

**The Nature and Extent of Trafficking of  
Women into Ireland for the Purposes of  
Sexual Exploitation  
2000 - 2006: a report from findings**

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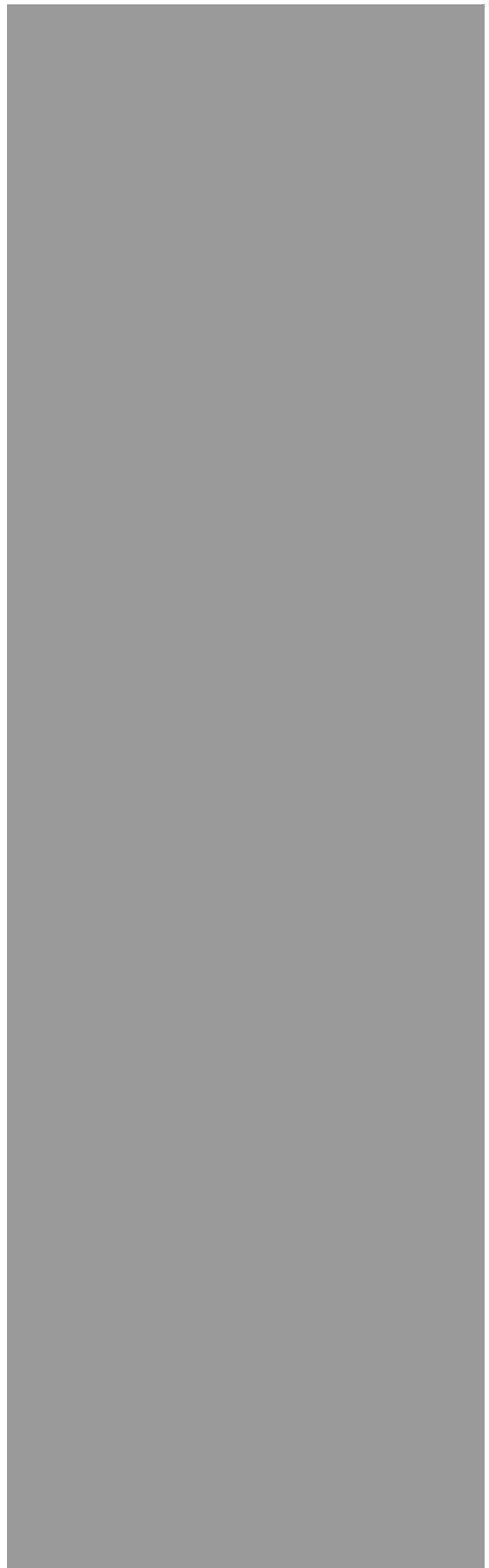
This report is the result, primarily, of collaboration between the researchers and Ireland en Route (IeR) the network of organisations concerned with trafficking of women for sexual exploitation. Our thanks are due firstly to its members who repeatedly and patiently agreed to provide time and information over many months. Secondly, we would like to thank those organisations not in IeR who also agreed to participate as informants. Our thanks here also to the Garda Commissioner who approved access to several members of the force who agreed to share their views and analysis with us. The names of all organisations are listed in Appendix One. Our thanks also to Penny McRedmond who offered invaluable assistance on the legal aspects of the topic.

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Finally we would like to thank all of those women who remain invisible, and whom we never met, but whose stories constitute the rationale and the basis of this report. We hope that this piece of work may, in some way, help make a difference at least in the future.

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This report provides a baseline of cases of sex-trafficking into Ireland between the years 2000 – 2006. It concludes that for these years, the probable minimum number of such cases was 76.

The vast majority of those cases occurred between 2003 and 2006 and the majority of women trafficked into Ireland were from Eastern Europe. The second largest grouping came from Africa – and the single biggest national grouping from Nigeria. Women were also trafficked into Ireland from Asia and South America. These women were located in the sex industry in both Dublin and outside the capital in towns and cities throughout the country.

Our research revealed the use of force, coercion, deception and physical and sexual violence as part of the transit journey. In most cases, when contact was made with agencies and organisations, the women were in states of distress, they frequently had little or no English and were extremely vulnerable.

Of the 76 cases, 36 women subsequently disappeared from contact with the organisations and their whereabouts or

status is unknown. Fourteen women were repatriated and twenty-two were granted leave to remain or, at the time of writing, were in the asylum process in Ireland. Three were deported and one woman was repatriated to a third country.

Our research identified a serious gap in service provision and support in Ireland for women who have been sex-trafficked, largely deriving from the absence of legislation. While many organisations and services are attempting to fill that gap and collaboration exists between statutory and non-statutory agencies, the absence of a legislative framework, funding, policy directions and a coherent state response continues to hamper that work.

Our research underlines the urgent need for legislation and that the Irish state is under international obligation to implement law and a policy response. The vast majority of our respondents stressed the importance of a human rights approach to such legislation.

The research findings are derived from both qualitative and quantitative methodologies supported by a review of relevant international and Irish literature.



This report sets out the findings of a research project to establish the nature and extent of trafficking of women for sexual exploitation into Ireland between 2000 and 2006 in the form of baseline data of a probable minimum number of cases. Below we discuss the background to the report and its findings and present the report structure.

## 1.1 Background to the Report

Although the need for data on the nature and extent of sex-trafficking into Ireland has been identified for several years, data collection has been hampered by several difficulties:

1. Firstly, trafficking for the purposes of sexual exploitation does not exist as a crime under Irish law. Contrary to its name, the Illegal Immigrants (Trafficking) Act, which has been on the statute books since 2000, pertains to the crime of human smuggling and makes no mention of exploitation, which is central to the experience of trafficking.<sup>1</sup> Despite this definitional weakness, in theory prosecution in some cases of trafficking should be possible under the current law but to date there have been no cases pursued to the point of successful prosecution. This is due to the many problems surrounding bringing cases of trafficking to court. While several prosecutions have taken place under this law, all relate to human smuggling.<sup>2</sup>

2. Secondly, global sex-trafficking is a highly invisible crime and is carried out by criminal gangs who manage to work around international and domestic laws to defeat law enforcement and protective measures (Laczko, 2002). Hence research which seeks to go behind or beyond the realm of criminal evidence is further hampered.
3. Thirdly, the nature of the crime furthermore means that its victims (those who are trafficked) find themselves in positions of extreme vulnerability and, frequently, fear and are not likely to disclose easily. Hence, victim accounts are not easily available as evidence.

Despite these circumstances, some knowledge and insight has been accumulating over time from national and international sources. Non governmental organisations and statutory agencies have for some years offered suggestive evidence of sex-trafficking, attesting to the problem in our midst.

<sup>1</sup> A new scheme for a Bill covering human trafficking was drafted in 2006 (the Criminal Law (Trafficking and Sexual Offences) Bill 2006) but has yet to progress through the Dáil. Concerns about the content of this proposed legislation will be addressed later in this report.

<sup>2</sup> The three convictions prior to 2007 under this Act all concerned human smuggling (interview with GNIB). The most recent case in July 2007 in which a man was convicted of trafficking 14 people from Mauritius into Ireland was likewise a case of human smuggling.

A recent report from the Department of Justice, Equality and Law Reform notes that Garda operations had uncovered a small number of trafficking cases (DJELR, 2006). And drawing on contacts with a range of agencies, the influential annual Trafficking in Persons Report of the US State Department suggested in 2006 that Ireland was both a transit and destination country for human trafficking, noting that: 'NGOs and law enforcement authorities in contact with victims suggest a range of 14-200 victims in Ireland since 2001. Garda investigations are in single digits. NGOs estimate cases per year of 14-35' (US State Department, 2006).<sup>3</sup> A recent UN report rated Ireland as 'low' as a destination country and 'very low' as a transit country of trafficked persons (UNODC, 2006: 19 –20).

Moreover, we know that children have been trafficked both to and through Ireland for the purposes of, albeit not exclusively for, sexual exploitation (Conroy, 2003). Through research on labour exploitation, we also know that trafficking for purposes other than sexual exploitation takes place in Ireland (MCRI, 2006). There is also increasing anecdotal and media evidence that trafficking for sexual exploitation occurs, such as the case televised in Prime Time Investigates in May 2006. One study from Northern Ireland noted the cross-border aspect to cases of human trafficking detected in the North (Dudley, 2006).

Wider changes in the nature of the sex industry are also indicative of an increased

likelihood of trafficking for sexual exploitation in Ireland. The sex trade in Ireland has changed significantly in recent years as illustrated by the phenomena of lap dancing clubs and the mobile brothel. Garda operations, such as Gladiator and Quest, established that many of the women working in these clubs are from outside Ireland. Although the women detained during these raids were not found to be victims of trafficking under the current legal framework and none indicated to Gardai that they had any complaints to this effect, we would suggest however that lap-dancing clubs may be gateways through which more vulnerable women may become susceptible to the exploitative aspects of the sex industry (Ward and Wylie, 2007). In the light of all of the above, there is no reason to suspect that Ireland is not already a destination country or transit country for sex-trafficking in women and that this could become more significant in the near or distant future.

However, despite all this suggestive evidence, in 2005 the Irish government reported to the Committee on the Elimination of All Forms of Discrimination Against Women at the UN that trafficking for sexual exploitation was not a problem in Ireland, although admitting that data-gathering had not been sufficient on the issue (CEDAW, 2005). Furthermore, legislators have complained that the lack of confirmed cases hampers their law-making competence (Oireachtas Committee on European Affairs, Oct 5th 2005).

<sup>3</sup> The follow-up 2007 TiP report (US State Department, 2007) caused controversy amongst NGOs by failing to report figures gleaned from the NGO community and noting only that the Gardai were pursuing a small number of trafficking investigations.

In response to this, and notwithstanding the difficulties and limitations facing such research, this research project set out to provide baseline statistics. It is informed by a desire to address the gap and inform policy and practice in this area. It is furthermore guided by the principle that, while baseline evidence is required for policy initiatives and responses, policy should reflect best international practice regardless of the number of women involved. Trafficking for sexual exploitation constitutes a serious human rights abuse and, therefore, we concur with Senator Mary Henry's remark to the Dáil that, 'even if we have only one such case, we have a serious problem' (Oireachtas Committee on European Affairs, 2005).

Furthermore, we suggest Ireland can best prevent an increase or normalisation of sex-trafficking with a comprehensive policy which, incorporating international and European law, addresses prevention, prosecution and protection (Potts, 2003).

## 1.2 Structure of the Report

This report is in six sections.

In Section Two we set out the terms of reference and the research methodology used, identifying challenges and criteria for inclusion or exclusion of suspected cases.

Section Three establishes the context for the research including international and Irish law on trafficking.

Section Four presents the research findings.

Section Five goes on to discuss the findings to include issues of policy, service and analysis of the reality of sex-trafficking in Ireland today.

Section Six concludes and presents a number of recommendations in relation to legislative changes, service provision for victims of trafficking, political responses to the wider problem and in relation to the need for victim-orientated policies in policing.







## 2.0 Terms of Reference, Ethics and Methodology

The pursuit of hard data in the area of trafficking for the purposes of sexual exploitation could be considered a futile exercise yet states, policy makers and service providers need to assess the nature and particularly the extent of the problem. As Kelly (2002: 7) has pointed out, many EU states have been unable to provide reliable data or 'evidence-based' research which can inform public policy.

In such a context, the customary need for rigorous and transparent data-gathering methodologies, guided by clearly drawn terms of references, is even more acute. A difficulty facing all researchers in the area of sex-trafficking has been to clarify what exactly is being counted and how. In this section therefore we present our deliberations in relation to our terms of reference and methodological tools used. In addition, we identify ethical concerns which guided us, both because of their intrinsic value in understanding the complexity of the problem and to underline how these concerns, appropriate in the context, can further constrain data-gathering.

### 2.1 Terms of Reference

The terms of reference for this research were to establish baseline evidence as to the nature and extent of trafficking of women for sexual exploitation into Ireland between 2000 and 2006. Unlike our British counterparts, Kelly and Regan (2000), we could not be guided in our exercise by the existence of a definition of trafficking in domestic law (what qualifies as countable), prosecutions (what evidence is required) or evidence and norms as to state responsibility to victims (how we evaluate the response).

Hence our first challenge to operationalising the terms of reference was to define the crime of trafficking for the purposes of sexual exploitation. While all our

interlocutors made reference to the definition of trafficking contained in the UN Palermo Protocol (see below), it is itself open to accusations of ambiguity and, furthermore, the related debate as to the relationship between prostitution and trafficking entails some diversity in the understanding of trafficking. Different agencies can locate themselves in different places here and different civil society groups and organisations understand sex-trafficking in different ways. Within the debate some hold the position that movement of women into the sex industry is by definition trafficking because of the exploitative nature of the act of selling sex (Raymond, 2004). But this is a disputed analysis, with others arguing that it is possible for women to migrate voluntarily for 'sex work' (Kempadoo and Doezema,

1998; Agustín, 2007). Attempting to move away from mutually exclusive polarities, others have argued that we need to think about a continuum (Kelly and Regan, 2000). Offering a similarly nuanced analysis of violence and exploitation in prostitution, O'Connell Davidson (2006) suggests a continuum of 'unfreeness' and domination which captures the diversity of experiences within prostitution.

The debate as to whether all prostitution or sex work is a violation of women's rights and is thus more closely linked in its inherently exploitative nature with trafficking, is not one that can be resolved here, if indeed at all, other than through what has been called discourse domination. Moreover, definitional differences are not simply ideological but affect the nature of the data. Furthermore, agencies gather data for different purposes. Kelly has identified a tendency for the promulgation of 'advocacy numbers' on the part of concerned NGOs (Kelly 2005: 239). Governments too have a particular interest in numbers, often relating them for political ends to debates about security, organised crime and illegal migration (Geddes, 2005).

Given this range of understandings we allowed those interviewed in the research process to offer their own definitions of trafficking, thus allowing for and containing disputing views. Although the details of individual cases varied, most cases detailed to us contained elements of the main ingredients of trafficking – deceptive recruitment, transfer and exploitation without consent (Egan, 2004).

A further note concerning the complexities of identifying victims needs to be added here. In the majority of suspected cases identified here, the basis for suspicion was not founded on direct disclosure by the woman. Rather it was based on a series of circumstances which might or might not have included references to or evidence of involvement in prostitution (we discuss these circumstances later), supported by the expertise or knowledge of the organisational staff involved. Because of feelings of shame, fear and isolation, it is not unexpected that women who have been sex-trafficked might not disclose. It is also, however, within the realm of the possible that some circumstances presented could equally be explained by a combination of illegal status, vulnerability, fear and/or sexual violence not related to prostitution. In truth the 'facts' of each case can only be fully verified through investigations such as that carried out by the Gardaí. However, given our criteria and our research methodologies, we are satisfied that all cases reported in the probable minimum category are indeed thus.

Our second challenge related to what constitutes 'women' – and whether we would include young women under the age of 18. Here too it must be noted that complexities arise as trafficked persons can move from the status of child to adult while in transit or on arrival in the country of destination and thus have begun the process while still a child but present as an adult.

Our decision to preclude any case where the woman/girl was under 18 when the case first presented itself to the relevant organisation was taken for three reasons. Firstly, existing research has comprehensively mapped the nature and extent of trafficking of children into Ireland (Conroy, 2003). Secondly, a different legal regime is required to deal with minors in international law. Thirdly, while minors come under the Child Trafficking and Pornography Act, 1998 (amended 2004) and the ambit of the (Irish) Childcare Act 1991 and therefore receive the care and protection of the state, there is no equivalent legislative framework for non-minors or women over 18. While the state has been criticised for its failures to fully protect under 18's who end up as unaccompanied minors in the state (Mooten, 2006), there is at least a framework in place within which to respond to those under aged 18, including trafficked children.

Our third challenge related to what it meant to be trafficked *into* Ireland. While we did not want to preclude women who may have been trafficked while *in* Ireland (in other words around Ireland) or women who were trafficked to the sex industry in other European states *including* Ireland, we did wish to preclude women who had been trafficked to some European destination and subsequently, through assistance or their own volition, made their way to Ireland. While these women may, indeed, require particular support and assistance, their situation is different. We did not count, therefore, women who fell into the latter category.

Our fourth challenge related to what constitutes 'Ireland'. While we recognise that the *sine qua non* of trafficking is that it does not recognise borders and that there is, indeed, evidence of sex-trafficking across the border between the Republic of Ireland and the North of Ireland (Dudley, 2006), we confined our data to suspected cases into the Republic of Ireland. In the absence of research on the RoI we suggest that defining the terms of reference through the parameters of the state was critical as a first step in framing a complete picture for the island of Ireland.

Our fifth challenge was based on a recognition that while an attempt to provide baseline data would necessarily be seen in the wider context of existing service provision and supports, the relationship between sex-trafficking and the sex-industry, policy direction and other such attendant issues, each of these may in turn require separate focused research. Hence while we discuss many of these attendant topics, we do so to provide context, relevant background or as explanation, rather than as a subject of critical or academic analysis.

Finally, our research opened up vistas of a wider context of the vulnerability of migrant women in the labour market, in their homes and in their social contexts to issues of gender-based violence outside any context of the sex-industry and/or prostitution. This situation, however, while it may constitute part of the continuum of violence against women, was not included in our terms of reference and, we suggest, also requires separate research.

## 2.2 Ethical Considerations

Trafficked people have inevitably suffered much in their lives, having been deceived, threatened, coerced and exploited. They have much to fear from those who trafficked them as well as from their new foreign context. They are likely to be categorised as illegal immigrants liable for deportation, and bear the social stigma of their involvement in prostitution. In such a situation, researchers must consider the possible harm their interventions could cause to women who are already experiencing many difficulties (Wylie, 2006). On this basis we did not seek to interview or speak to any woman who may have been or was suspected of being involved in sex-trafficking. Instead, we interviewed NGOs and statutory agencies alone.

Within the chosen methodology the information sought by us in the data-gathering process raised a second ethical issue: confidentiality. Some confidential information was required by us as researchers to satisfy our criteria of 'substantive case' (see below) and also for the purposes of cross-checking cases. In addition, we felt that raw data, in the form of

numbers, without some depiction of the reality of the trafficked experience could serve to disembodify the women involved. Therefore, we agreed to use personal information only in a manner which precluded identification either of the organisation or of the individual woman. At all times, the privacy and the dignity of those women whose life stories are noted here remained a priority. We have kept case notes of substantive information for our own purposes where all sources are clearly identified. These remain confidential.

Hence while we list the organisations included in the interview in the appendix, we agreed not to present information in any way which might create a link between the story (or detail) and the organisation, and the names of the individuals interviewed in organisations were also electively confidential.

Finally, informed consent was sought with all participating organisations in advance, outlining all the above ethical considerations and ownership of the information remained with the organisations throughout the data-gathering process.



### 2.3 Research Methodology

While no data-gathering process is of itself neutral, the highly contested nature of the debates at the heart of this issue render that process particularly difficult. Statistics reflect but also create realities and the categories put forward for data collection are themselves discursively produced (Long, 2005).

The research used a number of data-gathering methods. Focusing on members of Ireland en Route, a network of NGOs and statutory agencies concerned with trafficking in women for sexual exploitation,<sup>4</sup> we administered questionnaires followed up by open-ended interviews, snowballing on to further suggested interviewees. While many of the organisations interviewed here have a Dublin base they are all encountering suspect cases from around Ireland. However, to enhance the emergence of a national picture, we extended our enquiry beyond the capital. This snowballing interview method was augmented by media and desk research. Existing research by the two authors was brought to bear on the report.

As mentioned already the possibility of identifying numbers of sex-trafficked women into Ireland rests entirely on suspected cases. As researchers our task therefore was both to maintain some minimal criteria of verifiability and at the same time remain cognisant of the secretive and invisible

nature of the crime and the difficulty that NGOs and others face in keeping statistics. Three particular issues arose and are addressed below.

#### **Criteria for inclusion/exclusion**

A rigorous research methodology requires establishing the boundaries of inclusion and exclusion of the enquiry. In other words, we needed to be clear in advance what we would count and why and what we would not and why. Accordingly, we established two categories, firstly that of 'probable minimum' cases and secondly 'possible' cases.

Inclusion in the first category was determined by two criteria. Firstly, that the suspected case was a 'substantive' one and secondly that within that, the grounds for suspecting trafficking were evident in accordance with the understanding of the organisation involved as to what constituted trafficking. By a 'substantive case' was meant that there was something meaningful to say about the woman based on knowledge derived from direct contact. This could be as little as a name, nationality, and information about the place and time of contact and we remained open to the nature of this substance.

Where these two criteria were not met, for whatever reason, and where the organisation still wished to include a suspected case as one of trafficking, we allocated it to the second category of 'possible cases'. The term 'case' here does

<sup>4</sup> The membership of Ireland en Route includes the following non-governmental and statutory agencies; Garda National Immigration Bureau (GNIB), Health Service Executive (Service for Young People Out of Home (Cork), Team for Separated Children Seeking Asylum, Women's Health Project Sexual Health Unit, Immigrant Council of Ireland (ICI), International Organization for Migration (IOM), Irish Refugee Council, Mercy Justice Office, Migrant Rights Centre Ireland (MRCI), Northern Ireland Human Rights Commission (NIHRC), Ruhama, St. Patrick's Missionary Society, Sexual Violence Centre Cork, UN High Commissioner for Refugees (UNHCR) and Women's Aid.

not refer to caseload as the kind of substantive information required for a caseload is not present. We suggest that no claim beyond 'possible' can be made about these cases.

The criteria of substantive cases, while essential for data, did reveal a difficulty which is exacerbated in Ireland by the lack of legislation and response framework. None of the organisations we interviewed has a particular brief to address issues of sex-trafficking of women – for most it has grown out of related briefs.<sup>5</sup> Although suspected cases of sex-trafficking began to show up in their work, few had the capacity to handle these cases in a manner which could lead to conventional statistical clarity. The nature of the crime and the associated fear, lack of status in Ireland for the women and myriad other difficulties these women face, made it difficult for organisations to gather details. Several of our informants commented that their task was primarily to provide support and not act as 'police'. The building of relationships based on trust and support may preclude systematic enquiry into status, nationality, personal circumstances and, even, basic data such as age and name.

### ***Cross-checking of cases***

We faced the difficulty of single cases showing up more than once between organisations. Hence we sought information on all cases as to whether referral occurred,

to whom and when, as a means of controlling against double counting. In some cases, the 'person' was clearly identified as having shown up, as per referral, in different organisations. In most cases evidence of referral take-up was vague. Here we erred on the side of caution on the basis that we could never assume that a referral had indeed been successful. However, in certain cases, depending on the identity and role of the referring and the referred-to organisation, even where the evidence was not clear, we allowed for likely successful referrals and did not double count.

### ***Validity of the 'possible' cases category?***

Given our criteria for inclusion in the probable minimum category and our contention that no claim can be made beyond the 'possible' nature of cases in the second category, it is valid to ask why our report includes this second category in the first instance. Given the wider and internationally recognised invisible nature of much sex-trafficking, the absence of a response-framework which might capture the extent of the activities and, most importantly, the conviction expressed by most of our interlocutors that there was a lot more going on than they could provide evidence for, we include this second category. Much of the conviction rests on stories passed on by women in the sex-trade and, we suggest, is indicative of an invisible, possible 'more'.

<sup>5</sup> It should be noted that Ruhama has now made responding to the issue of sex trafficking part of its mission as a result of its most recent strategic planning exercise, see Ruhama (2007) Biennial Report 2005-2006.

# 3.0 The Context of Sex Trafficking in Ireland

In this section we place our research in the context of international and Irish law in relation to trafficking for the purposes of sexual exploitation.

## 3.1 Global Trends: The Extent and Nature of Trafficking for Sexual Exploitation

A variety of estimates exist as to the numbers of people trafficked worldwide annually. The International Organisation for Migration puts the numbers between 700, 000 and two million and suggests the profits from this trade are seven billion dollars. Alternatively the statistic offered by the US State Department estimates that 600,000 to 800,000 people could be trafficked per year across a series of global routes. Of this number 80% are believed to be women and children, 70% of whom are trafficked for the purpose of sexual exploitation.<sup>6</sup> Global trafficking routes connect throughout South East Asia, from South to North America, between West Africa and Europe, from the former states of the USSR to the Middle East and from Eastern to Western Europe. Trafficking can occur within countries from rural areas to major cities (Wylie, 2007).

Considerable research has been carried out on the nature of trafficking for sexual exploitation. A Council of Europe report of 2005 stated that most victims of trafficking

into Europe are women and girls who are exploited for sexual purposes and that the 'red light milieu' serves as an entry point for organised criminals involved in trafficking (cited in DJELR, 2006: 4). While the nature of any one victim's experience can vary, a 'classic case' of trafficking for sexual exploitation would involve deceptive recruitment for employment in another country, travel organised by the traffickers, confiscation of legal documents on arrival and finally exploitation in prostitution, maintained by the use of physical violence and other means of coercion. A constantly growing sex market sustains the demand. The same Council of Europe report reveals, for instance, that there are an estimated 68 million internet requests for pornography daily throughout Europe and that it is mainly trafficked women from central and eastern Europe who are exploited for its production (DJELR, 2006: 5). The underlying causes of trafficking in women for sexual exploitation include gender inequality, the global feminisation of poverty and survival, migration policies which prevent the easy movement of people and the profiteering of organised criminals.

<sup>6</sup> It should be noted that considerable doubts surround the provenance and verifiability of these figures. UNESCO in Bangkok has conducted 'research on the research' which highlights the difficulties of discerning the origins of many of these figures and the contradictions between prominently referred to trafficking statistics (Feingold 2007).

### 3.2 The UN Framework: The Palermo Protocol

Growing recognition of the phenomenon of human trafficking throughout the 1990s led to a period of vigorous international law-making around the issue. Most notably the UN developed its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (known as the Palermo Protocol), annexed to the wider UN Convention Against Transnational Organised Crime (2000).

The origin of the Palermo Protocol can be located in the 1990s when both the European Union and a number of individual states began to prioritise the issue. In particular Argentina, dissatisfied with the capacity of existing international law to deal with child prostitution and child pornography, argued that trafficking could not be addressed adequately by human rights frameworks alone but required being addressed within the context of international organised crime (Gallagher, 2001: 982). Up to this point, considerable international<sup>7</sup> (and domestic) laws existed which could address particular dimensions but none amounted to an encompassing legal framework.

The Palermo Protocol currently provides the international standard for defining trafficking, determining the measures states should take to tackle trafficking as a crime and offers some suggestions as to the

protections and assistance states should consider offering to victims of the crime.

Under Palermo (Article 3 (a)) trafficking in persons is defined as:

“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms 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 person having control over another person, for the purposes of exploitation. Exploitation shall, include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

The verbosity of the definition is partly a consequence of its attempt to be comprehensive, and it does delineate all the ways by which trafficking can be done and for what purposes. Part of the reasoning behind this definition was a desire to separate the victims of trafficking from the smuggled, who are the subject of an accompanying UN Protocol.<sup>8</sup> The inference of this separation is the view that while human smuggling implies a level of consent from those who are smuggled, in the case of

<sup>7</sup> International efforts to address trafficking can be traced back to the 1904 International Agreement for the Suppression of White Slave Traffic. Several other pieces of international law address the topic: for instance Article 4 of the International Declaration on Human Rights (1948) prohibits the holding of any person ‘in slavery or servitude’ and the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949).

<sup>8</sup> United Nations Protocol Against the Smuggling of Migrants by Land, Air and Sea ([www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_smug\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_smug_eng.pdf))



trafficking — whether from the outset of their travels or during the process — a person is coerced and exploited and thus cannot be said to have consented to their exploitation.

As well as offering a comprehensive understanding of the crime, the definition and Protocol in which it is embedded have legal and political value. Legally, it is incumbent on states that have ratified the Trafficking Protocol to frame their domestic law in line with this definition of the crime and to adopt the further requirements of the Protocol which are designed to suppress the organised crime of trafficking. As such the Protocol obliges states to enact measures such as the criminalising of trafficking in persons, the strengthening of border controls and exchange of information and the setting out of norms in relation to the confiscation of assets. Moreover the Protocol offers suggestions as to the assistance and protections which states should consider offering to victims (UN Palermo Protocol, 2000). Politically, the very existence of the Convention and its Protocols gives international prominence and commitment to these growing problems (Gallagher, 2001: 976).

The Palermo Protocol currently has 117 state signatories of whom 114 have become parties to the Protocol. Ireland is a signatory to both the UN Convention and the Palermo Protocol but has yet to ratify either.

### ***Critique of Palermo***

The protocol has been criticised for being primarily driven by law enforcement considerations (Jordan, 2002) and for failing to understand the human rights of the women-victims (Coontz & Griebel, 2004). Palermo is far more stringently worded in terms of what signatories *must do* to prevent and punish the crime than in what they are only *encouraged to consider* in terms of victim support (Jordan, 2002: 2-3). Gallagher has argued that the weakness of the Protocol's provisions for protecting victims is likely to undermine its effectiveness in law enforcement. The cooperation of victims cannot be relied on, for instance, where domestic criminal justice systems are harsh or insensitive or do not provide redress for the wrongs done to those very victims (Gallagher, 2001: 991).

In addition, the definition of trafficking has been criticised for its broadness, making it difficult to translate into domestic law and for setting overly difficult standards in terms of evidence. Such broadness may reflect the compromise between competing understandings of the problem. Because while, during negotiations, all parties were in final agreement as to wording and detail, there was huge disagreement evident in the debate about prostitution. On one side the US-led coalition, the Coalition Against Trafficking in Women (CATW) argued that prostitution is, of itself, a form of violence against women and that all migrating women who work in the sex trade are trafficked.<sup>9</sup> On the other side, the Thailand-

<sup>9</sup> This view was supported also by the European Women's Lobby, of which the (Irish) National Women's Council is a member.

based Global Alliance Against Trafficking in Women argued that international law must recognise that women will migrate to work in the sex trade, and as migrant labourers, have rights. This position rejected the collapsing of all forms of migrant sex-worker into the category of 'trafficked' person and drew a distinction between prostitution and trafficking for purposes of sexual exploitation. At stake in this debate was not only the defining of the relationship between migrant sex workers and trafficked sex workers but the attitude of states to prostitution itself. During the negotiations both sides engaged intensely with state parties in lobbying and advocacy. One commentator described the gulf between the two sides as a 'savage rift' (Gallagher 2001: 1003) producing a final Protocol which can be considered a compromise.

The Protocol has furthermore been criticised for creating an incentive for national authorities to identify irregular migrants as smuggled persons rather than trafficked persons (Gallagher, 2001: 995). In the

parallel UN Smuggling Protocol, the definition of a smuggled person is deemed to be 'sufficiently broad to apply to all irregular immigrants whose transport has been facilitated – trafficked persons and smuggled persons alike' (Gallagher, 2001: 1000). While there often is a very grey area between being smuggled and trafficked (Kyle and Koslowski, 2001), the breadth of the smuggling definition and the lack of clarity in Palermo around identifying victims of trafficking means that it becomes cheaper and less an administrative burden for states to identify individuals as smuggled rather than trafficked. If a person is deemed smuggled s/he can be labelled as an irregular immigrant and be deported whereas a trafficked person requires supports and has more rights. For Gallagher the three main weaknesses in Palermo are 1) the absence of mandatory protections for victims 2) the failure to provide guidance in the identification process and 3) the lack of a review or supervisory mechanism (Gallagher, 2001: 1004).

### **3.3 European Responses (1): Council of Europe Convention on Action Against Trafficking in Human Beings**

The Palermo Protocol has given the international community a definition of trafficking which has achieved a strong degree of consensus (van den Anker, 2004). Yet, as outlined above, the Protocol is considered weak in respect to the protection of victims' rights and meeting their needs. Other international instruments seek to meet this deficit, most notably, the Council of Europe Convention on Action Against Trafficking in Human Beings (2005). This Convention takes Palermo as its definitional starting point offers 'added value' to Palermo in its 'affirmation that trafficking in human beings is a violation of human rights...and that greater protection is therefore needed for all of its victims' and its 'inclusion of a gender perspective' (Council of Europe, 2005). Thus chapter 3 of the Convention commits state parties to take

measures to protect victims' rights in the context of guaranteeing gender equality. After Article 10, which seeks to clarify the process for the identification of victims, the various articles of the Convention go on to define those rights; Article 12 establishes the rights of victims to psychological and material assistance and access to the labour market; Article 13 calls for the establishment of 30 day recovery and reflection periods which are not conditional on co-operation with prosecuting authorities; the possibility of a residence permit thereafter is raised in Article 14; Article 15 identifies the necessity of compensation and legal redress; and addressing demand, Article 19 calls on parties to the Convention to consider making it a criminal offence to use the services of a trafficked person.

This Convention, with its far stronger emphasis on victims' rights and states' obligations, opened for signature on 16th May 2005. To date, there are 36 signatories and 8 ratifications. Ireland, a member of the Council, has signed but not ratified it.



### 3.4 European Responses (2): EU Council Directive 2004/81/EC

Trafficking in human beings has been formally on the agenda of the European Union since the Tampere European Council meeting of October 1999. EU concern over trafficking for sexual exploitation has been heightened due to several reports published since then, leading to the development of policies and programmes related to the issue. One report authored by the European Parliament's research section estimated that since the end of communism in Eastern Europe an illicit trade has been growing, to the extent that by 2000 as many as 500,000 women were being trafficked from East to West and sold into prostitution each year (European Parliament Directorate-General for Research, 2000: 12). In response to this growing awareness, the EU has funded a series of programmes (STOP I and II and Daphne) to support civil society based trafficking prevention and protection projects and has more recently developed the AGIS programme designed to enhance police and judicial co-operation on the issue.

At a policy level in the Union, in July 2002 the Council passed a *Framework Decision on Combating Trafficking in Human Beings*, which stressed the need for the development of common legal and judicial approaches throughout the Union to the problem. Later, on 29th April 2004, the EU's Council agreed *Directive 2004/81/ on the residence permit*

*issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.* According to this Directive, victims of trafficking are to be afforded a period of rest and reflection to be followed by a six month renewable residency permit. Although this measure can be criticised in that it ties residency to co-operation with prosecution (a step few victims of sexual violence are prepared to undertake), it does offer an important recognition of the necessity of reflection, security and support to women who have been trafficked. Moreover, as an EU Council Directive, member states are obliged to incorporate it into national law and member states were given the deadline of 6th August 2006 to implement it. This deadline was re-emphasised in the EC Council's Plan of Action on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings (2005). Ireland has opted out of EU Council Directive 2004/81/EC.

In sum, there now exists an elaborate framework within international and European law, some key parts of which have been summarised above,<sup>10</sup> designed to combat human trafficking and offer some protection and recompense to victims. While Ireland is signatory to all it has yet to translate these international standards into domestic law and thereby ratify its signature. The implication of this is that there is no

<sup>10</sup> There are other international agreements concerning trafficking in human beings which also impose obligations on the Irish state but which, for reasons of space, have not been summarised here. These include the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the OSCE's Permanent Council Decision No. 557: The OSCE Action Plan to Combat Trafficking in Human Beings.

formal definition or outlawing of trafficking for sexual exploitation on the statute books nor any formal recognition or entrenched rights for victims of trafficking in Ireland.

Table 1 sets out Ireland’s response to sex-trafficking regimes arising from its membership of international organisations.

INTERNATIONAL REGIME	IRELAND’S RESPONSE (May 2007)
Palermo Protocol	Signed but not ratified
EU Council Directive 2004/81/EC	Opted out
Council of Europe Convention	Signed but not ratified
CEDAW (Article 6)	Signed but no specific implementation

**Table 1** Ireland’s Participation in International Regimes



### 3.5 Irish Law on Sex-Trafficking

As stated, the crime of trafficking for the purposes of sexual exploitation does not exist at this moment in Irish legislation. Despite its title, the Illegal Immigrants (Trafficking) Act deals with smuggled and not, specifically, trafficked persons. This Act renders it an offence to facilitate the entry into Ireland of another person whom that person knows or has reasonable cause to believe is an illegal immigrant. Section 2(1) of the Act criminalises a person who 'organises or knowingly facilitates the entry into the State of a person whom he or she knows or has reasonable cause to believe to be an illegal immigrant or person who intends to seek asylum'. The deficiencies of this Act do not mean that the state is helpless to move against sex-trafficking and related activities. It can invoke other legislation such as legislation pertaining to labour and taxation, smuggling, criminal assets, prostitution, sexual violence, assault, rape, kidnapping and child trafficking. Under the Child Trafficking and Pornography Act (1998) it is an offence to traffic a person under 17 years for the purposes of that person's sexual exploitation, punishable by up to life imprisonment. Under the Criminal Law (Sexual Offences) Act 1993, Irish law does not criminalise the act of prostitution but, rather, acts such as soliciting, living off immoral earnings, brothel-keeping and related advertising. Its intention is therefore not to criminalise the person in prostitution but to protect 'society from the more intrusive aspects of prostitution' and 'prostitutes from exploitation by persons such as pimps living on the earnings of prostitutes' (DJELR, 1998: 93). This legislation does therefore provide a

mechanism for enforcement and prosecutions where transactional sex is ongoing.<sup>11</sup> In terms of options facing victims of sex- trafficking, under the Refugee Act (1996) it may be possible to substantiate a claim for refugee status on the grounds of fear of persecution stemming from the experience of trafficking (UNHCR Guidelines, 2006).

While this array of relevant legislation exists, it has been recognised that the current legislative framework is fragmented and unfocused and leaves Ireland adrift from international legal developments in relation to human trafficking. This has led to the recent drafting of a scheme of proposed new legislation, the Scheme of the Criminal Justice (Trafficking in Persons and Sexual Offences) Bill 2006. This Scheme seeks to align the Irish state with some of the requirements of the international laws and Conventions against trafficking detailed above by clearly defining and criminalising human trafficking for sexual and labour exploitation. It is notable that the Scheme has been strongly criticised by the Irish Human Rights Commission for being 'overwhelmingly prosecutorial' and failing to include 'the protective provisions outlined in Part II of the Palermo Protocol and Chapter III of the Council of Europe Convention' which would ensure the protection of the human rights of the victims (Egan 2007, IHRC, 2007: 78). In effect the Scheme continues to treat human trafficking as primarily a crime against the state and not a violation of the human rights of the victims. There are thus no provisions in the Scheme for protections such as short-term residency or rights to welfare, health, safe

<sup>11</sup> See Appendix One for statistics on prosecutions under the Act, 2000 – 2005.

accommodation or legal aid and recompense. While the government has stated that such measures will be enabled under the 'administrative measures' clause of the proposed Immigration, Protection and Residency Bill, this remains a vague promise offering no detailed commitments to a rights-based approach to trafficking victims.

Coinciding with the absence of a domestic legal and police framework to address sex-trafficking in Ireland is evidence that today Ireland has a sex trade that conforms to a globalised pattern of expansion and change in nature towards highly mobile, off-street prostitution with high turnover. Criminal proceedings against two Dublin brothel owners in the past year highlight the lucrative nature of prostitution here. In April a 28 year old woman was imprisoned for managing a brothel in the city which had an estimated annual turnover of Euro 4 million (*Irish Times*, 07.04.07). In May 2007, a 63 year old man was imprisoned for two years and fined for running five city-centre brothels. His earnings from the activities were estimated to be in the region of Euro 780.000 per year (*Irish Times*, 19.05.07). A 1999 Garda report estimated that there were 400 women involved in prostitution on the streets of Dublin (O'Connor, 2004). However, no figures are available for the number of women working in brothels and other forms of off-street prostitution. Reynolds (2003) cites between 600 – 750 women in the Dublin area alone in 2003.

It is not within the ambit of this report to comprehensively address how prostitution and sex-trafficking are linked and here too, reports and analysis vary (see for instance O'Connor and Healy, 2006 and Anderson

and O'Connell Davidson, 2003) in relation to explaining causality. However, our research consistently identified our lack of knowledge and research on the sex industry in Ireland as a barrier to fully understanding the wider context within which sex-trafficking occurs. If little was known about the lives of Irish prostitutes in historical times, largely because the women left few records of their own (Luddy, 1990: 51), the same can be said today. Several books have addressed aspects of the topic (Mullins, 1995; Reynolds, 2003; Levine and Madden, 1987; Ryan, 1997) and a number of reports have each contributed partial knowledge (Haughey and Bacik, 2000; Ruhama, 2005; O'Connor, 1995; O'Neill and O'Connor, 1999; McDonnell *et al* 1998). In particular there has been virtually no research on the relationship between state policy, the law and sex-commerce with the exception of a chapter in O'Malley (1996).

While domestic demand is one factor which can facilitate the trafficking of women into the sex trade and, indeed, we know that European states with the most liberal prostitution regimes also have a high profile for sex-trafficked victims (UNODC, 2006) other factors, such as how the sex industry is regulated, are also pertinent. A multi-country pilot study on whether trafficking in human beings, including sex-trafficking, is demand-driven, concluded that policy measures to cut demand in the sex-industry in order to reduce sex-trafficking, may actually strengthen the demand for trafficked women. The report also suggests that when it comes to trafficking in human beings, supply may in fact generate demand and not the other way around (Anderson and O'Connell Davidson, 2003).





Based on our terms of reference and the criteria for inclusion, as detailed in section two above, our research allows us conclude that the probable minimum number of women trafficked into Ireland for the purposes of sexual exploitation between 2000 and 2006 is 76.

In our second category of possible suspected cases are an additional 75 cases for the same period.

While our methodology allows us suggest probability in relation to the former, we suggest, as stated, that nothing can be said about the latter except that they are in the realm of the possible as cases. Hence our research findings presented below and discussed concern the 76 probable cases exclusively. This section details those findings – both qualitative and quantitative, beginning with the breakdown of suspected cases over the time-frame 2000 – 2006.

YEAR	NUMBER OF WOMEN (N = 76)
2000	1
2001	0
2002	2
2003	10
2004	8
2005	25
2006	23
Not clear	7

**Table 2** Probable minimum number of women sex-trafficked into Ireland 2000 – 2006

The data plots a steady increase over the six years in the number of suspected cases. The increase conforms to global patterns but is also indicative of increased awareness on the part of organisations and agencies on a steep learning curve as to the problem. The ‘not clear’ category was required because some agencies could not be specific about

the year in which the case first showed up. Given the recent nature of the phenomenon and the unpreparedness of agencies to identify and respond to it, such lack of specificity is not surprising and, furthermore, ceased to be an issue for organisations after the first number of suspected cases.

**Country of Origin and the Trafficked Journey**

Our questionnaire and interviews sought information as to the country of origin of the women and our findings are illustrated in

Table 3 below. We also sought to gather as much information as was possible on the nature of the journey which the trafficked women underwent.

COUNTRY	NUMBER
Nigeria	19
Russia	8
Romania	7
Africa	7
Albania	6
Lithuania	5
Brazil	4
Moldova	3
Mongolia	2
China	2
Croatia	2
Ukraine	2
The Philippines	2
Southern African	1
Latvia	1
Venezuela	1
Dominican Republic	1
Cameroon	1
Caribbean	1
Kenya	1

**Table 3** Country of Origin of Woman (N=76)

The table identifies the different categories in relation to national/regional identity in descending order of numbers. The broad category of 'Africa', 'the Caribbean', and 'Southern Africa' were used by agencies in the absence of identifiable national identities where, for instance, the woman herself did not disclose more or any detail. It is also possible that national identities given are not correct – as our discussion shows, some women were given false passports and identification papers while being trafficked.

The dominant national grouping showing up here was from Nigeria, followed by Russia, Romania and Albania. However, if we cluster the statistics regionally, the dominance of Nigeria shifts. A total of 34 women came from the former Soviet bloc and a total of 29 women were trafficked from Africa. International research indicates that the largest share of trafficked women to both Europe and the USA since 1994 appears to be comprised of Central and Eastern European nationals replacing previous shares comprised, firstly, by Asians, secondly, by South Americans and thirdly, by Africans (van Impe, 2000: 114). The dominance of women from the former Soviet bloc was replicated amongst women found by Gardaí in the raids on lap-dancing clubs in June 2003 (Bailey, 2004)<sup>12</sup> and in evidence from other Garda operations such as a brothel raid in Dublin in 2007 where most of the women were, reportedly, from 'Eastern Europe' (*Irish Times*, 19.05.07).

Northern Irish police have also reported that women from Eastern Europe are being smuggled from the South to the North to work in brothels there (*Irish Times*, 10.01.04).

Our questionnaires also sought information as to how contact was first made between the woman and her trafficker and the nature of the journey to Ireland: both the route taken and the use of force, violence, deception or coercion during the journey.

Where information was available, contact was initially made with the majority of women by their traffickers in their hometown or village and usually by a fellow national. In most cases contact was made on the promise of work or opportunities for betterment in Ireland. One woman travelled to Ireland after her 'boyfriend' promised her a better life. In some cases the women were in situations of great poverty or isolation. One woman was homeless and another was extremely vulnerable arising from a sexual assault and resulting pregnancy which led to abandonment by her family. In all cases, where information was available, there was deception.

In one case of particular significance the woman was first contacted in the hostel for asylum-seekers where she had been placed by the state following her asylum claim. She was promised lucrative work and a better life by her traffickers.

<sup>12</sup> As part of Operation Quest Gardaí raided clubs throughout Ireland on the night of June 5th. A total of 107 lap dancers were found on the premises, four from Ireland. The remainder were as follows: America (1), Angola (1), Belarus (1), Brazil (1), Bulgaria (4), Canada (3), Colombia (1), Czech Republic (16), England (4), Estonia (17), France (1), Gabon (1), Hungary (9), Latvia (4), Lithuania (14), Mexico (1), Mongolia (1), Nigeria (4), Norway (4), Poland (1), Romania (5), Russia (2), Spain (2), South Africa (3), Ukraine (1) and Venezuela (1).

Where information was available to us, a pattern emerged of many forms of force and violence being used during the journey to include sexual assault, physical assault, threats (including the use of armed weapons) and coercion. Women reported being kept under very close watch, feeling great fear, having their movements controlled and being handled very roughly. In most cases the traffickers were men and travelled with the women to Ireland. In one case, a fellow-national couple, a man and woman, travelled with the woman and it was not until they reached Ireland that they began to behave with hostility and use threats. They removed the woman's passport and it emerged that the intention was to prostitute her in a private house.

Where information was available, the routes taken were largely through airports (but also

ferry ports) and most of the women passed through several European destinations before arriving in Ireland — the UK and Italy being frequent stops. We received reports of false passports and identification papers being issued in advance of the journey as part of the 'promise' of a better life.

#### **Location in Irish Sex-Trade**

Our data-gathering sought to establish where the women were located in the Irish sex trade and the nature of their activities therein. As most of the women did not disclose directly their participation in the sex-trade and some did not wish to discuss it, our data allows us to say very little here. In Table 4 below, we plot what we established in relation to where it was believed the women were located geographically or where they were known to be based.

<b>IN DUBLIN</b>	<b>OUTSIDE DUBLIN (Limerick, Cork, Galway, the North West, Dundalk, Athlone)</b>	<b>NOT CLEAR</b>
21	21	34

**Table 4** Location of women in Ireland (N = 76)

Perhaps the most surprising aspect of this detail is the large number of women who ended up in the sex industry outside the capital. Of the 'not-clear' group, the vast majority of these cases came to us from agencies based in the capital and while the organisations are national it is likely that these women were based in the capital.

Preliminary research on the changes in the sex trade in Ireland does show the availability of transactional sex throughout the country largely accessed through mobile telephone and internet contact (Ward and Wylie, 2007) and anecdotal evidence was offered to us by several interlocutors of flats and apartment complexes throughout the

country operating as brothels. Critically, such operations can be closed swiftly and relocated and their highly mobile nature provides a challenge for detective work.

Our research also sought to establish information about the context within which the women found themselves in Ireland. Where there was information, the situation usually became apparent once the woman arrived in Ireland. In two related cases, women who had knowingly come to work in the sex industry here quickly discovered that they had been deceived as to pay and working conditions. They viewed their circumstances as being extremely exploitative and sought to return home quickly on that basis. Two women who had travelled to work in domestic service here sought help equally speedily when it became apparent that they had been trafficked to work in a brothel. Other women were not as fortunate, or perhaps as well-resourced, and others were more vulnerable or kept in conditions of greater control for longer before escape was possible. In one case, the woman had her passport taken and was kept locked in a house where she was forced to have sex with men. One woman was kept in an apartment in the Financial Services Centre in Dublin and forced to have sex with men. One woman was regularly beaten by her captors, moved around in Ireland and kept through physical force. The woman was moved by her traffickers between Ireland and the UK and coerced through physical force and great violence, including sexual violence. This woman reported that a gun was also in evidence during transit. While she met other women during this period, she was kept isolated from them. She was given

clothes and make up by her captors.

In another case for which considerable details were available, a woman was brought to Ireland by a fellow national and once here was sold to an Irish person to work in a lap-dancing club and, it is believed, in prostitution. In one case a woman reported that she did manage to escape the debt which she 'owed' to her traffickers through her work in the sex industry and decided to remain working in that sector. In all cases where detail was provided the women were kept in off-street, private brothels in apartments or houses.

With some small exceptions, little evidence was available to us in relation to the prostitute users. Where detail was made available both Irish men and, in one case, exclusively a group of fellow-nationals (as the women) were the users. This latter phenomenon, of women being trafficked specifically for ethnic or national minorities, has shown up in research on the sex industry in London (Dickson, 2004) and evidence has come forward in related criminal proceedings in Ireland. In 2003 several Chinese men were convicted in Dublin of a number of offences arising from a brawl outside a brothel which, the court heard, was for Chinese men and in which Chinese women worked (*Irish Times*, 22.05.03).

### **Outcomes**

We sought information on the trajectory of the woman's life once contact had been made and the outcome for the woman in terms of her status in Ireland. Below in Table 5 we plot the information provided for us in relation to the latter.

OUTCOME FOR WOMAN	N = 76
Repatriated	14
Deported	3
In Irish asylum system	12
Repatriated to third country	1
Granted leave to remain/ Refugee status	10
Unknown	36

**Table 5** Outcome for woman

Perhaps the most striking aspect of this data is the number of women in the 'unknown' category implying, in almost all cases (with one known exception) that they simply disappeared from contact with the agencies concerned. In the one exceptional case, the organisation believed that she was in the asylum process.

In the cases of repatriation, support was provided by agencies such as the International Organisation for Migration which, through its Dublin offices, works with smuggled and trafficked people to organise safe and voluntary repatriations. In one such case, featured on the Prime Time documentary (May 2006) a victim of sex-

trafficking to Ireland was voluntarily returned to Romania and undertook a training course there as part of the repatriation programme.<sup>13</sup>

With one exception, where the woman was identified through Garda surveillance, and where information was made available, the majority of the women made contact with agencies seeking help such as in relation to the asylum process, sexual health or directly seeking help with a return home. In some cases women literally walked in off the street to the organisation seeking assistance and in some of these cases, they had little or no English.

<sup>13</sup> While the practice of repatriation or deportation in the case of suspected sex-trafficking cases in Ireland currently operates in the absence of particular legislative framework, repatriation can be generally understood as a voluntary, assisted return to one's country of citizenship facilitated through the (IOM) which usually involves support following return. Deportation involves the legal removal of an 'alien' from the state.

Perhaps not surprisingly given the lack of legislation, the outcomes for the women suspected of being sex-trafficked vary hugely, where known, and for a significant portion of the women are simply unknown. A human rights approach to the situation would allow women informed choices as to their preferred outcome: for instance, to remain on in Ireland with an entitlement to a reflection period followed either by residency or voluntary repatriation. Best practice globally indicates that such choices should not be conditional on giving evidence in the case of a prosecution.

While entry into the asylum system was the outcome for 12 women and a further 10 were granted leave to remain or refugee status, it is not clear whether sex-trafficking is being consistently interpreted as a ground for asylum in the Irish asylum assessment system. Although the UNHCR has stated that sex-trafficking needs to be taken seriously as the basis of a claim for asylum or refugee status (UNHCR, 2006), research in the UK, for instance, indicates that no such approach was taken in the asylum process there. Of 32 women who were trafficked into the UK to work for the sex industry, only 1 was granted asylum prior to appeal (Richards, Steel & Singer, 2006).

In relation to those deported, two women had been in the asylum system but because they had left their hostel and 'disappeared' from the purview of the state agency in charge of refugee affairs, they were ultimately deported. Overall, our research revealed that there was a good deal of cooperation across agencies in the case of repatriation or in the provision of asylum

status – albeit based on informal arrangements.

In the majority of our cases sex-trafficking was not directly disclosed but rather became apparent, or was deduced, in the contact that ensued arising from disclosures and/or evidence in relation to sexual violence, prostitution, lack of passport, identification, money or any forms of support. In one case a woman was found by a member of the public in great distress on a public street and brought to a relevant agency. In a second chance encounter on a street, a fellow national overheard her language being spoken and, observing great distress, offered assistance to the woman, who later disclosed that she had been trafficked for sexual exploitation. In a number of cases, the women were brought to the agency by fellow-national women. In several cases, the women had taken extraordinary measures to find help and arrived in conditions of extreme vulnerability. In almost all cases, the organisations reported evidence of great distress, confusion, fear, isolation, vulnerability and trauma.

All service-providing agencies interviewed sought to offer assistance to the women they encountered as appropriate within their remits. This included, for example, sexual health screening, safe housing, counselling, advice on the asylum process, information on immigration matters and assistance with return and reintegration. A high degree of referral from one agency to another was reported by interviewees, as well as connecting women to other appropriate non-governmental and state agencies such as SPIRASI, Refugee Legal Services, the

Reception and Integration Agency and occasionally the Garda National Immigration Bureau. It was notable however that in response to the question of whether women were prepared to take part in prosecutions only three cases in which women were prepared to talk to Gardaí were mentioned by interviewees. This was corroborated during the interview with the GNIB where a lack of information and 'a failure of persons to report' were identified

as barriers to pursuing traffickers. At the time of research, investigations were on-going in relation to one possible prosecution against traffickers.

Also notable was the consensus among interviewees that current service provision to victims of trafficking is ad hoc and under-resourced. These points will be returned to in the discussion below and in the closing recommendations of this report.





On the basis of the research findings presented above it is probable that trafficking for sexual exploitation into Ireland has been growing over the last six years. Despite being geographically on the margins of Europe and having a relatively small sex industry, Ireland is not exempt from global patterns of trafficking for sexual exploitation. Our research indicates that sex-trafficking, in conformity with the pattern elsewhere, is growing at a time when the sex-industry in Ireland is becoming increasingly less amenable to surveillance and monitoring at a state or community level. If we are to understand why there is trafficking for sexual exploitation to the Republic, we must understand the broader inescapability of the globalisation of the sex trade and in particular how this has impacted upon the nature of the Irish sex industry.

Today, Ireland has a sex trade that conforms to the pattern of global sex commerce. Changes in technology, communications and wider liberalisation of the economy, have meant that a lucrative sex-trade exists within the state such as in transactional sex, pornography, sex shops, internet activities and lap-dancing clubs. Irish people now travel abroad for sex tourism in Europe and the developing world. Some women in prostitution now travel to Ireland to work, while others are trafficked here for sexual exploitation. Many of our interviewees corroborated this perception of a globalising sex industry extending into Ireland. They described how the economic boom had brought about the emergence of apartment brothels, lap-dancing as corporate entertainment, and the use of new technologies – mobiles, internet – in the

organisation of the industry here. Increasingly, it appears, the indoor sex industry in Ireland in particular is dominated by non-national women. Again this pattern is one replicated elsewhere. A research project mapping the sex industry in London showed that less than 20 percent of women were from the UK (Dickson, 2004).

This internationalisation of the domestic Irish sex-trade presents particular problems obliquely captured perhaps by the Department of Justice, Equality and Law Reform which has argued that so long as the demand exists, foreign prostitutes will be there. Not least of all, this has implications for state policies to counteract prostitution such as through welfare and housing programmes (DJELR, 1998: 94).

The internationalisation trend does raise the question as to whether the increasing involvement of women from outside Ireland in prostitution always constitutes trafficking. As we saw earlier in the report there is a significant debate on this general question in international literature. Here the ambiguity within the Palermo Protocol as to the relationship between prostitution, exploitation and sex-trafficking poses a challenge.

Our research did uncover, on the one hand, women who were coerced, deceived and physically forced into prostitution in Ireland and kept in conditions approximating slavery. We also uncovered women who came 'voluntarily' to work in the sex industry but experienced deception as to pay and conditions here. Under the Palermo Protocol such cases (because of deception as to the nature of the work) can be considered as

trafficked notwithstanding the fact that the women knew they were coming to work in the sex industry. Evidence from the lap-dancing club raids, referred to earlier, revealed women who may have been coerced by circumstances in their countries of origin, such as poverty and economic hardship, to work in the sex industry in Ireland. Some of those women returned again to the Irish sex industry having been repatriated following the raids. In one case identified in this research a woman continued to work in the sex-trade in Ireland after she had paid her debts to her traffickers. These scenarios reveal the complexity in relation to definitional limits of trafficking, the blurring of the edges between it and smuggling in human beings and also of the complexities of human situations behind the statistics. Particularly complex is the notion of choice.

We suggest that the evidence we have identified, limited and partial as it may be, captures the multiplicity and complexity of experiences. In a context such as that which is developing in Ireland it is likely that sex-trafficking will increase and that the state will be confronted with many such complexities both in terms of the law, law enforcement and responses.

Here we turn to the issue of appropriate responses to the phenomenon. What became obvious through our interviews was that responses to date – legal, political or in terms of service provision – were not sufficient to meet the growing problem.

The statistic presented above revealed 76 probable cases of trafficking for sexual exploitation. Although each of these cases

was responded to in some manner by the agencies concerned, all our interviewees noted that service provision is at the moment entirely based on *ad hoc* and discretionary responses. Through working with trafficked women, respondents to our questionnaire were well able to define a series of needs which ought to be met for victims of trafficking, including time for reflection, access to health care, to counselling and trauma services, to secure housing and physical safety, to translation services and to help with clarifying legal status. Yet, in seeking to deal adequately with the complexity of trafficked women's situations, all interviewees implied that there were failings in current service provision. Immediacy of response was not always possible, 'joined-up' thinking and relationships were not assured between agencies and resources were not adequate to meet needs (e.g. the difficulties of finding safe housing).

Underlying these inadequacies in service provision is the absence of a legislative base for assuring the protection of victim's rights, as our discussion above of the current and proposed legislative framework in Ireland made clear. The absence of a legislative base makes for varying responses, inconsistencies and serious gaps in service provision. Long (2005) asserts that the absence of such a framework hinders the process of both securing the safety of the women and securing evidence. She further identifies that there is no systematic and formalised communications system between the state agencies (such as the Gardaí) and intergovernmental agencies (such as the IOM which has a role in repatriation) and non-governmental organisations which,

currently, have some over-stretched capacity to provide medical care, accommodation and other social and psychological supports.

The claim by the Department of Justice, Equality and Law Reform (DJELR, 2006) that suspected victims of trafficking are treated sympathetically by the Gardaí appears to be generally supported in our research. Indeed, a good working relationship appears to have emerged at a national level, with distinct competences recognised and acknowledged. Cross-referral and collaboration between the various agencies has evolved and all of our informants spoke positively of the relationships that exist, such as the relationships forged through the regular meetings of Ireland en Route. However, these relationships are informally based, do not have the backing of legislation and hence are devoid of appropriate funding mechanisms, supports and statutory institutional frameworks. It is also not clear if this relationship applies equally outside of the national agencies or outside the capital where the GNIB and those specialised Gardaí who deal with vice are located. It is also important to note that taking a discretionary approach does have serious pitfalls with some reported cases receiving less than sympathetic treatment. For example, in one case reported from Sligo in May 2006, one woman found on a premises by Gardaí and believed to have been trafficked to Ireland was sent to Mountjoy jail (*Sligo Champion*, 17.05.06) and in a case highlighted widely in the national media a woman who entered a Garda station to complain of trafficking left the station with nowhere to go.

Furthermore, our research revealed that outside of those organisations involved with leR there is little knowledge of correct procedures, responses, rights and options once a case of sex-trafficking is suspected. Several interlocutors spoke of the need for a nationwide network linked into existing women's and migrants' organisations which could provide instant and comprehensive information and support.

Despite the largely sympathetic response of the Gardaí to victims of trafficking, it remains likely that few women who have experienced trafficking will be willing to enter into cooperation with prosecuting authorities. This is partly caused by the general reluctance of victims of sexual violence to enter into the intrusive and public legal system but is compounded in cases of trafficking by on-going fear of traffickers for the women and their families and the irregular migration situation many trafficking victims find themselves in. Again the current legal vacuum for trafficking victims exacerbates this situation. Without any guarantees of rights to reflection time or vital supports and fearing deportation, victims are understandably unwilling to testify. As one interviewee said, she would have difficulty encouraging women to consider prosecution given the lack of clarity about outcomes for them.

The rise of trafficking as a global phenomena is linked to the effect and processes of globalisation and in this context, there is much that is beyond the reach of any state. No state can be disconnected from both flows of peoples and flows of information, images and services on

the internet. Of the three principal elements involved in the growth of the phenomenon of human trafficking, vulnerability of women to traffickers, demand and organised crime, any state must tackle each if it wishes to address sex-trafficking. Realistically speaking, the state's capacity to have an impact on each element is limited. While aid and trade policies can have an impact on the vulnerability of women in east and central Europe, Africa or Asia, the sphere of action is limited here. Hence, it is in addressing both remaining elements that individual states can be most effective.

Research underlines the importance of combining theoretical insight and factual evidence in advance of developing policy responses to avoid measures to combat trafficking (and smuggling) which may not work and may have unintended consequences (Salt, 2000: 31). While tackling the demand side of the sex trade is a factor and must be considered by any policy-makers, research into the relationship between human trafficking and the demand for sexual services has highlighted that there are three distinct factors are at play in this relationship. These are a) the unregulated nature of the market within which migrant sex workers are located, b) the abundant supply of exploitable labour and c) the 'power and malleability of social norms regulating the behaviour of employers and clients' (Anderson and O'Connell Davidson, 2003: 5). Several of our interviewees

expressed a preference for the Swedish legislative model which seeks to abolish prostitution and prevent trafficking by criminalising the clients of women in prostitution. To this effect, a call has been made for the Irish state to crack down hard on users of prostitution in Ireland (*Irish Times*, 05.07.07) as a way of addressing sex-trafficking. But its efficacy in achieving that goal and its consequences for both sex-trafficked and other women in prostitution are still under debate in international academic research and need to be clearly established in advance. A report commissioned by the Norwegian government to examine the impact of differing approaches to the sex industry in Holland and Sweden concluded that in the case of Sweden the abolitionist approach to prostitution has reduced the number of women on the streets but may have had unintended consequences such as sending the industry further underground and thereby increasing women's vulnerability. In addition, enforcement of prohibition has proved difficult and created evidential challenges (Stridbeck, 2004).

Finally, so little is known about the sex industry in Ireland, the user groups, the relationship between supply and demand and the relationship between policing, the law, sentencing and the industry, that presumptions about causality may be ill-advised.

## 6.0 Conclusion and Recommendations

This research report has documented the evidence of sex-trafficking of women into Ireland and the lack of a comprehensive response on the part of the state rooted in, we suggest, the state's failure to promulgate appropriate legislation. The report has also documented the way in which sets of informal relationships between the state and non-state sector and across civil society have emerged to fill the gap.

Despite their best efforts, however, NGOs (and indeed the state sector) are operating in a legal and policy vacuum. All our interlocutors concluded with one overarching point: that legislation covering sex-trafficking into Ireland was urgently needed.

However, a second priority, echoed in a majority of cases, was for legislation which resisted the temptation to adopt a purely law enforcement approach to the issue and emphasised instead the human rights dimensions of sex-trafficking. Based on the evidence to date, however, the Irish state is eschewing the latter in favour of an approach to sex-trafficking which prioritises the state's concerns for border security and law enforcement.

If our research prompts a single conclusion it might be that sex-trafficking is primarily a crime against women and one which places those women in extreme conditions. Thus while prosecution is clearly important it must be balanced with concerns for protection and prevention.

On the basis of our research findings and our considerations of the context in Ireland,

supported by a literature review, we make the following 12 recommendations.

### Legislation

**Recommendation 1:** That Ireland urgently acts on its obligations under international law and implements legislation which will allow it to ratify its signing of the UN's Palermo Protocol and the Council of Europe Convention on Action Against Trafficking in Human Beings. This would imply incorporating an internationally recognized definition of human trafficking into Irish law (thus ending the current legislative confusion between smuggling and trafficking), determining measures to combat trafficking and defining measures to protect victims' rights.

**Recommendation 2:** That Ireland reflects best international practice and locates the rights of victims as central to this legislative response. In particular the human rights standards delineated in Chapter Three of the Council of Europe Convention should be legislated for including: the rights of victims to psychological and material assistance and access to the labour market; the establishment of 30 day recovery and reflection periods not conditional on co-operation with prosecuting authorities; the possibility of a residence permit thereafter; access to legal redress; the possibility of compensation; and repatriation only in circumstances where the rights, safety and dignity of that person are assured.

## Policing

**Recommendation 3:** That Ireland must maintain and augment international policing links such as those with EUROPOL and the UK Human Trafficking Centre, particularly given that one of the principle obstacles to tackling trafficking in persons has been the lack of communication and cooperation between national police forces (Gallagher, 2001: 979). This could lead to important mutual assistance across national boundaries in the taking of evidence, the issuing of arrest warrants and agreement on investigative techniques (Gallagher, 2001: 979-980).

**Recommendation 4:** That Garda training programmes, 'such as that offered on an interagency basis at Templemore Garda Training College, are enhanced and augmented. For example further training in relation to the identification of victims of trafficking and the ethical treatment of such victims should be pursued using internationally tried and tested guidelines.<sup>14</sup>

**Recommendation 5:** That a mechanism which ensures 'joined up thinking' is implemented in order to ensure adequate protection, immediacy of help and best use of resources between service-providing NGOs and between such NGOs and state agencies. Specifically, that a National Referral Mechanism on trafficking, as advocated by the Organisation for Security and Co-

operation in Europe for all its member states, should be established in order to formalize these relationships. A National Referral Mechanism (see diagram in Appendix 4) is a 'co-operative framework through which state actors fulfill their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society'. The structure of a NRM involves the appointment of a national coordinator on trafficking supported by a round table of all key stakeholders (OSCE, 2004).

**Recommendation 6:** That the state provides increased resources to each agency currently providing services to trafficked women in order to ensure better provision and to secure the rights of trafficked women and that consideration is given as to whether a service dedicated solely to trafficking victims (such as the Poppy Project in the UK) is required in the Irish context. Such an assessment could be made in the context of the National Referral Mechanism

## Prevention

**Recommendation 7:** That, subject to positive evaluation, Irish Aid should increase support for designated programmes aimed at preventing trafficking in women. Ireland has already directed funding through Irish Aid to prevention programmes in states from which trafficking occurs, for example, through an

<sup>14</sup> The Organization for Security and Cooperation in Europe offers one example of identification guidelines in its report National Referral Mechanisms (OSCE 2004). Another can be found in the IOM's AGIS training work, see [www.belgium.iom.int/AGIS2004/PDF/Peter%20Bryant%20Identification%20methods%20for%20trafficking%20victims.pdf](http://www.belgium.iom.int/AGIS2004/PDF/Peter%20Bryant%20Identification%20methods%20for%20trafficking%20victims.pdf). The World Health Organisation also offers ethical guidelines for interviewing victims of trafficking, see Cathy Zimmerman and Charlotte Watts (2003).

ILO programme aimed specifically at reducing and eventually eradicating the trafficking of women in Moldova, Albania and Ukraine.<sup>15</sup>

**Recommendation 8:** That Ireland follows the lead of the Italian government which will allocate 25 percent of all assets confiscated to assist poorer UN member states in the implementation of the Palermo Protocol (Potts, 2003: 241-2).

**Recommendation 9:** That Ireland ensures that its peace-keeping troops and members of the Garda Síochana when deployed in overseas UN and other missions are fully trained in relation to trafficking issues.

## Research

**Recommendation 10:** that consideration should be given to the establishment of an office of National Rapporteur on Trafficking, based on the model developed in the Netherlands. There the Rapporteur has the

remit to collect both qualitative and quantitative information on the broad issue of trafficking (data on existing rules and regulations, preventative activities, police investigation, public prosecution and victim protection and assistance), and to report on a regular basis to the government, thus uncovering and exposing trends. Such reports should include recommendations for improvement of the policy pursued.

**Recommendation 11:** That research is funded to provide a comprehensive mapping and analysis of the Irish sex industry to include issues of the relationship between policing, sentencing and policy and user groups to fill a gap in knowledge about the context within which sex-trafficking occurs.

**Recommendation 12:** that comparative research is undertaken to explore (1) which models of service provision constitute best practice and (2) which legislative approaches towards prostitution are most effective in combating sex-trafficking throughout Europe.

<sup>15</sup> RTE One (2006) *Far Away Up Close – Moldova*, broadcast 5th May.





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The following organisations from Ireland en Route participated in our research: Cairde, Garda National Immigration Bureau, Immigrant Council of Ireland, International Organisation for Migration, Irish Refugee Council, Mercy Justice Office, Ruhama, Sexual Violence Centre Cork, Women's Aid and the Women's Health

Project. In addition we interviewed the Chaplain of the Dochas Centre, Doras Luimní, Edmund Rice Support and Information Unit, Waterford, Galway Rape Crisis Centre, Operation Quest, Sligo Rape Crisis Centre and the Waterside Hostel (COPE), Galway.

## Appendix Two

In 1999 the year prior to the introduction of new categories for reporting crimes in Ireland there were no offences of Brothel Keeping reported or known to the Gardaí and the crime of 'Prostitution' did not appear in the reported

statistics. From the year 2000 on, 'Brothel Keeping' and 'Prostitution' were recorded annually. The tables below set out the statistics over the period 2000 – 2005.

	2000	2001	2002	2003	2004	2005
No. OF REPORTED/KNOWN OFFENCES	8	5	2	6	6	7
No. OF PROCEEDINGS BEGUN	1	2	1	2	0	1
No. OF CONVICTIONS	0	3	0	0	0	0
No. OF PERSONS INVOLVED	0	4	0	0	0	0

**Table One** Statistics in relation to offence of brothel keeping 2000 - 2005

	2000	2001	2002	2003	2004	2005
<b>No. OF REPORTED/KNOWN OFFENCES</b>	63	142	250	122	25	19
<b>No. OF PROCEEDINGS BEGUN</b>	33	98	95	57	13	12
<b>No. OF CONVICTIONS</b>	28	14	67	18	3	3
<b>No. OF PERSONS INVOLVED</b>	36 (20 F.)	14 (7 F.)	57 (34 F.)	20 (11 F.)	18 (10 F.)	3 (2 F.)

**Table Two** Statistics in relation to offence of 'prostitution' 2000 – 2005.

'F.' equals Female

## Appendix Three: Copy of Questionnaire

### Section 1: Organisation

Name of Organisation:

Name of Interviewee:

Role in organisation:

Short Statement of Aim/Work of Organisation:

### Section 2: Trafficking in Women for Sexual Exploitation

1. How do you/your organisation define trafficking in women?
2. Has your organisation directly encountered cases of trafficking in women into Ireland?
3. If yes, how many cases?  
 When (as specific as possible)?  
 Where (geographical location, eg Dublin, Cork)?  
 What location (in brothels, on the street)?

If No please and move to question 19 Section Three

4. Were any of these women willing to talk openly about their experience?
  1. On what grounds did you believe these women to have been trafficked?
  2. Which countries were they from?
  3. Do you know through what route they were transported?
  4. Do you know how they were transported?
  5. Are you aware of any forms of control being used during transportation?
  6. Do you know anything about their traffickers? (e.g. nationality, sex, age, relationship to women?)
  7. Do you know how the initial contact with their traffickers occurred?
  8. Are you aware if the women were subject to any other forms of exploitation during transport (e.g. violence, sexual harassment, sexual assault)?
  9. What, in your view, was the attitude of the women to their experience (e.g. did they view it as trafficking, a violation)?
  10. Is there any other information based on your understanding of their experience that you feel might be useful?

### **Section 3: Organisational response**

11. How did the women involved come into contact with your organisation?
12. What happened to the women after their first contact with you?
13. What happened to them later?
14. Did your organisation refer the women to another service provider?
15. Were the women prepared to take part in prosecution?
16. What would you consider to be the most important needs of trafficked women?
17. What services is your organisation able to provide?
18. Are there additional services you think your organisation could provide (or may be considering), subject to resources-availability?

### **Section 4: (Irish) Legal/National Framework**

19. Do you believe the current legal framework in Ireland is adequate to deal with trafficking? What needs to be done?
20. Do you consider the current level of service provision for victims of trafficking in Ireland is adequate? What needs to be done?
21. Do you consider the current political response to the issue of trafficking into Ireland is adequate? What needs to be done?
22. Have you any other comments or suggestions which might be helpful?

