



JustRight Scotland's Response to the Consultation on Equally Safe: Challenging Men's Demand for Prostitution

About Us

JustRight Scotland (JRS) is Scotland's legal centre for justice and human rights. We use the law to defend and extend people's rights. You can find out more about us here: www.justrightscotland.org.uk.

Introduction

We are responding to this consultation drawing from the experience of our staff withing the **Scottish Anti-Trafficking & Exploitation Centre (SATEC)**. In this centre, we provide information, outreach, policy, training, and research on human trafficking and exploitation. We also provide legal advice and representation to child and adult survivors of trafficking and exploitation throughout Scotland and work in partnership with the Trafficking and Awareness Raising Alliance (TARA), Migrant Help and the Scottish Guardianship Service in doing so.

The lawyers within SATEC have been working with female victims of human trafficking for commercial sexual exploitation in both a support and legal capacity for a combined period of around 20 years and have worked with a large number of women trafficked to Europe and Scotland for this purpose. Our lawyers have also worked at an international level and contributed to training, research and policy work in this area. Whilst appreciating this consultation is wider than human trafficking for commercial sexual exploitation, it is from this perspective of our work that we respond to this consultation.

For us, this is a question of meeting international legal obligations in light of what we now know and understand about human trafficking and especially human trafficking for commercial sexual exploitation. We submit in our consultation response that it is now a logical consequence of the government's obligations under international law to take the step to criminalise the purchase of sexual services.

We make this statement in awareness that this is a polarised and contentious issue. We note the arguments that women will continue in prostitution if the purchase of sexual services is criminalised and that such a step may increase risk for these women. However, our viewpoint is formed on the basis of our representation of the often invisible majority of women involved in commercial sexual exploitation who do



not enter with free will but find themselves coerced into this practice due to a variety of factors rooted in gender inequality.

We are also aware that prostitution is one of the highest risk sectors for human trafficking producing the highest profits and involving serious breaches of international human rights law for the women involved. Attention should not therefore just be focused on the gender inequalities that ensure women and girls are more vulnerable to human trafficking but on those which perpetuate the cycle of human trafficking.

In order to meet our obligations under international law in the areas of human rights and violence against women and to ensure true gender equality, it is time to adopt a clearer stance in this area and one that protects the rights of this invisible majority.

We also note that this step is about building a new social consensus in how our society views prostitution and gender inequality. This is not about the abolition of prostitution which will not happen immediately as a result of this step. Nor is it about the criminalisation of women involved in this sector. It is about a societal acceptance of the inherent harms involved in prostitution which will take time and investment in exit and other support services. Regardless of the outcome of this consultation, we will continue to play our role in offering legal assistance to women involved in this sector.

The Global Context of Human Trafficking for Commercial Sexual Exploitation

From our work on the front line in Scotland, as well as our work undertaken internationally, it is clear to us that human trafficking for commercial sexual exploitation is a form of violence against women and is both a cause and a consequence of gender inequalities that exist globally as well as within Scotland.

Globally, the figures clearly demonstrate the disproportionate impact human trafficking has on women and girls. **72%** of **all** detected victims of human trafficking are women and girls. When we look at human trafficking for sexual exploitation, nearly all detected victims are women and girls at **94%**¹.

¹ 2018 Global Report on Trafficking in Persons Report, UNODC, https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf



The European Commission produced its third progress report on human trafficking in October 2020² where it confirmed these global trends. From this progress report, nearly three quarters of detected victims (**72%**) in the EU are female. Indeed, this has been the trend in the EU since 2008. The report also confirms that the most prevalent form of human trafficking is sexual exploitation (**60%**) and **92%** of this figure are women and girls. This third progress report also notes prostitution as a high-risk environment for this type of human trafficking.

These trends are however not reflected in the UK statistics. According to statistics from the formal identification system in the UK, the National Referral Mechanism (NRM), 10,627 individuals were referred into this mechanism in 2019 (a 52% increase on the previous year)³. The most common exploitation type referred into the NRM in the UK for adults in 2019 was labour exploitation and these trends have continued in 2020. However, for both adult and child victims in the UK, most referrals for sexual exploitation were female (in the statistics reported for July-September 2020, it was 77% and 84% respectively)⁴.

In Scotland, there was an exponential rise in potential victims of human trafficking in 2019. Whilst labour exploitation was also the most common type of exploitation, 113 victims of sexual exploitation were referred for identification in 2019, of which 91% were women and girls.

It is surprising to us that the statistics in Scotland and indeed the UK do not follow the global and indeed European trends given the globalised context we, and indeed organised crime, operates in. It is however accepted that these figures reflect an under-reporting of the issue in the UK. The UK government estimates there are up to 13,000 trafficking individuals affected by human trafficking in the UK⁵. Police Scotland and key NGOs have consistently stated that the numbers of women

² EU Third Progress Report on Human Trafficking, October 2020, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/third_progress_report.pdf

³National Referral Mechanism Statistics UK, End of Year Summary, 2019, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/876646/national-referral-mechanism-statistics-uk-end-of-year-summary-2019.pdf

⁴ Home Office Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, Quarter 3 2020 – July to September, <https://www.gov.uk/government/publications/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-3-2020-july-to-september/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-3-2020-july-to-september>

⁵Office for National Statistics: Modern slavery in the UK: March 2020, <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/modernslaveryintheuk/march2020>



trafficked for sexual exploitation are under-reported given the highly lucrative nature of this type of exploitation and there is agreement that these numbers are expected to increase as a result of the current COVID-19 pandemic.

Regarding the impact of the pandemic, various institutions including the European Commission, the UN and the OSCE report the intensification of human trafficking during the COVID-19 pandemic which has had, and will continue to have, a disproportionate impact on women and children⁶. The World Bank also predicts that the COVID-19 pandemic will push an additional 88 million into extreme poverty. This means that 150 million people will be living in extreme poverty in 2021 with eight out of 10 of this increase taking place in middle-income countries⁷. Europol has thus issued a warning that human trafficking is likely to increase in the wake of the subsequent economic downturn⁸.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) have this year launched a joint report *Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic*⁹. It notes that the global health emergency has created new risks and challenges to victims and survivors of trafficking. The report notes that the pandemic has worsened and exposed the vulnerabilities of at-risk groups, especially women and children, to trafficking in human beings. According to the report, emerging trafficking dynamics are highly gendered and exacerbated by pre-existing gender inequality issues. For instance, there is an increased vulnerability of women and girls to recruitment by traffickers online. The findings demonstrate heightened vulnerability of women and girls to trafficking for the purposes of sexual exploitation¹⁰.

As noted above, in the globalised world we live in, Scotland is not immune from these trends and requires to continuously evaluate the policy and legislative responses we take as a result.

Prevention

At SATEC, we provide protection services in the form of legal advice and assistance where the harm and exploitation has already happened. We work with women and

⁶ EU, Third Progress Report, *ibid.*

⁷ World Bank, *Poverty and Shared Prosperity 2020: Reversals of Fortune*, <https://openknowledge.worldbank.org/bitstream/handle/10986/34496/9781464816024.pdf>

⁸ EU Third Trafficking Progress Report, *ibid.*

⁹ OSCE/UN Women, July 2020, <https://www.osce.org/odihr/human-trafficking-COVID-19-report>

¹⁰ Page 28, *ibid.*



girls who have been the victims of numerous human rights violations including rape, sexual assault and violence. The range of protection needs women and girls have, as a result of being sexually exploited, are wide ranging, with the physical and psychological impacts lasting for years. 13 years ago, we would have had a handful of cases of human trafficking. Now, we have a legal centre dedicated to responding to and supporting survivors of this crime.

Globally, the International Labour Organisation (ILO) in 2014 reported that human trafficking earns global profits of roughly \$150 Billion a year, **two thirds** of which comes from commercial sexual exploitation¹¹. The EU provides a conservative estimate of annual global profits of €29.4 billion¹² with the total annual cost to the European Union of €2.7 billion¹³. It is therefore imperative that attention is focussed on countering what the EU calls in its third progress report, the culture of impunity.

We operate within a country which supports protection efforts in a far more generous manner than other parts of the UK and this is to be commended. However, the economic dynamics of commercial sexual exploitation can no longer be ignored, and further attention needs to be given to prevention efforts so that services like ours are not required.

Demand reduction is one such preventative measure. It looks not just at the vulnerabilities of victims and how gender inequality has undoubtedly played a role in these but also demands attention is given to the inherent gender inequalities in the political, economic and societal constructs which foster and encourage demand.

From our perspective, this is not only about focussing on the traffickers who are able to generate such high profits with relatively low risk but on those who are purchasing sexual services thus generating demand and allowing the cycle of exploitation to continue. The State has an important role in both these areas with the subject of this consultation being the latter.

There is furthermore an increasing acknowledgment at an international level that the reasons we have failed to grapple with human trafficking for sexual exploitation is that we have failed to acknowledge its scale and how intertwined it is with gender inequalities within society. Human trafficking involves coercion or force where consent is irrelevant within its definition. Therefore, someone who pays for sexual

¹¹ Profits and Poverty: The Economics of Forced Labour, 2014, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf

¹² Europol (2015) The THB financial business model, The Hague. <https://www.europol.europa.eu/publications-documents/trafficking-in-human-beings-financialbusiness-model>

¹³ EU Third Progress Report on Human Trafficking, *ibid*.



services in this instance is involved in a sexual act where there has been no consent. This is rape. This is gender-based violence and this requires to be acknowledged.

We appreciate that this consultation is wider than human trafficking for commercial sexual exploitation. However, our experience derives from working with women who are victims of this form of human trafficking and the impacts on them. We also appreciate that victims of human trafficking are exploited in multiple sectors and indeed we work with all victims of human trafficking regardless of the type of exploitation suffered, gender or nationality. However, it is clear that prostitution is the highest risk sector. Not all people in the sex industry are victims of human trafficking but **all** victims of human trafficking for commercial sexual exploitation are exploited in the sex industry.

International Human Rights Law

At an international level, there is an increasing acknowledgment of the link between human trafficking and prostitution. In order to meet our stated international and national legal and policy commitments, it is no longer possible to have a position where prostitution is viewed as an acceptable exception in our fight to ensure gender equality and the elimination of violence against women and girls.

The Coalition for the Abolition of Prostitution (CAP) have set out the international legal context in terms of international law in a paper analysing State obligations in this area published in 2016¹⁴. These obligations are summarised below: -

- In the preamble to the *United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, of 2 December 1949*, the States Parties recalled that prostitution is “*incompatible with the dignity and worth of the human person.*”
- In 1979, Article 6 of the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* reinforced this policy by explicitly requesting that States Parties “*suppress all forms of traffic in women and exploitation of prostitution of women*” and this is noted within the Scottish Government consultation document.
- The *Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (2000)* includes “*the exploitation of the prostitution of others or other forms of sexual exploitation*” within its use of terms referencing human trafficking and exploitation.

¹⁴ Prostitution under International Human Rights Law: An Analysis of States’ Obligations and the Best Ways to Implement Them, 2016, <http://www.cap-international.org/wp-content/uploads/2016/11/ProstitutionUnderIntlHumanRightsLawEN.pdf>



- The international legal position is further bolstered by European legal instruments on human trafficking including the *EU Anti-Trafficking Directive* of 5 April 2001, *Council of Europe Convention on Action against Trafficking in Human Beings*, of 3 May 2005 and the *European Parliament Resolution on Sexual exploitation and Prostitution and its impact on gender equality*.

The Universal Declaration of Human Rights proclaimed in 1948, was the first formal international codification of what are basic human rights for humans to live in society, including the right to dignity and to live a life free from violence. It however took 45 years for the international community to declare that women's rights are human rights. The human rights violations affecting women; domestic abuse, rape, FGM, forced marriage were all relegated to the realm of one's culture, tradition, religion and private matters not for State interference and therefore remained socially acceptable. The international community are still catching up from this lost time whilst also grappling with the same debate. We have seen this within our society with the evolution of societal thinking in relation to domestic abuse and rape as forms of gender-based violence rooted in gender inequality. Human Trafficking for sexual exploitation falls into the same category and we require to draw from the prevention of gender-based violence field.

To date, it is submitted that the issue of demand is clouding the clarity in how we frame and tackle it. In relation to demand, a country views prostitution in one of two ways; either as a profession and it therefore seeks to regulate this profession as in the Netherlands and Germany or it classifies it as exploitation.

The EU did not take a position in this area until 2014 when it passed a European Parliament resolution on sexual exploitation and prostitution and its impact on gender equality (2013/2013(INI))¹⁵. The resolution was based on a report by Mary Honeyball of the Committee on Women's Rights and Gender Equality. It recognises that "*prostitution and forced prostitution are [...] both a cause and a consequence of gender inequality*" which it aggravates further. It goes even further than that by highlighting the fact that "*prostitution and forced prostitution are forms of slavery*" and makes a direct link between human trafficking and prostitution. It states that "*organised crime, human trafficking, extremely violent crime and corruption flourish in the shadow of prostitution*".

Whilst we may be on the cusp of leaving the European Union, the Scottish government has made a commitment to ensuring that Scots law keeps pace with EU

¹⁵ European Parliament resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality
https://www.europarl.europa.eu/doceo/document/A-7-2014-0071_EN.html?redirect



rules in devolved areas as well as committing to the direct incorporation of international treaties into Scottish law. This process has commenced with the UN Convention on the Rights of the Child and recommendations are underway to incorporate other international treaties including CEDAW.

It is against the backdrop of the increasing cases of human trafficking for sexual exploitation globally, which will impact Scotland, and the gendered analysis of this issue that means we now require to consider our legal obligations in relation to demand. Action to discourage and reduce the demand for human trafficking are requirements of the international legal framework.

Article 9 (5) of the UN Palermo Protocol asks States to adopt or strengthen legislative or other measures to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking. This is mirrored in Article 6 of the Council of Europe Convention on Human Trafficking. Article 18 of the EU Anti-Trafficking Directive also contains a legal obligation to discourage and reduce demand as well as raise awareness.

The paper referred to above by CAP accepts that the decriminalisation of prostituted persons and the prohibition of the purchase of a sex act are not direct, binding obligations under international law but they state that these measures are wholly consistent with the purposes of human rights law which recognises prostitution as a violation of human rights and prohibits its exploitation. These measures are therefore logical consequences of the implementation of our international legal obligations. In relation to demand, CAP states that *“sex buyers play an obvious and direct role in what is recognised as a violation of the dignity and worth of the human person. Pimping, procuring and trafficking in human beings for sexual exploitation exist to meet the demand of sex buyers. Thus, prohibiting the purchase of sex acts is one of the most effective ways for States to implement their obligations to eliminate the exploitation of the prostitution of others”*.

We also refer to the recommendation in the joint report by ODIHR and UN Women, *Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic* referred to above which recommends measures to reduce trafficking in human beings after the pandemic. One of these measures includes that States *ensure compliance with the obligations under Article 9(5) of the Palermo Protocol to discourage the demand that fosters all forms of exploitation that lead to trafficking. In particular, the demand that fosters sexual exploitation should be targeted for prevention and criminal justice measures.*¹⁶

¹⁶ Page 42, *ibid*.



Scottish Government - Equally Safe Strategy

The consultation from the Scottish Government makes clear statements in this area. It notes that we must act upon our international obligations which recognise that sexual exploitation is completely unacceptable and inexcusable in 21st century Scotland. It goes on to note that prostitution is a form of commercial sexual exploitation and that commercial sexual exploitation persists as a result of how women are viewed by society.

As we have set out, the position internationally is that prostitution is exploitation and a form of violence against women and girls. The most recent EU Progress report on this issue states clearly that *“Trafficking in human beings for sexual exploitation is a form of violence against women and is rooted in gender inequalities”*¹⁷.

As noted by the Scottish government and the EU Parliament, sexual exploitation is an issue of gender inequality and how women are viewed within our society. The explanatory statement to the EU Resolution on sexual exploitation and prostitution and its impact on gender equality notes that *“Given the strong and growing evidence that legalising prostitution and procuring does nothing to promote gender equality or reduce human trafficking, this report concludes that the essential difference between the two models of gender equality outlined ... is that viewing prostitution as simply “work” helps to keep women in prostitution. Viewing prostitution as a violation of women’s human rights helps keep women out of prostitution.”*

The Scottish Government's definition of gender-based violence is clearly set out in Equally Safe, Scotland's strategy for preventing and eradicating violence against women and girls:

“Gender based violence is a function of gender inequality, and an abuse of male power and privilege. It takes the form of actions that result in physical, sexual and psychological harm or suffering to women and children, or affront to their human dignity, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. It is men who predominantly carry out such violence, and women who are predominantly the victims of such violence. By referring to violence as 'gender based' this definition highlights the need to understand violence within the context of women's and girl's subordinate status in society. Such violence cannot be understood, therefore, in isolation from the norms, social structure and gender roles within the community, which greatly influence women's vulnerability to violence”

¹⁷ Paragraph 2.1, *ibid.*



The Scottish Government includes commercial sexual exploitation, specifically prostitution and human trafficking, within the Scottish Government's definition of violence against women and girls and has done for a number of years.

Equally Safe Priority 4 states the Scottish Government's priority to ensure men desist from all forms of violence against women and girls and perpetrators of such violence receive a robust and effective response. This violence includes the violence perpetrated by men in relation to acts of commercial sexual exploitation, of which prostitution is one aspect.

The ODIHR and UN Women report referred to above also recommends the following in this area to combat human trafficking after the pandemic: -

Drawing from the prevention of violence field, incorporate work on changing harmful masculinities and social norms that promote the commodification and objectification of women and children and promote the idea of men's entitlements to women's bodies in order to reduce demand for trafficking for the purpose of sexual exploitation.

It would therefore seem to us a logical extension of the Scottish government's previously stated commitments in this area, against the backdrop of international law and the global trafficking context, to implement measures prohibiting the purchase of a sexual act.

Views from Frontline Practice

As mentioned above, our lawyers between them have worked with large number of survivors of human trafficking in Scotland within different contexts over a combined 20-year period.

Women we have worked with, who have been trafficked for the purposes of commercial sexual exploitation in Scotland, feel that their exploitation was facilitated through our acceptance and tolerance of prostitution. It is seen by women we have represented when no-one questions why an under-age, under dressed girl is standing on a street corner in winter. It is seen when no-one questions why 20 or 30 men visit the same flat every day. It is seen when women are forced to provide sexual services by the men purchasing sex, despite the women protesting and pleading against this, only to face severe repercussions by their traffickers when the men complain about their non-compliance. It is seen when there are raids by law enforcement and there is no sanction for those who perpetuate the situation that they are in.

Women don't understand when we tell them that this is a crime and should not have happened. They don't understand when we say it is a hidden crime and that they can trust State institutions. They are clear that what has happened to them is in large



part because our society tolerates it. They don't understand why if it is a crime, we don't criminalise those who profit from the crime; the traffickers but also those who purchase sexual services. They are clear about the role of demand in what has happened to them. They tell us that this crime is not hidden in Scotland – it is our position on it that means we look the other way and thus continue the continuum of violence and exploitation.

For too long, we have adopted a hybrid position that undermines not only our international law commitments but our own stated policy position in this area as the incidences of human trafficking in this area increase at a global and national level and profits increase fuelling demand.

We now require to follow through on these positions. There are no legal or other obstacles in doing so. Sexual exploitation within prostitution can no longer be a tolerated exception to otherwise clear positions on violence against women and girls.

We know that organised crime thrives where there are gaps or ambiguities in the legal landscape they operate. We therefore require to be clear. Legal prostitution contradicts all attempts at women's equality. Legal prostitution creates demand by facilitating and arguably promoting a multi-million industry for human traffickers. The logical next step in furtherance of aims and international legal commitments already set out by the government is therefore to criminalise the purchase of sexual services.

It is recognised that the failure of many countries to respect the rule of law in this area is because the issue becomes clouded with that of gender equality. Counter arguments in this area centre around the labour rights of those involved in prostitution and the risks to women involved in the sector by adopting this position.

We note that these considerations were also faced by those who wrote the report at EU level which led to the European Parliament resolution and by other countries who have adopted this stance where clear positions have been taken that prostitution is a form of sexual violence and where the needs and rights of the more invisible majority have been prioritised.

It is this invisible group that we represent at SATEC and we have never met a woman trafficked into commercial sexual exploitation within the prostitution sector who has not been at great risk and who has not sustained multiple violations of human right law resulting in profound harm. This is about protecting those women and recognising the gender inequalities which drive the demand for human trafficking.

We have recently had the privilege of working on a European Union's Asylum, Migration and Integration Fund project which took into account the gender dimension of human trafficking in Europe and the gender specific harms and trauma associated with human trafficking for sexual exploitation. As part of this, we have recently heard from Dr Myria Vassiliadou, who served as EU Anti-Trafficking Coordinator from 2011 until February 2020, speaking on this issue at final events for this project.



Dr Myria Vassiliadou made the clear statement that if we want to stop trafficking for the purposes of sexual and indeed labour exploitation, then we must focus more on the legal and economic structures that facilitate these practices and which are rooted in gender inequality which thus create demand. In the face of rising numbers of human trafficking, she says that we are not failing in our Anti-Trafficking responses because of a failure of civil society or civil servants. She states that we are failing because we are failing to address the driving forces behind human trafficking—namely profits and exploitation. She also noted that we need to stop focusing on the vulnerabilities of women and girls to human trafficking. Yes, these exist but if we only focus on these, we are putting the entire focus and possibly the blame entirely on victims. She states that we need to start putting the focus on perpetrators and on the economics. She states that this means we must tackle demand and we must criminalise the use of sexual services.

International Practice

As noted in the Consultation document, it is important that the Scottish Government develops policy in line with international best practice and where research is limited, it learns from the different approaches which have been adopted elsewhere, and what the impacts have been on challenging men's demand, reducing harms for women and supporting them to exit.

By criminalising the purchase of a sexual act, Scotland will not be an outlier. Sweden, France, Norway, Ireland and Iceland have all taken this step. Moreover, the countries closest to us have adopted this position. In 2016, France defined prostitution as violence in itself and violence that is particularly directed against women. Northern Ireland criminalised the purchase of sexual services as part of its human trafficking legislation in 2015 with the Republic of Ireland following suit in 2017.

International human rights principles leading to new social consensus/normative change within society.

It is important to note that our consultation response is about criminalising the buyer of sexual services. It recognises that abolitionism is not prohibition or direct eradication of prostitution. Our consultation response recognises that, as in other countries, these measures require other tools to be put in place in order to have the desired preventative effect and this will take investment and time. We note that the explanatory report to the EU Resolution acknowledges the need for funding in a range of areas to ensure exit strategies and/or credible alternatives for prostitution.

We refer to the CAP report noted above which makes these points and notes that abolition is a process which allows a **new social consensus** to develop which



recognises the harm of prostitution, its inherent violence and the obstacle it constitutes to “*the dignity and worth of the human person*” and to “*the equal rights of men and women*” and allows the adoption of concrete measures to combat the system of prostitution¹⁸.

We note the following from the explanatory statement to the 2014 European Parliament Resolution *on sexual exploitation and prostitution and its impact on gender equality*: -

Given the strong and growing evidence that legalising prostitution and procuring does nothing to promote gender equality or reduce human trafficking, this report concludes that the essential difference between the two models of gender equality outlined above is that viewing prostitution as simply “work” helps to keep women in prostitution. Viewing prostitution as a violation of women’s human rights helps keep women out of prostitution.

The experience in Sweden, Finland and non-EU Norway where the “Nordic Model” of dealing with prostitution operates supports this point of view. Sweden changed its prostitution laws in 1999 to prohibit the purchase of sex and decriminalise the prostituted person. In other words the person buying sex – virtually always the man – is committing a criminal offence not the prostituted women. Sweden introduced this law as part of a general initiative to end all barriers to the equality of women in Sweden.

The impact of this legislation in Sweden has been dramatic. Sweden’s prostituted population is one-tenth of neighbouring Denmark’s where sex purchase is legal and has a smaller population. The law has also changed public opinion. In 1996 45% women and 20% men were in favour of criminalising male sex purchasers. By 2008 79% women and 60% men were in favour of the law. Moreover, the Swedish police confirm that the Nordic Model has had a deterrent effect on trafficking for sexual exploitation.

We refer to the Scottish Government consultation document where it notes it commissioned research, published in 2017, to consider the reliability of international evidence regarding the criminalisation of the purchase of sex, and to explore the available knowledge and evidence of prostitution in Scotland. During the 2017 research conducted by the Scottish Government, attitudes on prostitution were explored. Some respondents spoke about the possibility of demand for prostitution being increased or enabled by longer-term social causes such as the normalisation of prostitution within certain parts of culture, including stag parties, pornography and the sexualisation of women in the mainstream media. Structural gender inequality and its impact on economic and sexual exploitation was also cited by interviewees as possible contributing factors, as were the factors influencing vulnerable and disempowered members of society including young people, people from “looked

¹⁸ Page 16, *ibid*



after" backgrounds, and people from deprived economic backgrounds and migrant communities.

For us, the importance of changing norms around the purchase of sexual services and the resultant impact on gender equality cannot be ignored. In the cases of women we represent, the men that purchase sexual services either do not know or do not care that the women are coerced. This is a clear expression and facilitation of gender inequality seen in other areas of gender-based violence which create a context of subordination, objectification, exploitation and victim blaming of women and girls. This must end. If we do not do so now, given what we have set out in this paper regarding predicted global trends, we will contribute to this by fostering demand and therefore contributing to the cycle of human trafficking and exploitation.



Consultation Questions

Question 1. Do you agree or disagree that the Scottish Government's approach to tackling prostitution, as outlined in this section, is sufficient to prevent violence against women and girls?

It is our position that the government requires to take further steps as set out above.

Question 2. What are your observations as to the impact of the coronavirus outbreak on women involved in prostitution in Scotland?

The pandemic will result in increased cases of human trafficking for commercial sexual exploitation as noted above.

Question 3. Which of the policy approaches (or aspects of these) outlined in Table 3.1 do you believe is most effective in preventing violence against women and girls?

It is our position, for reasons noted above, that an abolitionist stance should be taken which incorporates the Nordic Model.

Question 4. What measures would help to shift the attitudes of men relating to the purchase of sex? Do you have any examples of good practice either in a domestic or an international context?

We have set out our comments on this above.

Question 5. Taking into account the above, how can the education system help to raise awareness and promote positive attitudes and behaviours amongst young people in relation to consent and healthy relationships?

We would defer to our NGO partners' positions on this point such as TARA and Rape Crisis Scotland.

Question 6. How can the different needs of women involved in prostitution (in terms of their health and wellbeing) be better recognised in the provision of mainstream support?

We have noted that investment and support is required in order to ensure this but would again defer to our NGO partners' positions on this point.



Question 7. In your opinion, drawing on any international or domestic examples, what programmes or initiatives best supports women to safely exit prostitution?

We have no expertise on this point and would defer to our partners' positions on this point who do have expertise.

Question 8. Support services are primarily focussed within four of Scotland's main cities - Aberdeen, Dundee, Edinburgh and Glasgow - how can the needs of women throughout Scotland who are engaged in prostitution be met, noting that prostitution is not solely an urban issue?

We have no expertise on this point and would defer to our partners' positions on this point who do have expertise.

Question 9. If there are any further comments you would like to make, which have not been addressed in the questions above, please use the space below to provide more detail.

We refer to our position set out in detail above.