



PAVEE POINT
TRAVELLERS CENTRE

Submission to the Joint Oireachtas Committee on Justice, Equality and Defence: ‘Review of Legislation on Prostitution’

Introduction

Pavee Point Travellers Centre

Pavee Point is a voluntary, or non-governmental, organisation committed to the attainment of human rights for Irish Travellers and Roma. The group is comprised of Travellers and Roma and members of the majority settled population working together in partnership to address the needs of Travellers and Roma as minority ethnic groups experiencing exclusion and marginalisation. The aim of Pavee Point is to contribute to improvement in the quality of life and living circumstances of Irish Travellers and Roma through working for social justice, solidarity, socio-economic development and human rights. We recognise the sexual exploitation of women as a human rights abuse and are a member of the Turn Off the Red Light Campaign.

Pavee Point Violence against Women Programme

Pavee Point has a dedicated Violence against Women (VAW) Programme since 1998 which works to ‘develop a Traveller analysis of violence against women that will inform the development of culturally appropriate responses for Traveller women and will influence government policy’. The VAW Programme recognises that the intersection of discrimination based on ethnicity and gender can place minority ethnic women further at risk of gender based violence. The VAW Programme works to increase awareness and support the Traveller community to address domestic and sexual violence, whilst supporting the development of good practise within services and working to influence policy development. Pavee Point is represented on the National Steering Committee on Violence against Women; and the Eastern Regional Advisory Committee and the Public Awareness Steering Committee under Cosc.

Pavee Point welcomes the publication of the ‘Discussion Document on Future Direction of Prostitution Legislation’ and the opportunity to make this submission to the committee. Pavee Point recognises that domestic and sexual violence are forms of gender based violence inextricably linked to gender inequality. Pavee Point also considers that prostitution is a form of sexual violence, primarily perpetrated against women and girls resulting in economic profit for those who organise, and is therefore commercial sexual exploitation which results in serious human rights violations and severe psychological and physical harm. Irish Traveller

and Roma women, suffering from the structural inequalities of poverty, social exclusion, racism and gender discrimination, are vulnerable groups.

We also recognise that prostitution is inextricably linked to human trafficking, and that Ireland is a destination and a transit country for women and children trafficked for the purposes of commercial sexual exploitation and forced labour. Roma women are particularly at risk of human trafficking.

We believe that reform of the current legislation is needed as part of an overall strategy to prevent and reduce violence against women and children, in the form of prostitution, and the trafficking of women and children into and from Ireland.

Key Considerations and Factual Information

Prostitution is not a choice but the commercial sexual exploitation of women

Women do not enter into prostitution because of choice, but because of the lack of real alternatives. Choice implies actively choosing among a range of options and opportunities. Women who become involved in prostitution do so because of poverty, discrimination, unemployment, homelessness and addiction and many through coercion by pimps or traffickers. Experience of child abuse, including sexual abuse, physical violence and neglect are also risk factors which increase vulnerability. Many have spent time in care. (MacKinnon, C 2011).

Neither does prostitution involve consensual sexual acts between two adults once entered into. Sexual consent implies equal power relations between two adults, who freely engage in a sexual act for their mutual enjoyment and benefit. Prostitution is neither enjoyable nor beneficial for the woman, who receives very little of the money paid and who is exposed to appalling working and living conditions, brutal physical and sexual violence, and threats of, and chronic health problems. Prostitution of women involves the control of the pimp, trafficker and buyer of sex over the actions of the woman. 'In prostitution, the conditions which make genuine consent possible are absent: physical safety, equal power with customers, and real alternatives' (Farley, M., 2003 p3). Interviews with women involved in prostitution show that 89% wish to leave (Farley, M. et al, 2003)

Adult prostitution is not a separate phenomenon from child prostitution. Most women engaged in prostitution became involved before they reached the age of majority (Ekberg, 2002). 11% of those trafficked into Ireland for sexual exploitation were minors at the time they were trafficked (Kelleher et al, 2009). What is considered abusive, exploitative and illegal at the age of minority, cannot be considered consensual and an issue of choice when reaching the age of majority.

Rather the reality of prostitution for women is inequality - both in terms of risk factors and within the context of the experience of women prostituted. Their experience is one of being controlled and dominated, coerced, harassed and beaten. And the reality for the perpetrators of this exploitation is massive economic profit. Prostitution is organised sexual violence and a seriously profitable industry, with links to organised crime and human trafficking (Kelleher et al, 2009). Prostitution is gendered whereby the majority of those who are prostituted are

women, and the buyers, pimps and traffickers are male and therefore must be considered within the context of gender-based violence.

Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women provides that State parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. CEDAW Committee's General Recommendation No 19 on violence against women recognises that gender-based violence is a form of gender discrimination that seriously impacts on the ability of women to enjoy their rights and freedoms and further states that poverty and unemployment force many women, including young girls, into prostitution.

Prostitution is inextricably linked to human trafficking

Prostitution is inextricably linked to human trafficking (O'Connor, M & Healy, G. 2006; Kelleher et al, 2009). The International Labour Organisation (ILO) estimated that of the 1.39 million victims of commercial sexual exploitation, 1.05 million were trafficked (ILO, 2005). The International Organisation for Migration (IOM), in its 2005 report on victims of trafficking in South Eastern Europe reported that the majority were trafficked for the purposes of sexual exploitation (IOM, 2005).

It is estimated that up to 97% of women currently involved in prostitution in Ireland are migrant women (Kelleher et al, 2009). Ireland is a country of destination and a transit country for the trafficking of women and children (E-Notes, 2009; Kelleher et al, 2009). The Anti-Trafficking Unit's 2011 report states that of 64.9 percent of reports to Gardai of alleged trafficking reported sexual exploitation with the vast majority (91.9) female; whilst those reported by NGO's showed that 81.5 of alleged victims of trafficking (all female) reported sexual exploitation. (Anti Human Trafficking Unit, 2011)

Therefore the vast majority of women trafficked into Ireland are trafficked for the purposes of commercial sexual exploitation. There is no clear line between those who are trafficked and those who 'choose' in the same way as there is no real choice when it comes to prostitution. What is clear is that women are being trafficked for the purposes of prostitution in order to secure massive profits for the sex industry. Human trafficking is the third most lucrative illicit business in the world, after arms and drug trafficking Kelleher et al, 2009.

As the report Special Rapporteur on trafficking reported to the Commission on Human Rights;

'For the most part, prostitution as actually practised in the world usually does satisfy the elements of trafficking. It is rare the one finds a case in which the path to prostitution and/or a person's experiences within prostitution do not involve, at the very least an abuse of power and/or an abuse of vulnerability. Power and vulnerability in this context must be understood to include power disparities based on gender, race, ethnicity and poverty. Put simply, the road to prostitution and life within 'the life' is rarely one marked by empowerment or adequate options' (Huda, 2006 para 42).

Prostitution cannot be separated from human trafficking. The demand for the purchase of sex is fueling the trafficking of vulnerable women and children into this country for the purposes of sexual exploitation (Kelleher et al, 2009). In order to reduce human trafficking, legislation and policies must address the demand for the purchase of sex.

Prostitution harms, both physically and psychologically

Prostitution causes physical and psychological damage to women. Women who are prostituted are subjected to severe physical violence including beatings, stabbings, burning and choking. MacKinnon notes how women in prostitution are subjected to more violence than any other group of women (MacKinnon, 2011 p15). Women in prostitution are particularly vulnerable to sexual assault and rape, including gang rape (Farley et al, 2003). Prostitution also impacts on the sexual and reproductive health, resulting in a range of health problems women including hepatitis, urinary tract infections and sexually transmitted diseases including Aids/HIV (Farley, 2003; Kelleher et al, 2009).

Other chronic health problems which may have serious long term implications for women include neurological symptoms, respiratory problems such as lung disease and pneumonia, arthritis, rheumatism, ulcers and colitis (Farley et al, 2003). The emotional and psychological harm of prostitution including depression, mood disorders, complex post traumatic stress disorders (PTSD) and suicide risk has been well documented (Farley, 2003; Farley et al, 2003). PTSD levels have been found to be equivalent to that of combat veterans or victims of torture or rape (Farley, 2003 p5). Substance abuse is also strongly linked to sexual exploitation, both in terms of women using drugs and alcohol as coping mechanisms and in the context of trafficking to ensure compliance and submission of women and children (E-notes, 2009)

Irish Travellers and Roma are at risk groups

Irish Travellers and Roma are particularly vulnerable to sexual exploitation. There is a lack of research with regard to the involvement of Irish Traveller women in prostitution. The lack of disaggregated data based on ethnicity in terms of access to services and referrals, the overall hidden and clandestine nature of prostitution and the understandable reluctance of women to disclose information and to self-identify as a Traveller, means that there is little information on the levels of involvement of Irish Traveller women in prostitution. High levels of stigma and shame associated with sexual violence within the Irish Traveller community also ensures a blanket of silence around the issue.

Research has shown that disproportionately women in prostitution are members of socially disadvantaged racial, ethnic or lower caste groups (MacKinnon, 2011 p7). Key factors of vulnerability are poverty, sexism and racism (Farley, 2003 p 5). Anecdotal reports are that Irish Traveller women are involved, both in Ireland and in the United Kingdom where they travelled to after entering prostitution in this jurisdiction. Irish Traveller women must be considered an at risk group, considering the levels of structural poverty, racism, gender discrimination and social exclusion experienced. The impact of the stigmatisation of women involved in prostitution is particularly acute for Traveller women as they risk complete ostracisation from their family, extended family networks, community and culture.

The context in which Roma may be coming from is extremely important in understanding Roma women's vulnerability to exploitation and barriers to reporting such exploitation. Anti-Roma racism is widespread throughout Europe. In a report released this year, the former Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg, noted a number of worrying trends, including racist speeches by elected officials, the development of right wing extremist groups, rising activity on the internet and an increase in serious cases and attacks against Roma. These have included arson attacks carried out on families while sleeping. This anti-Roma racism is resulting in attacks against Roma by civilians and in some cases state authorities, including police. It is therefore not surprising that many Roma would not trust authorities and non-Roma, as this is based on real and practical experience of racism and violence. This has negative implications for Roma women involved in prostitution.

Roma women are at particular risk of trafficking for the purposes of sexual exploitation. A report conducted by the European Roma Rights Centre and People in Need (ERRC & PiN, 2011) details the significant overrepresentation of Romani communities in trafficked persons and the high correlation between trafficking of Roma women and children and sexual exploitation. The factors of vulnerability identified for Roma are as those for non-Romani populations, including poverty, ethnic and gender discrimination and social exclusion, resulting in low formal educational attainment, high rates of unemployment, growing up in state care, domestic violence and substance abuse. The report also details Roma women's experience of discrimination when involved in prostitution in the context of differential treatment in terms of accommodation, food and clothing and increased vulnerability to ill-treatment and abuse.

Again no specific research or data on the trafficking and prostitution of Roma women in Ireland is available. However as Ireland is a country of destination for trafficked persons, and Roma are a group that is identified as particularly vulnerable and disproportionately represented in the numbers of people trafficked, Roma women and children in Ireland must be considered as at particular risk of prostitution. Current social protection policy in terms of the Habitual Residence Condition has a disproportionate impact on Roma communities, putting Roma families, and in particular Roma women and children at risk of poverty and destitution, a fundamental risk factor leading to prostitution (Pavee Point, 2011).

Prostitution exists because of demand for the purchase of sex

The cause of prostitution is the demand by some men to purchase access to the bodies of women and girls in order that their desires are satisfied. A lot of this sex involves violence and abuse (Farley et al, 2003). Prostitution exists because of men who feel entitled to buy women for sex (MacKinnon, 2011; Farley, 2003). It is the choice of men which is the real choice involved in prostitution. Demand creates supply – because men want to buy sex, and their purchase of access to the bodies of women is tolerated by society - women are prostituted by a sex industry which brutalises, demeans and damages them. The lucrative sex industry exists because of the demand from men. Therefore in order to reduce prostitution society must address the demand. Trafficking cannot occur without an acceptance of prostitution in the destination country (Farley et al, 2003 p 64). Therefore in order to reduce human trafficking, the prostitution of women must be criminalised. This means criminalising the organisers and buyers of sex, and not the women that are prostituted.

Prostitution is not inevitable. The risk factors of structural poverty, racism and gender discrimination are inequalities that can be addressed. The underlying cause of prostitution, the demand by some men to buy access to girls and women in order to satisfy their desires, can also be addressed and a law that criminalises the purchase of sex is an effective weapon to reduce the demand for prostitution and the levels of human trafficking.

Legislation that criminalises the buyer is effective in reducing prostitution and human trafficking

Other countries have effectively addressed trafficking by criminalising the purchase of sex, and decriminalising the selling of sex, reducing the demand for prostitution and levels of trafficking. In Sweden legislation was introduced in 1999 to criminalise the purchase of sex and to decriminalise those involved in prostitution, as part of an overall approach to reduce violence against women and to work towards gender equality. Evaluations of the impact of the legislative ban in Sweden show that street prostitution has been halved, without a rise in prostitution organized through the internet, and no notable increase in 'indoor' prostitution; and so has been seen as a real and a substantial reduction in prostitution (Dignity Report, 2010; Ekberg, 2004)

Legislation needs to be part of an overall national strategy to reduce prostitution and trafficking with the overall aim to reduce violence and sexual exploitation of women and children. This strategy need to include the allocation of sustained resources to provide protection, supports and services for women involved and at risk of prostitution, public awareness campaigns and preventative strategies targeted at those most at risk; greater efficiency in the justice system and increased resources to enforce legislative bans; and targeted resources and national strategies to address the structural inequalities that are the key factors that lead to prostitution – poverty, ethnic and gender discrimination. However legislative change that criminalises the buyer of sex will give a clear message that women and children are not for sale and will be a key step towards the achievement of gender equality in Ireland.

Recommendations

Overarching:

- The racism experienced by Travellers and Roma and how this intersects with other factors that place people at risk of trafficking and prostitution need to be acknowledged and understood.
- The Irish State needs to address the causes of vulnerability to prostitution and change the laws and policies of the Irish state that are placing Roma and Traveller women in vulnerable positions. In particular the Habitual Residence Condition places many Roma in deep poverty and this needs to be reviewed.

Legislative Change:

- Introduce legislation that criminalises the buyer of sex and decriminalises women who are prostituted, as introduced in Sweden and Norway.
- Allocate sufficient resources to effectively implement a legislative ban on the buying of sex.
- Provisions should be introduced to erase the criminal convictions of those women who have been prostituted.
- Ireland should sign and ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence

Policy Change:

- Exit routes for women involved in prostitution should be supported and resourced. In particular Roma women need to be provided with supports and not be deported or pressured to be “voluntarily repatriated”.
- Women who are trafficked into prostitution should be viewed as victims in need of protection, as well as potential witnesses.
- There is a lack of policies to ensure the inclusion of Roma in Irish society and we need a strong, progressive National Traveller Roma Integration Strategy that will improve the lives of Travellers and Roma. The current strategy is inadequate and needs to be revised with the active participation of Travellers, Roma and wider civil society – as per the direction of the European Commission. This implementation of these strategies would address risk factors for Roma throughout Europe and Ireland needs to meet its obligations in this regard. (As future Chair of the EU we are obligated to show leadership on this).
- Ireland is chairing the OSCE and therefore needs to take a lead in implementing the recommendations of the OSCE Action Plan on Trafficking.

- The OSCE Action Plan has detailed recommendations on data collection and research and we strongly recommend that these are implemented. This would necessitate research on the specific experiences of Travellers and Roma in prostitution and trafficking. This should be undertaken in collaboration with Traveller and Roma organisations.
- There needs to be engagement with Roma women in a positive way through provision of community supports and funding for Roma initiatives in order to build up trust with the Roma community here. This will facilitate the provision of information on available services and supports and to gain more understanding of Roma, trafficking and prostitution in Ireland in order to address it.
- As per the OSCE Action Plan there is a need to develop community policing programmes to raise levels of trust between police and the public to increase ability of victims to report offences. There is a need for understanding of the context and negative experiences that many Roma have had at the hands of authorities in their countries of origin and pro-active measures need to be taken to build up trust and confidence in the justice system in Ireland.

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