

## Justice Committee

### Human Trafficking and Exploitation (Scotland) Bill

#### Written submission from Susan Brush

##### Executive Summary

1. I welcome the publication of the Human Trafficking and Exploitation (Scotland) Bill. However, we are deeply concerned that the bill currently fails to adequately tackle the demand that underpins sex trafficking. The trafficking of women and girls for the purpose of sexual exploitation is underpinned by the principles of supply and demand: it is the demand from a minority of men to pay for sex which drives the prostitution trade into which women and girls are trafficked. Therefore, preventing sex trafficking requires tackling the demand to pay for sex.

2. A crucial legislative strategy for reducing demand is the Sex Buyer Law. This legislative framework entails criminalising paying for sex, decriminalising selling sex, and providing support and exiting services for people exploited through prostitution. It has been shown to be highly effective in reducing demand for sexual exploitation, changing public attitudes and making the country in question a more hostile destination for traffickers. The latest country to adopt the Sex Buyer Law is Northern Ireland, which introduced the legislation through the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill in 2014.

3. Scotland has multiple international obligations to tackle the demand that underpins trafficking. It is vital that provisions in the Human Trafficking and Exploitation (Scotland) Bill are included to adopt the Sex Buyer Law in order to achieve the bill's aim of making Scotland "a hostile environment for human traffickers"<sup>i</sup>.

4. About myself, I am writing in as a concerned member of the public, who wants to see a Scotland where human trafficking and exploitation are consigned to the history books.

##### Evidence

5. The Scottish Government has reported that between April 2007 and March 2008 agencies in Scotland came in to contact with 79 human trafficking victims, while the Equality and Human Rights Commission note, "*The vast majority were trafficked for sexual exploitation*"<sup>ii</sup>. Data from the National Referral Mechanism during one period also revealed that nearly all cases of sex trafficking involved women and girls<sup>iii</sup>. Sex-trafficking is a highly profitable trade. The trafficking of women and girls into prostitution in England and Wales, where analysis on profitability has been conducted, is worth at least £130 million annually. The social and economic costs of the problem were estimated at £890 million<sup>iv</sup>.

6. It is currently legal to pay for sex in Scotland. However, it is not legal to solicit a person for sex in a public place<sup>v</sup>. People selling sex can also be charged with soliciting under Section 46 of the Civic Government (Scotland) Act 1982.

7. Sex trafficking is underpinned by the principles of supply and demand. A minority of men in Scotland currently feel entitled to pay women for sex. During the 1990's, the proportion of men in the UK who pay for sex increased from one in 20 men to nearly one in 10<sup>vi</sup>. Interviews with 110 men in Scotland who paid women for sex found one-fourth to one-third of the men had attitudes tolerant of rape. 22% of interviewees said that once a customer has paid he is entitled to do whatever he wants to the woman, and 12% said it wasn't possible to rape a woman in prostitution<sup>vi</sup>. It is the demand from a minority of men that traffickers and other facilitators are responding to and profiting from when they supply people into the prostitution market. Therefore, tackling the demand to pay for sex is critical to reducing and preventing trafficking for the purpose of sexual exploitation.

8. The European Union (EU) Commissioner for Home Affairs has stated, *"only by addressing demand for all forms of exploitation can we begin to address trafficking in human beings... we cannot address the sexual exploitation of victims (the overwhelming majority being girls) without addressing the users."*<sup>viii</sup> The EU Anti Trafficking Co-ordinator, Myria Vassiliadou, has further stated, *"There is a link between prostitution and trafficking. The European Commission recognises this."*<sup>x</sup> An inquiry into human trafficking in Scotland in 2011 by the Equality and Human Rights Commission concluded, *"Demand is a key driver for human trafficking. This fact underlines the need for 'destination' states, such as the UK and Scotland, to take responsibility to act to tackle trafficking through targeting demand."*<sup>x</sup>

9. Scotland has multiple international obligations to reduce demand for sex trafficking. Article 9.5 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children<sup>xi</sup> states that, *"States Parties shall 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"*<sup>xii</sup>. The EU Directive on trafficking in human beings requires member states to take action to reduce demand in order to prevent trafficking<sup>xiii</sup>. Article 6 of the Council of Europe Convention on Action against Trafficking in Human Beings requires member states to *"discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking"*<sup>xiv</sup>. Furthermore, the Convention to Eliminate All forms of Discrimination Against Women (CEDAW)<sup>xv</sup> requires signatories to *"take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women"*<sup>xvi</sup>.

10. Research assessing potential deterrents to men paying women for sex has revealed that criminal sanctions are a key method. Research conducted with 110 men in Scotland who paid women for sex found 79% of the respondents said having to spend time in jail would deter them from paying for sex, while 72% reported that a greater criminal penalty would do so<sup>xvii</sup>. Interviews with 113 men in Chicago (US) who paid for sex found 83% of the men said a potential consequence of jail time would deter them from buying sex. 75% of the men said greater criminal penalties in general would deter them from paying for sex<sup>xviii</sup>. Additionally, research undertaken by the Child and Woman Abuse Studies Unit at London Metropolitan University with 137 men who paid women for sex concluded, *"the accounts of men who had paid for sex overseas confirm that legality contributes to normalisation, which in turn*

*increases the likelihood of paying for sex.*<sup>xxix</sup> The legality of paying for sex has also been found to significantly influence rates of sex trafficking into the country in question. An empirical analysis for a cross-section of up to 150 countries found reported human trafficking inflows were larger in countries where prostitution is legal<sup>xx</sup>.

11. In recognition of the Scottish Government's international obligations to reduce demand for sex trafficking and the critical role of criminal sanctions as a deterrent to paying for sex acts, I strongly urge the Scottish Parliament to amend the Human Trafficking and Exploitation (Scotland) Bill so that paying for sex becomes a criminal offense, while selling sex is decriminalised. This legislative change must be accompanied by the provision of sustainable support and exiting services for people exploited through prostitution. This policy framework is commonly referred to as the Sex Buyer Law, 'Nordic model' or 'Swedish model'. It has been adopted by three of the four countries with the highest ratings for gender equality worldwide: Sweden, Iceland and Norway.<sup>xxi</sup> The Sex Buyer Law recognises prostitution as a form of violence against women, consistent with Scottish Government policy<sup>xxii</sup>.

12. There is substantial evidence of the effectiveness of the Sex Buyer Law in reducing the demand that underpins sex trafficking. Sweden was the first country to introduce the legislation in 1999. An investigation of the law by the Swedish Government reported, *"[a]ccording to the National Criminal Police, it is clear that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers considering establishing themselves in Sweden."*<sup>xxiii</sup> Simon Häggström, Detective Inspector at the Prostitution Unit of the Stockholm Police reports, *"We've had wiretapping cases where pimps say they don't find Sweden attractive"*.<sup>xxiv</sup>

13. The number of men paying for sex in Sweden has declined since the Sex Buyer Law was adopted. Between 1996 and 2008 the proportion of men who reported paying for sex declined from 12.7% to 7.6%<sup>xxv</sup>. Street prostitution in Sweden halved during the period 1999-2008 and there is no evidence that women were simply displaced to indoor prostitution or prostitution advertised online<sup>xxvi</sup>. Despite Sweden having 3.8 million more inhabitants than neighbouring Denmark, the number of people involved in prostitution in Sweden – its 'prostitution population' – is approximately a tenth of Denmark's, where paying for sex is legal<sup>xxvii</sup>. Public attitudes have also changed. In 1996, 45% of women and 20% of men in Sweden supported criminalising the purchase of sex. By 2008, support for this legal principle had risen to 79% among women and 60% among men<sup>xxviii</sup>.

14. Norway adopted the Sex Buyer Law in 2009. An evaluation of the law's impact commissioned by the Norwegian Government reported, *"A reduced market and increased law enforcement posit larger risks for human traffickers. The profit from human trafficking is also reduced due to these factors. The law has thus affected important pull factors and reduced the extent of human trafficking in Norway in comparison to a situation without a law."*<sup>xxix</sup> The prostitution market has also shrunk. Systematic field observations of the street prostitution market in Oslo reveal it has declined by 40%-65% since the law was adopted<sup>xxx</sup>.

15. There is growing international recognition that the Sex Buyer Law is an indispensable tool for tackling sex trafficking and exploitation through prostitution. In

2014 the Sex Buyer Law was adopted in Northern Ireland as part of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. In Ireland, the Houses of the Oireachtas Joint Committee on Justice, Defence and Equality recommended in 2013 that the Sex Buyer Law be introduced<sup>xxxix</sup>. In addition, the All-Party Parliamentary Group on Prostitution and the Global Sex Trade recommended in April 2014 that the Westminster Government adopt the Sex Buyer Law in England and Wales<sup>xxxix</sup>.

16. In 2014 the Council of Europe Parliamentary Assembly, representing 47 countries, passed a resolution citing the Sex Buyer Law as *"the most effective tool for preventing and combating trafficking in human beings"*<sup>xxxix</sup>. José Mendes Bota, the Council of Europe's Rapporteur on violence against women, stated, *"I have come to the conclusion that prostitution policies are the most effective tool in the prevention and countering of trafficking for the purpose of sexual exploitation"*<sup>xxxix</sup> and *"I personally consider the Swedish model as the most successful in the context of tackling human trafficking."*<sup>xxxix</sup> In February 2014 the European Parliament passed a motion which highlighted evidence showing the Sex Buyer Law has had a *"deterrent effect on trafficking into Sweden"*<sup>xxxix</sup>. The European Women's Lobby is also urging members of the EU to implement the Sex Buyer Law in order to prevent trafficking and sexual exploitation. The 'Brussels Call' issued by the organisation is backed by over 200 women's rights organisations from 25 member states<sup>xxxix</sup>.

17. As highlighted in this evidence, reducing demand is crucial to preventing sex trafficking. Criminalising paying for sex and decriminalising the sale of sex has been shown to be highly effective in reducing demand for sexual exploitation, changing public attitudes and making the country in question a more hostile destination for traffickers.

### Recommendations

18. I urge the Scottish Parliament to amend the Human Trafficking and Exploitation (Scotland) Bill to include provisions that:

- Criminalise paying for sex acts, thereby tackling the demand that fuels sex trafficking;
- Decriminalise selling sex acts; and
- Provide support and exiting services for people exploited through prostitution.

Susan Brush  
24 February 2015

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