

Justice Committee

Human Trafficking and Exploitation (Scotland) Bill

Written submission from the European Women's Lobby

Overview

The **European Women's Lobby** (EWL) is the largest umbrella organisation of women's associations in the European Union (EU), working to promote women's rights and equality between women and men. EWL membership extends to organisations in all 28 EU member states and three candidate countries, as well as to 21 European-wide bodies, representing a total of more than 2000 organisations.

For EWL's strategic plan 2010-2015, EWL membership has identified the issue of violence against women as the priority number one, the most concerning policy area where increased efforts should be developed. Amongst the many forms of violence against women, trafficking and prostitution still remain key issues where women's rights are being pervasively violated. The EWL has therefore decided to run a campaign calling for a Europe free from prostitution.

This submission is based on EWL's expertise and knowledge of the issues of trafficking and prostitution, grounded in EWL members' and partners' experience on the ground in all EU countries. **The EWL believes that the Swedish legislative model is nowadays the best system to address the links between prostitution and trafficking and deter trafficking in women and procuring networks.**

The EWL therefore strongly calls on the Scottish Parliament to pass a new legislation that would make the purchase of a sexual service a crime, while protecting prostituted persons and offering them support and alternatives, and sanctioning all forms of procuring and trafficking. Addressing the demand for the prostitution that fuels trafficking would be the most strategic way for Scotland to develop an efficient bill on human trafficking and exploitation, and should therefore be included in the current bill. It would also allow Scotland to abide by its European obligations.

The EWL welcomes Scotland's political initiative on trafficking and exploitation and hopes that this consultation will lead Scotland to adopt a political commitment to protect all women from all forms of violence and achieve equality between women and men by strengthening its legislation against trafficking, through the decriminalisation of and support to persons in prostitution and the criminalisation of the demand for prostitution which fuels trafficking.

Summary of EWL recommendations

We commend the Scottish Parliament for the timely consultation process. The EWL welcomes Scotland's political initiative on the issue and hopes that this consultation will lead Scotland to adopt a political commitment to protect all

women from all forms of violence and achieve equality between women and men by abolishing the system of prostitution and making it a crime to buy sex.

As noted by EU Commissioner Malmström in 2013, **prostitution and trafficking for sexual exploitation are inextricably linked**¹. In her speech, she says: “According to our data published by the EUROSTAT recently, sexual exploitation is the most widespread form (62%) of human trafficking in the EU, and women and girls make up the overwhelming majority of all victims at 96%. Of course, men and boys also become victims of sexual exploitation. But the figures point to very clear trends, and to underlying power imbalances, and social structures that we have to acknowledge and address. But behind all these figures are the stories and destinies of women in search of a better life. These figures show us one thing: women and children end up in the prostitution market. Be it in windows or in massage parlours, in strip clubs or brothels, they are exploited in a sense no one would ever want to imagine. The links between the prostitution market and exploitation are there.”

Under Article 18(1) of the EU Directive on Trafficking², Member States are obligated ‘to take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings’. **We therefore call on Scotland to address the demand that fosters both the prostitution systems and trafficking, as an effective and strategic way to end trafficking.**

We live in societies where there are a lot of inequalities and situations where some persons are made more vulnerable. This should be taken into account, as procurers and traffickers make the most of this vulnerability to find victims and exploit inequalities in our society to profit from them. As the February 2014 European Parliament’s resolution points out, the vast majority of prostituted persons come from vulnerable groups. This is why **we don’t want to see persons in prostitution criminalised for their situation**, for any activity linked to prostitution: they need to be considered as victims of a global system, based on gender inequality, racism, economic inequalities, discrimination against minorities, and colonialism. The EWL condemns any policy attempt or discourse based on the notion that prostitution can be a solution for migrant women in Europe. No one should ever consent to his/her own exploitation, this is a crucial principle to protect human dignity and build equal societies.

One of the most pervasive forms of inequality is inequality between women and men, where the domination of women has been structured and perpetuated along the centuries. It is obvious that prostitution and trafficking for sexual exploitation are gendered phenomena, which makes the most of women’s inequality. Therefore, **any policy on trafficking and prostitution must be gender-sensitive and recognise these phenomena take place in unequal societies, where women are structurally discriminated against.**

¹ Malmström, C. (2013) ‘Trafficking in Human Beings and Gender – the EU Perspective’. Available at: https://ec.europa.eu/anti-trafficking/eu-policy/trafficking-human-beings-and-gender-%E2%80%93-eu-perspective_en

² Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

If Scotland really wants to achieve gender equality, and to end violence against women, it needs to address the issue of the demand for prostitution. It has been proven that prostitution can have an impact on violence against women in general, as research on sex buyers shows that men who buy sex have a degrading image of women. The normalisation of prostitution leads to more violence against women: data show that men buying sex were more likely to commit sexually coercive acts against women and other acts of violence against women, and often presented misogynist attitudes.

The EWL supports the Swedish approach, which puts back the responsibility where it should be: trafficking exists because the systems of prostitution exist and are very profitable. And those systems of prostitution exist and are profitable because there is a demand, and because traffickers and pimps play with this demand and therefore build and look for 'supply' to perpetuate and fuel the demand. **We therefore need to address sex buyers, to stop the demand and therefore the 'supply'**. Prohibiting the purchase of a sexual act would send a clear message, both to society and to the procurers and traffickers. To the general audience and therefore to men, it would convey the message that one cannot access to someone else's body through money, and that paying for sex equals imposing its desire on someone else with money. And to the traffickers and pimps, it would convey the message that it is not OK to make business over prostitution in Scotland. **Such political choice and legislation would also send the message to other countries that Scotland has chosen to tackle organized crime through a very concrete and efficient means: by targeting the demand for sexual services.**

General contribution of the European Women's Lobby

EWL's general contribution will focus on the following aspects:

1. The issue of prostitution in international human rights instruments
2. Assessment of 10 years of Swedish and Dutch policies on trafficking and prostitution
3. Recent developments in other countries over the last two years
4. EWL's principles and recommendations

As an introductory remark to our contribution, it is important to highlight that the links between trafficking and prostitution have been demonstrated at different levels, and that these links explain why any anti-trafficking policy or measure needs to address the demand for prostitution in order to be effective.

EWL briefing on the gendered nature of the phenomenon of trafficking demonstrates that the phenomenon of trafficking is highly gendered, with sex trafficking being the overwhelming form of abuse, and affecting in great majority women and girls. Moreover, our briefing shows that trafficking can be ended when its root causes are tackled: this is why **the demand for prostitution, based on gender inequality, needs to be included in the Scottish bill on human trafficking and exploitation.**

→ See Briefing 3 (page 14).

1. The EWL would first like to remind the Scottish Parliament of **international instruments which address the issue of prostitution from a human rights perspective.**

Such instruments qualify prostitution as a form of violence against women, an obstacle to equality between women and men, an obstacle to human dignity, or a violation of human rights.

In particular, the EWL wants to mention the **1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others**, which has been adopted by the UN General Assembly (the same GA who adopted the Universal Declaration for Human Rights).

The Convention states: “Prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person” (Preamble).

The Convention calls member parties to support persons in prostitution by suppressing any criminalisation against them, and criminalise all forms of pimping:

- Article 1: Punishment for any person who “procures, entices, or leads away, for purposes of prostitution, another person”, or “exploits the prostitution of another person”, even with the consent of that person.
- Article 2: Punishment for any person who “keeps or manages, or knowingly finances or takes part in the financing of a brothel” and “knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others”.
- Article 6: “Each Party to the present Convention agrees to take all the necessary measures to repeal or abolish any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification.”

→ See Briefing 1 (page 8).

2. The consultation takes notes of the different policy approaches to prostitution. The EWL would like to share its analysis of the two main legislative approaches to prostitution, based on **governmental and police reports from Sweden and the Netherlands.**

The European Women’s Lobby considers the prohibitionist approach as the worst policy to address prostitution, as it is not based on an analysis of the reality of prostitution, and it implements a complete criminalisation system which does not protect persons in prostitution.

In Europe, we have now two opposite models in the way they conceptualise prostitution and draw a society’s project. Governmental and police reports show that **the Swedish model has been instrumental in deterring trafficking and procuring, reducing prostitution in the streets, and changing mentalities, while**

the Dutch seems to fail addressing trafficking and protecting women from violence and exploitation.

See the following figures:

- According to the Dutch Ministry of Justice's study 'Daalder', there has been no significant improvement in the situation of persons in prostitution and the use of sedatives has increased.³
- According to the same study, in the Netherlands, options for leaving the industry were in high demand, while only 6% of municipalities offer assistance.
- The Dutch National Police Force's study on the sector of legalised prostitution found that between 50-90% of the women in licensed prostitution "work involuntarily".⁴
- In Sweden, the number of persons exploited in street prostitution has halved since 1999, while it tripled in Denmark and Norway for the same period.⁵
- After ten years of implementation of the Swedish legislation, 70% of the population express full support for the law.
- In 1996, 13.6% of Swedish men said they had bought someone for prostitution purposes. In 2008, the figure had dropped to 7.8%.

We hope that the Scottish Parliament will use the information from the Swedish legislation and propose to elaborate a similar system, which proves to be the most realistic and progressive to protect all women and guarantee human dignity towards an equal society.

→ See Briefing 2 (page 12).

3. The EWL would also like to share additional information about **recent policy developments in various countries**, as it is important to be aware of the current European and international context:

In a very recent intervention in the European Parliament (January 2014), **Europol** representatives explain that trafficking in human beings, and especially in women and girls, has increased in the countries where prostitution markets have been legalised⁶.

The **European Parliament** adopted on 26 February 2014 a resolution on "Prostitution, sexual exploitation and their impact on gender equality", which recognises prostitution as a violation of human dignity and an obstacle to gender equality.

The European Parliament says: "Prostitution is a cause and a consequence of gender inequality which it aggravates further"; "it has an impact on the status of women and men in society and the perception of their mutual relations and sexuality"; "it perpetuates gendered stereotypes and stereotypical thinking about

³ Daalder, A. L. (2007). Prostitution in The Netherlands since the lifting of the brothel ban [English version]. The Hague: WODC / Boom Juridische Uitgevers.

⁴ KLPD (Korps Landelijke Politiediensten) – Dienst Nationale Recherche (juli 2008). Schone schijn, de signalering van mensenhandel in de vergunde prostitutiesector. Driebergen.

⁵ <http://www.regeringen.se/sb/d/13358/a/149231>.

⁶ <http://greenmediabox.eu/archive/2014/01/29/human-trafficking-in-the-eu/> at 1h02

women selling sex, such as the idea that women's and under-age females' bodies are for sale to satisfy male demand for sex".

Regarding policy approaches, the resolution says:

- "Organised crime, human trafficking, extremely violent crime and corruption flourish in the shadow of prostitution, and any framework of legalisation primarily benefits the pimps, who are able to transform themselves into 'businessmen'".
- "Looking upon prostitution as legal 'sex work', decriminalising the sex industry in general and making procuring legal is not a solution to keeping vulnerable women and under-age females safe from violence and exploitation, but has the opposite effect and puts them in danger of a higher level of violence, while at the same time encouraging prostitution markets – and thus the number of women and under-age females suffering abuse – to grow".
- "One way of combating the trafficking of women and under-age females for sexual exploitation and improving gender equality is the model implemented in Sweden, Iceland and Norway (the so-called Nordic model), and currently under consideration in several European countries, where the purchase of sexual services constitutes the criminal act, not the services of the prostituted persons"

The resolution has been supported by 75 researchers from all over the world, who issued a submission calling on MEPs to support the rapporteur. 177 sex trafficking survivors also made public their support to the resolution, by issuing a statement calling on MEPs to listen to the voices of survivors. Here is the press release that the EWL has released.

A **recent study of 150 countries**, conducted by economists in the UK and Germany, shows that "the scale effect of legalized prostitution leads to an expansion of the prostitution market, increasing human trafficking".

In December 2013, the **French National Assembly** adopted a proposal of law which would bring the Nordic model to France. See A French draft bill calls for the criminalisation of the purchase of sex.

In **the UK**, the All-Party Parliamentary Group on Prostitution and the Global Sex Trade issued its report in March 2014, entitled "Shifting the burden", and calling for the criminalisation of the purchase of sex, while protecting persons in prostitution and providing them exit programmes. This is what the report says:

- ✓ "Those who sell sexual services carry the burden of criminality despite being those who are the most vulnerable to coercion and violence. This serves to normalize the purchase and stigmatise the sale of sexual services – and undermines efforts to minimize entry into and promote exit from prostitution. Moreover, legislation does not adequately address the gendered imbalance of harm within prostitution, and as such is detrimental to wider strategies which pursue gender equality".
- ✓ "Given the harm experienced by women involved in prostitution, it is entirely legitimate to seek to reduce instances of the sale of sexual services."
- ✓ "Prostitution is incompatible with attempts to tackle gender inequality, and inconsistent with measures to tackle human trafficking."

In **Ireland**, in June 2013, the Irish Parliamentary Committee on Justice recommends the criminalization of the purchase of sex. In October 2014, after meeting NGOs and the EU Anti-Trafficking Coordinator, the Irish Minister for Justice Frances Fitzgerald said that she is ready to address the demand for prostitution and trafficking. "It's an extraordinary reflection on our society that buying drugs is illegal but buying women and girls is not", she said at the event organised by the Immigrant Council of Ireland for the EU Anti-Trafficking Day.⁷

In **Northern Ireland**, in October 2014, Northern Ireland parliamentarians voted on a law criminalising the purchase of sex, with a strong cross-party support, making Northern Ireland the first region of the UK to make the buying of sex illegal, in a law that also provides support to persons in prostitution.⁸

In **Finland**, the Ministry of Justice issues a report last autumn, recommending the adoption of the Swedish model and the criminalization of the purchase of sex, as the current system (criminalising the purchase of sex from victims of trafficking) did not prove to be effective in deterring trafficking, supporting persons in prostitution and promoting gender equality. You can read the conclusions in English here.

The situation in **Spain** regarding prostitution has recently alerted women's rights organisations, as the crisis is impacting very much negatively on gender equality. A 2013 article in The Huffington Post highlights that Spanish women turn to prostitution in Switzerland. In the French newspaper Marie-Claire, experts explain that Spain has become a key country for the sex industry: Prostitution : l'Espagne, un bordel au cœur de l'Europe?

There has been growing attention for the reality of prostitution in **Germany**. Several journalists have been investigating the German brothels, like Der Spiegel in 2013: Unprotected: how legalising prostitution has failed, showing that the vast majority of women in prostitution are trafficked, coming from Central and Eastern Europe, very young, and with no protection as the police has no possibility to control the brothels. In an interview with the German magazine EMMA⁹, the police superintendent of Stuttgart regrets that procurers are in clover, and says that only 3 to 5% of prostituted persons are independent. Since the legalisation of procuring in 2001, prostitution has become such a trivialised phenomenon that in May 2011, a German company rented one of Budapest's famous baths to organise a party awarding its employees with prostitutes.¹⁰

4. Based on the expertise and experience of its members, the EWL has developed a **clear and strong position on the issue of prostitution**, which reflects EWL's mandate to promote equality between women and men and women's rights in Europe, and gives **concrete proposals** for progressive policies.

⁷ <http://www.womenlobby.org/news/european-international-news/article/ireland-and-the-uk-towards-the?lang=en>

⁸ <http://www.theguardian.com/uk-news/2014/oct/21/northern-ireland-ban-on-paying-for-sex-is-approved-by-stormont-assembly>

⁹ <http://www.emma.de/ressorts/artikel/prostitution/die-zuhaelter-baden-doch-in-schampus/>

¹⁰ <http://www.handelsblatt.com/unternehmen/versicherungen/mordsspass-rauschende-sex-party-bei-der-ergo-versicherung/4191768.html>

EWL abolitionist principles: The prostitution of women and girls constitutes a fundamental violation of women's human rights and a serious form of male violence against women. The tolerance of the EU and its member states for the system of prostitution allow for men's use of and control over women's body and sexuality, and fuels trafficking in women for sexual exploitation. The persistence of systems of prostitution in EU member states demonstrates the failure at European level to reach gender equality and promote women's rights.

1. Prostitution is a form of violence against women.

Prostitution is part of the historical continuum of male violence against women; incest, rape, and marital rape are outlawed thanks to women's NGOs. The abolition of the system of prostitution must be the next step to stop men's control and use of women's and girls' bodies and sexuality.

- Between 80 and 95% of persons in prostitution have suffered some form of violence before entering the system of prostitution (rape, incest, pedophilia).
- 62% of women in prostitution report having been raped.
- 68% of women in prostitution meet the criteria for Post-Traumatic Stress Disorder like victims of torture.
- 9 out of 10 women in prostitution would like to exit the system of prostitution but feel unable to do so.¹¹
- The repetition of a sexual act without any desire is a form of violence.

2. Prostitution is a violation of women's human rights, including human dignity.

The system of prostitution perpetuates patriarchal views on women's sexuality and legitimates male domination in society. As long as it is tolerated, it is an obstacle to equality between women and men.

- For 25% of men, the concept of 'rape' for women in prostitution is 'ridiculous'.
- Around 50% of buyers have paid for sex in other countries. They cite a variety of reasons for traveling to other countries for prostitution, including price, variety and exoticism.¹²
- 47% of buyers pursued the transaction even after explicit warnings that the girl was likely to be under 18.¹³
- Nevada, where procuring is decriminalised, sees the highest rates of rape compared to all US states.¹⁴
- For 10% of girls and 37% of boys interviewed in Denmark, it is normal to receive money or gifts in exchange of a blow job.¹⁵
- 'She gave up her rights when she accepted my money'.¹⁶

¹¹ All data of this paragraph: Melissa Farley et al., 'Prostitution in five countries: violence and post-traumatic stress disorder', *Feminism and Psychology*, 8, 1998.

¹² Melissa Farley, Julie Bindel and Jacqueline M. Golding, 'Men who buy sex. Who they buy and what they know. A research study of 103 men who describe their use of trafficked and non-trafficked women in prostitution, and their awareness of coercion and violence', *Prostitution Research and Education and Eaves*, 2009.

¹³ Shapiro Group., *Men who buy sex with adolescent girls: A scientific research study*. Atlanta: The Shapiro Group.

¹⁴ <http://www.prostitutionetsociete.fr/politiques-publiques/legislations-nationales/nevada-les-bordels-exemplaires-d>.

¹⁵ Danish social services, 2008.

3. **Prostitution is about a conservative and outdated vision of masculinity.**
We need to build new forms of masculinities which respect women's rights and dignity and foster equality between women and men.

'The demand side, however, that is the motivations of actors related to men's purchasing of sex has long been invisible or ignored. Nonetheless, we know that stereotypes about masculinity and men's sexuality have often reinforced or perpetuated norms that lend to the broader social rationalization of men's purchase of sex, and in some cases, support or encourage compliance for these behaviors.'¹⁷

4. **The abolition of the system of prostitution is a real progressive and realistic society project,** *based on the fundamental principles of equality between women and men and human dignity.*

Refusing prostitution is about setting up norms of human dignity for all women and girls all over the world. It is about calling for a free and respectful sexuality which is based on equality and free from violence and domination.

EWL political demands address the four actors of the system of prostitution:

- No repression towards persons in prostitution / No taxation of their incomes / Concrete alternatives / Unconditionality in the deliverance of residence permits to foreign persons in prostitution / Equal treatment when victims of male violence
- Make it a crime to buy sexual 'services' / Campaigns on accountability and deterrence towards prostitute-users
- Prevention of prostitution / Education to a respectful sexuality / Awareness raising on the reality of prostitution and break stereotypes
- Condemn all forms of procuring and pimping and refuse its decriminalisation / Restitution of all procuring benefits and funds

In order to feed into the debates in Europe and beyond, the EWL has delivered several tools:

- **The video clip of the Brussels' Call** (3') gives voice to women's organisations and survivors, and shows the support of MEPs – in [English](#) and [French](#)
- **"18 myths on prostitution"**: a unique document with all arguments, and a comparison of the Swedish and Dutch policies on prostitution – in [English](#) and [French](#)
- **Testimony of Rachel Moran**, survivor ([video](#), 5')
- **Presentation of Simon Häggström**, from the anti-trafficking unit of the Stockholm Police, Sweden ([video](#), 10')

The EWL works with all **Members of the European Parliament** (MEPs), from different countries and different political affiliations. Here are the quotes of five

¹⁶ Durschlag, R., & Goswami, S., *Deconstructing the demand for prostitution: Preliminary insights from interviews with Chicago men, who purchase sex*. Chicago Alliance Against Sexual Exploitation, 2008, USA.

¹⁷ Jõe-Canon 2006, in *Men, Masculinities, Sexual Exploitation and Sexual Violence. A Literature Review and Call for Action*. Christine Ricardo and Gary Barker, November 2008, MenEngage & ProMundo.

MEPs, from the main five political groups in the EP, when the Brussels' Call has been endorsed by 54 MEPs last October 2013:

- “If we want to live in a Europe where women have equal rights and can feel safe and respected, we must work to eliminate prostitution and to create a culture in which it is not permitted or acceptable to purchase the body of another”, says **Mary Honeyball MEP (S&D, UK)**, rapporteur of the FEMM report on “Sexual exploitation, prostitution and their impact on gender equality”.
- “With the Brussels' Call, we clearly see that the abolition of prostitution is a value shared by many across Europe. For all signatories of the Call, the EU policies on trafficking won't achieve results as long as the impunity of procurers and sex-buyers is not addressed”, says **Mikael Gustafsson MEP (GUE/NGL, Sweden)**.
- “Prostitution is a form of violence, and doesn't belong to a society which aspires to equality between women and men”, says **Nicole Kiil-Nielsen MEP (Greens, France)**.
- “I am convinced that the harmonisation at EU level of policies dealing with prostitution is crucial. It has to go through a reflection on methods for reintegration and support to women willing to exit the system of prostitution”, says **Sophie Auconie MEP (EPP, France)**.
- “The existence of unequal gender power relations is incompatible with the principles and values of equality and respect to the personal dignity enshrined in the EU's founding treaties and the Charter of Fundamental Rights. This is not the Europe of equality, progress and respect we aspire to live in”, says **Antonyia Parvanova MEP (ALDE, Bulgaria)**.

European Women's Lobby
24 February 2015

BRIEFING 1. Prostitution in international and European human rights instruments

UNITED NATIONS

1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others

“Prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are **incompatible with the dignity and worth of the human person**” (Preamble)

Article 1: Punishment for any person who “procures, entices, or leads away, for purposes of prostitution, another person”, or “exploits the prostitution of another person”, even with the consent of that person.

Article 2: Punishment for any person who “keeps or manages, or knowingly finances or takes part in the financing of a brothel” and “knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others”.

Article 6: “Each Party to the present Convention agrees to take all the necessary measures to repeal or abolish any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification.”

1989 Convention on the Rights of the Child

Article 34: “States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse”.

Article 35: “States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”

1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Article 6: “States parties shall take all appropriate measures, including legislation, to **suppress all forms of traffic in women and exploitation of prostitution of women.**”

1992 CEDAW General Recommendation No. 19 on Violence against Women

Comment on article 6 of the CEDAW Convention:

“Poverty and unemployment force many women, including young girls, into prostitution. Prostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence.”

1994 Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children

Violence against women and girl children (43-63)

“Violence against women and girl children is a global phenomenon which cuts across geographical, cultural and political boundaries and varies only in its manifestations and severity. Gender violence has existed from time immemorial and continues up to

the present day. It takes covert and overt forms including physical and mental abuse. Violence against women, including female genital mutilation, wife-burning, dowry-related violence, rape, incest, wife battering, female foeticide and female infanticide, trafficking and prostitution, is a human rights violation and not only a moral issue. It has serious negative implications on the economic and social development of women and society, and is an **expression of the societal gender subordination of women.**"

2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (The Palermo Protocol)

Article 9:

"States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity."

"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."

EUROPEAN PARLIAMENT

European Parliament Report of 17 January 2006 on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation

"Whereas **one of the principal preconditions for international trafficking in women and children is the existence of local prostitution markets** where certain people can and wish to sell and buy women and children for the purpose of exploiting them sexually; whereas traffickers in human beings mainly send women and children from countries in the south to countries in the north and from east to west, where demand from purchasers is strongest"

"Regrets the lack of any analysis of the demand for prostitution in the Member States as a possible motivation for the phenomenon of trafficking; considers that the Commission should carry out a comprehensive study on the impact of the Member States' legislation on prostitution on the number of victims of trafficking".

European Parliament resolution of 2 February 2006 on the current situation in combating violence against women and any future action

"Whereas men's violence against women is an important factor in the lives of those women and girls who become victims of human trafficking for sexual exploitation, including prostitution, or other purposes; whereas surveys show that 65-90% of prostituted women have been subjected to sexual abuse in the past"

"Whereas **marginalisation and poverty are basic causes of prostitution** and of increased trafficking in women"

The EP "urges the Member States to take appropriate measures concerning men's violence against women in their national laws, in particular (...) to **combat the idea that working as a prostitute can be equated with doing a job**".

European Parliament resolution of 26 November 2009 on the elimination of violence against women

“Whereas the tolerance of prostitution in Europe leads to an increase in trafficking of women into Europe for sexual purposes, and to sex tourism”

European Parliament resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women

“Whereas violence against women encompasses a wide range of human rights violations, including: sexual abuse, rape, domestic violence, sexual assault and harassment, **prostitution**, trafficking of women and girls, violation of women’s sexual and reproductive rights, violence against women at work, violence against women in conflict situations, violence against women in prison or care institutions, and several harmful traditional practices; whereas any one of these abuses can leave deep psychological scars, damage the general health of women and girls, including their reproductive and sexual health, and in some instances results in death”

“Recognises the serious problem of prostitution, including child prostitution, in the European Union, and requests further studies into the link between the legal framework in the Member State in question and the form and extent of the prostitution taking place; draws attention to the worrying increase in human trafficking into and within the EU – a trade which targets women and children in particular – and urges Member States to take firm action to combat this illegal practice”

European Parliament resolution of 6 February 2013 on the 57th session on UN CSW: Elimination and prevention of all forms of violence against women and girls

“Whereas harassment and violence against women encompass a wide range of human rights violations such as: sexual abuse, rape, domestic violence, sexual assault and harassment, **prostitution**, trafficking of women and girls, violation of women's sexual and reproductive rights, violence against women at work, violence against women in conflict situations, violence against women in prison or care institutions, violence against lesbians, arbitrary deprivation of liberty, and various harmful traditional practices such as genital mutilation, crimes of honour and forced marriages; whereas any one of these abuses can leave deep psychological scars and involve physical or sexual harm or suffering, threats of such acts and coercion, damage the general health of women and girls, including their reproductive and sexual health, and in some instances result in death”

COUNCIL OF THE EUROPEAN UNION

EU guidelines on violence against women and girls and combating all forms of discrimination against them (General Affairs Council of 8 December 2008)

Violence against women and girls includes, but is not restricted to, forms of physical, sexual and psychological violence (a) occurring within the family (including prenatal selection based on the sex of the foetus (except where medically necessary) and systematic neglect of infant girls; forced marriage; early marriage; violence perpetrated by partners and ex-spouses; acid attacks; dowry violence and "honour" killings, violence and forced suicides; battering; sexual abuse inflicted on female children in the home, including incest; rape by habitual or cohabiting partners; female genital mutilation and other traditional practices harmful to women; (b) occurring within the general community (including rape; sexual abuse; sexual harassment and all forms of gender-related harassment; intimidation at work, in educational institutes

and elsewhere; **procuring and the exploitation of prostitution of others**; modern forms of slavery; femicide; violence against women and girls in conflict and post-conflict situations; trafficking in women for the purposes of sexual exploitation and of all other forms of exploitation); (c) violence against women and girls covers all the acts listed above whether or not perpetrated or condoned by the State.
(original version in French)

COUNCIL OF EUROPE

2005 Council of Europe Convention on Action against Trafficking in Human Beings (entered into force in 2009)

Article 6 – Measures to discourage the demand

“To discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, each Party shall adopt or strengthen legislative, administrative, educational, social, cultural or other measures including (...) preventive measures, including educational programmes for boys and girls during their schooling, which stress the unacceptable nature of discrimination based on sex, and its disastrous consequences, the importance of gender equality and the dignity and integrity of every human being.”

UN SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN

2006 Report of Sigma Huda: “Integration of the Human Rights of Women and a Gender Perspective with a Special Focus on the Demand for Commercial Sexual Exploitation and Trafficking”

“For the most part, prostitution as actually practised in the world usually does satisfy the elements of trafficking. It is rare that one finds a case in which the path to prostitution and/or a person’s experiences within prostitution do not involve, at the very least, an abuse of power and/or an abuse of vulnerability. Power and vulnerability in this context must be understood to include power disparities based on gender, race, ethnicity and poverty. Put simply, **the road to prostitution and life within “the life” is rarely one marked by empowerment or adequate options.**”

“Thus, State parties with legalized prostitution industries have a heavy responsibility to ensure that the conditions which actually pertain to the practice of prostitution within their borders are free from the illicit means delineated in subparagraph (a) of the Protocol definition, so as to ensure that their legalized prostitution regimes are not simply perpetuating widespread and systematic trafficking. **As current conditions throughout the world attest, States parties that maintain legalized prostitution are far from satisfying this obligation.**”

“**Demand** must be understood expansively, as any act that fosters any form of exploitation that, in turn, leads to trafficking.”

“While the human rights of women and children are violated in many forms of trafficking, sex trafficking is a particular form of trafficking in which the human rights of women and children are violated as women and children.”

“Unlike the purchaser of consumer goods produced through trafficked labour, the prostitute-user is simultaneously both the demand-creator and (by virtue of his receipt of the trafficked person) part of the trafficking chain.”

“Buying sex is a particularly gendered act. It is something men do as men. It is an act in which the actor conforms to a social role that involves certain male-gendered ways of behaving, thinking, knowing and possessing social power.”

“The act of prostitution by definition joins together two forms of social power (sex and money) in one interaction. In both realms (sexuality and economics) men hold substantial and systematic power over women. **In prostitution, these power disparities are merged in an act which both assigns and reaffirms the dominant social status of men over the subordinated social status of women.**”

“The demand for commercial sex is often further grounded in social power disparities of race, nationality, caste and colour.”

“As a normative matter, it is clear that **responsibility for the sex-trafficking market lies with prostitute-users, traffickers, and the economic, social, legal, political, institutional and cultural conditions which oppress women and children throughout the world.** It would be a grave injustice to impute responsibility for driving the sex market to its victims themselves. Such a claim is tantamount to victim blaming, and constitutes a further violation of the human rights of trafficking victims.”

“Men do not have a human right to engage in the use of prostituted persons.”

“Where the human rights of trafficking victims conflict with the legal rights granted to prostitute-users, the human rights of trafficking victims must prevail. That is what counts as a human rights approach to sex trafficking.”

BRIEFING 2. Assessment of ten years of Swedish and Dutch policies on prostitution

THE NETHERLANDS¹⁸

In 1 October 2000, the Netherlands lifted the ban on brothels of 1911. Since then, several studies from the Scientific Research and Documentation Centre of the Ministry of Justice (WODC) and from the national police force (KLPD) have studied the impact of the decriminalization of procuring in the Netherlands.

1- The situation of persons in prostitution has worsened.

The study 'Daalder'¹⁹ carried out for the Ministry of Justice unveils that:

- *“There has been no significant improvement of the situation of persons in prostitution”.*
- *“The prostitutes’ emotional well-being is now lower than in 2001 on all measured aspects”.*
- *“The use of sedatives has increased”.*
- Options for leaving the industry were in high demand, while only 6% of municipalities offer assistance.

2- 50% to 90% of the women in licensed prostitution “work involuntarily”.

These data were unveiled in 2008 by the national police force (KLPD) in a study on the sector of legalized prostitution entitled “Keeping up appearances”.²⁰ In this study, the Dutch national police force gives a very worrying assessment of the law decriminalizing procuring. Direct cause of the study is the Sneep-case, where two Turkish-German procurers, together with 30 accomplices, were condemned for exploitation of and violence against more than 100 women in the Netherlands, in Germany and in Belgium. What is striking is that all the women, who have been exploited with extreme violence in the Netherlands, were in the legal, licensed, taxpaying and State sanctioned brothels.

In Amsterdam, according to the national police, it is estimated that there are 8000 women in window prostitution; at least 4000 of them would then be exploited and abused every year.

3- Organised crime kept the control over the legal sector of the sex industry.

In 2011, a deputy mayor of Amsterdam, Lodewijk Asscher, also the new figure of the labour party in the Netherlands, stated that decriminalising procuring has been a “national error”²¹ and that the government has been “reprehensibly naïve”. A report made jointly by the City of Amsterdam and the Ministry of Justice²² shows indeed that a great part of the legal sector of the sex industry doesn't escape exploitation

¹⁸ General source: 'On legalised prostitution in the Netherlands', Karin Werkman, 2011.

¹⁹ Daalder, A. L. (2007). Prostitution in The Netherlands since the lifting of the brothel ban [English version]. The Hague: WODC / Boom Juridische Uitgevers.

²⁰ KLPD (Korps Landelijke Politiediensten) – Dienst Nationale Recherche (juli 2008). Schone schijn, de signalering van mensenhandel in de vergunde prostitutiesector. Driebergen.

²¹ http://www.lemonde.fr/m/article/2011/12/23/pays-bas-flop-de-la-legalisation-de-la-prostitution_1621755_1575563.html.

²² Gemeente Amsterdam, Ministerie van Veiligheid en Justitie; Projectgroep Emergo (2011). Emergo – De gezamenlijke aanpak van de zware (georganiseerde) misdaad in het hart van Amsterdam. Achtergronden, ontwikkelingen, perspectieven. Amsterdam: Boom Juridische Uitgevers.

and trafficking in human beings. Half of the permit-required businesses of prostitution and coffee shops (marijuana) have one or more managers with a criminal record.

4- Decriminalising procuring and legalising sex industry did not prevent from an increase in 'hidden' or 'illegal' prostitution.

In 2010, the RIEC Noord-Holland, a government body in charge of crime prevention, unveils in a study²³ that only 17% of the prostitution advertisements published in newspapers and on the internet are placed by licensed brothels.

SWEDEN²⁴

The Swedish government published in July 2010 an evaluation of its 1999 law which prohibits the purchase of a sexual service (and not the selling of such service).²⁵ The evaluation was led by the Ministry of Justice.²⁶

1- By tackling the demand, the prohibition to purchase sexual services functions as a barrier against the establishment of organized, traffickers and pimps in Sweden.

According to the National Police, the law contributed to the fight against international networks of procurers. By tackling the demand and therefore reducing their possibilities to gain from the exploitation of prostitution, Sweden has discouraged criminal networks to invest on its territory.²⁷

2- The number of persons exploited in street prostitution has halved and there is a general stabilisation of the number of prostituted persons, compared to the significant increase in neighbouring countries.

The evaluation of the Swedish law shows that:

- The number of persons exploited in street prostitution has halved since 1999, while it tripled in Denmark and Norway for the same period.
- Prostitution through the Internet has increased in Sweden as it has in other countries, due to the development generally of online technology. The numbers of individuals that are sold via Internet web pages/ads are much larger in similar neighboring countries such as Denmark and Norway.²⁸
- The proportion of prostituted persons from third-countries did not increase in the same way it exploded in neighboring countries.
- There has been no increase in 'hidden' prostitution. Social services and the police highlight that prostitution cannot completely 'go underground' as it needs some form of publicity to attract sex buyers.

²³ RIEC Noord Holland (19 October 2010). Methodiek 'Inzicht in prostitutiebranche'.

²⁴ General source: 'Briefing on Swedish law and policies on prostitution and trafficking in human beings', Gunilla S. Ekberg B.S.W., JD, 2012.

²⁵ Website of the Swedish government: <http://www.regeringen.se/sb/d/13358/a/149231>.

²⁶ It is interesting to notice that this positive assessment has been made by a government led by the political party which, 10 years earlier, had voted against the law as it was in the opposition side.

²⁷ This deterrent effect has been confirmed by police phone-tapping activities which reveal the lack of 'profitability' of procuring investment in Sweden.

²⁸ In 2007, the Swedish national agency for social affairs studied during 6 weeks the ads posted in the Internet and took inventory of only 400 persons proposing sexual services. In 2008, more than 800 persons in Denmark, and almost 1400 persons in Norway were proposing services on the Internet only. Source: <http://www.assemblee-nationale.fr/13/pdf/rap-info/i3334.pdf> (p. 226).

3- The law proves to have normative effects through the reversal of mentalities in 10 years: there is more than 70% of public support to the law.

While the majority of the Swedish population was opposed to the prohibition of the purchase of a sexual service before the adoption of the law, 10 years later three polls have shown that more than 70% of the population support it fully. The normative effect of the law seems even stronger as support to the law is higher amongst the young people.

4- The prohibition acts as a deterrent for the buyers of a sexual service: there is a decrease of the demand.

According to polls in Sweden, the proportion of men who buy sex has decreased. In 1996, 13.6% of Swedish men said they had bought someone for prostitution purposes. In 2008, it is only 7.8%. This decrease might be overestimated due to the reluctance to admit a crime in a poll. However, a great number of interviewed men said they don't buy sex anymore because of the law. The Swedish police consider that the legislation prevented many sex buyers from taking the plunge.²⁹

²⁹ Since the legislation coming into force in 1999, 4225 men have been apprehended.

BRIEFING 3. Trafficking in human beings in the EU: a gendered issue

WHAT IS TRAFFICKING IN HUMAN BEINGS (THB)?

Trafficking in human beings in the EU: a serious policy issue

- The EU has a new directive on THB since April 2011: Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.
- EU member states have to bring into force its provisions by April 2013.
- The EU has appointed an EU Anti-Trafficking Coordinator. MS should establish national rapporteurs.
- The EU defines THB as a criminal offence. Traffickers can get from 5 to 10 years of imprisonment.

The definition of THB is about exploitation

THB always involves the recruitment or transport or transfer of a person across continents, countries, regions or cities, **for the purpose of exploitation.**

“Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.” (Art 2.3)

→ As long as those forms of exploitation are tolerated, THB will happen to fuel the systems of exploitation.

FACTS AND FIGURES ABOUT EXPLOITATION AND THB

A low risk – high reward activity...

- There are 2.45 million adults and children in exploitation as a result of trafficking at any time.
- Of these, at least 1.39 million are victims of sexual exploitation.

Trafficking in Persons Report 2009, US Department of State

- The profits generated during the exploitation of trafficking victims reach US\$ 31.6 billion annually.
- Victims of sexual exploitation account for US\$ 27.8 billion.
- In the EU, the value of THB amounts to 3 billion euros (including internal THB).

Europol May 2007

→ We need to turn THB into a ‘high risk – low reward’ activity.

Deterring traffickers and exploiters: No demand, no supply, no profit...

The best ways to deter traffickers are to criminalise them and to eradicate the demand for exploitation.

- Consumer demand (including prostitute-users)

- Employer demand

The demand for exploitation (fueling trafficking in persons) proliferates in sector characterised by:

- Informality or illegality and poor regulation
- Low profit margins and low wage
- Low status unskilled work
- Temporary or seasonal employment

Demand can be reduced or fueled by government policies, social and cultural attitudes, and the economics of trafficking.

Addressing the demand

The EU directive suggests MS to take measures to discourage and reduce the demand that fosters all forms of exploitation related to THB (Article 18).

Addressing the demand is about:

- Awareness raising campaigns
- Criminalisation of consumers and employers
- Minimum standards against exploitation (minimum wage, legal age for marriage, prohibition of child prostitution...)

THB is a gendered phenomenon

The EU directive “recognises the gender-specific phenomenon of trafficking, and that women and men are trafficked for different purposes” (recital 2).

This is due to the relative value and roles that societies attach to each gender.

Women are trafficked for different purposes than men

Women are mainly trafficked for sexual exploitation and domestic and care work:

- Women are reported to be victims in more than 80% of trafficking cases
- Women constitute 85% of the victims of trafficking for sexual exploitation

UNODC 2009 Global Report on Trafficking in Persons, and

UNODC Preliminary findings of the human trafficking database (2003)

- In Ireland, migrant women make up 1/3 of elder care labor force and more than 1/3 of those working in private homes.
- They are **vulnerable workers**: lack of employment alternatives, lack of social support networks, fear of being deported...

Walsch & O’Shea

Women and girls are also victims of organ trafficking:

- In a survey performed in India, 71% of donors were female. When they were asked why they had acted as commercial living donors instead of their spouses, the most frequent reason proffered was that the man was the breadwinner and/or that he was ill.

- Commercial living donors are frequently illiterate, which makes them especially vulnerable.

Joint Council of Europe / UN study, *Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs*, 2010

Structural gender inequality leads to women's higher vulnerability to exploitation.

Many women victims might face several forms of exploitation

"In certain cases, the servants are forced to perform other tasks in addition to household-related ones, such as begging, selling in the streets, working in a restaurant, providing sexual services or prostitution."

OSCE, *Unprotected Work, Invisible Exploitation: Trafficking for the Purpose of Domestic Servitude*, 2010

New forms of THB are gendered and build on the tolerated violation of women's rights

- 2009, 'Romanian scandal': Israeli doctors involved in the trafficking of eggs of young poor women in Romania, some of whom were only 15 years old.
- A 16-year-old factory worker was left in critical condition after the procedure
Scott Carny, *Red Market Blog*, "International Baby Market"

Moreover, men and women suffer from trafficking differently

- 95% of female victims said they experienced physical and sexual violence during trafficking.
Stolen Smiles: A summary report on the physical and psychological health consequences of women and adolescents trafficked in Europe, London School of Hygiene and Tropical Medicine.

This is due to gender inequality and the tolerance for violence against women.

An example of the perpetuation of violence against women and violation of women's sexual and reproductive health and rights within THB:

- Women from Nigeria, Ivory Coast and Cameroun, trafficked to Oujda, are forced to become pregnant, so that they are less likely to be deported. Some male migrants said they'd paid higher fee to be related to one of the pregnant women with the goal to claim family reunification under the Spanish law.

Source: FRONTEX

A lack of gendered policies

As THB is gendered, we need gendered policies to tackle trafficking.

EWL 2011 Barometer looks at National Action Plans (NAPs) on violence against women

→ The majority of NAPs on THB are gender blind...

THE ROOT CAUSES OF THB ARE GENDERED

We can reduce the vulnerability of women to THB by:

- Combating violence against women
- Ensuring women an equal access to and control over economic and financial resources
- Promoting respectful sexuality education
- Breaking stereotypes on migrant women, combating racism and developing legal migration paths in order to reduce their risk of becoming undocumented and homeless

The system of prostitution: the biggest drive for THB

- 79% of reported trafficking in human beings is for sexual exploitation

UNODC 2009 Global Report on Trafficking in Persons, and

UNODC Preliminary findings of the human trafficking database (2003)

→ It is urgent to address the system of prostitution in order to stop trafficking for sexual exploitation

The trend of increasing prostitution use is linked to:

- Increasingly consumer-oriented society
- Pushback against changing gender roles
- Greater mobility of populations
- Greater income disparities
- Greater access to prostitution as a result of the internet & a boom in prostitution and sex-related venues

Marttila, 2003 & 2007