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Written evidence submitted by Freedom United (HUM0023)

This written evidence is being submitted by Freedom United,¹ an international anti-trafficking NGO, and addresses the second point in the Terms of Reference: How effective is the UK's approach to discouraging the demand that leads to trafficking?

Given the explicit reference to “discourage demand that fosters trafficking for sexual exploitation” outlined in the Call for Evidence, this submission will only focus on this one form of trafficking.

In providing evidence to support answering this question, this submission will cover the following:

- An overview of the predominant legal model purporting to ‘end demand’ for sexual exploitation
- Evidence from Northern Ireland
- Beyond addressing demand: holistic approaches to tackling trafficking for sexual exploitation
- Recommendations

1. An overview of the predominant legal model purporting to ‘end demand’ for sexual exploitation

1.1 Sex work describes an informed transaction between consenting adults engaging in sexual activities. Like in other labour sectors where trafficking and forced labour occur, trafficking for sexual exploitation happens when coercion, threat and manipulation are present, and the threshold is met under the definition set out in the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.²

1.2 Regulatory regimes governing sex work fall under four broad approaches: partial/full criminalisation, legalisation, ‘end demand’ models also commonly known as the Nordic model, and decriminalisation. Under criminalisation approaches, the sale of sexual services and surrounding activities are criminalised. A system of partial criminalisation is present in England, Wales and Scotland today, with the exchange of money for sexual services being legal whilst surrounding activities, such as soliciting for prostitution and brothel-keeping, are criminalised.³

1.3 In 2021, the All-Party Parliamentary Group on Commercial Sexual Exploitation released a report⁴ on trafficking and sexual exploitation in the UK arguing that “the greater the level of demand, the greater the scale of sex trafficking”⁵ with recommendations for an ‘end demand’ legislative model to be implemented in England, Wales and Scotland.

1.4 ‘End demand’ models are termed as such due to their aim to reduce the demand for sexual services and so, it is claimed, reduce trafficking for sexual exploitation. This model, present in Northern Ireland, criminalises clients and third parties while ostensibly decriminalising people who sell sexual services. Third parties include “managers, brothel keepers, receptionists, maids, drivers, landlords, hotels who rent rooms to sex workers and anyone else who is seen as facilitating sex work”.⁶

1.5 In practice, ‘end demand’ models fail to protect sex workers from trafficking and exploitation, prevent trafficking victims from seeking support from authorities, and there is no evidence to suggest that the demand for trafficking for sexual exploitation is reduced under partial criminalisation models.⁷ As UNAIDS notes, “The legal status of sex work is a critical factor defining

¹ <https://www.freedomunited.org/>

² <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

³ <https://prostitutescollective.net/prostitution-what-you-need-to-know-briefing/>

⁴ <https://www.appg-cse.uk/wp-content/uploads/2021/04/Bust-the-Business-Model.pdf>.

⁵ <https://www.appg-cse.uk/wp-content/uploads/2021/04/Bust-the-Business-Model.pdf>.

⁶ <https://nswp.org/sites/default/files/Policy%20Brief%20The%20Decriminalisation%20of%20Third%20Parties%2C%20NSWP%20-%202016.pdf>.

⁷ https://make-the-switch.org/wp-content/uploads/2021/10/ImpactofEndDemand_Final_0921.pdf ;

<https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/long-read-how-nordic-model-france-changed-everything-sex-workers/>; <https://www.amnesty.org/en/wp-content/uploads/2022/02/EUR2951562022ENGLISH.pdf>;

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the extent and patterns of human rights violations, including violence against sex workers. Where sex work is criminalized, violence against sex workers is often not reported or monitored, and legal protection is seldom offered to victims of such violence”.⁸

1.6 Conservative London Assembly Chair, Andrew Boff, concluded in his 2012 report investigating the policing of sex work and trafficking for sexual exploitation in London that evidence collected pointed to the partial criminalisation of sex work as an ineffective means of tackling human trafficking in the city. The report found that given the unclear position of sex work under domestic law as only partially criminalised thus partially legal, it is the only area of employment that forces those engaging in off-street sex work to work alone in dangerous conditions that leave them more vulnerable to exploitation, instead of encouraging the safer environment offered by working together due to the risk of facing brothel-keeping charges and criminalisation.⁹

1.7 Under ‘end demand’ models, sex workers are forced to take high-risk decisions on clients in short spaces of time due to pressures on clients who are criminalised. This creates a dynamic of increased dependence on clients that disempowers sex workers. Thus, sex workers’ bargaining power with clients is diminished and they may be forced to accept clients they may have otherwise rejected for fear of violence, abuse or exploitation.¹⁰

1.8 A case study collected by the English Collective of Prostitutes exemplifies how the criminalisation regime on sex work can prevent those at risk of trafficking from seeking support from authorities given their concerns of being treated as someone who has broken the law, rather than an individual in need of protection from exploitation:

1.9 Ms M from Romania was arrested for loitering and soliciting in Haringey, London. She was convicted unjustly on a number of occasions for example, on one occasion because her friend was carrying condoms and on another because she was waiting at a bus stop in the red-light area. [...] At the same time, Ms M was being threatened by a group of men who were trying to force her to work for them. When she went to report the threats to the police they said, “are you telling us you are working as a prostitute? Because if so, we will arrest you”.¹¹

2. The impact of the end demand model in Northern Ireland

2.1 The adoption of ‘end demand’ legislation governing sex work in Northern Ireland serves as a model from which the rest of the UK can adopt learnings with regards to reducing the demand for trafficking for sexual exploitation.

2.2 Four years following the adoption of Article 64A of the Sexual Offences (Northern Ireland) Order (2008),¹² research commissioned by the Northern Irish Ministry of Justice found that criminalising the purchase of sexual services had led to a “200% increase threatening behaviour in clients. In the south, it led to an increase of violent crime against sex workers by 92%.”¹³

2.3 Furthermore, the research found that:

...“there have been few arrests, prosecutions and convictions under Article 64A and the two convictions that have ensued have had nothing to do with either human trafficking for sexual exploitation or prostitution. Furthermore, the small numbers of cases involved in the Northern

<https://www.opensocietyfoundations.org/voices/false-promise-end-demand-laws>

⁸ <https://www.unaids.org/en/resources/documents/2014/Sexworkers>

⁹ <https://www.nswp.org/sites/nswp.org/files/Report-on-the-Safety-of-Sex-Workers-Silence-on-Violence.pdf>.

¹⁰ <https://www.swarmcollective.org/blog/2019/9/20/nordic-model-in-northern-ireland-a-total-failure-no-decrease-in-sex-work-but-increases-in-violence-and-stigma>; Mac. J., Smith. M., (2018). *Revolting prostitutes. The fight for sex workers’ rights*. London, Verso Books; https://www.unaids.org/sites/default/files/media_asset/06_Sexworkers.pdf

¹¹ <https://prostitutescollective.net/sex-workers-are-getting-screwed-by-brexit/>

¹² <https://www.legislation.gov.uk/nisi/2008/1769/article/64A>

¹³ <https://sexworkersallianceireland.org/press-release/demand-for-sex-work-has-not-decreased-in-northern-ireland/>

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Ireland data make it difficult to suggest that the law has had any effect on human trafficking with any degree of statistical accuracy.”¹⁴

2.4 Indeed, the findings concluded that end demand legislation had the opposite intended impact of in fact increasing both supply and demand for sexual services in certain contexts:

“...a majority of clients in Northern Ireland (53.5%) stated that the law has made no difference to how often they purchase sex and they will continue to purchase sex with the same frequency. A further 27.1% are likely to continue to purchase sex albeit at a reduced level. Only a minority of clients in Northern Ireland (11.6%, n=15) are likely to be dissuaded from purchasing sex because of the law.”¹⁵

3. Beyond addressing demand: holistic approaches to tackling trafficking for sexual exploitation

3.1 While mitigating the demand for trafficking for sexual exploitation is part of the UK’s responsibility under legal instruments it is party to, the UN Human Rights Office of the High Commissioner has explicitly called for states to mitigate vulnerabilities to human trafficking created by weak enforcement of ensuring rights-holders’ access to social, economic and labour rights that must be realised if anti-trafficking frameworks are to be effective.¹⁶ Amongst these, taking measures to alleviate poverty and “legal and social measures to ensure labour rights, including a minimum wage that enables an adequate standard of living”¹⁷ are recommended approaches to building communities’ resilience to trafficking.

3.2 Given the status of sex work as partially legal in England, Wales and Scotland, ensuring sex workers are protected under national labour laws would help protect these workers from trafficking and empower victims to seek support from authorities.

3.3 As noted in the Convention on the Elimination of All Forms of Discrimination against Women’s general recommendation No. 38: “Where workers are organized, **where labour standards for wages, working hours and conditions and health and safety are monitored and enforced** and where economic and social rights, as well as changes to tax laws so that States can finance the public services that women need, are adequately implemented, **the demand for the labour or services of trafficked persons is markedly lower.**”¹⁸

4. Recommendations

- This submission recommends that the UK government review the regulatory regime governing sex work in England, Wales and Scotland, and pass legislation to fully decriminalise sex work, including the decriminalisation of clients and third parties, to support a human rights-based anti-trafficking strategy.
- In the development of a new modern slavery strategy, the Home Office should ensure sex workers are meaningfully included in the consultation process to determine what prevention strategies to address trafficking for sexual exploitation are most effective in this labour sector.

¹⁴ <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/report-criminalisation-paying-for-sex.pdf>

¹⁵ <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/report-criminalisation-paying-for-sex.pdf>

¹⁶ https://www.ohchr.org/sites/default/files/Documents/Publications/FS36_en.pdf

¹⁷ https://www.ohchr.org/sites/default/files/Documents/Publications/FS36_en.pdf

¹⁸ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/324/45/PDF/N2032445.pdf?OpenElement>

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- As a matter of urgency, police must cease reporting victims of trafficking for sexual exploitation to immigration enforcement and the Home Office must cease detaining all potential and confirmed trafficking survivors under immigration powers in order to encourage trafficking survivors to seek support from authorities and assist in developing a more accurate picture of trafficking prevalence.
- Furthermore, this submission recommends that the UK government address the structural drivers of trafficking for sexual exploitation and establish sustainable routes out of sex work for those who wish to leave, including migrant workers with insecure immigration status.

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