomy of sex workers must be respected. Police cannot forcibly 'rescue' sex workers.

Most sex workers do not want to be identified as sex workers because of the stigma attached to sex work. Often their families, friends and even partners do not know that they do sex work and they fear being found out. They may have a second job and that employer does not know about their sex work. Their landlord may not know they are a sex worker. It is very important the PSNI are very discreet when dealing with sex workers, in recognition of the discrimination sex workers face and their resulting privacy needs.

Many sex workers regard the term 'prostitute' as offensive. Numerous other terms sometimes used to describe sex workers are clearly offensive, including prossie, whore, hooker, ho. As a general rule the PSNI should note how people in sex work describe themselves, e.g. escort, and reflect their choice of language.

Media

The public's views on sex work and sex trafficking are very heavily dependent on the information they receive via the media. ACPO recommends police forces develop evidence based sex work policing policies and scope their own 'problem' using factual information and statistics gathered locally. Historically police forces in the UK have periodically engaged in 'crackdowns' on sex work, especially on-street sex work, to appease public moral discontent, but such operations are not helpful, at best they only result in displacement of sex workers to other areas, which is not a solution and at worst, they have resulted in the murder of sex workers. Hostile media portrayal of people in sex work increases the risks to those in sex work. It is recommended the PSNI is careful not to contribute to or react to inaccurate and/or sensationalist media on sex work.

Supporting Policymakers

The PSNI should engage in public debate on sex work and support policymakers in creating laws and policies which make it easier to investigate and successfully prosecute those who abuse persons in prostitution. ACPO also takes a role in supporting national policymakers and lawmakers in creating prostitution policies and laws and regularly speaks to the media about prostitution legislation.

Published Sex Worker Contact Policy

Traditionally, many sex workers have never have occasion to interact with the PSNI, as they have not required police assistance and have not come to police attention due to the discreet nature of their work. However with increased public concern about sex trafficking into prostitution, all indoor sex workers can now expect to come in contact with police at times.

Most sex workers do not object to the PSNI making 'friendly' visits or 'welfare checks'. This type of contact is much preferable to more intrusive and formal actions which can threaten the safety of sex workers. However there is a lack of information about what sex workers can expect when contacted by the PSNI. Also PSNI policies in contacting sex workers appear to differ in places from the policies of other forces sex workers may be familiar with, for example sex workers frequently report that police officers in Northern Ireland come alone when visiting and do not always provide a card with their details. Further to this sex workers do sometimes experience problems with criminals impersonating police.

At the moment sex workers being contacted by 'police' by phone, SMS, email or in person visits are frequently unsure if the persons presenting themselves are even really police are not. There is an information vacuum here that is causing distress to sex workers at times. It is recommended this situation is resolved by the PSNI publishing clear guidance for sex workers as to what they can expect if contacted by police, including how to identify police from others who may impersonate police.

Police Records

Sex workers have reported than any contact with police can result in a note being added to police records, stating that they are a sex worker. The practice of recording that persons are sex workers on police records, if ongoing, should be discontinued. Further, sex workers should be able to have such notes removed, if already added to their police record. Being identified as a sex worker on police records can prevent sex workers exiting sex work, as such notes can show up on Criminal Records Bureau (CRB) checks carried out by employers in connection with job applications. It is also clearly a disincentive to sex workers to engage with police at all, if doing so may result in their being recorded on police records as a sex worker.

Reporting to Social Services

Many sex workers are parents or guardians. Sex workers are not unfit parents or guardians. The PSNI should not report sex workers who are the parents or guardians of children to social services on the basis of their being sex workers. On 14 February 2014 the BBC published an article about compensation awarded to a Northern Irish woman whose photos were published on a sex work website without her consent. The article reported that this woman, who was not a sex worker, contacted police seeking assistance in getting her photos removed from the sex work website. Police were unable to help, but did report her to social services, who then carried out an investigation.

Outdoor Sex Work

There is reportedly very little outdoor sex work in Northern Ireland. Due to an administrative error soliciting offences were not recorded in Northern Ireland until 2011. No prosecutions for soliciting have been brought since this date to our knowledge. We have not covered outdoor sex work in these proposals, due to lack of experience of the issues involved in outdoor sex work, but we would recommend that any review of sex work policing should be for all sex workers, including outdoor sex workers. ACPO and the Home Office provide guidance on the policing of outdoor sex work. Also the Belfast Commercial Sex Workers Service has experience in this area and could identify additional recommendations for the benefit of outdoor sex workers.

UK Network of Sex Work Projects

UKNSWP RESPONSE TO: Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill (Northern Ireland)



October 2013

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FURTHER INFORMATION

If you wish to discuss this response further please contact one of the following board members of UKNSWP:

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INTRODUCTION: UK NETWORK OF SEX WORK PROJECTS

This response is an organisational rather than an individual response. We wish the contents in this letter to be made public and included in any summary or analysis of findings.

The UK Network of Sex Work Projects is a voluntary sector umbrella organisation to which projects providing support services to sex workers can affiliate. UKNSWP is a charity which aims to facilitate networking and the sharing of good practice in the provision of support services for sex workers. The aim of the UKNSWP is:

"To promote the health, safety, civil and human rights of sex workers, including their rights to live free from violence, intimidation, coercion or exploitation, to engage in the work as safely as possible, and to receive high quality health and other services in conditions of trust and confidentiality, without discrimination on the grounds of gender, sexual orientation, disability, race, culture or religion"

Our criteria for assessing policy and law relating to prostitution are that it should enhance the health, safety, civil and human rights of sex workers and enable the provision of accessible, quality and needs-based support services.

UKNSWP has more than 60 member projects across the UK which offer frontline support services to, and have direct contact with, thousands of female and male, as well as transgender sex workers throughout the UK; we also manage the National Ugly Mugs Scheme, with around 250 organisation members and over 1400 individual sex worker members. UKNSWP facilitates the sharing of good practice in the provision of support services for sex workers and promotes the health and safety of sex workers. Members are well placed to observe the impact of laws and policies on sex workers and on targeted services themselves. We hope that the views of experienced health and social care professionals working within our member projects will be given due consideration, as they are based on professional practice-based experience of working with people involved in prostitution in a range of sectors. UKNSWP also has a strong Associate member affiliation which consists of many key academics with a solid background of empirical ethically conducted research on prostitution in the UK.

Guidance for the bill states that evidence must be structured to address the specific clauses of the Bill.

The UKNSWP wishes to respond to Clause 6 Paying for the Sexual Services of a Person

The UKNSWP does not support this clause, and essentially the implementation of the 'Swedish Model' or prohibitionist system wherein clients of sex workers are criminalised, for the following reasons:

1. **The proposed clause is not supported by the research evidence**

- The bill purports to cover human trafficking and slavery offences in their broadest sense under both the Sexual Offences Act 2003 and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. It is therefore questionable as to why the criminalisation of the purchase of sex is included in this Bill, given that research evidence shows that much adult sex work does not involve trafficking or force (Weitzer, 2012). There is also often a mistaken conflation between voluntary migration and coerced trafficking; the research evidence suggests that people migrate to work in the UK sex industry for a range of reasons, particularly pragmatic ones (Mai, 2009; Scambler, 2007).
- The proposal to criminalise the purchase of sex represents a radical change to the criminal law in this area. No Parliament in the UK has ever taken such a step, particularly one that is not well supported by either public opinion or academic evidence from the UK or abroad. To criminalise the purchase of sex could also mean that a more research and evidence-informed strategy for tackling the issues arising from prostitution where it is exploitative or damaging for participants, rather than one which is based on moral/ideological foundations about what is 'right or wrong' is dissuaded, negatively impacting on sex workers.

2. **Potential negative consequences for sex workers of banning the purchase of sex**

- Research has shown that criminalisation of either the client or sex worker can result in negative, dangerous and sometimes fatal consequences for sex workers, especially those engaged in street working (e.g. Hubbard et al., 2008; Jordan, 2012). In the case of street sex work, criminalisation often leads to displacement resulting in sex workers often working in darker, more dangerous and less well known areas (Pitcher et al, 2006). This increases possibilities of violence and makes those working in street sex industries more vulnerable to exploitation.
- Criminalisation of clients strengthens the stigma of sex work and sex workers fear that contact with the police and other authorities will bring investigation of them and their clients. This acts as a major barrier to sex workers having the confidence to report any crimes they experience to the police and other authorities. This heightens sex workers' vulnerability in all sectors: many offenders who target sex workers do so because they believe sex workers will not report to the police. This proposed law will entrench that dynamic further.
- Many sex workers have made an informed decision to sell sex (Sanders, O'Neill and Pitcher, 2009). Those most affected by this legislation will be male, female and transgender sex workers in Northern Ireland working of their own volition and often within the law (the sale and purchase of sex by consenting adults is not currently illegal in the UK). Many lives could be worsened through loss of business and income, through increased stigma due to criminalisation of the purchase of sex. People will be working in fear of engaging in criminal acts when they are in fact selling and having sex with other consenting adults.

- Punishing clients would not be beneficial to sex workers – of course targeting violent clients is important, but targeting **all** clients ultimately erodes the human rights of sex workers to health and safety. In addition, it is possible that safer regular clients will be deterred by their criminalisation, and sex workers may resort to seeing less responsible, potentially more risky client groups. Commercial sex is not inherently violent and much can be done to make it safer (Sanders and Campbell, 2007).
- The proposed legislation will further stigmatise sex workers and their clients, rendering a vulnerable group more vulnerable. It also promotes the message that sex work always constitutes violence against women – which is a falsehood given the international movement for sex workers' rights and evidence from countries (e.g. New Zealand) where sex workers work within a decriminalised system and have access to the criminal justice system - rather than being excluded from it (e.g. Abel et al, 2010). Promoting an uninformed and ideologically-based notion that all sex work is automatically a form of violence against women trivialises the issue of actual violence when it is perpetrated against female, male or transgender sex workers, which should be taken seriously by criminal justice authorities.
- The clause proposes taking away the sole livelihood of substantial numbers of people, many of whom are consensually sex working to support themselves and their families. Many sex workers have few feasible alternative employment options available to them, for a range of reasons, and thus the proposals if implemented would take away their only source of income. The proposals offer no viable suggestions as to how alternative sources of immediate funds would be made available to address this consequence. Given the current economic situation and imminent cuts to welfare benefits, the proposals are financially as well as morally irresponsible and would have the effect of plunging a large group of people, who are already marginalised, into poverty and even greater social exclusion.
- The clause also denies the agency of the many people who have taken an informed decision to enter sex work, usually for economic reasons. The sale of sex is not itself illegal and the Bill would be taking away the rights of those sex workers who are working legitimately of their own volition, since it would create a contradictory situation where they would have the right to sell sexual services, yet anyone purchasing those services would be criminalised.

3. Likely consequences for access to support services and social inclusion of sex workers

- As a network of frontline services we are very much aware that a consequence of implementing this clause would be to make the work of health, drugs, social care and exit services even harder. There is a considerable body of literature in the UK which has been developed over the last 20 years or so which identifies the clear barriers sex workers face to accessing services or public protection through the criminal justice system (see UKNSWP, 2011); this bill would have the consequence of adding another significant barrier to sex workers being able to access support. The experience of outreach health care projects from the USA (Ditmore 2001), Canada, (Cler-Cunningham and Christenson 2001), and Germany (Munk 2001) illustrate how prohibitionist laws promote risks amongst sex workers, and intense policing and crackdowns only increase sex workers' vulnerability and marginalisation. A number of international bodies have recognised how criminalisation of sex work, including the clients of sex workers, creates barriers to delivering health and support services (WHO, 2004).
- UNAIDs stress that sex workers should be able to participate in all aspects of community life free from economic, cultural, or social marginalisation: criminalising the non-violent, non-abusive clients of sex workers will not enable sex worker social inclusion (UNAIDS, 2009). This bill will further force the sex industry and sex workers to the margins of society. Outlawing the purchase of sex could see a return to the situation where people would be frightened to report corruption, rape, violence, exploitation and other abuses, and would make the industry a magnet for potentially more criminal activity.

4. **Research evidence showing negative consequences of the 'Swedish model' banning the purchase of sex**

- Evidence from Sweden where the purchase of sex has been criminalised has resulted in :
    - classic displacement of sex workers
    - Women working off-street, through networks (taxi drivers etc) made vulnerable to different types of harm and economic exploitation.
    - Low conviction rates (500 in 10 years)
    - Majority of investigations discontinued - insufficient evidence, few proceeded to court.
    - Rather than tackling demand – it has restructured patterns of sex working – such as moving off-street.
    - Negative impact on most socially marginalised sex industry workers
    - Greater policing - is this reasonable in current times of austerity?
    - Drop in custom - lower prices charged by sex workers, less choice in clients and clients pressing for quicker and therefore more risky transactions due to the concerns over criminalisation.
    - Greater risk taking and greater stress and danger due to the above
    - The legislation has had a paradoxical effect as it has resulted in higher levels of risk and danger to the most vulnerable - street based sex workers (Scoular, 2010; Jordan, 2012)

Summary

In summary, we feel strongly that the proposed clause will have detrimental consequences for the safety and wellbeing of sex workers, will prohibit their access to support services and will dramatically increase the vulnerability of an already marginalised group. Any legislation which affects the lives of sex workers should not only be based on reliable research evidence, but also the expertise of organisations working directly with sex workers, as well as sex workers themselves, whose voices are frequently omitted from consultations on proposals concerning them.

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Victim Support NI

Human Trafficking and Exploitation Bill

Victim Support NI Submission to the Northern Ireland Assembly Justice Committee

November 2013

1.0. About Victim Support

Victim Support Northern Ireland welcomes the opportunity to comment on the Department of Justice Consultation on the Northern Ireland Law Commission Report on Bail in Criminal Proceedings.

Victim Support provides practical and emotional support to victims of crime across Northern Ireland. During the period 1st April 2012 to 31st March 2013, we received over 31,000 referrals to our Community Services. Out of this number around 3,500 people who were affected by crime were supported face to face, to work through the effects those crimes have had on their lives. In addition, almost 12,000 victims and witnesses were supported through the process of attending court and giving evidence and around 2,000 citizens injured as a result of violent crime were assisted with their criminal injuries compensation application.

2.0. General Comments

2.1. Victim Support NI is concerned by the issue of Human Trafficking in Northern Ireland and our organisation is fully committed to providing appropriate help and support to victims who have been trafficked for any purpose.

2.2. We welcome Lord Morrow's commitment to this issue and the important opportunity for discussion and debate which the introduction of the Bill has afforded.

2.3. However, whilst we acknowledge that this is a highly emotive policy area and fully support efforts to legislate on this issue, we are of the view that any legislation must be based on strong evidence and should produce law which is effective and enforceable, if it is to make a demonstrable difference to individuals who have been trafficked.

2.4. Victim Support NI is of the strongly held opinion that legislative initiatives should be based upon extensive evidence gathering, identification of need and a comprehensive analysis of research. This constitutes best practice in policy making. With these considerations in mind, we are strongly advocating for a delay in the passage of the Bill, to facilitate Northern Ireland specific research and to ensure that a fully informed debate takes place on the issues raised.

2.5. It is also in this context that our organisation has a number of concerns about specific aspects of the Bill.

3.0. Existing Law:

3.1. Upon analysis of the individual clauses contained within the Bill, it is evident that current provision and arrangements, significantly address many of the key issues raised. For example in respect of Clause 6 which would make it an offence to obtain sexual services from a person over the age of 18, in exchange for payment, thecurrent law was substantially updated by the Sexual Offences (NI) Order 2008 and criminalises a variety of activity in relation to the supply of prostitution and the purchase of sexual services.

3.2. Further, Sentencing Guidelines for Northern Ireland already confirm aggravating factors of general application and these are applicable in cases of Human Trafficking. There is also legal precedent that an abuse of a position of trust must be severely treated.

3.3. Similarly, forced begging is already recognised to fall within the labour exploitation definition.

3.4. Our organisation would wish to see the enforcement of existing law and considerthat any changes in this regard should be based on careful and substantive analysis.

3.5. Victim Support NI is a strong advocate of Judicial Independence and we therefore have concerns regarding the application of minimum sentencing.

4.0. Clause 6:

4.1. Victim Support NI shares Amnesty International's concern that the Trafficking Convention and the EU Trafficking Directive, expressly provide measures to be taken for discouraging and reducing the demand for trafficking victims; the criminalisation of the purchase of sexual services is not one of the measures they recommend.

4.2. Additionally, these concerns are reflected by the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) in their third general report which states that ''The impact of criminalising the purchase of sexual services, seen as an anti-trafficking measure in some of the States evaluated by GRETA, must be assessed in the light of all possible consequences. This includes ensuring that the measures taken do not drive victims of trafficking for the purpose of sexual exploitation underground or make them more vulnerable, and also that they do not mobilise investigation units and prosecution authorities to the detriment of investigations of traffickers."

4.3. We are concerned that clause 6 seeks to outlaw the paying for sexual services of a person as a standalone measure, without further provision and support provided for those who will be directly affected as a result of this step, nor crucial protection and support for those seeking to exit the selling of sexual services. Further provision and support should be fully informed by a strong evidential base, which would include independent research and consultation with a range of stakeholders including sex workers.

4.4. We are further concerned that the conflating of the issue of prostitution with the wider issue of Human Trafficking, may be unhelpful.

4.5. It is our view that Northern Ireland specific research must be carried out in order to fully examine the scale, nature and extent of prostitution in Northern Ireland and to explore associated criminal justice and socio-economic issues.

4.6. Similarly, research is required to identify whether there may be a negative impact on other groups of victims. For example, what impact has similar legislation in respect of prostitution in other jurisdictions, had on the prevalence of other human trafficking offences? Has the focus on criminalising the purchaser impacted on intelligence gathering and how easy will it be to enforce such a law?

4.7. It is also essential that in seeking to provide appropriate support and legal provisions, we do not create a hierarchy of victims in Northern Ireland.

4.8. In a Bill designed to address Human Trafficking in Northern Ireland, it is striking that while there is a considerable focus on the specific offence of trafficking for the purposes of sexual exploitation, there is little proposed in respect of other forms of Human Trafficking, including forced labour and organ harvesting.

4.9. Victim Support NI would welcome more debate on the potential impact of Clause 6 of the Bill.

5.0. Clause 10

5.1. Victim Support NI welcomes this clause on support provision for victims.

5.2. However, we feel this clause would benefit from clarifying the proposed responsibilities of both Department of Health Social Services and Public Safety (DHSSPS) and Department of Justice, so that this is clear in statute.

5.3. Our organisation joins with Amnesty International in recommending the overarching requirement for support be placed in primary legislation with a requirement for the relevant Government Departments to set out the detail by Order in secondary legislation. Human trafficking is not a static issue and will change and evolve over time, as do the needs of victims. Northern Ireland policies, processes and legislation must retain a degree of flexibility and be easily amended to ensure they can adequately respond to upholding the protection and promotion of the rights of victims. Secondary legislation will be easier to amend at a later point.

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Wendy Lyon

Submission regarding the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Wendy Lyon

Dear Committee members,

Please find below my submission to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

By way of background, I hold an LLM in International Human Rights Law from Griffith College Dublin, which I completed in 2011 with a dissertation entitled *Prohibitory Prostitution Laws and the Human Right to Health*. The focus of my research was the impact of anti-prostitution criminal laws on sex workers' right to health, as protected under international human rights law.

In my dissertation, I examined the existing evidence from jurisdictions across the globe. My research found criminal laws aimed at controlling, reducing or abolishing prostitution to be associated with negative outcomes for sex workers' right to health.

In this submission I will focus on Clause 6 of the bill, which provides for a new offence of "paying for sexual services of a person". The overwhelming weight of the evidence supports the conclusion that criminalising sex workers' clients has adverse implications for sex workers' right to health. While much of this evidence is necessarily anecdotal, it is remarkably consistent across jurisdictions and despite variations in the manner by which clients are criminalised.

For the convenience of those Committee members without legal backgrounds, I have confined the main body of this submission to what appear to be the practical, real-world effects of criminalising the purchase of sex. Members concerned with how this subject fits into the international human rights law framework can refer to Appendix A. In Appendix B, I have cited various bodies in the global health and human rights sector(s) who have taken positions critical of client criminalisation.

Submission

1. The adverse effects of client criminalisation on sex workers' health

1.1. Increased risk of violence against sex workers

Although no *direct* link has been proven between client criminalisation and the rate of violence against sex workers,[1] there are, nonetheless, a number of ways in which the law may

[1] A report commissioned by the City of Oslo in 2012 found that the number who had experienced violence in prostitution rose to 59% from 52% in 2007, shortly before Norway criminalised the purchase of sex. However, these figures are not directly comparable, as the first relates solely to the previous three years while the latter reflects lifetime experience. Ulla Bjørndahl, *Dangerous Liaisons: A report on the violence women in prostitution in Oslo are exposed to* (Pro Sentret, 2012) *http://prosentret.no/?wpfb_dl=575* [Accessed 27 October 2013] p.12.

No such research appears to have been carried out in Sweden, and anecdotal reports are contradictory. An official Swedish government evaluation concluded that predictions that the law would "increase the risk of

foster an environment of greater vulnerability to violence—or hinder action against those who commit it.

1.1.1 Fear of engagement with police

In Norway, client criminalisation appears to have harmed rather than helped sex workers' relationship with police:

- The 2010 Annual Report of Pro Sentret, an Oslo official service for current and former sex workers, reports frequent police harassment and threats to expel sex workers from certain areas—or to arrest them on other charges—because they are viewed as encouraging criminal activity.[2]
- A 2012 City of Oslo report states that sex workers *feel* criminalised and controlled under the law, and that consequently women in sex work "do not perceive the police as an ally they can turn to when they are the victim of a crime".[3]

Swedish police do not seem to perceive themselves as allies, either. According to Stockholm's Detective Superintendent Jonas Trolle: "It should be difficult to be a prostitute in our society—so even though we don't put prostitutes in jail, we make life difficult for them."[4]

1.1.2 Risks taken to avoid police

It is logical that when police have a mandate to stop sex work from occurring, those whose income depends on it will have a strong incentive to avoid them. A consequence of this may be to divert prostitution into areas where it is less likely to be detected. It is not necessary that the sex worker is the one facing arrest—the client's fear of arrest may also have a dispersal effect, as the following evidence demonstrates:

- A New England sex worker described the effect of police crackdowns: "We still gotta work. It's not like that stops … you might do it in a more secluded place, like go into the park or something. 'Cause he don't want to get caught."[5]
- A 2008 report of the Swedish National Board of Health and Welfare cited one sex worker's view that "there may be fear among clients that makes it harder to use safe meeting places. Instead, the meeting places have become more out of the way, such as

physical abuse … have not been realized": Swedish Institute, "Selected Extracts of the Swedish government report SOU 2010:49: 'The Ban against the Purchase of Sexual Services. An evaluation 1999–2008'", *http://www.government.se/download/0e51eb7f.pdf?major=1&minor=151488&cn=attachmentDuplicator_1_attachment* [Accessed 27 October 2013] p.32. However, in reviewing a wide range of governmental, NGO and academic reports, two researchers found that some sex workers do report an increase in violence since the law's enactment: Susanne Dodillet and Petra Östergren, "The Swedish Sex Purchase Act: Claimed Success and Documented Effects" (Conference paper presented at the International Workshop: *Decriminalizing Prostitution and Beyond: Practical Experiences and Challenges*, The Hague, 3-4 March 2011) *http://www.plri.org/sites/plri.org/files/Impact%20of%20Swedish%20law_0.pdf* [Accessed 20 October 2013] p.23

[2] Pro Sentret, *Året 2010* (Pro Sentret, 2011) *http://prosentret.no/?wpfb_dl=438* [Accessed 20 October 2013] pp.72, 78–79

[3] Bjørndahl, *supra* note 1, p.38

[4] "Could Sweden's prostitution laws work in the UK?" *BBC News* 30 September 2010, *http://www.bbc.co.uk/news/world-europe-11437499* [Accessed 20 October 2013]

[5] Kim Blankenship and Stephen Koester, "Criminal Law, Policing Policy and HIV Risk in Female Street Sex Workers and Injection Drug Users" (2002) 30 Journal of Law, Medicine and Ethics 548, p.550

wooded areas, isolated stairwells and office premises, where clients do not risk discovery".[6]

- In Norway's 2010 Country Progress Report to UNAIDS, the Norwegian Directorate of Health reported that "sex workers in escort services are forced to sell sex at the customer's arena, which makes them more vulnerable to violence and abuse".[7]
- The 2012 City of Oslo report also found that "Fear of being discovered by the police has led several of those working in massage parlours to quit selling sex in such establishments. Instead they agree to sell sex when giving a massage at the parlour and then meet the client later on in their own flat. This means the service is performed where the seller and buyer are alone, which increases the level of vulnerability."[8]

1.1.3 Interference with effective screening mechanisms

Laws that criminalise sex workers' clients may also inhibit sex workers' ability to screen out potentially dangerous clients, by forcing them to make quick decisions about whether or not to accept a client:

- The "kerb-crawling" provision in s.1 of the UK Sexual Offences Act 1985[9] places pressure on sex workers to get into clients' cars more quickly.[10]
- In Sweden, sex work now involves a "lightning decision" in which street-based workers simply get into the first car that stops for them.[11]
- In Norway, the pressure to reach a quick agreement has "increased considerably after the criminalization of the purchasing of sex".[12]

1.1.4 Increase in the proportion of dangerous clients

The premise is that criminalising the purchase of sex will reduce prostitution by reducing "demand". However, it appears to be mainly the non-violent clients that criminalisation deters—with little effect on the dangerous ones. This is logical, as someone whose intention is to commit a serious (and already criminal) offence of bodily harm seems unlikely to be dissuaded by a new law against the relatively minor offence of paying for sex.

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[6] Annika Eriksson and Anna Gavanas, *Prostitution in Sweden 2007* (Socialstyrelsen 2008) http://www.socialstyrelsen.se/lists/artikelkatalog/attachments/8806/2008-126-65_200812665.pdf [Accessed 27 October 2013] p.48

[7] Helsedirektoratet (Norwegian Directorate of Health), *UNGASS Country Progress Report Norway: January 2008–December 2009* (Helsedirektoratet, April 2010) http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2010countries/norway_2010_country_progress_report_en.pdf [Accessed 27 October 2013] p.36

[8] Bjørndahl, *supra* note 1, pp.34–35.

[9] This legislation defines "kerb-crawling" as a man soliciting a woman from a motor vehicle "persistently or in such manner or in such circumstances as to be likely to cause annoyance to the woman (or any of the women) solicited, or nuisance to other persons in the neighbourhood".

[10] Teela Sanders, "The Risks of Street Prostitution: Punters, Police and Protestors" (2004) 41 Urban Studies 1703, p.1713

[11] Ulf Stridbeck (ed.), *Purchasing Sexual Services in Sweden and the Netherlands: Legal Regulation and Experiences—An Abbreviated English Version. A Report by a Working Group on the legal regulation of the purchase of sexual services* (Justis-og Politidepartementet, 2004) http://www.regjeringen.no/upload/kilde/jd/rap/2004/0034/ddd/pdfv/232216-purchasing_sexual_services_in_sweden_and_the_nederlands.pdf [Accessed 27 October 2013] pp.13 and 19; see also Petra Östergren, "Sexworkers critique of Swedish Prostitution policy" (2004), *http://www.petraostergren.com/pages.aspx?r_id=40716* [Accessed 20 October 2013]

[12] Bjørndahl, *supra* note 1, p.39

- The 2012 City of Oslo report states: "Another trend is the change of customer base with fewer 'good' clients than before. 'Good' clients are described as men approaching women to buy sexual services, and who then pay the agreed price and stick to the agreement. … There is no reduction in the number of 'bad' clients reported by the police or welfare services. The designation 'bad' clients is used about clients who do not stick to the agreement, try to negotiate the price, do not want to use a condom, have a lack of respect for the women by being derogatory, are violent/threatening, mentally unstable/sick or approach women not only buy sexual services but because they want to abuse them.

  "The consequence of a reduction of clients, and fewer 'good' clients, while the number of 'bad' clients remains the same, is that the 'bad' clients have become a greater part of the customer base than before. Sex workers have become more dependent on 'bad' clients even though they have not increased in number, as the earnings base from 'good' clients has decreased."[13]

- Sex workers, police and social workers have told researchers in England that operations against clients "can have the effect of deterring the 'decent punter' whilst doing nothing to deter dangerous and violent individuals who commit crime against women involved in street prostitution".[14]

- According to a Swedish police interview conducted several years after the law was introduced, "most of the 'normal' clients have been scared off by the law. And because the client base has changed and prices have fallen, then [sic] the girls today have to take clients they don't feel safe with".[15]

1.1.5 Interference with client negotiations

Having "set prices" and services is a common strategy by which sex workers assert control over a potential transaction.[16] However, the client's fear of arrest can adversely affect the safe negotiation process.

The Oslo report states: "Clients are more stressed because they fear the police will discover them, which means contact made on the streets must be quicker and you must get away from the area quickly. This is very challenging for many of the women as it becomes more difficult to make a deal with a client when it comes to agreeing on a price, sexual services, local for the sex and use of condoms before they have to get away from the area with the client. Agreements must be made after getting to a 'safer' place for the client, like a hotel room, a car or at one of the parties' flats. This increases the vulnerability level for the women as they

[13] Bjørndahl, *supra* note 1, p.37
[14] Marianne Hester and Nicole Westmarland, *Tackling Street Prostitution: Toward an Holistic Approach* (London: Home Office Research, Development and Statistics Directorate, 2004) p.24; Rosie Campbell and Merl Storr, "Challenging the Kerb Crawler Rehabilitation Programme" (2001) 67 Feminist Review 94, 102 citing Steph Wilcock, *The Lifeline Sexwork Project Report: Occupational Health and Safety Issues and Drug Using Patterns of Current Sexworker: Survey Findings* (Manchester: Lifeline, 1998).
[15] Stridbeck, *supra* note 11, p.13
[16] Gemma Cox and Teresa Whitaker, *Drug Use, Sex Work and the Risk Environment in Dublin* (Dublin: Government Publications, 2009), p.127

often are alone with the client when the final agreement is made, because conflict can more easily arise about what has been agreed upon … ."[17]

This impact is likely to be especially profound for those engaged in survival sex work, who may need to negotiate with a client on his terms if the only practical alternative is losing the client entirely. A diminution of the client base through criminalisation will only magnify this effect.

1.1.6 Diminished independence

Criminalising clients may increase sex workers' reliance on pimps:

- In Sweden, "dependence on pimps has increased because street prostitutes cannot work as openly as before. The police informed us that it is more difficult to investigate cases of pimping and Trafficking in Human beings because prostitution does not take place so openly on the streets any more."[18]
- In relation to Swedish indoor prostitution, "Someone is needed in the background to arrange transport and new flats so that the women's activity is more difficult to discover and so that it will not attract the attention of the police."[19]
- The law may also make it easier for exploitative pimps to avoid justice: "clients no longer provide tip-offs about pimps, for fear of being arrested themselves".[20]
- The Swedish National Board of Health and Welfare reported in 2008: "According to one informant in Göteborg, there are probably more pimps involved in prostitution nowadays. The informant says the law against purchasing sexual services has resulted in a larger role and market for pimps, since prostitution cannot take place as openly.

  "A woman engaged in indoor prostitution in Göteborg relates that when the law took effect in 1999, about ten women engaged in prostitution from various Eastern European countries approached her business because they wanted to hide indoors. Informants from the Stockholm Prostitution Centre also mention that the law has opened the door to middlemen (pimps), because it has become more difficult for sellers and buyers of sexual services to make direct contact with one another."[21]

- Norway has also seen vulnerable drug-using street workers increasingly entering into relationships of extreme dependency, becoming reliant on a particular man (or men) for survival. "Many of the women who are drug addicts have changed their method of contacting clients. Most of the welfare services have seen women establish a more long-term relationship to the men, and they are referred to as 'friends', 'boyfriends', 'uncles', or acquaintances. These are men they stay in touch with over the phone and men they stay with for longer periods of time, which may be hours, days or weeks. They have sex with these men in exchange for the men supplying them with drugs, money or other necessities. Many of the welfare service providers say they find these women very vulnerable when they are in such a relationship as they become very dependent on the few clients they have."[22]

[17] Bjørndahl, *supra* note 1, pp.33–34
[18] Stridbeck, *supra* note 11, p.52 (capitalisation as in original)
[19] *Ibid,* p.53
[20] *Ibid*, p.19.
[21] Eriksson and Gavanas, *supra* note 6, pp.47–48.
[22] Bjørndahl, *supra* note 1, p.39

1.2 Increased risk of HIV and other sexually-transmitted infections (HIV/STI)

It cannot be said definitively that criminalising the purchase of sex leads to an increase in HIV/STI infection. There are, however, serious grounds for concern that this law may increase sex workers' *vulnerability* to HIV/STI:

1.2.1 Obstacles to accessing health services

The criminalisation of clients may lead to alienation of sex workers from health and social services, including services related to HIV/STI prevention and treatment.

- NGOs from the Norwegian HIV/AIDS sector have stated that "The effects of police enforcement has [sic] affected the sex workers' relation to other services, such as harm reduction services, as many refuse to associate with anything or anyone that may give the police a suspicion of sex work … ."[23]
- The NGOs also state that the ban on purchasing sex "makes it increasingly difficult to reach sex workers with prevention work and information".[24]
- An increased feeling of stigmatisation on the part of sex workers may also adversely affect their interaction with health services. This will be discussed further below.

1.2.2 Deterrents to condom use

1.2.2.1 Condoms as evidence of prostitution

There is an apparent (though as yet unconfirmed) belief in Sweden and Norway that condoms are used as evidence by police seeking to prevent or prosecute prostitution:

- The Swedish sex workers' organisation Rose Alliance claims that police seeking to avert prostitution or arrest clients "look for condoms as evidence of sex. This gives sex workers a strong *incentive not to carry condoms*".[25]
- Norway's Directorate of Health has acknowledged concerns "that individual sex workers no longer want to carry condoms and lubricants out of fear that they will be used by the police as indicators of sale of sexual services."[26]
- NGOs from Norway's HIV/AIDS sector have likewise alleged that condoms are now used as evidence of prostitution.[27]

1.2.2.2 Barriers to condom negotiation

Client criminalisation may promote unprotected commercial sex by reducing sex workers' "bargaining power" over clients reluctant to use condoms:

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[23] Helsedirektoratet, *supra* note 7, p.95.
[24] *Ibid* p.102
[25] Johannes Eriksson, "The 'Swedish model': Arguments, Consequences: Presentation to Green Ladies' Lunch, Prostitution in Europe—Berlin" (Global Center for Women's Politics, 2005) *http://www.glow-boell.de/media/de/txt_rubrik_2/160305LLVortrag_Eriksson.pdf* [Accessed 20 October 2013], para. 5 (emphasis in original)
[26] Helsedirektoratet, *supra* note 7, p.36
[27] *Ibid,* p.94

- A decrease in clients and consequent loss of income can lead to increased competition among workers[28] and make requests for unsafe sex more difficult to refuse.[29]
- In Norway: "Since the customer base has been somewhat reduced in parts of the prostitution market, several of the welfare services report that women have had to lower their client standards. Many women have had clear demands about which clients they serve; examples of selection criteria are nationality, use of drugs, mental health/client appearance. Women also had other standards that were clearly defined; which sexual service they sold/did not sell, where sales took place, number of clients they take on at the same time, price and use of condoms. Several of the welfare service providers are of the opinion women have had to lower their original demands to acquire clients and make the amount of money they need. It is difficult for the welfare service providers to analyse if this has led to increased violence and increased levels of sexually transferred diseases. However, there appears to be an agreement among them that women feel more vulnerable, more at risk and are in less control over the relation to the client now than before because they have had to lower their standards."[30]
- In Fiji, which criminalised both the purchase and sale of sex in 2009, research has also found an increase in unprotected commercial sex due to the resulting decrease in clients: "The criminalisation of clients has reduced the ability of sex workers to negotiate over the terms of the transaction and has created more pressure to accept clients' terms …. Fear of losing a client is an incentive to comply with a client's wishes for sex without a condom."[31]

1.2.3 Opposition to targeted HIV prevention measures

HIV prevention measures targeting sex workers and their clients may meet resistance for being seen as contradicting the aim of deterring prostitution. According to the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights:

- The distribution of condoms to sex workers has been opposed on the grounds that it is incompatible with the country's "zero tolerance" approach to sex work.[32]
- Sweden's criminal law has also been implicated in the cancellation of client-targeted HIV prevention measures.[33]

1.2.4. Violence and STI

If client criminalisation does promote violence against sex workers, as indicated above, this in itself would increase their susceptibility to infection: violence against sex workers is

[28] Stridbeck, *supra* note 11, p.13; Glenn Betteridge, "Sex, Work, Rights: Reforming Canadian Criminal Laws on Prostitution" (Canadian HIV/AIDS Legal Network, 2005) *http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=199* [Accessed 27 October 2013] p.42
[29] Blankenship and Koester, *supra* note 5, p.550;Eriksson, *supra* note 25*,* para. 5; Stridbeck, *supra* note 11, p.12 citing Socialstyrelsen, *Kännedom om Prostitution 2003* (Socialstyrelsen, 2004); Östergren, *supra* note 11; Campbell and Storr, *supra* note 14; Pro Sentret, *supra* note 2, p.57
[30] Bjørndahl, *supra* note 1, p.40
[31] Karen McMilland and Heather Worth, *Sex Workers and HIV Prevention in Fiji—after the Fiji Crimes Decree 2009* (Sydney: International HIV Research Group, University of New South Wales, 2011) p.24
[32] Riksförbundet för Homosexuellas, Bisexuellas och Transpersoners Rättigheter (Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights), *Förbud mot köp av sexuell tjänst. En utvärdering 1999–2008, SOU 2010:49* (RFSL 2010) *http://app.rfsl.se/apa/19/public_files/ry_101025_kop_av_sexuell_tjanst.pdf* [Accessed 27 October 2013] p.8
[33] *Ibid,* p.2

associated with an increased likelihood of HIV and STI acquisition.[34] This is unsurprising, as rape rarely takes place with a condom,[35] and can cause injuries that facilitate STI and HIV transmission.[36]

1.3 Mental ill-health

While various factors may contribute to mental ill-health among sex workers, there are number of ways in which criminalisation of sex workers' clients appears to play some role.

1.3.1 Ill-health effects from other adverse consequences of criminalisation

The adverse consequences already referred to in this submission may have knock-on effects for sex workers' mental health:

- A clear association has been found between violence against sex workers and mental ill-health.[37]
- The ongoing risk of exposure to HIV/STI may also have mental health implications.[38]
- Logically, then, any law that increases the risk of violence or infection will also increase the risk of mental ill-health.
- A link has also been found between violence and an increase in risky behaviour, STI and reduced access to health services—possibly as a result of the mental health effects of violence.[39]

1.3.2 Stigmatisation

The impact of stigmatisation on sex workers' health cannot be overstated. It has been described as the single biggest issue facing sex workers—even those who operate legally.[40] There are strong indications that the stigma against sex workers has increased in Sweden and Norway since the laws against buying sex were enacted:

- According to the 2012 City of Oslo report: "The welfare services report [that] the debate about prostitution prior to and after the Act was changed has greatly influenced how the average person viewed women selling sex, meaning more women have experienced an increase in harassment from strangers in public spaces.

[34] Kate Shannon et al., "Prevalence and structural correlates of gender based violence among a prospective cohort of female sex workers", BMJ 2009;339:b2939*, http://www.bmj.com/content/339/bmj.b2939* [Accessed 27 October 2013]
[35] Nel van Beelen and Aliya Rakhmetova, "Addressing violence against sex workers" (2010) 12 Research for Sex Work 1, p.1
[36] Elizabeth Pisani, *The Wisdom of Whores: Bureaucrats, Brothels and the Business of AIDS* (London: Granta, 2008), p.129
[37] Wulf Rössler et al., "The Mental Health of Female Sex Workers," (2010) 122(2) Acta Psychiatrica Scandinavica 143.
[38] Barbara Brents and Kathryn Hausbeck, "Violence and Legalized Brothel Prostitution: Examining Safety, Risk and Prostitution Policy" (2005) 20 Journal of Interpersonal Violence 270, p.293.
[39] Tara S.H. Beattie et al., "Violence against female sex workers in Karnataka state, south India: impact on health, and reductions in violence following an intervention program", (2010) 10 BMC Public Health 476, *http://www.biomedcentral.com/1471-2458/10/476/* [Accessed 20 October 2013]
[40] Sharon Pickering, JaneMaree Maher and Alison Gerard, *Working in Victorian Brothels: An Independent Report Commissioned by Consumer Affairs Victoria into the Victorian Brothel Sector* (Consumer Affairs Victoria, 2009), *http://www.consumer.vic.gov.au/library/publications/resources-and-education/research/working-in-victorian-brothels-2009.pdf* [Accessed 27 October 2013], p.17

> "In recent years the services for sex workers have regularly received reports about people frequenting the streets in Oslo to harass these women. There have been reports of name calling, objects being thrown at them and impolite behaviour, especially after unfavourable media reports involving these women.
>
> "In addition to changes in how women in prostitution are described in the public debate, there is also a tendency to point to a greater proportion of the population perceiving sex workers as criminals, even though they have not been criminalized."[41]

- In Sweden, public opinion about the people who sell sex seems to have hardened since the criminalisation of buyers. In 1996, three years before the law was introduced, 19% of men and 41% of women answered "yes" to the question: "A woman receives payment for sexual relations. Should the woman be regarded as a criminal?" Twelve years later, in response to the question "Should the sale of sex be prohibited by law?", 49.4% of men and 66% of women answered "yes".[42] While the softer framing of the 2008 question likely accounts for some of the difference, the sheer size of the increase suggests that an actual public opinion shift has also occurred.

- As noted above, Detective Superintendent Jonas Trolle has admitted that Sweden deliberately makes life "difficult" for sex workers.

- According to a 2010 evaluation of the law commissioned by the Swedish Department of Justice and overseen by Chancellor Anna Skarhed: "People who are currently being exploited in prostitution state that the criminalization has intensified the social stigma of selling sex. They describe having chosen to prostitute themselves and do not consider themselves to be unwilling victims of anything. Even if it is not forbidden to sell sex, they feel they are hunted by the police. They feel that they are being treated as incapacitated persons because their actions are tolerated but their wishes and choices are not respected. … For people who are still being exploited in prostitution, the above negative effects of the ban that they describe must be viewed as positive from the perspective that the purpose of the law is indeed to combat prostitution."[43]

This evidence suggests that stigmatisation of sex workers is not merely an accidental consequence of the law, but is actually built into the law's design.

1.4 Occupational health and safety

To the extent that client criminalisation has the effects already outlined in this submission, it clearly promotes conditions inconsistent with the right to occupational health and safety. Laws that disperse sex workers to more isolated and dangerous locations also deny them access to a safe working environment.

Sex workers' eligibility for protection under the right to occupational health and safety is outlined in Appendix A.

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[41] Bjørndahl, *supra* note 1, p.41
[42] Jari Kuosmanen, "Attitudes and perceptions about legislation prohibiting the purchase of sexual services in Sweden", (2011) 14:2 European Journal of Social Work 247, p.254
[43] Swedish Institute, *supra* note 1, p.34

1.5 Health-related civil and political rights

1.5.1 The right of participation

As Appendix B describes, the right to health includes a right to participate in the process by which health-affecting decisions are made. Yet sex workers—the very people whose health is most affected by prostitution laws—have often been given a minimal input role in public debates around those laws.

- The Swedish National Board of Health and Welfare writes, "Virtually all women engaged in prostitution who were informants for this study (regardless of standpoint) perceive difficulties with being considered, heard, and correctly interpreted in public debate, which is also reported by sellers of sexual services in other interview-based studies."[44]
- Swedish sex workers' views were also largely ignored in the legislative process by which clients were criminalised: "Nor were the views of prostitutes taken into consideration except where they confirmed the victim-oriented mainstream discourse".[45]
- When the Rhode Island Senate Judiciary Committee conducted hearings into whether indoor prostitution should be criminalised, six of the ten committee members—including the Chair—left before the sex workers' turn to speak.[46]

This pattern has already emerged in the Republic of Ireland:

- In 2010, officials from the Irish Department of Justice, Equality and Law Reform visited Sweden on a "fact-finding" mission to examine the outworking of the law that criminalises clients. The mission did not include meeting with any Swedish sex workers to learn about how the law has affected them.[47]
- In November 2012, the Joint Oireachtas Committee on Justice, Defence and Equality made a repeat fact-finding visit to Sweden. The exclusion of Swedish sex workers from the itinerary was also repeated.[48]
- Between December 2012 and February 2013, the Oireachtas Committee held several hearings on the subject of prostitution law reform. The large majority of those invited to give their views were members of the Turn Off the Red Light campaign. Only near the end of the process were sex workers allowed to participate.[49]

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[44] Eriksson and Gavanas, *supra* note 6, p.49.
[45] Arthur Gould, "The Criminalisation of Buying Sex: The Politics of Prostitution in Sweden" (2001) 30 *Journal of Social Policy* 437, pp.447 and 452.
[46] "Sex workers testify at Senate hearing on prostitution bill" *Providence Journal* 17 September 2009, *http://www.projo.com/news/content/PROSTITUTION_BILL_06-19-09_UIEPAKU_v59.3cd847f.html* [Accessed 16 July 2011], reproduced at *http://swoplv.wordpress.com/2009/06/22/ri-sex-workers-testify-at-senate-hearing-on-prostitution-bill/#more-1277* [Accessed 25 October 2013]. The bill to outlaw indoor prostitution was subsequently passed.
[47] Department of Justice and Equality, reply to author's Freedom of Information request (20 May 2011)
[48] Houses of the Oireachtas Communication Unit, "Justice Committee Delegation to Visit Finland and Sweden" (12 November 2012), *http://www.oireachtas.ie/parliament/mediazone/pressreleases/name-13480-en.html* [Accessed 27 October 2013]
[49] "'Escort' web firm hits out at RTE sex work expose" *Sunday Independent* 17 February 2013, *http://www.independent.ie/irish-news/escort-web-firm-hits-out-at-rte-sex-work-expose-29076081.html* [Accessed 25 October 2013]

- A member of the Committee subsequently dismissed the sex workers' testimony to a local newspaper, saying "one has to always be suspicious that they are being put up to it".[50]
- When the Committee finally published its recommendations in June 2013, the views of the sex workers who contributed to the consultation process were remarkably under-emphasised. Instead, the report is dominated by the opinions of academics and NGOs—most of whom took a contrary view to that espoused by the active sex workers (that is, those who will be affected if the law is adopted).[51]

Such inattentiveness to sex workers' concerns not only breaches the participatory element of their right to health, but has other more practical drawbacks:

- The less closely the law reflects sex workers' operational needs, the less likely they are to comply with it.[52]
- Limiting sex workers' input into the policy process may also contribute to their disempowerment and increase their stigmatisation, and could have adverse impacts on health promotion and HIV prevention.[53]

1.5.2 The right to autonomy

The right to autonomy has an obvious parallel with the right to occupational health and safety. The evidence cited in this submission suggests that many sex workers feel their health would be better protected if they had—for example—more time to screen clients, or more control over their working environment. A law that denies them the measures they consider desirable or necessary in the interests of their health will also deny them their right to autonomous health-related decision-making.

2. Can the right to health justify client criminalisation?

This section will address the health-based arguments sometimes made in support of client criminalisation.

2.1 The claim that prostitution is incompatible with health

This claim can be divided into two sub-arguments:

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[50] "Review reveals shocking details on prostitution" *Clare Champion* 21 March 2013, *http://www.clarechampion.ie/?option=com_content&view=article&id=13665:review-reveals-shocking-details-on-prostitution&catid=41:politics&Itemid=60* [Accessed 3 July 2013], reproduced at *http://nothing-about-us-without-us.com/review-reveals-shocking-details-on-prostitution-clarechampion-ie-22-03-13/* [Accessed 27 October 2013]

[51] Houses of the Oireachtas Joint Committee on Justice, Defence and Equality, *Report on hearings and submissions on the Review of Legislation on Prostitution* (June 2013), *http://www.oireachtas.ie/parliament/media/committees/justice/1.Part-1-final.pdf* [Accessed 25 October 2013].

[52] Alison Arnot, *Legalisation of the sex industry in the state of Victoria, Australia: The impact of prostitution law reform on the working and private Lives of women in the legal Victorian sex industry* (Masters Research thesis, University of Melbourne Department of Criminology, 2002) *http://repository.unimelb.edu.au/10187/954* [Accessed 27 October 2013] p.110

[53] Diskrimineringsombudsmannen (Discrimination Ombudsman of Sweden), "Yttrande över "Förbud mot köp av sexuell tjänst. En utvärdering 1999–2008, SOU 2010:49" (Diskrimineringsombudsmannen, 2010), *http://www.do.se/sv/Om-DO/Remissvar/2010/Yttrande-over-Forbud-mot-kop-av-sexuell-tjanst-En-utvardering-1999-2008-SOU-201049/* [Accessed 27 October 2013]

2.1.1 Prostitution as an inherent risk

Supporters of client criminalisation may argue that the risks of prostitution exist regardless of the legal framework. Violence, HIV/STI and mental ill-health affect sex workers in legal as well as illegal sectors; legal sex workers still suffer the effects of stigmatisation.

While this is undoubtedly true, sex work is not unique in this respect. Fatalities are relatively high in the agricultural sector;[54] construction workers frequently miss work due to injury;[55] work-related illness (including mental ill-health) is common among social care workers.[56] Any one of these jobs could be deemed intrinsically hazardous. Their social value relative to prostitution may be a matter for debate, but that is not relevant to their status as high-risk occupations. Yet it is inconceivable that measures aimed at minimising health and safety risks to those workers would be rejected because of the inherent dangers they face.

As outlined in Appendix B, international law makes no such distinction as regards entitlement to the right to health. Sex workers have the same right as Assembly members and staff to the highest attainable standards of health. They should not need to exit the industry to have access to that right.

2.1.2 Prostitution as violence against women

Many feminists, in particular, conceptualise sex work as violence against women.[57] Prostitution is considered intrinsically damaging, and sex workers who claim to have escaped harm—or who ascribe the harm to the illegality of their work—are essentially said to be suffering from false consciousness.

This view rejects sex workers' right to take the steps they consider necessary to improve their health, insisting instead on its own idea of what sex workers need (which usually amounts to no less than exiting the sex trade entirely).[58] Harm is said to derive from the exchange of sex for money itself, rather than from any injury or illness sustained in the act. But if no injury or illness has been sustained, and no psychological damage can be detected, how can the "harm" be proven? To enshrine this position into law is to introduce measures which could lead to *demonstrable* harms in an attempt to avert merely *theorised* harms. It is an ideological, not evidence-based, form of law-making.

Furthermore, the "prostitution as violence against women" framework may itself contribute to the harms that sex workers face:

[54] Health and Safety Authority, *Summary of Workplace Injury, Illness and Fatality Statistics 2011–2012* (Health and Safety Authority, 2013) *http://www.hsa.ie/eng/Publications_and_Forms/Publications/Corporate/stats_report_11_12.pdf* [Accessed 27 October 2013], p.27
[55] *Ibid*, p.11
[56] *Ibid*, p.12
[57] It is not clear where male sex workers fall into this framework.
[58] This point is well illustrated by the challenge to Canada's prostitution laws in *Bedford v Canada,* [2010] ONSC 4264: when the case was heard before the provincial court of first instance, notable violence against women theorists such as Melissa Farley testified in favour of retaining those sections of the Criminal Code that may, as outlined above, have the effect of placing sex workers at heightened risk of violence.

- It defines all (female) sex workers as victims, an imposed status of weakness which is clearly stigmatising.
- In this way, it may contribute to the perception of sex workers as easy targets for abuse—and encourage those inclined to commit more tangible forms of violence. The portrayal of sex workers as, for example, unable to reject client demands may give succour to those clients who believe that once they have paid their money they are entitled to demand what they want.
- Sex workers' negotiating position relative to clients and brothel managers may also be diminished when they are perceived as the weaker party to the transaction.[59]
- Theorists from this perspective frequently oppose harm reduction measures aimed at sex workers and their clients, arguing that they encourage or legitimise prostitution.[60]
- The stigmatisation exacerbated by this framework may make it more difficult for sex workers to leave the trade, due to negative reactions from others who learn of their past.[61]

2.2 The claim that criminalisation may improve public health

It has been argued that client criminalisation will lead to better public health outcomes by reducing the overall amount of prostitution.[62] However, it has not been demonstrated that any form of criminalisation has this effect:

- A number of studies of the effects of prohibitory laws have concluded that "criminal sanctions do not eradicate or reduce the extent of prostitution".[63]
- Others note a reduction in the amount of *street* prostitution, but suggest that the industry may have merely moved indoors.[64]

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[59] Barbara Sullivan, "Rethinking Prostitution" in *Transitions: New Australian Feminisms* (Sydney: Allen & Unwin, 1995).

[60] See for example "Aiding and abetting the slave trade" *The Wall Street Journal* 27 February 2003, reproduced at *http://www.uri.edu/artsci/wms/hughes/abetting_slave_trade.pdf* [Accessed 25 October 2013]. The opposition to targeted HIV prevention measures, described above, is another example.

[61] Joint United Nations Programme on HIV/AIDS and Inter-Parliamentary Union, *Handbook for Legislators on HIV/AIDS, Law and Human Rights: Action to Combat HIV/AIDS in View of its Devastating Human, Economic and Social Impact* (UNAIDS, 1999) *http://www.ipu.org/PDF/publications/aids_en.pdf* [Accessed 27 October 2013] p.56

[62] See for example Julie Bindel and Liz Kelly, *A critical examination of responses to prostitution in four countries: Victoria, Australia; Ireland; the Netherlands; and Sweden* (Child and Woman Abuse Studies Unit, London Metropolitan University, 2003), *http://www.glasgow.gov.uk/CHttpHandler.ashx?id=8843&p=0* [Accessed 27 October 2013], p.26

[63] Kay Daniels, "St Kilda voices" in *So Much Hard Work: Women and Prostitution in Australian History* (Sydney: Fontana/Collins, 1984) p.335, cited in Marcia Neave, "Prostitution laws in Australia: Past history and current trends" in *Sex Work and Sex Workers in Australia* (Sydney: University of New South Wales Press, 1994). See also, Federal/Provincial Territorial Working Group on Prostitution, *Report and Recommendations in Respect of Legislation, Policy and Practices Concerning Prostitution Related Activities* (Department of Justice Canada, 1998) *http://www.walnet.org/csis/reports/consult.rtf* [Accessed 27 October 2013], p.62; Alan Collins and Guy Judge, "Differential enforcement across police jurisdictions and client demand in paid sex markets" (2010) 29 European Journal of Law and Economics 43; Marina Della Giusta, "Simulating the impact of regulation changes on the market for prostitution services," (2010) 29 European Journal of Law and Economics 1; John Lowman and Chris Atchison: "Men who buy sex: A survey in the greater Vancouver Regional District" (2006) 43 Canadian Review of Sociology and Anthropology 281; Phil Hubbard, "Community action and the displacement of street prostitution: Evidence from British cities" (1998) 29 Geoforum 269, pp. 283–84.

[64] Stridbeck, *supra* note 11, p.53; Eriksson and Gavanas, *supra* note 6, p.63; Riksförbundet för Homosexuellas, Bisexuellas och Transpersoners Rättigheter, *supra* note 32, p.9; Marcia Neave, "The failure of prostitution law reform" (1988) 21 Australian and New Zealand Journal of Criminology 202, p.205; Samuel Cameron and Alan

- The often-made claim that prostitution has declined in Sweden is difficult to sustain on close examination. The 2010 Skarhed report, which serves as the usual source of this claim, is in fact rather cautious in its findings: "All of the above indicates that since the ban against the purchase of sexual services went into effect, street prostitution has been halved, and the Internet has arisen as an important contact interface for prostitution, but that there is no definite information as to the extent of Internet-based prostitution and that there is no indication that other forms of indoor prostitution have increased. There is no information from people working in the field to indicate that they have perceived an increase in prostitution activities. Because this type of activity is typically dependent on some form of advertising in order for contacts with clients to occur, it is unlikely that there would be any extensive type of prostitution that is completely unknown.

  "Altogether, this means that we can feel somewhat secure in the conclusion that prostitution as a whole has *at least not increased* in Sweden since 1999."[65]

- With "no definite information" about the extent of online prostitution, it is difficult to understand how any secure conclusion can be reached as to the scope of that sector; while the most that can be said about other forms of indoor prostitution is that no increase has been detected. This is not a basis for any definitive assertion about the size of Sweden's indoor sex industry—especially in view of the dearth of research into these sectors.

- Skarhed herself acknowledges this: "Compared with street prostitution, however, the extent of Internet prostitution is harder to verify and assess. Even if ads and offers of sexual services are checked and followed up, it is often difficult to assess to what degree they represent the actual supply of sexual services for money. One ad and one telephone number may refer to several people providing sexual services, but it is even more common that several ads and phone numbers come from one single prostitute. Ads may also remain online after the operations have ceased.

  "When it comes to indoor prostitution in which contact is made at restaurants, hotels, sex clubs or massage parlors, the available information on the extent to which this occurs is limited. We have not been able to find any in-depth studies of these forms of prostitution in the past decade."[66]

- While the report does cite figures relating to street prostitution, the assumption of causality is problematic. The data, which were compiled by sex worker outreach groups in Sweden's three largest cities of Stockholm, Gothenburg and Malmö, show a decrease from 726 street-based sex workers in 1998—the year before client criminalisation was introduced—to 296 in 2008.[67] However, the law's relationship to this apparent decline is far from certain: "The Department of Criminology at Stockholm University states that such marked changes in activities (50 percent decline) are rarely seen in the criminological literature. This raises a question of whether the reported changes are 'too good', and this observation would need to be discussed if the figures are used to exemplify the success of the ban. Secondly, the effects of the ban vary largely between

Collins, "Estimates of a model of male participation in the market for female heterosexual prostitution services" (2003) 16 European Journal of Law and Economics 271, p.273.
[65] Swedish Institute, *supra* note 1, p.28 (emphasis added)
[66] *Ibid*, p.19
[67] *Ibid*, p.20

the three cities, which also needs to be discussed. And thirdly, a longer time series before the introduction of the ban would have been needed since the 1998 figures might have been an exception, an 'outlier'. Others have pointed out that the estimated numbers of street workers have been declining since the late 1970's, suggesting that any observed decline since the Act—if there is one—is part of a much longer trend. Furthermore, this trend is not a specifically Swedish phenomenon … but an international one."[68]

- Sweden's 2012 submission to UNAIDS admits the uncertainty around the size of the Swedish sex industry: "Estimates of the number of people who buy and sell sex in Sweden vary widely and are hard to confirm since the practice is mostly hidden and initiated primarily through the Internet or by telephone. Although street prostitution does occur it is assumed to account for only a fraction of total prostitution."[69]

- Even the street sector statistics measure only the numbers of *people* involved in on-street sex work; they do not measure the number of *transactions* that sex workers engage in. If, as has been suggested in Norway,[70] a loss of income forces sex workers to take on more clients, should not that too be calculated as an increase in prostitution—perhaps one sufficient to balance or even overcome any decrease as measured by the number who leave the industry?

- Recent enforcement of the Republic's soliciting law against clients also suggests that the main effect is one of dispersal, rather than actually reducing the incidence of prostitution. Some time after a high-profile "sting" operation in Limerick which led to the prosecution of 27 men who tried to buy sex from an undercover Garda, a local newspaper reported that "prostitutes are now operating in new areas of the city".[71]

Even if an overall reduction could be established, however, criminalising clients in the name of "public health" would still be impermissible from a human rights perspective, in light of the adverse health effects described earlier in this submission. To do so would pursue public health goals at the expense of individual sex workers' right to health—in contravention of established principles of human rights law. This is discussed further under Part A3, "Limitations to Protected Rights" in Appendix A.

3. The decriminalisation alternative

This submission will conclude by briefly presenting an alternative legal framework that appears to better protect sex workers' right to health. The public health bodies listed in Appendix B unanimously favour a decriminalisation approach: one in which neither the seller nor buyer of sex is criminalised, and sex work is regarded as a form of labour entitled to the same protections as other employment sectors. The 2012 joint report of the UNDP, UNFPA

[68] Dodillet and Östergren, *supra* note 1, p.8 (internal citations omitted)
[69] Smittskyddsinstitutet (Swedish Institute for Communicable Disease Control), *Global AIDS Response Progress Report 2012* (Smittskyddsinstitutet, 2012) *http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_SE_Narrative_Report.pdf* [Accessed 27 October 2013] p.28
[70] Bjørndahl, *supra* note 1, p.40
[71] "Prostitute sting operation to be stepped up" *Limerick Post* 26 September 2012, *http://www.limerickpost.ie/2012/09/26/prostitute-sting-operation-to-be-stepped-up/* [Accessed 20 October 2013]

and UNAIDS, *Sex Work and the Law in Asia and the Pacific*, clearly sets out the health-promoting benefits of this approach:

> "Evidence from the jurisdictions in the region that have decriminalized sex work (New Zealand and New South Wales) indicates that the approach of defining sex work as legitimate labour empowers sex workers, increases their access to HIV and sexual health services and is associated with very high condom use rates. Very low STI prevalence has been maintained among sex workers in New Zealand and New South Wales, and HIV transmission within the context of sex work is understood to be extremely low or nonexistent. In decriminalized contexts, the sex industry can be subject to the same general laws regarding workplace health and safety and anti-discrimination protections as other industries."[72]

Research into New Zealand's 2003 decriminalisation law has revealed generally favourable outcomes for sex workers' health and safety:

- In a 2007 study, 93.8% of the sex workers surveyed agreed that they had health and safety rights under the 2003 Act.[73]
- 64% said they felt "more able to refuse" a client since enactment of the law,[74] perhaps due to its explicit provision for their right to refuse any client or service.[75]
- The percentage who "felt that they had to accept a client when they didn't want to" was also significantly lower than in a study carried out four years before the law change.[76]
- Unlike their Nordic counterparts, New Zealand sex workers are encouraged to carry condoms; indeed, the Prostitution Reform Act obliges their use.[77] 62.5% of those surveyed said they had cited this law as a strategy with clients reluctant to use condoms.[78]
- The study also interviewed Six Medical Officers of Health working as "inspectors" under the law, with a remit to inspect brothel premises for compliance and respond to complaints. Despite some reservations, most felt the law had brought about actual health and safety improvements.[79]
- Positive mental health outcomes have also been noted: the study found that New Zealand sex workers consider their new rights to be "mentally enabling, allowing them to feel supported and safe".[80]

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[72] John Godwin, *Sex Work and the Law in Asia and the Pacific: Laws, HIV and human rights in the context of sex work* (Bangkok: United Nations Development Programme, 2012), p.6

[73] Gillian Abel, Lisa Fitzgerald and Cheryl Brunton, *The Impact of the Prostitution Reform Act on the Health and Safety Practices of Sex Workers: Report to the Prostitution Law Review Committee* (University of Otago, 2007), *http://www.otago.ac.nz/christchurch/otago018607.pdf* [Accessed 27 October 2013] p.139

[74] *Ibid,* p.116

[75] Prostitution Reform Act 2003 (New Zealand) s.17

[76] Abel *et al*, *supra* note 73, p.117: percentages dropped from 53% to 44% in the street sector, 58% to 45% in the managed sector and 63% to 38% among independent indoor workers.

[77] Prostitution Reform Act 2003 (New Zealand) s.9

[78] Abel *et al*, *supra* note 73, p.124. This strategy was employed by approximately two-thirds of indoor sex workers but just under a third of street workers. However, the latter statistic does not mean that street workers are more likely to agree to sex without condoms: 66.7% chose "Refuse to do job" as a response to a reluctant client, compared to 56.6% of managed and 62.8% of private indoor workers. Multiple answers were possible.

[79] *Ibid,* p.157

[80] *Ibid,* p.13

- Stigmatisation remains an issue, but there are indications that this too has been lessened: many sex workers indicated that they felt more "legitimate" under the law,[81] and that relations with police had improved.[82]
- While this study did not directly investigate pimping, one of its findings does shed an interesting light on the question of whether decriminalisation benefits those who profit from others' prostitution. New Zealand law applies a strict regulatory regime to "managed" brothels, but allows premises shared by up to four self-employed sex workers to operate outside these requirements. These premises are known as small owner-operated brothels, or SOOBs. Although a number of managed brothels opened in the immediate wake of decriminalisation, many closed down within a few years—citing competition from sole operators and SOOBs.[83] This suggests that, far from promoting pimping, decriminalisation may enable sex workers to assert control of their own labour.
- For those who do opt for the managed sector, the wider range of legal choices at their disposal strengthens their negotiating position relative to brothel management—a factor that promotes better working conditions.[84]

[81] *Ibid,* pp.139–40
[82] *Ibid,* p.164
[83] Prostitution Law Review Committee, *Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003* (Wellington: New Zealand Ministry of Justice, 2008) pp.38, 93.
[84] Gillian Abel, *Decriminalisation: A Harm Minimisation and Human Rights Approach to Regulating Sex Work* (Doctor of Philosophy Thesis, University of Otago Department of Public Health and General Practice, 2010) *http://myweb.dal.ca/mgoodyea/Documents/CSWRP/CSWRPANZ/Gillian%20Abel%20PhD.pdf* [Accessed 27 October 2013] pp.243, 320

Appendix A: The right to health in international law

This submission is grounded in the following two essential elements of the right to health in international law:

1. States are, as a general principle, precluded from adopting policies that impede the enjoyment of the highest attainable standard of health.
2. No group of people can be categorically excluded from this right.

The international legal framework from which these elements are derived is set out below.

A1. The general scheme of the international right to health

The right to health is protected by a number of international law binding instruments and non-binding agreements to which the UK and Ireland are party. These include (but are not limited to) the following:

- The Constitution of the World Health Organization defines the right to health as the "enjoyment of the highest attainable standard of health … without distinction of race, religion, political belief, economic or social condition".[85]
- Article 12 of the International Covenant on Economic, Social and Cultural Rights guarantees "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health".[86] This has been interpreted by the Committee on Economic, Social and Cultural Rights, the Covenant's monitoring body, not as "a right to be *healthy*"[87] but rather as "an inclusive right extending … to the underlying determinants of health", including, *inter alia*, "healthy occupational and environmental conditions".[88] States are therefore obliged to "undertake actions that create, maintain and restore the health of the population".[89]
- Articles 11-13 of the Convention on the Elimination of All Forms of Discrimination against Women recognise health as one of a number of rights guaranteed "on a basis of equality of men and women",[90] including the equal "right to protection of health and to safety in working conditions"[91] and the equal right to access health care services.[92]
- The Declaration and Programme of Action arising from the World Conference on Human Rights in Vienna in 2003 speaks of the special onus on states to "[c]reate and maintain adequate measures at the national level, in particular in the fields of education, health and social support, for the promotion and protection of the rights of persons in vulnerable sectors of their populations".[93]
- Resolution 1989/11 of the Commission on Human Rights states that "non-discrimination in the field of health should apply to all people and in all circumstances".[94]

[85] Constitution of the World Health Organization 1946, Preamble
[86] International Covenant on Economic, Social and Cultural Rights 1966, art.12
[87] Committee on Economic, Social and Cultural Rights, *General Comment No. 14, the right to the highest attainable standard of health* (UN document E/C.12/2000/4, 11 August 2000) para. 8
[88] *Ibid,* para. 11
[89] *Ibid,* para. 37
[90] Convention on the Elimination of All Forms of Discrimination against Women 1979 art.11(1)
[91] *Ibid,* art.11(1)(f)
[92] *Ibid,* art.12(1)
[93] Vienna Declaration and Programme of Action 1993, para. 24
[94] UN Commission on Human Rights Resolution 1989/11 Non-Discrimination in the Field of Health, para. 2

Because the right to health is not a "right to be healthy", it is not unfulfillable merely because a person might suffer ill-health despite any preventive measures taken. The right to the highest attainable standard of health "presupposes a reasonable, not an absolute, standard"[95]; it is contextual by definition, and applies to those in risky environments no less than to others.

A2 Key concepts in the right to health applicable to client criminalisation

This sections set out the international legal framework surrounding the specific aspects of the right to health discussed in this submission.

A2.1 Freedom from violence

The right to freedom from violence is an essential component of the right to health. The Committee on Economic, Social and Cultural Rights (CESCR) makes this link explicitly in the following excerpts from its General Comment on the Right to Health:

- A "wider definition of health … takes into account such socially-related concerns as violence".[96]
- The International Covenant on Economic, Social and Cultural Rights (ICESCR) imposes a specific state obligation to "take measures to protect all vulnerable or marginalized groups of society … in the light of gender-based expressions of violence".[97]
- The obligation to protect the right to health is violated by "the failure to protect women against violence or to prosecute perpetrators".[98]

A2.2 Sexual health

- A working definition of "sexual health" was devised at an international consultation organised by the World Health Organization and the World Association of Sexology in 2002: "Sexual health is a state of physical, emotional, mental and social well-being in relation to sexuality; it is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. For sexual health to be attained and maintained, the sexual rights of all persons must be respected, protected and fulfilled".[99]
- The CESCR implicitly recognises sexual health as encompassed within Article 12. In its General Comment 14, it declares that "States should refrain from limiting access to contraceptives and other means of maintaining sexual and reproductive health."[100]

[95] Virginia Leary, "The right to health in international human rights law" (1994) 1 *Health and Human Rights* 25, p.33
[96] Committee on Economic, Social and Cultural Rights, *supra* note 87*,* para. 10
[97] *Ibid,* para. 35
[98] *Ibid,* para. 51
[99] World Health Organization, *Defining sexual health: report of a technical consultation on sexual health, 28–31 January 2002, Geneva* (World Health Organization, 2006) http://www.who.int/reproductivehealth/publications/sexual_health/defining_sexual_health.pdf [Accessed 27 October 2013] p.5. It should be noted that this does not represent an official WHO definition of "sexual health".
[100] Committee on Economic, Social and Cultural Rights, *supra* note 87*,* para. 34

- Article 12(2) of the ICESCR requires States parties to take steps necessary for "[t]he prevention, treatment and control of epidemic, endemic, occupational and other diseases."[101] HIV/STI may be considered such a disease for those working in the sex industry.
- General Comment 14 suggests a number of other ways in which sex workers' sexual health is protected by Article 12. These include certain negative duties, under which states parties are prohibited from hindering the attainment of sexual health by women and other disadvantaged categories: "States are under the obligation to *respect* the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons … to preventive, curative and palliative health services; abstaining from enforcing discriminatory practices as a State policy; and abstaining from imposing discriminatory practices relating to women's health status and needs.[102]
- The General Comment also sets out a list of core obligations under Article 12, which include "to ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable and marginalized groups".[103]
- Another core obligation is "to provide education and access to information concerning the main health problems in the community, including methods of preventing and controlling them".[104] This suggests that parties to the ICESCR must actively engage with sex workers to assist their efforts at STI protection and treatment.

A2.3 Mental ill-health

As noted in Part A1 of this Appendix, Article 12 of the ICESCR explicitly identifies mental health as a key element of the right to health.

A2.4 Occupational health and safety

- According to the CESCR, the ICESCR imposes obligations on states "to adopt measures against environmental and occupational health hazards" and to develop "a coherent national policy to minimize the risk of occupational accidents and diseases".[105]
- Article 7(b) of the ICESCR additionally sets out a right to "safe and healthy working conditions".[106]
- In the International Labour Organization's Occupational Safety and Health Convention 1981, health is defined to include "the physical and mental elements affecting health which are directly related to safety and hygiene at work."[107]
- The ILO Convention also obliges states to "prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment".[108]

Sex workers cannot be excluded from the Convention for the following reasons:

[101] International Covenant on Economic, Social and Cultural Rights 1966 art 12.2
[102] Committee on Economic, Social and Cultural Rights, *supra* note 87, para. 34
[103] *Ibid,* para. 43(a)
[104] *Ibid,* para. 44(d)
[105] *Ibid,* para. 36
[106] International Covenant on Economic, Social and Cultural Rights 1966, art.7(b).
[107] Occupational Safety and Health Convention 1981 (ILO 155), art.3(e).
[108] *Ibid*, art.4.2.

- Articles 1 and 2 of the Convention state that it "applies to all branches of economic activity" and "to all workers".[109]
- Analogous protections for the self-employed (which would include sex workers operating independently) are set out in the ILO's 1981 Occupational Safety and Health Recommendation.[110]
- The ILO has elsewhere confirmed that it regards sex workers as encompassed within the category of "worker".[111]

A2.5 Health-related civil and political rights

Although a separate international covenant exists for rights categorised as "civil and political" rather than "economic, social and cultural", it has long been recognised that human rights are "indivisible and interdependent and interrelated".[112] Examples of their interdependency relevant to this submission include the following:

A2.5.1 The right of participation

- The CESCR recognises "the right to participation of the population in all health-related decision-making at the community, national and international levels" as an "important aspect" of the Article 12 right to health.[113]
- "Informed opinion and active co-operation on the part of the public" are deemed essential in the World Health Organization Constitution.[114]
- The Alma-Ata Declaration of the 1978 International Conference on Primary Health Care speaks of the "right and duty to participate individually and collectively in the planning and implementation of their health care".[115]

A2.5.2 The right to autonomy

- Neither the ICESCR nor General Comment 14 explicitly sets out a right to autonomy in health-related decision making. However, such a right may be inferred from one of the state duties recognised by the CESCR, namely, "supporting people in making informed choices about their health".[116] This suggests that states must not only promote the dissemination of health information, but must also allow individuals to use that information to make their own health-related decisions.
- The Declaration adopted at the Fourth World Conference on Women refers to "the right of all women to control all aspects of their health".[117]

A3. Limitations to protected rights

[109] *Ibid*, arts 1-2
[110] Occupational Safety and Health Recommendation 1981 (ILO 164), arts 1–2
[111] In its "Corrigendum to 'HIV and the Law: Risks, Rights & Health' by the Global Commission on HIV and the Law", the ILO states: "The ILO Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200) is applicable to all workers. Sex workers are not excluded from its scope of application." *http://www.ilo.org/aids/Whatsnew/WCMS_191720/lang--en/index.htm* [Accessed 28 October 2013]
[112] Vienna Declaration and Programme of Action 1993, para. 5
[113] Committee on Economic, Social and Cultural Rights, *supra* note 87, para. 11
[114] Constitution of the World Health Organization 1946, Preamble
[115] Alma-Ata Declaration (International Conference on Primary Health Care, 6–12 September 1978), para. IV
[116] Committee on Economic, Social and Cultural Rights, *supra* note 87,para. 37
[117] Beijing Declaration of the Fourth World Conference on Women 1995, para. 17

- While the ICESCR allows for limitations to all its protected rights, these must be "compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society".[118]
- States may not impose greater limitations than the ICESCR allows.[119]
- The CESCR interprets the above two clauses to mean that limitations to fundamental rights in the interest of public health must be "strictly necessary for the promotion of the general welfare", must be "the least restrictive alternative" available and should be "of limited duration and subject to review".[120]
- Thus, while a public health objective is *capable* of justifying limitations on individual rights, those limitations are subject to a necessity and proportionality requirement. This suggests that a state must aim to ameliorate the adverse public health impacts of prostitution in a manner that also promotes the health of those whom it cannot deter from sex work.
- If doing both proves impossible, and there are compelling grounds to prioritise public health over individual health, then—and only then—can it do so.[121]
- However, it must do so through means that *genuinely* advance public health. This suggests a high evidential threshold for any measures intended to improve public health through restrictions on individual rights.[122]
- Furthermore, it must aim to remove the infringement on individual rights as soon as the public health objective is achieved.

[118] International Covenant on Economic, Social and Cultural Rights 1966, art.4
[119] *Ibid*, art.5.1
[120] Committee on Economic, Social and Cultural Rights, *supra* note 87, paras 28–29
[121] Lawrence Gostin and Jonathan M. Mann, "Towards the development of a human rights impact assessment for the formulation and evaluation of public health policies" (1994) 1 Health and Human Rights 59, p.74. Outlining the conditions for a human rights-compliant limitation on individual rights in the interest of public health, the authors state as follows: "To determine the least restrictive alternative, non-coercive approaches should first be considered; if noncoercive approaches are insufficient, gradual exploration of more intrusive measures are permissible where clearly necessary."
[122] As Gostin and Mann (*ibid*) stress at p.77: "The risk to the public must be *probable*, not merely speculative or remote." (emphasis in original)

Appendix B: The perspective of the global health and human rights sector

The position advanced in this submission is shared by a growing number of bodies in the global health and human rights sector. The following are among those who have criticised laws that criminalise payment for sexual services:

- **The World Health Organization**: "Laws that directly or indirectly criminalize or penalize sex workers, their clients and third parties, and abusive law enforcement practices, stigma and discrimination related to HIV and sex work can undermine the effectiveness of HIV and sexual health programmes, and limit the ability of sex workers and their clients to seek and benefit from these programmes".[123]

- **The Global Commission on HIV and the Law**: "Since its enactment in 1999, the [Swedish] law has not improved—indeed, it has worsened—the lives of sex workers".[124]

- **Médécins du Monde**: "MdM rejette tout projet de pénalisation des clients qui relègue plus encore les personnes se prostituant dans des zones de non-droit. C'est un réel enjeu de santé publique et de respect des droits fondamentaux."[125] [Author's translation: "MdM reject any plan to penalise clients which relegates even more sex workers into zones of lawlessness. It is a real issue of public health and of respect for fundamental rights."]

- **The UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health**: "Effective interventions around the health of sex workers and clients should also consider shared responsibility and client behaviour; this is increasingly possible in an environment where clients are not criminalized for using the services of sex workers."[126]

- **The UN Development Programme (UNDP), the UN Population Fund (UNFPA) and the Joint UN Programme on HIV/AIDS (UNAIDS):** "To enable sex workers to fully enjoy rights to health and safety in the workplace requires decriminalization. Decriminalization of sex work requires the repeal of: (a) laws explicitly criminalizing sex work or clients of sex workers…"[127]

[123] World Health Organization, *Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries: Recommendations for a public health approach* (Geneva: World Health Organization, 2012), p.16
[124] Judith Levine, *Global Commission on HIV and the Law: Risks, Rights and Health* (United Nations Development Programme, 2012) *http://www.hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf* [Accessed 25 October 2013] p.38
[125] Médecins du Monde, "Médecins du Monde réclame l'abrogation de la loi sur le racolage public" (March 2013), *http://www.medecinsdumonde.org/Presse/Communiques-de-presse/France/Medecins-du-Monde-reclame-l-abrogation-de-la-loi-sur-le-racolage-public* [Accessed 20 October 2013]
[126] Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover* (UN document A/HRC/14/20, 27 April 2010) para. 50
[127] Godwin, *supra* note 72, p.36

Women's Aid Federation NI

Evidence to Committee for Justice

Trafficking & Exploitation (Further Provisions and Support for Victims) Bill

1st November 2013

Clauses 1 -3

Women's Aid support the provisions within clauses 1 – 3; in particular the list of aggravating factors outlined in clause 3 appear to us to be reasonable and in keeping with the nature of the crime of human trafficking.

Clause 4

Women's Aid supports sentencing that reflects the seriousness of the crime of human trafficking. However while we support the spirit of this clause, it is our belief that two years is not sufficiently lengthy to reflect the serious and despicable nature of the crime of slavery.

Clause 5

We generally agree with the provisions within clause 5. However we seek clarity on clause 5(e) and how and where this amends the Asylum and Immigration (Treatments of Claimants etc) Act 2004, and the specific definition of "forced begging or criminal activities".

Clause 6

Women's Aid supports the provisions within Clause 6 of the Bill, which criminalises those who purchase sexual services. Given that the majority of human trafficking in Northern Ireland is for the purposes of sexual exploitation, we believe it is crucial to tackle the demand that fuels this heinous crime, and send a strong message that anyone buying sexual services here or worldwide is supporting sexual slavery and the degradation of human rights. Our position on the criminalisation of buyers of sexual services is based on the inextricable link between prostituted sex and the trafficking industry and on the basis of our belief that prostitution is a form of violence against women[1]. We are joined in our belief that criminalising the buying of sex is the way forward in tackling human trafficking by:

- End Violence Against Women coalition (EVAW)
- European Women's Lobby (EWL)
- Women's Resource & Development Agency (WRDA)
- Equality Now
- Turn Off the Red Light Campaign in the Republic of Ireland, whose members include the Immigrant Council of Ireland, Ruhama, Barnardos, Rape Crisis Network Ireland, the Labour Party, SIPTU, Soroptomist International Ireland, and a host of other NGOs, Trade unions and charities.[2]
- The Irish Congress of Trade Unions (ICTU)

1 For further information on our detailed position, please see the briefing paper at Appendix 1.

2 A full list of the Turn Off the Red Light membership is available here: http://www.turnofftheredlight.ie/about/whos-involved/

- Eaves

Clause 6 of the Bill would implement a similar response to prostitution and human trafficking as the model used in Sweden, which was introduced there in 1999 as part of their Violence Against Women Bill. According to a report by Swedish police in 2010, the law criminalising buyers of sexual services has successfully deterred many criminal networks from considering Sweden as an option for trafficking or pimp-led organised prostitution.[3]

The report also states that there has been a significant decrease in on-street prostitution, that the numbers of sexual services sold via internet / off-street means are still much smaller than neighbouring countries Denmark and Norway, and that the proportion of prostituted persons from other countries had not exploded in the way it had elsewhere.

On the other hand, in countries where prostitution has been legalised, there has been no improvement in the situation of those in prostitution or decrease in human trafficking. In the Netherlands, a 2007 report for the Ministry of Justice concluded that:

- "There has been no significant improvement of the situation of persons in prostitution". This has been corroborated by other studies and criminal cases, in which exploitation, trafficking and coercion have been found to exist within legal, licensed brothels.
- "The prostitutes' emotional well-being is now lower than in 2001 on all measured aspects".
- "The use of sedatives has increased".
- Options for leaving the industry were in high demand, while only 6% of municipalities offer assistance.

Several other countries have followed Sweden's lead in criminalising the purchase of sex. Norway criminalised the purchase of sex and at the same time decriminalised the sale of sex to tackle demand for sexual services and provide support for those in prostitution and victims of trafficking. Iceland, having legalised prostitution in 2007, reversed this in 2009 following concerns that legalisation had fuelled human trafficking and exploitation.

Regarding clause 6 (4), we welcome that those who sell sex are not criminalised under the legislation for aiding and abetting offences, and that these concerns on the criminalisation of those in prostitution during the consultation period have been reflected in the Bill. We believe that the legislation should go further still to specify that those selling the sexual services will not be criminalised for any action directly connected to selling sexual services (soliciting, selling of sex etc). It is essential that the criminalisation of buyers is accompanied by the decriminalisation of those in prostitution, if this legislation is to truly recognise the marginalised position of those in prostitution in Northern Ireland.

Regarding punitive measures for those convicted under clause 6, Women's Aid is of the view that punitive measures should increase in severity for those convicted more than once of this offence, or that serial offenders should get mandatory jail time after several convictions under clause 6.

Clause 7

Women's Aid fully supports the need for training and the availability of adequate investigative tools. We also support the provision within 7(2) and 7(3), which state that the accusation or reporting of a victim is not a requirement for instigating proceedings under this Act.

3 '*Briefing on Swedish law and policies on prostitution and trafficking in human beings*', Gunilla S. Ekberg B.S.W., JD, 2012.

Clause 8

Women's Aid is generally supportive of clause 8. We would add that in the circumstances where A is a child, a support plan should be put in place to assist that child and support them onto a path in life that does not involve crime. We would also add that there should be no criminalisation of those in prostitution (see above).

Clause 9

We are generally supportive of clauses 9(1) and 9(2). In relation to clause 9(3), we would point out that the bureaucratic processes associated with making determinations as to whether someone is trafficked are prone to err. A person presenting as a victim but with a determination that they are in fact not a victim is very possible. There must be sensitivity within this legislation to the fact that there may be victims who have endured a great deal of trauma but has been failed by the National Referral Mechanism – these victims also require assistance and support.

Clause 10

Women's Aid welcomes the extension of assistance of support to a victim without a conclusive determination to 3 months after criminal proceedings are completed. The current 45 day reflection period is entirely insufficient to allow a traumatised victim to come to terms with their ordeal.

While we welcome this extended period of support, we are concerned that it is contingent upon criminal proceedings being completed. Thus it does not extend to those who are unwilling to cooperate with an investigation but whose evidence is required for the case to go ahead, nor does it account for cases where the PPS don't take the case forward on grounds of insufficient evidence in spite of the cooperation of the victim. We would point to better support models such as Italy, which offers 3-6 months temporary residence which can be extended for up to a year, which is not contingent upon cooperation with an investigation.

In relation to 10(1)(b)(i), while we agree in theory that family members should only receive support if they have not been responsible for the trafficking of the child themselves, we would point out that families may also have been victims of coercion or threat, and that all the complexities of such a situation need to be taken into account. This is notwithstanding the fact that child protection measures must be paramount and adhered to at all times.

We welcome the inclusion of clause 10(1)(b)(iv), which states that victims must be offered assistance from someone of the same gender. This is critical for victims of human trafficking. We also welcome the provision of support to aid victims in their physical, psychological and social recovery at para (v). We would point out that for this to be delivered in any meaningful way, longer term therapies must be included, and that certain therapies are not appropriate shortly after a victim has been identified. For instance, counselling is crucial for a victim 1 – 2 years after their ordeal, but it would be entirely counter-productive and inappropriate if it was only offered earlier than that.

Finally, we would point out that this is a Bill to tackle human trafficking and also other forms of exploitation that may not amount to human trafficking but are nonetheless exploitation. To that end, we would suggest adding another clause after clause 10, which specifically deals with assistance and support for those in prostitution. This would include the establishment of support pathways and routes to exit and should include many of the means of assistance identified in clause 10. Based on our experience of supporting women who are or have been in prostitution, we would suggest that many of the support provisions necessary for those in and formerly in prostitution are not dissimilar to the support provisions necessary for victims of domestic violence or human trafficking.

Clause 11

While we agree that victims of human trafficking should be eligible for criminal compensation, we are not aware of any instances where a victim of human trafficking has been successful in claiming such compensation. We would therefore urge that the process whereby victims of such intimate and harrowing crimes as human trafficking, sexual violence and exploitation and domestic violence claim compensation should be simplified, to ensure that the compensation process does not re-victimise applicants and that compensation is genuinely open to them in practice.

Clause 13

We welcome the inclusion of special measures for victims in criminal investigations. However we believe that the phrase "as far as possible" significantly weakens the protections for victims, and that this needs to be strengthened. We would advise that such special measures should be available as standard and without exception.

We would also advise that in 13(b)(vi), the choice to be accompanied by a person or support worker from a support organisation should be included, as should the right for the victim to be accompanied by someone of the same gender.

Clause 14

We support clause 14. In particular we fully support the presumption of being under 18 in ambiguous cases (14(c)).

Clause 15

In keeping with the government's approach to domestic and sexual violence, we recommend that there should be an accompanying action plan with the proposed strategy, and that a new strategy each year is not necessary but that the strategy could be updated annually. We also recommend that there should be regular reporting on the working of the clause which criminalises the buying of sex and also whether there has been successful decriminalisation of those in prostitution. While we note that this is alluded to within clause 6, we regard such reporting as ongoing and not merely something to complete once after 3 years. We would strongly urge that such reporting is incorporated into an action plan and is reported on annually after the initial 3 year report.

Clause 16

Women's Aid strongly supports the establishment of the role of independent rapporteur on human trafficking.

Clause 17

Women's Aid supports the definition of a child being someone under the age of 18, and the presumption of a victim being a child where there is uncertainty.

Appendix 1: WAFNI Briefing paper on the Trafficking & Exploitation (Further Provisions and Support for Victims) Bill

Human trafficking is a form of slavery, involving the exploitation of women, men and children for the purposes of prostitution, sexual exploitation, forced labour or services, or domestic servitude.

The purpose of the Trafficking and Exploitation (Further Provisions and Support for Victims) Bill is to tackle human trafficking and exploitation more effectively in Northern Ireland. It does so in a number of ways, including strengthening protection for people in a "position of vulnerability" who may "have no real or acceptable alternative but to submit to the abuse involved", and by criminalising the purchase of sex in Northern Ireland under Clause 6 of the Bill.

Why Women's Aid supports the Bill

Women's Aid is the provider of support services to all female victims of human trafficking in Northern Ireland. We also run the 24 Hour Domestic & Sexual Violence Helpline, which is open to all women and men affected by domestic and sexual violence. Through our work supporting trafficked women and victims of domestic & sexual violence, we see first-hand the devastating effect that the sex industry has on women, on girls, and on society as a whole. We believe that this Bill is a bold and radical opportunity for Northern Ireland to lead the way in the fight against human trafficking and sexual exploitation.

We call on all political parties, voluntary organisations and trade unions to grasp this opportunity and support the Bill, and send out a clear signal at home and worldwide that Northern Ireland says no to human trafficking and exploitation, and no to all violence against women and girls.

Clause 6

Women's Aid supports the provisions within Clause 6 of the Bill, which criminalises those who purchase sexual services. Given that the majority of human trafficking in Northern Ireland is for the purposes of sexual exploitation, we believe it is crucial to tackle the demand that fuels this heinous crime, and send a strong message that anyone buying sexual services here or worldwide is supporting sexual slavery and the degradation of human rights. We are joined in our belief that criminalising the buying of sex is the way forward in tackling human trafficking by:

- End Violence Against Women coalition (EVAW)
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- Women's Resource & Development Agency (WRDA)
- Equality Now
- Turn Off the Red Light Campaign in the Republic of Ireland, whose members include the Immigrant Council of Ireland, Ruhama, Barnardos, Rape Crisis Network Ireland, ICTU, the Labour Party, SIPTU, Soroptomist International Ireland, and a host of other NGOs, Trade unions and charities.[4]

Clause 6 of the Bill would implement a similar response to prostitution and human trafficking as the model used in Sweden, which was introduced there in 1999 as part of their Violence Against Women Bill. According to a report by Swedish police in 2010, the law criminalising buyers of sexual services has successfully deterred many criminal networks from considering Sweden as an option for trafficking or pimp-led organised prostitution.[5]

4 A full list of the Turn Off the Red Light membership is available here: http://www.turnofftheredlight.ie/about/whos-involved/

5 '*Briefing on Swedish law and policies on prostitution and trafficking in human beings*', Gunilla S. Ekberg B.S.W., JD, 2012.

The report also states that there has been a significant decrease in on-street prostitution, that the numbers of sexual services sold via internet / off-street means are still much smaller than neighbouring countries Denmark and Norway, and that the proportion of prostituted persons from other countries had not exploded in the way it had elsewhere.

On the other hand, in countries where prostitution has been legalised, there has been no improvement in the situation of those in prostitution or decrease in human trafficking. In the Netherlands, a 2007 report for the Ministry of Justice concluded that:

- "There has been no significant improvement of the situation of persons in prostitution". This has been corroborated by other studies and criminal cases, in which exploitation, trafficking and coercion have been found to exist within legal, licensed brothels.
- "The prostitutes' emotional well-being is now lower than in 2001 on all measured aspects".
- "The use of sedatives has increased".
- Options for leaving the industry were in high demand, while only 6% of municipalities offer assistance.

Several other countries have followed Sweden's lead in criminalising the purchase of sex. Norway criminalised the purchase of sex and at the same time decriminalised the sale of sex to tackle demand for sexual services and provide support for those in prostitution and victims of trafficking. Iceland, having legalised prostitution in 2007, reversed this in 2009 following concerns that legalisation had fuelled human trafficking and exploitation.

Link between human trafficking and prostitution

There is an inextricable link between demand for prostituted sex and human trafficking. Traffickers and pimps operate side by side in the same locations, using the same advertising, often under the umbrella of the same criminal gangs. While trafficking is more strictly defined by coercion and slavery, this does not account for the wide spectrum of control, manipulation and exploitation that fuels the sex industry. Traffickers and pimps alike target vulnerable adults and young people to coerce them into the sex trade, capitalising on poverty, desperation, and vulnerability for their substantial financial gain. Without the prostitution industry, much human trafficking would not exist.

The boundaries between different forms of trafficking are also not clear cut, and Women's Aid have come across women who have been trafficked for the purposes of forced labour who also end up forced into prostitution, or are subject to other forms of exploitation such as abuse or sexual harassment from their 'employer'. As many are migrant workers with no safety net or recourse to government help, they remain trapped in their abusive situation, extremely vulnerable to many forms of exploitation.

Is prostitution a form of violence against women?

Women's Aid regards prostitution as a form of violence against women and a violation of women's human rights. Women involved in prostitution suffer severe physical and psychological harm from providing sex to multiple partners on a daily basis. Many women in prostitution also suffer violence and control from pimps, traffickers and people purchasing sexual services, and research shows widespread substance abuse in order to cope with the realities of prostitution.

Women's Aid has seen the devastating and harmful impact of prostitution on those in it in the course of our work over three decades. Many women who seek our services report struggling with anxiety, depression and PTSD linked to prostitution even many years or decades after they have exited. This includes those few women who would have considered themselves to

have entered prostitution by choice, yet now find themselves struggling to cope with the harm that it has caused. We have also found that women who have been prostituted have often experienced other forms of gender-based violence, such as domestic violence or other forms of sexual violence. This is backed up by a vast body of research on prostitution in the UK and beyond.[6]

Human trafficking and the sexual exploitation of women are human rights issues. The Universal Declaration of Human Rights states that "No one shall be subjugated to torture or to cruel, inhuman or degrading treatment or punishment"[7]. Trafficking and prostitution are violations of this right and the rights of women to full equality and to human dignity.

Evidence gathered from men who buy sexual services reveals widespread misogyny among those who buy the services of prostitutes, similar to misogyny and abuse directed at women on social networks, in public spaces and in everyday life[8]. In a study of men who bought sexual services from women in Scotland, it was found that "punters hold attitudes on a continuum from mildly to strongly misogynist. These negative attitudes towards women are associated with sexually coercive behaviours against not only prostituted women but against other women in punters' lives".[9] In order to fully realise equality and dignity for all women, we must effectively tackle the underlying causes that foster such misogyny and abuse, and this includes the prostitution industry.

As Human Rights Watch have stated:

> *"Ultimately, the struggle for women's human rights must be about making women's lives matter everywhere all the time"*[10]

A woman's choice?

For most women, entering prostitution is not a freely made choice. The majority of women in prostitution are either trafficked, are trapped in poverty and feel that they have no other options, or are targeted because of their vulnerability. Many women who enter prostitution have been victims of domestic or sexual abuse as adults or children, suffer from a range of mental health issues, or prostitute themselves to feed an addiction. Some women also report that, although they may have chosen to enter prostitution, they found themselves unable to exit it and that their initial 'choice' did not protect them from exploitation while in prostitution.

Child Protection

A significant number of women enter prostitution as children under the age of 18. We know that grooming of children for the purposes of sexual exploitation is rife in Northern Ireland, and that abuse networks exist across the country. Such networks are well placed to groom vulnerable young people for the purposes of sexual exploitation in the form of prostitution. Women's Aid would question the logic that a child who has been groomed or exploited into prostitution can then be considered to have made a 'choice' to be a prostitute upon turning 18 years of age.

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6 See Department of Justice Northern Ireland, *'Research Paper investigating the issues for women in Northern Ireland involved in prostitution and exploring best practice elsewhere',* January 2011

7 Article 5

8 See Everyday Sexism Project http://everydaysexism.com/; Hollaback! http://www.ihollaback.org/;

9 Macleod, Farley, Anderson & Golding, *Challenging Men's Demand for Prostitution in Scotland: A Research Report Based on Interviews with 110 Men Who Bought Women in Prostitution,* 2008

10 Women's Rights Division, Human Rights Watch;

The economics of prostitution

The majority of prostitution in Northern Ireland is rooted in poverty, marginalisation and desperation. Such sexual exploitation is an affront to human dignity and cannot be supported or sustained for any reason. Where desperation, marginalisation and victimisation exist, it is our duty to both dismantle the exploitative networks that sustain such abuse, and to provide those vulnerable people with alternatives and support.

Those in favour of legalisation would argue that prostitution must exist to 'help' those marginalised people who are prostituted. This same argument has been used to support enslavement of African-Americans, child labour, sweatshops and other forms of mass-organised exploitation and slavery throughout history. This is not the 'support' that the exploited need – they need real help in the form of viable economic alternatives to the sex trade, support to exit, protection from exploitation, and pathways to healthcare.

The voice of the pro-sex work lobby

In her evidence to the Justice Committee, former special advisor on human trafficking to the Swedish government Gunilla Ekberg stated ""We cannot deal with that problem by looking at a few individuals and saying that they make choices while ignoring 97% of the other women who are in prostitution and have a completely different experience… There will always be a few individuals who will speak out and say that it is their choice… The women who are not in a position to do that rarely get a place at the table."

Women's Aid represents the women who are not in the empowered position to speak for themselves – women who have been trafficked and exploited, women who are unable to speak up about their ordeal due to the trauma they have experienced, women who cannot publicly speak about their experience of prostitution because they don't want their partner, children or community to know. These women are largely unrepresented in the debate about prostitution, and their voices are overshadowed by the empowered minority, many of whom are in fact pimps and brothel owners.

There have also been arguments made about a woman's agency to choose to be in prostitution. But for the many women who are in prostitution because of poverty or desperate circumstances, there is very little agency or choice involved. Women's Aid's ethos is based on empowering women to help themselves – but this cannot take place in a vacuum. Where domestic violence is concerned, just because we believe in a woman's right to make her own choices does not mean we think there should be no legislation and policy aimed at helping women out of abusive relationships. Equally, we think there should be legislation and policies aimed at helping women being exploited in prostitution, and that this legislation should both target the perpetrators of exploitation and provide support for victims.

Will the Bill 'drive prostitution underground'?

Women's Aid rejects the contention that this Bill would 'drive prostitution underground'. The sex trade in Northern Ireland is already largely off-street, and is already operating largely online. The use of modern telecommunications such as the internet and mobile phones by pimps and traffickers to advertise and organise prostitution is nothing new. Prostitution cannot completely 'go underground' as it needs some form of publicity to attract sex buyers.

Is the Bill 'unpolicable'?

Women's Aid rejects the argument that this trafficking bill is 'unpolicable'. We would point out that exactly the same argument was put forward 30 years ago, when Women's Aid and other women's organisations were campaigning for better protections from domestic violence in Northern Ireland. We are now in a situation where, contrary to that initial belief, the PSNI

are effectively policing domestic violence incidents and consistently improving their response to domestic violence. Reportage of domestic violence is at an all-time high, indicating that awareness raising and police work is succeeding in tackling domestic violence effectively.

We believe that the same can be said for human trafficking – while this Bill will require a different response from police to the issue of human trafficking, it is by no means unworkable. In Sweden, police have been responding to human trafficking along similar lines for over a decade. While Swedish police initially had the same concerns as we are hearing in Northern Ireland, their view has changed significantly and the law is regarded as very helpful in prosecuting traffickers by having buyers in the trial process.[11]

Prevalence of human trafficking

It is generally agreed that, like most crimes involving sexual violence, the numbers of trafficking victims reported to or recovered by police are the tip of the iceberg. Women's Aid carried out research on human trafficking in 2006[12], long before trafficking was regarded as affecting NI, because we were coming across trafficking victims in the course of our work. Women's Aid has been supporting women for many years who show signs of trafficking or sexual exploitation but either take a very long time to disclose or never in fact disclose to us. This can be due to a wide number of factors – fear, shame, desire for no one to know that they were ever in prostitution if they have since exited, or simply because they are not ready to talk about their ordeal. The very nature of the sexual exploitation is such that we may never know its full extent, just like domestic violence or rape. However, if we as a society had waited until we knew the 'full extent' of domestic or sexual violence before legislating, we would still be waiting for that legislation, and thousands of victims would be without protection and deprived of justice. And if we wait for definitive numbers of trafficking or exploitation victims before legislating, we will continue to fail victims of trafficking and exploitation in Northern Ireland.

Protection of women in prostitution

Women's Aid is encouraged that the Trafficking & Exploitation Bill explicitly does not criminalise those in prostitution. We strongly urge that further support measures are necessary to support women in prostitution to ensure their safety, health and well-being and to encourage them to seek help without fear of criminalisation, marginalisation or deportation, as well as the creation for clear routes out of prostitution for those that wish to exit. The Swedish or Nordic model is based on simultaneous criminalisation of buyers and decriminalisation of those in prostitution, and this support-based model is essential to the success of Clause 6. Women's Aid would be very happy to work with government to establish pathways out of prostitution and comprehensive support structures for women in and exiting prostitution.

Appendix 2: Supporting Evidence

Dudley, B., *Crossing Borders: Preliminary Research on Human Trafficking in Northern Ireland,* 2006: http://217.35.77.12/research/nireland/welfare/Crossing_Borders_trafficking_report.pdf

Ekberg, Gunilla S., *Briefing on Swedish law and policies on prostitution and trafficking in human beings*', B.S.W., JD, 2012

11 Evidence of Gunilla Ekberg to the Justice Committee, http://www.niassembly.gov.uk/Documents/Official-Reports/Justice/2013-2014/130912_HumanTraffickingetcBill(BriefingfromLordMorrowetal).pdf

12 *Crossing Borders: Preliminary research on human trafficking in Northern Ireland*'

Department of Justice Northern Ireland, *'Research Paper investigating the issues for women in Northern Ireland involved in prostitution and exploring best practice elsewhere',* January 2011

Macleod, Farley, Anderson & Golding, *Challenging Men's Demand for Prostitution in Scotland: A Research Report Based on Interviews with 110 Men Who Bought Women in Prostitution,* 2008

Northern Ireland Human Rights Commission, *Submission on the Policing and Crime Bill: Paying for sexual services of a controlled prostitute in Northern Ireland,* 2009.

Balos, B., *The Wrong Way to Equality: Privileging Consent in the Trafficking of Women for Sexual Exploitation,* Harvard Journal of Law and Gender, http://www.law.harvard.edu/students/orgs/jlg/vol27/balos.pdf

Bindel, J. and L. Kelly (2003). *A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden,* http://www.glasgow.gov.uk/CHttpHandler.ashx?id=8843&p=0

Eckberg, G, *The Swedish law that prohibits the purchase of sexual services",* Violence against women 10(10): 1187 – 1218, http://www.prostitutionresearch.com/pdf/EkbergVAW.pdf

Farley, M. (2006). "Prostitution, trafficking and Cultural Amnesia: What we must not know in order to keep the business of sexual exploitation running smoothly." Yale Journal of Law and Feminism 18: 109 - 144. http://www.prostitutionresearch.com/pdfs/FarleyYaleLaw2006.pdf

O'Connor, M. and G. Healy (2006). The links between prostitution and sex trafficking: a briefing handbook. Dublin, Coalition against Trafficking in Women. http://ec.europa.eu/anti-trafficking/download.action;jsessionid=NS3XSz8JhwM0wSky3v3xd8G4tmZm17NrbXH91L3S2TZ2jQGFQdXG!378647602?nodePath=/Publications/The+Links+Between+Prostitution+and+Sex+Trafficking_A+Briefing+Handbook_en.pdf&fileName=The+Links+Between+Prostitution+and+Sex+Trafficking_A+Briefing+Handbook_en.pdf&fileType=pdf

Women's Aid Ireland

Turn Off the Red Light
End Prostitution and Sex Trafficking in Ireland

WOMEN'S AID
Making Women and Children Safe

31st October 2013

Dear Chairman and Committee Members,

RE: Submission to the Northern Ireland Justice Committee on the *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)*

The …[ENTER YOUR ORGANISATION]… have been campaigning against sex trafficking, which is the most widely spread form of human exploitation in the European Union. For this reason we are active members of the Turn Off The Red Light Campaign[1], which aims at ending prostitution and sex trafficking in the Republic of Ireland. It is being run by an alliance of 68 civil society organisations, unions, umbrellas and services with a joint representation exceeding 1.6 million people in Ireland.

Trafficking of women and girls for the purposes of sexual exploitation is modern slavery and a prevalent from of exploitation. We believe that the best way to combat this is to tackle the demand for prostitution by criminalising the purchase of sex, and maintaining services to those trafficked and affected by prostitution, ensuring that they are not criminalized and re-victimised.

We are deeply concerned about the spread of the prostitution industry, which exploits women and children in both the Republic of Ireland and Northern Ireland, and we wish to add our voice to those who are seeking to change our legal systems in Northern Ireland to criminalise the purchase of sexual services, while protecting the rights and dignity of those prostituted.

[1] www.turnofftheredlight.ie

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National Freephone Helpline 1800 341 900
Registered charity number 6491

We therefore readily welcome the proposed *Human Trafficking and Exploitation Bill (Further Provisions and Support for Victims)*, and particularly Clause 6 of the Bill, which would specifically legislate for the criminalization of the purchase of sex, as a measure to discourage demand that fosters sex trafficking and exploitation through prostitution. As the Republic of Ireland's Government considers the introduction of similar legislation, up on unanimous recommendation of the Joint Oirechtas Committee on Justice, we would be very encouraged to see this measure come into effect in Northern Ireland.

Attacking the commercialised sex business through the introduction of penalties for the buyer has proven to be an efficient approach that best responds to the nature of a trade which thrives on threats, abuse and violence. This is an essential part of the campaign against human trafficking as the majority of human trafficking victims are trafficked for the purposes of sexual exploitation.

While the Policing and Crime Act of 2009 was a welcome advance in Northern Ireland's anti-trafficking legislation its impact has been limited by the requirement of proof of coercion within a very limited timeframe. Thus, unsurprisingly, there have been no successful convictions made in Northern Ireland to date. [2] This failure is in line with that of other countries which have introduced similar legislation, such as Finland and the Republic of Ireland at present. Legislation which is limited to proven victims of coercion has been shown to have little or no effect on demand for trafficked victims.

We believe that every Government owes it to the vulnerable people and children trapped in prostitution, as well as to the society which they represent, to ensure that the demand for sexual services from exploited and trafficked individuals is effectively tackled.

We trust that the Northern Ireland Justice Committee will ensure that the public consultation is concluded in a timely manner, and we hope that the consultation will lead to the passing of the *Human Trafficking and Exploitation Bill* as soon as possible.

Thank you for your attention.

Yours sincerely,

Margaret Martin
Director

[2] Northern Ireland Assembly Question AQW 15565/11-15

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Appendix 6

Additional Papers Considered by the Committee

Additional Papers Considered by the Committee

11 December 2013

Report on the Committee for Justice Visit to Stockholm, Sweden to View the Workings of the Swedish Model that Prohibits the Purchase of Sexual Services

23 January 2014

Report on the Committee for Justice Meeting with the Oireachtas Joint Committee on Justice, Defence and Equality

6 February 2014

Note of an informal meeting with a former sex buyer

7 February 2014

Correspondence from GMB – Regarding its affiliation with the International Union of Sex Workers

20 February 2014

Note of an informal meeting with a former sex trafficking victim

26 February 2014

A Statutory Declaration from a Former Sex Worker

11 March 2014

Correspondence from the Attorney General for Northern Ireland on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

12 March 2014

Further correspondence from the Attorney General for Northern Ireland on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

4 April 2014

Correspondence from the Minister for Social Development regarding Clause 10A

7 April 2014

Correspondence from Philip Bradfield, Newsletter Journalist, regarding evidence received on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

9 April 2014

Department of Finance and Personnel briefing paper on the criminalisation of forced marriage

Report on the Committee for Justice Visit to Stockholm, Sweden to View the Workings of the Swedish Model that Prohibits the Purchase of Sexual Services

Introduction

1. As part of the Committee Stage of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, the Committee for Justice agreed to undertake a visit to Stockholm, Sweden to view the workings of the Swedish Model that prohibits the purchase of sexual services.

2. Clause 6 of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, inter alia, makes it an offence to obtain sexual services from a person over the age of 18 in exchange for payment; allows the offence to be triable, either as an indictable offence or a summary offence, sets out the maximum penalty for the offence as one year imprisonment; and ensures that the person who is selling sex is not guilty of aiding and abetting the offence.

3. The Committee undertook a 2-day visit to Stockholm, Sweden from 11 December to 13 December 2013. The following Committee Members participated in the visit:

- Mr Paul Givan MLA (Chairman)
- Mr Stewart Dickson MLA
- Mr William Humphrey MLA
- Mr Alban Maginness MLA
- Ms Rosie McCorley MLA
- Mr Jim Wells MLA.

4. Lord Morrow, the Bill Sponsor, accompanied the Committee at his own expense and participated in some of the programme briefings.

The Swedish Model

5. On 1 January 1999, Sweden became the first country in the world to pass legislation to prohibit the purchase of sexual services including sexual services purchased on the street, in brothels, or in other similar circumstances. Attempts to buy a sexual service are also punishable. The seller of such services is not punishable.

6. On 1 July 2011, amendments to the offence of purchasing sexual services increased the maximum sentence from six months to one year in prison.

Programme briefings

7. During the visit the Committee received briefings from the following organisations/individuals during which a wide range of issues as outlined below were covered:

- Patrik Cederlöf, National Coordinator against Trafficking in Human Beings /Prostitution
- Ann Martin/ Per Hjort, Detective Inspector / Investigator in the Trafficking Human Beings for Sexual Purposes Unit
- Marie Lind-Thomsen, Senior Public Prosecutor, International Public Prosecution Office
- Simon Häggström, Detective Inspector , Vice Team - Field Work

- Kajsa Wahlberg, Detective Superintendent and National Rapporteur
- Petra Ostergren, Academic Expert on Gender Equality and Prostitution Issues with a focus on Sweden's Sex Purchase Act
- Pye Jakobsson, Rose Alliance, an Association of Sex and Erotica Workers in Sweden
- Suzann Lardotter and Nicklas Dennermalm, RFSL - an organisation representing lesbian, gay, bisexual, and transgender sex workers.

Briefing by Patrik Cederlöf, National Coordinator against Trafficking in Human Beings/Prostitution

In his presentation Patrik Cederlöf outlined the multi-disciplinary composition of the National Task Force against Trafficking in Human Beings/Prostitution, the role and function it plays, the benefits of such an approach, the advantages for the service provider and law enforcement and the challenges faced.

The key issues discussed included: the importance of a multi-disciplinary approach; the need to review the composition of the Task Force if new issues emerge; the wide ranging functions of the Task Force including its function as a strategic and operational resource for those outside the bigger city regions with limited experience of trafficking in human beings; the importance of a centralised resource that can provide advice across a wide basis; the need for tailored training for all relevant bodies; the need for robust service provider and law enforcement cooperation; the benefits to service providers of having access to victims at an early stage to provide support; the improved outcomes as a result of enhanced service provider and law enforcement cooperation; the work of the specialised police force units and the requirement to resource these; the work of the specialised prostitution units; the need for adequate operational resources; the benefits of an holistic approach to addressing trafficking and prostitution; the strong social perspective of the approach; the problems associated with the identification of prostitutes and getting them the support they need; the extent of trafficking for purposes other than sexual e.g. forced begging, berry picking; the difficulties in dealing with unaccompanied children who have been trafficked; the extent of trafficking of EU citizens who belong to minority groups; how those who have been trafficked for a number of purposes including sexual are dealt with; the success of the information campaign 'Safe Trip'; what percentage of trafficked victims are for sexual exploitation; how the National Task Force links human trafficking and prostitution; what countries human trafficking victims are coming from; the approach taken at EU level to human trafficking; the provision of an exit strategy for prostitutes; how cases are identified and prosecuted; how resources are prioritised; and the evidence available to conclude that criminalisation of the buyer has had the intended effect.

The PowerPoint presentation delivered by Patrik Cederlöf is attached at Tab 1.

Briefing by Ann Martin/ Per Hjort, Detective Inspector / Investigator in the Trafficking Human Beings for Sexual Purposes Unit

In their presentation Ann Martin and Per Hjort, Vice Team Investigators in the Trafficking Human Beings for Sexual Purposes Unit outlined the unique role of the Unit, the specialised skills used to gather evidence including online research, the early involvement of Prosecutors in cases and the close working relationship with the Unit; the nature and scale of trafficking in Sweden; and the strong public support in Sweden, particularly amongst young people, for the law criminalising buyers (in 1996 before the law came in, just under 70 percent were against criminalisation – in 2008, 70 percent supported the law and approximately 18 percent were against criminalisation).

The key issues discussed included: the composition of the Unit against Trafficking in Human Beings and its key targets and objectives; the ways in which pimps operate; the typical behaviour of buyers; the role of prosecutors as preliminary investigators; Sweden's position as a transit and destination country for traffickers rather than a source country; the estimated number of people trafficked into Sweden on a yearly basis; the background

to the sex purchase law; how public opposition to the sex purchase law was overcome; the profile of the buyers; the number of trafficked victims and illegal aliens in Stockholm; whether prostitution has been displaced to neighbouring countries; the link between increased resources and increased results; the attitude of the general public towards men who buy sex; the number of people, trafficked or otherwise, who are working in prostitution; the extent of male prostitution; the change in attitude by the police who now support the law; the benefit of a more overarching approach to tackling prostitution/trafficking; the background of women in prostitution; the profiles of the criminal gangs dealing in prostitution and trafficking; the use of wiretapping to secure convictions; the percentage of trafficking victims involved in other forms of exploitation; the link between prostitution and trafficking; the countries from which victims are being trafficked; the funding for anti-trafficking measures; whether the non-punishment of sellers has increased incidences of soliciting; the percentage of people who are trafficked for sexual purposes; whether resources are more focused on tackling prostitution or trafficking; how evidence is gathered to demonstrate a reduction in trafficking/ prostitution; and the reflection period for victims of human trafficking.

The PowerPoint presentation delivered by Ann Martin and Per Hjort is attached at Tab 2.

Briefing by Marie Lind-Thomsen, Senior Public Prosecutor, International Public Prosecution Office

In her presentation Marie-Lind Thomsen outlined the role of the prosecutor in relation to cases involving trafficking in human beings and the law on the purchase of sexual services, the work methods used in cases and how trafficking cases are investigated, the relevant laws, how victims are treated and the prosecution and trial process.

The key issues discussed included: the role and independence of prosecutors; the multi-disciplinary work and co-operation necessary to get convictions; the law relating to trafficking in human beings; the definitions of procurement and the purchase of sex; the need to tackle demand for sexual services; the role of the prosecutor in preliminary investigations and the benefits of early involvement; the need for specialist prosecutors due to the complex nature of issues which can often involve international law issues; the signs prosecutors look for to identify trafficking; how an indictment is decided; the use and importance of wiretapping in getting convictions and the standards/regulations that govern it; how the law has been changed to make it easier to get convictions; the prosecutor's role in financial scrutiny and the power to access bank accounts; the number of cases that go to the Supreme Court; how the law treats victims who become perpetrators; legal and other assistance provided to victims; the awarding of temporary residency permits / permanent residency for victims of trafficking; the extent of repeat offending; the methods by which buyers of sexual services provide information to the police; how fines for perpetrators are calculated; how extra-territorial issues are dealt with; how victims who do not recognise themselves as such are dealt with and the challenge this presents to the police; the typical backgrounds of victims; how the law empowers victims; the level of false allegations against buyers; the zero murder of prostitutes since the law was introduced; the number of prostitutes murdered in the Netherlands in the last 30 years (127) where the purchase of sex is legalised; and the estimated percentage of prostitutes (80 percent) working legally in the Netherlands who have been trafficked, which had been highlighted at a recent conference.

The PowerPoint presentation delivered by Marie Lind-Thomsen is attached at Tab 3.

Briefing by Simon Häggström, Detective Inspector, Vice Team - Field Work

In his presentation Simon Häggström outlined in detail how the Vice team undertook investigations, gathered evidence, identified sex buyers and sellers of sexual services including, in particular, minors and possible victims of trafficking, and took appropriate action including prosecutions.

The key issues discussed included: the basis of the police's initial opposition to the sex purchase law and the reasons why it now supports the law; how the law has made it easier to identify criminals and trafficking victims; the indicators used by police to identify trafficked victims on the internet; the surveillance carried out by police in relation to possible transactions; other authorities that may be involved in the surveillance exercise; the actions taken by the police at the point of arrest of the buyer; how procurement is dealt with; the range of help and support available to victims and perpetrators; the status of a prostitute as a witness; the percentage of prostitutes who cooperate with the police following the arrest of a buyer (9 out of 10 give a statement as they know they will not be punished and in his view the law empowers the sex worker to speak to the police); Sweden's zero tolerance policy in relation to pimps; his view that prostitution is not more difficult to find due to it going underground since the introduction of the sex purchase law – sellers and buyers have to find each other therefore the authorities can also find them; the lack of evidence to support the argument that the level of violence against prostitutes had increased since the introduction of the sex purchase law; the lack of arrests of buyers with disabilities; the low rate of reoffending of buyers who are caught (rarely if a married man with a family); his view based on his extensive knowledge of the industry that the majority of sex workers do not do it by choice and the law aims to protect this majority; and the lack of evidence of false allegations being made by prostitutes against buyers in the off-street market.

Briefing by Detective Superintendent Kajsa Wahlberg, National Rapporteur

In her presentation Kajsa Wahlberg outlined the background to the introduction of the sex purchase law in Sweden, the victim, equality and demand perspectives relating to the law, how the law operates, the strong public support for the law, the human trafficking situation in Sweden and the role of the National Rapporteur on Trafficking in Human Beings.

The key issues discussed included: the National Rapporteur on Trafficking in Human Beings' role in collecting data and identifying emerging trends / issues and recommending actions; the need for a Rapporteur to act as a reporter for government and other authorities; whether a police background is necessary to undertake the role of rapporteur; the remit of the rapporteur including the requirement to identify emerging issues and trends and report annually; the advantage of having a rapporteur including having direct access to the Minister of Justice; the background to the sex purchase law and the legislation which also covered issues relating to violence against women including domestic violence; how the law is applied; the reasons why the law is gender-neutral; the link between prostitution and human trafficking; whether buyers travel outside Sweden to purchase sex; the strong public support for the sex purchase law particularly amongst young people (2008 poll indicated that 78 percent of people aged 18 – 28 supported the law); the attitude of pimps and traffickers to Sweden as a market for trafficking activities; the purposes for which people are currently trafficked into Sweden; the decrease in the number of sex buyers in Sweden; and whether it is a human right to sell and/or purchase sex.

The PowerPoint presentation delivered by Simon Häggström and Kajsa Wahlberg is attached at Tab 4 together with a copy of the most recent Situation Report by the Swedish police on *Trafficking in human beings for sexual and other purposes and a copy of Swedish Laws and Policies on Prostitution and Trafficking in Human Beings: An Overview* by Gunilla S Ekberg, International Human Rights Lawyer, both of which Ms Wahlberg provided to Members during her briefing.

Briefing by Petra Ostergren, Academic Expert on Gender Equality and Prostitution Issues with a focus on Sweden's Sex Purchase Act

Petra Ostergren, a writer, social commentator and academic specialising in gender politics and prostitution issues, briefly outlined her research on *The Swedish Sex Purchase Act: Claimed Success and Documented Effects*, the field work she had carried out, and her findings in relation to the prevalence of prostitution, trafficking for sexual purposes, whether the law

deters buyers, whether the law has changed attitudes and the unintentional effects of the law.

The key issues discussed included the need for a collaborative approach with those who will be affected by the policy; the multi-faceted nature of prostitution and the variety of reasons people enter prostitution; the goal in relation to bringing in the Swedish Sex Purchase Act and how this is changing; how the Act has stigmatised the buyer; the criticism by academics and the Ombudsman regarding a lack of scientific evidence to demonstrate positive effects of the sex purchase law such as a decrease in prostitution; the analysis of government policy and the need to look at all relevant laws and their effects in tandem; the reasons for the differing views on the success or failure of the sex purchase law by academics and non-governmental bodies; the lack of baseline figures before the Act was brought in from which to measure its impact; the criticisms of the negative impacts of the law levelled by the Discrimination Ombudsman; the need to look at a range of models which deal with prostitution; whether prostitution and human trafficking can be dealt with separately; and the links between anti-trafficking policies and prostitution.

Ms Ostergren subsequently provided a link to an up-dated version of her research paper: http://issuu.com/platform31/docs/p31_prostitution_policy_report.

Briefing by Pye Jakobsson, Rose Alliance

Ms Jakobsson, a former sex worker and current sex worker activist who co-founded the national organisation for sex workers in Sweden, Rose Alliance, outlined her involvement in the sex industry and her experience of how the Swedish Purchase Act operates. She also provided the preliminary results of an internet based survey carried out amongst sex workers in Sweden which is attached at Tab 5.

The key issues discussed included: who she represents on behalf of Rose Alliance; the Discrimination Ombudsman's criticism of the sex purchase law because of an increase in the stigmatisation of prostitutes; the need to protect sex workers from violence and exploitation; the low levels of violence in Sweden; whether pimping has increased since the introduction of the law; the impact the law has had on relationships between prostitutes, the police and social services; the co-location of social services and the police and her experience of whether this has affected prostitutes going to social services with issues; whether prostitutes are willing to give evidence in court; the nature of the opposition of the World Health Organisation and Human Rights Watch to criminalising the purchase of sexual services; the use of massage parlours etc. as a front for prostitution and the difficulties in proving that prostitution is involved; the support available for those who wish to exit prostitution; the complex nature of the sex industry; and the preliminary results of an internet based survey of sex workers in Sweden on the sex purchase law that she had carried out.

Briefing by Suzann Lardotter and Nicklas Dennermalm, RFSL

In their presentation Nicklas Dennermalm and Suzann Larsdotter from the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights, outlined the work they have undertaken respectively in relation to sexual health programmes targeting male and transgender sexworkers in Stockholm and as project leader of one of the 36 interventions in the Government's action plan against prostitution and trafficking for sexual purposes/ exploitation and the situation of LGBT people selling and buying sexual services in Sweden.

The key issues discussed included: the origins of the initiative to criminalise men who buy sexual services; the strength of feminism in Sweden and its impact on government and society; the difficulties in highlighting the issue of male prostitution; the reasons why men enter into prostitution; the stigma attached to prostitution; the multi-faceted nature of the sex industry; the difference between trafficked victims and sex workers; concerns that sex workers and organisations are being deliberately discredited; the lack of representation for sex workers; the particular health issues associated with male prostitutes; the limited

number of health promotion programmes available to the gay community; the lack of health programmes which target male prostitutes; the Swedish Government's attitude towards gay men and male prostitution; the perceived reluctance of the Vice Units to help male prostitutes who do not wish to exit the industry; the advice provided by RFSL to men who wish to exit prostitution; and the availability of research that indicated that the Sex Purchase Act was not important to men who travelled a lot or were frequent buyers but was important to men who bought sex once or twice.

Report on the Committee for Justice Meeting with the Oireachtas Joint Committee on Justice, Defence and Equality

Introduction

1. As part of the Consideration Stage of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill the Committee for Justice visited Dublin on 23 January 2014 for an informal meeting with the House of the Oireachtas Joint Committee on Justice, Defence and Equality.

2. The following Committee Members participated in the visit:

- Mr Paul Givan MLA (Chairman)
- Mr Raymond McCartney MLA (Deputy Chairman)
- Mr William Humphrey MLA
- Mr Sean Lynch MLA
- Mr Alban Maginness MLA
- Ms Rosie McCorley MLA
- Mr Jim Wells MLA

Purpose of the Meeting

3. The Committee for Justice wished to discuss with the Joint Committee on Justice, Defence and Equality the findings of its Report on a Review of Legislation on Prostitution which had been published in June 2013. The Committee for Justice was interested in this report in the context of its consideration of Clause 6 of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. Clause 6 makes it an offence to obtain sexual services from a person over the age of 18 in exchange for payment; allows the offence to be triable either way, as an indictable offence or a summary offence, and sets out the maximum penalty for the offence as a one year imprisonment; and ensures that the person who is selling sex is not guilty of aiding and abetting the offence.

Background to the position in the Republic of Ireland

4. In June 2012 the Department of Justice and Equality opened a review of the law relating to prostitution with the Minister for Justice outlining that the criminal law relating to prostitution was being reviewed primarily because of the changed nature of prostitution in Ireland and stating the importance of periodically reviewing the law to ensure that it is up to date and relevant to altered circumstances.

5. The Department initiated the review by publishing a Discussion Document that outlined different possible legislative approaches to prostitution and arguments for and against them.

6. The Joint Committee on Justice, Defence and Equality was requested by the Minister for Justice and Equality to examine the document produced by his Department. The Committee invited written evidence which resulted in over 800 submissions being received and held public and private hearings with 24 organisations and individuals.

Report on the Review of Legislation on Prostitution

7. The Joint Committee on Justice, Defence and Equality reported in June 2013 on its Review of Legislation on Prostitution. The Report made recommendations to the Minister for Justice and a copy can be viewed at the following link:

http://www.oireachtas.ie/parliament/media/committees/justice/1.Part-1-final.pdf

8. The Minister for Justice wrote to the Joint Committee in September 2013 requesting that it elaborate on some of its conclusions and recommendations. The correspondence, including the Committee's response, can be viewed at the following link:

http://www.oireachtas.ie/parliament/media/committees/justice/Addendum-to-Prostitution-Report.pdf

Meeting of the Committee for Justice and the Joint Committee on Justice, Defence and Equality

9. The Committee for Justice and the Joint Committee on Justice, Defence and Equality met on 23 January 2014. The following Members of the Joint Committee attended the meeting:

- Deputy David Stanton, Chairman
- Senator Martin Conway
- Deputy Marcella Corcoran Kennedy
- Deputy Seán Kenny
- Deputy Pádraig Mac Lochlainn
- Deputy Finian McGrath
- Senator Katherine Zappone

10. The Chairman of the Joint Committee, Mr David Stanton, welcomed Members of the Committee for Justice to Dublin and the opportunity it provided to discuss the important issue of legislation on prostitution. He briefly reflected on the Report and indicated that the Joint Committee had unanimously agreed to adopt the 'Swedish Approach' of criminalising the purchase of sexual services. He outlined that the Committee was firmly of the view that criminalising the purchasing of sexual services would curtail demand and therefore lessen the incentives for human trafficking. Mr Stanton also highlighted the importance of ensuring that there are support services in place for those who wish to exit prostitution.

11. The Chairman of the Committee for Justice, Mr Paul Givan MLA, outlined that the Committee was currently receiving written and oral evidence in relation to the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. While the provision in the Bill (Clause 6) relating to prostitution was a significant element, the Bill also dealt with much broader issues to address human trafficking, including forced labour and support for victims. Mr Givan explained that there were currently differing views on Clause 6 and the Committee was keen to hear from the Oireachtas Committee on its findings and conclusions as well as discussing the cross-border implications if either jurisdiction was to adopt a different legislative approach.

12. A discussion followed between both Committees on the following issues:

The nature of prostitution

13. Members discussed the nature of prostitution in both jurisdictions and the Committee for Justice enquired whether the Joint Committee, in gathering its evidence, had any experience of the category of sex worker who is self-employed and who enters prostitution as of choice. The evidence received by the Oireachtas Committee indicated that a low percentage of

women become sex workers through choice rather than being controlled by a third party. Members of the Joint Committee outlined that it was very clear that those who enter prostitution as a career choice were very few and that there was no clear evidence to prove the claim by any sex worker that they were working independently. The Joint Committee evidence indicated that the majority of women entered prostitution due to economic hardship or as a result of trafficking.

14. The evidence presented to the Joint Committee was that there was an underage element to prostitution in Ireland and that there was a demand for those underage. The Joint Committee also outlined that the contributory factors in entering prostitution were poverty, homelessness and abusive and dysfunctional family backgrounds. There was also evidence of significant numbers of foreign nationals being brought in for prostitution. Their situation was further complicated by the fact that they may not speak English and may be under threat and live in fear. There was also evidence of the involvement of organised criminality including gangs from Eastern Europe.

The issue of whether the legislation on prostitution should be separate and not part of the Human Trafficking Bill

15. Members discussed the issue of whether the legislation on prostitution should be separate and not included in a Bill dealing with human trafficking. The Joint Committee outlined that Gardaí evidence had indicated that sexual exploitation was occurring but that there were difficulties in obtaining evidence of trafficking. The Joint Committee suggested that separating trafficking and prostitution could undermine what the legislation was aiming to achieve. The Joint Committee also outlined that there was research available from reputable groups which linked human trafficking and prostitution and that this was supported by the Gardaí evidence and the experience of journalists who had produced documentaries on the issue.

16. The Joint Committee pointed to significant international evidence of the link between human trafficking and prostitution including the Report of the International Human Trafficking Unit, the EU Human Trafficking Co-ordinator and the report from the US Department of State Office monitoring international trafficking.

Whether the conclusions and recommendations of the Joint Committee Report were supported unanimously by all parties

17. Members of the Committee for Justice were interested to hear from the Joint Committee on whether the conclusions and recommendations of its Report were unanimously supported. The Joint Committee indicated that they were able to reach a unanimous position regarding adopting the 'Swedish Approach' of criminalising the purchase of sexual services following detailed deliberations and evidence gathering.

18. Members of the Joint Committee were of the view that civic society in Ireland had arrived at a common position, given the direct experience in particular of the Turn off the Red Light campaign which encompasses many NGOs and trade unions in support of eliminating prostitution.

19. Some Members of the Joint Committee indicated that they were initially uncomfortable but, having gone through a process of considering the balance of arguments, had concluded that criminalisation was the best option as it would have the effect of sending a message but that the consequences would be a monetary fine as opposed to spending time in prison. Members of the Joint Committee also highlighted that the Swedish police were initially critical of the proposed approach but were now one of the strongest advocates of a change in the law.

Whether further research is required

20. The Committee for Justice outlined the views that had been expressed that further research was required before a definitive opinion could be reached on whether Clause 6 was the right

approach to adopt regarding prostitution in Northern Ireland. Members were keen to hear the views of the Joint Committee regarding the research available to it.

21. The Joint Committee explained that they had detailed discussions about whether there was sufficient research and evidence available. The Joint Committee acknowledged that this was a particularly difficult area in which to gather specific statistics and evidence.

22. It pointed to international research on human trafficking from a range of organisations (The Report of the EU International Human Trafficking Co-ordinator and the US State Department Monitoring Report) which identified the link with prostitution and indicated that it had also placed value on the direct experience of professionals working on the ground in deprived areas of Dublin and research and statistics they provided. Consideration was also given to the research available on the approaches adopted in other jurisdictions. The Joint Committee noted that those who argued that more research needed to be carried out or who had counter research were using much smaller sample sizes and their methods were technically not as strong.

23. Members also discussed the differing views expressed regarding the Swedish model and the argument presented that the legislation does not reduce prostitution but negatively impacts on prostitutes and increases the dangers involved in prostitution by driving it underground.

24. The Members of the Joint Committee were firmly of the view that the research was available, the issue was about equality and, having visited Sweden in their view it was clear the law had dramatically reduced prostitution there compared to other EU countries, and therefore this was the right approach to take.

The message which such legislation sends

25. Members discussed the likely impact of the legislation on attitudes within society towards prostitution. The Joint Committee felt strongly that criminalisation of prostitution would have the effect of sending a message that prostitution was not acceptable in today's society. The Joint Committee highlighted the evidence presented to them that trafficking was happening because of the demand for sexual services and the money to be made. While the legislation would not totally prevent prostitution, it would curtail demand and challenge attitudes within society towards paying for sex. It also indicated a desire to protect the most vulnerable in society who were unable to do so themselves.

The requirement for support services

26. The two Committees discussed the importance of ensuring that support services are in place as part of the legislation. The need to ensure that women were not criminalised was also highlighted.

27. The Joint Committee outlined that the Swedish experience indicated the importance of providing emotional and practical support, for example in terms of housing and financial support, to women as well as removing the stigma associated with prostitution. The Joint Committee also made the point that long-term support services were important in ensuring that women did not return to prostitution in the future.

Whether current legislation available to combat human trafficking is sufficient

28. The Joint Committee discussed its view that the existing legislation in Ireland is not adequate and that loopholes exist which allow, for example, a website operating in the UK to sell services in Ireland. The Joint Committee outlined that the current laws did not address the problems posed by modern day prostitution, for example in relation to the significant numbers of migrant workers involved, and stated that it had come to the conclusion that the way to address trafficking was to criminalise the purchase of sexual services.

The implications if the two jurisdictions adapt different legislative approaches

29. The importance of ensuring a co-ordinated cross border approach to tackling prostitution and human trafficking was raised. Members expressed concerns regarding whether the problem could be displaced if different laws exist in Northern Ireland and the Republic of Ireland regarding prostitution.

The next steps in relation to the Joint Committee Report

30. The Chair of the Joint Committee outlined that the Minister for Justice was currently consulting with his colleagues and An Garda Síochána. Given the very extensive justice workload it was unclear whether the legislation would be passed during the current mandate but it was a very high priority. The Minister was expected to provide the "Heads of a Bill" and the Joint Committee would undertake pre-legislative scrutiny of that.

Conclusion

31. Both Chairmen expressed their appreciation for the very useful exchange of views and agreed that the Committees should continue a dialogue on this important issue.

Note of an Informal Meeting with a Former Sex Buyer

Record of Issues Raised by a Former Sex Buyer at an Informal Meeting On 6 February 2014

Present: Paul Givan MLA (Chairman)
Raymond McCartney MLA (Deputy Chairman)
Seán Lynch MLA
Alban Maginness MLA
Rosie McCorley MLA

In Attendance: Christine Darrah, Clerk
Marie Austin, Assistant Clerk
Julie Devlin, Clerical Supervisor

The Chairman and Members of the Committee for Justice met informally with 'David' (name changed to protect identity), a former sex buyer, at his request, to hear his personal experiences of prostitution and his views on criminalising the buying of sex.

Background

David explained that he had bought sex around 200 times both on the street and in brothels and other places, in 12 different countries over a period of more than 25 years with the vast majority of his purchases being made in Ireland and Asia.

Purchasing sex

David stated that he would define the purchase of sex as 'rape'. He was of the firm view that there was no such thing as two consenting adults in prostitution and the only guilty party was the buyer. He spoke about his experiences of buying sex, outlining that he could never have determined whether a woman was consenting and saying that he did not think any purchaser could form a reasonable view regarding whether consent was given or not. He stated that he did not believe that true consent exists in prostitution and indicated that none of the woman would have had sex with him without payment. He had never met "an empowered sex worker".

David said that over the years, as he purchased sex more frequently, he became more indiscriminate when buying sex and the prostitutes' situations became more and more irrelevant. He decribed himself as "callous and indifferent" and described the buying of sex as "adult entertainment" – not a need and definitely not a right.

David admitted to buying sex from prostitutes who were forced. He described a degrading and demeaning scenario for three women from which he was invited to choose. He was resentful that he had been put in that situation but he purchased anyway.

Prostitution of Children

When David was asked about the numbers of children/minors who were prostitutes on the island of Ireland, he reckoned that between 5 and 7 percent of the prostitutes he came across were minors. He had also heard reports that the girls are getting younger and younger. He admitted that he had had sex with prostitutes who were/he thought were under the age of 18 but at the time he had not questioned their ages. He stated that it was very easy for the buyers to pay little/no attention to the person they are buying as they are a commodity and age, demeanour etc. is irrelevant.

David stated that he was now disgusted by his behaviour and found his actions hard to live with.

Trafficking

When asked whether he had evidence of trafficked women David recalled an incident in another country where he met a girl in a nightclub and went back to her 'apartment' which turned out to be a brothel. He knew then that the girl was a 'slave' rather than someone who was forced.

When asked if he had reported this incident to the police he advised that the situation was complicated and reporting the girl could get her into even more trouble. He stated that for some it was "best to work through it to pay back debts and get enough money to go home".

In his view women trafficked for prostitution cannot be identified as such by the police, the outreach workers or the punters as they are present in the same places, in the same way, say the same things and provide the same services as other prostitutes. From a punter's perspective the women are all the same and they will buy anyway.

Legislation

David spoke about the criticisms of the Nordic model. He referred to the argument that criminalising sex buyers would stop the good men from buying sex and only the bad men would remain. He felt that this argument sounded like a reason for steeper penalties. He also referred to the argument that for some women prostitution was the only opportunity for them to make money to survive and questioned why this should be/was the only method of charity available.

In his view prostitution is driven by accessibility and acceptability - these drive demand which drives supply. He highlighted that the Nordic model is the only one that clearly doesn't accept or condone the buying of sex. Legislation facilitates accessibility and increases social acceptance thereby increasing demand. Decriminalisation as in New Zealand is another form of legislation with the same results.

Throughout the meeting David stressed the importance of enforcement of legislation and sufficient penalties. He stated that even in countries where he would have been liable for prosecution he felt that he had been given a "get out of jail free card" as the law was never enforced and therefore did not matter.

When asked if criminalising the buyer would stop him from buying sex his emphatic answer was "yes". David advised Members that his wife knew nothing of his sex buying. He stated that naming and shaming would be a massive deterrent. He also felt that two days in a 'john school' would also work.

Normalisation

David accepted that even with the enforcement of legislation, prostitution would never be eradicated as there were always those who the law would not deter. However he felt very strongly that introducing a law to criminalise the purchase of sex would be a clear statement by government of what is considered acceptable and what is not acceptable. It would change social attitudes and values. He felt that prostitution was harmful to communities, society, women and self and the obvious stance for government was to reduce incidences by introducing the legislation. If no attempt is made to change attitudes it will continue.

Correspondence from GMB – Regarding its Affiliation with the International Union of Sex Workers

GMB
LONDON REGION

Our Ref: PH/RS/CB/Admin
7 February 2014

Christine Darrah
Clerk, Committee for Justice
Northern Ireland Assembly
Room 242 Parliament Buildings
Ballymiscaw
STORMONT, Belfast
BT4 3XX

Dear Christine

International Union of Sex Workers

Your letter of 28th January enquiring into our association with the IUSW has been passed to me for a response.

However to put that response into a meaningful context I need to say that we are unaware of the oral evidence you refer to and would further explain that the association/connection with the IUSW is somewhat tenuous.

We have, in the London region a branch entitled London Entertainment & IUSW, it is a comparatively small branch, most of their members work in various aspects of the sex industry some of whose members are also members of the IUSW.

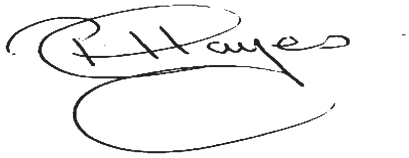
GMB - BRITAIN'S GENERAL UNION
Regional Secretary: Paul Hayes *General Secretary: Paul Kenny*
THORNE HOUSE 152 BRENT STREET HENDON, LONDON NW4 2DP TEL: 020-8202 8272 FAX: 020-8202 2893

So far as I am aware, the connection is between some of those members as individuals and the IUSW.

There are no official connections between the Region and the IUSW.

I hope this is helpful.

Yours sincerely



Paul Hayes
Regional Secretary

NORTHERN IRELAND ASSEMBLY
COMMITTEE FOR JUSTICE

GMB National Administration Unit
St. James Business Park
81 Linwood Road
Paisley
PA3 3BB

28 January 2014

Dear Sir/Madam

The International Union of Sex Workers

The Northern Ireland Assembly Committee for Justice is currently undertaking the Committee Stage of the Human Trafficking and Exploitation (Further Provision and Support for Victims) Bill. The Bill aims to provide Northern Ireland with a more robust legal framework in relation to the prosecution of traffickers and those subjecting people in Northern Ireland to conditions of slavery; provide improved support for the victims of trafficking; and tackle the demand for trafficking including the introduction of an offence for paying for sexual services (rather than paying for sexual services if the prostitute is subjected to force).

As part of its scrutiny of the Bill the Committee is currently taking oral evidence from a wide range of organisations and individuals who have submitted written comments and views.

At its meeting on 9 January 2014 the Committee for Justice heard oral evidence from a sex worker representing the views of the International Union of Sex Workers. The Committee subsequently agreed to seek clarification from the GMB Union regarding the nature of its association/connection with the International Union of Sex Workers given the reference to an association with the GMB Union on the sex worker's website.

I would appreciate at response on this matter at your earliest convenience.

Yours sincerely

Christine Darrah

Christine Darrah
Clerk, Committee for Justice

Room 242, Parliament Buildings, Ballymiscaw, Stormont, Belfast, BT4 3XX
Telephone: (028) 9052 1629 • Fax: (028) 9052 1893
E-mail: committee.justice@niassembly.gov.uk

Note of an Informal Meeting with a Former Sex Trafficking Victim

Present: Paul Givan MLA (Chairman)
Stewart Dickson MLA
Tom Elliott MLA
Alban Maginness MLA
Jim Wells MLA

In Attendance: Christine Darrah, Clerk
Marie Austin, Assistant Clerk
Leanne Johnston, Clerical Supervisor

Introduction

The Chairman and Members of the Committee for Justice met informally with 'Anna' (name changed to protect identity), a former sex trafficking victim, at her request, to hear her personal experiences of sex trafficking and her views on criminalising the buying of sex.

Anna's Story

Anna outlined the circumstances that led to her being kidnapped, tortured and trafficked into the sex trade in Ireland and how she managed to escape from the pimps and start to rebuild her life.

While living in London and studying to be a nurse she was kidnapped by a number of people, some of whom she shared a house with. They knew where her parents lived in Romania and told her if she did not cooperate her parents would be killed. She was taken to Luton Airport to board a flight to Galway. Bewildered by what was happening, she tried to get away, saying that she needed to use the toilet, but her captor would not leave her side. As she boarded the plane her captor handed her ID to the flight attendant. Unfortunately the flight attendant did not think there was anything odd about Anna not handing over her ID herself so no questions were asked.

Anna had hoped that when she arrived in Galway she would be able to look for help but her hopes were dashed; when she arrived two Romanian pimps were waiting for her, one of whom was later convicted of human trafficking in Sweden. The men had bought her for €20,000. She had been identified by one of their associates as the perfect candidate to be trafficked; she was slim, slightly built and attractive and crucially she had no family living in London so it would be easy to smuggle her out without anyone noticing or creating much fuss over her disappearance.

She was brought to a flat in Galway where three men and a woman were waiting for her. She was told that she would have to earn money to eat, to pay for her flight and to clothe herself. Anna then went on describe in detail the horrors of her first day as a victim of sex trafficking and how soon after she was expected to provide sexual services to up to 20 men a day.

Anna said that clients were paying between €70 and €500 to see her, depending on what service they wanted, with the money usually being handed straight to the pimps. Anna recalled how the pimps used girls "like luggage" - they were changing girls every week, transporting them from countries such as Italy and Spain. During her nine months in captivity she was moved between brothels in Galway, Dublin, Limerick, Cork and Belfast and estimated that she encountered at least 500 other women in the same situation as her. She stated that the gang advertised the girls as prostitutes on a website controlled by a convicted pimp from Northern Ireland. With men paying €80 for half-hour sex sessions, she believed that the gang

made hundreds of thousands of Euros from her – she was known by the pimps as the "million dollar baby".

Anna said that her clients were business people, police officers, barristers and politicians. She recalled a time when she and two other girls were taken to a brothel run by pimps in Belfast city centre. After five days it was shut down following a raid by police. She stated that during the raid a number of the girls recognised some of the police officers as having been in the brothel buying sex in the preceding days and she believed there had been an internal investigation.

Anna was returned from Belfast to a Galway brothel and after a Gardaí raid both she and three other women were arrested and charged with running a brothel. She felt she had no option but to plead guilty as she had no one to turn to or assist her and she received a small fine. The irony was that "the pimps were out on the street waiting for them to be released".

From Galway, both Anna and the other girls were moved for a month to a house on the Western Road in Cork city. After that it was a hotel in Limerick. Dublin was the next stop, with rooms being rented at hotels near the airport. The rooms were chosen so that the pimps could see the customers arrive and take the money from them at the door. Everything was organised. In Dublin, her clients included business people, barristers and politicians – they would tell her what they did for a living. She said that by this point, she was not crying any more, she had become immune to all the pain and suffering and she just didn't care. When talking about landlords and whether they knew that their properties were being used as brothels, Anna recalled one landlord in Cork who agreed to let his property to her pimps in return for the girls doing some painting work and all of them having sex with him.

Anna told of how her fear turned to terror when she learned that the gang planned to send her to the Middle East. She tried to escape and got as far as London with the help of one of her clients. She had hoped that her friends would come to her rescue. Instead, the gang members threatened her friends that members of their families would be targeted if they came to her aid. She had no choice but to return to her captors.

Finally in Belfast in November 2011 Anna escaped. She explained how she managed to escape from the pimps by making a deal with a rival drug gang. She was "finally free" but her mistrust in the police stopped her from going to them immediately and she didn't make a statement to the PSNI until April 2012. She was able to provide information on the traffickers and gave the police over 3,000 customer phone numbers. As part of an international police operation one of the male pimps was arrested in Romania and the woman pimp who ran the brothels with him was also convicted.

Anna described how she was treated by the PSNI following her escape. She felt that the investigating police officers saw her more as a source of information rather than a victim who needed help and protection. She was offered a deal whereby if she provided information in relation to the drug gang she would be given help to get a certificate from the UK Serious Organised Crime Agency confirming her status as a victim of human trafficking. She did not provide any information in relation to the drug gang as she did not want to put her life in any more danger. She was of the view that the PSNI would not have been able to create a safe environment for her. She told of how the PSNI failed to honour its promise of proper dental and medical treatment and counselling, all of which she desperately needed because of the extreme physical and mental abuse she had suffered at the hands of her pimps/traffickers. She was offered witness protection in 2013 but declined as she would not have been able to go back and see her mother.

Anna explained how she was unable to access the legal services normally available to victims because she was not rescued by the police, and Women's Aid, Migrant Helpline and Nexus did not have the right experience to deal with her situation. Anna also told of the immense difficulties she experienced because she had no identification papers and the frustration she

experienced in dealing with the authorities. She also experienced threats to both herself and her family.

When asked whether she had encountered women freely prostituting themselves she said she had not and that there was always someone telling the women what to do. She was of the view these women may start off in control but that soon stops. She said if she was given the chance to ask the women five questions she could prove that they were not doing it willingly.

Clause 6

Anna stated that her one wish was for legislators to bring in laws criminalising men who pay for sex. She highlighted that her traffickers transferred tens of millions of Euro from Ireland to Eastern Europe. She stated that gangs involved in trafficking would not give up their profits easily. She felt that the only way to end trafficking was to end the demand. She was of the view that if any man who paid for sex thought that he could be arrested and interrogated by police in front of his wife, charged in court, and would lose his career, "it would end demand full stop".

When asked whether Clause 6 would result in prostitution being driven underground she said that it was already underground and referred to the practice of girls being moved around with the aim of keeping prostitution hidden. She felt that rather than drive prostitution further underground, the introduction of Clause 6 would create a bigger barrier to money laundering by the pimps. Anna also felt that legalising the purchase of sexual services would not help in any way to combat human trafficking. She said that some of her clients knew that she had been trafficked but never reported it to the police.

Anna also referred to organisations who claim to represent sex workers. She felt that they were not truly representing sex workers but were protecting themselves and their profits because they could see the effect Clause 6 would have on their future business.

Anna expressed the view that if Clause 6 does not go through the consequences would be immense as once the trafficked victims are no longer any use for sexual exploitation they would be sold for forced labour/organs etc. until they are no longer of any use and likely to end up dead.

Anna has now returned to her studies and is trying to rebuild her life but admitted that the "mental and physical scars may never heal" and is constantly looking over her shoulder.

A Statutory Declaration from a Former Sex Worker

Statutory Declaration

I, **Gaye Dalton**
of:

Patrick Behan
Peace Commissioner

-being aged 18 years and upwards do solemnly and sincerely declare as follows :-

The only payment I have ever received for my work on the sex work issue since was a €30 - €40 phone credit as a thank you from a donor who is anonymous to me early in 2013 and an unsolicited £20 note from a Nun connected to Ruhama at their conference in 1994. I pay all my own expenses. This is important to me not only to show sex workers they are worth my time and effort but because payment compromises neutrality.

I sold sexual services on Waterloo and Burlington Roads in Dublin 4 between approximately June/July 1987 and March/April 1993.

Since moving from Connaught to Leinster in 1989 I worked there 5 or 6 nights a week (usually taking at least Monday off). I would usually arrive at about 9:30pm and work until at least 2:30am.

I spent most of my time on the streets either walking or in two places:

- At the top of Waterloo Road by the corner of Wellington Lane
- Near the corner of Burlington Road outside Dublin Institute of Advanced technology

In cold or wet weather I might also sit in my car either at the top of Waterloo Road, or on Burlington Road looking out on to Waterloo Road.

The sex workers and regular clients were a small community that could be compared to the regular clientele of a pub, we all knew each other, at least by sight and were very much aware of new people, unusual occurrences, or any form of crime or abuse.

Every woman I knew at that time worked independently, for herself, apart from two women who were in personal relationships that would have been abusive and coercive in any environment. (I enabled one of these women to escape with her children.)

Anyone who seemed underage was prevented from working, sent home if possible and reported to Gardai. Many of the women had teenage children of their own and were not easy to fool in this respect, and this would be a very unusual occurrence.

Drug abuse was extremely rare and many women were actively involved in the "concerned parents" movement in their local communities.

At no time did I ever see, or hear of "Rachel Moran" author of "Paid For" and founder of "Space International" nor anyone resembling her, working in that area. In her book she claims to have

worked near the corner of Wellington Lane from early evening until "the small hours", which would have placed her within 15 yards of me for several hours most nights.

I have asked several people I retain some contact with, or could locate, from that time and nobody else can remember her, or anyone like her, not only there but in any form of sex work indoor or outdoor, at any of the times she claims to have worked, between 1991 and 1998.

Beyond this, in her book "Paid For" and online blog "theprostitutionexperience" she has described several people, but not one of them even resembles anyone I ever met or heard of.

Like any small community of people there was gossip. As a result we knew plenty about each other's lives and were familiar with the known details of any abusive, awkward, or even interesting clients. She does not allude to anyone recognisable to me at all.

At no time does she show any awareness of the terminology we used, nor even the material realities of our work.

She has also, at times, claimed to have been arrested for soliciting before 1993. Not only was this impossible, but also, one of the first things you would be told as a sex worker at that time is that you could not be arrested for soliciting. She did not even know that.

Rachel Moran is making money from her book and speaking engagements as well as seeking funding for "Space International", aimed at exploiting any form of future criminalisation of sex work, and making significant input into Justice Committees both sides of the border through totally misrepresenting herself and that entire community and time. Meanwhile real sex workers are denied all safe access to self representation to refute through the callous exploitation of existing stigma (that not only threatens sex workers but also their children) and blatant stonewalling.

I understand that it is unlawful for a person to obtain financial advantage from deceit, but I am personally more concerned with the damage to vulnerable, voiceless people that Rachel Moran will do with her lies. The idea of anyone so unscrupulous having any degree of control over sex workers' lives in future, and particularly those who wish to leave sex work and are particularly vulnerable and unprotected, absolutely horrifies me.

Justine Reilly, her partner in "Space International" (all reference suddenly removed from website in past few weeks) was discovered to be a convicted pimp in February 2013, after initially, putting herself forward in the media as a helpless victim. I have never observed her to show any remorse towards the women she exploited, while at least one of these same women has been openly chastised by Ruhama for "disrespect" for alluding to her convictions.

During consultations in both North and South of Ireland genuine sex workers have been treated as animals who cannot think and speak for ourselves while dishonest persons such as these have been put forward as speaking for us. Genuine sex workers have been abused, intimidated and excluded while blatant lies are treated with the greatest courtesy and respect.

Real sex workers are informed that we suffer from many kinds of trauma but no note is taken at all of the far deeper trauma of being silenced and misrepresented in this way, of being organisations in receipt of significant public funds on the pretext of supporting us.

Patrick Behan
Peace Commissioner

Signature of Applicant
SWORN/DECLARED
by.....

this 26 day of Feb 20 14

at Naas

In the County of Kildare before me a **Peace Commissioner for Co Kildare** and within the counties immediately adjoining that county.
By the deponent whom I know/ or who has been identified to me.

Signature: Patrick C Behan
Name: Patrick C. Behan

Note: it is an offence under Section 6 of the Statutory Declaration Act, 1938 for any person to make a Statutory Declaration, which to his knowledge is false or misleading in any material respect. The penalty on summary conviction is a fine not exceeding € 60 or, at the discretion of the Court, to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

Patrick Behan
Peace Commissioner

Identical depositions are also being sent to the following:

Justice Committee
Committee Clerk: Christine Darrah
Room 242,Parliament Buildings,
Ballymiscaw,Stormont,
Belfast,BT4 3XX

Committee on Justice, Defence and Equality
Committee Clerk: Alan Guidon
Leinster House
Kildare Street
Dublin 2

Minster For Justice Alan Shatter TD
Department of Justice
94, St Stephen's Green,
Dublin 2.

Minister For Equality Kathleen Lynch TD
Department of Health and Children,
Hawkins House,
Hawkins St,
Dublin 2

Minister For Justice David Ford MLA
Department of Justice
Block B
Castle Buildings
Stormont Estate
Belfast
Northern Ireland
BT4 3SG

Correspondence from the Attorney General for Northern Ireland on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Attorney General for Northern Ireland

Mr Paul Givan MLA
Chairman
Committee for Justice
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Our Ref: 18/05/13/001

Date: March 11 2014

Dear Chairman

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

In the course of my evidence to the committee last week I had advised that I would follow up with a written summary of my main points. This summary is set out below under the heading of the relevant clause.

Clause 2 – Consent irrelevant for victim of human trafficking or slavery offences.

It is not clear that clause two is necessary and, as a general rule, if a provision is not necessary then enacting it may give rise to unnecessary risk or complication. Whenever consent is relevant in the criminal law such consent would not be validly given if, for example, it had been obtained by threat, fraud or coercion.

Clause 3 - Aggravating Factors

Under a legislative scheme such as that contemplated by clause 3 a sentencing judge retains discretion to consider factors other than those set out by statute in reaching his or her decision on sentence. It may be helpful for this clause to set out additional procedural provisions setting out how the aggravating factors should be recorded by the judge and explicitly reflected in the sentence imposed.

Office of the Attorney General for Northern Ireland, PO Box 1272, Belfast BT1 9LU
Telephone: 028 90725333
www.attorneygeneralni.gov.uk

Clause 4 – Minimum sentence for human trafficking and slavery offences.

An amendment is, I understand, being considered to exclude children from the minimum sentence requirement; I agree with such an amendment. I suggest the insertion in clause 4 (2) of the words *'an immediate'* rather than *'a'* before 'custodial sentence'. This would avoid the possibility of a suspended sentence being imposed when the policy intention is clearly to provide for a robust sentencing regime.

The retention of discretion for the judge to impose a sentence below the minimum threshold where there are exceptional circumstances allows for flexibility, where for example, a person has given very useful information to the police.

At the committee I discussed with members whether the inclusion of provision for 'exceptionality' detracts significantly from the primary purpose of the clause. It was in this regard that I suggested that it might be thought desirable to include an obligation for reasons to be stated by the judge if a case is considered exceptional. Introducing a requirement to give reasons for a judicial decision that the case is 'exceptional' allows an appropriate balance to be struck between the policy imperative of an effective minimum sentence, and the requirement to do justice in the individual case.

Clause 5 – Amendments to the Asylum and Immigration (Treatment of Claimants etc.) Act 2004

If clause 5 is to proceed then it may be thought that it 'deals with' immigration and so, out of an abundance of caution, I would suggest that the Secretary of State's consent is obtained.

Clause 6 – Paying for sexual services of a person.

Clause 6 introduces a new Article 64A to the Sexual Offences (NI) Order 2008. While the decision on whether or not to have such a clause is very much one for the legislature, I have some specific technical or drafting suggestions.

Subject to relevant amendments suggested below there would not, I think, be any significant concern about the Assembly's competence to enact such a provision. I understand that the Public Prosecution Service witnesses had noted that human rights issues arise with this clause, citing articles 8, 10 and 17 ECHR. In my view, criminalisation of this form of sexual activity *engages* the right to respect for private life (cf. article 8) but the legislature is entitled to interfere with this right proportionately with the aim of protecting the rights of others. I consider that, in general, penalising the purchasers of sexual services

Office of the Attorney General for Northern Ireland, PO Box 1272, Belfast BT1 9LU
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pursues a legitimate aim (protection of the rights of others) and meets the test of proportionality as a response to the social evil of trafficking in human beings. I note that a similar policy position is being or has been adopted in other Council of Europe member states. I am not persuaded that articles 10 (freedom of expression) and 17 (prohibition of the abuse of rights) are engaged.

In concluding that this clause, as drafted, is aimed at protecting the rights of those who are vulnerable to trafficking or who have been trafficked, the Committee should be clear on the scope of criminalisation for which this clause provides. It is important that the basis for interference with article 8 ECHR, for example, dissuading traffickers, can be linked to criminalisation of all the particular forms of sexual activity encompassed by the clause, which at present is drafted widely. As an aside, the legitimate aim of protecting 'public morals' is also available under article 8 but this may not be the policy purpose.

As you know, the term *sexual service* is not defined in the Bill, meaning, I think, that a court would look to how 'sexual' is interpreted elsewhere in the Sexual Offences (NI) Order 2008, into which it is proposed that this clause criminalising the purchase of sexual services will be inserted. It is this context which would allow for a wide interpretation.

Article 4 of the 2008 Order reads as follows:

> "For the purposes of this Order, except Article 75 (sexual activity in a public lavatory), penetration, touching or any other activity is sexual if a reasonable person would consider that—
>
> (a) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual, or
>
> (b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both), it is sexual."

Lap dancing is an activity which would almost certainly fall within the definition of a *sexual activity* (and consequently, *sexual service*, in the absence of any restrictive definition in clause six) as the purpose of the person paying for the lap dance may be invariably thought to be sexual gratification. In its present form clause 6 could also include telephone sex lines and other commercial activities provided for the purposes of sexual gratification. It may be that a wide scope is what is intended (and required) in order to address trafficking for sexual exploitation in all its forms but this should be, I suggest, considered by the Committee.

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When considering the scope of criminalisation for the purposes of ECHR compliance, it is also important to look at the definition of 'payment' in what clause six proposes as 64A (3). I understand that it is necessary to include advantages other than cash to minimise loophole opportunities. In my evidence to the Committee I did note that this would cover criminalisation of the employer who explicitly offers a promotion in exchange for sexual services.

I am however concerned about how the 'payment' definition creates an understanding of 'financial advantage' as one which includes, almost counter-intuitively, 'sexual services'. I would strongly suggest removal of the words '(including sexual services)' from the definition. I suggest this so as to avoid an outcome whereby mutually exchanged sexual activity, for example by agreement between husband and wife, without any element of financial or material exchange is caught by this provision. In my view this would not be a proportionate interference with article 8 ECHR and so would present competence concerns. There would also need to be a slight amendment to article 58 of the 2008 Order to make it clear that its definition of 'payment' does not apply to the new article 64A.

The proposed 64A (2) penalty clause would benefit from clarification. It is not clear in the present draft that 2(b) is referring to a penalty imposed after prosecution on indictment. If it is intended that a hybrid offence be created then it would make sense to provide the magistrate with a power to impose a period of imprisonment rather than merely a fine. If the offence is to be prosecuted summarily only then this should be made clear and consideration could be given to explicitly extending the six month time bar that would otherwise apply by making provision for this in clause 6 or elsewhere in the Bill.

The Committee may wish, as the PPS suggest, to consider whether this offence is one which you would like to be subject to notification requirements. If so, this would need to be provided for in the Bill.

Finally on clause six, I understand that there was some discussion about the use of the term 'person' rather than 'prostitute' (in the proposed new article 64A), in contrast to the statutory language in the current offence of 'paying for the sexual services of a prostitute subjected to force'. I am clear that the use of 'person' rather than 'prostitute' will better achieve what I understand to be the policy intention behind this Bill. If the Bill were to use 'prostitute', this would add another layer of proof to the prosecutorial burden. This is because the definition of 'prostitute' in article 58 of the 2008 Order (unless also changed) requires a person to have offered or provided sexual services in return for payment on at least one occasion, which I think must mean on an 'other' or 'previous' occasion. The use of

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'person' means that a purchaser of sex from someone who has not previously provided such a service is committing an offence, which is I understand a reflection of the policy intent.

Clause 7 – requirements and resources for investigation or prosecution

I understand that the policy aim of clause 7 (1) may now be achieved through an amendment to clause 15. I understand that clause 7 (2) and (3) are to stand alone. These provisions simply reflect the current legal position and I do not see the necessity for this clause.

Clause 8 – Non prosecution of victims of trafficking in human beings

In terms of legislative competence, the provisions of the Bill must be compatible with EU law. It is worth noting that the European Union Directive (2011/36/EU) on combating trafficking does not require that victims of trafficking be immune from prosecution in relation to all offences carried out by them after having been trafficked. The extent of the immunity that would be conferred by the present clause 8 goes dangerously beyond what is required by EU law.

Article 8 of the Directive reads:

> "Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2."

The recital to the Directive notes immigration or prostitution offences as relevant examples in relation to the obligation to protect, in some circumstances, from prosecution or penalisation. It also sets out that the safeguard should not exclude prosecution or punishment for offences that a person has voluntarily committed or participated in.

You may remember the text of my section 8 guidance. A prosecutor must have regard to this guidance when making decision whether to prosecute a victim of trafficking:

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"Trafficking

The PPS should consider trafficking in human beings to be a serious violation of human rights when assessing the public interest of prosecuting identified victims of trafficking.

The PPS should take into account the extent to which victims of trafficking were compelled to engage in unlawful activities in order to prevent imposing penalties on identified victims.

The PPS should ensure that, while the identification procedure is ongoing, that potential victims of trafficking are not punished for immigration- related offences."

My view is that the combination of existing criminal law defences and the correct application of the PPS discretion, my section 8 guidance, and PPS internal guidance are sufficient to ensure compliance with the Directive.

Clause 19 – short title and commencement:

This clause confers power over commencement on the Department. It would be open to the Assembly to make provision for commencement, whether or Royal Assent or on another fixed date or dates, without reference to further action by the Department. This avoids placing the Department in the unfortunate position of having to decide when to commence provisions with which it is not in policy agreement.

General

Naturally I am happy to speak again to the Committee about the Bill or to comment further in writing if this would be helpful.

Yours sincerely

John F Larkin QC
Attorney General for Northern Ireland

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Further Correspondence from the Attorney General for Northern Ireland on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Attorney General
for Northern Ireland

Mr Paul Givan MLA
Chairman
Committee for Justice
Room 242
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Our Ref: 18/05/13/001

Date: March 12 2014

Dear Chairman

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

I have been reflecting further on clause six and would like to make another drafting suggestion. I have noted that the current draft limits the offence to paying for the sexual services of a person 'over the age of 18'. The Sexual Offences (NI) Order 2008 already contains the offence, at article 37, of 'paying for sexual services of a child' and it may have been thought that article addresses the social harm caused by those who purchase sex from minors while clause six need only deal with adults. The matter is a little more complicated than that.

The offence under article 37 is committed if, for example, the purchaser of the sexual services from a seventeen year old child 'does not reasonably believe' that the supplier is eighteen or over. (A 'reasonable belief' defence is not available if a child is under 13 years of age). If clause 6 is enacted in its current form a person will be punished for purchasing sex from a nineteen year old but a person will not be punished for purchasing sex from a seventeen year old if it was reasonably believed that the seventeen year old was an eighteen year old. It may be very difficult to prove that a person's belief that a seventeen year old was eighteen years of age was unreasonable.

In order therefore to avoid creating this kind of gap in which the market demand for young people who appear to be eighteen but are in fact younger could be increased, it would, in my view, be important to remove the words 'over the age of 18' from the draft article 64A(1) in clause six. This deletion would ensure that an offence is committed regardless of the age of the person from whom services are purchased. The prosecution choice on what offence to charge can be made on the basis of the strength of the evidence around belief on age and the penalties available.

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I am, of course, happy to discuss this further should that be of assistance. I should also say that I would be happy for this letter and my letter of 11 March 2014 to be shared with Lord Morrow.

Yours sincerely

John F Larkin QC
Attorney General for Northern Ireland

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Correspondence from the Minister for Social Development regarding Clause 10A

Department for Social Development
www.dsdni.gov.uk

From: The Minister

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1 Cromac Place
Gasworks Business Park
Ormeau Road
BELFAST
BT7 2JB
e-mail: private.office@dsdni.gov.uk
Tel: (028) 9082 9034

Mr Paul Givan MLA
Chair, Committee for Justice
Room 242
Parliament Buildings
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BT4 3XX

Our ref: COR/231/2014

4 April 2014

Dear Paul

Thank you for your letter of 26 March 2014 regarding a new clause 10A in the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill, which would make provision for an exit strategy for those who wish to leave prostitution.

The housing entitlement of non-British citizens in Northern Ireland is an excepted matter under the Northern Ireland Act 1998 and therefore lies outside the legislative competence of the Northern Ireland Assembly. In the circumstances, I would suggest that any requirement under clause 10A for the Department of Health, Social Services & Public Safety to provide accommodation for persons who wish to leave prostitution may not extend to persons from abroad who have been illegally trafficked to Northern Ireland. I note that the provision of accommodation would not be conditional on a person's willingness to act as a witness and would suggest that the Home Office may have an interest in this aspect of the proposals.

I hope this information is helpful.

Yours sincerely

Nelson M'Causland

NELSON MCCAUSLAND MLA
Minister for Social Development

INVESTORS IN PEOPLE

Together, tackling disadvantage, building communities

NORTHERN IRELAND ASSEMBLY
COMMITTEE FOR JUSTICE

Mr Paul Givan MLA
Chairman, Committee for Justice

Mr Nelson McCausland MLA
Minister for Social Development
Lighthouse Building
1 Cromac Place
Gasworks Business Park
Belfast
BT7 2JB

26 March 2014

Dear Mr McCausland

NEW CLAUSE 10A - ASSISTANCE AND SUPPORT FOR EXITING PROSTITUTION

At the Committee for Justice meeting on 20 March 2014, Lord Morrow MLA updated Committee Members on his current position in relation to each of the clauses in the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

Lord Morrow advised the Committee that he intends to propose a new Clause 10A which will make provision for an exit strategy for those who wish to leave prostitution. Lord Morrow provided the wording of his proposed amendment and a paper prepared by Women's Aid setting out what it views as the principles of an appropriate support service, an outline of what such a service should include, and possible staff costs.

The Committee agreed to seek your views on the new Clause 10A including the implications for the Department for Social Development and any associated costs.

The Committee has also requested the views of the Department of Justice, the Department of Education, and the Department of Health, Social Services and Public Safety.

I would appreciate a response at your earliest convenience.

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Yours sincerely

(Approved by the Chairman and issued on his behalf)

Mr Paul Givan MLA
Chairman, Committee for Justice

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Correspondence from Philip Bradfield, Newsletter Journalist, regarding evidence received on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

From: Philip Bradfield [mailto:Philip.bradfield@newsletter.co.uk]

Sent: 07 April 2014 12:40

To: Austin, Marie; Darrah, Christine

Subject: PLEASE IGNORE PREVIOUS - MORROW BILL

Sir, Madam

I would ask that the following be included within the Stormont Justice Committee report on Lord Morrow's Human Trafficking and exploitation (Further Provisions and Support for Victims) Bill.

In two hearings the accuracy of my reporting on this subject was queried.

I am most grateful to Laura Lee and Dr Graham Ellison for granting me interviews on this subject. But unfortunately, when under the pressure of cross-examination by MLAs months after the interviews, they appeared to forget or misremember details of what they told me.

As I feel this had the unintentional effect of implying that my journalism was inaccurate or misrepresenting them, I have supplied below the context of four quotations in question in order to put on record that the quotes I reported were both accurate and representative.

At no time have I received any complaint about the accuracy of the published versions of these two interviews from either party.

My audio recordings are available for inspection if required by MLAs.

Sincerely

Philip Bradfield

Selected Transcript of my Interview with Laura Lee

(Audio recording available to Assembly upon request)

STORY - "DUP anti-trafficking law will endanger women, says sex worker" was published 18 November 2013.

Laura Lee appeared before the Justice Committee almost two months later on 9 January 2014.

http://www.newsletter.co.uk/news/regional/dup-anti-trafficking-law-would-endanger-women-says-sex-worker-1-5688469

Laura kindly gave me an interview but said to the committee "I do not think that is a fair quotation whatsoever" when I reported her as saying the International Union of Sex Workers (IUSW) which she represents was "largely disbanded".

I have checked my records and wish to put it on record that it was an accurate quotation. I note that at no time have I received any complaint about the accuracy my report. The context of the quote follows;-

PB: How representative are your views of the sex industry?

LL: Very.

PB: What is your mandate?

LL: Most of my colleagues would be very much in support of my stance on it. They can't believe the way we are being portrayed in the media.

PB: You represent the IUSW - but how many members does it have?

LL: It is largely disbanded now. It used to be a huge organisation. I work very closely with Catherine Stevens and Douglas Fox.

They are activists in the UK as well and we campaign for policy based on evidence.

I also work with Scotpep as well in Edinburgh for Scottish sex workers.

It is challenging but rewarding as well.

PB: Douglas Fox's partner runs an escort agency with his partner but if the membership of the union is very small doesn't it follow that your views are not particularly representative of sex workers?

LL: They are because I speak to sex workers all the time. They email, they call they...

PB: Why don't they join the union?

LL: Because they are afraid of coming out? That is the big difficulty.

PB: But union memberships are not public knowledge?

LL: No I know that but they are afraid of any kind of step forward into activism at all. I get emails all the time saying thank you do much for he work you are doing - i would love to help you but...

PB: The IUSW has come under a lot of fire by people who say it is not representative and say Douglas Fox is management [in the industry] so it can't be representative of ordinary escorts on that basis?

Arguably the very low membership would support the argument that it is how it is perceived by ordinary sex workers?

LL: Douglas fox's partner may run an escort agency but he is an individual sex worker himself as well.

I get that all the time. Pimp lobby this, pimp lobby that. I am not a pimp. Never have been.

If that is the level they have to stoop to discredit the work I do - pity about them really.

Laura also said she did not remember another quote from my story, which again I reproduce below in full for the record;-

PB: If a partner of yours had gone to see an escort how would you feel about it?

LL: I would be upset. But I think I would be more upset if it was an affair.

PB: But why would you be upset?

LL: Because why would you go [out] for a burger when you have got steak at home?

Selected Transcript Of My Interview With Dr Graham Ellision

(Audio recording available to Assembly upon request)

STORY "Queen's academic questions extent of human trafficking" was published 5 October 2013.

Dr Ellison appeared before the Justice Committee almost four months later, on 30 January 2014

http://www.newsletter.co.uk/news/regional/queen-s-academic-questions-extent-of-human-trafficking-1-5560148

Dr Ellison told the committee that I provided a poor quality reproduction of the photograph of the inside of a bedroom door in a Belfast brothel, which PSNI have used in presentations, saying it shows the fingernail marks of a woman trying to claw her way out. During the interview he said his cat could do something similar. He told MLAs I had prompted him to comment on the photograph by showing him a poor quality copy of it.

Hansard records him as as follows discussing this with MLAs;-

Mr Wells: In an article in the newspaper, the police quoted this dreadful case of the woman locked in a room, not knowing where she was and having to service 20 clients a day. Her fingernails were found on the wall as she desperately tried to claw her way out. That woman has disappeared. You compared those to the marks made by your cat.

Dr Ellison: Mr Wells, I am glad that you have brought me up here from Queens to talk about my cat —

Mr Wells: Do you think —

Dr Ellison: — I really, really am, and I hope that the taxpayers listening to this are wondering whether they are getting value for money or whatever. Can I explain the context of that?

Mr Wells: Yes, certainly.

Dr Ellison: It was during an interview, and the interviewer — the journalist — did not give any background as to what was happening and produced a photocopied piece of paper. He showed me a photocopy of a photocopy in grey-scale, not even colour, and said, "What do you think of this? This is evidence of human trafficking." I said, "It looks like a door", and that is what the photograph was; it was of a door with a couple of scratch marks on it. So, I said to the journalist, "I am not really sure what to make of this; I cannot say this is definitive evidence of human trafficking. You could come to my house and my cat Felix, the bigger of the two, will jump up the door and scratch it, so there are scratch marks on the door.". Of course I was not trying to belittle what had happened. I did not know, in fact, what had happened.

It was during an interview, and the interviewer — the journalist — did not give any background as to what was happening and produced a photocopied piece of paper. He showed me a photocopy of a photocopy in grey-scale, not even colour, and said, "What do you think of this? This is evidence of human trafficking." I said, "It looks like a door", and that is what the photograph was; it was of a door with a couple of scratch marks on it. So, I said to the journalist, "I am not really sure what to make of this; I cannot say this is definitive evidence of human trafficking. You could come to my house and my cat Felix, the bigger of the two, will jump up the door and scratch it, so there are scratch marks on the door.". Of course I was not trying to belittle what had happened. I did not know, in fact, what had happened.

[CUT]

However Dr Ellison's recollection is not correct. I had no plans to mention this photo during our interview and I had no copy of the photograph to produce. Dr Ellison brought the subject up and said that he had investigated the story behind the photograph it in depth and was sceptical about it. The transcript of my interview is as follows;-

GE: I just am suspicious of whether trafficking is in fact trafficking as opposed to a more complicated issue around labour migration from a poor country to a rich country.

PB: The PSNI is of the view that there is a spectrum of control - what is your view?

GE: Some victims are complicit in their trafficking - it is technically smuggling - they want to move from China or Nigeria.

At the opposite end of the spectrum - and this is where I am sceptical of the actual numbers - is what I could call coercive trafficking which is basically victims locked in a cellar.

Police have provided a photograph of that apparently in Belfast - of a door in a bedroom in a brothel

My cat scratches the door. I could show you my living room door, you might think I have had a trafficking victim with the cat scratching the door. I am not being funny.

I have tried to do an archaeology of that photograph and it is wheeled out... but in any case the blood tests were of someone that disappeared in England or something like that. I am not disputing that happened I am just suspicious of that. You could look look at my living room door and think I have been keeping someone there.

Dr Ellison also told the committee that when he told me that human trafficking was a "myth or something" he was referring to Operation Pentameter 2, a UK-wide probe by police forces which he said found no human trafficking victims. In fact the context was that he was critiquing the increase in small anti-trafficking groups appearing in Northern Ireland which are being given state funding;-

GE: Laura Agustin says trafficking entered public discourse around 2000 coincided with influx of immigrants from accession countries joining EU.

She says it is tied up with migration patterns. Then she looked at organisations that are set up to get people out of prostitution and anti-trafficking groups.

Her point is that these groups operate at the level of rhetoric or talk and there is very little in terms of hard substance policy wise that they put in place to deal with the issues.

People are critical of the human rights industry in Northern Ireland and it is similar to that.

I am a bit sceptical of the number of smaller organisations popping up all over the place that have anti-trafficking at their core and which still get state funding and which seem to exist for propagating this myth or something.

[END OF MY SUBMISSION]

Yours

Philip Bradfield
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Department of Finance and Personnel Briefing Paper on the Criminalisation of Forced Marriage

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Christine Darrah
Clerk,
Committee for Justice,
Room 242
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Stormont

Our Ref OCQ/47/11-15

09 April 2014

Dear Christine,

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

Thank you for your letter of 18 March, which set out the Justice Committee's request for a briefing paper on the proposed Clause relating to the criminalisation of forced marriage.

A draft Clause has not yet been produced. However the attached paper sets out the background to, and detail of, the corresponding provision in GB and we hope the Committee will find it helpful.

Yours sincerely,

Gearóid Cassidy

GEARÓID CASSIDY
Departmental Assembly Liaison Officer

BRIEFING PAPER ON THE CRIMINALISATION OF FORCED MARRIAGE

From: Gearóid Cassidy

Date: April 2014

Summary

Business Area:	Civil Law Reform Division, Department of Finance and Personnel.
Issue:	Criminalisation of forced marriage.
Restrictions:	None.
Action Required:	The Committee is asked to take note of the contents of this paper.

BACKGROUND

1. A forced marriage is a marriage which is entered into without one of the party's free and full consent. There is a clear distinction between a forced marriage and an arranged marriage. In arranged marriages, the families of both spouses take a leading role in arranging the marriage, but the choice about whether or not to accept the arrangement remains with the prospective spouses. In forced marriages, one or both spouses do not (or, in the case of some vulnerable adults, cannot) consent to the marriage and duress is involved. Duress can take the form of physical, psychological, financial, sexual or emotional pressure.

FORCED MARRIAGE (CIVIL PROTECTION) ACT 2007 ("THE 2007 ACT")

2. The 2007 Act, which extends to England, Wales and Northern Ireland, allows for the making of a forced marriage protection orders. This is a civil order which is designed to protect a person who is at risk of being forced into marriage or a person who has been forced into marriage. The court has a very broad discretion. It can tailor the order to meet the needs of the particular case and cover any conduct which is causing concern.

3. In England and Wales breach of a forced marriage protection order is currently dealt with as a civil contempt of court punishable with a fine or a custodial sentence of up to two years imprisonment. However, in Northern Ireland, such a breach is a summary criminal offence which attracts a penalty of up to 6 months imprisonment and/or a fine.

4. The 2007 Act does not extend to Scotland. However, the Forced Marriage etc. (Protection and Jurisdiction)(Scotland) Act 2011 makes corresponding provision to the 2007 Act and allows for the making of forced marriage protection orders in Scotland.

CRIMINALISATION OF FORCED MARRIAGE

5. On 10th October 2011, the Prime Minister announced that the UK Government would make the breach of a forced marriage protection order a criminal offence in England and Wales. A consultation, which commenced in December 2011, sought views on how the new offence should be framed. It also sought views on whether forcing someone to marry against his or her will should be a criminal offence. A majority of the responses to the consultation favoured the creation of a new offence of forced marriage and the UK Government determined that such an offence should be introduced in England and Wales.

6. The provisions which were required to give effect to the above policy decisions were included in the Anti-Social Behaviour, Crime and Policing Bill ("the Bill). The Bill also provided for an offence of luring a person overseas with the intention of forcing that person to marry. The forced marriage/luring offences carry the following penalties:

- on summary conviction the maximum penalty is a fine and/or 6 months imprisonment (this will rise to 12 months when section 154(1) of the Criminal Justice Act 2003 is commenced);
- on conviction on indictment the maximum penalty is imprisonment for up to 7 years.

7. The Scottish Government secured a legislative consent motion to allow the Bill to create the offence of forced marriage and the offence of luring overseas in Scotland. (As in Northern Ireland, breach of a forced marriage protection order was already a criminal offence in Scotland). In Scotland the forced marriage/luring offences carry the following penalties:

- on summary conviction the maximum penalty is a fine (not exceeding the statutory maximum) and/or 12 months imprisonment;
- on conviction on indictment the maximum penalty is imprisonment for up to 7 years and/or a fine.

8. The Bill received Royal Assent on 13 March 2014 and the relevant provisions are now sections 121 and 122 (copies attached at Annex A).

9. It has been agreed that the offence of forced marriage and the offence of luring overseas should be introduced in Northern Ireland. It is proposed

that the required provision should be included in the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

CONCLUSION

10. The Committee is asked to take note of the contents of this paper.

ANNEX A

121 Offence of forced marriage: England and Wales

(1) A person commits an offence under the law of England and Wales if he or she—

(a) uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage, and

(b) believes, or ought reasonably to believe, that the conduct may cause the other person to enter into the marriage without free and full consent.

(2) In relation to a victim who lacks capacity to consent to marriage, the offence under subsection (1) is capable of being committed by any conduct carried out for the purpose of causing the victim to enter into a marriage (whether or not the conduct amounts to violence, threats or any other form coercion).

(3) A person commits an offence under the law of England and Wales if he or she—

(a) practises any form of deception with the intention of causing another person to leave the United Kingdom, and

(b) intends the other person to be subjected to conduct outside the United Kingdom that is an offence under subsection (1) or would be an offence under that subsection if the victim were in England or Wales.

(4) "Marriage" means any religious or civil ceremony of marriage (whether or not legally binding).

(5) "Lacks capacity" means lacks capacity within the meaning of the Mental Capacity Act 2005.

(6) It is irrelevant whether the conduct mentioned in paragraph (a) of subsection (1) is directed at the victim of the offence under that subsection or another person.

(7) A person commits an offence under subsection (1) or (3) only if, at the time of the conduct or deception—

(a) the person or the victim or both of them are in England or Wales,

(b) neither the person nor the victim is in England or Wales but at least one of them is habitually resident in England and Wales, or

(c) neither the person nor the victim is in the United Kingdom but at least one of them is a UK national.

(8)"UK national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;

(b) a person who under the British Nationality Act 1981 is a British subject; or

(c) a British protected person within the meaning of that Act.

(9) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 7 years.

(10) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference to 12 months in subsection (9)(a) is to be read as a reference to six months.

122 Offence of forced marriage: Scotland

(1) A person commits an offence under the law of Scotland if he or she—

(a) uses violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage, and

(b) believes, or ought reasonably to believe, that the conduct may cause the other person to enter into the marriage without free and full consent.

(2) In relation to a victim who is incapable of consenting to marriage by reason of mental disorder, the offence under subsection (1) is capable of being committed by any conduct carried out for the purpose of causing the victim to enter into a marriage (whether or not the conduct amounts to violence, threats or any other form coercion).

(3) A person commits an offence under the law of Scotland if he or she—

(a) practises any form of deception with the intention of causing another person to leave the United Kingdom, and

(b) intends the other person to be subjected to conduct outside the United Kingdom that is an offence under subsection (1) or would be an offence under that subsection if the victim were in Scotland

(4) "Marriage" means any religious or civil ceremony of marriage (whether or not legally binding).

(5) "Mental disorder" has the meaning given by section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

(6) It is irrelevant whether the conduct mentioned in paragraph (a) of subsection (1) is directed at the victim of the offence under that subsection or another person.

(7) A person commits an offence under subsection (1) or (3) only if, at the time of the conduct or deception—

(a) the person or the victim or both of them are in Scotland,

(b) neither the person nor the victim is in Scotland but at least one of them is habitually resident in Scotland, or

(c) neither the person nor the victim is in the United Kingdom but at least one of them is a UK national.

(8)"UK national" means an individual who is—

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;

(b) a person who under the British Nationality Act 1981 is a British subject; or

(c) a British protected person within the meaning of that Act.

(9) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine or both.

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