



“WE LIVE WITHIN A VIOLENT SYSTEM.”

STRUCTURAL VIOLENCE AGAINST SEX WORKERS IN IRELAND

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EXECUTIVE SUMMARY

In recent years, the #MeToo movement has galvanized millions of people around the world to share their experiences of gender-based violence and to demand change. However, despite the growth of strong sex worker-led activist movements, the issue of sex workers' human rights and their experiences of gender-based violence have been largely ignored or dismissed in these conversations. Concerns about sex workers' human rights have begun to emerge from Ireland in recent years, together with media reports of their arrests and convictions. The Irish government is currently conducting a review of the operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017, which in 2017 criminalized the purchase of sex in the country. In this context, this report can provide valuable insights into sex workers' human rights in Ireland, in particular their right to safety and freedom from violence, at a crucial time.

This report is based on qualitative research carried out by Amnesty International between August 2020 and October 2021. Between December 2020 and April 2021, Amnesty International's researchers interviewed 30 people who have engaged in sex work currently or in the past. In addition, between August 2020 and May 2021, researchers conducted interviews with 17 representatives of 13 civil society organizations, three lawyers, nine academics and two medical doctors. Semi-structured in-depth interviews were conducted in English and took place remotely due to the travel and public health restrictions associated with the Covid-19 pandemic.

Amnesty International also carried out interviews with representatives of the Department of Justice and the Office of the Director of Public Prosecutions. Our requests for interviews with representatives of An Garda Síochána (the Irish police service), the Policing Authority and the Victims of Crime Office of the Department of Justice were not accepted. The Office of the Garda Ombudsman did not respond to a request for an interview but provided information in writing. All representatives of the Irish authorities mentioned in the report were provided with an opportunity to respond to its main findings prior to publication.

There are no reliable regional or global estimates or data regarding the numbers of people engaged in sex work, predominantly due to the stigmatization, marginalization and often criminalization faced by sex workers. Nevertheless, available estimates indicate that cisgender women account for the majority of the sex worker population, but that transgender people and cisgender men are also significantly represented among sex workers worldwide. In Ireland, reliable data about sex workers, who are not human trafficking victims, is also lacking. The Irish government's reliance on dated and flawed research that conflated human trafficking for sexual exploitation with sex work, as well as unpublished information provided by An Garda Síochána, has led to the establishment of a legal and policy framework which our research indicates both directly causes and in other ways exacerbates violations of sex workers' human rights, as outlined below.

Sex workers in Ireland have significant concerns for their safety. The overwhelming majority of sex workers interviewed (23 out of 30) told Amnesty International that they have experienced various forms of violence at different times while doing sex work. Most (21) said the violence was from men contacting them as clients, one reported having experienced attacks by members of the public and one – intimate partner violence. Interviewees' experiences included physical attacks and threats; sexual violence, including rape; robberies; stalking; verbal abuse and harassment, including online.

Under the Istanbul Convention, to which Ireland became a State Party in 2019, states are required to effectively protect everyone's, in particular women's, right to be free from violence without discrimination, through, among other things, "abolishing laws and practices which discriminate against women." While the precise data on the levels of violence experienced by sex workers in Ireland is impossible to obtain, as is the case with gender-based violence prevalence generally, Amnesty International's research demonstrates that Ireland is failing to fulfil this obligation, resulting in an environment in which sex workers' safety is severely

compromised. For many, this adds to the already high levels of intersecting discrimination they experience on other grounds, for example, race, ethnicity, gender, gender identity, drug use, homelessness or migrant status.

In 2017, the Criminal Law (Sexual Offences) Act introduced amendments to the Criminal Law (Sexual Offences) Act 1993 and criminalized the purchase of sex. Further, Section 10 of the 1993 Act criminalizes “living on earnings of prostitution” and Section 11 – “brothel keeping”, with the term applying to two or more sex workers selling sexual services from the same premises. The 2017 law reform also significantly increased penalties for brothel keeping: the offence now carries a possible fine of 5,000 euros and/or imprisonment for up to 12 months, and higher, if the matter reaches a higher instance court. No distinction is made in these provisions between exploitation, abuse and coercion by third parties and third-party involvement that is consensual and does not cause harm or is for the purposes of safety of sex workers. The provisions can also be used to target those who lease or rent accommodation to sex workers.

The majority of the sex workers interviewed for this report identified sharing premises with other workers as a useful strategy to improve their safety and limit potential risks of violence. However, criminalization of aspects of sex work such as the brothel keeping provision, has a “chilling effect” on sex workers’ exercise of their human rights by preventing them from working together in one apartment for safety. A “chilling effect” for the purposes of international human rights law may be defined as “the negative effect any state action has on natural and/or legal persons, and which results in pre-emptively dissuading them from exercising their rights or fulfilling their professional obligations, for fear of being subject to formal state proceedings which could lead to sanctions or informal consequences such as threats, attacks or smear campaigns.”

According to data from Ireland’s Central Statistics Office, based on An Garda Síochána’s crime recording PULSE system, between 2019 and 2021, Gardaí recorded 22 “brothel keeping” incidents (14 in 2019, eight in 2020, and fewer than five up until July 2021). A small number (fewer than five) of these resulted in a charge or a summons for 2020 and 2021 was not available at the time of writing. The Office of the Director of Public Prosecutions does not collect data on the numbers of prosecutions for “prostitution-related” offences, including brothel keeping. According to information provided to Amnesty International by the Courts Service, between January 2019 and July 2021, there were 43 prosecutions for various offences related to sex work. However, even though the numbers of arrests, prosecutions and convictions of sex workers under Section 11 on brothel keeping and other provisions criminalizing organizational aspects of sex work may be low, the fear of criminalization associated with these provisions affects sex workers’ behaviours and often forces them to work in ways that compromise their safety.

“B.”, a 31-year-old Romanian sex worker, told Amnesty International that she would say to the Irish government: “Please take this law out, let us work together, we don’t do any harm... It’s dangerous to work alone. Very dangerous. One to one, a woman with a man, we don’t stand a chance. We need another girl, she can hear what’s happening... But to be alone it’s very dangerous.” “Nia”, a 26-year-old mixed-race Irish woman, spoke about the impact of racialization on her exercise of her human rights and the related increased risks and consequences of criminalization: “I don’t want to risk anything, especially with the brothel keeping because it’s like, again, it’s a lot of foreign nationals that are being prosecuted for it in Ireland... I am looked at as a foreign national, even though I’m not, so I’m more likely to be prosecuted for that. So I don’t feel comfortable working with someone else, because I would face repercussions to that unfortunately.”

Most of the sex workers interviewed also stressed the impact and the “chilling effect” of the 2017 introduction of the criminalization of the purchase of sex on their safety, well-being, autonomy and ability to earn a living. Sex workers frequently described being forced to engage in more risky behaviours as a result of client criminalization. For instance, “Vanessa” told Amnesty International: “I remember one night in particular... I was going down a cul de sac that was discreet, so I wasn’t going to be found by the Guards here, you know, they couldn’t drive by the spot we were in. But at the same time, I had no escape route, if anything went wrong... And that was a very direct result of the Garda presence there targeting of clients... So yeah, they’re not targeting me but it has as much of an effect on my ability to survive if they want.”

Most of the sex workers interviewed (23) said they would like to see sex work fully decriminalized in Ireland, including through removing the ban on the purchase of sex. “A.” noted: “It has to be 100% decriminalized. When it’s not, I’m scared to report to cops or others. I want to have their ID on record... I don’t think shitty people will stop existing. But in every other business if there are bad clients, if anything happens to you, you can call the police or sue the person. It’s more about creating a safer environment for us. I’m not saying that if sex work is fully decriminalized nothing bad will ever happen.”

By criminalizing various aspects of sex work, including brothel keeping and living on earnings of prostitution, Ireland is not only failing in its international human rights law obligations to protect everyone within its jurisdiction from gender-based violence, including violence against women, but also effectively facilitating the targeting and abuse of sex workers by perpetrators. Combined with the limited, if not non-existent, client screening abilities exacerbated by the sex purchase ban, sex workers in Ireland find themselves in an environment where the potential for harm is increased, their autonomy severely affected and with little recourse to protection and support.

Amnesty International's research also uncovered a profound lack of trust in the police among sex workers. Among the reasons given by interviewees for preferring not to engage with the Gardaí when experiencing violence were lack of trust in the force and a belief that not a lot would be done; fear of violence at the hands of the Gardaí; and fear of stigmatization, their landlord being notified or targeted leading to eviction and homelessness, as well as criminalization, with particular risks to migrant sex workers mentioned. Most interviewees identified a combination of these factors as relevant to them. Sex workers may be reluctant to contact the Gardaí to report a crime, fearing that the Gardaí may charge their landlord with living on earnings of prostitution under Section 10 of the Criminal Law (Sexual Offences) Act 1993, which could also result in their eviction and their own prosecution. "Aoife" told Amnesty International: "When I think about my life as a sex worker, I see the Guards as a threat rather than as a shield."

The report also demonstrates that sex workers often do not engage with An Garda Síochána for fear of being charged with brothel keeping or other offences under the 2017 Act, despite the government's claims that it "decriminalized" sex work and would facilitate sex workers' access to justice. Instead of fulfilling these stated aims, the 2017 law reform has exacerbated the lack of trust in engaging with the Gardaí and increased the very real risks sex workers face when engaging with law enforcement, for instance through the doubling of penalties for the offence of brothel keeping.

For some sex workers, fears of contacting the Gardaí stem from the risks they face because of their migration status. For example, migrant sex worker "A.", who had experienced three violent incidents, including oral rape, told Amnesty International about the very real consequences that engaging with the Gardaí could have for them due to the combination of the criminalization of some aspects of sex work and their migration status: "The only time I would call the cops would be if I was dying on the floor," they said. "I don't trust them. I strictly work by myself because I have that fear. I want to get Irish citizenship. Any criminal record would be detrimental. If I'm working with someone else, it's putting me at higher risk. I'd personally rather be at risk with a client than with a police officer... I don't want to go to jail. I'd kill myself."

The combination of criminalization of aspects of sex work in Ireland, the lack of separation of Garda powers with regard to immigration enforcement, the policing of sex work, and the reporting of crime, as well as the pervasive stigma around sex work and other intersectional discrimination result in an adversarial relationship between sex workers and An Garda Síochána, open to abuses of power. These structural and systemic factors compromise the safety of sex workers, offer impunity to perpetrators of violence against them and further entrench the stigma and discrimination sex workers face.

Sex workers interviewed for this report also identified challenges they faced in accessing and retaining adequate housing as one of their major human rights concerns. Concerns about the lack of availability and affordability of housing, including social and emergency housing, in Ireland have been growing in recent years. In a report published in September 2021, the Irish Human Rights and Equality Commission and the Economic and Social Research Institute found "persistent problems in relation to housing access in Ireland." The UN Committee on the Elimination of Racial Discrimination noted in its 2020 Concluding Observations on Ireland the disproportionate impact of the housing crisis on certain marginalised groups and expressed concern at Ireland's continuing failure to address the inadequate living conditions in Direct Provision centres.

For some sex workers interviewed the challenges they faced in accessing and retaining adequate housing, as well as their inability to meet their basic needs through social welfare payments, meant that sex work was one of the few options available to meet their and their families' basic needs, often as a source of income additional to social welfare payments or full- or part-time jobs or studies.

The provisions in Irish criminal law which carry criminal penalties and fines for brothel keeping and "living on the earnings of prostitution" have very specific negative consequences on sex workers' right to adequate housing. Former sex worker "Georgina" said: "Sex workers have had trouble getting housing because their landlord can be fined under this law... There's so many different ways that it can be used to attack sex workers. And I think there's a real misunderstanding of the importance of safety for us."

The potential for these provisions to be harmful to sex workers is particularly enhanced given the scarcity of adequate housing and people's consequent heavy dependency on private housing provision in Ireland. The indirect criminalisation of sex work in this way impedes sex workers' ability to access the private housing

sector on an equal basis with others and compels many sex workers who do find housing to live with the constant stress and fear of being found out or someone informing their landlord of their work and subsequently being evicted.

Harmful gender stereotypes and pervasive stigma towards people who engage in sex work are both at the root of and exacerbating factors for many of the human rights violations described in this report. The interviews carried out by Amnesty International suggest that stigma against sex workers is pervasive in Ireland, with interviewees overwhelmingly bringing up deeply entrenched negative and patriarchal societal attitudes and prejudice towards them. These are often intensified by intersecting forms of discrimination based on, for example, ethnicity, race, gender and gender identity, socio-economic circumstances, migration status or drug use.

For example, sex workers who are transgender are subjected to intersecting and multiple layers of stigma and discrimination, with transphobia pervasive in Ireland, as in many societies. Sex workers with disabilities are often invisible, both to the general public and in human rights discourse and practice in the areas of sex workers' rights. "Not only do disabled people have sex, but some of us also sell sexual services because traditional employment is often inaccessible to us," wrote "Kiko". "Disabled sex workers exist, and our challenges intersect." Racialized sex workers interviewed spoke of racism, often interlinked with anti-migrant attitudes, among clients. Street sex workers interviewed by Amnesty International described the particular stigmatization they experience, both from the general public and oftentimes within the sex working community itself.

Since people's reasons for doing sex work are often complex and intersecting, solutions that would improve people's access to their human rights without discrimination should acknowledge and holistically address these intersecting reasons first and foremost, and in consultation with sex workers themselves. The Irish authorities should listen to sex workers and ensure that their human rights are fully promoted, respected, protected and fulfilled.

KEY RECOMMENDATIONS

TO THE HOUSES OF THE OIREACHTAS (IRISH PARLIAMENT):

ON LEGISLATION:

- Decriminalize all aspects of sex work due to the foreseeable barriers that criminalization creates to the realization of the human rights of sex workers;
- Repeal Section 7A of the Criminal Law (Sexual Offences) Act 1993 as introduced by the Criminal Law (Sexual Offences) Act 2017, which criminalizes the purchase of sex;
- Repeal Section 10 on "living on earnings of prostitution" and Section 11 on "brothel keeping" of the Criminal Law (Sexual Offences) Act 1993;

TO THE DEPARTMENT OF JUSTICE

ON RESEARCH, DATA AND THE ONGOING LAW REVIEW

- Ensure consultation with and meaningful participation of sex workers, in particular current sex workers and those from marginalized groups and facing discrimination, in the ongoing review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017;

ON SEX WORKERS' ACCESS TO JUSTICE FOR VIOLENCE

- Ensure that sex workers enjoy full and equal protection of the law, as well as effective remedies, including for offences such as rape and sexual violence, abuse of authority, assault, robbery, stalking, harassment and all other crimes;

TO THE GOVERNMENT OF IRELAND

ON ECONOMIC AND SOCIAL RIGHTS

- Undertake a review of programmes, laws and policies on economic and social rights and reform them to ensure that they are compliant with the right to an adequate standard of living, including the right to adequate housing, and the right to social security for all, including those engaged in sex work.

METHODOLOGY

RESEARCH RATIONALE

In recent years, conversations about women's rights and gender equality have been evolving dramatically. The #MeToo movement has galvanized millions of people around the world to share their experiences of gender-based violence and to demand change. However, despite the growth of strong sex worker-led activist movements, the issue of sex workers' human rights and their experiences of gender-based violence have been largely ignored or dismissed in these conversations.

In 2016, Amnesty International developed a policy and a detailed explanatory note on sex workers' human rights on the basis of extensive consultations and evidence gathered in the course of in-depth, country-based research.¹ Between 2016 and 2019, Amnesty International's research in Argentina, the Dominican Republic, Hong Kong, Norway and Papua New Guinea found that sex workers experienced violent attacks, discrimination and injustice and that much of this violence and abuse was unreported, under-investigated and unpunished, with states failing to uphold their human rights obligations towards sex workers.²

In recent years, worrying information about similar human rights concerns has begun to emerge from Ireland,³ together with media reports of arrests and convictions of sex workers.⁴ The Irish government is currently conducting a review of the operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017, which criminalizes the purchase of sex in the country.⁵ In September 2020, it sought submissions from the public on the topic.⁶ In this context, the in-depth research that informs this report can provide valuable

¹ Amnesty International, *Policy on state obligations to respect, protect and fulfil the human rights of sex workers* (Index: POL 30/4062/2016), 26 May 2016, [amnesty.org/en/documents/pol30/4062/2016/en/](https://www.amnesty.org/en/documents/pol30/4062/2016/en/); *Explanatory note on Amnesty International's policy on state obligations to respect, protect and fulfil the human rights of sex workers* (Index: POL 30/4063/2016), 26 May 2016, [amnesty.org/en/documents/pol30/4063/2016/en/](https://www.amnesty.org/en/documents/pol30/4063/2016/en/).

² Amnesty International, *Sex Workers at Risk: A Research Summary on Human Rights Abuses Against Sex Workers* (Index: POL 40/4061/2016), 26 May 2016, [amnesty.org/en/documents/pol40/4061/2016/en/](https://www.amnesty.org/en/documents/pol40/4061/2016/en/); Amnesty International, "What I'm Doing Is Not a Crime." *The Human Cost of Criminalizing Sex Work in the City of Buenos Aires, Argentina* (Index: AMR 13/4042/2016), 26 May 2016, [amnesty.org/en/documents/amr13/4136/2016/en/](https://www.amnesty.org/en/documents/amr13/4136/2016/en/); Amnesty International, "If They Can Have Her, Why Can't We?": *Gender-Based Torture and Other Ill-Treatment of Women Engaged in Sex Work in the Dominican Republic* (Index: AMR 27/0030/2019), 28 March 2019, [amnesty.org/en/documents/amr27/0030/2019/en/](https://www.amnesty.org/en/documents/amr27/0030/2019/en/); Amnesty International, *China: Harmfully Isolated: Criminalizing Sex Work in Hong Kong* (Index: ASA 17/4032/2016), 26 May 2016, [amnesty.org/en/documents/asa17/4032/2016/en/](https://www.amnesty.org/en/documents/asa17/4032/2016/en/); Amnesty International, *The Human Cost of "Crushing" The Market: Criminalization of Sex Work in Norway* (Index: EUR/36/4034/2016), 26 May 2016, [amnesty.org/en/documents/eur36/4034/2016/en/](https://www.amnesty.org/en/documents/eur36/4034/2016/en/); Amnesty International, *Outlawed and Abused: Criminalizing Sex Work in Papua New Guinea* (Index: ASA 34/4030/2016), 26 May 2016, [amnesty.org/en/documents/asa34/4030/2016/en/](https://www.amnesty.org/en/documents/asa34/4030/2016/en/).

³ Irish Examiner, "Sex workers told to take care as arrest made following violent attacks", 4 July 2017, [irishtimes.com/news/crime-and-law/dramatic-rise-in-attacks-on-sex-workers-since-law-change-1.3208370](https://www.irishtimes.com/news/crime-and-law/dramatic-rise-in-attacks-on-sex-workers-since-law-change-1.3208370); Irish Times, "'Dramatic rise' in attacks on sex workers since law change", 4 September 2017, [irishtimes.com/news/crime-and-law/dramatic-rise-in-attacks-on-sex-workers-since-law-change-1.3208370](https://www.irishtimes.com/news/crime-and-law/dramatic-rise-in-attacks-on-sex-workers-since-law-change-1.3208370); Rosie Campbell and others, "Not collateral damage: Trends in violence and hate crimes experienced by sex workers in the Republic of Ireland", July 2020, *Irish Journal of Sociology*, Volume 28(3), journals.sagepub.com/doi/pdf/10.1177/0791603520939794, p. 294.

⁴ Independent, "Jailing of migrant sex workers in Ireland decried as 'completely unjust'", 17 June 2019, [independent.co.uk/news/world/europe/ireland-migrant-sex-workers-jailed-prison-newbridge-police-romania-naas-a8962291.html](https://www.independent.co.uk/news/world/europe/ireland-migrant-sex-workers-jailed-prison-newbridge-police-romania-naas-a8962291.html); Irish Examiner, "Married couple who charged clients €200 an hour for sex at address in Ennis escape jail", 9 May 2018, [irishtimes.com/news/crime-and-law/dramatic-rise-in-attacks-on-sex-workers-since-law-change-1.3208370](https://www.irishtimes.com/news/crime-and-law/dramatic-rise-in-attacks-on-sex-workers-since-law-change-1.3208370).

⁵ Ireland, Criminal Law (Sexual Offences) Act 2017, [irishstatutebook.ie/eli/2017/act/2/enacted/en/print.html](https://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/print.html); Department of Justice, "Minister McEntee publishes Terms of Reference for the Review of Part 4 of the Criminal Law (Sexual Offences) Act 2017", 9 July 2020, [gov.ie/en/press-release/2c3e6-minister-mcentee-publishes-terms-of-reference-for-the-review-of-part-4-of-the-criminal-law-sexual-offences-act-2017/](https://www.gov.ie/en/press-release/2c3e6-minister-mcentee-publishes-terms-of-reference-for-the-review-of-part-4-of-the-criminal-law-sexual-offences-act-2017/).

⁶ Department of Justice, "Review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017", [justice.ie/en/JELR/Pages/Review_of_the_Operation_of_Part_4_of_the_Criminal_Law_\(Sexual_Offences\)_Act_2017](https://www.justice.ie/en/JELR/Pages/Review_of_the_Operation_of_Part_4_of_the_Criminal_Law_(Sexual_Offences)_Act_2017).

insights into sex workers' human rights in Ireland, in particular their right to safety and freedom from violence, at a crucial time.

Amnesty International recognizes that the subject of people selling sex has provoked intense debates in Ireland, as elsewhere. Too often, however, sex workers themselves are denied a seat at the table where these debates are conducted. This research intentionally places the voices of sex workers at its core and aims to share the nuanced realities of their lives and their insights on how to effect change.

METHODOLOGY

This report is based on qualitative research carried out by Amnesty International between August 2020 and October 2021. To reach a diverse range of interviewees, Amnesty International liaised with representatives of Sex Workers Alliance Ireland (SWAI), HIV Ireland's Outreach Service and the organization Gender Orientation, Sexual Health, HIV (GOSHH). Referrals from the different organizations led to "snowball sampling", with several sex workers referring others to the interviewers.

Amnesty International's researchers interviewed 30 people who have engaged in sex work currently or in the past. Out of these, 26 were engaging in sex work in Ireland or had done so within the previous two years, one had moved to another country but had worked in Ireland for many years, and three were former sex workers. Semi-structured in-depth interviews with sex workers took place between December 2020 and April 2021 and were conducted in English. Due to the travel and public health restrictions associated with the Covid-19 pandemic, the interviews took place remotely.

In compliance with informed consent given by interviewees and as is the norm in Amnesty International's investigations, we provide the date of when the interview took place but have protected the identity of some of the people with whom we have spoken by using a pseudonym or other means to anonymize the individual, their location, nationality and any other identifying details, in accordance with their wishes.

The people interviewed by Amnesty International were aged between 22 and 52 at the time of the interview. Twenty-four interviewees were women (21 ciswomen and three transwomen) and six were men (five cismen and one transman). Two of the transgender interviewees identified as non-binary in addition to being transgender and one transgender person was also intersex. 16 interviewees were Irish and 14 were migrants, some of whom preferred not to have their countries of origin identified in this report. Four interviewees reported having disabilities. In addition, seven interviewees identified as having formerly used or currently using drugs and four as experiencing homelessness currently or in the past.

The settings in which the people interviewed reported working from included street sex work (six interviewees), flats (21), hotels (16) and strip clubs (three), with some reporting engaging in remote work online (nine) or over the phone (four). Some interviewees worked in a combination of these settings at different times. The vast majority of interviewees (20) were based in Dublin, one elsewhere in the Leinster province, four in Munster and one in Connaught. Two of the women interviewed were not based in a specific location but travelled and worked around Ireland, and one was living in the UK having left Ireland recently. One person preferred not to disclose their location.

As with any research, Amnesty International sought to corroborate sex workers' testimonies with forensic and other official documentation. However, in a context of institutionalized discrimination towards sex workers, interviewees rarely reported their experiences to the police or engaged with other services that could enable them to recover such documentation.

As Amnesty International's standard practice to cover interviewees' travel or lunch costs during face-to-face interviews was not appropriate in the context of having to conduct interviews remotely due to the Covid-19 pandemic, Amnesty International reimbursed any costs such as electricity, internet or childcare to participants.

In addition to interviews with sex workers, between August 2020 and May 2021, researchers conducted interviews with 17 representatives of 13 civil society organizations, three lawyers, nine academics and two medical doctors. The interviews were conducted via video or telephone calls due to the Covid-19 pandemic-related restrictions in force at the time and all were conducted in English. Amnesty International also carried out interviews with representatives of the Department of Justice and the Office of the Director of Public Prosecutions.

Requests for interviews were sent to An Garda Síochána (the Irish police service), namely the Garda Commissioner and the Garda National Protective Services Bureau. An Garda Síochána's Research Directorate responded requesting that Amnesty International sign an External Research Protocol and a

Research Data Processing Agreement whose terms were contrary to Amnesty International's independent research and data protection standards. The Garda Research Unit informed Amnesty International that unless it signed these documents, representatives of An Garda Síochána would not be able to participate in this research. Amnesty International explained why it could not sign and subsequently sent a written request for information; at the time of the publication of this report no response had been received.

The Office of the Garda Ombudsman did not respond to a request for an interview but provided information in writing. Amnesty International also requested interviews with the Policing Authority and the Victims of Crime Office of the Department of Justice; no responses had been received at the time of the publication of this report.

All representatives of the Irish authorities mentioned in the report were provided with an opportunity to respond to its main findings prior to publication.

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GLOSSARY

WORD	DESCRIPTION
AN GARDA SÍOCHÁNA	National police service of the Republic of Ireland, also referred to as “Gardaí” or “Guards”. A Garda is a member of the police service.
CHEMSEX	While there is no official definition of what chemsex exactly entails, the phenomenon usually describes a growing practice in which gay or bisexual men, often in groups, meet for sex whilst under the influence of three specific drugs for extended periods of time.
CISGENDER	Term used to describe individuals whose gender identity aligns with the gender they were assigned at birth.
DECRIMINALIZATION	The removal of all laws and policies that make sex work a criminal offence (such as selling, buying or organizing sex work, solicitation, renting premises, “brothel keeping” and living on the proceeds of “prostitution”). Decriminalization of sex work does not mean removing criminal penalties for human trafficking, violence or exploitation.
DIRECT PROVISION	Direct Provision is Ireland’s system of state-provided accommodation and other basic necessities to people seeking international protection. Designed as a short-term emergency measure in 2000, it has lasted more than 21 years despite long-standing human rights concerns.
DPP	Director of Public Prosecutions. The Office of the DPP is the principal public agency for conducting criminal prosecutions in the Republic of Ireland.
GNIB	Garda National Immigration Bureau. A Garda Síochána agency in charge of immigration enforcement. It carries out deportations, border control and immigration-related investigations.
HABITUAL RESIDENCE CONDITION	A condition that migrants in Ireland must be deemed to fulfil to qualify for social welfare payments. “Habitually resident” is not defined in Irish law but in practice means the need to prove a close link to Ireland, including a notion of permanence, i.e. having lived in Ireland for some time and intending to stay for the foreseeable future.
HUMAN TRAFFICKING	The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime (also known as the UN Trafficking Protocol) provides the internationally accepted definition of trafficking as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other means of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a

WORD	DESCRIPTION
	person having control over another person, for the purposes of exploitation.” Human trafficking, including into the sex sector, is not the same as sex work.
LEGALIZATION	The introduction of laws and policies specific to sex work to formally regulate it, as opposed to decriminalization which refers to the removal of laws criminalizing sex workers.
MAGDALENE LAUNDRIES	Carceral institutions for unwed pregnant women and girls, along with other women and girls that did not conform to the social mores of the time. The first “Magdalene asylum” in Ireland, where women and girls worked in exchange for their keep, was established in approximately 1765 for Protestant women and girls only. After Ireland gained independence as a state in 1922, the remaining institutions were run mainly by Roman Catholic religious orders. They became known as “Magdalene laundries” because women and girls primarily worked in the institutions’ commercial laundries. The last closed in 1996. Many women, girls and children experienced a range of abuses at the hands of the nuns who ran the laundries, including inhuman and degrading treatment, arbitrary deprivation of liberty and forced labour.
MOTHER AND BABY HOMES	Religious institutions for unmarried mothers and their children that doubled as orphanages and operated between 1922 and 1998, run by Roman Catholic religious orders. A Commission of Investigation was established in 2015 following revelations of an unmarked grave of hundreds of babies and children in Tuam, County Galway, on the grounds of a former “mother and baby home”. The Commission’s report, published in 2021, fell short of adequately addressing human rights abuses perpetrated in the homes, such as high child mortality rates, illegal adoption practices, vaccine trials conducted on children without consent, and denial of medical care to some women.
“NORDIC MODEL”	Laws which make the buying of sex a criminal offence, combined with the removal of laws which criminalize the direct act of selling sex. This legal model still criminalizes the organization or promotion of sex work, for instance brothel keeping, advertising, “promoting prostitution” or letting premises where sex work occurs. It was first introduced in Sweden in 1999 and is also sometimes called the “Swedish Model”.
SEX WORK	The consensual exchange of sexual services between adults for some form of remuneration – money or goods – with the terms agreed between the seller and the buyer.
TRANSGENDER	Term used to describe individuals whose gender expression and/or gender identity differs from conventional expectations based on the physical sex they were assigned at birth. Not all transgender people identify as male or female – some people use the term “trans” as an umbrella term to include transgender, non-binary, agender, genderqueer, gender neutral, and other gender non-conforming people. This umbrella is itself reductive and not without issue, but it serves as a shorthand.
WHOREPHOBIA	Fear, hatred of or prejudice against sex workers.

1. BACKGROUND

“We have been spoken for for decades, we have been spoken over for decades longer... How about we try listening to the people who actually know what’s going on, who know what they’re talking about for once?”

“Kristina”⁷

1.1 SEX WORK IN IRELAND

1.1.1 POLICY-MAKING BASED ON UNRELIABLE DATA

There are no reliable regional or global estimates or data regarding the numbers of people engaged in sex work, predominantly due to the stigmatization, marginalization and often criminalization faced by sex workers. Nevertheless, available estimates indicate that cisgender women account for the majority of the sex worker population,⁸ but that transgender people and cisgender men are also significantly represented among sex workers worldwide.⁹

An Irish Department of Justice press release in April 2021 stated: “It is generally recognised that prostitution is inherently exploitative of vulnerable persons, mainly women and girls, and that many people are forced into prostitution through trafficking, drug addiction, homelessness and poverty.”¹⁰ This statement reflects the Irish authorities’ reliance on estimates provided in a 2009 report on “sex trafficking and prostitution” published by the Immigrant Council of Ireland in collaboration with the Women’s Health Project, run by the Irish Health Service Executive, and the Ruhama charity.¹¹ The report, funded by the Religious Sisters of Charity, a Roman Catholic congregation, concluded that “there is a minimum of 1,000 women in indoor

⁷ Interview by voice call with “Kristina” (name changed for anonymity), 14 January 2021.

⁸ Linda Cusick and others, “Wild guesses and conflated meanings?: Estimating the size of the sex worker population in Britain”, *Critical Social Policy*, October 2009, *Critical Social Policy*, Volume 29, Issue 4, journals.sagepub.com/doi/10.1177/0261018309341906, p. 29; Sylvia Adebajo and others, “Estimating the number of male sex workers with the capture-recapture technique in Nigeria”, *African Journal of Reproductive Health*, December 2013, Volume 17, pubmed.ncbi.nlm.nih.gov/24689319/; Bea Vuylsteke and others, “Capture-recapture for estimating the size of the female sex worker population in three cities in Côte d’Ivoire and in Kisumu, Western Kenya”, *Journal of Tropical Medicine and International Health*, December 2010, Volume 15, Issue 12, pubmed.ncbi.nlm.nih.gov/21054693/.

⁹ Global Network of Sex Work Projects (NSWP), *The needs and rights of trans sex workers*, 2014, nswp.org/sites/nswp.org/files/Trans%20SWs.pdf.

¹⁰ Department of Justice, “Minister McEntee announces initiative to expunge previous convictions for ‘sale of sex’”, 25 April 2021, gov.ie/en/press-release/dbc0f-minister-mcentee-announces-initiative-to-expunge-previous-convictions-for-sale-of-sex/.

¹¹ See, for instance, Houses of the Oireachtas Joint Committee on Justice, Defence and Equality, *Report on hearings and submissions on the Review of Legislation on Prostitution*, June 2013, 31/JDAE/010, data.oireachtas.ie/ie/oireachtas/committee/dail/31/joint_committee_on_education_and_social_protection/reports/2013/2013-06-27_report-on-review-of-legislation-on-prostitution-part-1_en.pdf, pp. 9, 18, 75.

prostitution in Ireland at any one time” and “between 3 and 13 per cent of the women in indoor prostitution are Irish, which means that up to 97 per cent are migrant women”¹² and consistently conflated human trafficking for sexual exploitation with sex work.

In interviews with Amnesty International, several sex workers, academics and lawyers criticized the Irish government’s reliance on this report. For example, Dr Eilís Ward, a retired academic at the National University of Ireland Galway who analyzed the methodologies used in the Immigrant Council of Ireland report, told Amnesty International:

“The sums literally don’t add up. And the categories are confused. And different figures are used differently in different places. And yet, Parliamentarians fixed on that data as if it was an absolute truth... This idea that ... 97% were migrant women, the assumption was that they were trafficked... It’s served to validate this sense that there’s a crisis. And that hundreds of poor trafficked women are being brutally violated every single day in Ireland. And if we can’t find them, or identify them, or if they’re not showing up in the figures, it doesn’t matter, because it’s such a big problem.”¹³

Cathal Malone, an immigration lawyer who often works with sex workers, told Amnesty International: “The likes of Ruhama or the Department [of Justice] will say ‘those figures can’t be verified or [are] unreliable but they’re the only figures that may be available... So anecdotes over data, because data is unreliable.”¹⁴

A representative of the Department of Justice told Amnesty International: “We have engaged with the Sex Workers Alliance Ireland and have met them... So we are aware that it’s not the entirety and not everyone who is involved in prostitution has been trafficked, or has been coerced. But as I said, all the evidence we’ve been given points to the majority. So those dictate some of our policy responses, I suppose.” When asked about the evidence at their disposal, one of the Department of Justice representatives said: “There’s no published evidence that I’m aware of, it’s very much on the basis of advice from An Garda Síochána.”¹⁵

The 2009 Immigrant Council of Ireland report was extensively referenced during the campaign for the introduction of the so-called “Nordic Model” in Ireland called “Turn Off the Red Light” and spearheaded by the Immigration Council of Ireland and Ruhama.¹⁶ The campaign, which began in 2009, led to amendments to the Criminal Law (Sexual Offences) Act 1993, including the criminalization of the purchase of sex in 2017, regardless of the seller’s consent.

Several interviewees identified this lack of reliable data as a major obstacle to informed law and policy making and stressed the need for independent research to be conducted. Estimates and numerical mapping of sex work are challenging to obtain and cannot be taken, even when available, to be representative. For example, organizations such as TAMPEP, a migrant sex worker-led network seeking to advance the rights and health of migrant and mobile sex workers across Europe, point to the practical difficulties of gathering information with regard to an activity that is highly criminalized and stigmatized.¹⁷

“Turn Off the Red Light” relied on the focus of the work of the key organizations involved in the campaign, namely the experiences of victims and survivors of human trafficking for sexual exploitation. Human trafficking is a grave human rights abuse and states have an obligation under international human rights law and standards to ensure that it is recognized as a criminal offence. However, trafficking in persons, including into the sex sector, is not the same as sex work. Sex work refers to a consensual exchange of sexual services between adults for some form of remuneration – money or goods – with the terms agreed between the seller and the buyer. Human trafficking is expressly non-consensual. In the context of the lack of data about sex workers, who are not human trafficking victims, in Ireland, the predominance of perspectives such as those

¹² Patricia Kelleher and others, *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland*, Immigrant Council of Ireland in collaboration with the Women’s Health Project (HSE) and Ruhama, 2009, immigrantcouncil.ie/sites/default/files/2017-09/AT%202009%20Globalisation%2C%20Sex%20Trafficking%20%26%20Prostitution%20FULL%20REPORT_0.pdf, p. 23.

¹³ Interview by video call with Dr Eilís Ward, National University of Ireland Galway (retired), 24 September 2020. See also Eilís Ward, “Framing figures’ and the campaign for sex purchase in Ireland: A Lakoffian analysis”, 1 December 2020, *Irish Journal of Sociology*, Volume 28, Issue 3, journals.sagepub.com/doi/abs/10.1177/0791603520951754?journalCode=irja, pp. 320-322.

¹⁴ Interview by video call with Cathal Malone, 3 September 2020.

¹⁵ Interview by video call with representatives of the Department of Justice, 19 August 2021.

¹⁶ “Turn Off the Red Light” campaign, turnofftheredlight.ie/prostitutioninireland/. See, for instance, Seanad Éireann Debate, 12 October 2011, Volume 210, No. 13, oireachtas.ie/en/debates/debate/seanad/2011-10-12/7/; Seanad Éireann Debate, 18 April 2012, Volume 214, No. 12, oireachtas.ie/en/debates/debate/seanad/2012-04-18/9/; Irish Nurses and Midwives Organisation, “Turning off the red light. Sr Stanislaus Kennedy addressed ADC delegates on the campaign to end sex trafficking and prostitution in Ireland,” June 2011, *World of Irish Nursing Magazine*, Volume 19, Issue 5, inmo.ie/tempDocs/ADC05_June11.pdf.

¹⁷ European Network for the Promotion of Rights and Health among Migrant Sex Workers (formerly European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers), *Sex work in Europe. A mapping of the prostitution scene in 25 European countries*, 2009, tampep.eu/wp-content/uploads/2017/11/TAMPEP-2009-European-Mapping-Report.pdf, p. 9; Eilís Ward, “Framing figures’ and the campaign for sex purchase in Ireland: A Lakoffian analysis”, 1 December 2020, *Irish Journal of Sociology*, Volume 28, Issue 3, journals.sagepub.com/doi/abs/10.1177/0791603520951754?journalCode=irja, p. 328; Synnøve Økland Jahnsen and Hendrik Wagenaar, *Assessing Prostitution Policies in Europe*, 2019, p. 14; Jo Doezeana, *Sex Slaves and Discourse Masters: The Construction of Trafficking*, 2010.

put forward by “Turn Off the Red Light” has had a significant influence on the government’s law and policy making relevant to sex work. These laws and policies have in practice had long-standing, grave human rights consequences for sex workers.

KEY CONCEPT: CONSENT

A key component of Amnesty International’s definition of sex work is the focus on consent as a factor to distinguish sex work from human trafficking, sexual exploitation, sexual violence and gender-based violence. Amnesty International uses the term to mean the voluntary and ongoing agreement to engage in a particular sexual activity. Consenting to sex does not mean consenting to violence. Rather, sex workers, like everyone else, can change or rescind their consent to have or sell sex at any point and this must be respected by all parties (including clients, potential clients, third parties, police and other law enforcement officials).

Decisions to sell sex can be influenced by situations of poverty and/or marginalization. Such situations do not necessarily undermine or negate a person’s consent. Constrained circumstances do not eliminate an individual’s ability to make decisions about their own life, except under particular circumstances that amount to coercion, where an individual faces threats, violence or abuse of authority.

Nevertheless, there may be an increased risk of exploitation for individuals making decisions in the context of poverty, displacement and/or conflict. States have obligations to protect all individuals from exploitation and the conditions that create a risk of exploitation. However, in doing so, states must also recognize and respect the agency and capacity of adults engaged in sex work. States must address the conditions that give rise to exploitation, by enhancing sex workers’ choices and control over their own circumstances.¹⁸

Where consent is not voluntary and ongoing, including when a person’s changed or rescinded consent is not respected, this constitutes rape and is a human rights abuse and must be treated as a criminal offence. Consent analysis is necessarily fact and context specific and the views, perspectives and experiences of individuals selling sex should be prioritized in any consideration of issues related to their consent. Law enforcement bodies, other government bodies and clients often make assumptions, based on stereotypes, that sex workers always consent to sex (because they may engage in sex frequently for their work) or, conversely, that sex workers can never consent to sex (because “no one could rationally consent to selling sex”). These assumptions lead to violations of sex workers’ human rights, particularly their safety, access to justice and equal protection under the law. Criminalization of sex work often reinforces these problematic assumptions.

1.1.2 REASONS FOR ENGAGING IN SEX WORK

People interviewed by Amnesty International reported engaging in sex work for a wide variety of reasons. Their decisions were often based on multiple and intersecting factors including flexibility and control over their working hours. Sex workers with disabilities or chronic health conditions, as well as third level students stressed that sex work offered better financial gain compared with other alternatives. Some transgender sex workers or those using drugs and/or experiencing homelessness said that sex work was one of the few, if not the only option for meeting basic needs. Additionally, two interviewees working in addiction and homelessness services in Dublin, and a Ruhama Caseworker for the Midlands region, told Researchers that some of the women they work with were being coerced into selling sex by their abusive partners, often in connection with their and their own drug use¹⁹ None of the sex workers interviewed in the course of this research reported being in this type of a situation.

Some interviewees engaged in sex work part-time while also doing other work, for example in frontline care provision during the Covid-19 pandemic.²⁰ Many were in receipt of social security benefits and the inadequacy of the welfare payments to meet their basic needs was among the reasons they were supplementing their incomes with sex work. One interviewee shared that he began to engage in sex work as a direct result of losing his job due to the Covid-19 pandemic.²¹ The interviewees overwhelmingly highlighted

¹⁸ Amnesty International, *Policy on state obligations to respect, protect and fulfil the human rights of sex workers* (previously cited), p. 15; *Explanatory note on Amnesty International’s policy on state obligations to respect, protect and fulfil the human rights of sex workers* (previously cited), p. 26.

¹⁹ Interview by video call with Gary Broderick, Director, SAOL Project, 12 March 2021; Interview by video call with Dr Austin O’Carroll, HSE Clinical Lead for Dublin Covid Homeless Response, founder of Safetynet, 8 April 2021; Interview by video call with Clare Feely, Caseworker, Ruhama, 5 May 2021.

²⁰ Interview by voice call with “Aimée” (name changed for anonymity), 6 January 2021.

²¹ Interview by voice call with “Rana” (name changed for anonymity), 9 March 2021.

immense difficulties in finding available and adequate housing as being among their reasons for engaging in sex work (see Chapter 6).

1.2 THE LEGAL FRAMEWORK IN IRELAND

The Criminal Law (Sexual Offences) Act 2017 introduced amendments to the Criminal Law (Sexual Offences) Act 1993 and new provisions criminalizing the purchase of sex.²² Part 4 of the 2017 Act criminalized the purchase, and not the selling, of sex between adults, a legal approach known as the “Nordic Model”.²³

The 2017 Act removed the offering of sexual services from the pre-existing offence of soliciting for the purpose of prostitution.²⁴ More recently, in April 2021, the Minister of Justice announced plans to expunge past convictions for soliciting.²⁵ However, the offence of “loitering for the purposes of prostitution” and other provisions directly or indirectly criminalizing sex workers and potentially their families were retained.²⁶ For example, Section 10 of the 1993 Act as amended makes it a criminal offence if a person “knowingly lives in whole or in part on the earnings of the prostitution of another person and aids and abets that prostitution”,²⁷ Section 9 prohibits “the organisation of prostitution”²⁸ and Section 23 of the 1994 Criminal Justice (Public Order) Act - the “advertising of brothels and prostitution.”²⁹

Section 11 of the 1993 Act on “brothel keeping” criminalizes anyone who “keeps or manages or acts or assists in the management of a brothel”; is “the *tenant, lessee, occupier* or person in charge of a premises, knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution (emphasis added)” or is “the lessor or landlord of any premises or the agent of such lessor or landlord, lets such premises or any part thereof with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel.”³⁰

The 2017 Act also significantly increased penalties for brothel keeping: the offence now carries a possible fine of 5,000 euros and/or imprisonment for up to 12 months, and higher, if the matter reaches a higher instance court.³¹ No distinction is made in these provisions between exploitation, abuse and coercion by third parties and third-party involvement that is consensual and does not cause harm or is for the purposes of safety of sex workers. The provisions can also be used to target those who lease or rent accommodation to sex workers.

Furthermore, Section 11 of the 1993 Act continues to be used to directly criminalize sex workers, as the term “brothel keeping” applies to two or more sex workers selling sexual services from the same premises. This can prevent sex workers from working together with others, including for safety reasons.

The stated aim in enacting Part 4 of the 2017 Act, which criminalized the purchase of sex, was that of “addressing the very real and tragic crimes of trafficking and exploitation associated with prostitution”,³² a premise, as outlined above, based on unreliable data and the conflation of sex work with human trafficking.

²² Ireland, Criminal Law (Sexual Offences) Act 2017, irishstatutebook.ie/eli/2017/act/2/enacted/en/print.html.

²³ Ireland, Criminal Law (Sexual Offences) Act 2017.

²⁴ Ireland, Criminal Law (Sexual Offences) Act 1993 as amended on 30 June 2017, Section 7; Select Committee on Justice and Equality debate, 7 December 2016, oireachtas.ie/en/debates/debate/select_committee_on_justice_and_equality/2016-12-07/2/?highlight%5B0%5D=criminal&highlight%5B1%5D=law&highlight%5B2%5D=sexual&highlight%5B3%5D=offences&highlight%5B4%5D=bill&highlight%5B5%5D=2015.

²⁵ Department of Justice, “Minister McEntee announces initiative to expunge previous convictions for ‘sale of sex’”, 25 April 2021, gov.ie/en/press-release/dbcOf-minister-mcentee-announces-initiative-to-expunge-previous-convictions-for-sale-of-sex/.

²⁶ Ireland, Criminal Law (Sexual Offences) Act 1993 as amended on 30 June 2017, Section 8, irishstatutebook.ie/eli/1993/act/20/enacted/en/html. The 2017 Act added a “reasonable cause” defence to the provision. At the committee stage of the discussions of the bill at the time, the then Minister for Justice and Equality also stated that the retained existing offence of loitering for the purposes of prostitution was not to be directed at sex workers but at clients. However, it is not known what measures were taken to ensure this is how loitering is interpreted by the police and the judiciary in practice. Select Committee on Justice and Equality debate, 7 December 2016, oireachtas.ie/en/debates/debate/select_committee_on_justice_and_equality/2016-12-07/2/?highlight%5B0%5D=criminal&highlight%5B1%5D=law&highlight%5B2%5D=sexual&highlight%5B3%5D=offences&highlight%5B4%5D=bill&highlight%5B5%5D=2015.

²⁷ Ireland, Criminal Law (Sexual Offences) Act 1993 as amended on 30 June 2017, Section 10.

²⁸ Ireland, Criminal Law (Sexual Offences) Act 1993 as amended on 30 June 2017, Section 9.

²⁹ Ireland, Criminal Justice (Public Order) Act 1994, Section 23, irishstatutebook.ie/eli/1994/act/2/enacted/en/print.html.

³⁰ Ireland, Criminal Law (Sexual Offences) Act 1993 as amended on 30 June 2017, Section 11.

³¹ Prior to the 2017 amendment, the maximum penalties were 1,000 euros and six months respectively. The 2017 Act amended Section 11 of the 1993 as follows: Part 4, S. 25 (f) “in section 11, by the substitution of the following subparagraph for subparagraph (i): (i) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.” Ireland, Criminal Law (Sexual Offences) Act 2017, Part 4, Section 25 (f).

³² Ireland, Department of Justice and Equality, “Minister Fitzgerald publishes the Criminal Law (Sexual Offences) Bill 2015”, 23 September 2015, justice.ie/en/JELR/Pages/PR15000487.

Further, a 2019 government-commissioned review of a similar law in Northern Ireland, which included 13 interviews with sex workers and a survey of 199, found that the law “has had minimal effect on the demand for sexual services; and due to the absence of any evidence that demand had decreased, it was unable to determine how the offence could have impacted on human trafficking.”³³ In *The Truth About Modern Slavery*, Emily Kenway noted that in general, buyer criminalization “does not appear to reduce trafficking nor the overall size of the sex sector to any meaningful degree. Now we need to ask our final question: Does it create any additional vulnerabilities or harms that could lead to exploitation? Resoundingly, yes.”³⁴ Further, some research indicates that decriminalization of sex work may in fact help victims of trafficking, and lead to more effective anti-trafficking efforts.³⁵

The Department of Justice noted in its 2012 Discussion Paper published before enacting Part 4 of the 2017 Act that there already was “strong criminal legislation in place to deal with those who traffic persons for the purposes of sexual exploitation.”³⁶ Under the Criminal Law (Human Trafficking) Act 2008 and the Criminal Law (Human Trafficking) (Amendment) Act 2013, it is an offence to traffic in adults or children including for the purpose of their sexual or labour exploitation.³⁷ It is also an offence for any person to “knowingly solicit or importune a trafficked person, in any place, for the purpose of prostitution.”³⁸ Despite this framework being in place and the addition of the sex purchase ban, whose stated aim was to help address trafficking, the United States State Department, in its 2020 Trafficking in Persons Report, downgraded Ireland’s status from Tier 1 to Tier 2 on the basis of its efforts since the previous reporting period.³⁹ In 2021, the Department’s assessment of Ireland’s record on trafficking was equally critical.⁴⁰

Much of the public debate and media focus surrounding criminalization of sex work focuses on the ban on buying sex. This focus on the ban on buying as the defining characteristic of this legal regime, while important, can obscure the fact that it is not the only law through which sex work is criminalized and policed including in countries that have adopted the so-called “Nordic Model”, an aspect of the legal framework in Ireland whose human rights consequences this report examines in detail.

1.2.1 REVIEW OF PART 4 OF THE 2017 ACT

Section 27 of the 2017 Act provides for a review of the operation of Part 4 within three years of it coming into force⁴¹ and in July 2020, the Department of Justice announced the beginning of the review.⁴²

In August 2020, in addition to its call for submissions to the review, the Department of Justice launched an online, anonymous survey.⁴³ Representatives of the Sex Workers Alliance Ireland (SWAI) told Amnesty International that they had received feedback from sex workers that the language in the survey was unclear and that some of the questions were being perceived as leading.⁴⁴ For many of the sex workers interviewed for this report, the central issue was the lack of meaningful participation and consultation of sex workers in the review process. “Kristina”, a 22-year-old student from Dublin, told Amnesty International: “The rules that

³³ Graham Ellison and others, *A Review of the Criminalisation of Paying for Sexual Services in Northern Ireland*, Queen’s University Belfast, School of Law, 2019, justice-ni.gov.uk/publications/assessment-impact-criminalisation-purchasing-sexual-services.

³⁴ Emily Kenway, *The Truth About Modern Slavery*, 2021, p. 92.

³⁵ Ronald Weitzer, “The mythology of prostitution: Advocacy research and public policy”, March 2010, Sexuality Research and Social Policy, Volume 7, Issue 1, link.springer.com/article/10.1007%2Fs13178-010-0002-5, pp. 23-25; Durbar Mahila Samanwaya Committee, “Innovative approaches to combat trafficking of women in sex trade by Durbar Mahila Samanwaya Committee (Kolkata)”, sexworkereurope.org/sites/default/files/resource-pdfs/dmsc_innovative_approaches_trafficking.pdf; Open Society Foundations, “10 reasons to decriminalize sex work: A reference brief”, opensocietyfoundations.org/sites/default/files/decriminalize-sex-work-20120713.pdf, p. 6;

UNAIDS, “Guidance note on HIV and sex work”, 2012, unaids.org/en/resources/documents/2012/20120402_UNAIDS-guidance-note-HIV-sex-work; European Sex Workers’ Rights Alliance (ESWA), “Briefing: Tackling Trafficking under a Decriminalisation Model”, 2021, eswalliance.org/launch-of-briefing-tackling-trafficking-under-a-decriminalisation-model.

³⁶ Department of Justice and Equality, “Discussion Document on Future Direction of Prostitution Legislation,” 22 June 2012, justice.ie/en/JELR/Discussion%20Document%20on%20Future%20Direction%20of%20Prostitution%20Legislation.pdf/Files/Discussion%20Document%20on%20Future%20Direction%20of%20Prostitution%20Legislation.pdf, p. 8.

³⁷ Criminal Law (Human Trafficking) Act 2008, irishstatutebook.ie/eli/2008/act/8/enacted/en/print; Criminal Law (Human Trafficking) (Amendment) Act 2013, irishstatutebook.ie/eli/2013/act/24/enacted/en/print.html.

³⁸ Criminal Law (Human Trafficking) Act 2008, Section 5.

³⁹ United States Department of State, *Trafficking in Persons Report*, June 2020, state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf, p. 269.

⁴⁰ United States Department of State, *2021 Trafficking in Persons Report*, June 2021, state.gov/wp-content/uploads/2021/07/TIP_Report_Final_20210701.pdf, p. 302.

⁴¹ Ireland, Criminal Law (Sexual Offences) Act 2017, Section 27.

⁴² Department of Justice, “Minister McEntee publishes Terms of Reference for the Review of Part 4 of the Criminal Law (Sexual Offences) Act 2017, 9 July 2020, gov.ie/en/press-release/2c3e6-minister-mcentee-publishes-terms-of-reference-for-the-review-of-part-4-of-the-criminal-law-sexual-offences-act-2017/.

⁴³ surveymonkey.com/r/WBJTF3B.

⁴⁴ Amnesty International, *Submission to the Department of Justice and Equality public consultation on Review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017*, 18 September 2020, amnesty.ie/wp-content/uploads/2020/09/AI-Submission-on-sex-work-law-review-18092020.pdf.

have all been brought in to try to help us, they have all failed and worse, and worse still, they've put plenty of us in danger ... How about we try listening to the people who actually know what's going on, who know what they're talking about for once?"⁴⁵ Lucy Smyth, the Director of Ugly Mugs, an application that sex workers can use to report violent clients and warn others, said: "I feel like we've had review after review after review and never have sex workers been listened to."⁴⁶

Most NGO representatives and academics interviewed in the course of this research were aware of the ongoing review and have engaged in the process. Several interviewees identified the lack of baseline data on the prevalence and nature of sex work in Ireland as a serious obstacle for the review process. For example, Dr Kathryn McGarry, Assistant Professor in Social Policy at the University of Maynooth, told Amnesty International: "The problem, of course, is that we lack any baseline data to begin with. That was the problem before this law was even introduced. They were making decisions based on very, very limited evidence. So the idea of reviewing the impact of laws, further down the road, is very much limited, when you have nothing to go on."⁴⁷

According to the Department of Justice, the report from the review was to be expected by the end of 2021.⁴⁸ At the time of this report's publication in January 2022, there were no further updates on its progress, however. It is crucial that the Irish authorities take every opportunity to ensure that sex workers, as those directly impacted by the legislation under review, are able to engage with the process meaningfully.

⁴⁵ Interview by voice call with "Kristina" (name changed for anonymity), 14 January 2021.

⁴⁶ Interview by voice call with Lucy Smyth, Director, Ugly Mugs, 22 September 2020.

⁴⁷ Interview by video call with Dr Kathryn McGarry, University of Maynooth, 24 September 2020.

⁴⁸ Interview by video call with representatives of the Department of Justice, 19 August 2021.

2. VIOLENCE AGAINST SEX WORKERS IN IRELAND

“We’ve somehow created an environment which is absolutely perfect for abusing sex workers.”

Lucy Smyth, Ugly Mugs⁴⁹

2.1 SEX WORKERS’ EXPERIENCES OF VIOLENCE

The overwhelming majority of sex workers interviewed in the course of this research (23 out of 30) told Amnesty International that they have experienced various forms of violence at different times while doing sex work. Most (21) said the violence was from men contacting them as clients, one reported having experienced attacks by members of the public and one – intimate partner violence. Interviewees’ experiences included physical attacks and threats; sexual violence, including rape; robberies; stalking; verbal abuse and harassment, including online.

Lucy Smyth, the Director of Ugly Mugs, told Amnesty International about the range of abuses sex workers report: “There’s a lot of other types of abuse... there’s also just the threatening phone calls, abusive messages in person, causing you problems, acting disruptive, causing criminal damage, and this sort of thing, which are kind of lesser than a very serious assault you might think, but at the same time are often quite ruining sex workers’ lives.”⁵⁰

“M.R.T.R.”, a 40-year-old Irish woman, described one of her experiences: “Basically, I refused to go down on a man one day. I said, ‘I don’t want to do it, I prefer not to do it’... He got very very angry, very strong man now and he picked me up and threw me in the back of the car and then he just did it. And he was choking me to the point where I was starting to blackout a small bit... And I just remember saying to myself, ‘Oh my God, I’m gonna die.’”⁵¹

“Lexi”, a 40-year-old Irish street sex worker who at the time of the interview was experiencing homelessness, described having been kidnapped outside of Dublin in the summer of 2019: “He brought me to outside Bray beach... And then he tried to... I do hand jobs or blow jobs. When I refused to do sex for him, he didn’t like

⁴⁹ Interview by voice call with Lucy Smyth, Director of Ugly Mugs, 20 September 2020.

⁵⁰ Interview by voice call with Lucy Smyth, Director of Ugly Mugs, 20 September 2020.

⁵¹ Interview by voice call with “M.R.T.R.” (name changed for anonymity), 3 March 2021.

it. Because he wasn't getting his own way... But I fought my way... I got away. That was traumatic, very traumatic."⁵²

"A.", a 26-year-old migrant sex worker, told Amnesty International they experienced violence at the hands of clients three times: "I was orally raped by one guy. I know I sound blasé but this is what happens when you have a shitty law."⁵³

"Vanessa", who is an Irish woman in her thirties and does street sex work, told Amnesty International about having been attacked by members of the public: "Young fellas driving by and just throwing bottles at you or members of the public and residents... Like, I've been physically pulled out of cars by residents who didn't want us, want me there."⁵⁴

Some sex workers described clients stealing from them or refusing to pay. For instance, "Lilly", a Limerick-based migrant sex worker recounted: "He offered me 20 euros, and I was like, I said, 'No, that's not okay'... I could see he opened his wallet, his wallet was full of money. And he was only willing to offer me 20. So I said, 'No, you have to leave'... he started pushing me. And I put 'recording' on my phone. I put it on because I thought if something bad happened at least I'll have some evidence. So I recorded that ... I got him to leave thank God."⁵⁵

The seven sex workers (six women and one man) who reported not having experienced violence in recent years stressed how "lucky" they considered themselves to be, having heard or read of others' experiences and the high incidence of violence committed against sex workers. They also reported being acutely aware of the risks of being attacked. "Maria", a 28-year-old migrant sex worker based in Dublin, told Amnesty International: "When you open the door, you never know who is behind the door... Sometimes, when they get in, maybe they don't like when you say 'you need to take a shower' for example before we start or 'you need to wear a condom'."⁵⁶

2.2 INCIDENCE OF VIOLENCE AGAINST SEX WORKERS

No official data with regard to violent crimes committed against sex workers in Ireland is available. An Garda Síochána (the Irish police service) does not keep disaggregated records that would allow offences committed against sex workers to be identified. People who engage in sex work also do not necessarily disclose this fact when coming into contact with law enforcement or support services such as rape crisis centres or medical professionals for various reasons, including lack of trust in the authorities and fear of stigmatization and criminalization.

The limited data and estimates available are largely based on reporting trends to Ugly Mugs, a not-for-profit online application where sex workers can confidentially report incidents of violence and warn others of potential perpetrators.⁵⁷ A 2020 study, which analyzed reports to Ugly Mugs in the Republic of Ireland between 2015 and 2019, found elevated levels of reporting of violence by sex workers. It found that when comparing the two years before and the two years after the 2017 law reform, sex workers reported 91% more crime incidents to Ugly Mugs and 92% more violent crimes.⁵⁸ The authors noted: "Whilst our preliminary analysis cannot prove direct causation, these increases are a concern in terms of sex workers' safety and raise issues around wider public protection from crime."⁵⁹

Ugly Mugs Director Lucy Smyth told Amnesty International: "Our data does show pretty clearly that there have been increases in violence since the law but I prefer not to reduce it down to that simple statement. Because I think if you actually look at over a longer period of time, and if you talk to sex workers, I think you would find that there's various different reasons coming in... And it's got to do with other factors apart from the law, it's got to do with the stigmatization of sex workers in the media, it's got to do with the police attitude, that the police have become complete enemies of sex workers as opposed to people who sex workers can go to... We've somehow created an environment which is absolutely perfect for abusing sex workers."⁶⁰

⁵² Interview by voice call with "Lexi" (name changed for anonymity), 8 February 2021.

⁵³ Interview by voice call with "A." (name changed for anonymity), 11 January 2021.

⁵⁴ Interview by video call with "Vanessa" (name changed for anonymity), 7 January 2021.

⁵⁵ Interview by voice call with "Lilly" (name changed for anonymity), 24 February 2021.

⁵⁶ Interview by voice call with "Maria" (name changed for anonymity), 16 December 2020.

⁵⁷ uglymugs.ie/.

⁵⁸ "Not collateral damage: Trends in violence and hate crimes experienced by sex workers in the Republic of Ireland" (previously cited), p. 294.

⁵⁹ "Not collateral damage: Trends in violence and hate crimes experienced by sex workers in the Republic of Ireland" (previously cited), p. 294.

⁶⁰ Interview by voice call with Lucy Smyth, Director, Ugly Mugs, 22 September 2020.

Another 2020 study by Maynooth University in conjunction with SWAI for HIV Ireland found there was a reluctance to report violence to Gardaí and seek support from other authorities among participants, impacting their access to justice and their health and well-being. It also found that the 2017 law reform which criminalized the purchase of sex was compromising sex workers' safety.⁶¹ The research also noted specific human rights impacts on migrant sex workers, whose "need to remain invisible in order to conceal both their sex working and their migrant status, shapes their vulnerability in particular ways and compromises their safety."⁶²

A 2019 report by SWAI found that 80% of those surveyed reported having been victims of a crime while working.⁶³ The violence reported to SWAI researchers ranged from rape, assault and robbery to stalking, abusive phone calls and messages, and in-person threats. Over 80% of the survey respondents said they did not report the crimes to the Gardaí.⁶⁴ Another study, commissioned by the Irish government and published in November 2020 by the Sexual Exploitation Research Programme (SERP) at University College Dublin, also described experiences of violence among "women in prostitution" and victims of trafficking for the purpose of sexual exploitation.⁶⁵ The authors analyzed service user data from the Irish Health Service Executive's Women's Health Service and Anti-Human Trafficking Team, as well as Ruhama, which also provided the Researchers with 10 case studies. Accordingly, the data seems to have concerned victims of human trafficking and sex workers, without differentiation. No sex workers or victims of human trafficking were interviewed during the course of SERP's research.⁶⁶

As of 2021, crime data collected by Ireland's Central Statistics Office and based on An Garda Síochána's reporting PULSE system is disaggregated by victims' sex/gender and age.⁶⁷ According to the National Office for the Prevention of Domestic, Sexual and Gender-based Violence (Cosc) 2016-2021 Action Plan, the Irish authorities have committed to establishing a "gold standard of data collection and analysis by all agencies working in the area(s) of domestic and sexual violence... disaggregated by: Age of victim and perpetrator; Sex of victim and perpetrator; Relationship between victim and perpetrator; Ethnicity of victim and perpetrator; Any disabilities of victim and perpetrator."⁶⁸ No such data is available at the moment, however, and Cosc's website no longer exists.⁶⁹

In March 2017, in its most recent Concluding Observations on Ireland, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) recommended that data on gender-based violence is also disaggregated by, for instance, ethnicity and the relationship between the victim and the perpetrator.⁷⁰ The Istanbul Convention, which Ireland ratified in 2019, also obliges State Parties to collect disaggregated statistical data on violence against women and girls,⁷¹ further recommending recording information as to "age, type of violence, as well as the relationship of the perpetrator to the victim, geographical location, as well as other factors deemed relevant by Parties such as disability."⁷²

This type of disaggregated data would assist the Irish authorities' understanding of the scale and impact of gender-based violence on, for example, women of different ages, those with disabilities, LGBTI people, racialized and migrant women and those living in poverty, using drugs and experiencing homelessness, and should include information on violence experienced by sex workers. Such information would facilitate more informed law and policy making and resource allocation. However, the current legal framework on sex work in Ireland is likely to render any such efforts futile as even those sex workers who do report violence to the

⁶¹ Kathryn McGarry and Paul Ryan, *Sex Worker Lives under the Law: A Community Engaged Study of Access to Health and Justice in Ireland*, 2020, hivireland.ie/wp-content/uploads/HIV-Ireland_SexWorkerLives_FINAL.pdf.

⁶² *Sex Worker Lives under the Law: A Community Engaged Study of Access to Health and Justice in Ireland* (previously cited), p. 49.

⁶³ Sex Workers Alliance Ireland, *I feel targeted and I can't feel safe: Peer research of sex workers' experiences under the law*, 2019, sexworkersallianceireland.org/wp-content/uploads/2020/09/SWAI-Research-Report-.pdf, p. 18.

⁶⁴ *I feel targeted and I can't feel safe: Peer research of sex workers' experiences under the law* (previously cited), p. 24.

⁶⁵ Monica O'Connor and Ruth Breslin, *Shifting the Burden of Criminality. An analysis of the Irish sex trade in the context of prostitution law reform*, 2020, ucd.ie/geary/static/serp/Shifting_the_Burden_Report.pdf.

⁶⁶ *Shifting the Burden of Criminality. An analysis of the Irish sex trade in the context of prostitution law reform* (previously cited).

⁶⁷ Central Statistics Office, Recorded Crime Q2 2021, cso.ie/en/releasesandpublications/ep/p-rc/recordedcrimeq22021/.

⁶⁸ National Office for the Prevention of Domestic, Sexual and Gender-based Violence, Action Plan, "Second National Strategy on Domestic Sexual and Gender-based Violence 2016-2021", January 2016, [justice.ie/en/JELR/Action%20Plan%20-%20Second%20National%20Strategy%20on%20Domestic.%20Sexual%20and%20Gender-based%20Violence%202016%20-%202021%20Version%201%20-%20January%202016.pdf](https://justice.ie/en/JELR/Action%20Plan%20-%20Second%20National%20Strategy%20on%20Domestic.%20Sexual%20and%20Gender-based%20Violence%202016%20-%202021%20Version%201%20-%20January%202016.pdf/Files/Action%20Plan%20-%20Second%20National%20Strategy%20on%20Domestic.%20Sexual%20and%20Gender-based%20Violence%202016%20-%202021%20Version%201%20-%20January%202016.pdf), p. 25.

⁶⁹ justice.ie/en/JELR/Pages/Cosc_cosc.ie/.

⁷⁰ United Nations Committee on the Elimination of Discrimination against Women (CEDAW), Concluding Observations: Ireland, 9 March 2017, UN Doc. CEDAW/C/IRL/CO/6-7, para. 27(a).

⁷¹ Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), 11 May 2011, Article 11.

⁷² Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence Istanbul, 2011, para. 76.

authorities are unlikely to disclose that they do sex work for fear of criminalization, among other factors, which this report explores further in-depth.

2.3 INSTITUTIONAL AND STRUCTURAL FACTORS THAT CONTRIBUTE TO VIOLENCE AGAINST SEX WORKERS

Experts interviewed for this report frequently situated sex workers' experiences in Ireland in the context of gender-based violence and intersectional discrimination. Billie Stoica, at the time of the interview Community Support Project Worker with the Limerick-based organization Gender Orientation, Sexual Health, HIV (GOSHH), told researchers: "There is violence against sex workers, there are crimes committed against sex workers, and they are the same crimes that are committed against women, against trans people and gay men, they are the same crimes, same hate. But with an extra added vile dimension to it because there is whorephobia."⁷³

Dr Paul Ryan, who has conducted research with male sex workers in Ireland, also noted the gendered dimensions and differences in types and levels of violence experienced by sex working men and women. Describing the experiences of male sex workers he has conducted research with, he told Amnesty International: "They worked out and they were just quite big, physically bigger than I take a lot of their clients, and I think that in terms of physical violence, there wasn't. But there was certainly disputes, arguments about money and arguments about what was provided but that didn't escalate certainly in my experience of talking to them."⁷⁴

Trans sex workers' experiences of violence are also often closely linked to and exacerbated by transphobia, with global studies finding that "trans sex workers, particularly those who work outdoors, are a visible population, easily targeted for acts of violence and hate crimes."⁷⁵

Legal, policy, societal and institutional systems and power structures are often at the root of sex workers' victimization. A 2013 report by the International Committee on the Rights of Sex Workers in Europe investigated the different ways in which structural violence impacted sex workers' human rights in the region. It defined structural violence as "a multi-faceted form of power"⁷⁶ comprising of "social attitudes towards sex workers, built into repressive regulations governing sex work, and – through various social and institutional practices – embedded in the social spaces of streets, health centres, universities, court rooms, prisons and homes" creating "an oppressive social environment in which sex workers are systematically denied voice and power to decide over their own fates, are policed and controlled, discriminated against and mistreated."⁷⁷ A 2013 global study also associated the high prevalence of violence against sex workers with a number of structural and contextual factors, for instance, legal and policy environments such as those criminalizing sex work or some aspects of it, policing practices, gender and economic inequality and stigma.⁷⁸

The 2020 report for HIV Ireland concluded that sex workers in the country live within the context of structural violence, which impacts their health, safety, well-being and access to justice.⁷⁹ It found that the legal framework in Ireland "heightens the stigma and everyday violence sex workers are exposed to. For migrant sex workers this situation is, again, further compounded in a bid to maintain invisibility."⁸⁰

The evidence gathered during the research for this Amnesty International report points to similar systemic, structural and intersecting factors being at the very root of the violence and other human rights violations experienced by sex workers in Ireland.

⁷³ Interview by video call with Billie Stoica, GOSHH, 8 September 2020.

⁷⁴ Interview by video call with Dr Paul Ryan, Maynooth University, 30 October 2020.

⁷⁵ *The needs and rights of trans sex workers* (previously cited), p. 4; Boglarka Fedorko and Lukas Berredo, *The vicious circle of violence: Trans and gender-diverse people, migration, and sex work*, TvT Publication Series Vol. 16 October 2017, Transgender Europe (TGEU), transrespect.org/wp-content/uploads/2018/01/TvT-PS-Vol16-2017.pdf; Frontline Defenders, *Sex Worker Rights Defenders At Risk*, August 2021, frontlinedefenders.org/sites/default/files/flid_swrdr_final_english.pdf.

⁷⁶ International Committee on the Rights of Sex Workers in Europe (ICRSE), *Structural violence. Social and institutional oppression experienced by sex workers in Europe*, 2013, sexworkereurope.org/sites/default/files/userfiles/files/ICRSE%20CR%20StrctrlViolence-final.pdf, p. 3. In September 2020, the organization has changed its name to European Sex Workers' Rights Alliance (ESWA).

⁷⁷ International Committee on the Rights of Sex Workers in Europe (ICRSE), *Structural violence. Social and institutional oppression experienced by sex workers in Europe*, 2013, sexworkereurope.org/sites/default/files/userfiles/files/ICRSE%20CR%20StrctrlViolence-final.pdf, p. 4.

⁷⁸ Kathleen Deering and others, "A Systematic Review of the Correlates of Violence Against Sex Workers", May 2014, *American Journal of Public Health*, Volume 104, Issue 5, ncbi.nlm.nih.gov/pmc/articles/PMC3987574/pdf/AJPH.2014.301909.pdf, p. 51.

⁷⁹ *Sex Worker Lives under the Law: A Community Engaged Study of Access to Health and Justice in Ireland* (previously cited).

⁸⁰ *Sex Worker Lives under the Law: A Community Engaged Study of Access to Health and Justice in Ireland* (previously cited), p. 49.

3. FOCUS ON SAFETY

3.1 SEX WORKERS' STRATEGIES FOR KEEPING SAFE

“Gardaí never work alone but sex workers can't work together?”

Adeline⁸¹

Sex workers in Ireland employ various strategies to mitigate the risks of violence. Several interviewees described having support from friends and people close to them as a protection strategy.

Trish, a 35-year-old Irish student, told Amnesty International: “A few weeks ago, I had a man come in and it was when he got up to my apartment, he said he hadn't got the money... He was kind of hard to get rid of but I just rang my friend... It's just one of the lads. I have a very good group of friends down here... So, as soon as I got on the phone, he heard a man's voice and he left quite fast.”⁸² “Lexi”, from Dublin, said, “I'd go out in the street, I'd have cousins, one or two of my boys keep an eye out on the cars, just for your own protection.”⁸³

Kate McGrew, a migrant sex worker and former Director of SWAI, said: “I, typically on an outcall, almost always would call somebody right when I get there. Tell them the time I'm leaving and have them call to check in on me at that point too. And give the address... There have been moments when I have been fearful, there have been moments... many moments when I'd boil the kettle and put it by the door in the hotel room or answered the hotel with tweezers in my hand.”⁸⁴

However, interviewees often stressed that relying on this type of risk mitigation strategies did not address the structural and systemic issues that put them at risk. Kate McGrew told Amnesty International: “It's so grim, you know what I mean? Because things go badly quickly so often there isn't really the moment, especially if ... your safety system is your friend, it's already... that's another person that then has to call the police or the ambulance.”⁸⁵

Sex workers described trying to screen prospective clients during telephone calls, for example, 10 interviewees reported using the Ugly Mugs application and/or website as a way of screening clients, as well as informing other sex workers of potential risks. The people interviewed stressed that the criminalization of clients under Ireland's legal framework was hindering their ability to screen them. For example, “Kristina” said: “You have the added struggle of the introduction of the 'Nordic Model' in 2017 to Ireland, which as you know criminalizes the buyer... so my friends who do full-service work and who escort, they have found that when they ask for a simple ID photo, the men are terrified because they're like, 'Oh, are you going to contact

⁸¹ Interview by video call with Adeline, 8 February 2021.

⁸² Interview by video call with Trish, 4 March 2021.

⁸³ Interview by voice call with “Lexi” (name changed for anonymity), 8 February 2021.

⁸⁴ Interview by video call with Kate McGrew, 18 February 2021.

⁸⁵ Interview by video call with Kate McGrew, 18 February 2021.

my family?’ when in truth we don’t care... We’re in as much danger as they are if they decide to do something to us, arguably more.”⁸⁶

Sex workers interviewed also highlighted the risks and protection strategies associated with working in different settings. For example, 29-year-old “Aoife” told Amnesty International: “I felt much more comfortable working from home... I think the stress was in terms of maybe being sort of found out and thrown out by the hotel staff... I never went to a client’s house because I felt it was a very big difference. There, where it’s an environment they’re familiar with, they’re in control of, I don’t know who’s behind the next door.”⁸⁷

The majority of the sex workers interviewed for this report identified sharing premises with other workers as a useful strategy to improve their safety and limit potential risks of violence; 17 said they had shared premises with others. Three others said that it is something they would like to do but have refrained from doing so, due to the risk of being criminalized under the brothel keeping provision in Irish law. For example, Adeline told Researchers: “Gardaí never work alone but sex workers can’t work together?”⁸⁸

Sex workers stressed that the safety aspect was paramount but not the only benefit associated with working with others. “It’s much safer,” said “Ashley”. “And you have a bit of company... The thing is you’re looking for a place, you get a place, then if you get a girl to work with you, it’s not allowed. That’s crazy. Just crazy. They don’t care about the workers.”⁸⁹ “Vanessa”, who has been working both in street settings and in a flat with others, said: “It’s not just about safety. It’s also about kind of companionship. It can be very boring or isolating. Just having some co-workers makes a huge difference, having people to chat to.”⁹⁰ In their 2018 book *Revolting Prostitutes*, Juno Mac and Molly Smith remarked: “There is something intensely dehumanising about the implication that sex workers are so alien that these normal, human considerations do not apply to us.”⁹¹

3.2 HOW THE LAW UNDERMINES SEX WORKERS’ SAFETY STRATEGIES

3.2.1 IMPACT OF THE BROTHEL KEEPING PROVISION ON SEX WORKERS’ HUMAN RIGHTS

“AOIFE’S” STORY

“It did always make me feel safer that there was someone else in the apartment. And even if the person wasn’t there, the fact that you could kind of tell it was a two-bedroom apartment, the client might think ‘well, someone else is here’, they might be less likely to try something. But we did kind of take precautions to protect ourselves from the Gardaí, from the police, you know, when we were working there. So we tried... not to work there on the same days because we were worried about a lot of people coming in and out of the apartment and that drawing attention... But the fact that we didn’t work there at the same time, that had some drawbacks as well... I had a client... I was aware of that... if he freaked out and became violent or aggressive there was no one else there, my flatmate wasn’t there at the time because we always were taking turns to work in the apartment. You know, despite the fact that I was sharing with another sex worker, we took precautions to protect ourselves from the police that may have made me more vulnerable to people like him.”⁹²

“Poppy” described how the prohibition on working with others under the brothel keeping law has impacted her over the years: “For years when I was working... I was so isolated because of this, because I knew that

⁸⁶ Interview by voice call with “Kristina” (name changed for anonymity), 14 January 2021.

⁸⁷ Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021.

⁸⁸ Interview by video call with Adeline, 8 February 2021.

⁸⁹ Interview by voice call with “Ashley” (name changed for anonymity), 12 January 2021.

⁹⁰ Interview by video call with “Vanessa” (name changed for anonymity), 7 January 2021.

⁹¹ Juno Mac and Molly Smith, *Revolting Prostitutes. The fight for sex workers’ rights*, 2018, p. 159.

⁹² Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021.

working with anybody was illegal. And I was just so paranoid that I'd be caught doing it and obviously I can't afford to lose my money on fines or anything like that. So, really, that policy has just completely isolated me... That policy is still isolating people."⁹³

"Nia", a 26-year-old mixed-race Irish woman, spoke about the impact of racialization on her exercise of her rights and the related increased risks and consequences of criminalization: "I don't want to risk anything, especially with the brothel keeping because it's like, again, it's a lot of foreign nationals that are being prosecuted for it in Ireland... I am looked at as a foreign national, even though I'm not, so I'm more likely to be prosecuted for that. So I don't feel comfortable working with someone else, because I would face repercussions to that unfortunately."⁹⁴

"Five" spoke about how she viewed the criminalization of working together under the brothel keeping law as an attempt at consolidating the existing power structures in Ireland. "The reason why they keep us separate", she said, "is because there's strength in numbers and they don't want the types of people who are likely to become escorts to be financially empowered, because the types of people who are likely to become escorts are typically anti-establishment. And these are exactly the types of people which challenge the established government and the established power hierarchy, the patriarchy. So that's why they keep us separate. We're more vulnerable when we're alone."⁹⁵

The majority of sex workers surveyed as part of the 2019 review of a similar brothel keeping law in Northern Ireland stated that they would feel safer if they were legally permitted to work with a friend or a colleague.⁹⁶ The 2020 report for HIV Ireland also found that many of the research participants raised the risk implications of working without a friend and that this measure was often no longer available to them.⁹⁷ Dr Kathryn McGarry, one of the report's authors, told Amnesty International: "The major thing that keeps coming up, that came up in our research for HIV Ireland is how limited sex workers are in their abilities to keep safe and to mitigate any kind of risk or exposure to violence. And working together for safety is one of the major things. So the fact that this comes under brothel keeping legislation, it's one of the things that we keep reiterating again and again... It's turning the question on its head: it's not about what states need to do in order to govern sex work, what we're calling for is that states need to re-shift the focus around how can we facilitate the conditions in which sex workers feel safe."⁹⁸

According to data from Ireland's Central Statistics Office, based on An Garda Síochána's crime recording PULSE system, between 2019 and 2021, Gardaí recorded 22 "brothel keeping" incidents (14 in 2019, eight in 2020, and fewer than five up until July 2021).⁹⁹ According to this data, a small number (fewer than five) of these incidents resulted in a charge or a summons in 2019. Data regarding the charges or summons for 2020 and 2021 was not available at the time of writing.¹⁰⁰ The "Brothel Keepers" website, created by "an informal collective of sex workers and allies", identified 82 cases involving 165 individual sex workers convicted for brothel keeping between 2009 and 2018 through an analysis of Irish media reports.¹⁰¹ Three of the sex workers interviewed in this report said they had been arrested or investigated for brothel keeping, or the premises they were working from had been raided.¹⁰²

In recent years, Irish media have reported on several cases of sex workers being criminalized under the brothel keeping prohibition or other provisions criminalizing aspects of sex work.¹⁰³ For example, in 2018, a Spanish-Brazilian couple who both worked as sex workers were convicted for "aiding and abetting prostitution" at Ennis District Court.¹⁰⁴ According to media reports citing the Gardaí's testimony before the Court, the man "outlined that they had children in college in Spain, and that this was for their education."¹⁰⁵

⁹³ Interview by voice call with "Poppy" (name changed for anonymity), 19 January 2021.

⁹⁴ Interview by video call with "Nia" (name changed for anonymity), 5 March 2021.

⁹⁵ Interview by voice call with "Five" (name changed for anonymity), 21 January 2021.

⁹⁶ *A Review of the Criminalisation of Paying for Sexual Services in Northern Ireland* (previously cited), p. 162.

⁹⁷ *Sex Worker Lives under the Law: A Community Engaged Study of Access to Health and Justice in Ireland* (previously cited), p. 33.

⁹⁸ Interview by video call with Dr Kathryn McGarry, University of Maynooth, 24 September 2020.

⁹⁹ The Central Statistics Office does not provide a specific number when figures are lower than five. Data provided on Amnesty International's request by the Central Statistics Office in July 2021.

¹⁰⁰ Email of 1 July 2021, on file with Amnesty International.

¹⁰¹ "Brothel Keepers" website, brothelkeepers.org/cases/.

¹⁰² Interview by voice call with Barbara, 7 January 2021; Interview by voice call with "Bianca" (name changed for anonymity), 12 April 2021; Interview by video call with Adeline, 18 February 2021.

¹⁰³ Irish Examiner, "Limerick apartment linked to brothel keeper is deemed proceeds of crime by court", 17 December 2018, [irishexaminer.com/news/arid-30892622.html](https://www.irishexaminer.com/news/arid-30892622.html); Waterford News and Star, "Woman to be sentenced for 'keeping a brothel'", 9 October 2020, [waterford-news.ie/2020/10/09/woman-to-be-sentenced-for-keeping-a-brothel/#.X4RxntBKjIX](https://www.waterford-news.ie/2020/10/09/woman-to-be-sentenced-for-keeping-a-brothel/#.X4RxntBKjIX); Independent, "Couple who were 'essential and vital cogs' in brothel spared prison term", 8 April 2021, [independent.ie/irish-news/courts/couple-who-were-essential-and-vital-cogs-in-brothel-spared-prison-term-40286224.html](https://www.independent.ie/irish-news/courts/couple-who-were-essential-and-vital-cogs-in-brothel-spared-prison-term-40286224.html).

¹⁰⁴ Irish Examiner, "Married couple who charged clients €200 an hour for sex at address in Ennis escape jail", 9 May 2018, [irishexaminer.com/news/arid-30841859.html](https://www.irishexaminer.com/news/arid-30841859.html).

¹⁰⁵ Irish Examiner, "Nursing board deliberates on male nurse who made living from prostitution with his wife", 1 July 2021, [irishexaminer.com/news/munster/arid-40327403.html](https://www.irishexaminer.com/news/munster/arid-40327403.html).

The couple were fined 600 euros each and an investigation into “misconduct for allegedly bringing the nursing profession into disrepute” against the man, who was a nurse, is pending before the Nursing and Midwifery Board of Ireland.¹⁰⁶

In another case given widespread media coverage and referred to by many of the interviewees, two young migrant women from Romania, one of whom was pregnant, were charged with “knowingly permitting premises to be used as a brothel for the purpose of habitual prostitution” when found by the police to be working together in an apartment in Newbridge, Co. Kildare, in November 2018. In June 2019, they were convicted at Naas District Court and sentenced to nine months’ imprisonment.¹⁰⁷ According to media reports, no clients were present when the women’s apartment was raided.¹⁰⁸ Solicitor Rory Staines, who represented the women, told Amnesty International: “The reason why people might join together and work together would be ultimately safety and the law appears to discourage that and appears to kind of force people to work on their own and penalizes them if there’s two of them together.”¹⁰⁹

Evidently, the judgment in this case contradicts the stated purpose of the 2017 law reform about shifting police focus from the sex worker to the client and promoting sex workers’ ability to report crimes. SWAI commented at the time: “We have a long and shameful past of institutionalising ‘fallen women’. The facts of this case show the 2017 Sexual Offences Law is not fit for purpose. There were no clients present, very little money and no evidence of the workers being coerced into their job.”¹¹⁰

A migrants’ rights NGO staff member told Amnesty International: “I believe... the brothel keeping legislation was not intended to be used to arrest two women, especially, you know, not two women from a migrant background, one of whom was pregnant, that legislation was there to try and target the controllers, the potential traffickers, the pimps, and the criminal organizations involved. It’s not intended to target women... Whether it’s law that needs to be changed to make sure it doesn’t happen again, or it’s training or support, certainly, it’s not something that you know, that can be let happen again, it was a really shocking case.”¹¹¹

During Ireland’s most recent periodic review before the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) in 2017, government representatives were asked about the reasons for the increase in penalties for brothel keeping in light of the data indicating that 92% of “persons subjected to arrests, convictions and judgments” for brothel keeping were sex workers and not exploitative third parties.¹¹² A representative of the Irish government responded at the time: “The issue from our point view is that indoor brothel keeping is organized. And it’s impossible in many cases to establish that the organizing is voluntary, that there isn’t a pimp behind the brothel and there is scope for the organizer to intimidate trafficked victims into saying that they’re working out of their own free will when that is not the case.”¹¹³

With regard to such justifications from Irish authorities for retaining the brothel keeping offence in legislation and increasing the penalties for it, Dr Eilís Ward told Amnesty International: “There was no explanation offered as to in what way this tackles organized crime. Plus, there is a lot of existing legislation: anti-trafficking laws, Criminal Assets Bureau, taxation laws, all the rest, criminal law, which function, I think really well against organized crime. So the implication really is that we have sex workers, some, many, most of whom, the majority of whom, are innocent victims and need to be protected and sort of saved and rescued. And then we have some other sex workers who are part of organized crime. I mean, that’s the only way I can read it.”¹¹⁴ In 2019, the Irish Human Rights and Equality Commission made a recommendation to the Irish government to include the review of the brothel keeping provisions in its ongoing review of the operation of the 2017 Act.¹¹⁵

¹⁰⁶ “Nursing board deliberates on male nurse who made living from prostitution with his wife” (previously cited).

¹⁰⁷ Kildare Now, “Newbridge brothel keeping charge facing 2 young women before Naas District Court,” 9 April 2019, [kildarenow.com/news/local-news/415115/newbridge-brothel-keeping-charge-facing-2-young-women-before-naas-district-court.html](https://www.kildarenow.com/news/local-news/415115/newbridge-brothel-keeping-charge-facing-2-young-women-before-naas-district-court.html);

Independent, “Jailing of migrant sex workers in Ireland decried as ‘completely unjust’”, 17 June 2019, [independent.co.uk/news/world/europe/ireland-migrant-sex-workers-jailed-prison-newbridge-police-romania-naas-a8962291.html](https://www.independent.co.uk/news/world/europe/ireland-migrant-sex-workers-jailed-prison-newbridge-police-romania-naas-a8962291.html).

¹⁰⁸ Irish Times, “Jailing of sex workers keeping brothel shows law ‘not fit for purpose’”, 10 June 2019, [irishtimes.com/news/social-affairs/jailing-of-sex-workers-keeping-brothel-shows-law-not-fit-for-purpose-1.3921149](https://www.irishtimes.com/news/social-affairs/jailing-of-sex-workers-keeping-brothel-shows-law-not-fit-for-purpose-1.3921149).

¹⁰⁹ Interview by video call with Rory Staines, Michael J. Staines & Company Solicitors, 11 August 2020.

¹¹⁰ Independent, “Disgust as jail sentences are handed to sex workers, one of them pregnant”, 10 June 2019, [independent.ie/irish-news/courts/disgust-as-jail-sentences-are-handed-to-sex-workers-one-of-them-pregnant-38197205.html](https://www.independent.ie/irish-news/courts/disgust-as-jail-sentences-are-handed-to-sex-workers-one-of-them-pregnant-38197205.html).

¹¹¹ Interview by video call with a migrants’ rights NGO staff member, 15 February 2021.

¹¹² Consideration of Ireland, 1474th Meeting 66th Session of Committee on Elimination of Discrimination Against Women, 15 February 2017, media.un.org/en/asset/k1y/k1ykf36f1p, 2h 36 minutes.

¹¹³ Consideration of Ireland, 1474th Meeting 66th Session of Committee on Elimination of Discrimination Against Women, 15 February 2017, media.un.org/en/asset/k1y/k1ykf36f1p, 2h 40 minutes.

¹¹⁴ Interview by video call with Dr Eilís Ward, National University of Ireland Galway (retired), 24 September 2020.

¹¹⁵ Irish Human Rights and Equality Commission, *Ireland and the Convention on the Elimination of Racial Discrimination Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland’s Combined 5th to 9th Report*, October 2019, ihrec.ie/app/uploads/2019/11/IHREC_CERD_UN_Submission_Oct_19.pdf, p. 142.

3.2.2 THE “CHILLING EFFECT” OF PROVISIONS CRIMINALIZING ORGANIZATIONAL ASPECTS OF SEX WORK

“First I was angry at the guy who did this... But then my second reaction was to get really angry at the Guards and really angry at the government and politics and the state. Because I’m in a situation where this was able to happen because of these laws.”

“Aoife”¹¹⁶

Representatives of the Office of the Director of Public Prosecutions told Amnesty International that while their office did not collect data on the numbers of prosecutions for “prostitution-related” offences, including brothel keeping, the number of such prosecutions in recent years has been very small.¹¹⁷ According to information provided to Amnesty International by the Courts Service, between January 2019 and July 2021, there were 43 prosecutions for various offences related to sex work.¹¹⁸ However, even though the numbers of arrests, prosecutions and convictions of sex workers under Section 11 on brothel keeping and other provisions criminalizing organizational aspects of sex work may be low, the evidence gathered in the course of this research demonstrates that the fear of criminalization associated with these provisions affects sex workers’ behaviours and often forces them to work in ways that compromise their safety.

There were 92 incidents of “Payment for Sexual Activity with a Prostitute” recorded in 2019, 16 in 2020 and 10 in 2021, with 40 of these resulting in a charge or a summons in 2019 (no information was available for 2020 or 2021 from the Central Statistics Office).¹¹⁹ Additional information is available thanks to Parliamentary Questions, for instance, in response to a question by Member of the Dáil (Irish Parliament) Holly Cairns, the Minister for Justice specified that between 27 March 2017, when the relevant Act came into force, and 17 December 2020, 131 incidents of “Payment for Sexual Activity with a Prostitute” were recorded, 63 of which resulted in a charge or a summons.¹²⁰ In December 2021, the Minister specified in a response to the same Dáil Member that the number between March 2017 and December 2021 was 67.¹²¹ There is no publicly available data on how many of these cases led to prosecutions or convictions.¹²²

While there is clearly a lack of uniformity, consistency and consolidation in the collection of the relevant data, even the limited data available points to disproportionate criminalization of brothel keeping, which may point to criminalization of sex workers, contrary to the stated aim of the 2017 law reform, which was to target traffickers.

¹¹⁶ Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021.

¹¹⁷ Interview by video call with representatives of the Office of the Director of Public Prosecutions, 18 August 2021.

¹¹⁸ Data provided on Amnesty International’s request by the Department of Justice, email of 14 October 2021.

¹¹⁹ Email of 1 July 2021, on file with Amnesty International.

¹²⁰ Crime Data Dáil Éireann Debate, 17 December 2020.

¹²¹ Irish Examiner, “Almost 70 charges and court summonses for purchase of sex”, 23 December 2021, [irishexaminer.com/news/arid-40771614.html](https://www.irishexaminer.com/news/arid-40771614.html).

¹²² Crime Data Dáil Éireann Debate, 17 December 2020; Irish Examiner, “Almost 70 charges and court summonses for purchase of sex” (previously cited).

3.2.3 IMPACT OF CLIENT CRIMINALIZATION ON SEX WORKERS' HUMAN RIGHTS

Most of the sex workers interviewed (23 out of 30) stressed the negative impact and the “chilling effect” of the 2017 introduction of client criminalization on their safety, well-being, autonomy and ability to earn a living. Romanian sex worker “B.” told Amnesty International: “Work went even more underground... Things got worse, more exposed. Much more dangerous now, I feel like clients got crazier. The good clients who were around before now they’re scared to go to escorts, scared of prosecutions.”¹²³

A “chilling effect” for the purposes of international human rights law may be defined as “the negative effect any state action has on natural and/or legal persons, and which results in pre-emptively dissuading them from exercising their rights or fulfilling their professional obligations, for fear of being subject to formal state proceedings which could lead to sanctions or informal consequences such as threats, attacks or smear campaigns.”¹²⁴

Sex workers frequently described being forced to engage in more risky behaviours as a result of client criminalization. “Nando”, a former male sex worker from Venezuela who was doing sex work at the time the law was enacted, reflected: “And then the new law, you know, the ‘Nordic Model’ came into effect... Little by little, I started meeting less clients... It was, you know, illegal to buy sex, to pay for sex... I decided to go for chemsex, like I would have never in the past... So, it was, you know, like, taking more risks... because it was less money.”¹²⁵

Linda Kavanagh, Communications and Admin Manager with SWAI told researchers: “We have a law that’s purported to be about the safety of sex workers, about women and all this kind of stuff. And then when you see the reality, the reality is that sex workers have to deprioritize their own safety.”¹²⁶

Billie Stoica noted additional consequences of client criminalization in Ireland: “From my point of view, the impact that this law has had is to send people further away from the community, from the support network, from agencies they may be able to access.”¹²⁷

3.3 SEX WORKERS' RECOMMENDATIONS FOR CHANGE

Asked about what would need to change in order to improve sex workers’ safety in Ireland, the vast majority of the sex workers interviewed (24 out of 30) told Amnesty International that they would like to be legally allowed to work together with others.

Czech woman Barbara said: “It would be great if it would be legal to share a flat. At the end of the day it’s just for safety... Right now I’m here alone in a two-bedroom flat. I’m like, ‘Okay, I do take a deposit [from clients] and everything’, you know. But still things can happen. But if the client knows there is someone else... there’s a higher possibility they will behave more nicely.”¹²⁸

“B.”, a 31-year-old Romanian sex worker, told Amnesty International that she would say to the Irish government: “Please take this law out, let us work together, we don’t do any harm... It’s dangerous to work alone. Very dangerous. One to one, a woman with a man, we don’t stand a chance. We need another girl, she can hear what’s happening... But to be alone it’s very dangerous.”¹²⁹

Most of the sex workers interviewed (23 out of 30) specifically said they would like to see sex work fully decriminalized in Ireland, including through removing the ban on the purchase of sex. “Poppy” said: “I think crucially, it needs to be decriminalization rather than any form of regulation, like legalization, where that would only work for potential people who can afford to buy licenses... I think that there’s so many migrants who do sex work, their visa only allows them to work in the formal economy for a certain number of hours.

¹²³ Interview by voice call with “B.” (name changed for anonymity), 4 December 2020.

¹²⁴ Laurent Pech, Open Society European Policy Institute, *The Concept of Chilling Effect: Its untapped potential to better protect democracy, the rule of law, and fundamental rights in the EU, 2021*, opensocietyfoundations.org/uploads/c8c58ad3-fd6e-4b2d-99fa-d8864355b638/the-concept-of-chilling-effect-20210322.pdf, p. 4.

¹²⁵ Interview by video call with “Nando” (name changed for anonymity), 6 April 2021.

¹²⁶ Interview by video call with representatives of SWAI, 29 October 2020.

¹²⁷ Interview by video call with Billie Stoica, GOSHH, 8 September 2020.

¹²⁸ Interview by voice call with Barbara, 7 January 2021.

¹²⁹ Interview by voice call with “B.” (name changed for anonymity), 4 December 2020.

And often, those hours aren't enough to pay rent, or maybe they'll pay rent but there won't be enough to buy food. So they need decriminalization."¹³⁰

Sex workers and experts interviewed in the course of this research overwhelmingly stressed the fact that decriminalizing all aspects of sex work was only one component of what the Irish authorities need to do in order to improve access to human rights. "A." noted: "It has to be 100% decriminalized. When it's not, I'm scared to report to cops or others. I want to have their ID on record... I don't think shitty people will stop existing. But in every other business if there are bad clients, if anything happens to you, you can call the police or sue the person. It's more about creating a safer environment for us. I'm not saying that if sex work is fully decriminalized nothing bad will ever happen."¹³¹ A representative of the Centre for Disability Law and Policy at the National University of Ireland Galway said: "I think actual full labour rights [are needed], and just completely remove it out of the criminal law."¹³² Former Irish sex worker "Georgina" said: "I'd be for full decriminalization ... And if we could take a health-based approach rather than a justice-based approach."¹³³

Dr Kathryn McGarry told researchers: "We do see time and again these intersections of vulnerability, certainly based on gender and on issues to do with where one comes from, ethnicity, in terms of ability, disability, in terms of migrant status, in terms of sexuality, in terms of a range of different aspects which situate sex workers differently in terms of what they face... The law is only one aspect of the dimensions that shape their lived realities."¹³⁴

¹³⁰ Interview by voice call with "Poppy" (name changed for anonymity), 19 January 2021.

¹³¹ Interview by voice call with "A." (name changed for anonymity), 11 January 2021.

¹³² Interview by video call with representatives of the Centre for Disability Law and Policy, National University of Ireland Galway, 16 March 2021.

¹³³ Interview by video call with "Georgina" (name changed for anonymity), 22 March 2021.

¹³⁴ Interview by video call with Dr Kathryn McGarry, University of Maynooth, 24 September 2020.

4. “A THREAT RATHER THAN A SHIELD”: SEX WORKERS’ EXPERIENCES WITH THE POLICE

BARBARA’S EXPERIENCE

In November 2019, Barbara, a Czech woman, and a Slovak friend rented a house in Mullingar, Co. Westmeath to work from for a few days. Five Gardaí (four men and one woman) came into the house. They did not state why they were there. No clients were present at the house at the time. Barbara described how her friend was questioned by the Gardaí about the fact that she was using a telephonist’s services: “They were just basically saying ‘But what do you do? Oh, that’s your work phone.’ And she was like, ‘No, that’s my private phone.’ And they was like ‘Where is your work phone?’ And she said ‘Well, my friend does phone calls for me because you see I don’t speak very well English.’ And in the moment they started being really abusive... And they said ‘You’re fucking lying, we know you’re lying, she’s taking your fucking phone calls’ and like that.”¹³⁵ Barbara told Amnesty International that at that point she texted SWAI for advice. Barbara, her friend and boyfriend were made to leave the premises. At the time this report was published, the Gardaí did not follow up on the matter in any way.¹³⁶

4.1 LACK OF TRUST AND UNDER-REPORTING

16 of the sex workers interviewed by Amnesty International reported having had experiences with the Gardaí, either in the context of reporting violence to them (five interviewees) or in the context of the policing of sex work. Five reported these interactions to have been positive (one of these concerned a violence report); seven – negative; and four – mixed. Most interviewees said they would never report violence or seek protection from the Gardaí. Their statements revealed a deep mistrust of An Garda Síochána among sex workers across the board.

Among the reasons given by interviewees for preferring not to engage with the Gardaí when experiencing violence were lack of trust in the service and a belief that not a lot would be done; fear of violence at the hands of the Gardaí; stigmatization and criminalization, with particular risks to migrant sex workers mentioned. Most interviewees identified a combination of these factors as relevant to them.

¹³⁵ Interview by voice call with Barbara, 7 January 2021.

¹³⁶ Interview by voice call with Barbara, 7 January 2021.

The vast majority of gender-based violence and violence against women worldwide is not reported to the police.¹³⁷ It is no different in Ireland. The 2014 EU Fundamental Rights Agency (FRA) survey on violence against women found that only 21% of respondents reported the most serious incident of violence they experienced to the police.¹³⁸ According to the Dublin Rape Crisis Centre, the rate of reporting rape to the police in 2020 was 36% in terms of cases the organization came across where this information was known.¹³⁹ The reasons for not reporting violence are complex and intersecting and often include the fear of not being believed, lack of trust in the justice system and fear of secondary victimization in the criminal justice process. For sex workers, such fears often carry additional layers, especially for those who are migrants, racialized or experience homophobic or transphobic discrimination. When they do report violence to the Gardaí or engage with rape crisis centres or medical professionals, they are also unlikely to disclose the nature of their work due to the very real consequences of stigmatization and criminalization. A 2020 study found extremely low levels of reporting of violence by sex workers to the Gardaí. Only 40 out of the 4,509 violent incidents analyzed in the study were reported to the police between March 2015 and March 2019 (10 out of 1,512 analyzed in 2019).¹⁴⁰

One of the stated purposes of the 2017 Act was to provide additional protection to sex workers and allow them to report violence and other crimes to the Gardaí without fear of being prosecuted for selling sexual services.¹⁴¹ Representatives of the Office of the Director of Public Prosecutions interviewed for this report stated that the 2017 law reform has improved the relationships between sex workers and the Gardaí: “It is a slow process but they are building up gradually a large degree of trust within the community. And as a result, what they’re doing is an enhanced number of what they call welfare checks, where they approach premises where they understand that sale of sexual services is being engaged in. And they go along, sometimes with NGOs or sometimes just themselves... and make sure that everyone’s okay, and that that is yielding number one: a higher degree of trust.”¹⁴²

The statements of interviewees paint a starkly different picture. Fears of criminalization were overwhelmingly present among sex workers – and well founded. The 2017 law reform has exacerbated the lack of trust in the Gardaí and increased the very real risks sex workers face when engaging with law enforcement, for instance through the doubling of penalties for the offence of brothel keeping.

Many sex workers’ reluctance to report violence to the Gardaí stems from a conviction that doing so would not only not lead to justice but that it could also result in them being victimized by police: “Aoife” stressed: “When I think about my life as a sex worker, I see the Guards as a threat rather than as a shield.”¹⁴³

4.1.1 BARRIERS TO REPORTING SEXUAL VIOLENCE

“I think that there is a kind of perception by a lot of people that if you are a sex worker you can’t be raped. Anybody can be raped, even if you are a sex worker... You have one or two people here that actually went to court and they didn’t get convictions... it’s very annoying and I think that is why lots of sex workers do not think of going to the police. Why am I going to go when nothing is going to happen, nothing is going to change?” “Neka”¹⁴⁴

“It was quite clear that it was because of who I was and how that happened... It was the classic thing of my word against his and my word was not going to hold up to his. It was the sex work, even though I was stable and on methadone at the time. I was a sex worker and a drug user. And not just a sex worker but a street sex worker and a drug user.” “Vanessa”¹⁴⁵

Sex workers interviewed expressed particular reluctance to report sexual violence to the Gardaí. They identified stigma, misconceptions, for instance around consent, and prejudice against sex workers as some of the reasons for this reluctance.

When “M.R.T.R.”, an Irish sex worker with experiences of drug use and homelessness, was raped by a client, she did not report it to the Gardaí or seek medical or psychological help. She told Amnesty

¹³⁷ See, for example, European Union Agency for Fundamental Rights (FRA), *Violence against Women. An EU-wide survey*, 2014, fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf, p. 61.

¹³⁸ *Violence against Women. An EU-wide survey* (previously cited), Data Explorer, fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey.

¹³⁹ Dublin Rape Crisis Centre, *Statistics Supplement, 2020*, drcc.ie/assets/files/pdf/stats_2020_final.pdf, p. 19.

¹⁴⁰ “Not collateral damage: Trends in violence and hate crimes experienced by sex workers in the Republic of Ireland” (previously cited), p. 305.

¹⁴¹ Department of Justice, “Minister McEntee publishes Terms of Reference for the Review of Part 4 of the Criminal Law (Sexual Offences) Act 2017”, 9 July 2020, gov.ie/en/press-release/2c3e6-minister-mcentee-publishes-terms-of-reference-for-the-review-of-part-4-of-the-criminal-law-sexual-offences-act-2017/.

¹⁴² Interview by video call with representatives of the Office of the Director of Public Prosecutions, 18 August 2021.

¹⁴³ Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021.

¹⁴⁴ Interview by voice call with “Neka” (name changed for anonymity), 12 April 2021.

¹⁴⁵ Interview by video call with “Vanessa” (name changed for anonymity), 7 January 2021.

International that this was due to shame and fear of people finding out that she was doing sex work. “There’s a stigma and people look down on us as trash,” she said.¹⁴⁶

Dr Kathryn McGarry said: “Sex workers feel fearful of the Gardaí and don’t feel that they can report their experience of sexual violence. And it leads to this kind of idea that... ‘if you persist in sex work it’s at your own peril’... I think that’s it’s just a very serious violation of sex workers’ rights under the current circumstances.”¹⁴⁷

It is not known how many of those who do report sexual violence to the Gardaí see their cases progress and reach the courts. It is likely, however, that sex workers also experience the effects of numerous barriers to women’s access to justice for rape and other sexual violence identified in Ireland overall in recent years.¹⁴⁸

Dr Maeve Eogan, Consultant Obstetrician and Gynaecologist at Dublin’s Rotunda Hospital’s Sexual Assault Unit, told Amnesty International: “We have very few cases in this country that have been successfully prosecuted where the complainant was a sex worker. So certainly, they come to us, they get the care, the report is made. They get emergency contraception, they get preventative treatment, but if somebody asks us to say hands on our hearts, how likely is this going to be a successful prosecution, unfortunately, historically, it can be difficult to achieve a prosecution in that context.”¹⁴⁹

4.1.2 FEAR AND RISKS OF CRIMINALIZATION

What emerges from the testimonies gathered in this report is that sex workers often do not engage with An Garda Síochána for fear of being charged with brothel keeping or other offences under the 2017 Act, despite the authorities’ claims that it decriminalized sex work and would facilitate sex workers’ access to justice.¹⁵⁰

Sex workers’ testimonies overwhelmingly indicate that such fears are prevalent. For example, “Aoife” did not make a report to the Gardaí nor contact a rape crisis centre after she was raped in 2018. She explained: “I reported it to Ugly Mugs, the app. I had no intention of ever reporting back to the Gardaí because my main concern was, you know, myself and my flatmate were working from that same apartment – that would be defined as a brothel in Irish law and I didn’t want the Gardaí to know about that.”¹⁵¹

Barbara described how in October 2020, a client used the fact that brothel keeping is a criminal offence in Ireland to intimidate her and her co-worker in a shared flat after he became aggressive and they asked him to leave. “He was just like: ‘and what will you do?’. I was just like, ‘Well, if you refuse to leave the flat, I will have to call the Garda... He looked at me and that was like a total surprise. ‘And do you think they will do anything? If they do something, they will do something with you because you work illegally, you’re sharing a flat... They won’t do anything because you share a flat and that’s a brothel and it’s like you are illegal.’¹⁵²

Solicitor Wendy Lyon, who often represents sex workers, told Amnesty International that sex workers may be reluctant to contact the Gardaí for protection or to report a crime, fearing that the Guards may charge their landlord with living on earnings of prostitution under Section 10 of the Criminal Law (Sexual Offences) Act 1993, which could also result in their eviction and their own prosecution. She spoke of a case where a sex worker decided not to give evidence against a man charged with a violent crime against her because the Gardaí investigating the case had told her landlord that she was a sex worker, which led to her eviction. “To me,” she said, “this is sort of the clearest example of how even when the Guards are... technically there as somebody’s protector, they are still managing to put the fear into them and make them not want to engage.”¹⁵³

Stephen O’Hare, Director of HIV Ireland, referring to the two Romanian women’s case described above, described fear of prosecution as being at the forefront of sex workers’ minds when considering engaging with the Gardaí. “One of the stories that I’ve heard again and again,” he said, “was of the prosecution and conviction of two people for brothel keeping last year, two migrant women, one of them was pregnant. And

¹⁴⁶ Interview by voice call with “M.R.T.R.” (name changed for anonymity), 3 March 2021.

¹⁴⁷ Interview by video call with Dr Kathryn McGarry, University of Maynooth, 24 September 2020.

¹⁴⁸ Tom O’Malley, *Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences*, 2020, justice.ie/en/JELR/Review_of_Protections_for_Vulnerable_Witnesses_in%20the_Investigation_and_Prosecution_of_Sexual_Offences.pdf/File_s/Review_of_Protections_for_Vulnerable_Witnesses_in%20the_Investigation_and_Prosecution_of_Sexual_Offences.pdf; Dr Susan Leahy, *The Realities of Rape Trials in Ireland: Perspectives from Practice*, 2021, drcc.ie/assets/files/pdf/leahyrealityreport.pdf.

¹⁴⁹ Interview by video call with Dr Maeve Eogan, Rotunda Hospital, Sexual Assault Unit, 25 February 2021.

¹⁵⁰ “Minister McEntee publishes Terms of Reference for the Review of Part 4 of the Criminal Law (Sexual Offences) Act 2017” (previously cited).

¹⁵¹ Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021.

¹⁵² Interview by voice call with Barbara, 7 January 2021. See also: Sex Workers Alliance Ireland, Press release, 14 October 2020, sexworkersallianceireland.org/2020/10/press-release-its-a-brothel-ill-end-you-chilling-words-of-a-man-who-attacked-two-sex-workers/.

¹⁵³ Interview by video call with Wendy Lyon, Abbey Law, 7 August 2020.

both got custodial sentences. Now, even just the bare bones of that story is enough to prevent people from going to the authorities.”¹⁵⁴

4.1.3 RISK OF DEPORTATION

For some sex workers, fears of contacting the Gardaí stem from the risks they face because of their migration status.

Migrant sex worker “A.”, who had experienced three violent incidents, including oral rape, told Amnesty International about the very real consequences that engaging with the Gardaí could have for them due to the combination of the criminalization of some aspects of sex work and their migration status: “The only time I would call the cops would be if I was dying on the floor,” they said. “I don’t trust them. I strictly work by myself because I have that fear. I want to get Irish citizenship. Any criminal record would be detrimental. If I’m working with someone else, it’s putting me at higher risk. I’d personally rather be at risk with a client than with a police officer... I don’t want to go to jail. I’d kill myself.”¹⁵⁵

A 2021 report by the Policing Authority also cited migrants’ fear of deportation and “the use of a threat of deportation by Gardaí in interactions with migrants... both as a serious threat but also in terms of ‘joking’ about deportation in interactions around documentation renewal.” It found that these testimonies by migrants in Ireland were “indicative of a lack of understanding as to what is at stake for a migrant in each of these interactions and the enormity of the impact of any decisions taken.”¹⁵⁶

Edel McGinley, Director of Migrants Rights Centre Ireland, told researchers: “If you are undocumented, the fear of deportation is always present. Reporting a crime is just not really something people do unless it’s really, really serious, or a person gets caught up in something. We know this from our work with undocumented migrants for the past 15 years. But if you’re a sex worker, a migrant and undocumented, these layers of vulnerability make it very hard for people to report crimes.”¹⁵⁷ Dr Gillian Wylie from Trinity College Dublin shared that this aspect was key to the submission to the ongoing law review put forward by academics in the Irish Sex Work Research Network. “I think our argument would be that the law is particularly damaging to migrant workers,” she said.¹⁵⁸

A 2019 study by the Platform for International Cooperation on Undocumented Migrants (PICUM), noted the parallels between the criminalization of migration and of sex work. “In both cases,” the report observed, “access to police protection and justice is severely limited as a result of these frameworks, creating an environment of impunity for violence.”¹⁵⁹ A 2020 report on migrant sex workers victims of crime in Europe by the International Committee on the Rights of Sex Workers in Europe (ICRSE) also found that: “In addition to migrant sex workers’ migration status preventing them from reporting crimes committed against them, the fact that sex work remains criminalised or penalised represents another key disabling factor.”¹⁶⁰

Representatives of the Department of Justice told researchers: “Where a victim of crime comes forward and reports, that doesn’t automatically mean that the person is flagged across the Garda National Immigration Bureau in the context of not being here legally... That’s not how it operates in practice because they want people to come forward and want people to report. So any victims of crime who are here illegally, they should report the crime and not assume that just because they’re here illegally, that their details will be given over to the Garda National Immigration Bureau... So I can understand why people do have those fears. But that’s not really how it operates in this jurisdiction.”¹⁶¹

¹⁵⁴ Interview by video call with Stephen O’Hare, HIV Ireland, 21 September 2021.

¹⁵⁵ Interview by voice call with “A.” (name changed for anonymity), 11 January 2021.

¹⁵⁶ Policing Authority, *Report on policing performance by the Garda Síochána during Covid-19 health crisis, 2021*, policingauthority.ie/assets/uploads/documents/2021_04_19_Report_13_on_policing_performance_during_Covid-19_Final.pdf, para. 4.2.

¹⁵⁷ Interview by video call with Edel McGinley, MRCI, 26 February 2021.

¹⁵⁸ Interview by video call with Dr Gillian Wylie, Assistant Professor, Trinity College Dublin, 22 September 2020; Irish Sex Work Research Network, Submission to Review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017, 2020, on file with Amnesty International.

¹⁵⁹ Platform for International Cooperation on Undocumented Migrants (PICUM), *Safeguarding the human rights and dignity of undocumented migrant sex workers*, September 2019, picum.org/wp-content/uploads/2019/09/Safeguarding-the-human-rights-and-dignity-of-undocumented-migrant-sex-workers.pdf, p. 24.

¹⁶⁰ International Committee on the Rights of Sex Workers in Europe (ICRSE), *Undeserving victims? A community report on migrant sex worker victims of crime in Europe*, October 2020, sexworkereurope.org/sites/default/files/userfiles/files/Undeserving%20victims%20-%20DIGITAL%281%29%282%29.pdf, p. 27.

¹⁶¹ Interview by video call with representatives of the Department of Justice, 19 August 2021.

However, migrant sex workers' fears of deportation or facing other immigration-related repercussions if they come forward are not without basis. Under the Immigration Act 2004, the Minister for Justice may designate any member of An Garda Síochána as an immigration officer.¹⁶² While immigration matters fall under the mandate of the Garda National Immigration Bureau, all Garda officers have the power, and arguably a duty, to enforce immigration law provisions in Ireland. Additionally, Sections 12(1) and 12(3) of the 2004 Act require “non-nationals” in Ireland to produce valid identity documents if requested to do so by “any immigration officer *or* a member of the Garda Síochána (emphasis added)”, failing to do so being a criminal offence unless a “satisfactory explanation” is provided.¹⁶³ While there is little evidence of police practices in this area in Ireland, the real or perceived lack of separation of Garda powers in the area of migration creates a “chilling effect” on migrants’ exercise of their human rights and is a serious obstacle to their access to justice for violence. This is exacerbated for those who are sex workers, are undocumented, or have any precarity in their migration status.

4.2 EXPERIENCES WHEN REPORTING VIOLENCE TO THE GARDAÍ

As outlined above, only five of the sex workers interviewed for this report told researchers that they reported incidents of violence to the Gardaí. Billie Stoica told Amnesty International that since 2012 when they began working with sex workers, they only came across three people who reported crimes to the Gardaí. “And that was for various different reasons,” they said. “But on the whole, it was that all of them had already had horrendous experiences with Guards.”¹⁶⁴

Brazilian worker “Bianca” reported harassment she has been experiencing online and over the telephone to Dublin’s Harcourt Street Garda Station but has been waiting for updates for the past few months. “They left me in limbo”, she told Amnesty International.¹⁶⁵ Irish street sex worker “Vanessa” reported violence to the police in the past and despite having been treated with respect by one of the Guards, she was left disillusioned by the approach to her case. “After the initial meeting just speaking to her and having her take me seriously was enough but then she came back after, again, the other sergeant, to tell me that they didn’t think it was possible. And it was quite clear that it was because of who I was and how that happened... It was the classic thing of my word against his and my word was not going to hold up to his. It was the sex work, even though I was stable and on methadone at the time. I was a sex worker and a drug user. And not just a sex worker but a street sex worker and a drug user.”¹⁶⁶

Adeline reported having been harassed by a Garda in the wake of her and her wife’s eviction from a premises where they were working and living together. She reported “a lot of physical, threatening intimidation, we would show up and he [the Garda] would be standing there.”¹⁶⁷ She made a complaint to the Garda Ombudsman in September 2019, which was deemed admissible in June 2020.¹⁶⁸ At the time of this report’s publication, she had not received any further updates about the investigation into it.

While not having had an experience of reporting a crime to the Gardaí, migrant sex worker “Lilly” described her interaction with them in another context: “I shoplifted in Penneys. I paid some items and I didn’t pay some items and I was caught that day... So they rang the Guards, and the Guards came and they started kind of laughing at me... They said: ‘We know. We know who you are. You’re working’... They were having a laugh. I was dressed up nice... It was tough like, it was humiliating... That was two male Guards and one female.”¹⁶⁹

As mentioned at the beginning of this Chapter, five sex workers reported having had positive experiences with the Gardaí. “B.” reported violence at the hands of an ex-partner. “I told them what I’m doing, they fully supported me,” she said. “They know where I live, they check on me because I have the barring order.”¹⁷⁰ Brazilian woman “Izabella”, who is also an EU national, told Amnesty International she believed that the relationship between sex workers and the Gardaí has improved in recent years. “Because in the past we was kind of penalised,” she said. “In the past many girls have been to court. They passed a law in 2015 [sic]... it

¹⁶² Immigration Act 2004, irishstatutebook.ie/eli/2004/act/1/enacted/en/html, Section 3.

¹⁶³ Immigration Act 2004, Section 12(1), (2), (3).

¹⁶⁴ Interview by video call with Billie Stoica, GOSHH, 8 September 2020.

¹⁶⁵ Interview by voice call with “Bianca” (name changed for anonymity), 12 April 2021.

¹⁶⁶ Interview by video call with “Vanessa” (name changed for anonymity), 7 January 2021.

¹⁶⁷ Interview by video call with Adeline, 18 February 2021.

¹⁶⁸ Correspondence on file with Amnesty International.

¹⁶⁹ Interview by voice call with “Lilly” (name changed for anonymity), 24 February 2021.

¹⁷⁰ Interview by voice call with “B.” (name changed for anonymity), 4 December 2020.

is illegal to make profits from somebody else. And this has improved. You don't hear much that a Garda has punched in a girl you know."¹⁷¹

The experiences with An Garda Síochána of the cis men sex workers interviewed in the course of this research differed significantly from those of women (both cis and trans) and non-binary sex workers. While only a small number of men were interviewed, their testimonies on their interactions with officers differed so significantly that they may offer an additional perspective on the gendered and patriarchal nature of the policing of sex work in Ireland. For example, "Rana", a 33-year-old Brazilian gay man, told Amnesty International that his experiences with the Gardaí when he reported having been stalked by a client were positive.¹⁷² Another Brazilian male worker "Kelly" also reported having no fears of reporting violence to the Gardaí despite having issues with his immigration status.¹⁷³ He told Amnesty International that he felt he could confidently report any violent incidents to the Gardaí as it was not him but his clients who would face the consequences. He also reported having had An Garda Síochána officers as clients.¹⁷⁴

4.3 THE POLICING OF SEX WORK IN IRELAND

4.3.1 GARDAÍ AND STREET SEX WORK

**“Maybe they don't know what's legal and what's not legal?
And maybe they do know and it's a power thing.”**

Trish¹⁷⁵

The 2017 Act removed the offering of sexual services from the pre-existing offence of soliciting for the purpose of prostitution.¹⁷⁶ However, the offence of "loitering for the purposes of prostitution" was retained.¹⁷⁷ In 2019 and 2020, there were 12 "Prostitution other offences" recorded by An Garda Síochána, however no information is available on what offences this data refers to and it is not possible to deduce from statistics whether soliciting is still being treated as an offence and on what scale and how the remaining offence of loitering is being policed.¹⁷⁸ Notwithstanding this lack of data and even assuming that the low number of "other offences" indeed refers to these provisions, as with other provisions that criminalize the organization and other aspects of sex work in Ireland, the "chilling effect" they have on street sex workers hinders their exercise of their human rights.

Street sex workers interviewed in the course of this research described their interactions with the Gardaí as mixed and reflected on the impact they have on their safety and livelihoods, even when arrests are not carried out.

"Vanessa" told Amnesty International: "There's an immediate impact from it, even though you're not being taken in, you're not being arrested. That just their presence on the street actually makes it a more difficult and sometimes a more dangerous workspace... I remember one night in particular... I was going down a *cul de sac* that was discreet, so I wasn't going to be found by the Guards here, you know, they couldn't drive by the spot we were in. But at the same time, I had no escape route, if anything went wrong... And that was a very direct result of the Garda presence there targeting of clients... So yeah, they're not targeting me but it has as much of an effect on my ability to survive if they want."¹⁷⁹

¹⁷¹ Interview by voice call with "Izabella" (name changed for anonymity), 8 December 2021.

¹⁷² Interview by voice call with "Rana" (name changed for anonymity), 9 March 2021.

¹⁷³ Interview by voice call with "Kelly" (name changed for anonymity), 15 March 2021.

¹⁷⁴ Interview by voice call with "Kelly" (name changed for anonymity), 15 March 2021.

¹⁷⁵ Interview by video call with Trish, 4 March 2021.

¹⁷⁶ Ireland, Criminal Law (Sexual Offences) Act 1993 as amended on 30 June 2017, Section 7; Select Committee on Justice and Equality debate, 7 December 2016, oireachtas.ie/en/debates/debate/select_committee_on_justice_and_equality/2016-12-07/2/?highlight%5B0%5D=criminal&highlight%5B1%5D=law&highlight%5B2%5D=sexual&highlight%5B3%5D=offences&highlight%5B4%5D=bill&highlight%5B5%5D=2015.

¹⁷⁷ Ireland, Criminal Law (Sexual Offences) Act 1993 as amended on 30 June 2017, Section 8.

¹⁷⁸ Email of 1 July 2021, on file with Amnesty International.

¹⁷⁹ Interview by video call with "Vanessa" (name changed for anonymity), 7 January 2021.

Solicitor Wendy Lyon noted the differences in practices, behaviours and varying levels of knowledge of the law among Gardaí: “There’s a very wide variety of experiences and a lot of it comes down to the different parts of the country, there’s no coherent, national approach. Local Garda officers seem to be very much a law unto themselves in this regard. A lot of them don’t even know what the law is... I’ve seen in court, women who were charged with brothel keeping and the prosecuting Guard... directly being asked: ‘Is prostitution illegal in Ireland?’ could not answer the question.”¹⁸⁰ Despite attempts to do so, Amnesty International was unable to interview members of An Garda Síochána to ask questions about these reports (see Methodology).

4.3.2 LIBERTY AND FAIR TRIAL RIGHTS VIOLATIONS

Under international human rights law, everyone has the right be informed at the time of arrest of the reasons for their arrest and promptly informed of any charges against them, in a language which they understand.¹⁸¹ This means that interpreters need to be provided for those who do not speak the language used by the authorities. The European Court of Human Rights has also specified that every person arrested needs to be informed in “simple, non-technical language that he [sic] can understand, the essential legal and factual grounds” for their arrest.¹⁸²

Another essential element of the right to a fair trial in international human right law is the right to the assistance of a legal counsel. Every person who is arrested or detained must be informed of their right to have the assistance of a lawyer.¹⁸³ They need to be informed of this right immediately upon arrest or detention, before any questioning takes place, or any charges are brought.¹⁸⁴

Lawyers told Amnesty International that they were coming across cases in which when raiding a premises or arresting sex workers, Gardaí would fail to inform them of their right to have a solicitor present. In other cases, the lawyers reported that the Guards would not secure the services of an interpreter, resulting in sex workers not understanding what was happening and why they were being questioned. One sex worker described to Amnesty International how during a Garda raid on a house she was renting with another worker and a boyfriend, in Mullingar, Co. Westmeath, they were not informed about their right to be questioned in the presence of a solicitor and an interpreter’s service was not arranged despite one of the women having a limited understanding of English. The Gardaí also entered the premises without a warrant and did not explain why the sex workers were being questioned.¹⁸⁵

Rory Staines, the solicitor of the two Romanian women convicted for brothel keeping in 2019, told Amnesty International that similarly, no solicitor or interpreter were present when the premises his clients were working from were raided by the Gardaí. “The evidence in the case itself was quite weak,” he said. “And in fact, only that my clients had made admissions to the Guards, I don’t know that they would have had any case at all... They were questioned by the Guards and they made certain admissions and that’s something that we had an issue with, because they were both very young [in their twenties] and English wasn’t their first language. They had a reasonable standard of English, but it certainly wasn’t their first language.” Asked about whether a solicitor was present, he said: “It was very much an informal thing. It was just done on the scene... No interpreter, that was the main issue.”¹⁸⁶

Immigration lawyer Cathal Malone told researchers that he has observed a practice of Gardaí keeping people at the premises they are raiding for hours without formally arresting them. “You say ‘Did they speak English?’ And they said, ‘No’... They’ve been here for three and a half hours, sitting there, not wearing very much, terrified of all these cops running around the place, not having been told of their right to a lawyer because of course... they haven’t been formally arrested... And oftentimes, any problem that happens during a raid of that nature would be blamed on language difficulties so what they’ll say is, ‘where the hell am I supposed to

¹⁸⁰ Interview by video call with Wendy Lyon, Abbey Law, 7 August 2020.

¹⁸¹ European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Article 5(2), Article 6; International Covenant on Civil and Political Rights (ICCPR), Articles 9(2), Article 14(3). For a comprehensive overview of the relevant international human rights law and standards, see Amnesty International, *Fair Trial Manual*, (Index: POL 30/002/2014) 2014, [amnesty.org/en/documents/pol30/002/2014/en/](https://www.amnesty.org/en/documents/pol30/002/2014/en/).

¹⁸² European Court of Human Rights (ECtHR), *Fox, Campbell and Hartley v United Kingdom*, Application 12244/86, 12245/86, 12383/86, 30 August 1990, paras 40-41.

¹⁸³ UN Committee Against Torture (CAT), General Comment 2: Implementation of Article 2 by States Parties, 24 January 2008, CAT/C/GC/2, para. 13; Council of Europe Committee of Ministers’ Recommendation 12, 10 October 2012, paras 21.1-3.

¹⁸⁴ UN Human Rights Committee (HRC), Concluding observations: Netherlands, 25 August 2009, UN Doc. CCPR/C/NLD/CO/4, para. 11; HRC General Comment 32: Right to equality before courts and tribunals and to fair trial (Article 14), 23 August 2007, UN Doc. CCPR/C/GC/32, para. 34.

¹⁸⁵ Interview by voice call with Barbara, 7 January 2021.

¹⁸⁶ Interview by video call with Rory Staines, Michael J. Staines & Company Solicitors, 11 August 2020.

find a Moldovan interpreter at two o'clock on a Sunday morning?'... But if it's a pre-planned raid, you don't get to tell me that."¹⁸⁷

One of the lawyers interviewed by Amnesty International mentioned coming across cases of sex workers being informed by Gardaí that they did not need a solicitor's assistance.¹⁸⁸ Immigration lawyer Cathal Malone told Researchers: "As frequently happens... when there's a raid on what the cops would term a brothel, they seize say all of the telephones and devices as being potentially evidence in terms of being able to show transactions but they will also seize any and all cash and they would consider them under the proceeds of crime legislation... And it's practically impossible to get a receipt from these people. And also sex workers, a lot of them tend to be migrants... In any event, it's very hard to stand up for yourself in that moment. It's very rare that a lawyer would be there. I mean, I have got calls and I have gone out right in the middle of these situations. And it's amazing the change in tone."¹⁸⁹

Dr Vicky Conway, who has been researching policing in Ireland, used to be a member of the Policing Authority and served on the Commission on the Future of Policing, also raised issues around the potential for abuse of authority in the policing of sex work. She told Amnesty International: "We have heard too many stories of Guards that are assisting landlords with evictions, Guards that are seizing money from sex workers and never returning [it] ... And again, there's that combined with this, with a poor structure of accountability for police in Ireland."¹⁹⁰

In another example of how the experiences of the cis men sex workers interviewed differed from those of women and non-binary sex workers, "John B.", an Irish sex worker in his fifties, reported having close and positive relationships with the Gardaí, as well as leniency on their part with regard to the policing of sex work. He told Amnesty International. "You know, Guards want to know information. Keep them sweet, kind of purport that you might have something, you know, when you do or you don't. It's another day's working just how to keep them sweet."¹⁹¹ He also did not share any of the fears of criminalization or other risks associated with potentially reporting violence that the cis and transwomen and non-binary sex workers reported.

The testimonies gathered in this report are too few to paint a comprehensive picture of Garda practice throughout the country and Amnesty International was also unable, despite repeated attempts, to discuss these issues with representatives of An Garda Síochána (see Methodology). However, there are clearly grounds for concern as the consequences of not receiving proper information about what is happening during a raid and one's rights, for instance to legal counsel, can have serious and life-changing consequences for sex workers, and would constitute a violation of their human rights. Sex workers, like everyone else, have the right be informed at the time of arrest of the reasons for it and promptly informed of any charges against them, in a language which they understand, and have the right to the assistance of a lawyer.¹⁹²

4.4 WHAT NEEDS TO CHANGE?

Sex workers and experts interviewed in the course of this research said that they believed that in order to facilitate the safe reporting of violence by people who sell sex to the police, there needs to be a separation of powers among An Garda Síochána officers in terms of those tasked with enforcing laws around sex work, such as the brothel keeping prohibition, and those whom sex workers can contact to report violent incidents or seek support.

Trish told Amnesty International: "If today, if I was living in my apartment and there was two or three of us in there doing it and something happened to me, I probably wouldn't go to the Guards cause they would raid my house a week later, and I'd get done, you know, it's kind of a conflict of interest really, isn't it? You're going to someone that can always raid your house. So I suppose having different Guards in different areas... I would think that would be brilliant to change."¹⁹³

¹⁸⁷ Interview by video call with Cathal Malone, 3 September 2020.

¹⁸⁸ Interview by video call with Wendy Lyon, Abbey Law, 7 August 2020.

¹⁸⁹ Interview by video call with Cathal Malone, 3 September 2020.

¹⁹⁰ Interview by video call with Dr Vicky Conway, Assistant Professor, Dublin City University, 19 February 2021. See also Dr Vicky Conway's "The Policed" podcast: tortoiseshack.ie/policed-podcast/.

¹⁹¹ Interview by voice call with "John B." (name changed for anonymity), 3 February 2021.

¹⁹² ECHR, Article 5(2), Article 6; ICCPR, Articles 9(2), Article 14(3); CAT, General Comment 2: Implementation of Article 2 by States Parties, 24 January 2008, CAT/C/GC/2, para. 13; Council of Europe Committee of Ministers' Recommendation 12, 10 October 2012, paras 21.1-3. For a comprehensive overview of the relevant international human rights law and standards, see Amnesty International, *Fair Trial Manual*, (Index: POL 30/002/2014) 2014, [amnesty.org/en/documents/pol30/002/2014/en/](https://www.amnesty.org/en/documents/pol30/002/2014/en/).

¹⁹³ Interview by video call with Trish, 4 March 2021.

Solicitor Wendy Lyon echoed this view: “One of the problems is that a lot of the Guards who are Liaison Guards are also involved in the Anti-Trafficking Unit so these are people that are, you know, on the one hand, carrying out raids and on the other hand, the Guards who women are supposed to go to. There needs to be a separation of that.”¹⁹⁴

Interviewees also recommended a similar separation of Garda powers with regard to migration enforcement. Asked about his recommendations for change, immigration lawyer Cathal Malone told Researchers: “Get to a point where we separate out migration enforcement from policing, from trafficking enforcement, and have some manner or method at all, for people who are migrants in situations that are not entirely regular – to regularize.”¹⁹⁵ In its “Justice Plan 2021” announced in February 2021, the Irish government has included plans for a regularization scheme for long-term undocumented migrants in Ireland and their families and in December 2021, the Minister for Justice announced the opening of the scheme, to begin in January 2022.¹⁹⁶

While two of the NGO interviewees expressed hopes that positive changes could be achieved through police training and improving communication,¹⁹⁷ sex workers interviewed were not confident that such measures were going to achieve change without structural and systemic barriers to their safety being addressed.

Irish authorities on the other hand, spoke positively of ongoing attempts by An Garda Síochána to improve communication with sex workers as a way of gaining their trust. Representatives of the Department of Justice told Amnesty International that Gardaí “have dedicated communication channels for people in the sex trade for them to report crimes committed against them.”¹⁹⁸ Indeed, in a Sunday Times article published in February 2021, Chief Superintendent Declan Daly, of the Garda National Protective Services Bureau, spoke of a text message “campaign” directed at hundreds of sex workers in April, May and November 2020 and that there had been a positive response to the texts once the recipients found they were genuine.¹⁹⁹

Sex workers interviewed for this report had a very different opinion on the texts, however. Representatives of SWAI told Amnesty International: “The majority of workers we talked to felt really unnerved by receiving a text message out of the blue from them.”²⁰⁰ Adeline, who used to be an activist with SWAI and took part in a meeting with An Garda Síochána, told Amnesty International: “When they told us about the text, they firmly believe these texts are magically building trust with people that they have the power to evict and imprison. And they don’t.”²⁰¹

Representatives of SWAI also reported to Amnesty International that there were some An Garda Síochána officers assigned to act as Liaisons with the group. However, in their experience, the telephone number they were advised sex workers could use to contact the officers was never answered.²⁰² Amnesty International was also unable to discuss these concerns with representatives of An Garda Síochána despite repeated efforts to do so (see Methodology).

Many interviewees stressed that without full decriminalization of all aspects of sex work, the safety of people engaging in it could not be safeguarded. “Aoife” told Amnesty International: “There’s a lot of different things that need to change... They’re not as simple as passing laws but passing laws would be an essential element. So yes, you have to decriminalize parts of law, so that the Gardaí aren’t a vector for violence and fear for people. As well as that I think changes in legislation on their own without other changes are useless. There have to be changes in culture and the mindset of Gardaí.”²⁰³

Wendy Lyon told researchers: “In terms of the claim that sex workers have been decriminalized under the law, obviously, they haven’t. Street sex work has been decriminalized, which is great, which is the one good thing about the law. But street sex work was such a minority of sex work anyway... As long as brothel keeping is still being prosecuted and as long as sex workers are still at risk of eviction, to claim that they’re

¹⁹⁴ Interview by video call with Wendy Lyon, Abbey Law, 7 August 2020.

¹⁹⁵ Interview by video call with Cathal Malone, 3 September 2020.

¹⁹⁶ Department of Justice, “Justice Plan 2021”, justice.ie/en/JELR/Department_of_Justice_Action_Plan_2021.pdf/Files/Department_of_Justice_Action_Plan_2021.pdf, p. 38; Department of Justice, “Minister McEntee publishes Justice Plan 2021”, 22 February 2021, justice.ie/en/JELR/Pages/PR21000036; Department of Justice, “Minister McEntee announces new landmark scheme to regularise long-term undocumented migrants”, 3 December 2021, justice.ie/en/JELR/Pages/PR21000292.

¹⁹⁷ Interview by video call with Clare Feely, Caseworker, Ruhama, 5 May 2021; Interview by video call with a migrants’ rights NGO staff member, 15 February 2021.

¹⁹⁸ Interview by video call with representatives of the Department of Justice, 19 August 2021.

¹⁹⁹ Sunday Times, “Gardai win trust of sex workers hit by Covid pandemic”, 7 February 2021, [thetimes.co.uk/article/gardai-win-trust-of-sex-workers-hit-by-covid-pandemic-btwp3psvg](https://www.thetimes.co.uk/article/gardai-win-trust-of-sex-workers-hit-by-covid-pandemic-btwp3psvg).

²⁰⁰ Interview by video call with representatives of SWAI, 29 October 2020.

²⁰¹ Interview by video call with Adeline, 18 February 2021; text screenshots on file with Amnesty International.

²⁰² Interview by video call with representatives of SWAI, 29 October 2020.

²⁰³ Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021.

going to be somehow incentivized to report to the police just because street sex work has been decriminalized is completely illogical.”²⁰⁴

Many sex workers stressed that interactions with law enforcement officers, inevitably in a position of power, would never be their preferred solution to tackling issues they may face. “Vanessa” told researchers: “People talk about a better relationship with the Guards. My ideal relationship with the Guards is for them to stay the fuck away from me at all times. So the moment they’re speaking to me we’re in a situation where I don’t want to be there. And I’m only happy to be there because they have some sort of authority over me. And... I feel that any interaction with them, to me, is coercive because it starts from a point of me not wanting to be there but knowing that I have to answer to power over me. And make my life a hell of a lot more difficult. And they know that too.”²⁰⁵

Some interviewees recognized that it may be difficult, if not impossible, for people who do sex work to engage with the police. Dr Jennifer Schweppe from the European Centre for the Study of Hate at the University of Limerick told Amnesty International: “Regardless of a person’s job ... it doesn’t matter who you are, or what you look like, you have a right to live a life free from fear – this is actually the title of one of our reports.²⁰⁶ And leaving aside the politics around sex work, everyone has the right to live their life in a manner which is safe, where they are not exposed routinely to victimization and if they are that they can seek support or protection, if they wish to do so. And people may not wish to involve the police in their lives for a great many number of reasons... and that’s completely acceptable obviously but if the reason that somebody is not going to the police is ‘I am afraid of the police’, or ‘I don’t think the police will treat me well’, or ... ‘I am afraid that if I go to the police, they are going to attack me, they are going to perpetrate further offenses against me’, that’s unacceptable.”²⁰⁷

Indeed, the combination of criminalization of aspects of sex work in Ireland, the lack of separation of Garda powers and the pervasive stigma around sex work and other intersectional discrimination result in an adversarial relationship between sex workers and An Garda Síochána. The resulting dynamics may mean that abuses of power and violations of human rights are more likely to occur. These structural and systemic factors compromise the safety of sex workers and exacerbate the risks they face, offer impunity to perpetrators of violence against them and further entrench the stigma, abuse and discrimination sex workers experience.

²⁰⁴ Interview by video call with Wendy Lyon, Abbey Law, 7 August 2020.

²⁰⁵ Interview by video call with “Vanessa” (name changed for anonymity), 7 January 2021.

²⁰⁶ Jennifer Schweppe and others, “A life free from fear: legislating for hate crime in Ireland: An NGO perspective,” University of Limerick, 2015, ulir.ul.ie/bitstream/handle/10344/4485/Schweppe_2014_crime.pdf?sequence=1.

²⁰⁷ Interview by video call with Dr Jennifer Schweppe and Prof Amanda Haynes, University of Limerick, 18 February 2021.

5. IRELAND'S INTERNATIONAL HUMAN RIGHTS OBLIGATIONS ON THE RIGHT TO BE FREE FROM VIOLENCE

Under international human rights law, Ireland is responsible for protecting everyone within its jurisdiction, including sex workers, from violence, harassment and other abuse and for preventing, investigating, prosecuting and punishing acts of gender-based violence, whether perpetrated by the state or by private individuals.²⁰⁸

The CEDAW Committee's General Recommendation 35 states that "failure to investigate, prosecute and punish and to provide reparation to victims/survivors of such acts [gender-based violence against women] provides tacit permission or encouragement to acts of gender-based violence against women. These failures constitute human rights violations."²⁰⁹ Ireland became a Party to the Convention on the Elimination of Discrimination Against Women in 1985.

The CEDAW Committee General Comment 19 (violence against women) specifically recognized the vulnerability of sex workers to human rights violations and violence, resulting from their marginalization and potentially "unlawful legal status".²¹⁰ It called on states to take measures to ensure "the rights of all sex workers, whether men, women or transgender people, to access sexual health services; that they are free from violence or discrimination, whether by state agents or private persons; and that they have access to equal protection of the law."²¹¹ The UN Committee on Economic, Social and Cultural Rights (CESCR), in its General Comment 22 on the right to sexual and reproductive health (Article 12), also explicitly called on

²⁰⁸ CAT, General Comment 2: Implementation of article 2 by States Parties, 24 January 2008, UN Doc. CAT/C/GC/2; UN General Assembly, Declaration on the Elimination of Violence against Women, 20 December 1993, UN Doc. A/RES/48/104; CEDAW, General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, 14 July 2017, UN Doc. CEDAW/C/CG/35, paras 21 and 22; CEDAW, General Recommendation 19: Violence against women, 1992, UN Doc. A/47/38, para. 9.

²⁰⁹ CEDAW, General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, 14 July 2017, UN Doc. CEDAW/C/CG/35, para. 24(b).

²¹⁰ CEDAW, General Recommendation 19: Violence against women, 1992, UN Doc. A/47/38, para. 15.

²¹¹ CEDAW, General Recommendation 24: Women and health, 1999, UN Doc. A/54/38/Rev.1, Chapter I. See also: Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, 20 May 2010, UN Doc. A/HRC/14/20; CEDAW, General Recommendation 19: Violence against women, 1992, UN Doc. A/47/38.

States Parties to “take measures to fully protect persons working in the sex industry against all forms of violence, coercion and discrimination.”²¹²

Ireland became a High Contracting party to the European Convention on Human Rights (ECHR) in 1953. The ECHR protects everyone’s right to life (Article 2) and to freedom from torture and other inhuman or degrading treatment or punishment (Article 3).²¹³ The European Court of Human Rights (“the Court”) has frequently opined on states’ positive obligations under these articles to protect those within their jurisdiction from violence against women and domestic violence and to adequately investigate such crimes.²¹⁴ The Court also has an established body of cases on human rights violations stemming from “chilling effects”, mainly in cases concerning freedom of expression, judicial independence and rule of law.²¹⁵ A “chilling effect” for the purposes of international human rights law may be defined as “the negative effect any state action has on natural and/or legal persons, and which results in pre-emptively dissuading them from exercising their rights or fulfilling their professional obligations, for fear of being subject to formal state proceedings which could lead to sanctions or informal consequences such as threats, attacks or smear campaigns.”²¹⁶

The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) states that parties “shall take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors.”²¹⁷ Ireland signed the Istanbul Convention in 2015 and ratified it in 2019.²¹⁸ Under Article 4.3 of the Istanbul Convention, Ireland is required to implement its provisions and ensure the rights of survivors of violence “without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.”²¹⁹

Among the measures States Parties to the Istanbul Convention are required to take to effectively protect everyone’s, in particular women’s, right to be free from violence without discrimination is “abolishing laws and practices which discriminate against women.”²²⁰ While the precise data on the levels of violence experienced by sex workers in Ireland is impossible to obtain, as is the case with the prevalence of gender-based violence generally, the evidence gathered in the course of this research demonstrates that Ireland is failing to fulfil this obligation, resulting in an environment in which sex workers’ safety is severely compromised. For many, this adds to the already high levels of intersecting discrimination they experience on other grounds, for example, race, ethnicity, gender, gender identity, drug use, homelessness or migrant status.

The World Health Organization recommends decriminalization of sex work and drug use and possession as a harm reduction measure.²²¹ In its 2016 “Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations”, it notes that “without protective policies and decriminalization of the behaviour of key populations, barriers to essential health services will remain; many people from key populations may fear that seeking health care will expose them to adverse legal consequences.”²²²

By criminalizing various aspects of sex work, including brothel keeping, Ireland is not only failing in its international human rights law obligations to protect everyone within its jurisdiction from gender-based violence, including violence against women, but also effectively facilitating the targeting and abuse of sex workers by perpetrators.

The legal prohibition on sex workers’ sharing of premises and working together for safety under the brothel keeping provision and other criminal sanctions on the organization of sex work, have created a “chilling

²¹² CESCR, General Comment 22: Right to sexual and reproductive health, 2 May 2016, UN Doc. E/C.12/GC/22, para. 32.

²¹³ ECHR, Articles 2 and 3.

²¹⁴ See, for instance, ECtHR, *Opuz v. Turkey*, Application 33401/02, 9 September 2009; *R.R. and Others v. Hungary*, Application 19400/11, 29 April 2013; *Makuchyan and Minasyan v. Azerbaijan and Hungary*, Application 17247/13, 12 October 2020; *Talpis v. Italy*, Application 41237/14, 18 September 2017.

²¹⁵ For example, European Court of Human Rights, *Baka v. Hungary*, Application 20261/12, Grand Chamber judgment, 23 June 2016, *Korostelev v. Russia*, Application no 29290/10, 12 August 2020, *A, B and C v. Ireland*, Application no 25579/05, 16 December 2010.

²¹⁶ *The Concept of Chilling Effect: Its untapped potential to better protect democracy, the rule of law, and fundamental rights in the EU, 2021 (previously cited)*, p. 4.

²¹⁷ Istanbul Convention, Article 5.2.

²¹⁸ Chart of signatures and ratifications of Treaty 210, [coe.int/en/web/conventions/full-list/-/conventions/treaty/210?module=signatures-by-treaty&treatynum=210](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210?module=signatures-by-treaty&treatynum=210).

²¹⁹ Istanbul Convention, Article 4.3.

²²⁰ Istanbul Convention, Article 4.2.

²²¹ World Health Organization, *Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations*, 1 July 2016, [who.int/publications/i/item/9789241511124](https://www.who.int/publications/i/item/9789241511124), p. 87.

²²² *Consolidated Guidelines on HIV Prevention, Diagnosis, Treatment and Care for Key Populations (previously cited)*, p. 86.

effect” on sex workers’ exercise of their human rights and their ability to take measures to minimize the risks of violence from potentially abusive individuals.

Combined with the limited, if not non-existent, client screening abilities resulting from the sex purchase ban, sex workers in Ireland find themselves in an environment where the potential for harm is increased, their autonomy severely affected and with little recourse to protection and support.

The Irish authorities should without delay repeal the provisions criminalizing all aspects of sex work, including those on brothel keeping, to meet their human rights obligations towards everyone within their jurisdiction, including women and men, cis and trans people, non-binary people, Irish citizens and migrants.

6. “WE LIVE WITHIN A VIOLENT SYSTEM”: ECONOMIC AND SOCIAL RIGHTS’ VIOLATIONS IN IRELAND

“I’m quite lucky in that I’ve never really experienced violence from a client but I do feel that I live within a violent system. That was more violent towards me when I wasn’t in sex work because at least now I don’t have to completely worry so much about paying rent.”

“Poppy”²²³

6.1 THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

“VANESSA’S” EXPERIENCE

“At a certain point a couple years ago, it just came that I wasn’t able to make ends meet. Even, I’d went to college, I’d done community employment schemes, all of that. But there was just no real opportunity for me to progress in a way that I could live on. I was expected to do so much unpaid work. I come from a background of issues of addiction and a background of homelessness, I’ve moved through homelessness and housing support services. So even now, before Covid, I was in what’s called long-term supported accommodation. So I had a settled accommodation with low rent and stuff like that and I still couldn’t get by...”

²²³ Interview by voice call with “Poppy” (name changed for anonymity), 19 January 2021.

And it got to a point that just wasn't manageable for me anymore. And I couldn't afford heating, I was in college, but I'd no WiFi or broadband or anything like that at home... I just couldn't afford clothes. And I just couldn't even get the basics. And naturally, I thought, again, I'll go back to what I know, and because, you know, even after years of supposedly working in services, the only work that I've ever really gotten paid for in my life is sex work... And actually, part of going back to street work was because it was like, that's my home, and I feel pushed out of this society that I've been trying to kind of muscle my way in on."²²⁴

Ireland is a state party to the ICESCR²²⁵ and thus has a number of human rights obligations, including to guarantee the right of everyone within its jurisdiction, without discrimination and to the maximum of its available resources, to an adequate standard of living, including adequate food, clothing and housing,²²⁶ health,²²⁷ education,²²⁸ work,²²⁹ and social security.²³⁰ Ireland is also obliged to respect, protect and fulfil such rights under a number of other international human rights laws and standards.²³¹ The European Court of Human Rights has held that there is no watertight division between civil and political rights and economic and social rights.²³² For example, in *Moldovan and others v Romania*, the Court found violations of Articles 3 (prohibition of torture and other inhuman or degrading treatment) and 8 (right to respect for private and family life) on the basis of the unacceptable living conditions of Roma people.²³³

Nevertheless, economic, social and cultural rights are not enshrined in the Irish Constitution, despite the recommendation in 2014 of the government-established Constitutional Convention to do so.²³⁴ In recent years, NGOs and experts have observed high levels of socio-economic inequality in Ireland²³⁵ and expressed growing concerns about the lack of availability and affordability of housing, including social and emergency housing.²³⁶ Sex workers interviewed for this report shared the challenges they faced in accessing and retaining adequate housing, as well as their inability to meet their basic needs through social welfare payments, which severely affected them. For some, this meant that sex work was one of the few options available to meet their and their families' basic needs, often as a source of income additional to social welfare payments or full- or part-time jobs or studies.

For example, "Bianca" told Amnesty International: "I have been studying English in Ireland in an English college and doing sex work at the same time. I'd be in college from 9am to 5pm and do sex work from 6 to 11:30."²³⁷ Several interviewees raised the financial burdens on third-level students in Ireland, exacerbated by the severe shortage of affordable and adequate housing, particularly in Dublin, as well as the Covid-19 pandemic. Immigration lawyer Cathal Malone said: "A lot of people, particularly foreign students who are over here paying full fees, are trying to support themselves at the worst housing crisis in history here. A lot of migrant sex workers are actually in full-time study at the same time and it becomes a way to put a roof over their head as they're doing their studies."²³⁸

Thirteen people interviewed reported being in receipt of some form of social protection payments at the time of the interview. Seven said that they were able to access the Covid-19 Pandemic Unemployment Payment,

²²⁴ Interview by video call with "Vanessa" (name changed for anonymity), 7 January 2021.

²²⁵ International Covenant on Economic, Social and Cultural Rights (ICESCR). To date, Ireland has not ratified the Optional Protocol to the ICESCR, which allows individuals and groups to make complaints to the UN Committee overseeing the implementation of the Treaty if they believe that their economic, social or cultural rights have been violated and if all domestic legal remedies have been exhausted.

²²⁶ ICESCR, Article 11.

²²⁷ ICESCR, Article 12.

²²⁸ ICESCR, Article 13.

²²⁹ ICESCR, Article 6.

²³⁰ ICESCR, Article 9.

²³¹ For example, Council of Europe, European Social Charter; European Union Charter of Fundamental Rights; UN Convention on the Rights of Persons with Disabilities.

²³² ECtHR, *Airey v Ireland*, Application 6289/73, 9 October 1979, para. 26.

²³³ ECtHR, *Moldovan and others v Romania*, Applications 41138/98 and 64320/01, 30 November 2005.

²³⁴ Ireland, Bunreacht na hÉireann - Constitution of Ireland, 1945; The Convention of the Constitution, *Eighth Report of the Convention on the Constitution: Economic, Social and Cultural (ESC) Rights*, March 2014, atdireland.ie/wp/wp-content/uploads/2015/07/ESCRights-Const-Conv-Report.pdf. See also: Amnesty International, *Bringing ESC rights home. The case for legal protection of economic, social and cultural rights in Ireland*, 2014, amnesty.ie/wp-content/uploads/2016/02/Bringing_ESC_Rights_Home_Case-for-legal-protection-of-ESCR.pdf.

²³⁵ See, for instance, CESCR, Concluding Observations: Ireland, 8 July 2015, UN Doc. E/C.12/IRL/CO/3; Amnesty International, *Ireland: Serious Gaps in Human Rights Protection, Submission for the UN Universal Periodic Review, 39th Session of the UPR Working Group*, 2021, amnesty.org/en/documents/eur29/4558/2021/en/; Robert Sweeney, TASC, *The state we are in: inequality in Ireland today*, 2019, tasc.ie/assets/files/pdf/18457_inequality_in_irelandinnerv2.pdf; Helen Russell and others, Irish Human Rights and Equality Commission and the Economic and Social Research Institute (ESRI), "Monitoring Adequate Housing in Ireland", 2021, ihrec.ie/app/uploads/2021/09/Monitoring-Adequate-Housing-In-Ireland-Sept-2021.pdf.

²³⁶ "Monitoring Adequate Housing in Ireland" (previously cited); CESCR, Concluding Observations: Ireland, (previously cited), paras 26-27.

²³⁷ Interview by voice call with "Bianca" (name changed for anonymity), 12 April 2021.

²³⁸ Interview by video call with Cathal Malone, 3 September 2020. Irish and EU citizen third-level students in Ireland are not entitled to claim Jobseeker's Allowance or Benefit while studying full-time and students from outside of the European Economic Area are not entitled to any social welfare, see, for instance: citizensinformation.ie/en/social_welfare/.

a support scheme launched by the Irish government at the beginning of the pandemic and open to anyone who qualified for it, regardless of their migration status.²³⁹ Several reported that the social welfare payments they were receiving were not adequately meeting their basic needs, meaning sex work was one of the few options to supplement their income. For example “Kiko”, who has multiple sclerosis and is receiving the Disability Allowance, told Amnesty International: “It’s 200 [euros] a week. Personally, I don’t think it’s enough. Because, for example, in [location redacted for privacy reasons] rent is really, really bad. Dublin rent is much worse.”²⁴⁰ “B.”, who is a single parent with a young baby, told Amnesty International that while she managed to receive the Covid-19 Pandemic Unemployment Payment, having to pay monthly rent of approximately 1,000 euros and with no Housing Benefit, meant that she was unable to meet her and her baby’s needs. “This is why I work,” she said.²⁴¹

A migrants’ rights NGO staff member interviewed reported working with migrants for whom difficulties accessing social protection are often exacerbated, even when on paper they are entitled to claim social welfare payments.²⁴² For example, to qualify for such support, migrants in Ireland must demonstrate that they meet the “Habitual Residence Condition,” for instance through proving that they have lived in the country for a period of time and intend to stay for the foreseeable future.²⁴³ She told Amnesty International: “Someone might come to us and say, Okay, I’m in this situation, and I did it because I needed money or, you know, whatever reasons they had, and they’re looking for pathways out of that situation and then coming to you for help, but if there’s no access to social welfare, it’s very difficult to even have a starting point, and for people who want to get out of that situation, and you feel like they were maybe indirectly pushed into it because of poverty, those barriers to social welfare are massive. And for us working with people from a migrant background, it’s the Habitual Residence Condition that adds to that.”²⁴⁴

Decisions to sell sex can be influenced by situations of poverty and marginalization. Such situations do not necessarily undermine or negate a person’s consent, however. Constrained circumstances do not eliminate an individual’s ability to make decisions about their own lives, except under particular circumstances that amount to coercion. Sex workers interviewed in the course of this research stressed that sex work was often the preferable and most suitable option for earning a living for them, given the economic and social structures in place in Ireland and the barriers to many people’s full realization of their economic and social rights.

For example, “Kiko” spoke about online sex work being the most convenient option for her as a multiple sclerosis sufferer. “The symptoms,” she said, “really vary for different people. And so I was still learning about my own symptoms and how to manage them. And it was just like, it was something that I just couldn’t do if I was in a normal part-time job, like even since the sex work, I have gone back and tried to work twice in two different locations. And both times it just didn’t work out for me. Because I don’t know what I’m going to be like kind of day to day. So the camera just allowed me the freedom to kind of hop on. When I felt like if I needed to take a break I could and I was still making this extra money on the side which was supporting me to [pay] my bills... I’ll take as many breaks as I want on cam.”²⁴⁵

Some of the interviewees also spoke about their struggles with mental health and reflected on difficulties in accessing mental health support in Ireland.²⁴⁶ For instance, “Georgina” said: “There needs to be proper education to all of our medical professionals, like doctors, nurses, social workers, all the rest so that sex workers can access appropriate healthcare that understands their needs.”²⁴⁷ In a journal article she authored together with Patricia Frazer in 2021, Adeline found that all the sex workers interviewed during their research “spoke of the positive impact of the sex worker community, other sex workers with whom they could share safety and work tips as well as camaraderie. Most discussed struggling with poor mental health prior to finding the sex work community due to isolation, shame and stigma.”²⁴⁸

²³⁹ Department of Social Protection, Covid-19 Pandemic Unemployment Payment, [gov.ie/en/service/be74d3-covid-19-pandemic-unemployment-payment/](https://www.gov.ie/en/service/be74d3-covid-19-pandemic-unemployment-payment/); Migrants Rights Centre Ireland, “Rights of undocumented workers to access social welfare supports during Covid-19”, 22 April 2020, mrci.ie/2020/04/22/rights-of-undocumented-workers-to-access-social-welfare-supports-during-covid-19/.

²⁴⁰ Interview by video call with “Kiko” (name changed for anonymity), 25 March 2021.

²⁴¹ Interview by voice call with “B.” (name changed for anonymity), 4 December 2020.

²⁴² Interview by video call with a migrants’ rights NGO staff member, 15 February 2021.

²⁴³ Department of Social Protection, Habitual Residence Condition, [gov.ie/en/publication/170e70-habitual-residence-condition/](https://www.gov.ie/en/publication/170e70-habitual-residence-condition/).

²⁴⁴ Interview by video call with a migrants’ rights NGO staff member, 15 February 2021.

²⁴⁵ Interview by video call with “Kiko” (name changed for anonymity), 25 March 2021.

²⁴⁶ See also, for instance: Mental Health Reform Campaign Agenda 2020, mentalhealthreform.ie/wp-content/uploads/2020/01/MHR-ELECTION-2020-SCREEN.pdf; Mental Health Reform, “Invest in Mental Health, Pre-budget submission 2021”, mentalhealthreform.ie/wp-content/uploads/2020/08/Mental-Health-Reform-Pre-Budget-Submission-2021-Final.pdf.

²⁴⁷ Interview by video call with “Georgina” (name changed for anonymity), 22 March 2021.

²⁴⁸ Adeline Berry and Patricia Frazer, “How Sex Workers Understand Their Experiences of Working in the Republic of Ireland”, *Sexuality Research and Social Policy*, 2021, link.springer.com/article/10.1007%2Fs13178-021-00626-2.

As noted by Juno Mac and Molly Smith in “Revolting Prostitutes”, “to say that prostitution is work is not to say it is *good* work, or that we should be uncritical of it. To be better than poverty or a lower paid job is an abysmally low bar, especially for anyone who claims to be part of any movement towards liberation.”²⁴⁹ Adeline, who is transgender and intersex, noted the classist, stigmatizing and moralistic undertones of Ireland’s policies on sex work: “You’ve got a whole bunch of people in the middle class going: ‘I can’t imagine being a sex worker’. Yeah but if you’re in a position you have to imagine it... because that’s what you got to do to survive. So basically, we’re punishing the poor for the failings of the imaginations of the middle class... Just because you can’t imagine it, doesn’t mean it’s, you know, you’re gonna stop it... We’re doing sex work because we need to survive, because nobody will hire me.”²⁵⁰

In the same way that forms of intersectional discrimination can limit employment options for people considering selling sex, they can also curtail individuals’ ability to move to other types of work when they wish to do so. For instance, trans people, as highlighted by Adeline, face systemic discrimination in access to employment.²⁵¹ Sex workers who are racialized, are from ethnic minority backgrounds or are migrants may face additional barriers when seeking other employment. Those who have criminal records due to their involvement in sex work may also struggle to find other work.

Ireland should take measures to ensure that all people can access adequate social protections to ensure that no one has to rely on sex work due to poverty or discrimination and that everyone can choose to leave sex work if they so wish.

6.2 THE IMPACT OF COVID-19 ON SEX WORKERS’ ECONOMIC AND SOCIAL RIGHTS

The Covid-19 pandemic has exacerbated the difficulties many sex workers face in accessing their economic and social rights. Some people had turned to sex work when they lost other jobs, others experienced a decrease in clients and income, while others still saw little change. While some interviewees reported being able to move their work online, for others it was not a possibility, for instance due to safety and privacy concerns.²⁵²

“Rana”, based in Dublin, told Amnesty International that he started doing sex work as a direct result of the Covid-19 pandemic: “I started to work as a sex worker one year ago. Because of the pandemic I lost my job. I was working in a warehouse. And at that time, I had no job and because my friends work as sexual workers and they told me about that, and then I actually started because I had no income. And it was hard to pay bills and everything.”²⁵³

For some interviewees, the Covid-19 pandemic meant either having to stop doing sex work due to, for instance, pre-existing health conditions, or having to continue doing it despite the risks in order to survive. Some sex workers told Amnesty International that they did not apply for the Covid-19 Pandemic Unemployment Payment as they believed they would not be eligible for it, since their only or primary income before the pandemic was from sex work. For example, “Shelley” was aware she would likely not receive it “because we earn our own money and we don’t pay tax for it so you can’t get it.”²⁵⁴ Six people said that they were able to access a hardship fund set up by SWAI to support those in most need in the sex working community.²⁵⁵

Stephanie Lord, a Legal and Policy Officer with Free Legal Advice Centres (FLAC), described the difficulties that sex workers contacting FLAC for advice were experiencing when trying to access the Covid-19 Pandemic Unemployment Payment. She told Amnesty International that barriers to accessing it were being encountered by people working in various informal economies overall, for instance by undocumented migrants, and spoke of sex workers’ fears of criminalization and stigma in the context of accessing this support. “Because of the nature of having to provide evidence, because of the difficulties that presented for

²⁴⁹ *Revolting Prostitutes. The fight for sex workers’ rights* (previously cited), p. 52.

²⁵⁰ Interview by video call with Adeline, 18 February 2021.

²⁵¹ See, for instance: European Union Agency for Fundamental Rights (FRA), *Being Trans in the European Union Comparative analysis of EU LGBT survey data*, 2014, fra.europa.eu/sites/default/files/fra-2014-being-trans-eu-comparative-0_en.pdf, p. 27.

²⁵² Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021.

²⁵³ Interview by voice call with “Rana” (name changed for anonymity), 9 March 2021.

²⁵⁴ Interview by voice call with “Shelley” (name changed for anonymity), 12 February 2021.

²⁵⁵ sexworkersallianceireland.org/swai-hardship-fund/.

sex workers... no one wanted to be contacted, to be submitting information saying 'I am a sex worker and so on'."²⁵⁶

In April 2020, the Irish authorities clarified to Migrants Rights Centre Ireland (MRCI) that everyone, regardless of their migration status, would be able to apply for the Covid-19 Pandemic Unemployment Payment, assuring that a "firewall" was put into place whereby the Department of Employment Affairs and Social Protection, responsible for social welfare, would not be sharing information with the Department of Justice, responsible for immigration matters.²⁵⁷ While this was a positive initiative to help ensure access to necessary support for everyone in need of it in Ireland, MRCI reported that the organization has come across some individual cases where payments were refused based on people's migration status.²⁵⁸

6.3 SEX WORKERS' HUMAN RIGHT TO HOUSING

6.3.1 IRELAND'S HOUSING CRISIS

"M.R.T.R.", who at the time of the interview was staying at a homeless hostel, described the difficulties she has been facing: "I have been here on and off four times in the past three years because I was just having so much trouble finding a place... Homelessness is one of the biggest issues we have in Ireland... For someone to become homeless, they automatically turn to heavy drugs to numb themselves, having to work the streets, to sleep under a bridge, to sleep here and there. I've often said to myself: 'I had to do that.' I would have to be out of my face on drugs to live on the street."²⁵⁹ "Poppy" told Amnesty International: "I'm quite lucky in that I've never really experienced violence from a client but I do feel that I live within a violent system. That was more violent towards me when I wasn't in sex work because at least now I don't have to, like completely worry so much about paying rent. I've been like, 'okay, at least I have that covered.' Whereas in periods when I didn't do sex work I was always freaking out, I was always stressed out. Like that was taking serious toil, I was really suicidal in some periods. And that was very much linked to working a minimum wage job. And that mindset only switched around when I got back into the work and that pressure was lifted off."²⁶⁰

Four sex workers interviewed for this report said they had experienced homelessness and 13 experienced other housing difficulties, such as not being able to find affordable accommodation, living in substandard conditions or having difficulties renting a place if there was a suspicion or information about them doing sex work. Migrant sex worker "Maria" told Amnesty International: "It's a difficult thing for escorts, for sex workers to find a place because in Ireland the houses here, there are so many people and not a lot of houses... And if you say 'I'm a sex worker', people won't rent the house because they don't like that."²⁶¹

There have been growing concerns in recent years about the lack of availability and affordability of housing, including social and emergency housing, in Ireland.²⁶² In July 2020, the Economic and Social Research Institute found disproportionate impacts of the Covid-19 pandemic on people living in inadequate housing.²⁶³ In a report published in September 2021, the Irish Human Rights and Equality Commission and the Economic and Social Research Institute found "persistent problems in relation to housing access in Ireland,"²⁶⁴ with 5,894 adults using homeless services as of March 2021.²⁶⁵ In 2020, the report found, there were "61,880 households on the waiting list for social housing and in 2019, there were over 91,600 people in receipt of government benefits to cover housing costs."²⁶⁶

²⁵⁶ Interview by video call with Stephanie Lord, Legal and Policy Officer, FLAC, 30 March 2021.

²⁵⁷ MRCI, "Rights of undocumented workers to access social welfare supports during Covid-19" (previously cited).

²⁵⁸ Migrants Rights Centre Ireland (MRCI), "Rights of undocumented workers to access social welfare supports during Covid-19" (previously cited).

²⁵⁹ Interview by voice call with "M.R.T.R." (name changed for anonymity), 3 March 2021.

²⁶⁰ Interview by voice call with "Poppy" (name changed for anonymity), 19 January 2021.

²⁶¹ Interview by voice call with "Maria" (name changed for anonymity), 16 December 2020.

²⁶² "Monitoring Adequate Housing in Ireland" (previously cited); CESCR, Concluding Observations: Ireland, (previously cited), paras 26-27.

²⁶³ Merike Darmody and others, "The Implications of the Covid-19 Pandemic for Policy in Relation to Children and Young People. A Research Review", Economic and Social Research Institute, July 2020, esri.ie/system/files/publications/SUSTAT94_3.pdf, p. 68; See also: Special Committee on Covid-19 Response, Final report, October 2020, data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/reports/2020/2020-10-09_final-report-of-the-special-committee-on-covid-19-response-sccr004_en.pdf.

²⁶⁴ "Monitoring Adequate Housing in Ireland" (previously cited), para. 3.4.

²⁶⁵ "Monitoring Adequate Housing in Ireland" (previously cited), p. x.

²⁶⁶ Monitoring Adequate Housing in Ireland" (previously cited), p. x.

In its second Universal Periodic Review in 2016, Ireland supported other states' recommendations that it improve the availability of social and emergency housing and address homelessness.²⁶⁷ In September 2021, the Irish government announced its "Housing Plan for All", which included "a massive expansion in the role of the State in providing affordable homes for purchase and rent, while building historic levels of new social housing."²⁶⁸ It is yet to be seen how the government delivers on its commitments and it remains urgent that it take a human-rights compliant approach through legislative, policy, financial and other measures to ensure affordable housing for all without discrimination, including through social housing and introducing regulations on rent levels and other housing-related costs in the private sector.

There is also a need for the introduction of robust standards to ensure housing is adequate, including in a pandemic situation, meeting the requirements of habitability, location and availability of services, facilities and infrastructure in line with international human rights standards.²⁶⁹ Civil society organizations, for instance in the Home for Good Coalition, have also been calling for a constitutional right to housing in Ireland,²⁷⁰ which in 2020, the government committed to scheduling a referendum on.²⁷¹ At the time this report was published, no further steps had been announced.

The UN Committee on the Elimination of Racial Discrimination (CERD) noted in its 2020 Concluding Observations on Ireland the disproportionate impact of the housing crisis on certain marginalized groups and expressed concern at Ireland's continuing failure to address the inadequate living conditions in Direct Provision centres.²⁷² "Direct Provision" is Ireland's system of state-provided accommodation and other basic necessities to people seeking international protection. Designed as a short-term emergency measure in 2000, it has lasted more than 21 years, despite long-standing human rights concerns, including poor living conditions and lack of dignity and privacy for asylum seekers.²⁷³ People who live in the centres receive a weekly allowance of 38.80 euros per adult and 29.80 euros per child.²⁷⁴ Since January 2021, people awaiting the outcomes of their international protection applications in Ireland are permitted to look for work after six months in the system.²⁷⁵ Previously, they were able to access employment after a period of nine months.

Amnesty International spoke to one person selling sex who at the time of the interview was living in a Direct Provision centre in Dublin. At the beginning of his time in Ireland, "Ali", a gay Pakistani refugee, was legally prohibited from working in the country. He told Amnesty International: "And then when I got the work permission... It's very hard to get a job."²⁷⁶ "Ali" said that he applied for between 40 and 50 jobs over five months without success. His search was severely impacted by Covid-19 as he had caught the virus and had to self-isolate for a period of time. He told Amnesty International that despite having been intensely looking for work and taking on various jobs, as well as doing sex work, he has been unable to earn enough to leave the Direct Provision system and move into private rented accommodation, therefore having no choice but to remain in an inadequate housing situation.

6.3.2 IMPACT OF THE LEGAL FRAMEWORK ON SEX WORKERS' RIGHT TO HOUSING

A forced eviction is the removal of people against their will from the homes or land they occupy without legal protections and other safeguards. The UN Commission on Human Rights has said that forced evictions constitute a gross violation of human rights, in particular the right to adequate housing.²⁷⁷

²⁶⁷ United Nations Human Rights Council, "Report of the Working Group on the Universal Periodic Review", 18 July 2016, ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/33/17, paras 45 and 123.

²⁶⁸ Government of Ireland, "Housing for All. A new Housing Plan for Ireland", 2021, gov.ie/en/publication/ef5ec-housing-for-all-a-new-housing-plan-for-ireland/, p. 10.

²⁶⁹ See: Amnesty International, *Ireland: Serious Gaps in Human Rights Protection, Submission for the UN Universal Periodic Review, 39th Session of the UPR Working Group* (previously cited), p.10.

²⁷⁰ homeforgood.ie/.

²⁷¹ Department of the Taoiseach, "Programme for Government: Our Shared Future", 29 October 2020, gov.ie/en/publication/7e05d-programme-for-government-our-shared-future/, p. 120.

²⁷² UN Committee on the Elimination of Racial Discrimination (CERD), Concluding Observations: Ireland, 23 January 2020, UN Doc. CERD/C/IRL/CO/5-9, para. 37.

²⁷³ See, for instance, Government of Ireland, "A White Paper to End Direct Provision and to Establish a New International Protection Support Service", 26 February 2021, gov.ie/en/publication/7aad0-minister-ogorman-publishes-the-white-paper-on-ending-direct-provision/; CERD, Concluding Observations: Ireland (previously cited); CESCR, Concluding Observations: Ireland (previously cited).

²⁷⁴ UNHCR, Accommodation for Asylum-Seekers, help.unhcr.org/ireland/where-to-look-for-help/accommodation-for-asylum-seekers/.

²⁷⁵ Department of Justice, "Minister McEntee announces reduced 6 month waiting period for international protection applicants to access work", 28 January 2021, justice.ie/en/JELR/Pages/PR21000016.

²⁷⁶ Interview by voice call with "Ali" (name changed for anonymity), 4 March 2021.

²⁷⁷ UN Commission on Human Rights Resolution 1993/77, Forced evictions, 10 March 1993, UN Doc. E/CN.4/RES/1993/77, para. 1.

The provisions in Irish criminal law which carry criminal penalties and fines for brothel keeping and “living on the earnings of prostitution” have very specific negative consequences on sex workers’ human rights, including their right to adequate housing. Former sex worker “Georgina” said: “Sex workers have had trouble getting housing because their landlord can be fined under this law... There’s so many different ways that it can be used to attack sex workers. And I think there’s a real misunderstanding of the importance of safety for us.”²⁷⁸ Billie Stoica told researchers, based on their experiences of working with Limerick-based sex workers: “They [the Gardaí] actually don’t go after the landlords... They warn them that they are making money from ‘immoral earnings’. And so then, the landlords kick people out, they just evict them. And they’re no longer making money from ‘immoral earnings’.”²⁷⁹

Three of the sex workers interviewed by Amnesty International reported that they had been threatened with or subjected to eviction as a direct result of Ireland’s legal framework in relation to sex work.²⁸⁰ The potential for these provisions to be harmful to sex workers is particularly enhanced given the scarcity of adequate housing and people’s consequent heavy dependency on private housing provision in Ireland. The indirect criminalisation of sex work in this way impedes sex workers’ ability to access the private housing sector on an equal basis with others and compels many sex workers who do find housing to live with the constant stress and fear of being found out or someone informing their landlord of their work and subsequently being evicted. For example, Adeline explained to Amnesty International how a 2018 Garda raid on the premises she and her wife were living in and working from, and their eviction, had serious mental health impacts on the couple. In her own academic research, Adeline found widespread fears among participants of being evicted from their homes or work locations.²⁸¹

ADELINE’S EXPERIENCE

So when they raided it... There was a detective, there was two detectives, I think... My wife was there at the time when they raided it... My wife phoned. She had seen a client... they stopped the client, took his information, sent him on his way. Nothing happened there. They’re like ‘good to go’... And by October 2018 they’d gotten a hold of our landlord and threatened him, because that’s the thing... you can’t make money out of sex workers but that doesn’t mean we’re putting landlords in jail, it just means landlords are throwing sex workers out into the street. And that’s what happened... We were evicted under brothel keeping... We really just lost everything... We sank everything we had in the space, it was really beautiful. We sank every penny we had into it, like complete morons, and we had nothing left. We considered a planned suicide for a while afterwards, more seriously than I had in a long time. I mean, we’d made plans and everything you know, and it was, for me, I’m a trans person from Tallaght. So me and suicide are all pals, me and depression and all that, but for my wife, that was the first time she’d ever considered suicide.”²⁸²

“Aoife” described how a client was harassing her co-worker and flatmate and sitting outside their building for days, shouting and verbally abusing her. She suspected that her flatmate’s report of this behaviour to the Gardaí, or a call from a neighbour, led to their landlady being alerted by the Gardaí and threatening her with a forced eviction. “I got a call from the landlord, saying, you know, ‘I have gotten a complaint that there’s prostitution happening in the apartment’ so I just tried to say as little as possible... And then they [the landlady] sent over someone to inspect the apartment, the next day. And they said, ‘You have until Monday basically to exit the apartment’. So I was in a huge kind of flood of panic at this point... I contacted I think Threshold or one of the housing charities.”²⁸³ “Aoife” wrote to the landlady “just to try to kind of put the brakes on and threaten them legally, that I was going to make this difficult and wasn’t gonna go easy. And then they emailed me back... to say, ‘okay... you have to pay the other half of the rent and find a new housemate [“Aoife’s” flatmate had at this point moved out] if you want to stay there’. So they never said ‘We’re no longer accusing you of being a sex worker’, or ‘You’re not going to be evicted. They just said, give us money.’”²⁸⁴

²⁷⁸ Interview by video call with “Georgina” (name changed for anonymity), 22 March 2021.

²⁷⁹ Interview by video call with Billie Stoica, 10 August 2020.

²⁸⁰ Interview by video call with Adeline, 18 February 2021; Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021; Interview by voice call with “Bianca” (name changed for anonymity), 12 April 2021.

²⁸¹ “How Sex Workers Understand Their Experiences of Working in the Republic of Ireland” (previously cited).

²⁸² Interview by video call with Adeline, 18 February 2021.

²⁸³ Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021.

²⁸⁴ Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021.

Under the ICESCR, Ireland has an obligation to guarantee the right to housing “without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”²⁸⁵ International human rights law and standards also require governments not only to ensure that procedural safeguards are in place to protect individuals from forced evictions, but also to safeguard people from becoming homeless or vulnerable to other human rights violations as a consequence of eviction.²⁸⁶ The CESCR Committee specifies in its guidance to states about their duties and obligations under the Covenant that “where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing... is available.”²⁸⁷

In addition to ensuring people’s right to adequate housing, the Irish authorities must refrain from putting sex workers at risk of homelessness and urgently assess, as part of the ongoing review of the law, the impact of the provisions criminalizing brothel keeping and other aspects of sex work in Irish law, on sex workers’ economic and social rights.

6.4 NEED FOR A HOLISTIC AND INTERSECTIONAL APPROACH TO CHANGE

Sex workers interviewed for this report overwhelmingly stressed that since the reasons for doing sex work are often complex and intersecting, solutions that would improve people’s access to their human rights without discrimination should acknowledge and holistically address these intersecting reasons first and foremost.

“Aoife” told Amnesty International: “I think because this is such an intersectional issue, where you have issues of gender identity, of migration, of all these different things involved with poverty, homelessness, parenting, single parents, I mean, the list is endless... When someone looks at the situation they’re in and says, Okay, I need to do this kind of work. I’m in Direct Provision, I don’t have access to a legal income, or I’m a migrant, or I’m a trans person who’s trying to get access to healthcare, I need to make a certain amount. And, you know, people are making decisions in those situations.”²⁸⁸

NGO representatives and lawyers interviewed in the course of this research urged holistic approaches to achieve the positive systemic change needed to better protect sex workers’ human rights. Maeve Taylor, Advocacy and Communications Director at the Irish Family Planning Association, told researchers: “When we design sexual health services, we should be thinking about who we’re designing them for: if the needs and rights of the people who are most likely to experience vulnerability or stigma or oppression are included in the design, then the services should meet the needs of everyone, including sex workers.”²⁸⁹

Among the changes that Stephanie Lord, FLAC’s Legal and Policy Officer, told Amnesty International that FLAC would like to see were “harm reduction initiatives, changes to the immigration system, changes to the social welfare system, to ensure that people can have an adequate standard of living. They are the broad recommendations that we would have, we would see them as very, very important. And if the State is serious about supporting people from marginalized backgrounds, these are initiatives that would have to be taken.”²⁹⁰

Sex workers interviewed also stressed that law and policy reforms were needed with regard to supporting people who use drugs through urgent, accessible and appropriate measures. “Rana” told Amnesty International: “What I know is that some people if they have that type of support would prefer to be free of this. I think some people don’t leave the sexual work because they’re already under drugs.”²⁹¹ Some interviewees also stressed that decriminalization of sex work should go hand in hand with the decriminalization of the use and possession of drugs for personal use.²⁹²

Interviewees stressed that supporting drug using sex workers needed to be done in holistic ways that would address the complex and intersecting needs many people in these situations face. Dr Austin O’Carroll, a GP and founder of Safetynet Primary Care, a medical charity providing healthcare to marginalized communities in Ireland, told researchers in relation to changes he would like to see for the people he works with: “Most of

²⁸⁵ ICESCR, Article 2(2).

²⁸⁶ CESCR, General Comment 7: Right to adequate housing, forced evictions (Article 11.1), 20 May 1997, Un Doc. E/1998/22, para. 16.

²⁸⁷ CESCR, General Comment 7 (previously cited), para. 17.

²⁸⁸ Interview by video call with “Aoife” (name changed for anonymity), 11 March 2021.

²⁸⁹ Interview by video call with Maeve Taylor and Alison Spillane, Irish Family Planning Association, 18 March 2021.

²⁹⁰ Interview by video call with Stephanie Lord, Legal and Policy Officer, FLAC, 30 March 2021.

²⁹¹ Interview by voice call with “Rana” (name changed for anonymity), 9 March 2021.

²⁹² Interview by video call with “Vanessa” (name changed for anonymity), 25 January 2021.

these people came from a background of poverty and usually from families where there's a high level of childhood adversity. And I think they're critically interlinked. So if you're talking about long term future, you need to address inequality."²⁹³

It is critical that Ireland urgently lives up to its international human rights obligations and holistically addresses its housing crisis, systemic inequalities and discrimination. Sex workers, like everyone else in Ireland, have human rights, including the right to an adequate standard of living, housing and social support.

²⁹³ Interview by video call with Dr Austin O'Carroll, 8 April 2021.

7. STIGMA AND PREJUDICE AGAINST SEX WORKERS

“They look at you like you are dirty.”

“Maria”²⁹⁴

7.1 THE CHURCH, THE STATE AND THE PATRIARCHY: IRELAND’S SYSTEMIC ABUSE OF WOMEN’S HUMAN RIGHTS

Harmful gender stereotypes and pervasive stigma towards people who engage in sex work are both at the root of and exacerbating factors for many of the human rights violations described in this report.

The interviews carried out by Amnesty International suggest that stigma against sex workers is pervasive in Ireland, with interviewees overwhelmingly bringing up deeply entrenched negative and patriarchal societal attitudes and prejudice towards them. These are often intensified by intersecting forms of discrimination based on, for example, ethnicity, race, gender and gender identity, socio-economic circumstances, migration status or drug use.

“Maria”, a migrant sex worker, told Amnesty International: “Sometimes if you say ‘I’m a sex worker because I like sex, I enjoy, and it’s my job as well, I get paid for that, it’s a normal job,’ that’s my thoughts... people don’t like you saying that you are working as that.”²⁹⁵ “Poppy”, an Irish student, also noted the prevalence of misconceptions and underlying sexism: “Very moralistic, from a point of view of either ‘oh, you’re a dirty slut’, or ‘you need to be saved’, or ‘you’re just being abused’ or ‘you’re just doing this to hurt yourself’, like it’s a form of self-harm. Whereas the actual reasons people get into it are far more nuanced. Like, I think the housing crisis in particular is the reason for so many people.”²⁹⁶

The framing of all sex work as a form of violence against women and the conflation of sex work with human trafficking were identified by sex workers and experts interviewed as leading to both misconceptions and

²⁹⁴ Interview by voice call with “Maria” (name changed for anonymity), 16 December 2020.

²⁹⁵ Interview by voice call with “Maria” (name changed for anonymity), 16 December 2020.

²⁹⁶ Interview by voice call with “Poppy” (name changed for anonymity), 19 January 2021.

practical negative impacts on sex workers' safety, exacerbating both perceived and real impunity for violence and abuse against them.

Ugly Mugs Director Lucy Smyth told Amnesty International: "The official line, backed up by the Department of Justice and so forth is that all sex work is inherently violent. And that is an extremely bad position to take to public messaging... there should be absolutely clear messaging that it's unacceptable to commit crime against people in sex work. But we don't have that message and what we have instead is 'well, all sex work is violence.'... You know, like someone committing a rape and afterwards saying 'oh sure you know, you get raped every day. What's the matter if I rape you?' And that is constantly reinforced by the authorities, who say, 'Well, you know, it's all abuse anyway, you can't make it safe.'... There's absolutely loads and loads and loads of things that you could do to make sex workers safer... You get a very clear messaging in Ireland that sex workers are a class of women who you can abuse without any consequence."²⁹⁷

Several of the sex workers, academics, NGO representatives and frontline staff interviewed situated the prevalence of discriminatory attitudes towards sex workers in Ireland within the context of deeply rooted and harmful stereotypes around gender roles, in a country with a history of institutional abuse inflicted on women seen to not be conforming with them. The influence and role of the Catholic Church in these abuses and in forming and reinforcing societal stigma around sex, sexuality and in particular women's sexual conduct, was often brought up. Irish sex worker "Kristina" spoke of "Catholic ideals and Catholic shaming, which plagues Ireland."²⁹⁸

Interviewees frequently referenced the "Magdalene laundries" and "Mother and Baby homes" - state and religious orders-run institutions which throughout the 19th and 20th centuries housed unmarried and pregnant women and girls and others who did not conform to the societal gender expectations of them at the time. In them, thousands of women and their children were subjected to forced labour, arbitrary deprivation of liberty, inhuman and degrading treatment and other human rights abuses for years.²⁹⁹ In 2020, the UN Committee against Torture launched an investigation into the Irish state's liability for the abuses following an individual complaint brought by a survivor.³⁰⁰

Dr Vicky Conway told Amnesty International: "There's this very paternalistic attitude towards sex workers that they are 'poor trafficked women' and that's all that they are... And for me that even on many levels harks back to how Ireland has treated 'poor women' in other spaces like even the Magdalene laundries... And we get the Mother and Baby homes [report] the other week saying 'Aren't we great? We gave these women a refuge'. And I do think these things all connect, these are the last vestiges of those attitudes still being played out."³⁰¹

7.2 MULTIPLE AND INTERSECTING FORMS OF DISCRIMINATION AND STIGMA

Sex workers and experts interviewed in the course of this research often referenced the multiple and intersecting forms of discrimination sex workers experience in Ireland, in particular those who are racialized, migrants, transgender, experience poverty or homelessness or use drugs.

Sex workers who are transgender are subjected to intersecting and multiple layers of stigma and discrimination, with transphobia pervasive in Ireland, as in many societies.³⁰² As noted in the 2017 Transgender Europe report, "violence against trans and gender-diverse people frequently overlaps with other

²⁹⁷ Interview by voice call with Lucy Smyth, Director, Ugly Mugs, 22 September 2020.

²⁹⁸ Interview by voice call with "Kristina" (name changed for anonymity), 14 January 2021.

²⁹⁹ See for example, Justice for Magdalenes, "Principal Submission to the Inter-departmental Committee to establish the facts of state involvement with the Magdalene Laundries," 16 February 2013, magdalenelaundries.com/State_Involvement_in_the_Magdalene_Laundries_public.pdf.

³⁰⁰ Irish Legal News, "UN investigation into Magdalene laundries 'raises significant issues'", 17 February 2020, irishlegal.com/articles/un-investigation-into-magdalene-laundries-raises-significant-issues.

³⁰¹ Interview by video call with Dr Vicky Conway, Dublin City University, 19 February 2021; Commission of Investigation into Mother and Baby Homes, *Final report*, 30 October 2020, assets.gov.ie/118565/107bab7e-45aa-4124-95fd-1460893dbb43.pdf.

³⁰² See, for instance: European Union Agency for Fundamental Rights, *European Union lesbian, gay, bisexual and transgender survey*, 2014, fra.europa.eu/sites/default/files/fra-eu-lgbt-survey-main-results_tk3113640enc_1.pdf; Amanda Haynes and Jennifer Scheppe, *Lifecycle of a Hate Crime: Country Report for Ireland*, Irish Council for Civil Liberties, 2017, iccl.ie/wp-content/uploads/2018/04/Life-Cycle-of-a-Hate-Crime-Country-Report-for-Ireland.pdf; Amanda Hayes and Jennifer Scheppe, *STAD: Stop Transphobia and Discrimination Report 2014-2016*, 2017, ulir.ul.ie/handle/10344/6314; Cat McLroy, *Transphobia in Ireland. Research Report*, Transgender equality Network Ireland, 2009, ilga-europe.org/sites/default/files/Attachments/ireland_-_transphobia_in_ireland_report.pdf.

axes of oppression prevalent in society, such as racism, sexism, xenophobia, and anti-sex worker sentiments.”³⁰³

Adeline, who is trans and intersex, told Amnesty International of her hope for younger generations in Ireland to counter these obstacles to trans people’s accessing their human rights: “I think honestly, what will change it, is the pressure of youth,” she said. “Most of the transphobia I experienced in Ireland was from people over the age of 35... There’s a bunch of really brave, amazing girls just like, ‘I’m done’.”³⁰⁴

Sex workers with disabilities are often invisible, both to the general public and in human rights discourse and practice in the areas of sex workers’ rights. “Not only do disabled people have sex, but some of us also sell sexual services because traditional employment is often inaccessible to us,” wrote “Kiko”. “Disabled sex workers exist, and our challenges intersect.”³⁰⁵ A representative of the Centre for Disability Law and Policy at NUIG spoke about the similarities in attitudes towards people with disabilities and sex workers: “In a large part, Ireland’s idea about disability is really tied into vulnerability and pity... and I think there’s a strong similarity there in some of that, ‘oh the poor ‘vulnerables’, the poor sad cases.’”³⁰⁶

Racialized sex workers interviewed spoke of racism, often interlinked with anti-migrant attitudes, among clients. “Neka”, a 37-year-old British woman, said: “They think that all Black women are women who were born or came from Sub-Saharan Africa, they’re thinking ‘there is a refugee here’ or maybe ‘she’s alone’, etc. because they know that you might be scared that they don’t revoke your visa. When they find out that you are actually Black British, they tend to be very careful.”³⁰⁷

In January 2020, the CERD Committee expressed concern at “the reportedly high level of racist hate crime targeted at ethnic minorities, which is often in combination with other grounds of discrimination such as gender and religion” in Ireland.³⁰⁸ In February 2021, a Sunday Times article included a statement from the head of the Garda National Protective Services Bureau in which he associated the presence of migrants and people of colour in Ireland with gang crimes linked to human trafficking. “We have seen big Eastern European influences,” the Garda Chief Superintendent said in the piece. “There are also West African, South American and Middle Eastern gangs involved. In the last 15 years, Ireland has become a blend of nationalities and that brings with it certain types of crime.”³⁰⁹ Referencing this statement, Adeline told researchers: “They said in the papers two weeks in a row ‘it’s Black people, it’s Africans, it’s foreigners.’ It used to be English soldiers and now it’s foreigners. ‘If Black people go away, sex work will grind to a halt.’”³¹⁰

Dr Vicky Conway told Researchers: “In 2004, a study called the ‘Ionann report’, which was commissioned by the Guards themselves to look at how they were doing around human rights, found that the Garda Síochána is institutionally racist.”³¹¹ She referred to the report as “the most overlooked thing in Irish policing... So little has been done around racism and policing.”³¹²

In its 2019 report on Ireland, the European Commission against Racism and Intolerance (ECRI) found negative attitudes towards people from minority ethnic backgrounds among Gardaí and evidence of racial and ethnic profiling.³¹³ In August 2021, the Irish Human Rights and Equality Commission called on An Garda Síochána to “urgently incorporate human rights and equality standards, intercultural awareness, and cultural competency in the initial and continuous training programmes of all Garda members and civilian staff.”³¹⁴ It also recommended the Irish authorities define and prohibit racial profiling in law and introduce

³⁰³ Boglarka Fedorko and Lukas Berredo, *The vicious circle of violence: Trans and gender-diverse people, migration, and sex work* (previously cited), p. 18. See also: NSWP (Global Network of Sex Work Projects) and MPact (Global Action for Gay Men’s Health and Rights), *The Homophobia and Transphobia Experienced by LGBT Sex Workers*, Briefing paper, 27th November 2018, nswp.org/resource/nswp-briefing-papers/briefing-paper-the-homophobia-and-transphobia-experienced-lgbt-sex.

³⁰⁴ Interview by video call with Adeline, 18 February 2021.

³⁰⁵ Kiko Demon, “Nothing about us without us: Disabled Sex Workers in Ireland, 8 March 2021, disabledwomenireland.org/disabilityisntdirtyword/2021/3/8/kiko-demon-many-disabilities-are-invisible-and-for-those-of-us-with-invisible-disabilities-who-are-also-sex-workers-our-lives-and-the-challenges-we-face-are-doubly-invisible.

³⁰⁶ Interview by video call with Representatives of the Centre for Disability Law and Policy, NUIG, 16 March 2021.

³⁰⁷ Interview by voice call with “Neka” (name changed for anonymity), 12 April 2021.

³⁰⁸ CERD, Concluding Observations: Ireland (previously cited), para. 21.

³⁰⁹ The Sunday Times, “Gardaí win trust of sex workers hit by Covid pandemic”, 7 February 2021, [thetimes.co.uk/article/gardai-win-trust-of-sex-workers-hit-by-covid-pandemic-btwp3psvq](https://www.thetimes.co.uk/article/gardai-win-trust-of-sex-workers-hit-by-covid-pandemic-btwp3psvq).

³¹⁰ Interview by video call with Adeline, 18 February 2021.

³¹¹ Interview by video call with Dr Vicky Conway, Dublin City University, 19 February 2021.

³¹² Interview by video call with Dr Vicky Conway, Dublin City University, 19 February 2021; Ionann Management Consultants Limited, An Garda Síochána Human Rights Audit, Executive Summary, 2004, garda.ie/en/about-us/publications/general-reports/garda-human-rights-audit.pdf.

³¹³ European Commission against Racism and Intolerance (ECRI), Report on Ireland (fifth monitoring cycle), 2019, rm.coe.int/fifth-report-on-ireland/168094c575, paras 49 and 52.

³¹⁴ Irish Human Rights and Equality Commission, *Developing a National Action Plan Against Racism. Submission to the Anti-Racism Committee*, 2021, ihrec.ie/app/uploads/2021/09/Developing-a-National-Action-Plan-Against-Racism-IHREC-Submission-to-the-Anti-Racism-Committee.pdf, para. 15.2.

measures to address racial profiling.³¹⁵ Amnesty International was unable to obtain the views of representatives of An Garda Síochána for this report despite repeated and documented attempts to arrange interviews or receive a response in writing (see Methodology).

Street sex workers interviewed by Amnesty International described the particular stigmatization they experience, both from the general public and oftentimes within the sex working community itself. “Vanessa” said: “When it comes to street workers, I think the opinions range from being very negative, you know, that ‘you’re scumbags, you’re dirt’... ‘you’re criminals’ to the kind of pitiful and pathetic image the other people might have. And so the ‘kind view’ of street workers is one dripping in sympathy... I don’t think it’s something that most people come into contact with. They just don’t have a good understanding of the women, of our lives and get a very, very one-dimensional view of who street workers are and what we do and how we live.”³¹⁶

Dr Austin O’Carroll spoke about attitudes in Irish society towards people experiencing homelessness, people who use drugs and sex workers, and their intersections: “I think drug users are probably the most stigmatized... So if you’re a drug user who also is a sex worker, you know, that unfortunately will probably taint the perception of it.”³¹⁷

Several sex workers interviewed spoke about the very real risks associated with other people in their communities finding out what they do. “Ashley”, an Irish woman in her fifties who has been doing sex work for 30 years on and off, told Amnesty International: “Few people know I work... If people knew a sex worker was living in there, they’d nearly stone them out of the house.”³¹⁸

7.3 IRELAND’S HUMAN RIGHTS OBLIGATIONS TO COMBAT NEGATIVE GENDER STEREOTYPES, INCLUDING STIGMA TOWARDS SEX WORKERS

International human rights law requires Ireland to combat gender-based and other discrimination and strive to achieve substantive equality. The Istanbul Convention, for example, requires State Parties to “promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men.”³¹⁹ Ireland is also obliged to tackle gender stereotypes that justify violence against certain groups of people, such as transgender people.³²⁰

Under the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Ireland is obliged to take all appropriate measures to “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”³²¹ The CEDAW Committee has clarified that this should include “age appropriate, evidence-based and scientifically accurate comprehensive sexuality education for girls and boys” that targets stereotypical gender roles and promotes “values of gender equality and non-discrimination, including non-violent masculinities.”³²² Ireland is also obliged to encourage the media “to eliminate discrimination against women in their activity, including harmful and stereotyped portrayal of women or specific groups of women, such as women human rights defenders.”³²³ Such measures could be helpful in aiming to end stigma and discrimination against sex workers in Irish society and state institutions.

“Vanessa” told researchers: “Even the fact that they’re targeting clients reinforces the stigma on you as a sex worker because you’re still involved in an illicit transaction or a criminal transaction. And actually, it just reinforces the kind of criminal-victim dichotomy with sex workers. Some people will choose to still see you as a criminal because of the deeply ingrained prejudice towards you and other people will just be encouraged to see you more as a victim. So I don’t think there’s any real hope of fully destigmatizing sex workers while

³¹⁵ *Developing a National Action Plan Against Racism* (previously cited), paras 15.4 and 15.5.

³¹⁶ Interview by video call with “Vanessa” (name changed for anonymity), 25 January 2021.

³¹⁷ Interview by video call with Dr Austin O’Carroll, 8 April 2021.

³¹⁸ Interview by voice call with “Ashley” (name changed for anonymity), 12 January 2020.

³¹⁹ Istanbul Convention, Article 12(1). See also CEDAW, Article 5 (a).

³²⁰ CEDAW, Article 5 (a); CEDAW, General Recommendation 28: core obligations of States Parties under Article 2, 16 December 2010, UN Doc. CEDAW/C/2010/47/GC.2, paras 18 and 26.

³²¹ CEDAW, Article 5(a).

³²² CEDAW, General Recommendation 35, para. 35(a).

³²³ CEDAW, General Recommendation 35, para. 37.

that's still in place. And so, if you had decriminalization and state recognition of sex work as a legitimate form of labour that would go some way towards destigmatizing sex work."³²⁴

Sex workers and others interviewed in the course of this research overwhelmingly believed that decriminalization of sex work in Ireland had some potential to help shift prejudices and alleviate some of the stigma sex workers face. For example, Ugly Mugs' Director Lucy Smyth said: "Decriminalization is the main and only thing which is going to really resolve it because so long as you have these sort of half-decriminalization systems, you're still perpetuating stigma."³²⁵

Interviewees also overwhelmingly stressed the significance of sex workers themselves being the drivers of effecting change and part of the comprehensive, holistic, systemic solutions aiming at combating stigma and guaranteeing their human rights.

Sex worker and former Director of SWAI Kate McGrew said: "I'm always always always banging on about how if people would stop meddling in this means of survival and instead... if they would instead work with us towards the sort of preventative arenas, like support for single mothers, and drugs and homeless support and trans employment and disabled persons' employment, then we would be working together... And regularization of the undocumented because then fewer people would end up doing the work that actually don't want to do it. But people that are actually there who are going to be there inevitably can have legal, vetted options."³²⁶

Sex workers' testimonies gathered in this report show that harmful gender stereotypes and stigma around bodily autonomy and sexuality – often combined with anti-migrant, anti-trans, classist, ableist and racist attitudes – remain deeply entrenched in Ireland. The authorities need to listen to sex workers and ensure that their international human rights are fully promoted, respected, protected and fulfilled.

³²⁴ Interview by video call with "Vanessa" (name changed for anonymity), 25 January 2021.

³²⁵ Interview by voice call with Lucy Smyth, Director of Ugly Mugs, 20 September 2020.

³²⁶ Interview by video call with Kate McGrew, 18 February 2021.

8. RECOMMENDATIONS

TO THE HOUSES OF THE OIREACHTAS (IRISH PARLIAMENT):

ON LEGISLATION:

- Decriminalize all aspects of sex work due to the foreseeable barriers that criminalization creates to the realization of the human rights of sex workers;
- Repeal Section 7A of the Criminal Law (Sexual Offences) Act 1993 as introduced by the Criminal Law (Sexual Offences) Act 2017, which criminalizes the purchase of sex;
- Repeal Section 7 on “soliciting for the purpose of prostitution”, Section 8 on “loitering for the purposes of prostitution”, Section 10 on “living on earnings of prostitution” and Section 11 on “brothel keeping” of the Criminal Law (Sexual Offences) Act 1993;
- Enact legislation expunging past convictions under Sections 7, 8, 10 and 11 of the Criminal Law (Sexual Offences) Act 1993;
- Ensure the right of sex workers to consultation and meaningful participation in the development of any relevant laws, or regulatory frameworks is respected, protected and fulfilled, including, in particular through ensuring the involvement of current sex workers and those from marginalized groups and facing discrimination on the basis of, for example, sexual orientation, gender, gender identity, race, ethnicity, homelessness, drug use and migrant status.

TO THE DEPARTMENT OF JUSTICE

ON RESEARCH, DATA AND THE ONGOING LAW REVIEW

- Ensure consultation with and meaningful participation of sex workers, in particular current sex workers and those from marginalized groups and facing discrimination, in the ongoing review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017;
- Ensure that the ongoing review of the law includes assessments of the specific impacts of the relevant legal provisions, for instance those on brothel keeping and “living on earnings of prostitution” on sex workers’ economic and social rights, in particular their right to adequate housing;
- Ensure that independent research is conducted, in consultation with sex workers to obtain an authoritative assessment of the circumstances, needs and views of sex workers, including the particular situation of individuals facing discrimination on the basis of, for example, sexual orientation, gender, gender identity, race, ethnicity, homelessness, drug use and migrant status, and identify how best to safeguard their safety and human rights;
- Collect and analyze data and information, including from people who are migrant sex workers and from migrants’ rights NGOs, to determine their specific concerns in Ireland and the adequacy of the current framework in respecting and protecting migrant sex workers’ human rights;
- Ensure the gathering of detailed and disaggregated data on the experiences of people of all genders, including cis and transgender women and men, as well as non-binary and intersex sex workers;
- Ensure the right of sex workers to consultation and meaningful participation in the development of laws, policies or programmes that affect them and their human rights. Participation must involve

current sex workers and those from marginalized groups and those facing discrimination on the basis of, for example, sexual orientation, gender, gender identity, race, ethnicity, drug use, homelessness or migrant status.

ON SEX WORKERS' ACCESS TO JUSTICE FOR VIOLENCE

- Ensure that sex workers enjoy full and equal protection of the law, as well as effective remedies, including for offences such as rape and sexual violence, abuse of authority, assault, robbery, stalking, harassment and all other crimes;
- Ensure that all complaints of violence against people who sell sex, including sexual and gender-based violence, are taken seriously by the authorities, including An Garda Síochána, and are promptly and independently investigated without discrimination, including complaints of violence against migrants who sell sex, and that perpetrators are brought to justice.

ON SEPARATION OF GARDA POWERS:

- Introduce separation of powers in An Garda Síochána and “firewalls” between immigration enforcement and other Garda functions so that units and officers tasked with policing “prostitution-related” offences and human trafficking are separate from those investigating violence and other offences committed against sex workers, as well as those tasked with immigration law enforcement (GNIB).

ON MIGRATION

- Urgently abolish the Direct Provision system;
- Develop an alternative accommodation system that respects people’s human rights to an adequate standard of living, housing, physical and mental health, and private and family life, in consultation with people seeking international protection;
- Introduce secure and effective “firewalls” so that undocumented people can access social welfare and contact the authorities, including An Garda Síochána to report crime, if they wish.

ON HUMAN TRAFFICKING:

- Ensure that criminal laws to prevent forced labour, human trafficking, abuse and violence in the context of commercial sex, and the involvement of children in commercial sex acts, are adequate and respect human rights; and that victims are identified and provided with protection and all appropriate supports, cases are thoroughly investigated, and perpetrators are prosecuted and punished;
- Adopt and implement – in consultation with sex workers, human trafficking victims and others currently or previously involved in commercial sex – effective programmes, laws and policies, in line with Ireland’s obligations under international human rights law, to ensure no one is coerced into selling sex and anyone can stop selling sex if they choose.

TO THE DEPARTMENT OF JUSTICE AND TO THE GARDA COMMISSIONER

- Develop and embed policies, in consultation with people who sell sex and relevant support agencies that build trust between An Garda Síochána and sex workers and facilitate reporting by sex workers of violence and crime against them;
- Investigate reports of confiscation of sex workers’ earnings by An Garda Síochána officers without receipt and the non-return of full sums of earnings, as applicable, and issue appropriate guidelines and conduct monitoring of compliance with them. Ensure that those found to have engaged in such conduct are held accountable;
- Introduce mandatory human rights, cultural competency, anti-discrimination and anti-racism training in the initial and continuous training programmes of An Garda Síochána at all levels of the organization, as well as training on liberty and fair trial rights, such as the right to legal counsel and an interpreter.

TO THE GOVERNMENT OF IRELAND

ON ECONOMIC AND SOCIAL RIGHTS

- Undertake a review of programmes, laws and policies on economic and social rights and reform them to ensure that they are compliant with the right to an adequate standard of living, including the right to adequate housing, and the right to social security for all, including those engaged in sex work;
- Take measures to ensure that all people can access adequate social protections to ensure that no one has to rely on sex work due to poverty or discrimination and that everyone can choose to leave sex work if they so wish;
- Take all necessary measures to eradicate discrimination against marginalized individuals and groups who are commonly represented in sex work, including discrimination in employment.

ON THE RIGHT TO ADEQUATE HOUSING

- Refrain from putting sex workers at risk of homelessness and urgently assess, as part of the ongoing review of the law, the impact of the provisions criminalizing brothel keeping and other aspects of sex work in Irish law, on sex workers' economic and social rights;
- Take all necessary steps including through legislative, policy, financial and other measures to ensure affordability of housing to everyone without discrimination, including adequate levels of state-provided housing, and regulations on rent levels and other housing-related costs in the private sector;
- Urgently introduce standards to ensure housing is adequate including in a pandemic situation, meeting the requirements of habitability, location and availability of services, facilities and infrastructure;
- Schedule a referendum on a constitutional right to housing in line with international human rights standards.

ON THE DECRIMINALIZATION OF DRUGS:

- Decriminalize the use and possession of drugs for personal use and expand health and other social services to address the risks related to drug use.

ON STIGMA AND DISCRIMINATION

- Provide mandatory, comprehensive, age-appropriate, gender-sensitive, evidence-based and unbiased sexuality and relationships education to pupils and students of all genders at all levels of education and young people outside the education system. These should include education about consent, bodily and sexual autonomy and the right to bodily integrity and target stereotypical gender roles;
- Take measures to eradicate and oppose harmful stereotypes and stigma against sex workers and their families, including through programmes to promote respect for sex workers' dignity and human rights among law enforcement officials, and ensuring legal support for sex workers exercising their rights;
- Ensure that policies and programmes on stigma and discrimination against sex workers and their families are developed through meaningful participation and consultation with sex workers, including current sex workers and those facing discrimination;
- Ensure that sex workers and their families enjoy equal protection under the law and are protected from all forms of discrimination;
- Tackle gender inequality and discrimination against cisgender women and transgender people in the field of employment, including by reforming discriminatory laws, policies and practices that diminish their opportunities in the economy, and taking steps to end gender stereotypes, rigid gender roles and prejudice that undermine their equal participation in the economy;
- Encourage media to help tackle stigma against sex workers, including through stopping harmful portrayals of sex workers based on negative stereotypes.

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“WE LIVE WITHIN A VIOLENT SYSTEM.”

STRUCTURAL VIOLENCE AGAINST SEX WORKERS IN IRELAND

In recent years, the #MeToo movement has galvanized millions of people around the world to share their experiences of gender-based violence and demand change. However, the issue of sex workers’ human rights and their experiences of gender-based violence have been largely ignored or dismissed in these conversations.

This report, based on in-depth interviews with sex workers, experts and representatives of the Irish authorities, provides insights into sex workers’ human rights in Ireland, in particular their right to safety and freedom from violence.

It shows that criminalization of aspects of sex work in Ireland has a “chilling effect” on sex workers’ exercise of their human rights, for instance by preventing them from working together in one apartment for safety. The research also exposes a profound lack of trust in the Irish police service, challenges sex workers face in accessing and retaining adequate housing, as well as societal stigma reinforced by the criminal law. For many sex workers, these factors exacerbate the already high levels of intersecting discrimination they experience on grounds of, for example, race, ethnicity, gender, gender identity, disability, drug use, homelessness or migrant status. Amnesty International calls on the Irish authorities to listen to sex workers and decriminalize all aspects of sex work.