Written evidence submitted by the Immigrant Council of Ireland

Terms of Reference

- Whether criminal sanction in relation to prostitution should continue to fall more heavily on those who sell sex, rather than those who buy it.
- What the implications are for prostitution-related offences of the Crown Prosecution Service’s recognition of prostitution as violence against women.
- What impact the Modern Slavery Act 2015 has had to date on trafficking for purposes of prostitution, what further action is planned, and how effectively the impact is being measured.
- Whether further measures are necessary, including legal reforms, to:
  - Assist those involved in prostitution to exit from it
  - Increase the extent to which exploiters are held to account
  - Discourage demand which drives commercial sexual exploitation

Introduction:

The Immigrant Council of Ireland is an Independent Law Centre working directly with the issues of human trafficking and exploitation in the sex trade. Since 2001 we have been at the forefront in developing responses to Ireland’s changing society and the emergence of issues such as human trafficking. Our work in this area has benefited over 60 migrants, with over 20 cases in 2015. The ICI has represented a third of all victims of sex trafficking identified in Ireland.

The ICI lobbies for the introduction of criminal sanctions against the buyers of sex, as a way to discourage the demand for prostitution, which is an internationally identified efficient measure to reduce the sex industry as well as the organised crime associated with it. The ICI also lobbies to ensure that people involved in prostitution are not re-victimised by criminalisation and have access to services of support, including the possibility to exit.

In addition to information and legal support, the ICI has also taken a lead role in strengthening Irish Law against human trafficking and the organised crime which lies behind it. We are one of the founding members of the Turn off the Red Light Campaign, which is a coalition of 72 organisations with over 1.6 million seeking to end sex trafficking by targeting demand. TORL is firmly supported by large umbrellas as well as unions and professional bodies, with considerable memberships across a broad spectrum of Irish Society.

Women in the sex industry and service providers that respond directly to women and children affected by trafficking are at the forefront of this campaign, and inform the campaign work with the voices of the people they support. The TORL campaign is also supported by established migrant organisations in Ireland, who do not consider prostitution as an acceptable alternative for migrants of poorer background. Among the TORL members there is a law centre that takes special interest in possible legal changes in Ireland, and is supported by a range of prominent legal practitioners in Ireland. The campaign is also strongly supported by the medical professionals of Ireland, both doctors and nurses, who consider the dangers to the physical and mental health in prostitution intolerable. In addition to this submission which outlines the views and recommendations which unite us and have brought us together, our partners reserve their right to make their own submissions that reflect their own rationale and expertise on the discussed topic, which could be very informative to the national consultation process in Ireland.
Whether further measures are necessary, including legal reforms, to discourage demand which drives commercial sexual exploitation:

The ICI believes the UK Government must recognise need for a modern approach to prostitution that reflects best international practice. We believe tackling the demand for paid sex should be central to this approach to combating the exploitation of women, men and children in Ireland’s sex industry. We believe this will most effectively achieved by penalising the purchase of sex, and decriminalising people in prostitution. The ICI would advocate the introduction of criminal sanctions as an internationally identified efficient measure to reduce the sex industry as well as the organised crime associated with it. The ICI also recommend measures to ensure that people involved in prostitution are not re-victimised by criminalisation and have access to services of support, including the possibility to exit.

The ICI would advocate for:

- The criminalisation of the purchase of sexual acts, in addition to criminalising pimping, procuring and trafficking of persons for sexual exploitation. This would make it illegal to buy sex.
- In addition, in recognition of the vulnerability of those involved and exploited in prostitution, legislation that decriminalises the persons who are prostituted.

This approach has been introduced in Northern Ireland and is at final stages of the legislative process in Ireland. There is a commitment to an all Island approach to ensure that southern border counties and Dublin don’t become attractive for pimps and traffickers. It would strengthen the legislation greatly if Ireland and the UK were to have the same legislative approach to tackling demand.

This approach is supported by the 2014 (Honeyball) Resolution of the European Parliament, and of the Council of Europe report “Prostitution, trafficking and modern slavery in Europe”, both of which endorsed by an overwhelming majority the Nordic Model as best legislative practice throughout the European Union.

Why the UK should consider this legislative approach:

Effectively tackling sex trafficking in the UK will require a response to deal with demand from men to buy sex. The sex industry, which exploits and harms women, exists because there is a demand from men to buy sex. The ICI is therefore calling on the UK Government to learn from those countries that have established good practice for dealing with sex trafficking. In particular, we believe the UK can learn from Sweden and Norway. Those countries have legislated to penalise the purchase of sex, while decriminalising the selling of sex. Practice shows that this approach reduces demand for prostitution and incidences of trafficking for sexual exploitation.

Among the countries that penalise the purchase of sex are Sweden, Norway and Iceland. The law in Sweden was introduced in 1999 in response to concern that prostitution constitutes violence against women and is incompatible with gender equality. The law imposes penalties of a declarative nature to buyers of sex but decriminalises sellers of sex. The law enjoys consistently high public support in Sweden, with surveys indicating that more than 70% favour the measures. The legislation recently underwent a 10-year evaluation, which found a reduction in the number of men paying for sex, a reduction in the number of women involved in prostitution, and a dramatic reduction in the numbers of women and girls trafficked to Sweden for the purposes of sexual exploitation. The
shrinking commercial sex industry in Sweden impacted on the level of sex trafficking in adjacent countries, resulting in Norway and Iceland deciding to replicate the Swedish legislation in recognition of its merits.

The ICI believes the UK Government must recognise need for a modern approach to prostitution that reflects best international practice. We believe tackling the demand for paid sex should be central to this approach to combating the exploitation of women, men and children in Ireland’s sex industry. We believe this will most effectively achieved by penalising the purchase of sex, and decriminalising people in prostitution, along the lines of legislation that has been demonstrated to work in Sweden.

Additional rationale to adopt this approach:

This approach has been introduced in Northern Ireland and is at final stages of the legislative process in Ireland. There is a commitment to an all Island approach to ensure that southern border counties and Dublin don’t become attractive for pimps and traffickers. It would strengthen the legislation greatly if Ireland and the UK were to have the same legislative approach to tackling demand.

The UK is obliged under a range of international human rights instruments to reduce demand for commercial sexual exploitation:

- The UN Recommended Principles on Human Rights and Human Trafficking (2002)\textsuperscript{vi, vii} specify that ‘strategies aimed at preventing trafficking shall address demand as a root cause of trafficking.
- the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (The Palermo Protocol) requires States Parties to ‘adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking’.
- Resolution 1983 adopted by the Council of Europe Parliamentary Assembly in April 2014 echoed this, requiring states to consider criminalising the purchase of sex as a means to address trafficking\textsuperscript{viii}.

What Issues will a Law Targeting Demand Address?

The cause of prostitution

It is important to distinguish the factors that lead or force women into prostitution from the cause of prostitution. Women may become involved in prostitution through being trafficked or coerced, poverty, homelessness, and family loss, drug addiction, being groomed by a family member or partner or “friend”. Many involved in prostitution have experiences of severe abuse or neglect in their childhood or youth. Entering prostitution can be a survival tactic where no other positive alternative appears available. The sex industry is not created or led by the vulnerable persons who are bought for sex. The cause of prostitution is a demand by some men for access to women and girls bodies in order to satisfy their sexual desires. Men create the demand, women are the supply. A law that creates a sanction for purchasing sex will send a clear message that in Irish society it is not acceptable to buy another person like a commodity for personal gratification. In surveys of buyers of sex, (UK & Scotland. Mc Leod et al 2008)\textsuperscript{ix}, the greatest deterrent to buying sex was identified by men as being a criminal sanction and risk of public exposure.

Sex Trafficking
In Sweden, where the law criminalises the purchase of sex and decriminalizes the sale of sex, there is far less trafficking occurring in comparison with neighbouring Baltic countries. Direct surveillance intelligence gathered by the police has recorded that traffickers are actively discouraged from using Sweden as a destination country for trafficking victims because of the implementation of the law. This has prompted Norway to recently enact similar legislation in response to the marked increase in trafficking that they recorded. Trafficking is modern day slavery where vulnerable and impoverished women and girls are robbed of their freedom and raped repeatedly for the profit of criminals and the gratification of buyers. A law targeting not only the traffickers but the sex buyer will reduce the attraction of Ireland as a destination country for traffickers It will also support prosecutions in Ireland where buyers become a part of the chain of evidence.

**The Harm of Prostitution**

A law such as proposed by the ICI and the Turn off The Red Light Alliance acknowledges the harm and damage sustained through prostitution, and provides for additional supports and care for by those exploited. Decriminalising those selling sex will better facilitate reporting of crime, seeking of support and assistance to deal with the many issues that can present for those in prostitution (poverty, physical and mental health, addiction, lack of education). Women in prostitution experience horrific levels of abuse. In a 5-country report on prostitution, 80% reported physical abuse, 60% were sexual assaulted, over 60% were subjected to emotional abuse and verbal threats (Raymond et al 2002). For trafficked women levels of abuse and deprivation exceed these figures. As a direct consequence of prostitution women suffer terrible physical and psychological health problems including: contracting sexually transmitted infections, HIV, Hepatitis, chronic pelvic pain, depression, panic attacks, addiction, post-traumatic stress disorder.

**Child Prostitution**

There is a critical need to introduce specific measures to eliminate all forms of child abuse including commercial child sexual exploitation. However, there is very little evidence that a separate market exists for children or young girls but rather that girls and young women are integrated into the mainstream sex markets. The female prostitution market is sustained by adult women as well as underage girls, who are offered together in the same cycle of exploitation for the same kind of customer and are considered as ‘interchangeable goods’. (Monzini, 2005) research with sex tourists reveals that buyers are quite indiscriminate in using children, girls and women (O’Connell Davidson & Sanchez Taylor, 1998). 11% of those trafficked into Ireland for sexual exploitation were minors at the time they were first trafficked, (Kelleher et al). Al 2009). A distinction cannot be made between the “consenting adult” and the child exploited in prostitution. “The simple fact is that where sex industries are tolerated, the sexual exploitation of children is facilitated......How can it be that on one day when the young person is 15 or 17 their involvement in the sex industry is exploitation and illegal, but on the next day – their birthday – when they are 16 or 18, this becomes not just legal but legitimate, a matter of choice, a form of work? (Kelly & Regan, 2000).

**Equality**

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Prostitution is gendered in nature with the vast majority of those exploited women and girls and the buyers male. In a society that values equality among all of its members it is important to address this issue by declaring that Irish society holds values that respect the human rights and dignity of all people. If one woman is for sale this sends the message that potentially all women are for sale. A solution is to declare that no person, female or male, should be subjected to degrading or humiliating treatment for the sexual satisfaction of another.

Recommended further measures, including reforms, to assist those involved in prostitution to exit from it:

The ICI would advocate that decriminalising the sale of sex in all circumstances is crucial. We would strongly advocate the need to provide specialist support services for women who are involved in prostitution, in order to provide the necessary protection, access to services and routes to exit the sex trade. Support and advocacy, safe accommodation and alternative economic support are essential components of exiting for those trapped in the sex trade. Funding should be provided to ensure that these services are available.
The campaign is run by an alliance of 56 networks, umbrellas, unions and nongovernmental bodies, who represent among themselves 1.6 million supporters for the TORL cause (www.turnofftheredlight.ie)

The member organisations are: AkiDwA, Aoibhness Refuge, APT (Act to Prevent Trafficking), Barnardos, Bray Women’s Refuge, Cairde, Children’s Rights Alliance, Clare Women’s Network, Clondalkin Women’s Network, Communication Workers’ Union, Domestic Violence Advocacy Service Sligo, Doras Luimni, Dublin Rape Crisis Centre, Focus Ireland, FOF (Feminist Open Forum), FOMACS (Forum on Migration and Communications), Freedom From Pornography Campaign, ICTU, Immigrant Council of Ireland, Impact Trade Union, Inchicore Women’s support Group, Irish Country Women’s Association, Irish Feminist Network, Irish Girl Guides, Irish Medical Organisation, Irish Nurses and Midwives Organisation, Labour Party, Longford Women’s Network, Macra na Feirme, Men’s Development Network, MRCI, NASC Cork, National Child Protection Training Centre, National Women’s Council of Ireland, One in Four Ireland, Pavée Point, Public Service Executive Union committee, Rape Crisis Network Ireland, Rathmines Women’s Refuge, Religious Sisters of Charity, Ruhama, SAFE Ireland, Saoirse Refuge, SARI, SIPTU, Sligo Rape Crisis Centre, SONAS Housing, Soroptimist International Ireland, Stop Sex Trafficking Cork, TEEU (Technical, Engineering and Electrical Union), The Dominican Justice Office, Tirzah Ireland, UNITE, VAW Exhibition 365, Viva House, Women’s Aid, Young Social Innovators Ireland www.turnofftheredlight.ie

http://www.osce.org/odihr/19223?download=true