



Sex Workers Alliance Ireland written submissions for the CEDAW Pre-Sessional Working Group

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Sex Workers Alliance Ireland
Ireland

Submission can be posted publically

The Sex Workers' Alliance Ireland (SWAI) is an organisation that promotes the health, safety, human rights and participation of female, male, cis and transgender sex workers in Ireland. SWAI believe a human rights approach to policy and laws around sex work is essential for the safety, health and rights of all people who sell sexual services. SWAI strongly believes sex workers themselves should be at the centre of the development of any policy or law which directly impacts their lives. SWAI is committed to supporting the participation and leadership of sex workers to tackle stigma and campaign for their recognition, rights and protection in Ireland.

Background

People who sell sexual services in Ireland come from all socio-economic backgrounds, genders, nationalities and ethnicities. A survey of 150 workers in 2013 found that 8.3% were male and 82.8% were female, and 4.7% transgender.¹ There is a real diversity of experiences in sex work, and a wide spectrum of working environments and conditions. Poverty, gender identity and immigration status are just some of the many complex factors that contribute to the different experiences of this marginalised group of people. The majority of people selling sexual services across the world are women and we strongly believe that violence, abuse and human rights violations of sex workers is a serious women's rights concern for the Irish State.

Legal Context to Sex Work in Ireland

The buying and selling of consensual sexual services in a private dwelling in Ireland is currently legal, but virtually all activities associated with buying and selling sexual services are criminalised. It is illegal for more than one person to sell sexual services in a private place; it is illegal to buy sexual services on the street or in a public place and it is illegal to sell sexual services on the street or in a public place. It is illegal to hire someone to manage bookings, and it is illegal to hire someone to provide security services.

Criminal Law (Sexual Offences) Bill 2015

The Criminal Law (Sexual Offences) Bill 2015 recently published by the Minister for Justice

and Equality includes Section 20, a provision which proposes to criminalise the purchase of sexual services in Ireland. Effectively Section 20 will make it illegal to pay a person for sexual services. The Bill does not decriminalise the person selling sexual services. For example, a sex worker in Ireland will still be prosecuted for brothel-keeping if she is found to be working with a friend for safety. The Minister for Justice has stated that the intention of the section is end demand for sexual services in order to eradicate the buying and selling of sex in the name of gender equality and to decrease incidences of trafficking for sexual exploitation. .

Problem Identification

Section 20 of the Criminal Law (Sexual Offences) Bill 2015 targets consensual sex work as opposed to sex trafficking which is already illegal under the Criminal Law (Human Trafficking) Act 2008.

The stated aim of criminalisation of the client is to stop sexual exploitation and stem trafficking by attempting to end the demand for sexual services. Unfortunately, in countries where similar laws have been introduced, there is no independent coherent evidence that demand is reduced or that exploitation and trafficking are decreased. Instead, the industry adjusts and reorganises, and sex work continues - now further from outreach, further from the authorities, and further from safety. In short, independent research shows that the legislation proposed in Section 20 simply does not work; rather, it increases the risk of exploitation, trafficking and abuse. For example, a progress report from Swedish police documenting cases from 2008-2010 from the district including Gothenburg - Sweden's second biggest city - showed an increase in human trafficking for sexual exploitation of 106% and an increase in sexual services sold by 569%.

In 2012 and 2013 the then Minister for Justice, Alan Shatter, tasked the parliamentary committee for Justice and Equality to hold a public consultation into Ireland's prostitution legislation. Extensive submissions were made by various academics, service providers and NGOs. However, there was no meaningful attempt to outreach to sex workers in order to support their participation in the consultation. As a deeply marginalised group

The Impact of Criminalisation on Human Rights

In August 2015, Amnesty International voted to develop a policy advocating for the decriminalisation of both the sex worker and the client. By taking this step, Amnesty joined a number of international human rights organisations in opposing criminalisation of the client: Human Rights Watch, La Strada International, GAATW (Global Alliance Against Traffic in Women) all speak out against the efficacy of client criminalisation.

The Impact of Criminalisation on Reporting Crime and Access to Justice

Access to the justice system is dependent on being secure and safe and coming forward to report a crime. Criminalisation actually hinders sex workers' rights and their ability to use the law to protect themselves.

Amongst sex workers there is currently a great distrust of Gardaí. With criminalisation, sex workers' relationship to the Gardaí will inevitably deteriorate further, as they don't want to be under scrutiny and risk losing their means of survival. Sex workers will therefore be even less likely to contact authorities and report crime. This offers impunity to perpetrators. Traffickers prey on illegality, are able to make more money in countries where there is criminalisation, and take advantage of the criminalised landscape that leaves people vulnerable due to difficulty moving and working transparently. Because sex workers and clients will have reasons to avoid Gardaí, they will be less likely to liaise and help Gardaí to identify and tackle exploitation and trafficking.

SWAI objected to the introduction of the Bill, criticizing the absence of consultation with sex workers themselves, the lack of attention to existing evidence and research, and the failure to commission research into potential impact. Chief concerns with the potential negative impact of the "Swedish model" approach include concerns that it will lead to greater risk taking, and increase exploitation and violence as sellers move to more isolated areas and disengage with outreach and social services.¹

The Impact of Criminalisation on Health and HIV Prevention

With criminalisation, workers cannot properly carry out their screening, or negotiation of boundaries and condom-use, because the client is nervous, rushed and more likely to be the one to determine where the work will take place. Outreach workers and health services find it difficult to engage and reach sex workers in these hidden criminalised settings. **UNAIDS**, the **World Health Organisation**, the **Global Commission on HIV and the Law** and the **Lancet** medical journal have all produced evidence and reports clearly showing the negative impacts on HIV prevention and public health policy when the buying of sexual services is criminalised. The Lancet stated in their HIV and Sex Workers Series in July 2014 that **full decriminalisation, specifically, would avert new HIV infections by up to 46% in the next decade.**⁴

Voices and Participation of Current Sex Workers

Sex worker-led organizations across the globe are united in opposition to any sex purchase act. In Ireland the voices of sex workers have been routinely dismissed and their views disregarded. Removing criminal sanctions is essential to tackling stigma and enabling sex workers to be visible and participate in the laws developed to protect them.

Questions for State Party

1. What evidence does the State have that criminalising the purchase of sexual services will reduce demand, reduce the buying and selling of sex or decrease trafficking for sexual exploitation?

¹ Levy, J. (2014) *Criminalising the Purchase of Sex: Lessons from Sweden*. Abingdon: Routledge.

2. Why did the State not commission independent research into the situation and experience of people who sell sexual services in Ireland before making legislative and policy change?
3. Why did the State not undertake a full review of the existing anti-trafficking legislation and implementation before proposing the criminalisation of the purchase of sexual services as an anti-trafficking measure?
4. Why did the State not support the meaningful outreach to and participation of sex workers of all backgrounds and working environments before proposing a legislation or policy change?
5. How can the State assure that criminalising the purchase of sexual services will not negatively impact the health, safety and human rights of sex workers? In particular how can the State prove this law will not negatively impact HIV prevention and public health policy?

Recommendations

To date there has been no independent research into the experiences and needs of sex workers in the Republic, or scrutiny of the current legislation. There also has been no investigation into the positive effects that full decriminalisation has had on the regulation of the sex industry in New Zealand, a country with cultural and geographic similarities to Ireland. In this vacuum and due to the serious impact of the proposed legislation, we ask believe section 20 should be removed immediately from Criminal Law (Sexual Offences) Bill 2015.

We recommend an independent study be commissioned into the experiences and needs of sex workers in Ireland.

We recommend an outreach and participation process to support sex workers to voice their concerns and opinions on law and policy surrounding sex work.

Repeal laws that criminalize sex workers and introduce legislative and other measures to protect the health and safety of sex workers, following consultation with sex workers to ascertain what they need.

Ensure that any law or policy that will impact on the lives of sex workers is informed by extensive research including consultation through community outreach with sex workers and sex worker-led organizations.