



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:

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

¹ Sex workers critique of Swedish anti-prostitution policy
http://www.petraostergren.com/pages.aspx?r_id=40716

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 affects 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

² SCOT PEP, Dec 2012 Accessible at http://scot-pep.org.uk/sites/default/files/reports/scot-pep_response_to_rhoda_grant_consultation.pdf

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.

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.