

Introduction

Section 4 of the Criminal Law (Sexual Offences) 2017 has been the subject of much discussion, debate and criticism. While many of the criticisms made of the law are valid, we at Men's Development Network see problems with the law as being related to matters of implementation rather than the underlying rationale for the law itself. The rationale for the law is that of shifting the burden of criminalisation away from vulnerable women working in the sex trade and onto those people who profit from the sale of sex and those who purchase sex. In doing this, the law purports to act to deter *potential* buyers of sex and to act in a normative sense to work towards making the trade in human beings for sexual gratification socially and morally unacceptable. For our submission we will give a brief overview of the composition of the market for sex in Ireland looking at both sex workers and the buyers of sex. We will then restate the original rationale behind the act as was evident in campaigns such as 'Turn Off the Red Light' and 'We Don't Buy It', which we at Men's Development Network participated in. We will then conclude with some recommendations.

Sex Workers in Ireland

Sex workers in Ireland are a uniquely vulnerable population who face the threat of violence from multiple fronts. Many sex workers are trafficked from abroad, have little or no English language skills and so find themselves in coercive situations which they cannot leave. The Immigrant Council of Ireland state that 90% of prostituted people are migrant women and girls. They particularly face the threat of violence from clients with recent research from Amnesty International noting how the overwhelming majority of their interviewees suffered varying forms of violence at the hands of clients. As many of the women involved in the sex trade in Ireland do not have a regularised/secure immigration status, they are loath to contact authorities for help as they fear deportation.

Sex Buyers in Ireland

Research carried out by Keegan and Yonkova examined the profile of Sex Buyers in Ireland and elsewhere. Amongst those researched, there was an overwhelming view of prostitution being a transactional act between consenting adults. This misguided understanding of many forms of sex work does not take sufficient account for the presence of trafficked persons or exploitation. The research similarly states that a significant proportion of buyers had encountered sellers whom they believed had been exploited yet the incidences of reporting or even considering reporting among this group were low. Similarly, a campaign by Ruhama in 2018 entitled 'What Sex Buyers are Really Thinking' presented as part of the 'Penny for Your Thoughts Project' presented a fictional sex worker called 'Andrea' who was advertised as a seductive silhouette and a phone number. Callers to the number were greeted with a voice message outlining how she was 'here to give you the most exciting time of your life because if I don't, the man who brought me here will make sure I pay for it'. Despite the voice

message outlining how Andrea had been duped and trafficked and hated the life she was living, there were numerous messages left enquiring about availability, prices and services offered. Both the research by Keegan and Yonkova and the Penny for Your Thoughts project paint a picture of how many buyers of sex commodify and dehumanise sex workers. Even when presented with direct evidence or testimony of trafficking and abuse, many were still prepared to buy sex and turn a blind eye to it.

Aims of Legislation

The aim of Part IV of the 2017 Act was primarily to ‘shift the burden’ of criminalisation away from vulnerable sex workers, many of whom were trafficked, and to redirect it towards buyers of sex and third parties who profit from the sale of sexual services. In doing this the intention was to deter potential buyers and act in a normative sense to make the trade in human beings for sexual gratification socially unacceptable. The act was in keeping with other supra national conventions and directives such as Article 6 of the Council of Europe Convention on Action against trafficking in human beings which requires members to ‘discourage the demand that fosters all forms of exploitation of persons’. Similarly Article 18 of the EU anti trafficking directive states that member states must adopt measures that ‘discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings’.

The act aimed to address the exploitation and violence inherent in aspects of the sex trade by criminalising the buyers of sex and decriminalising individuals who sell sex.

Recommendations

Our first recommendation relates to the availability of data pertaining to the number of offences detected and prosecuted under the Act. At present, there is not sufficient data available to determine the frequency of prosecutions made for those buying sex. While there have been well publicised Garda Operations and Days of Action targeting buyers of sex, data has not been made available relating to prosecutions. In the absence of such data, it is difficult to assess the efficacy of the Act and as such we call for this data to be made available.

Furthermore, we also point to the need for behavioural change programmes for those prosecuted for buying sex. At present, the punishments under the Act are a class E Fine for a first offence and a class D fine for subsequent detected offences. While these are low punishments on the scale, the real locus of punishment seems to be that of creating public embarrassment and shame for potential buyers of sex as a means of deterrence. We see that criminalising and punishing alone is insufficient to changing behaviour in this respect and instead point towards the requirement for programmes which engage with offenders to encourage behaviour change and to create spaces for self-reflection on the harms that are inherent in this practice. This work would aim to address the root causes of such behaviours and constructively challenge them to enforce meaningful change in behaviours and attitudes. We propose a programme similar in methodology to the MEND programme which is a service for men who want to

change their abusive behaviour their intimate partner relationships and to learn how to have relationships that are based on love and trust. MEND Meetings are held in a non-judgmental setting for men who want to change their behaviour and improve their relationships, further they increase men's capacity and willingness to behave in respectful and non-violent ways in their relationships. There is also scope for introduction of preventative educational measures. With 25 years' experience engaging men and boys from a strengths-based approach, we have unique expertise in engaging with men and boys in the most appropriate way as allies in supporting gender equality and ending Gender-Based Violence such as that found in many forms of sex work.

There is a need for a clear pathway to be in place for people who wish to leave sex work. As discussed above, many sex workers are victims of trafficking in persons and lack a regularised/secure immigration status. This undoubtedly serves as an impediment to them seeking help or assistance from authorities as they fear negative outcomes such as deportation. As such, we recommend periodic reviews of the status of undocumented people in Ireland which would give pathways to regularised status in Ireland and to ensure that the fees attached to such applications are non-punitive in nature. Ensure implementation of the Council of Europe Guidance Note on the Entitlement of Victims of Trafficking, and Persons at Risk of being Trafficked, to International Protection.