



## **Written Submission to the Review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017**

**September 2020**

### **The Union of Students in Ireland (USI)**

The Union of Students in Ireland (Aontas na Mac Léinn in Éirinn) is the national representative body for third-level Students' Unions in Ireland. Founded in 1959, USI now represents more than 374,000 students in Further and Higher Education Colleges across the island of Ireland. The goal of USI is to work for the rights of students and a fair and equal post-secondary education system in Ireland. USI is a full member of the European Students' Union (ESU) which represents students from 46 National Students' Unions in 39 countries, and a member of Eurodoc, the European Council for Doctoral Candidates and Junior Researchers.

The Union of Students in Ireland (USI) welcomes the public consultation on proposals to review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017 being undertaken by the Department of Justice and Equality. USI has a history of supporting and fighting in the pursuit of equality across the island of Ireland. The basic principle on which the Union of Students in Ireland is built upon is to defend, promote and organise for the fundamental educational, welfare, economic, political, social, cultural and other interests of all the students in Ireland on a national and international level. USI welcomes consultation on this act and does so in the view that sees the experience of most women

in prostitution; whether as victims of human trafficking or not, are in danger of physical and psychological harm. The commercial sexual exploitation of people is adverse to human rights and dignity, and therefore a pressing equality issue.

The objectives of Part 4 of the Act are:

- to target the trafficking and sexual exploitation of persons through prostitution.
- combat the wider exploitation of persons involved in prostitution outside of those trafficked such as those who are coerced or otherwise forced through circumstances to engage in the activity.
- to decriminalise the women and men involved in prostitution.

USI works to defend and support the rights of students and young people and aims to foster a more just and fair society for all, and therefore USI are supportive of the central aim of this legislation which is to combat exploitation and coercion in prostitution and to target the trafficking of persons into the sex industry by reducing demand. The significance of the 2017 legislative reform, which is now under review, was that it decriminalised the seller of sexual access and transferred the historic burden of stigma and criminality to where it correctly belongs, with the purchaser of sexual services.

The Union of Students in Ireland (USI) welcomes the opportunity to respond to the Review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017. We have grouped our responses into the following key areas:

1. Gender
2. Housing
3. Addiction
4. Health
5. Migrants and Trafficking
6. LGBTQ+
7. Sexual Assault
8. Disability

## Gender

The review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017 is of concern for students, women and migrant women who are most affected by this act. Women and migrant women specifically make up 84% of women in sex work across 13 European countries.<sup>1</sup> The numbers of students engaging in sex work is also notably high with one of the leading reasons for students to engaging in sex work being to financially support themselves during their studies.<sup>2</sup> The analysis also drew attention to the lack of sexual education and leads to risky sexual behavior and that many students engage in sexual activity in return for money. Research completed by Immigrant Council of Ireland, Stop Traffick! EU Project highlighted that in the vast majority of cases the buyer is male, in a relationship, well-educated, with medium to high income,<sup>3</sup> which highlights the power imbalance between the sex worker and the purchaser. Most sex work is undertaken by self-defining women yet USI acknowledges that self-defining men also engage in sex work. Due to the gendered nature of sex work alongside high levels of violence experienced by those who engage in sex work makes the issues they face important to all women and society at large. USI supports the right to bodily integrity and autonomy and view the 2017 Act as key legislation in underpinning the rights of women and girls to live in a society that protects their equality, freedom and dignity. Yet, given the legal status of sex work; where sex workers must work alone it is evident that this shapes the patterns of violence against sex workers.<sup>4</sup> USI welcomes this consultation process to provide this marginalised group with a voice.

## Housing and family type

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<sup>1</sup> United Nations Office on Drugs and Crime (UNODC) 2010. [The Globalisation of Crime: A Transnational Organised Crime Threat Assessment Vienna](#): UNODC

<sup>2</sup> Wylegty, K, [The phenomenon of prostitution among students](#), 2019, The Journal of Education, Culture, and Society

<sup>3</sup> Yonkova, N. & E. Keegan 2014. [Tackling demand for sexual services of trafficked women and girls](#), Dublin: Immigrant Council of Ireland, Stop Traffick! EU Project.

<sup>4</sup> Deering. K.N. et. Al. [A Systematic Review of the Correlates of Violence Against Sex Workers](#), Am J Public Health. 2014

With rising costs of living and the housing, many turn to sex work to support themselves and their families. Often females bear the primary responsibility as caregivers for children, older persons and people with disabilities, and can impact on their ability to generate sufficient income to pay for rent and housing related costs which can result in them engaging in sex work. While sex work may also support single parent families, as for some it can offer more flexibility and control over working hours or a higher rate of pay than other options available to them.<sup>5</sup> Although, engaging in sex work can also led to issues in child custody cases.<sup>6</sup>

## **Addiction**

For many within the sex industry addiction issues as a result of the economic aspect to drug dependency, rely on income generation from sex work. Among male and female drug-using sex workers research conveys that being drug dependent or problematic drug use usually precedes or coincides with entry into sex work.<sup>7</sup> With some entering sex work as a result of male coercion within an addiction and abusive relationship.<sup>8</sup>

## **Health**

A major concern for the welfare of sex workers is the inability to avail of healthcare facilities as for many they are undocumented within Ireland. No matter a person's work or status, they should be able to avail of necessary medical help when needed. Aside from this many migrants don't seek medical assistance due to the stigma surrounding sex work. Sex work has a devastating impact on both physical and mental wellbeing for those prostituted. It affects self-esteem, self-confidence, can cause depression and symptoms of post-traumatic stress disorder. It can result in infertility, unwanted pregnancies, sexually transmitted infections, fissures and many other physical

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<sup>5</sup> Amnesty international, [Policy on state obligations to respect, protect and fulfil the human rights of sex workers](#), 2016

<sup>6</sup> Levy, J., [Sweden's abolitionist discourse and law: Effects on the dynamics of Swedish sex work and on the lives of Sweden's sex workers](#), 2014, British Society of Criminology.

<sup>7</sup> National Advisory Committee on Drugs, [Drug Use, Sex Work and the Risk Environment in Dublin](#), 2009

<sup>8</sup> Harding, R. [Working Girls: Abuse or Choice in Street-Level Sex Work? A Study of Homeless Women in Nottingham](#), British Journal of Social Work, 2009.

consequences. UNAIDS highlighted sex workers are particularly vulnerable to HIV.<sup>9</sup> Sex workers were outlined as an at-risk or vulnerable group within the National Sexual Health Strategy 2015-2020, yet no specific provisions were outlined to support sex workers. Therefore, we are calling for provisions to put in place to ensure those engaging in sex work can avail of adequate healthcare. Those in the sex industry with disabilities are further marginalized and lack vital support. Many seek work in this industry as barriers to other jobs cause financial pressures.<sup>10</sup>

## **Migrants and Trafficking**

The majority of those involved in sex work are female with a large cohort of 75% of females involved in sex work have been engaged since childhood.<sup>11</sup> The average age of entry into the sex workers industry is the tender age of 14 years old. Almost all arrests that have taken place in a brothel have been young migrant women. In a study it was recorded that over 100 interviewees were involuntarily forced to enter the sex industry.<sup>12</sup>

The most vulnerable to sex trafficking are those experiencing poverty, debt, a history of abuse and/or severe neglect as a child or youth, institutionalization as a child, partner abuse, homelessness, lack of family supports, addiction and grooming / coercion by a family or partner.<sup>13</sup> The current law fails to address root causes of trafficking but often ends up criminalising victims of trafficking. The immigration laws that are currently in place do not support those who experience sex trafficking. Asylum seekers who are victims of trafficking are placed direct provision where their health often declines. Ireland needs to reexamine how we support and care for those who are trafficked.

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<sup>9</sup> Joint United Nations Programme on HIV/AIDS (2009 – 2012) UNAIDS Guidance Note on HIV and Sex Work. Geneva: UNAIDS

<sup>10</sup> Fritsch, K., [Disability and sex work: developing affinities through decriminalization](#), Disability and Society 2016

<sup>11</sup> Shannon, G., [The Implementation of the Criminal Law \(Sexual Offences\) Act 2017, Part IV – An Interim Review](#), 2019

<sup>12</sup> Immigrant Council of Ireland, [Globalisation, Sex Trafficking and Prostitution: the Experiences of Migrant Women in Ireland](#). 2009

<sup>13</sup> National Women's Council of Ireland, Violating Women's Rights – Prostitution in Ireland - Submission to the Joint Oireachtas Committee on Justice, Equality and Defence on the Review of Legislation on Prostitution, 2012

Many migrants come to Ireland to seek safety from their home country, this often has many obstacles as they enter the country, they cannot avail of financial supports and social housing. This makes migrants very susceptible to entering the sex industry in order to provide for themselves and their family. It has been recorded that 90% of women are migrants. Many are imprisoned in apartments and moved around the country. They face many barriers including a language barrier and often rely on others to support their sex work. Many migrants are also promised safety and a brighter future from 'pimps' those who sell women into the sex trade. Trafficked women and children often do not recognise they have been trafficked until they have travelled to Ireland. <sup>14</sup>

## **LGBTQ+**

For sex workers of the LGBTQ+ community, discrimination on the grounds of both gender identity and sexual orientation adds to and intensifies the discrimination these individuals face as sex workers. The dual identities of LGBTQ+ sex workers have the potential to further marginalize individuals and in turn makes them more vulnerable to increased levels of physical and sexual violence. Human rights abuses and limits their access to services and justice. LGBTQ+ workers have reported facing discrimination, humiliation and a lack of support and denial from health care officials, either based on their sexual orientation, gender identity, their sex work or any combination of these. This further restricts their access to essential health services, including HIV prevention and treatment services, sexual and reproductive health services, and gender transition health services. <sup>15</sup> LGBTQ+ sex workers were neglected from the LGBTQI strategy last year, and we would suggest a clear focus on this group. <sup>16</sup>

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<sup>14</sup> Healy & O Connor: The Links Between Prostitution and Sex Trafficking: A Briefing Handbook, 2006

<sup>15</sup> The Homophobia and Transphobia Experienced by LGBT Sex Workers – MPACT & NSWP

<sup>16</sup> Department of Health, The National Sexual Health Strategy 2015 – 2020

## **Sexual Assault**

Feminism should strive to keep individuals safe rather than ignore their voices. It is important that we speak about the issues around sex work and normalize the conversation. Our main focus should be the safety and wellbeing of those engaged in sex work. Bodily autonomy is fundamental and should always be respected. Those working in the sex industry should engage in consensual acts of sex, anything beyond this is sexual assault and should be reported. Sex workers have been excluded from the national consent framework and are often forgotten about when discussing gender-based violence. <sup>17</sup> Legislation should be passed to ensure all those working in the sex industry are safe and protected and can seek medical attention and report incidents freely and safely.

To conclude, USI would welcome a focus on legislative support for sex workers to ensure they can continue to work within a safe and protected environment and society. The Union of Students in Ireland value of the legal change that was produced by Part 4 of the Criminal Law (Sexual Offences) Act 2017. This change has only been in place for a short amount of time and there is a commitment to the necessary public awareness campaigns, training and education for appropriate personnel, alongside developing the appropriate and necessary supports for those wishing to leave sex work.

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<sup>17</sup> HSE, National Consent Strategy, 2019

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