

## **Section 14 of the Policing and Crime Act 2009 A Crucial Step Towards Ending Commercial Sexual Exploitation**

This joint statement is made by the UK's leading violence against women, women's and human rights organisations. We are campaigning in support of Section 14 of the Policing and Crime Act 2009 because we believe that it will save women's lives by helping to reduce demand for prostitution and combating trafficking and other serious and organised crime.

### **SUMMARY STATEMENT**

Section 14 offers a unique opportunity to tackle the demand for vulnerable women, men and children for the purposes of prostitution, as required by international human rights law. This approach has been shown to be effective in other countries such as Norway and Sweden in tackling trafficking for sexual exploitation and in advancing gender equality. However, in order to be effective in reducing demand for commercial sexual exploitation, there needs to be:

- a concerted **publicity campaign** to raise awareness of the new offence and the harm caused by prostitution to those involved, and to the status of women in society as a whole; and
- a commitment from agencies in the criminal justice system, particularly the police and Crown Prosecution Service to the **effective investigation and prosecution** of this offence.

### **STATEMENT IN FULL**

#### **Prostitution is violence against women**

We understand that prostitution is a form of violence against women. International and national studies show that for the vast majority of prostituted women, men and children the experience is one that involves physical, mental and sexual violence which traumatises and de-humanises, causing significant and long-lasting physical and emotional harm.

Research carried out on the harm caused by prostitution found that:

- 71% of women interviewed had experienced physical assault;
- 63% had experienced rape; and
- 68% met the criteria for post-traumatic stress disorder. This figure is in the same range as that for combat veterans and survivors of torture.<sup>1</sup>

A comprehensive analysis of routes into prostitution identified that:

- Certain vulnerable groups of girls and women were more likely to become involved in prostitution; these were those who had suffered physical or sexual violence or neglect.
- This group were further marginalised by experiences which included running away from abusive situations, being in local authority care, being involved in crime, drug addicted and being excluded from education.
- These girls and women were then 'facilitated' into prostitution as a result of grooming by pimps or other procurers<sup>2</sup>.

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<sup>1</sup> Farley, M., 2003. 'Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder'. In *Journal of Trauma Practice*, 2:3/4.

<sup>2</sup> Matthews, R., 2008. *Prostitution, Politics and Policy*. London: Routledge.

75% of those involved in prostitution in Britain entered prostitution before their 18<sup>th</sup> birthday.<sup>3</sup> As the Court of Appeal noted in *R v Massey [2007]*<sup>4</sup> those involved in prostitution “**are often vulnerable young women with disturbed backgrounds, who have never known a stable relationship or respect from others and are therefore prey to pimps. It is all too easy for such a person to fall under the influence of a dominant male, who exploits that vulnerability for financial gain.**”

It is evidence like this that led Sigma Huda, the former UN Special Rapporteur on Trafficking to conclude that: “Prostitution as it is actually practised in the world 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 experience does 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.”<sup>5</sup>

The exploitation of women through prostitution is, therefore, a form of violence against women as defined in the UN Declaration on the Elimination of Violence against Women (CEDAW).<sup>6</sup> This definition has been adopted by the Government in its development of a national strategy on violence against women. Articles 5 and 6 of CEDAW require States, including the UK, to challenge social attitudes that tolerate discrimination and take all appropriate measures to tackle trafficking and the exploitation of prostitution.<sup>7</sup>

In a recent case in the European Court of Human Rights on domestic violence, the Court concluded that a State's failure to protect women against violence was discrimination because it breached their right to equal protection of the law<sup>8</sup>.

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others recognises that prostitution and trafficking are “incompatible with the dignity and worth of the human person”. Article 9.5 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) requires States to “discourage the demand that fosters all forms of exploitation of persons, especially women and children that leads to trafficking”. The Council of Europe Convention on Action Against Trafficking in Human Beings<sup>9</sup> also requires States to analyse the factors that result in women being trafficked and suppress them, including the demand to sexually exploit women.

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<sup>3</sup> Research indicates that the average age of first involvement in prostitution in the UK is 15 years old, see page 16 of: Home Office, 2004. *Paying the Price: A Consultation Paper on Prostitution*. London: UK Government [http://www.homeoffice.gov.uk/documents/paying\\_the\\_price.pdf?view=Binary](http://www.homeoffice.gov.uk/documents/paying_the_price.pdf?view=Binary)

<sup>4</sup> EWCA Crim 2664. This case involved an appeal against conviction under section 53(1) of the **Sexual Offences Act 2003**.

<sup>5</sup> UN Special Rapporteur on Trafficking in Persons, Especially Women and Children from 2004 to 2008 in Integration of the human rights of women and a gender perspective, United Nations. E/CN.4/2006/62.

<sup>6</sup> The UN Declaration on the Elimination of Violence against Women defines violence against women in Article 1 as: “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” (A/RES/48/104 – 1993).

<sup>7</sup> General Recommendation No. 19 (11th session, 1992) goes further in describing the positive obligations on States to eliminate gender based violence (including sexual violence, forced prostitution and trafficking) and makes clear that States may be responsible for private acts if they fail to act with due diligence to prevent the violation of rights or to investigate and punish acts of violence.

<sup>8</sup> **Opuz v Turkey [2009]** (*Application no. 33401/02*) para 191.

<sup>9</sup> CETS No. 197/2005.

If we want to secure gender equality and enable girls and women to live lives free from discrimination and violence we need to eliminate the demand to sexually exploit women, children and men.

### **Tackling demand reduces prostitution**

Countries which have legalised the sex industry have seen increases in the number of women who are trafficked. The legalisation of the sex industry also increases associated criminal activity, such as organised crime. In countries where the sex industry is legalised there is clear evidence of the involvement of organised crime networks in both the 'legal' and 'non-legal' sectors. In Queensland, Australia, the number of criminal offences linked to prostitution increased from 362 in 2000 to 6,000 in 2005-6. In Victoria, the first state in Australia that legalised brothels, the Chief of Police told a parliamentary committee that organised crime gangs had become entrenched within the 'legal' prostitution industry<sup>10</sup>. In Europe the countries that have legalised the sex industry have the highest numbers of trafficked women. Estimates of the number of trafficked women of those exploited through prostitution is never less than 50% in the Netherlands and reaches as high as 90% in Germany<sup>11</sup>. A review carried out by the German Federal Government into the effects of legalising the sex industry in Germany concluded that the legislation had failed to deliver any benefits to individuals who are prostituted: "The Prostitution Act has thus up until now also not been able to make actual, measurable improvements to prostitutes' social protection. As regards improving prostitutes' working conditions, hardly any measurable, positive impact has been observed in practice.... The Prostitution Act has not recognisably improved the prostitutes' means for leaving prostitution. There are as yet no viable indications that the Prostitution Act has reduced crime. The Prostitution Act has as yet contributed only very little in terms of improving transparency in the world of prostitution...."<sup>12</sup>

Compare this with Sweden, a country that introduced legislation ten years ago which criminalises the purchase of a sexual service. Those who are prostituted in Sweden are not criminalised<sup>13</sup>. This approach of discouraging demand has resulted in a considerable decrease in the number of prostituted individuals and a corresponding decrease in the number of individuals trafficked. Indeed evidence from Sweden's National Rapporteur for Trafficking in Human Beings, Kajsa Wahlberg, indicates that organised crime networks and traffickers no longer see Sweden as an 'attractive market', instead focusing their attention on counties such as Germany, the Netherlands and Denmark where the purchase of sexual services is legal<sup>14</sup>.

International law requires States to "discourage" the demand to sexually exploit women, children and men through the adoption of laws like Section 14 and the Swedish law that prohibits the purchase of sexual services. This approach has been successfully replicated in countries as diverse as Norway, Iceland, South Africa and South Korea.

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<sup>10</sup> Jeffreys, S., 2009. *The Industrial Vagina: The Political Economy of the Global Sex Trade*. Oxford: Routledge.

<sup>11</sup> Monzini, P., 2005. *Sex Traffic: Prostitution, Crime and Exploitation*. New York: Zed Books.

<sup>12</sup> Report by the Federal Government on the Impact of the Act Regulating the Legal Situation of Prostitutes (2007) page 79, Publikationsversand der Bundesregierung, [www.bmfsfj.de](http://www.bmfsfj.de)

<sup>13</sup> See Sweden's *Act on Violence Against Women*, which was enacted on 1<sup>st</sup> July 1998.

<sup>14</sup> In her 2004 report the National Rapporteur on Trafficking in Human Beings, Kajsa Wahlberg concluded that the law forbidding the purchase of sexual services "continues to function as a barrier against the establishment of traffickers in Sweden" (NCID, 2004, p35). See also: Ekberg, G., 2004. *The Swedish Law That Prohibits the Purchase of Sexual Services* <http://action.web.ca/home/catw/attach/Ekberg.pdf>

## **Users and abusers**

Evidence from research carried out in London<sup>15</sup> and Scotland<sup>16</sup>, as well as comprehensive international research, shows that men who purchase sexual acts come from a broad range of social, economic, ethnic and religious backgrounds. They have considerable knowledge of the violence and coercion that surrounds prostitution. Of 103 London men interviewed who had bought sexual acts 48% believed that most women in prostitution were victims of pimps while 25% had encountered a woman in the sex industry who they believe was forced into a brothel, massage parlour or another type of prostitution. Some of the men described pimps as abusive, controlling, opportunistic, coercive and violent. The men who buy individuals in prostitution were also asked about their awareness of deception and trafficking for prostitution. 55% believed that a majority of women in prostitution were lured, tricked or trafficked. 36% said they thought that the women in prostitution they used had been trafficked to London from another country. Several men reported that the women themselves informed them that they had been trafficked. None reported this to the police. Evidence from research done in Scotland paints a similar picture, in that study 50% of the 110 men interviewed stated that they believed that women in prostitution are victimised by pimps.

## **About Section 14**

Section 14 of the Policing and Crime Act 2009 introduces section 53A of the Sexual Offences Act 2003. This creates a new criminal offence in England and Wales of paying for the sexual services of a prostitute who is or has been subject to force. An offence under section 53A (64A) is committed if:

- a) A person (A) makes or promises payment for the sexual services of a prostitute (B) and;
- b) a third person (C) has engaged in exploitative conduct of a kind likely to have induced or encouraged B to provide the sexual services for which A has made or promised payment and;  
C engaged in that conduct for or in the expectation of gain for C or another person (apart from A or B).

Section 14 will reframe the debate on prostitution, focusing attention on those who purchase sexual services and deterring them from doing so. A man who is not deterred, who buys sex from a woman who is being exploited, will risk prosecution. For the first time, the word that is so often used in relation to prostitution, “choice”, will come to mean something to all those women, children and men who are prostituted, as the empowered buyers who choose to purchase another human being for sexual use will risk being held accountable for the devastating consequences of their actions.

## **STATEMENT SIGNATORIES**

The following organisations believe that Section 14 is necessary to tackle demand for commercial sexual exploitation and protect women from violence and discrimination:

1. Advance Advocacy Project [www.advanceadvocacyproject.org.uk](http://www.advanceadvocacyproject.org.uk)

<sup>15</sup> Farley, M., Bindel, J., and Golding, J.M., 2009. *Men Who Buy Sex: Who They Buy and What They Know*. London: Eaves and San Francisco: Prostitution Research & Education.

<sup>16</sup> Macleod, J., Farley, M., Anderson, L., and Golding, J.M., 2008. *Challenging Men’s Demand for Prostitution in Scotland*. Glasgow: Women’s Support Project.

2. Ashiana	<a href="http://www.ashiana.org.uk">www.ashiana.org.uk</a>
3. Asylum Aid	<a href="http://www.asylumaid.org.uk">www.asylumaid.org.uk</a>
4. Aurora Health Foundation	<a href="http://www.aurorahealthfoundation.org.uk">www.aurorahealthfoundation.org.uk</a>
5. Beyond the Streets	<a href="http://www.beyondthestreets.org.uk">www.beyondthestreets.org.uk</a>
6. Black Association of Women Step Out	<a href="http://www.bawso.org.uk">www.bawso.org.uk</a>
7. Brecknock Women's Aid	
8. Bristol Fawcett	<a href="http://www.bristolfawcett.org.uk">www.bristolfawcett.org.uk</a>
9. CAADA (Co-ordinated action against domestic abuse)	<a href="http://www.caada.org.uk">www.caada.org.uk</a>
10. Campaign to End Rape	<a href="http://www.cer.truthaboutrape.co.uk">www.cer.truthaboutrape.co.uk</a>
11. CARE	<a href="http://www.care.org.uk">www.care.org.uk</a>
12. CAST (Creative and Supportive Trust)	<a href="http://www.castwomen.org.uk">www.castwomen.org.uk</a>
13. Clean Break	<a href="http://www.cleanbreak.org.uk">www.cleanbreak.org.uk</a>
14. Citylight	<a href="http://www.citylight.org.uk">www.citylight.org.uk</a>
15. CROP (Coalition for the Removal of Pimping)	<a href="http://www.cropuk.org.uk">www.cropuk.org.uk</a>
16. Door of Hope	<a href="http://www.doorofhope.org.uk">www.doorofhope.org.uk</a>
17. Eaves	<a href="http://www.eaves4women.co.uk">www.eaves4women.co.uk</a>
18. Equality Now	<a href="http://www.equalitynow.org">www.equalitynow.org</a>
19. Feminist Coalition Against Prostitution	<a href="http://www.fcap.btik.com">www.fcap.btik.com</a>
20. Greater London Domestic Violence Project	<a href="http://www.gldvp.org.uk">www.gldvp.org.uk</a>
21. Hafan Cymru	
22. Her Centre	
23. Immigrant Council of Ireland	<a href="http://www.immigrantcouncil.ie">www.immigrantcouncil.ie</a>
24. Imkaan	<a href="http://www.imkaan.org.uk">www.imkaan.org.uk</a>
25. Independent Choices – Women's Domestic Abuse Helpline	
26. Justice for Women	<a href="http://www.justiceforwomen.org.uk">www.justiceforwomen.org.uk</a>
27. Million Women Rise	<a href="http://www.millionwomenrise.com">www.millionwomenrise.com</a>
28. National Alliance of Women's Organisations	<a href="http://www.nawo.org.uk">www.nawo.org.uk</a>
29. National Association for People Abused in Childhood	<a href="http://www.napac.org.uk">www.napac.org.uk</a>
30. nia project	<a href="http://www.niaproject.info">www.niaproject.info</a>
31. OBJECT	<a href="http://www.object.org.uk">www.object.org.uk</a>
32. One in Four	<a href="http://www.oneinfour.org.uk">www.oneinfour.org.uk</a>
33. Rape Crisis	<a href="http://www.rapecrisis.org.uk">www.rapecrisis.org.uk</a>
34. Rape and Sexual Abuse Support Centre	<a href="http://www.rasasc.org.uk">www.rasasc.org.uk</a>
35. Respect	<a href="http://www.respect.uk.net">www.respect.uk.net</a>
36. Rights of Women	<a href="http://www.rightsofwomen.org.uk">www.rightsofwomen.org.uk</a>
37. RISE	<a href="http://www.riseuk.org.uk">www.riseuk.org.uk</a>
38. Rotherham Women's Refuge	
39. Savana	<a href="http://www.savana.org.uk">www.savana.org.uk</a>
40. Scottish Women Against Pornography	
41. Solace Women's Aid	<a href="http://www.solacewomensaid.org">www.solacewomensaid.org</a>
42. Solent Feminist Network	<a href="http://www.solentfeministnetwork.co.uk">www.solentfeministnetwork.co.uk</a>
43. South Essex Rape and Incest Crisis Centre	<a href="http://www.sericc.org.uk">www.sericc.org.uk</a>
44. South London Fawcett Group	<a href="http://www.slonfawcett.org.uk">www.slonfawcett.org.uk</a>
45. STOP UK	<a href="http://www.stop-uk.org">www.stop-uk.org</a>
46. Streetlife	<a href="http://www.citygatechurch.net">www.citygatechurch.net</a>
47. Swansea Women's Aid	
48. The Early Intervention Project	
49. The Henna Foundation	<a href="http://www.hennafoundation.org">www.hennafoundation.org</a>
50. The Hull Lighthouse Project	<a href="http://www.community-house.co.uk">www.community-house.co.uk</a>
51. The Medaille Trust	<a href="http://www.medaille.co.uk">www.medaille.co.uk</a>
52. The RAHAB Project	<a href="http://www.themustardtree.org">www.themustardtree.org</a>

53. The Salvation Army	<a href="http://www.salvationarmy.org.uk">www.salvationarmy.org.uk</a>
54. Torfaen Women's Aid	
55. Toynbee Hall	<a href="http://www.toynbeehall.org.uk">www.toynbeehall.org.uk</a>
56. TRUST	<a href="mailto:info@trust-london.com">info@trust-london.com</a>
57. Truth About Rape	<a href="http://www.truthaboutrape.co.uk">www.truthaboutrape.co.uk</a>
58. Urban Outreach Bolton	
59. Walsall Street Teams	<a href="http://www.walsallstreetteams.co.uk">www.walsallstreetteams.co.uk</a>
60. Wearside Women in Need	<a href="http://www.wearsidewomeninneed.org.uk">www.wearsidewomeninneed.org.uk</a>
61. Welsh Women's Aid	<a href="http://www.welshwomensaid.org">www.welshwomensaid.org</a>
62. White Ribbon Campaign	<a href="http://www.whiteribboncampaign.co.uk">www.whiteribboncampaign.co.uk</a>
63. Women and Children's Advocacy Centre	<a href="http://wcacentre.org">http://wcacentre.org</a>
64. Women and Girls Network	<a href="http://www.wgn.org.uk">www.wgn.org.uk</a>
65. Women's Centre Sutton	<a href="http://www.suttonwomen.co.uk">www.suttonwomen.co.uk</a>
66. Women in Prison	<a href="http://www.womeninprison.org.uk">www.womeninprison.org.uk</a>
67. V-DAY UK	<a href="http://www.vdayuk.org">www.vdayuk.org</a>

For further information about this statement and to join us in protecting vulnerable women, children and men from violence contact Catherine Briddick, Senior Legal Officer at Rights of Women<sup>17</sup> by emailing [cate@row.org.uk](mailto:cate@row.org.uk).

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<sup>17</sup> **Rights of Women** aims to achieve equality, justice and respect for all women. Rights of Women advises, educates and empowers women by:

- Providing women with free, confidential legal advice by specialist women solicitors and barristers.
- Enabling women to understand and benefit from their legal rights through accessible and timely publications and training.
- Campaigning to ensure that women's voices are heard and law and policy meets all women's needs.