



The EU Mutual Learning Programme in Gender Equality

Combatting trafficking in women and girls for the purpose of sexual exploitation

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Comments Paper - Ireland



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Combating trafficking in women and girls for the purpose of sexual exploitation

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1. Relevant county context

The Republic of Ireland (hereafter Ireland) has a robust legislative and policy framework on trafficking in human beings. In 2016, the government published its second Nation Action Plan to Prevent and Combat Human Trafficking (hereafter the Action Plan). Ireland seeks to strike an effective balance between ensuring a law and order response to preventing and prosecuting this crime, and that of providing victim-centred strategies to protect trafficked persons. In order to achieve these objectives, the government deploys a multi-agency structure that facilitates state and civil society collaboration on trafficking policy at the domestic and international level. Specifically, the government uses the outcomes from these interdisciplinary collaborations to develop the National Referral Mechanism – a framework through which state bodies fulfil their obligations to protect and promote victims' human rights.

1.1. Legislation

Ireland's legislative provisions to prosecute cases of sex trafficking draw on existing domestic and international normative standards. In broad terms, Ireland's principle legislation to combat sex trafficking comprise:

- The Criminal Law (Human Trafficking) Act 2008;
- The Criminal Law (Human Trafficking) (Amendment) Act 2013 and
- The Criminal Law (Sexual Offences) Act 2017.

1.2. Multi-agency coordination and prevention

Ireland's multi-agency system to prevent sex trafficking comprises an interdisciplinary and multi-agency consortium. The consortium develops: (1) the National Referral Mechanism, (2) awareness-raising and training, (3) child trafficking prevention strategies and (4) sexual exploitation prevention strategies.

1.3. International evaluation

These initiatives notwithstanding, international evaluations have criticised Ireland's progress. While the 2017 Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) Evaluation Report on Ireland acknowledged Ireland's progress, it found that Ireland had not sustained these efforts, and identified areas requiring immediate government action to ensure victims' rights and protections.

Allied to this, the 2018 United States Department of State Trafficking in Persons Report (the TiP Report) echoes these concerns, stating 'the Government of Ireland does not fully meet the minimum standards for the elimination of trafficking: however

it is making significant efforts to do so'.¹ Significantly, the TiP Report observed that Ireland did not 'report any convictions in 2017 for sex trafficking ... under the anti-trafficking act'.² Thus, the State Department downgraded Ireland to a Tier 2 country.

1.4. Data analysis improvements

Ireland has revised how it classifies victims of trafficking in its statistics in the period 2013 to 2017 inclusively. For example, Ireland has also revised how it classifies child victims of sex trafficking. Previously, Ireland included data on all cases of child sexual exploitation in Ireland, 'deeming them to be trafficking', arguing that this gave 'a more accurate picture of the extent of trafficking in Ireland'. Now, Ireland's data excludes crimes prosecuted under section 3(2) of the Child Trafficking Act and Pornography Act 1999, and no longer includes all cases of child sexual exploitation as incidences sex trafficking in minors.

The revised data has uncovered some important, new trends. To cite some examples, during the five-year period from 2013 to 2017 the total number of detected victims of trafficking in Ireland was 283 with 75 of those occurring in 2017. In 2013, the detected cases of sex trafficking showed a female-to-male ratio of 26 / 2. In 2017, the detected cases of sex trafficking showed a decrease in the female-to-male ratio of 42 / 30. These figures reveal also that the numbers of minors involved in sex trafficking in Ireland dropped from four in 2013 to three in 2017 (Department of Justice and Equality 2017).

The revised data show also that during this five-year period, 47% of all victims of trafficking in Ireland came from the European Economic Area (EEA) zone (excluding Ireland), followed by 31% from African nations and 12% from Asian nations. The data reflect that 'African and South American victims are most likely to be female at rates of 8:1 respectively, while the gender divide within the EEA or Asian victims is almost 50/50'. Over this five-year period, sexual exploitation was the most common form of exploitation among trafficked victims at 48% with female-to-male ration of 26:1. By 2017, however, the data show that African victims outnumber victims from the EEA for sexual exploitation and that the female-to-male ratio has narrowed to 58/ 49.³

2. Policy debate

Ireland's policy on sex trafficking has evolved against a backdrop of intense political disagreements about the state's prostitution regime (Ward 2010). Researchers observe that while the Irish government at the beginning of the 21st century denied that sex trafficking was happening in Ireland, NGOs argued vociferously that trafficking – and in particular sex trafficking – was a problem in Ireland and that it was inextricably linked to the proliferation of Ireland's sex industry (Ward and Wylie 2014).

¹ Available at: <https://www.state.gov/j/tip/rls/tiprpt/countries/2018/282676.htm>

² Ibid.

³ This Department of Equality and Justice's revised classification is available at: www.blueblind.gov.ie

2.1. Conflating sex trafficking and ‘voluntary’ sex work

It is impossible to reflect upon trafficking policy debates in Ireland without giving due consideration to the role that the Turn off the Red Light (TORL) campaign⁴ – a radical feminist-inspired neo-abolitionist coalition – played in the tone and tenor of that process (FitzGerald and McGarry 2016). TORL invoked the radical feminist view of prostitution as the absolute embodiment of patriarchal male privilege and evidence of women’s global exploitation (FitzGerald and McGarry 2018). In 2009, TORL instigated its campaign. It recommended that the government criminalise sex purchase because the ‘normalisation’ of prostitution in Ireland had led to an increase in the demand for trafficked women’s sexual services (McGarry and FitzGerald 2018). Consequently, TORL began to lobby the Irish government to adopt Swedish-style law to criminalise sex purchase as a way to tackle sex trafficking in Ireland (Ward and Wylie 2014).

2.2. Public policy consultation process

In 2012, the Irish government announced that it wished to initiate a public consultation to establish whether Ireland needed to amend its legislation on prostitution.⁵ While on the one hand, the government accepted written submissions on legislative change from all areas of civil society. On the other hand, however, it invited specific experts only to give oral representation during the committee hearings. TORL dominated public discourse and debate during and after the consultation process. Specifically, it did this by determining ‘what’ the problem of sex trafficking and prostitution was in Ireland, ‘who’ had the authority to speak about it and ‘how’ Ireland should respond to and address it (McGarry and FitzGerald 2017).

In 2013, the Joint Oireachtas Committee (a cross-parliamentary committee) released the consultation’s findings and recommended Ireland criminalised sex purchase. This introduced a step change in the Ireland’s policy responses to sex trafficking. Ultimately, these proposals and the policy environment underpinning them paved the way for in the Criminal Law (Sexual Offences) Act 2017 which established Ireland’s current and future policy responses to sex trafficking.

3. Good practice examples

Examples of Ireland’s good practice are as follows:

- Ireland’s multi-agency structure comprises three state actors, namely: (1) The Department of Justice and Equality’s Anti-Human Trafficking Unit (AHTU), which coordinates policy on human trafficking and collaborates with other government and non-government agencies (NGOs); (2) The Human Trafficking Investigation and Co-ordination Unit (HTICU) is part of the Garda National Protective Services Bureau (Police) and (3) The Anti-Human Trafficking Team (AHTT) of the Health Service Executive (HSE), offering individual care plan for each victim of human trafficking;

⁴ TORL is a coalition comprising feminists, health care professionals, non-governmental organisations (NGOs) from civil and religious society and individuals. TORL membership available at <http://www.turnofftheredlight.ie/about/whos-involved/>

⁵ Prostitution was not an offence under the current Irish law, ss. 7 to 11 of the Criminal Law (Sexual Offences) Act 1993. Furthermore, section 5 of the Criminal law (Human Trafficking) Act 2008 makes ‘soliciting or importuning from a trafficked person a punishable offence’.

- Ireland's consultative structure comprises over 70 different governmental and NGOs. This includes an interdepartmental High Level Group established by the Minister of Justice and Equality to engage with NGOs and international organisations in a roundtable forum to exchange ideas and experience on best practice;
- Five interdisciplinary working groups provide different perspectives on trafficking and help to institutionalise a more joined-up response to the issue at the state level. These take a strong collaborative approach to training, research and public awareness, particularly in sex trafficking in women and girls;
- Ireland has robust awareness-raising strategies e.g. the Blue Blind Campaign. Public awareness reaches also into several public arenas e.g. Irish schools, national sports organisations, transportation networks, cultural festivals and national radio stations. Project REACH is a good example of programmes focused on women and girls who have been or may be at risk of being trafficked into prostitution;
- The Garda National Protective Services Bureau includes the Human trafficking Investigation and Co-ordination Unit which means that law enforcement no longer deal with sex trafficking as an immigration issue and
- Ireland has provisions that allow child victims up to the age of 18 give to evidence via an out-of-court video recording.

4. Transferability aspects

- Spain's Comprehensive Plan to Fight against Trafficking in Women and Girls for Sexual Exploitation (2015-2018) contains measures to eliminate harmful sexist stereotypes and includes the media and other state and civil society actors to achieve this objective;
- Spain encourages specialised organisations to participate in providing victims of sex trafficking with assistance;
- Spain has specialised housing and supports for victims of sex trafficking, including children;
- Spain has a Government Delegation for Gender Based Violence that is involved in improving communication on sex trafficking and
- Spain has a National Rapporteur who works to link civil and state actors and to improve communication.

5. Conclusions and recommendation

The current emphasis in Ireland (and in other EU Member States) on criminalising sex purchase and targeting voluntary prostitution to tackle sex trafficking is unlikely to generate the scale of change needed to end sex trafficking in Ireland or at the European level. I recommend, specifically in relation to preventing and prosecuting sex trafficking, that:

- Measures to prevent trafficking at source are properly informed by critical, empirical research that explores all factors that result in trafficking. This entails acknowledging that trafficking in women and girls is rooted in broader process of globalisation, gender inequalities, violence against women, poverty and the political economic etc.;
- Projects to address root causes of sex trafficking and to raise awareness of trafficking in vulnerable communities do not conflate issues of trafficking with those of illegal migration or voluntary sex work;
- The discretionary powers given to the Irish police in identifying victims of sex trafficking and referring them to appropriate supports should be revised and include NGOs where appropriate and
- Frontline staff must receive the appropriate and constant training in the exercise of their powers and avoid entrenching racial, ethnic, gender and socio-economic stereotypes.

I recommend, specifically in relation to providing protection and assistance to victims, that:

- Legislation and amendments to legislation set out clearly statutory provisions and procedures for providing medical and legal assistance to *all* victims of trafficking;
- Any such permanent scheme be properly informed by independent research that is free from moral censure;
- Schemes to house victims with individuals in Ireland's asylum system be eliminated;
- Female victims must be housed in separate, gender-sensitive accommodation and
- Repatriation schemes for victims of trafficking are properly informed about and take into account the difficulties and dangers associated with returning victims to their countries of origin.

I recommend, more broadly, that:

- EU governments need to invest in and identify opportunities for collaborative research across institutions, agencies and individuals domestically and internationally on all aspects of trafficking network (e.g. traffickers, their modus operandi, gender dimensions, inequalities, the role of the dark net, cybercrime etc.);
- Responses to sex trafficking must be based on the principles of social justice that prioritise individuals' human rights and can respond to different women's 'lived' experience of trafficking and
- Sex trafficking is a transnational crime. Ireland could benefit from closer cooperation with other EU jurisdictions to investigate and prosecute trafficking-related crimes. Ireland does not participate in the EU Joint Investigation Team (JITs) initiative.⁶ Ireland is a common law jurisdiction and this raises compatibility

⁶ A JIT is an international cooperation tool based on an agreement between competent authorities - both judicial (judges, prosecutors, investigative judges) and law enforcement - of two or more states, established for a limited duration and for a specific purpose, to carry out criminal investigations in one or more of the involved states.

issues in criminal procedures when cooperating with other EU jurisdictions. These difficulties notwithstanding, if Ireland explored ways that it could overcome these obstacles this would facilitate more efficient coordination of investigations and prosecutions of sex trafficking in cases with a cross-border dimension.

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