

# Campaign Strategies for Legal Change Roundtable Discussion Paper

Study Examining Campaign Strategies in Member  
States to Introduce Legislative Measures to  
Discourage Demand for Sex Trafficking

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Immigrant  
Council of  
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# Campaign Strategies for Legal Change

## Introduction

This paper is based on a roundtable discussion on campaigns for legal change held as part of the Disrupt Demand project, involving participants from Ireland, France, Cyprus and Finland.

The project is designed to support efforts to prevent human trafficking for sexual exploitation by reducing demand, through researching successful strategies involving legal changes, and fostering cooperation among key stakeholders. Addressing and discouraging demand that fosters exploitation, especially of women and children, is recognised as an effective prevention strategy in all major international treaties dealing with human trafficking. The EU law (Directive 2011/36/EU Art 18[1] & [4]) and the current EU Strategy towards Eradication of Trafficking in Human Beings have a special focus on demand reduction. Given that trafficking for sexual exploitation represents the most prevalent form of trafficking in Europe (Eurostat 2014), this project focuses on the demand generated by users of sexual services, which is of particular importance in destination countries throughout the EU. The objective of the project is to reduce demand fuelling trafficking for sexual exploitation, as a way of prevention, by mapping and researching legal changes to that effect, sharing information on successful campaigning elements that achieved the legal change, and resulted in activities that fostered cooperation among key stakeholders. For this purposes, existing implementation strategies of new laws, and mechanisms for monitoring their effectiveness will be analysed with a view to identifying and promoting good transferrable practice among EU Member States.

As part of the project's implementation, a series of roundtables were held involving the project partners and experts. The purpose of these roundtables was generating knowledge and gathering and disseminating information in key areas, relevant to the focus of the project.

The discussion focused on strategies leading to legal change in EU Member States. Traditionally, there are a number of advocacy measures which can influence legal change. These include strategic litigation, social and political mobilisation, engaging with international monitoring mechanisms, and other advocacy activities. During the roundtable, participants discussed a number of such measures in the context of campaigns for legal change *vis-à-vis* demand for human trafficking for sexual exploitation. In particular, the participants discussed the strategies employed to

introduce legal change in their respective Member States, with a particular focus on France and Ireland.

## Context

The strategies which can be used to bring about legal change have been the focus of much research in the area. In particular, much of the literature has focused on wider campaigns seeking social change, which include the need for legal change in a specific area, and focus on the strategies employed by those seeking such change. Such strategies can include strategic litigation; political engagement and mobilisation; social mobilisation; and through engaging with international organisations and monitoring mechanisms.

**Litigation** has traditionally been seen as an important resource for campaigners seeking change. The advantages associated with strategic litigation include that it can: *“raise public consciousness; put an issue on the political agenda; stimulate political activity by revealing the vulnerability of structural arrangements that once seemed impervious to change...”* (Vanhala and Kinghan, 2018: 15). In general, such litigation plays a part in wider campaigns seeking change, which simultaneously involve social mobilisation, and political engagement and mobilisation.

The importance of **social mobilisation** in change seeking campaigns is recognised throughout research in this area and includes strategies such as grassroots organising and mobilisation; coalition and network building; briefing and presentations; outreach, including through the media and electronic outreach through social media; and rallies and marches. Each of these is seen as important means of developing public support for change (Lamb, 2011).

Mobilising **political support**, including through **political engagement**, has similarly been seen as an important means of influencing legal change. This can be supported by policy analysis and research, policy maker and candidate education, relationship building with decision makers and general lobbying activities (Lamb, 2011). These strategies can enable campaigners to build the political support required to introduce change.

At the same time as the above activities, which generally have a national focus, campaigners can use international monitoring mechanisms, including the United Nations Treaty Bodies and Council of Europe Human Rights Monitoring Mechanisms, to highlight the need for change, which in turn can be used in the national setting to highlight the need for change (Simmons, 2009; De Beco, 2012).

The above strategies have been employed in a wide array of campaigns for social and legal change, including wider campaigns targeting other forms of violence against women. There is also evidence to suggest that the above strategies have also played an important role in campaigns leading to legal change in the area of demand for human trafficking for sexual exploitation. For example, litigation acted as a catalyst for legal change in Canada, leading to the criminalisation of the purchase of sex. At the same time, and as will be

discussed throughout this document, political engagement and mobilisation and social mobilisation played crucial roles in campaigns leading to legal change in France and Ireland. Such efforts will be discussed in detail throughout this discussion paper.

## Legal Context

Each of those participating in the discussion came from different national contexts, with regards legal measures targeting demand for human trafficking for sexual exploitation.

Immediately following the roundtable, Ireland introduced a law criminalising the purchase of sex as a means of targeting demand for human trafficking for sexual exploitation. Part 4 of the Criminal Law (Sexual Offences) Act 2017 introduces an offence which criminalises any person who purchases or attempts to purchase sexual activity from another person.

*'A person who pays, gives, offers or promises to pay or give a person (including a prostitute) money or any other form of remuneration or consideration for the purpose of engaging in sexual activity with a prostitute shall be guilty of an offence and shall be liable on summary conviction— (a) in the case of a first offence, to a class E fine, and (b) in the case of a second or subsequent offence, to a class D fine'.*

In 2016, France similarly introduced a law targeting the purchase of sex, which was seen *inter alia* as a means of targeting demand for human trafficking. The legal provision states that:

*'The act of soliciting, accepting or obtaining relations of a sexual nature from a person engaging in prostitution, including on an occasional basis, in exchange for remuneration, a promise of remuneration, the provision of benefits in kind or the promise of such benefits is punishable by a 1,500 euro fine'.*

The Act also includes higher penalties for repeated offences punishable by a 3,750 euro fine and supplementary punishment in the form of awareness training where the buyer is obligated, where required at his own expenses, to complete an awareness course deterring the purchase of sex acts.

Each of these laws was based on the Swedish law targeting the purchase of sex, which had been introduced in 1999, when Sweden became the first country in the world to introduce a law that prohibited the purchase of sexual services. The legislation was later incorporated into the Penal Code as a criminal law offence, with the following wording:

*A person who, in other cases than previously stated in this chapter, obtains a casual sexual relation in exchange for payment shall be sentenced for the purchase of a sexual service to a fine or imprisonment for at the most one year.*

What is stated in the first paragraph also applies if the payment has been promised or made by someone else. The offence applies to all forms of sexual services, whether they are purchased on the street, in brothels, in a hotel, in someone's home, or in other similar

circumstances. Attempts to purchase a sexual service are also punishable under the criminal law provision. The law also de-criminalised those exploited in prostitution and provided extensive resources to the provision of services.

On July 1, 2011 amendments to the offence came into force which included an increase in the maximum sentence from six months to one year in prison. The purpose of the increase of the penalty scale was to allow a more nuanced assessment by the courts in aggravated cases of the purchase of sexual services e.g. when the prostitution buyer uses excessive force, or infringes upon the dignity of the victim through humiliating acts.

In Cyprus, Article 17 of the Trafficking Law 60(I) 2014 *“penalises persons who use services provided by victims of trafficking if they should reasonably have been able to assume that the service was provided by a victim of trafficking.”* Article 61 also contains provisions regarding preventive and intervention measures discouraging demand as per the requirements stated in the CoE Convention on Action against Trafficking in Human Beings and Directive 2011/36/EU. When a person is found guilty the person is subject to imprisonment for to up to 3 years or to a fine not exceeding €15.000 or both penalties. To date there has been no convictions under this provision.

Similarly, Finnish law criminalises those who *knowingly* purchase sex from a victim of trafficking. A precedent of the threshold of intentionality was a 2012 case in the Supreme Court where the defendant accused of abuse of sexual trade victim was found innocent as the Supreme Court ruled the offence was not intentional. The Supreme Court stated that although the intention in establishing the partial sex-purchase ban was to encourage buyers of sex to make sure the seller is not a victim of sexual trade, there could not be a lower threshold in proving intentionality in these cases than there is in other criminal cases. Recent changes to the law make the purchase of sex from victims of the sexual trade through negligence was criminalised making it a criminal offence to engage in sexual intercourse or comparable sexual act for payment when there is a reason to suspect that the person referred to is a victim of pandering or human trafficking. This means the buyers of sex can no longer avoid legal responsibility by gaining as little information as possible from the person selling sex and the conditions surrounding them. The new provision is meant to be easier to apply (HE 229/2014).

In Lithuania, in 2012, the laws on trafficking were amended to prosecute the users of forced labour and services taking into account Directive 2011/EU/36. The law is clear in that it is only applicable where the use of force can be demonstrated. The issue of the liability of a client for buying sexual services was further addressed in June 2005 in the Administrative Violations Code, which was one of the measures to reduce the demand for prostitution services in Lithuania. The offence covers both persons who earn from prostitution and persons who use paid prostitution services. It excludes persons who have been involved in prostitution who are dependent or under physical or psychological violence or deception, by any means, or being a minor or/and a victim of human trafficking when the status is recognised in the criminal proceedings. According to this article, a fine (from 300 to 1000 LTL) may be imposed on the prostitute and the client. In

reality, the Lithuanian expert asserts that the evidence consistently indicates that women in prostitution are primarily the focus of law enforcement.

## Campaign Strategies

It is demonstrable from the legal contexts that there have been a number of changes *vis-à-vis* laws targeting demand for human trafficking for sexual exploitation in Member States in recent years. Those participating in the discussion have been central in campaigns leading to those changes. In doing so, they have used a variety of methods, discussed below. As will be seen, the tactics employed are largely in line with those described above.

### RESEARCH

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Research has played an important role in each of the different national contexts. For example, the Immigrant Council commissioned research which looked at the sex trade in Ireland, the experience of those in it, the links between human trafficking and prostitution and examined varying approaches deemed to be most effective in reducing both prostitution and trafficking, highlighting the importance of targeting demand. In Cyprus, MIGS were a partner in the Immigrant Council led STOP Traffick! Project, which was funded by the European Commission, and led to research which highlighted the benefits of targeting the purchase of sex as a means of reducing demand for human trafficking for sexual exploitation. In the case of France, research on the economic and social cost of prostitution, conducted by Mouvement Du Nid contributed towards public debate and thus played an important role in the overall campaign leading to legal change.

In the above cases, it was the national focus of the research which was seen as crucial. According to the roundtable discussion participants, this played an important role in using the research to mobilise political support for change.

### SOCIAL MOBILISATION

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The participating organisations discussed a number of methods use to mobilise public support for laws targeting demand for human trafficking for sexual exploitation.

In the case of Ireland, a media strategy was implemented which focused on provincial newspaper. Through highlighting the importance of targeting demand as a means of tackling trafficking for sexual exploitation in opinion pieces in such papers, it was possible to build public support across the country. Importantly, these often led to further interviews on local radio stations. As will be discussed in further detail below, this strategy also generated political support for laws targeting demand, as it led to increased pressure on political stakeholders to act from their local constituencies.

At the same time, local events helped ensure ongoing awareness of the issue and broader awareness of national campaigns seeking legal changes.

The need to form broad coalitions was similarly seen as an important mechanism for social mobilisation. In the case of both France and Ireland, these coalitions highlighted that the proposed changes were supported by a broad spectrum of groups from across society, including NGOs, frontline service providers, women's associations, and trade unions. In the case of France, such mobilisation efforts focused on *inter alia* lawyers and magistrates, doctors, youth and students movements, intellectuals, academics and celebrities.

Survivor participation was similarly seen as an important means of mobilising public support for campaigns for legal change. In the case of France, survivors of the sex industry played a particular important role in publicising ongoing efforts to criminalise the purchase of sex, as a tool for reducing demand for human trafficking.

Wide-scale advertisement campaigns were also employed in the participating Member States as a means of encouraging change.

A particular means of bringing about change discussed during the meeting involved the use of the arts as a tool for social mobilisation, which was used effectively as a means of raising awareness around human trafficking and exploitation and, as a result, the need to target demand.

In Ireland, the Turn off the Red Light campaign engaged the arts to highlight the social, political and legal intentions of the change being recommended. Art itself was the political act produced, or communicated, in a conscious effort to facilitate or support the recommended social change. The campaign engaged with a number of artists to reframe the experience of those exploited in the sex trade through the prism of art, culture and the telling of human stories. This helped the campaign to reach out to new communities and helped it find ways to give a platform to hidden voices.

The arts were particularly powerful in communicating the impact of a vicious trade on those exploited in it, when people weren't ready to publically advocate their story. Counterpoint Arts curated the Not Natasha - which featured the work of Romanian artist, Dana Popa, depicting images of victims of sex trafficking and their family members. The exhibition was supported by a number of awareness raising events, aimed at varying and new audiences for the campaign.

The campaign also presented exemplary and artistic works of film with the aim to promote greater awareness among audiences about the impact of prostitution and sex trafficking on those exploited, the relationship to organised crime and the impact on society

As will be seen below, each of the above methods played an important role in mobilising political support for legal change.

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## POLITICAL MOBILISATION

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In relation to political mobilisation, it was suggested that campaigners should frame it as a local issue. In the case of Irish campaigners, this included through the use of Irish research and focusing media engagement on regional news outlets.

At the same time as generating public support for campaigns targeting legal change, survivor participation was also seen as an important means of mobilising political support for campaigns leading to change.

In Ireland, this included lobbying efforts by survivor activists Mia De Faoite and Rachel Moran, and members of SPACE International, an international group of survivors of prostitution and exploitation who advocate for adoption of laws criminalising the purchase of sex, as a tool for reducing demand for human trafficking for sexual exploitation. In particular, a political briefing held in 2012, involving the above named activists, was seen as an important milestone in the Irish campaign leading to legal change.

In the case of France, the efforts by the survivor Rosen Hicher played an important part in galvanising political support during passage of the law. In particular, in response to the refusal of Senators to discuss the law, Rosen Hicher made the symbolic action of walking from the last place she had been prostituted (in the west of France) to a bar in Paris, the first place, following which she walked to the Senate. In each place she stopped, she asked to speak to the mayor, the senator, the deputy, and spoke publicly about the law, including to journalists. During the time, local organisations walked with her. The walk culminated in a demonstration involving campaigners, NGOs, and politicians from all political parties, including Ministers. In the months after the march, the Senate finally discussed and adopted the new law.

The broad coalitions previously discussed, involving different groups, played an important role in campaigns for change in both Ireland and France, including with regards political mobilisation, as it highlighted the depth of support for legal change across different sectors of society.

Ensuring the above factors could influence change required extensive political engagement which thus played a crucial role in the discussed campaigns for change, including through proactively working with political committees established to review laws regarding demand and exploitation, including trafficking, in the commercial sex industry.

Identifying 'champions' within political parties acted as an important means of gaining broader political support for legal change within parties, particularly in the Irish context, where this led to support from all major political parties.

Through the above methods it was possible to build invaluable political support for legal change in both France and Ireland.

## Recommendations

In each of the participating Member States, there has been progress in recent years with regards laws targeting demand for human trafficking for sexual exploitation. In Ireland and France, in particular, through the campaign strategies described above, legislative changes have been introduced which focus on demand for human trafficking. Based on these advances and the discussions which were held, a number of recommendations can be made, which can inform future campaigns for legal change in the area of demand for human trafficking for sexual exploitation.

### RESEARCH

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- Research should play an important part in campaigns seeking change and can provide a strong evidence base for the change sought.
- Wherever possible, develop and utilise research with a national focus.

### SOCIAL MOBILISATION

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- Survivors must be enabled to play a central role in campaigns seeking change.
- Coalitions from different sectors of society can play an important role in mobilising public support for legal change.
- Campaign strategies should focus on local media and local events, in order to ensure broad support for change.
- The arts should be seen as a powerful social mobilisation tool. Through mediums including photography and video, it is possible to highlight the importance of demand reduction strategies, develop clear messages, and reach new audiences

### POLITICAL MOBILISATION

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- To generate political support it is important that campaigners focus on making the need for change a local issue
- Survivor participation in campaigns is crucial to highlighting the need for change and generating political support.
- Broad coalitions from different sectors of society can further generate political support.
- Political support can be enhanced by engaging with political representatives from as many parties as possible, in order to identify 'champions' in each party who can help grow political support in that party for change.