

## **STUC Response to Scottish Parliament Equal Opportunities Committee on Sexual Offences (Scotland) Bill**

24<sup>th</sup> September 2008.

### **Introduction**

The STUC welcomes the opportunity to respond to the Equal Opportunities invitation for specific comment on the question *'Does the Bill provide adequate protection from abuse to prostitutes and trafficked women?'*

The STUC is Scotland's trade union centre, bringing together over 640,000 workers and linking with their communities, families, and with people not in work. Our organisation includes representative structures for women, for black and ethnic minorities, and for young workers. The STUC affiliated trade union membership organises workers in many different environments in the public and in the private sector.

In recent years the STUC Women's Conference and the STUC Women's Committee have discussed issues of violence against women, of prostitution, and trafficking of women and children. A multi-agency conference hosted by the STUC Women's Committee in October 2007, looked at the extent of trafficking of women and children in Scotland and considering a number of policy initiatives that could be taken to tackle the growing problem.

The STUC annual Congress in April 2008 expressed strong concern at the increase in the trafficking of women and young people into the UK for purposes of sexual exploitation. The STUC is committed to supporting those projects and initiatives, such as the TARA Project in Glasgow, which challenge the practice of trafficking but also support women who have come into the UK by this means, seeking to provide alternatives for these women to make choices about their lives.

## **Submission on Sexual Offences (Scotland) Bill - with regard to prostitution and trafficking.**

The STUC has already welcomed the progress made in the Sexual Offences Bill, to bring together disparate pieces of legislation and to clarify the definitions of rape, of consent ('free agreement'), and of coercion. This is long overdue in Scotland. We also share the Government's view that legislation alone will not tackle the unacceptable level of rape and violence against women, and that campaigns and suitable services are also needed to change attitudes, and to bring equality.

With that framework in mind, we understand that the Sexual Offences (Scotland) Bill is not the only route through which protection can be improved for prostitutes and trafficked women.

However, that is not a reason for avoiding looking at how to use every option that arises. Each step that is taken will add to the change in culture and attitude that will be required throughout society, if we are to see an end to the violence against women in prostitution and in the trafficking trade.

The Criminal Justice (Scotland) Act 2003 made clear that trafficking itself was a criminal offence. But this legislation does not address the question of responsibility resting with any other party, namely those who then abuse and exploit those who have come into the country via trafficking.

The Sexual Offences (Scotland) Bill already provides the opportunity to clearly state a range of circumstances in which sexual abuse or rape could occur, with no free agreement.

Section 10 of the Sexual Offences (Scotland) Bill lists some of the 'circumstances in which conduct takes place without free agreement'.

We think that the experiences of trafficked women should be reflected in specific clauses in Section 10.

Trafficked women are held against their will; all options removed regarding their place of residence or income, having had their documents retained; no access to independent income; facing language barriers; in an abusive relationship with their trafficker; or

living in fear of deportation – all factors which contribute to sexual exploitation and abuse.

We would suggest that:

- a) it should be made clear on the face of the Bill that this list is non-exhaustive, rather than simply in the Policy Memorandum.
- b) specific clauses could be added
  - i) which consider behaviour consistent with grooming for the purpose of sexual exploitation
  - ii) which consider protecting the position of trafficked women (or women involved in prostitution) where it can be shown that the accused knew or was reckless to the fact that the complainant was being held against her will by a third party.

We do not believe that arrangements made with the involvement of a third party are at all likely to be based on 'free agreement', and the legislation should be more explicit in providing protection to a complainant in a position of vulnerability.

There may also be other sections of the Bill where appropriate amendment could be made to take account of this view.

## **Children and Young People**

We would also be keen to seek some assurances that the provisions of the Bill relating to young people and children also provided sufficient protection against sexual abuse and violence for those children and young people who have been trafficked.

## **Summary**

Previous Parliamentary debates have referred to the dreadful crime of trafficking and the illegality of the trade. This is to be welcomed, but does not sufficiently speak up for those women who cannot speak freely for themselves, nor does it place enough responsibility on those who abuse the women.

The Sexual Offences (Scotland) Bill will make a significant difference in clarifying definitions, and placing responsibility regarding free agreement and reasonable belief, and will hopefully see an increase in successful convictions for rape and sexual assault.

We understand that providing protection for trafficked women and for prostitutes against abuse and sexual exploitation requires complex and varied measures, and that the issues will not always be exactly the same for prostitutes as for trafficked women – but the Sexual Offences (Scotland) Bill provides an opportunity to put down another marker that our society respects and values women’s lives, giving the most vulnerable women another way of beginning to challenge the abusive situation in which they find themselves.

STUC/AH/24.09.08