

It is time to move from a criminalization model of sex work to a decriminalized model.

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Dear Enda Kenny, Taoiseach, James Reilly, Minister for Health and Children, Alan Shatter, Minister for Justice and Equality and Eamon Gilmore, Tanaiste,

First of all, I want to thank all your offices for quickly replying to my first email.

I have published that letter here.

<http://paulcarr.wordpress.com/2014/02/12/dear-alan-shatter-minister-for-justice-defence-and-equality-on-the-flaws-of-the-joint-oireachtas-committee-on-the-review-of-prostitution-legislation/>

I especially would like to single out the office of James Reilly, Minister for Health and Children, for their reply.

Indeed, it can be said that the question of how we approach the reality of sex work in the Republic of Ireland has public health ramifications.

The World Health Organization issued a document in December 2012 calling for the decriminalization of sex work.

http://apps.who.int/iris/bitstream/10665/77745/1/9789241504744_eng.pdf?ua=1

I refer you to page 8 of that report.

The Open Society Foundations published a document in July 2012 called “10 reasons for decriminalize sex work” in which the decriminalization of sex work is advocated.

<http://www.opensocietyfoundations.org/publications/ten-reasons-decriminalize-sex-work>

I refer you in particular to reason 5.

In Australia, different legal responses to sex work have been employed. These include criminalization in Western Australia, legalization in Victoria and Queensland and decriminalization in New South Wales. Independent research such as the Harcourt study in 2010 have found that, amongst the legislative models used in Australia, the decriminalized legislative model used in New South Wales works best for several reasons including increased condom access and use, more effective outreach services particularly in the evenings when sex workers are at their busiest, the ability of sex workers to organize health services for themselves and so on. It has also been found that STI rates amongst sex workers in New South Wales and in New Zealand are either very low or zero.

Sadly, during the recent Joint Oireachtas Committee on the review of Prostitution Legislation which reported last June, no visit was made to either New South Wales or to New Zealand where sex work is also decriminalized.

In the joint Oireachtas report last June, the chairman, David Stanton, referenced the UNAIDS advisory group report of December 2011. This report advised specifically against adopting the Swedish and Norwegian legislative model of criminalizing the purchase of sex because, among other things, it forced street sex workers in Sweden and Norway to negotiate more hurriedly with potential clients because of the sex worker's fear that her/his client could be arrested for purchasing sex. In other words, the Swedish/Norwegian legislative approach has the effect of driving street sex work underground. That report also specifically called for the decriminalization of sex work as practised in New South Wales and New Zealand. I note that Justice Minister, Alan Shatter, also mentioned this significant international report in his discussion document on the future direction of prostitution legislation published in June 2012.

Link to report below.

http://www.hst.org.za/sites/default/files/20111215_Report-UNAIDS-Advisory-group-HIV-Sex-Work_en.pdf

What David Stanton did not mention in his Joint Oireachtas Committee report on the review of prostitution legislation was that there were two further significant international reports published in 2012 that both called for the decriminalization of sex work.

There was the Global Commission on HIV and the Law report, published in July 2012, which called for the decriminalization of sex work.

<http://hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf>

I want to draw your attention to page 99 of that report where the decriminalization of sex work is recommended. I also want to draw your attention to Page 38 of that report that explicitly criticizes the Swedish model of criminalizing the purchase of sex that David Stanton prefers. Like the UNAIDS advisory group report, the report criticizes the Swedish approach for driving sex work underground and into the hands of pimps and criminal gangs.

There has also been the report, Sex Work and the Law in Asia and the Pacific, published in October 2012, which again advocates the decriminalization of sex work.

<http://www.undp.org/content/dam/undp/library/hivaids/English/HIV-2012-SexWorkAndLaw.pdf>

I believe Minister Reilly will also be interested in reading page 29 and page 30 of that report. It reports that STI transmission rates amongst sex workers in New South Wales and New Zealand are very low and HIV rates in the context of sex work are extremely low or zero.

Just a few days ago, on February 12th, yet another international report was published, this one

by the International Conference on Population and Development.

http://icpdbeyond2014.org/uploads/browser/files/icpd_global_review_report_12_feb_2014.pdf

This report also called for the decriminalization of sex work. I refer you to page 85 of the report. It calls for adult voluntary sex work to be decriminalized.

UN agencies were closely involved in the drawing up of these reports such as the Joint UN Committee on HIV and AIDS, the United Nations Development Programme and the United Nations Population Fund. It is true that these reports do not necessarily represent the views of these organizations. Such disclaimers are par for the course for all UN documents. Consider however that these reports took a number of years to draw up; they are not cooked up overnight by someone with an ideological perspective. They are evidence-based, written and reviewed by experts in the relevant fields, they are based on the review of evidence-based literature and on extensive consultations. Over 1000 written submissions were received for the Global Commission on HIV and the Law investigation for example. These are serious reports that are not to be taken lightly. It saddens me however that David Stanton is already on the record in his final Joint Oireachtas report on the review of prostitution legislation in dismissing the report of the UNAIDS advisory group, published in December 2011, a report that took 3 years to complete.

From a public health perspective, the international consensus is that sex work ought to be decriminalized.

I want now to turn to the legislative regime as pertains in the Republic of Ireland.

I ask that this government move from a model of criminalization that we have at present in the Republic of Ireland to a decriminalized model as operates very successfully in New South Wales and New Zealand.

Accordingly, I ask the government to do the following.

Repeal sections 7,8,9,10 and 11 of the Criminal Law (Sexual Offences) Act that criminalizes soliciting, loitering for the purposes of prostitution, organization of prostitution, living on the earnings of prostitution and brothel keeping.

Repeal Section 23 of the Criminal Justice (Public Order) Act 1994 that criminalizes advertising prostitution.

Repeal Section 2 of the Criminal Law Amendment Act 1885 that criminalizes procuring.

Repeal Section 5 of the Criminal Law (Human Trafficking) Act 2008 that criminalizes soliciting a trafficked person for the purposes of prostitution.

The Republic of Ireland has a number of international obligations. The Council of Europe Convention on Action against Trafficking in Human Beings which the Republic of Ireland ratified

in 2010 requires that action be taken to discourage demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking. However, this Convention does not oblige the Republic of Ireland to adopt a punitive law that would criminalize a sex buyer who buys sex from a trafficked person, whether the sex buyer knows it or not. Article 19 states that each state party *shall consider* adopting such legislative and other measures as *may be* necessary to establish as criminal offences the use of prostitution services, with the knowledge that the person providing such services is a victim of trafficking in human beings.

I invite you to step back for a moment and consider the consequences of criminalizing the purchase of sex from a trafficked person. It is widely understood that the clients of sex workers are at the front line of the fight *against* sex trafficking. For example, in Turkey, there was a hotline for sex trafficking set up in 2005. For the final 6 months of that year, 80% of the phone calls to rescue suspected trafficked persons came from the clients of sex workers. That hotline led to the destruction of 10 trafficking networks and the freedom of 100 women from coercion.

Messrs Shatter, Kenny, Reilly and Gilmore, Section 5 of the Criminal Law (Human Trafficking) Act 2008 is a bad law that needs to be repealed. Bad laws only provide the scaffolding for even worse laws. For example, the sex work abolitionists want to criminalize the purchase of all sex, using section 5 of the 2008 act as a starting point. A similar process is under way in Northern Ireland. The bad law may be replaced by an even worse law. I suggest that the bad law be removed.

Similarly with regard to the 1994 Criminal Law (Public Order) Act, that law is used by Ruhama and the Immigration Council of Ireland and the other participants in the Turn Off The Red Light campaign to present their cause as a Irish Nationalist one since the server of the website escort-ireland.com that advertises the services of sex workers in the Republic of Ireland is based in the UK by necessity. A Republic of Ireland server cannot be used because of the 1994 law. Despicably, the Turn Off the Red Light campaign use this to insinuate often that they are seeking to cast from our shores a British disease of prostitution. Once again, I give you an example of a bad law that is used by proponents of worse laws to further their cause.

Messrs Shatter, Reilly, Kenny and Gilmore, we need root and branch reform of our sex work laws. We need to have the involvement in the design of these laws by sex workers themselves as advocated by the UN reports referenced above. A good law to study is the New Zealand Prostitution Reform Act of 2003 that decriminalized sex work in New Zealand as well as the 2004 Clean Slates Act which enabled sex workers to have criminal convictions relating to prostitution offences removed which would enable the sex worker to more easily leave sex work if she/he so chooses.

Over and above the repeal of the laws above, of course, we need to lay down a new legislative regime, a new infrastructure on the foundation, so to speak. To that end, please study the New Zealand law

New Zealand Prostitution Reform Act 2003

<http://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197815.html>

New Zealand Clean Slate Act 2004

<http://www.legislation.govt.nz/act/public/2004/0036/latest/DLM280840.html>

I will write in more depth about the New Zealand law in a later letter. It has lots of good stuff. For now, I just want to mention that the law in New Zealand allows up to 4 sex workers to work together without needing to apply for registration from the local authority or notify the police. They don't need to give any money to a pimp or a middle man or middle women. They can keep all their earnings. It is called a Small Owner Operated Brothel in the language of the legislation. If the brothel has 5 or more people, registration by the operator with the local civil authority is required. A criminal background check is run on this operator. If it is found that he/she has a criminal record relating to certain offences such as assault, drugs offences and so on, he/she is refused a licence. I just want to mention this as an illustration that the New Zealand law acts with both carrot and stick, carrot insofar it empowers the sex workers to work together, stick insofar as would-be violent and abusive "pimps" will be unable to get registration and therefore work legally.

There is also a strong prostitutes' collective in New Zealand called the New Zealand Prostitutes' Collective. It was founded in 1987. The following year, it received Ministry of Health funding. I suggest you speak with the National Co-ordinator of the New Zealand Prostitutes' Collective, Catherine Healy, to learn more about the law on sex work in New Zealand.

Before signing off for now, I want to mention one more thing. I understand that Alan Shatter has written for the third time to the 4 orders of nuns that used to run the human trafficking operation known as the Magdalen laundries, the last of which only closed in 1996, to ask for a contribution to the redress scheme for the survivors of decades of abuse there. So far, they have refused to give anything. I want to point out to you, that the government gave one of the orders, the Good Shepherd Sisters, 14.4 million euro from 2006 to 2011 via the Health Service Executive.

<http://www.paddydoyle.com/laundry-orders-run-sex-workers-aid-group/>

Ruhama, one of the organizations behind the Turn Off the Red Light campaign, that is campaigning for the criminalization of the purchase of sex, as is done in Sweden, was founded by 2 of these orders, the Good Shepherd Sisters and the Sisters of Our Lady of Charity in 1989. Your government gave them over 300,000 euro in 2012 according to accounts filed with the Company Registration Office.

Both Ruhama and the Health Service Executive – Women's Health Project work with women in prostitution but both these organizations take an ideological, as opposed to a non-judgemental view, of sex work, regarding all sex work as violence and rape. The vast majority of sex workers in the Republic of Ireland do not want to go near them.

Accordingly, I propose that a sex worker led collective be set up in the Republic of Ireland, along

the lines of the New Zealand Prostitutes' Collective and that all government funding that presently goes to Ruhama and the Women's Health Project be diverted to this new Collective/Union. This Sex Workers' Collective/Union will work for the sex workers, will be of the sex workers and will be run by the sex workers.

Best,

Paul Carr

A Concerned Citizen of the Republic of Ireland.