

## **Prostitution Law Reform (Scotland) Bill 2015**

Submission from the Women's Support Project    December 2015

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The Women's Support Project (WSP) welcomes the opportunity to contribute to this very important consultation on the proposed **Prostitution Law Reform (Scotland) Bill 2015**. The WSP is happy for our response to be made public.

This consultation response, while acknowledging that women and men, including the transgender community, are involved in prostitution, is concerned primarily with women involved in prostitution since this is the most common arrangement and the one around which work of the WSP has been focused.

The WSP is a feminist charity working to raise awareness around violence against women and to improve services for those affected, including people affected by commercial sexual exploitation. There are clear links between child abuse, childhood neglect and domestic abuse and women's involvement in prostitution. These factors, along with poverty, addictions homelessness, trauma and mental health issues create vulnerability and inequality, which is exploited through men's payment for sexual activity.

WSP manages the national Challenging Demand project (CD), which has 3 broad aims: -

1. To increase understanding of the myths and realities surrounding commercial sexual exploitation including prostitution.
2. To increase awareness of prostitution and other forms of commercial sexual exploitation as a form of violence against women and gender equality issue
3. To lobby for approaches which: focus on and target the men who make up the demand for prostitution; decriminalise those selling sex; and resource prevention work and support to leave prostitution.

We believe that the focus of work to reduce exploitation must be on the *demand to buy sex*, that is, the men who assume the right to purchase others in prostitution, commodifying and marketing their bodies. No one has the right to exploit, nor profit from the exploitation of, another person regardless of any form of exchange of money, goods or services. The WSP takes the view that in a Scotland striving towards equality and human rights it is not acceptable to condone or ignore the exploitation of women (and men) in prostitution. Condoning or accepting prostitution undermines other work on gender equality and on violence against women. What sense could we make of work against sexual violence, rape, sexual harassment and stalking if men can simply buy these activities through prostitution?

We would like to highlight that in the development of this response our resources were limited as we still have work commitments and demands on our time. We do not have a designated policy and information officer, nor do we have full access to a range of academic articles. We are aware that many other service providers are also in the same position having to focus on the ongoing needs of their service users. We expect that these constraints will be taken into consideration in the analysis of responses.

We have been contacted by women who are involved in or who have exited prostitution and who would like to respond to the proposals. They do not feel comfortable sending them directly to Jean Urquhart's office due to concerns around anonymity and confidentiality. We have submitted their responses separately on their behalf.

### **Strategic Context UK and International**

The UK has made commitments to tackling violence against women through different International Measures and Obligations including the UN Convention on the Elimination of All Forms of Discrimination against Women, the UN Convention on the Rights of the Child and the Palermo Protocol. Work to prevent and tackle commercial sexual exploitation, including prostitution, must be undertaken in order to meet these international commitments. Measures to do so should include:

- Raising awareness of the important roles and responsibilities of civil society in identifying the demand from men to buy sex in prostitution as a root cause of human trafficking
- Targeted information campaigns aimed at the general public on the harms and realities of prostitution and targeted campaigns aimed at men who purchase sex.  
(<http://www.stopdemand.org/wawcs0154995/idDetails=222/>.html for some examples)
- Preventive measures, including educational programmes on discrimination, gender equality and the dignity and integrity of every human being.

Directorate General for Internal Policies, Policy Dept. C: Citizens Rights and Constitutional European Parliament. *“Sexual exploitation and prostitution and its impacts on gender equality – 2014”*

[http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/493040/IPOL-FEMM\\_ET\(2014\)493040\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/493040/IPOL-FEMM_ET(2014)493040_EN.pdf)

### **Strategic Context Scotland**

‘Equally Safe: Scotland’s Strategy for preventing and eradicating violence against women and girls’ was launched in 2014. The Scottish Government and COSLA developed the strategy in association with a range of partners including ‘violence against women’ support organisations, Police Scotland and Health Scotland.

Equally Safe recognises gender inequality as the fundamental cause of gender based violence against women, notes that in order to address one area of male violence a comprehensive approach must be adopted to tackle all, *and includes prostitution and other forms of commercial sexual exploitation within the spectrum of gender based violence*. This approach is informed by the United Nations Declaration on the *Elimination of Violence against Women (1993)* and is underpinned by equality and human rights principles.

The aim of Equally Safe is to *prevent and eradicate violence against women and girls, creating a strong and flourishing Scotland where all individuals are equally safe and respected, and where women and girls live free from such abuse and the attitudes that help perpetuate it*.

‘Equally Safe’ priorities are to ensure that:

- *Scottish society embraces equality and mutual respect, and rejects all forms of violence against women and girls*

- *Women and girls thrive as equal citizens: socially, culturally, economically and politically*
- *Interventions are early and effective, preventing violence and maximising the safety and wellbeing of women and girls*
- *Men desist from all forms of violence against women and girls and perpetrators of such violence receive a robust and effective response.*

Effective implementation of the Equally Safe strategy requires adequate legislation to be in place to support the above priorities and ensure that justice responses are robust, swift and co-ordinated so that people who carry out or profit from any form of violence against or exploitation of women and girls are held to account.

This response has been developed and informed by our work across Scotland with organisations providing services to women and men involved in prostitution.

We endorse the central tenet behind the proposal, i.e., *to promote the safety and uphold the rights of people involved in selling or exchanging sex*. We are pleased to see a strong focus on the decriminalisation of the sale of sex, which ‘violence against women’ organisations and partnerships have called for over many years as part of a ‘challenging demand’ approach.

We further agree that those involved in prostitution are vulnerable to violence and coercion and that more needs to be done protect them from harm. We are pleased to see recognition that there is violence and exploitation within the sex industry in Scotland. This fact is well known and acknowledged by the many service providers and frontline staff who engage with and support those who sell sex on a daily basis and has been regularly highlighted by VAW services.

*“We, the survivors of prostitution and trafficking . . . declare that prostitution is violence against women. Women in prostitution do not wake up one day and ‘choose’ to be prostitutes. It is chosen for us by poverty, past sexual abuse, the pimps who take advantage of our vulnerabilities, and the men who buy us for the sex of prostitution”*

Survivors of Prostitution and Trafficking Manifesto. Press Conference, European Parliament 2005.

If the safety and reduction of harm to those selling sex is paramount - we need to ask why harm happens, what makes prostitution unsafe and who enacts the violence and abuse. We do not however see the current proposals to decriminalise the sex industry are the best way to address those issues.

### **Prostitution and gender equality**

*“The debate takes place in a society with unbalanced power relations between men and women, notably regarding financial and economic resources. These power relations continue to affect men and women’s sexuality and perpetuate images of men buying sex from women. Prostitution is therefore not only perceived as reinforcing gender stereotypes but also as an expression of the idea of men’s unlimited access to women’s bodies and sexuality in accordance with their economic power.”* De Miguel, A. (2012)

Gender based violence against women is violence directed against a woman because she is a woman or violence that affects women disproportionately.

One of the **fundamental causes of violence against women is the unequal power relations** between men and women, which lead to discrimination.

Prostitution is an economic institution made up not only of the women who sell or exchange sex, but also of the men who choose to pay for sex, and third parties who profit from the prostitution of others. It is also a social institution which reflects the wider social inequalities that exists with the gender pay gap, the commodification and sexualisation of women's bodies, the ongoing practice of violence against women and the backgrounds of violence and abuse they may have been exposed to in both childhood and adulthood.

*“Without punters there would be no prostitutes. Obvious perhaps but largely unstated. She's not there for her selfish pleasure; she's there for him, and his pleasure. Women's bodies are sold and abused only because there is someone who is willing to pay to abuse them. Take away the demand and you remove the problem.”* Angel K- Survivors Network

Despite advances Scotland is a society with unbalanced power relations between men and women, notably regarding financial and economic resources. These power relations continue to affect men and women's sexuality and perpetuate images of men buying sex from women. Prostitution reinforces gender stereotypes but is also an expression of the idea of men's unlimited access to women's bodies and sexuality in accordance with their economic power. It also entails the assumption that sexual needs are a right that every (male) individual is entitled to have met, by whatever means. O'Connell, J. (2002)

The system of prostitution whereby those with advantage, money and resources can buy access to women's bodies both creates and perpetuates hierarchical relations between women and men. Prostitution is a form, a cause and a consequence of gender inequality and in order to address this steps must be taken to deal with the wider social conditions in which women as a whole are made vulnerable with less viable options and alternatives. There is evidence to show that women are disproportionately disadvantaged by recent benefit cuts, see for example: [www.gov.scot/resource/0043/00432337.pdf](http://www.gov.scot/resource/0043/00432337.pdf) and see here for the Engender report 'A Widening Gap: Women and welfare reform'. [www.engender.org.uk/content/publications/A-Widening-Gap---Women-and-Welfare-Reform.pdf](http://www.engender.org.uk/content/publications/A-Widening-Gap---Women-and-Welfare-Reform.pdf)

*“Prostitution and sexual exploitation are highly gendered issues with in most cases women and girls selling their body, either by coercion or consent, to men or boys who pay for this service. Accordingly, the majority of those trafficked for sexual exploitation are women and girls.”* Pg. 9 E Schulze et al 2014

Prostitution cannot be supported as a legitimate business because it is contrary to the principles enshrined in the Charter of Fundamental Rights. The prostitution market is a highly globalized and “industrialized” phenomenon where millions of women and children from deprived backgrounds all over the world are bought and sold by criminal circles to macro brothels, which can exploit hundreds of victims at once. See for example:

- Open for business: the brothel with 1,800 prostitutes. *The Independent*, 23/10/2010: <http://www.independent.co.uk/news/world/europe/open-for-business-the-brothel-with-1800-prostitutes-2114265.html>
- Europe's brothel - in a corner of Spain, *The Guardian*, 24/06/2006 <http://www.guardian.co.uk/world/2006/jun/24/spain.gilestremlett>
- Spain police smash ring that ran six large brothels. *The Global Post*, 4/03/2013 <http://www.globalpost.com/dispatch/news/afp/130304/spain-police-smash-ring-ran-six-large-brothels>
- Europe's biggest brothel – complete with coach parking- to open in Austria, *The Telegraph*, 05/11/2012: <http://www.telegraph.co.uk/news/worldnews/europe/austria/9655537/Europes-biggest-brothel-complete-withcoach-parking-to-open-in-Austria.html>

On International, European and national levels, a broad range of legislation exists which identifies sexual exploitation as a criminal offense. European Directive 2011/36/EU furthermore urges Member States to consider criminalising the known use of services of objects of exploitation, and specifically the buyers of sexual services from trafficked persons.

The European Women's Lobby started a campaign in 2011 for a Europe free of prostitution, which is on-going. Recently Members of the European Parliament signed the corresponding "Brussels' Call". The European Parliament, in its Resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women (2010/2209(INI)), stated that prostitution is a form of gender-based violence.

*"The regulatory approach is criticised for ignoring the effects of gender inequalities in society, ranging from the disadvantaged economic position of women, in particular the higher female poverty rates, over the discrimination of women on the labour market (of which in the regulatory approach prostitution is a part) to the high level of domestic and sexual violence against women in society as a whole."*  
(Pg. 12 E Schulze et al 2014)

Women who are the most marginalised in social hierarchies are over represented in prostitution (Kramer and Berg 2003). Measures that directly address gender inequalities and focus on men's behaviour and their choices are needed, including criminalising the purchase of sexual acts.

### **Violence and harm**

In Scotland, studies with both men and women in prostitution have also shown high levels of violence with reported incidents and threats of violence, rape, sexual and physical assault and attempted murder perpetrated by clients. McKeganey and Barnard's (1996) and Connell and Hart's (2003) studies of women involved in street and indoor prostitution found that 82% of women had experienced violence during prostitution. Incidents of client violence were also reported by 68% of prostitutes in Birmingham in Kinnell's study (1991) and by 57% of those involved in indoor prostitution in Ward's (1999) study in London. 24% (Sanders 2005) and 21% (Campbell 2002) of women in prostitution had experienced violence with almost half of both the escorts and independent workers saying they were *very concerned* about safety. In a recent Canadian study (Tamara O'Doherty 2011) 16% had been threatened with a weapon by punters.

A recent Strategic review with women in prostitution in Glasgow (Matthews and Easton 2010) found that 78% of women in street prostitution had experienced violence from men purchasing sex.

Spice (2007), argues that physical violence is the single greatest threat facing sex workers. A study by Harding (2005), which examined the experiences of female sex workers in Nottingham, found that all of the women interviewed had experienced some form of violence, whether physical, emotional or sexual. A study by Bindel et al. (2012), found that two-thirds of the sex workers they interviewed experienced violence.

Male clients choose to exploit inequality and vulnerability, choose to purchase sex and further compound this with other acts of violence as highlighted by these numerous studies. The current proposals suggest this violence will be eradicated by making the system of prostitution legal. We shall challenge this further in this response and would suggest that the New Zealand Model has not proved to be effective in ending violence. (See later sections for more discussion)

### **Health and impacts**

“Poor or lack of necessary healthcare, high morbidity, homelessness, lack of qualifications, poverty, stigmatisation, addiction and the sale of sex for financial recompense can be detrimental to participation in societal ‘norms and services’ and result in adverse consequences, such as poor health (Jeal and Salisbury, 2004).

In a recent 2015 report from Edinburgh City Council, the NHS Health noted:

“Based on this work, key issues identified are

- (i) mental health,
- (ii) alcohol and substance use,
- (iii) sexual ill-health, and
- (iv) unintended pregnancies.

For non-UK women, these are particularly difficult issues, as their lack of English makes it difficult for them to access services. They also tend to be very transient. “  
Edinburgh City Council – Harm Reduction Framework 2015 pg 10

The Encompass Network (see page 14 for more information) made up of front line services engaged with 494 people in total (468 women and 26 young people). They undertook a snapshot survey with their service users from January – March 2014 around what their needs and concerns were. These included:

#### Financial

- Women are returning to prostitution after having exited due to financial pressures
- Impact of benefit changes e.g. “bedroom tax”
- Difficulties of welfare system and actually being able to access what they are entitled to.
- The system is stacked against women – acts as a push into prostitution and a barrier to getting out
- Struggling to have basic needs met – e.g. food / heat/ housing and relying on food parcels to survive.

#### Employment

- Lack of realistic and viable alternatives to prostitution
- Access to training
- Opportunities to build up experience and skills
- Support to recognise potential and skills etc.

### Social

- Lack of suitable stable housing
- Lack of affordable housing
- Hostels – conditions and curfews
- Loneliness
- Isolation
- Stigma / “shame”
- Being labelled / judged (and the fear of this)

### Personal safety

- Experiences of violence – physical and sexual
- Fear of violence from clients and the public

### Relationships

- V often engaged in abusive and negative relationships
- Struggling to recognise abuse and their own value
- Many peer relationships are with others involved in prostitution – difficult to step away from that.
- Main sources of support can be from other women

### Mental health

- Complexity of needs
- Anxiety
- Fear
- Overwhelmed
- Self esteem / confidence
- Trauma and its impacts

### Health

- Addictions e.g. drugs. Alcohol
- Hep C / BBV

### Sexual Health

- Access to testing and screening
- Links to gynae and reproductive health

### Legal

- Fear of criminalisation
- Attitudes and actions of the Police eg searches for condoms, being stopped at any time
- Being labelled as a prostitute

It is interesting to note that the expressed concerns and needs of many of those involved in selling sex will not be addressed by the legislative proposals contained within this consultation.

Research has highlighted the harmful emotional and psychological impact on women in prostitution. (Connell and Hart, 2003; Dowsett, 1996; Farley et al, 1998; Farley, 2003; Simon et al. 1993). In Connell and Harts study (2003), men involved in prostitution in Glasgow and Edinburgh also noted the negative impact of prostitution on their mental health and well being;

- *“I became less of a person and more of a sex toy.”*
- *“You’re constantly being made to feel like a piece of meat and that you just exist for sex and if you do something long enough you start to believe it.”*

Many studies highlight the need for those who sell sex to develop coping strategies to enable them to meet and offer sexual services to clients and to block out their experiences during prostitution. High levels of alcohol and / or drug use have been reported as a common coping strategy. (Connell and Hart, 2003; Cusick, 1998; Day, 1990; McKeganey and Barnard, 1996)

Research by Rossler et al. (2010), assessed 193 female on-street and off-street sex workers in Zurich (5 per cent of all registered sex workers in the city). The study found high rates of anxiety, stress and post-traumatic stress disorder, predominantly due to the high levels of violence these women experienced. Other mental disorders were identified, including psychosis and schizophrenia. In addition, the study looked to establish if women with existing mental illness were more likely to engage in sex work; however, it was unclear whether any relationship existed. The researchers claim that the effect of a single year of engagement in sex work is likely to have the same impact on mental health as an entire life of experiences prior to involvement in sex work.

The longitudinal study of sex workers in London (Ward and Day, 2006) looked at the health outcomes among women still working and those who had left the industry. It was clear that involvement in prostitution was associated with much higher than normal risks of mental health problems, substance misuse, and ill-health (including sequelae of sexually transmitted infections and infertility). Interestingly this study showed no significant differences between those still involved and those who had exited women. In Canada, too, those who had not worked for at least two years continued to struggle with mental health and related problems that do not end after exiting prostitution which suggesting lasting harm and trauma (Benoit and Millar, 2001 pg 7)

## **Consent**

*They don't buy our consent, they buy our silence*  
“Emily” Call Kaye BBC Radio Scotland 6.10.15  
<http://www.bbc.co.uk/programmes/b06dq9z8>

An important point in understanding the nature of prostitution is that although the women in prostitution are consenting to sexual activity, this is unwanted sex.

*“But what is she consenting to? She’s consenting to the money, not the actual sex. If you say to any prostitute: “You have two options: either you can take the money and*

*just leave or you can take the money and also stay for the sex,” how many do you think are going to stay for the sex? Not even a die-hard defender of prostitution will claim that most will to stay for the sex. Most of them are going to take the money and leave — which goes to show they don’t actually want the sex — they want the money.”*

Being and Being Bought: An interview with Kajsa Ekis Ekman

<http://www.feministcurrent.com/2014/01/20/being-and-being-bought-an-interview-with-kajsa-ekis-ekman/>

In order to be able to cope with constant unwanted sex, the women usually need to dissociate, either by ‘splitting off’ within their own head, or through use of drugs or alcohol. This is why drug and alcohol misuse often starts or sharply escalates soon after women become involved in prostitution: they need to use substances to help them go through with the unwanted sexual activity. For example:

- One US study reported that *“Findings from this study indicate that severity of substance addiction and explanations for substance abuse are related to prostitution ..... Women who were prostituting, in contrast to those who were not, were found to be more severely addicted to drugs as a means for coping with various intrapersonal and interpersonal experiences commonly associated with prostitution.”* ‘Prostitution, drug use, and coping with psychological distress’ by Amy M. Young, Carol Boyd and Amy Hubbell, Journal of Drug Issues 30(4) 789 – 800, 2000  
<http://myweb.dal.ca/mgoodyea/Documents/Health%20and%20wellbeing/Prostitution,%20drug%20use,%20and%20coping%20Young%20J%20Drug%20Iss%202000%2030%284%29%20789-800.pdf>
- See also page 50 of ‘Prostitution, Politics and Policy’ by Roger Matthews, [www.books.google.co.uk/books?id=FWg6NKp7sIsC&pg=PA50&lpg=PA50&dq=does+prostitution+increase+drug+use?&source=bl&ots=XoZI96eEW0&sig=tCYCUhYow5q48iFOsny1C1gv5\\_8&hl=en&sa=X&ved=0CFkQ6AEwB2oVChMltuq95KTHyAIVSVQUCh1EtgVs#v=onepage&q=does%20prostitution%20increase%20drug%20use%3F&f=false](http://www.books.google.co.uk/books?id=FWg6NKp7sIsC&pg=PA50&lpg=PA50&dq=does+prostitution+increase+drug+use?&source=bl&ots=XoZI96eEW0&sig=tCYCUhYow5q48iFOsny1C1gv5_8&hl=en&sa=X&ved=0CFkQ6AEwB2oVChMltuq95KTHyAIVSVQUCh1EtgVs#v=onepage&q=does%20prostitution%20increase%20drug%20use%3F&f=false)

## **Trafficking**

*“Human beings are not commodities to be bought or sold.”*

Asst. Chief Constable Malcolm Graham, Head of Major Crime and Public Protection  
In this consultation, prostitution and trafficking are deemed to be 2 entirely separate entities. We dispute that assertion. Without a prostitution market – there would be no trafficking for prostitution and they have to be considered together. Experts have found a relation between the liberalisation of prostitution and increasing numbers of trafficking in human beings. Growth rates in the liberalised prostitution markets have led to an increase in demand – which means if not enough “local” women enter into the system of prostitution, the supply will either have to be forced or sourced somehow from other countries.

The UN Special Rapporteur on Trafficking in persons stated:

*"For the most part, prostitution as actually practised in the world usually does satisfy the elements of trafficking (...). Thus, States Parties with legalized prostitution industries have a heavy responsibility to ensure (...) that their legalized prostitution*

*regimes are not simply perpetuating widespread and systematic trafficking. As current conditions throughout the world attest, States Parties that maintain legalized prostitution are far from satisfying this obligation".*

[http://daccess-dds-](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/109/64/PDF/G0610964.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/G06/109/64/PDF/G0610964.pdf?OpenElement](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/109/64/PDF/G0610964.pdf?OpenElement)

The danger within legalised prostitution systems to enhance trafficking in human beings has been confirmed by recent studies. (Chos, Dregher and Neomayer 2013)

### **Terminology used in the consultation**

We challenge the terminology of sex worker as used throughout the proposal. Many organisations working against gender based violence choose not to use the terms “sex worker” or “prostitute”, and instead refer to “women (or men) involved in selling or exchanging sex”, or ‘involved in prostitution’. This term describes the behaviour rather than labelling the individual.

Likewise many people who have been or are currently involved in prostitution do not use the term sex worker because they do not see prostitution as a legitimate form of employment, nor equivalent to other jobs and to describe it as sex work does not reflect their lived experience. See for example, [www.newstatesman.com/politics/2014/12/why-we-shouldnt-rebrand-prostitution-sex-work](http://www.newstatesman.com/politics/2014/12/why-we-shouldnt-rebrand-prostitution-sex-work)

It is important to note that ‘sex work’ is increasingly used as a broad term, which is not just describing those involved in selling sex. A recent Scot PEP leaflet defined sex work as “*an umbrella term for many kinds of work. Sex workers can be strippers, brothel workers, camgirls, rent boys, escorts, lap dancers, phone sex workers, pro-subs and pro-dommes*”. (Leaflet given out at a Reclaim the Night March in Glasgow, 25<sup>th</sup> November 2015)

Other sex work networks use the term to include those involved in selling or exchanging sex in all settings; strippers and lap dancers; web cam and phone sex operator; those involved in the porn industries; sex toy retailers; *and people who manage or own escort agencies and brothels*. Thus, statements from and consultation with sex workers may well include views from third parties who do not themselves sell or exchange sex but who profit from the involvement of others in prostitution. Using ‘sex worker’ as a blanket term fails to recognise the hierarchical nature of the industry and the differences and power imbalance between those who are involved in selling or exchanging sex and those who purchase, profit from or manage such activity.

This potential disparity of power and control was recently highlighted in relation to the Global Network of Sex Work Projects (NSWP), a Scottish not for profit limited company (No. SC349355), based in Scotland and sharing premises with ScotPEP. The Network purports to work on behalf of sex workers yet in 2015 the previous Vice President was convicted of sex trafficking and sentenced to fifteen years in prison after she reportedly controlled a pimping organisation that exploited around 200 women.

<http://www.theguardian.com/commentisfree/2015/oct/22/pimp-amnesty-prostitution-policy-sex-trade-decriminalise-brothel-keepers>

Before we respond to the specific consultation questions we will address a number of points made in the proposal document itself.

**and instead let people currently selling sex lead the conversation. I have in formulating these proposals listened to them above all .** Page 3 of Prostitution Law Reform proposal

The above statement suggests that policy debates in the past have deliberately excluded those involved in selling sex. This has not been the case and it is a misrepresentation to suggest otherwise. Organisations who provide direct services have engaged in scoping and consultation exercises with their service users to shape the development of their approaches, the services on offer and also responses to previous consultations on policies and legislation.

Scot PEP, a campaigning and lobbying sex worker organisation, has been involved in many working groups, forums and partnerships in Scotland on issues around violence against women and prostitution. This is noted in their annual report for 2010 – 2011.

*“One of our roles, in my opinion, is to be the “fly in the ointment”, the “devil’s advocate”, the awkward customer... not an easy role to play, but one which Scot-PEP has learned to do well over the years. We must continue that work in the coming year, in this situation and many others.”*

<http://www.scot-pep.org.uk/about-scot-pep/annual-reports/annual-report-2010-11>

Scot PEP state that they lobby on behalf of sex workers and have given evidence in previous inquiries into legislative change. In our view it is often unclear as to how many sex workers they represent and the contexts in which those individuals are involved with the sex industry.

For example one sex worker who gave evidence in the Northern Ireland Justice Committee said she was speaking on behalf of the International Union of Sex Workers (IUSW), on behalf of the majority of sex workers in the UK (whom she estimated to be around 80,000) and was a member of Scot PEP. The following statement then contradicted this:

*“However, obviously as an independent operator, I can say that there are very few other sex workers with whom I would come into contact on a regular basis. I do not work in a brothel.”*

Information was later provided to the Committee that showed that the International Union of Sex Workers in fact had a total of 8 members.

<http://www.niassembly.gov.uk/assembly-business/official-report/committee-minutes-of-evidence/session-2013-2014/january-2014/human-trafficking-and-exploitation-further-provisions-and-support-for-victims-bill-international-union-of-sex-workers/>

We appreciate nevertheless that women and men with experience of prostitution, including some who are well known and vocal advocates for the sex industry, have been involved in the development of this consultation. We recognise that some individuals say they find selling sexual acts to be personally and economically empowering however these individual opinions do not justify the legitimacy of prostitution as a social institution.

We acknowledge the importance of including the views of people who have experience of selling or exchanging sex in prostitution, coupled with recognition that there will be a range of opinions as to how best to address violence and abuse. However the statement that those *currently* selling sex should lead the debate is problematic, sets very tight parameters around who can and should be engaged in this debate, and potentially serves to silence those who were previously involved in

the sex industry but who are now out of prostitution. In no other area of VAW would we say that only those currently living with the problem are qualified to lead public debate on that issue. On the contrary good practice across a range of services acknowledges the limitations and potential harms of involving those currently living with violence or abuse in public debate.

*“Around the world, survivors’ experiences illustrate that sex trafficking and commercial sexual exploitation is a human rights violation that predominantly impacts women and girls. Their voices are a powerful tool to put a human face to this crime, dispel myths and encourage action; the stories they share are part of a bigger platform for change. Survivors know not only of the experiences they have lived, but have insight as to which strategies and solutions are most effective to combat the harms associated with the sex trade. Survivor leaders must be part of shaping the solution and influencing global anti-trafficking, prostitution and gender equality policies and legislation.” Equality Now 2014*

The tight boundaries drawn around this consultation means the contribution of organisations headed by women who have exited prostitution such as SPACE, GEMS, Breaking Free, Survivors For Solutions, The Sage Project, Sex Trafficking Survivors United, Street Exit, Sex Trade 101 and EVE would be minimised. We believe this silences survivors and places no value on their experiences or perspective.

*“Listening to the voices of those who have survived any form of oppression is crucial for many reasons, one of them being that it is the truest way to get to the heart of that which has been survived. Survivor leadership exacts a heavy price, but your listening is our recompense.” Rachel Moran, SPACE International, Ireland 2014*

We note that projects funded specifically to provide services to people in prostitution appear not to have been approached in the development of this proposal. We believe this is a huge failing, as the proposal does not reflect the current situation or developing approaches in Scotland. Despite limited resources and the demands of running services - many of them however will be submitting their own responses to this consultation.

## **om arresting and prosecuting sex workers and towards protecting them from**

### **Pg 3 Prostitution Law Reform proposal**

We agree that people selling sex in prostitution should not be targeted by the Criminal Justice system. We are concerned that legislation to tackle kerb crawling is not currently being used in Scotland to its full potential, whilst those engaged in selling sex on the street, very often marginalised and vulnerable, continue to be criminalised through soliciting convictions. This is why we have repeatedly called for selling sex to be decriminalized in all settings.

It is interesting to note that the The Solicitor General for Scotland in written guidance on prostitution related offences, made a clear distinction between purchasers and sellers: *“Prostitution represents an insidious form of abuse of women and men. The Lord Advocate's guidelines are aimed at protecting the vulnerable and targeting the abusers.”*

We welcome the recent Police Scotland pilot “Operation Lingle” to build on and develop positive relationships with services and those involved in selling sex. This initiative involved many agencies, including Scot Pep and the Sex worker Open University, in the planning and development phase. Police Scotland has openly said that the focus of their work around prostitution is on welfare and safety as opposed to criminalisation.

*“Our priority is keeping women safe, whether they are on-street or off.”*

*“It is important those involved in the off-street sex industry understand our position is not to criminalise them. There are those who are being forced or have no alternative but to work in the off-street industry. And there are those who have made an informed lifestyle choice. Some people are content with this choice. But there are also people who are not.”*

*“Our priorities are to identify people and organised crime gangs who are criminally exploiting those people.”*

[http://www.heraldscotland.com/news/13175197.3\\_000\\_women\\_sell\\_sex\\_in\\_thriving\\_\\_off\\_street\\_\\_prostitution\\_industry/](http://www.heraldscotland.com/news/13175197.3_000_women_sell_sex_in_thriving__off_street__prostitution_industry/)

In the course of the pilot of Operation Lingle in Glasgow not one woman involved in prostitution was arrested. This approach is due to be rolled out across Scotland with Edinburgh and Dundee being the focus in the next phase. A key service provider has noted the positive potential of this:

*“Dr Alison Scott, a consultant gynecologist who runs the clinics, said: “This is victim focused. The police are not out there to criminalise the women in any way whatsoever – they are very clear about that..... I was suspicious to start with. I didn’t want to be involved in anything which would criminalise women but I haven’t spoken to one officer who is giving that message.”*

<http://www.deadlinenews.co.uk/2015/09/13/scots-sex-workers-to-enjoy-home-visits-from-nhs-health-workers/>

We acknowledge that there is a need for training and consistent approaches across Scotland with law enforcement. Positive relationships have been built up with local Police Prostitution Liaison Officers in local forces and in many areas they sit on the local VAW multi-agency partnerships. With an understanding of prostitution as a form of male violence there has been increasingly a focus on not treating the women as offenders and more on supporting them to access services. It is also worth noting that Police Scotland are now funding the introduction of the National Ugly Mugs Scheme in Scotland to build positive relationships with those involved in selling sex to support them report crimes and violence. This scheme has already been offered through local projects in Scotland with reports of violent punters being made. StreetWork in Edinburgh made 24 reports in 2014, compared to 11 in 2013.

We agree that the Criminal Justice focus should not be on targeting those who sell sex but instead should target those who purchase. Police and Criminal Justice have been working together on guidance around these issues and we feel the proposed legislation is out of touch with such developments. Perhaps a more robust consultation with a broad range of stakeholders across the sectors would have

resulted in proposed legislative changes that better reflect the current Scottish context.

**“Generate a lively discussion on how best to keep sex workers safe rather than another round of the tired discussions which centre around the feelings of**

Pg 3 Prostitution Law Reform

proposal

We challenge the idea that any opposition to the sex industry and the rights of punters to purchase sexual activity is based on “feelings”. The majority of specialised prostitution services in Scotland are funded through the Scottish Government VAWG Fund and that in carrying out this work these services are supporting the implementation of Equally Safe. This approach is based on extensive experience and evidence developed over many years. The exploitation of people in prostitution is a human rights and an equality issue, and not a matter of feelings and to suggest otherwise is dismissive and insulting.

In response to a consultation by Edinburgh City Council in December 2013 on the licensing of saunas, NHS Lothian stated that their *“stance has always been that the purchase of sex by a man from a woman is a form of violence against women”* and that their *“experience of managing sexual health and mental health issues as well as working with other agencies to support those individuals has given us a wealth of knowledge and experience with which to inform this consultation.”*

[http://www.edinburgh.gov.uk/site/custom\\_scripts/proxy.php?file=/documents/2713/EDIR%202713%20CEC%20Public%20Entertainment%20Consultation%20-%20Sauna%20Licensing%20-%20Written%20Responses%20Redacted.pdf](http://www.edinburgh.gov.uk/site/custom_scripts/proxy.php?file=/documents/2713/EDIR%202713%20CEC%20Public%20Entertainment%20Consultation%20-%20Sauna%20Licensing%20-%20Written%20Responses%20Redacted.pdf)

It is interesting to note that part of the intention behind the proposals is to generate a “lively discussion.” There have in fact been many lively discussions on this issue in recent years, which is to be welcomed, but there have also been underhand tactics and in some instances quite vicious attacks on individuals who have challenged the sex industry. Individuals and organisations which have a VAW perspective have been targeted e.g. MSPs who sought to introduce legislation to criminalise buying of sex were targeted in online campaigns and false twitter accounts were set up in their name, sending out messages which were extremely offensive and derogatory not only to them but to women in prostitution. This has also happened to survivors of prostitution who have spoken of their experiences and shared opinions as to how the system of prostitution needs to be addressed. These tactics and orchestrated attacks do not lead to “lively discussion” but division and mistrust.

Consideration must also be given to the situation VAW services may face when they identify with the Equally Safe approach to commercial sexual exploitation. In the past direct service providers have been targeted as a result. Understandably they want to focus limited resources and staff time on direct work with those affected by violence and harm instead of engaging in online and social media debates and “lively discussions’ with defenders of the sex industry.

There has been a silencing of views that do not support the “sex work is work” perspective. This has resulted in a much-polarised context in which to look at issues around violence and safety, especially in relation to hearing the voices of prostitution survivors.

We are not aware of any comparable campaigns being run by Scottish organisations and services that name prostitution as a form of male violence.

### **flect the reality of sex**

#### **worker**

#### **workers own understandings and experiences of violence and impedes harm**

Pg. 8, Prostitution Law Reform proposal

It would be interesting to see concrete examples of where harm reduction work has been impeded in Scotland. A range of harm reduction services are offered throughout Scotland, including work undertaken by sexual and mental health services and addiction services. Local sexual health clinics and projects include the Sandyford Clinic in Glasgow and the NHS Women's Clinic in Edinburgh, both of whom engage with women and men involved in prostitution.

The Encompass network, co-ordinated by the Women's Support Project, brings together agencies which are funded by the Scottish Government VAWG fund and includes: -

- Street work, Edinburgh
- Vice Versa in Dundee
- Quay Services, Aberdeen
- Cyrenians Aberdeen – Violence Against Women Project
- TARA project, National
- Routes Out, Glasgow

These projects offer a range of Harm reduction services, alongside support to exit when a woman or man selling sex is ready.

A challenging demand approach, which places a strong focus on gender inequality and tackling the demand to purchase sexual activity, has at its core the need for interventions and services to reduce harm, alongside options to support those involved to exit. To say that this approach impedes or prevents harm reduction is disingenuous and indeed harmful itself to those selling sex. Exiting or leaving prostitution is never a condition of accessing such services but is an option presented, as part of an overall needs assessment. An excellent example is the Another Way service, which is based in SACRO Edinburgh and is also funded by the Scottish Government VAWG fund to support women construct their individual support and care plan. This allows women to identify areas they would like to change, prioritise their needs and plan how they will achieve their goals. This process puts women at the centre and empowers women to make their own decisions. It accepts that there are women who want to exit or decrease sex work and women who do not wish to leave prostitution, or who are unable to do so at present.

#### **diversity of sex workers and their experiences** Pg. 9, Prostitution Law reform proposal

As with other forms of gender-based violence it is important to acknowledge the diverse backgrounds and experiences of those involved, not least to ensure that any

services are accessible. It is also important to recognise that the sex industry has expanded considerably and that prostitution takes place in many contexts and locations. Neither does prostitution always involve the exchange of money since sexual activity is also exchanged for food, shelter, drugs or alcohol.

Mayhew and Mossman (2007) identify 4 different types of people involved in prostitution.

- (i) *A preferred career.*
- (ii) *The best occupational option.*
- (iii) *The result of limited choice.*
- (iv) *The result of no choice*

We see the proposed model as suiting those for whom it is a “preferred career” but struggle to see how it would help prevent those with limited choice or no choice being pushed into the sex industry, or supported to exit.

For many Scottish women in prostitution their “options” are more in the realm of survival for themselves and their children. A more accurate description is that involvement is due to constraints and a lack of alternatives. A service provider in Ayrshire and Arran noted local women’s reasons for involvement in prostitution to include,

*“The dissolution of boundaries between consensual relationships and abusive relationships following a prior traumatic experience – this was often as a result of experiencing domestic violence, sexual, mental, and physical abuse as a child and young adult and/or being raped or physically assaulted as an adult.”* (Connell J 2008)

The proposal paper mentions the diversity of location in which prostitution takes e.g. ranging from selling sex as an independent escort in their own homes to those who visit clients on an outcall basis but the common factor to all who sell sex is the need to have punters prepared to pay. There should be no doubt that it is the punter who drives the market place of prostitution, and not those who provide the services. We agree that there is no ‘representative sex worker’ and are aware that the majority of those who are currently involved in lobbying for sex worker rights maintain that they have made a choice amongst other choices to become involved in prostitution. They are unlikely however to face the same high levels of social exclusion as many other women who access services across Scotland and who are not involved in campaigning organisations and whose voices cannot be said to be included in the proposal paper.

Any approach developed in Scotland should focus on those who are most vulnerable and who have little or no alternative to selling sex. It is only right that the focus of attention should be on the majority of marginalised and vulnerable people selling sex as opposed to ignoring their needs in favour of a smaller minority of more privileged women. This is not an exclusionary position which dismisses the voices of sex workers but one which acknowledges that some women choose to enter into prostitution whilst many do not have the same freedom, flexibility and range of options.

**It is their experiences of abuse are often used to delegitimise them, which is insulting and hurtful. It reduces survivors to their experiences and suggest uniquely**

Pg. 11, Prostitution Law Reform proposal

We are not aware of childhood abuse being used to 'delegitimise' sex workers. We are well aware of the fact that people who have experienced childhood abuse and neglect are very definitely over-represented in the sex industry, as are people who have a background in care. Trauma based services recognise a common cycle whereby those who have experienced childhood abuse turn to substance misuse to help cope with the trauma, and then turn to prostitution to fund the drug or alcohol misuse. Linking previous experience of abuse is in no way intended to 'delegitimise' people but is simply a matter of record. Understanding such links is an important component of understanding some of the key factors, which lead or force vulnerable people into the sex industry.

Women who are trapped in abusive or exploitative situations have to concentrate on surviving, whether that is in prostitution or an abusive relationship. VAW support services are familiar with the process whereby a woman suffering domestic abuse may initially defend her partner or excuse his behaviour, e.g. 'He isn't always violent - it's just that I annoyed him' or minimise impact "Its not so bad, he isn't abusive all the time". It is recognised that leaving an abusive partner is for many woman a lengthy process, and that once the women have had time, space and safety away from abuse their views may well change. Women still engaged in prostitution may say, 'I am choosing this, let me get on with it', whereas with a bit of distance they are more able to speak about the harm they experienced.

**21<sup>st</sup> century that is not based on morality but is concerned with preventing harm and improving the rights, health and wellbeing**

Pg. 12, Prostitution Law Reform proposal

Any moral judgement made by gender equality or VAWG approach is focused on those who sell sex, in the same way that moral disapproval of domestic abuse is directed at the perpetrator and not the victim. To suggest otherwise is dismissive of the work that has been undertaken to reduce and prevent violence against women, and to support those affected.

Our position on prostitution is about human rights and specifically women's human rights and is informed by direct work with women in prostitution and exited women in particular.

**m**

Pg. 30, Prostitution Law Reform proposal

We challenge this statement and would be interested to see any evidence to support the claim. We would also ask, for whom did it work effectively?

Chief Inspector Nanette Pollock, a former high-ranking police officer, established Glasgow's street liaison team for women in prostitution in 1998. She noted that women in sauna prostitution *"have even less control over what services they will perform. On the street, very few women will do anal sex and few do sex without a condom. But in the saunas, the owners, who obviously don't want their punters going away disappointed, decide what the women will do, and very often that is anal sex and sex – oral and vaginal – without a condom"* (Martin, 2002, p. A5).

A 2013 Edinburgh City Council consultation on the licensing of saunas received evidence that highlighted the difficulties with licensed saunas. (see [http://www.edinburgh.gov.uk/site/custom\\_scripts/proxy.php?file=/documents/2713/EDIR%202713%20CEC%20Public%20Entertainment%20Consultation%20-%20Sauna%20Licensing%20-%20Written%20Responses%20Redacted.pdf](http://www.edinburgh.gov.uk/site/custom_scripts/proxy.php?file=/documents/2713/EDIR%202713%20CEC%20Public%20Entertainment%20Consultation%20-%20Sauna%20Licensing%20-%20Written%20Responses%20Redacted.pdf))

Scot PEP suggested that:

*“Saunas provide a safe place to work for vulnerable sex workers who have more limited option, particularly migrant women who face a higher risk of exploitation”*

However the response from NHS Lothian noted that: –

*“We remain strongly of the view that saunas and massage parlours, which operate primarily to offer men the opportunity to use women’s bodies for sexual services are not a legitimate form of public entertainment.”*

*“Over the past 20 years licensing has done little to protect women from gender based violence. A new way forward is required in order to best care for some of the most vulnerable women in society.”*

*“There is some evidence that women working in the “indoor sex industry” may have fewer choices as their terms will be dictated by sauna owners.*

*We would also suggest that community planning partners need to do more to tackle the gender inequalities that lie at the root of this industry and make this explicit in its plans and intended outcomes. We need to do more to tackle men’s sense of entitlement to sexual entertainment including reviewing the approach to licensing strip clubs and to seek opportunities for reducing sexual exploitation in the city and to develop an effective preventative policy”*

Police Scotland also presented concerns around the operation of these premises -

*“It remains a concern for police Scotland that they saunas operate in contravention of licensing conditions and these concerns are compounded by intelligence and now evidence of serious criminality within some of these venues”*

*At this time offences and licensing contraventions have been identified in most of Edinburgh’s saunas.”*

A more recent report in 2015 from direct service providers highlighted that:

*“According to NHS Lothian statistics, around 50% of women selling sex in Lothian are not from the UK and tend to be young and lacking in knowledge of risks of infection. They are therefore very vulnerable and at greater risk.*

*“Based on this work, key issues identified are (i) mental health, (ii) alcohol and substance use, (iii) sexual ill-health, and (iv) unintended pregnancies. For non-UK women, these are particularly difficult issues, as their lack of English makes it difficult for them to access services. They also tend to be very transient. “*

Health, social Care and Housing Committee 2015 pg. 10

In other countries where a system of licensed sauna /brothels exist there is acknowledgement that there is not adequate resources to ensure they adhere to agreed conditions or occupational health standards.

*“Regulation is invariably under-enforced and under-resourced, with a lack of clarity in law and policy as to who is responsible. This has led, in many regimes, to*

*unchecked growth in illegal sectors and/or a failure to police the exploitations of prostitution offences. Both create disincentives for the licensed sector to comply with policy goals.” Liz Kelly 2007*

In New South Wales the sex industry has been decriminalised for 20 years. A recent parliamentary inquiry found that the system has allowed organised criminal groups to flourish, sexual coercion to increase and vulnerable sex workers to be exploited. There has been little control with a growing number of “illegal” brothels and little means to close them down with local councils facing lengthy and costly court cases. *“Proprietors, even in countries where prostitution has been legalized, tend to operate on a shady business model that aims at maximizing profits by denying sex workers basic labour rights and decent working conditions”* (Zuidema et. al, 2006; Roessing & Ramesar, 2011).

In our view it is naive to think that poor working conditions and exploitation would not flourish in Scotland under the proposed system of licensed larger saunas and smaller owner operated brothels. There are huge profits to be made for third parties involved in the sex industry, such as owners of escort agencies, web cam firms and brothels. See for example, ‘Edinburgh brothel pair ordered to pay back over £1m for series of offences’ [www.dailyrecord.co.uk/news/scottish-news/edinburgh-brothel-pair-ordered-pay-5759795](http://www.dailyrecord.co.uk/news/scottish-news/edinburgh-brothel-pair-ordered-pay-5759795) and [www.crownoffice.gov.uk/media-site/media-releases/1052-over-1-470-000-confiscated-from-scottish-criminals-in-single-day](http://www.crownoffice.gov.uk/media-site/media-releases/1052-over-1-470-000-confiscated-from-scottish-criminals-in-single-day)

It is therefore no surprise that organised criminal gangs are involved in many aspects of the sex trade. For example:

- Article on involvement of organised criminal gangs in child sexual exploitation in the UK <http://www.birminghammail.co.uk/news/midlands-news/cse-organised-crime-gangs-forcing-9157043>
- Tackling serious and organised crime: a local response. Local Government Association, 2015, pages 23 and 25. <http://www.birminghammail.co.uk/news/midlands-news/cse-organised-crime-gangs-forcing-9157043>
- Tackling organised crime in the Amsterdam red light district. <https://amsterdamgang.wordpress.com/2011/05/27/tackling-organized-crime-in-the-amsterdam-red-light-district/>
- Prostitution in Amsterdam: the dark side of the Amsterdam red light district. “The Prostitution Information Centre, in Amsterdam’s Red Light District, says that illegal organizations in countries such as Russia make a profit by trafficking women to the Netherlands under false pretences or coercion to work as prostitutes.” And “In recent years there have been several reports of forced prostitution in Amsterdam by organized gangs of criminals.” <http://www.amsterdam-advisor.com/prostitution-in-amsterdam.html>
- Scotsman article, October 2015 “The new trade comes in direct response to rising punter demand in Scotland for women who are “dusky, dark types”. Read more: <http://www.scotsman.com/news/organised-crime-groups-flooding-scotland-with-brazilian-prostitutes-1-1363254#ixzz3okX2mue7>

Legal barriers help maintain social and ethical barriers to treating women as sexual merchandise. If these are removed, there is little restriction on the exploitation and disadvantage. Decriminalisation and legalising the purchase of sex normalises it and

creates a sense amongst men as potential punters that it is another form of entertainment. This ignores the gender, social and economic inequality which underpins it.

*“Legalization of prostitution sends the message to new generations of men and boys that women are sexual commodities and that prostitution is harmless fun”*  
(Leidholdt, 2000).

**committing violent acts against sex workers. It reinforces the stigma against sex workers, which directly contributes to the perception of them in our**

**violence.** Pg 14, Prostitution Law Reform proposal

We are unclear as to how criminalisation of the sex buyer would increase stigma for those selling sex. Nor do we believe that criminalising clients would increase their sense of impunity in relation to committing violence against people in prostitution. On the contrary it is our view that the introduction of legislation to criminalise buying sex would support a shift in public attitude towards viewing buying sex as exploitative and harmful, which would in turn be a significant deterrent.

We are familiar with arguments that criminalisation of the sex industry may make women less safe, displacing them, driving it underground and/or increasing stigma. We take this concern very seriously as our aim is to reduce harm, support women and ensure they have access to services, including criminal justice. Feminists and those involved in VAW organisations are accused of causing "stigma" against sex workers when we point out factual, relevant, statistically supported information about the factors and existing power structures that manipulate "choice." This is why we have been firmly calling for the decriminalisation of women and men who sell sex for many years. We have also lobbied for a range of support, prevention and harm reduction services for those involved, along with well-resourced exiting services and alternative viable options.

Undoubtedly there is stigma against women in prostitution. Women's groups have highlighted and challenged this for many years. This stigma reflects broader attitudes around women and their sexuality generally. Women are told their greatest asset is their sexual appeal (to men) and that this is their source of power in a commodified society. In research with punters – O'Connell Davidson found that *“Ultimately the woman's value is attached to the fact that “the prostitute is a prostitute.” She doesn't have any real value as a full human subject. On the contrary, her only value in the eyes of the client lies in her body and her sexual agency. In fact, one can argue, that the client dehumanizes her and refuses to recognize her as anything more than her body and her sexual agency”* (O'Connell Davidson 1998:150).

Legalising the right of those with money, power and resources to exploit disadvantage and vulnerability does little to change the power dynamic. Instead it sends the message that prostitution is inevitable, acceptable and a part of our culture. In calling for legalisation or decriminalisation of prostitution many believe it will dignify and professionalise the women in prostitution, but dignifying prostitution as work doesn't dignify the women, it simply dignifies the sex industry.

Over the last decade government legislation has attempted to tackle prostitution by criminalising many aspects of sex work (Home Office, 2004). However, these policies have been criticised by commentators for failing to address a wide range of issues, including the health and poverty of sex workers; and contributing to the difficulties experienced when trying to find pathways out of sex work. Factors, which lead to sex work, such as poverty, unemployment, inequality, debt and vulnerability (and how to tackle them), have largely been overlooked by policies (Cusick and Berney, 2005).

We agree that the complex needs of those involved in selling sex have not been met in the past. They have been made even more marginalized and vulnerable with an increased likelihood of violence, poor health, addiction and an inability to escape their situation (Boynton and Cusick, 2006).

As discussed above, changes are needed to address the approaches in some areas from the police and criminal justice system towards those involved in selling sex when reporting violence and other crimes. We do not support nor condone situations where those in prostitution fear being treated like criminals and not as a victim (Boff, 2012). We believe other legislative and civic approaches can address this as opposed to introducing a system of licensed brothels in Scotland.

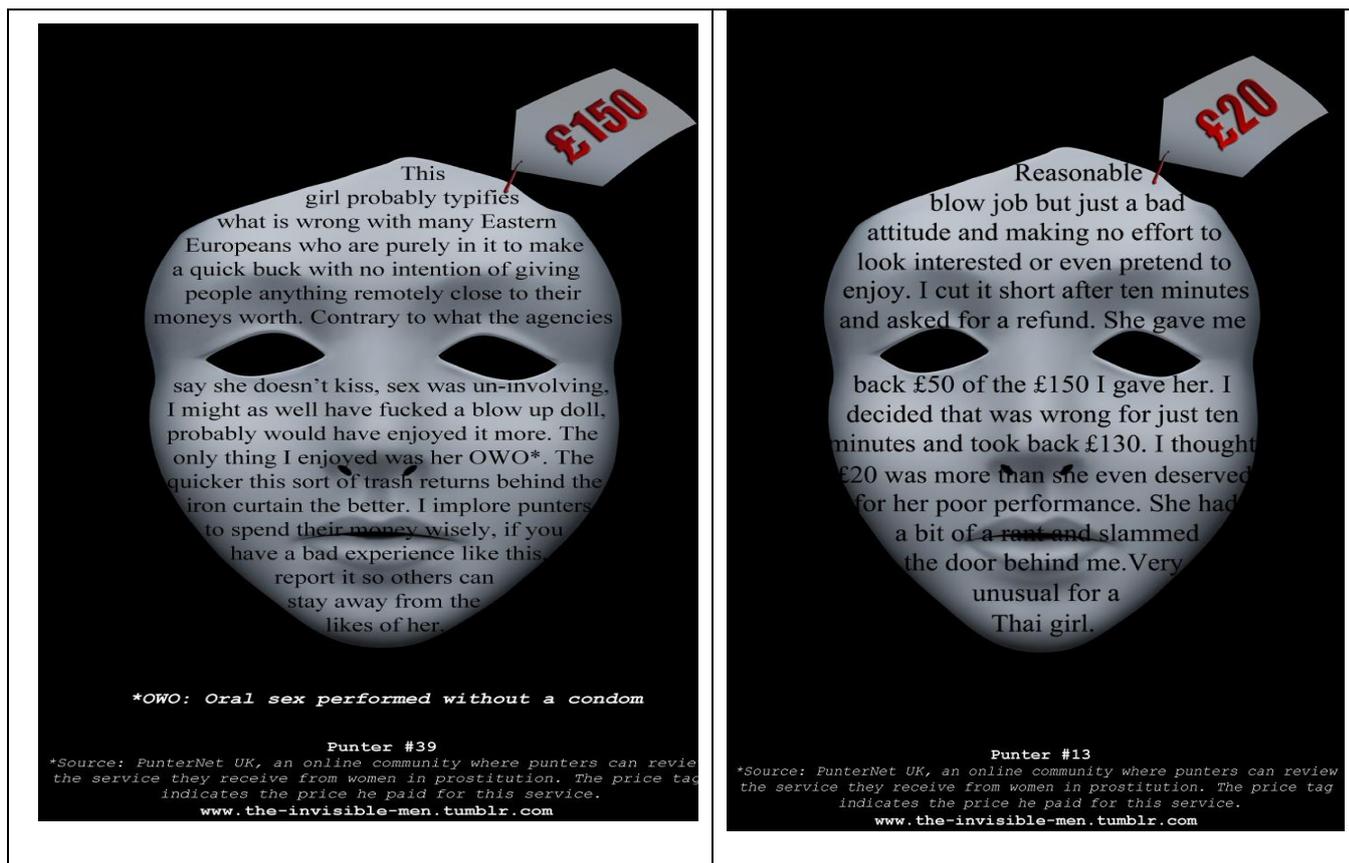
An investment in wide spread training and public education can challenge the high levels of social stigma faced by those who sell sex from the general public, healthcare and other service providers, and police. (Sanders, 2007b)

As in any market, escort agency managers, pimps and promoters need to promote their wares and the punters need to be able to find them. Irrespective of any legislative approach prostitution will never be that far “underground.”

When we look at online punter review sites we can clearly see stigma against those involved in prostitution. These men who have made a free choice to purchase sexual services highlight just what they think of the women with a range of dehumanising, reductive and callous reviews, reminiscent of reviews for other commodities.

The Invisible Men online exhibition brought the words, attitudes and behaviours of punters into public focus, and to invite people to consider:

*'What do you think about his choice?'*



Research undertaken in Middlesbrough with men arrested for kerb crawling revealed that more than three-quarters saw women who sell sex as dirty (89%) and inferior (77%). (Elliott et al, 2002)

A recent study with 101 men in the Boston area who buy sex and 101 men who do not indicates that sex buyers' perspectives are similar to those of sexually coercive men. (Farley, Golding, Schuckman Matthews and Malamuth and Jarrett 2015)

Neil Malamuth, one of the researchers, commented:

*"Our findings indicate that men who buy sex share certain key characteristics with men who are at risk for committing sexual aggression,"*

*"Both groups tend to have a preference for impersonal sex, a fear of rejection by women, a history of having committed sexually aggressive acts and a hostile masculine self-identification. Those who buy sex, on average, have less empathy for women in prostitution and view them as intrinsically different from other women."*

Roger Matthews (2009) has argued that the relationship in the buying of sexual services is not about sex but about the exertion of power:

*"... you can hear in their language (the punters) that actually a lot of this activity is not about what we might call sex. But it is about something else which very much looks like power."* (EHRC Pg 21 Give Prostitution the Red Light?)

Purchasing sex indoors is currently legal in Scotland so punters are not breaking the law. With this in mind it is interesting to note that this does not mean they have positive attitudes towards the women involved. Is it realistic to assume that once a

legalised system is introduced these men will suddenly start thinking of women in prostitution in a positive light and hand power and control over to them?

Legislation can be a powerful tool to help shape attitudes as to what is acceptable, which has been shown in other forms of VAW, witness the change in public attitudes around domestic abuse, from attitudes such as “It’s just a domestic”, and “You’ve made your bed so you’ll have to lie in it”, to pro-active legislation and policing targeting the perpetrators and Government funded public education campaigns.

The number of people who view prostitution as acceptable in Sweden has dropped significantly since the introduction of the legislative model, which decriminalizes women and challenges demand. (Waltman, M. 2011)

If one aim of a legalised system of prostitution is to make it safer then negative attitudes towards those involved in selling sex should be improved. To date there has been no research from New Zealand to assess the impact of the PRA on gender equality, men’s attitudes to women, and their attitudes towards women in prostitution.

**“I believe that people should be able to work together in an indoor location without this constituting a criminal offence and I am confident that the majority of the Scottish public support me in this. In a recent poll of Scottish residents by Survation 86.8% of those surveyed supported a change in the law to allow sex workers to work together indoors for safety. Pg 29, Prostitution Law Reform proposal**

The suggestion that public opinion supports this legislative proposal is based on the following question (commissioned by Scot PEP) and asked as part of a broad Survation poll: *“Currently it is illegal for two or more sex workers to work independently from the same premises. However, it has been argued that women working on their own are more likely to experience violence. Which of the following statements is closest to your opinion? The law should be changed to allow sex workers to work together or the law should not be changed.”*

The recently published results of the Scottish Social Attitude Survey 2014 on violence against women and girls would suggest a very different picture. This survey reports that 34% of those in Scotland surveyed thought paying for sex was ‘always wrong’ compared with 10% who thought it was not wrong at all.  
<http://www.gov.scot/Publications/2015/11/5577/2>

In the consultation on proposed legislative changes in 2012, the vast majority of those who responded supported the criminalising of the purchase of sex. There were 953 responses, with 88 from organisations. In the general responses, 80% were in favour of criminalising demand and in the organisational responses 70 were favour with 15 against.  
[http://www.scottish.parliament.uk/S4\\_MembersBills/FINAL\\_consultation\\_summary\\_Criminalisation\\_of\\_Purchase\\_of\\_Sex.pdf](http://www.scottish.parliament.uk/S4_MembersBills/FINAL_consultation_summary_Criminalisation_of_Purchase_of_Sex.pdf)

On this basis – it would seem that it is not easily accepted that many of the proposals outlined in this consultation would be acceptable to a majority of people in Scotland.

**Just recently, Amnesty International passed a motion to allow its International Board to develop a policy supporting decriminalisation.** P.g. 37, Prostitution Law Reform proposal

It should be noted that there has been great opposition to the passing of the motion by Amnesty International and it has been far from unanimously accepted. A number of Human Rights and women's rights organisation and Survivors Led groups opposed this motion and there are a number of challenges made to the assertions contained within it.

*"It is scarcely believable to us that you, Amnesty International, would be prepared to endorse a legal model that gives free reign to pimps and johns. In doing so, you would be prepared to actively work against your own human rights principles and compromise your integrity as an organisation with a stated human rights mission, yet this is exactly the mystifying and incredible situation you have presented us with. It must be pointed out that this proposed policy is in direct contravention to at least three UN conventions that address women's rights. The UN convention of 1949 articulates specifically that prostitution and trafficking and such slavery like practices "... are incompatible with the dignity and worth of the human person...." Article 6 of CEDAW states that " State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women." Article 9.5 in the Palermo Protocol calls on State Parties to take measures to discourage the demand that fosters the exploitation of persons that lead to trafficking. Decriminalizing the johns and traffickers is in direct contravention of the Palermo Protocol the UNs most recent instrument that addresses human trafficking."*

<http://spaceinternational.ie/wp-content/uploads/2014/01/Statement-opposing-Amnesty-Internationals-resolution-to-decriminalise-Pimps-and-Johns.pdf>

See also <https://abolishprostitutionnow.wordpress.com/2015/07/12/statement-by-prostitution-survivors-and-those-who-have-been-harmed-in-the-sex-trade/>

Many women's organization with years of experience providing services to those involved in prostitution also opposed this Amnesty decision –

*"We would expect a campaigning, visionary, aspirational and transformative organisation seeking to improve life and rights such as Amnesty purports to be – to be exploring ways to hold states to account to ensure that women have other options than prostitution, "*

*"This means focusing on women and girls' equal access to education, employment, financial independence and freedom of movement. It means focusing on ensuring that women wishing to exit prostitution have access to appropriate, specialist support and viable alternatives. It means challenging the fundamental inequality, power imbalance and discrimination inherent in prostitution".*

*"Amnesty's position, not only will fall short of its purported aim to improve women in prostitution's safety but lets governments off the hook for enforcing women's rights*

*and equality. It sends a message to men and boys that they are entitled to buy access to often marginalised, poor and abused women's bodies".*

<http://www.eavesforwomen.org.uk/news-events/news/a-betrayal-of-women-s-human-rights-amnesty-condemned-by-charity-specialising-in-supporting-trafficked-women-and-women-exiting-prostitution>

213 academics and researchers from 20 countries also opposed this decision -

*This policy would promote and expand the sex trade and has been shown to be associated with increased trafficking and increased prostitution of children and vulnerable adults based on race/ethnicity, sex, and poverty."*

<http://prostitutionresearch.com/wp-content/uploads/2012/01/AI-Press-Release-Petition-Aug-10-2015b.pdf>

A petition was launched by the Coalition against trafficking in women international (CATW) opposing this decision and to date has received over 11,000 signatures. It also developed a statement signed by over 400 advocates and organisations.

<http://myemail.constantcontact.com/Over-400-Urge-Amnesty-International-to-Vote-NO-on-Policy-to-Decriminalize-the-Sex-Trade.html?soid=1109945123909&aid=et6hSAUD2P4>

Only about 40% of Amnesty membership participated in this process and high numbers were not made aware of the consultation.

[https://docs.google.com/document/d/1MTXrG2VNF54IZ\\_COGTIVt\\_Pxp1HprKRG0yoeD6tGeo/edit?pli=1](https://docs.google.com/document/d/1MTXrG2VNF54IZ_COGTIVt_Pxp1HprKRG0yoeD6tGeo/edit?pli=1)

Amnesty UK (including Scotland) abstained to vote on this issue and do not see it as a priority area of work.

**their customers, a high proportion of violent attacks are committed by those who do not pay suggesting that some attackers are not genuine clients but**  
Prostitution Law

Reform proposal

We are concerned at the idea that any man who enacts violence against someone selling sex is not a punter but someone disguising themselves as a punter.

The suggestion that there are only "good" punters with the rare violent one would appear to be a retrograde step and reinforces the idea that it is somehow the responsibility of a person selling sex to pick up on the cues of a pseudo punter. This victim blaming concerns us. Men who pay for sex also commit acts of violence including pushing women beyond the stated boundaries

Punters are ordinary men, professionals, husbands, and fathers who believe that sexual consent can be purchased. They are the ones who make prostitution dangerous, they are the reason it exists, and they have to be held accountable for harm caused.

The fallacy of the safe regular punter is highlighted by the Ipswich murders. Steve Wright, a punter murdered 5 women in prostitution. He was well known, a regular punter and familiar to the women who solicited in the red light area. He had not appeared on any "ugly mug" warnings.

In 2006, former Superintendent Alan Canton OBE, who led the response in Ipswich said: *'From years of policing in this field, I believe that prostitution is dangerous and harmful regardless of whether it takes place on the street or in a flat. Sex buyers feel the present law gives them license to exploit vulnerable women - and they are right.'*

*'We can shut down the demand that is fuelling the exploitation of women through prostitution. And that is something I believe, as a society, we have a duty to do.'*

Suggesting that it is only “rogue” individuals disguised as punters who enact violence and abuse individualizes the interactions and fails to see the system of prostitution as a form of gendered oppression. This presents prostitution as simply a series of isolated, individual transactions.

In recent research funded by the EU, 736 punters were interviewed. They were found to have a complex view of purchasing sex. On the one hand they saw it simply as a transaction between two consenting adults but they also would not wish any friend or family member to be involved. Most of them reported seeing women in prostitution as being different from other women. One third had encountered exploitation including that of minors, but few had considered taking action around this. Even when they were aware of the indicators around trafficking and exploitation and encountered them, they were unlikely to do anything about it. (Stop Traffick: Tackling Demand for sexual services of Trafficked women and Girls” 2014.)

The idea that in a legalised system punters will share any concerns around coercion and trafficking has been shown to not be the case. In the Netherlands, there is a hotline for clients (and other people) to denounce anonymously any suspect on trafficking. According to official data, on average only 3% of notifications came from individuals (which apart from the clients could be family or friends of the victim).

Given that the purchase of sex indoors is currently legal in Scotland, punters do not report concerns. Crimestoppers promoted a confidential phone line on punter review sites encouraging men to report concerns around coercion, exploitation and trafficking. Following requests from statistics from Police Scotland, it would appear few, if any such reports were made.

This clearly counters some of the claims that the sex industry is self regulating and that punters will report underage and trafficked women. See for example: <http://www.niassembly.gov.uk/assembly-business/official-report/committee-minutes-of-evidence/session-2013-2014/january-2014/human-trafficking-and-exploitation-further-provisions-and-support-for-victims-bill-international-union-of-sex-workers/>

It is widely recognized that women in prostitution face a substantial risk of violence from punters. Violence is inherent in prostitution, in both street and indoor settings.

- A survey indicated that 22% had been subjected to assault in the course of their prostitution activities (Survey conducted by the Intermediary Project for Prostitutes in Amsterdam. 2007)
- Between 45-50% of prostitutes state that violence is their main concern, making it the main vulnerability factor for them. (Tam PEP 2009)

- *“Different studies found that the level of violence is comparable, and in some cases is greater indoors than outdoors”*. Vid. Transcrime (2005)

The Prostitution Reform Proposals aim to remove violence but this has not been shown to be the case in other countries such as Germany and the Netherlands, which have decriminalised the sex industry.

*“While some argue that legalisation of prostitution aims at improving the working conditions of women selling sex and should enable them to bring violent clients to court, the experiences in the two Member States which have fully liberalised the prostitution business prove that the situation has not changed.”* German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2007)

Punters continue to be violent and the fact that in Holland, brothels still must be equipped with "panic buttons" is illustrative of the high level of risk of violence that prostitutes face. (E.Schulze pg. 15).

Punters tend to minimise the phenomenon of trafficking and sexual exploitation, and ignore the signals of force and coercion they may encounter (such as marks, bruises, the presence of pimps, age, the fact that the prostitute does not speak the language, the price of the service etc.). According to a SOAIDS survey, 90% of the clients were unable to identify indicators of forced prostitution. Studies carried out by Farley et al (2014) and Di Nicola et al (2009) point that in general buyers are not deterred from buying sex when they know the prostitute has been trafficked or exploited.

## pg 36 Prostitution Law

### Reform proposal

We would dispute the notion that these are the only choices in addressing the sex industry. We would suggest the choice is between accepting that prostitution is inevitable and will perpetuate harm or challenging this oppression and moving to eradicate it.

“

**sell sex or not, are limited due to structural inequalities such as poverty, sexism, racism, transphobia and**  
**pg 36 Prostitution Law Reform proposal**

We are pleased to see a recognition on the limits placed on individuals' choices due to intersecting forms of inequality and discrimination. Whilst we agree that few people have unfettered choice in their life, we know that it is still women are disproportionately affected by prostitution. This consultation is based on needs of individual sex workers without a wider consideration of the wider social and economic inequalities influencing the system of prostitution.

WSP receives a small but growing number of calls and emails to the project from women who are involved in prostitution. A lot of them say that they chose to become involved but feel they no longer have a choice to leave. A number, whilst saying they choose this, acknowledge that they had little alternative options. We are concerned that any moves to legalise and normalise this industry presents it as something that a women could and by extension should do when faced with very difficult situations.

Roger Matthews 2008 states that *"The women involved in prostitution - particularly street prostitution - are not only among the most victimised group in society, but many of them are multiple victims. If the term 'victimisation' is to have any meaning, then those involved in prostitution must be prime candidates."*

<http://www.theguardian.com/lifeandstyle/2008/feb/29/women.ukcrime>

Until fairly recently public debate around prostitution has focused on the choice or lack of choice of the women (and some men) who sell or exchange sex for money, food, shelter, drugs or alcohol. The reasons for women becoming involved in prostitution are well documented and are led by: poverty and debt; prior experience of violence and abuse including childhood abuse and neglect, sexual violence and domestic abuse; and substance abuse. Recently the UK media has reported that Benefit cuts are forcing women into prostitution, see for example

<http://www.mancunianmatters.co.uk/content/250172354-government-cuts-force-women-prostitution-says-manchester-health-boss>

It is important to be clear that poverty, previous victimisation and drug addiction etc. are *factors*, which lead or force women and vulnerable men into prostitution, rather than the causes of prostitution itself. Few if any of these factors apply to the men who *choose* to buy sex, nor to third parties. There are at least two parties involved in prostitution transactions, i.e. the person buying sex and the person they are buying it from. Often there will be a third party who advertises, arranges or manages the transaction, or, in the case of trafficking, forces compliance.

This is why the demand to buy sex is seen as the root cause and the driving force behind prostitution markets. They are the ones making a free choice to engage in prostitution, with little consequence if they choose not to. Any approach that ignores the demand side also ignores the fact that if we could somehow solve all the problems of women currently in prostitution so that they could get out, it would only be a matter of time before other desperate women would replace them.

Whilst this proposal does not engage with notions of choice- neither does it confront the reality of the limited options and potential for those involved in selling sex to exit. If people exercise agency to become involved in prostitution – are they able to use the same agency to leave as and when they want? There are only 2 references made to exiting in this proposal (pg 26 and pg 35) with no call for or commitment made to resources or adequate long-term support services.

High numbers of those involved actually want to exit but face a lot of barriers in that process. Over 50% of women involved in indoor prostitution interviewed in a Scottish study wish to exit but a range of factors prevent this. (Matthews, R. 2010, pgs. 36; 52)

Mayhey and Mossman (2007) pg 20 identified a range of issues –

- *Social circumstances such as inadequate housing and drug addiction*
- *Inadequate or unavailable services and exiting support*
- *Women's partners may live off their earnings and may encourage (or insist on) continuing involvement in prostitution.*
- *Other economic advantages.*
- *complex needs*
- *disengagement from services.*

Low self-esteem and feelings of social exclusion are not uncommon (Hester and Westmarland, 2004) identify that low self esteem and social exclusion are key barriers with many, having lost social support networks.

Within a legalised model – where is the emphasis on support to exit and accompanying allocation / priority of resources?

### **Different models and approaches**

We agree it is time for a new legislative model in Scotland and along with other VAWG organisations have been calling for this over many years. Whilst it is useful to look at examples of different approaches and models in other countries to address the harms of the sex industry, any new approach should be based on the Scottish context, the culture and the experience here, drawing upon our leaning and experience of VAWG. As the consultation document highlights – other jurisdictions have developed specific approaches according to their own priorities and declared objectives.

Whilst we fully acknowledge the range of abuses of the Human Rights of those involved in selling sex on a global basis, we would challenge some of the assertions made in the proposal and how they currently apply to Scotland.

A model for Scotland should take cognisance of:

- Universal and free access to testing, treatment and health care including Sexually transmitted Infections and HIV
- Access to welfare and benefits
- Access to support and counselling services

### **Model of Regulation**

The Netherlands and Germany changed their legislation with the objectives to:

- protect women from exploitation
- empower women entering the prostitution business.
- end stigmatisation by recognising legally and politically their way of working and earning money
- improve the working conditions of women selling sex.

In the Netherlands they aimed to achieve this by providing them with a status of independent worker, and in Germany by enabling selling sex with an employment contract.

The UN Special Rapporteur on Trafficking does not believe these objectives have been met. Even organisations representing women selling sex, while rejecting the allegation that all women would be exploited in prostitution, admit that the working conditions are still very bad.

A study carried out in 2007 in The Netherlands by the Federal Ministry found that:

- The overwhelming majority of prostitutes worked without contract (95%) and considered themselves self-employed,
- There was a high level of control of their work by brothel operators.
- The majority of prostitutes were not entitled to any social service benefits.

- The emotional wellbeing of prostitutes has declined between 2001 and 2006 according to every variable assessed, i.e. the extent of distress was higher and the use of sedatives had increased (Pg 71)
- Only a small minority of municipalities (6%) offered an exit program to those in prostitution.

In a study commissioned by the Federal Government in Germany found that:

- Authorities now they need to provide evidence that prostitution is practised under coercion, which is difficult to obtain, and therefore makes the prosecution of these offences more difficult.
- 20% of police representatives perceived a restrictive effect on their ability to carry out investigations and bring prosecutions in the field of pimping, exploitation, and trafficking in human beings.

Another study (BMFSFJ (2007), found that :

- 92% of women working as prostitutes and interviewed for this survey had suffered sexual harassment, 87% physical violence and 59% sexual violence.
- 41% of prostitutes had experienced violence in the context of performing sexual services.
- Around half of the interviewees showed symptoms of depression, a quarter had contemplated suicide, and 41% had taken drugs in the last year.
- 43% of the prostitutes surveyed had been sexually abused in their childhood.

In Germany, 55 women in prostitution have been murdered since 2002 when prostitution was legalized. There have also been 29 attempted murders.

In the Netherlands 28 women in prostitution have been murdered since 2000, when prostitution was legalized.

### **New Zealand model**

*“For the most part the women in prostitution who I talk to don't really seem to care about their human rights. The stigma and shame of prostitution is still very strong even after decriminalization. The women I see feel that prejudice intensely. One of the women we work with was raped in prostitution since decriminalization. She told us, however, that she felt that ‘it was part of the job’ of prostitution. Of all the women I've worked with, none of them told me that when they were little girls they dreamed of growing up to be prostitutes.” -*

Director of an Auckland agency providing services to women in prostitution, 2008.

<http://www.prostitutionresearch.com/Report%20on%20NZ%2010-29-2008.pdf>

The model implemented in New Zealand through the Prostitution Reform Act (PRA) 2003 forms the basis of the proposals outlined in the proposal for Scotland. This model was passed by a very narrow majority of one.

We would challenge the assertion that this model has resolved many issues around the safety of those involved in selling sex.

The New Zealand Prostitution Law Review Committee Report in 2008 noted that:

- The majority of sex workers felt that the law could do little about violence that occurred (page 14)

- 35% felt they had to accept a client when they didn't want to in last 12 month (page 46)
- A majority of respondents felt that decriminalization made no difference with respect to the violence of punters in prostitution – they felt that it was inevitably a part of the sex industry. (page 57)
- “Few” sex workers, regardless of whether they were prostituting indoors or outdoors, reported any of the incidents of violence or crimes against them to the police. (page 122)
- “Despite decriminalization, the social stigma surrounding involvement in the sex industry continues.” (page 154)
- Many owners of brothels have the same exploitive contract arrangements that existed before prostitution was decriminalized. Often no written contracts or were of questionable quality. (page 157)

<http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/plrc-report>

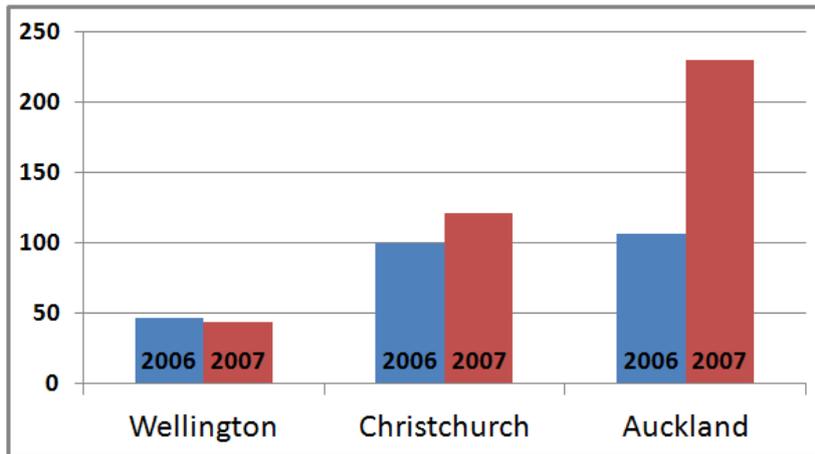
In 2012, the Stop Demand organization in New Zealand published a summary of the impact of decriminalisation from 2003. The findings included:

- Increased numbers of children and young people, including overseas students and foreign women involved in prostitution.
- The normalisation of prostitution and continuation of violence and exploitation of women involved
- A negative impact on residential and business communities and problems for local councils trying to manage street prostitution
- An increase in brothels, including a dramatic increase in unlicensed brothels, with links to organised crime and sex trafficking

[http://www.parliament.nz/resource/en-nz/50SCJE\\_EVI\\_50DBHOH\\_PET3153\\_1\\_A399972/a0b6cf27ccee5f90b0af263d7050c4fd05c559e](http://www.parliament.nz/resource/en-nz/50SCJE_EVI_50DBHOH_PET3153_1_A399972/a0b6cf27ccee5f90b0af263d7050c4fd05c559e)

There has been an increase in the numbers of women selling sex on the street since the PRA was introduced. The Committee report claimed that “*the street-based sex workers have remained stable since the enactment of the PRA, with comparable numbers on the streets to estimates done prior to decriminalization. The Committee endorses the findings of the CSOM (Christchurch School of Medicine) that the enactment of the PRA has had little impact on the numbers of people working in the sex industry.*”

The table below shows figures which contradict the assertions of the Committee Report and illustrates that street based prostitution actually increased in certain areas.



The control of the market has proved problematic –

“In terms of providing a legal controlled and regulated market – the PRA has failed. In total there were 140 brothel or prostitution-related offences reported last year, plus a further ten associated with breaches of the Massage Parlours Act. “

(Jordan 2007 pg 8)

The PRA is reliant on effective enforcement by the Police but this has been highly selective and idiosyncratic. Major cities such as Auckland and Wellington have only two or three designated officers with Vice Squad responsibilities.

Not all areas of New Zealand have found the PRA a success in terms of controlling the market and there have been recent moves to review the law and the powers afforded to local areas.

*“Those unwilling or unable to operate legally (including meeting the legal obligation to pay taxes), can continue to operate illegally. Before, their business was illegal because prostitution was illegal; now their business is illegal due to their tax evasion in the shadow economy.”* (Jordan 2007)

*“Estimates indicate that the number of street workers in Manukau City may have quadrupled since June 2003....”*

Manukau City Council, *Report of Manukau City Council on Street Prostitution Control*  
[http://www.manukau.govt.nz/uploadedFiles/manukau.govt.nz/Publications/Plans\\_&\\_Policies/mcc-report-on-streetprostitution-aug-2005.pdf](http://www.manukau.govt.nz/uploadedFiles/manukau.govt.nz/Publications/Plans_&_Policies/mcc-report-on-streetprostitution-aug-2005.pdf).

The Review Committee Report highlights that there has been dissatisfaction with increased street prostitution in two large communities in New Zealand: Christchurch and Manukau. (page 16).

*“In these same two communities, Christchurch and Manukau, street prostitution has shifted into traditionally residential areas where community residents harassed those in prostitution and people in street-based prostitution “propositioned members of the public, were aggressive, disruptive, and noisy.”*

*Complaints from residents included “condoms, excrement, and other bodily waste” left in the street, shops, car parks, and on private property. P (124)*

Even a former Mayor and survivor of the sex industry Georgina Beyer, who originally pushed for the legislation thought that law makers had glossed over the issue of

street prostitution "We thought, naively, that with the liberalisation of prostitution, that it would not be desirable necessarily to be a street worker."

[http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10875922](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10875922)

It is questionable as to whether the PRA has been effective in reducing the violence women in prostitution still face from punters.

*"The majority of sex workers interviewed felt that the PRA [New Zealand's Prostitution Reform Act] could do little about violence that occurred, though a significant minority thought that there had been an improvement since the enactment of the PRA. Of those feeling in a position to comment, the majority felt sex workers were now more likely to report incidents of violence to the Police, though willingness to carry the process through to court is less common"*

New Zealand report - <http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/plrc-report/report-of-the-prostitution-law-review-committee-on-the-operation-of-the-prostitution-reform-act-2003>

It is notable that the law seems to have little effect on the violence women face from punters but it is positive that they felt more likely to report this to the police. Relationships therefore with law enforcement can be changed, though we would suggest that increased positive communication and trust result with a set of alternative legislative approaches.

*"In one six month period in 2006 the Prostitutes' Collective in Christchurch New Zealand said that there had been 147 reports to them of violence against prostitutes in that city, where two women had been murdered in one year."*

<http://webcache.googleusercontent.com/search?q=cache:D1EQ89GkeU8J:www.catwinternational.org/Content/Images/Article/455/attachment.doc+&cd=13&hl=en&ct=clnk&gl=uk>

In the 12 years since the law was passed, there has been 4 murders of women in prostitution by punters.

Abel, Fitzgerald and Brunton 2007 found that women in prostitution continued to experience stigma, had on-going physical and mental stress. They discussed not telling their doctor of their occupation because they thought that there was stigma attached to sex work (pg. 12)

In this study, those involved in street prostitution were more likely to report problematic behaviour from punters with:

- refusal of a client to pay,
- money stolen by a client,
- physically assault by a client,
- threats from a client with physical violence,
- being held against their will and
- having been raped in past 12 months. (Pg. 12)

Few participants reported adverse incidents that had happened in the past 12 months to the police (pg. 13)

Study participants from all sectors of the sex industry spoke of the frequency of clients requesting unprotected sex.

In terms of empowerment, there was an increased awareness of their rights but women were still confused as to what their rights were and how the PRA impacted on them.

A matter of great concern is the lack of support available to those who want to exercise agency to exit. A woman who gave evidence to the New Zealand Parliament said :

*"I find it hard to believe that people can believe that many workers do not wish to leave the industry. For myself I was trapped. I didn't have a pimp but I couldn't see a way out. Prostitution gave me an unlimited supply of alcohol and other treats. I wasn't happy. My self-esteem was low. Sure the money was good, and I made some awesome new friends but it wasn't worth all the times that I was petrified as I never knew if I was going to be raped or even murdered the next time I had a client. I didn't really see any benefits from prostitution except for the money and when you compare it to the downside of being scared a lot of the time, it wasn't worth it. It just caused me to be diagnosed with Post-Traumatic Stress Disorder many years later."*  
[http://www.parliament.nz/resource/en-nz/50SCJE\\_EVI\\_50DBHOH\\_PET3153\\_1\\_A399972/a0b6cf27ccee5f90b0af263d7050c4fd05c559e](http://www.parliament.nz/resource/en-nz/50SCJE_EVI_50DBHOH_PET3153_1_A399972/a0b6cf27ccee5f90b0af263d7050c4fd05c559e)

However, "Currently no model of best practice to assist sex workers to leave the sex industry has been developed." Catherine Healy June 2009  
<http://prostitutescollective.net/2009/06/11/summary-of-the-new-zealand-prostitution-reform-act/>

In 2006, an Auckland lawyer declared decriminalization a "disaster" which had resulted in an "explosion" of children in prostitution in Auckland and Christchurch, three murders of people in prostitution, and local businesses complaining of prostitution occurring on their premises and used condoms littering streets and doorways. (<http://www.stuff.co.nz/stuff/0,2106,3640007a11,00.html> April 17, 2006)

Mama Tere Strickland, a Maori street outreach worker stated that in 2005, the numbers of those prostituting on the street in Auckland have increased by 400% since decriminalization.  
[http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10651252](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10651252)

Debbie Baker, the manager of Streetreach, a group supporting street sex workers, said she knew of at least 12 girls between 11 and 15 "out there selling themselves for sex" in the central city.  
[http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=10835868](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10835868)

This concern around the exploitation of young women is echoed by the Prime Minister for New Zealand who said: *"Has it worked or probably not, there are still a lot of reports of young people being engaged in prostitution well and truly below the age which Parliament set which was 18."*  
<http://www.3news.co.nz/politics/debate-begins-over-auckland-superbrothel-2012111208#ixzz3tjAJxize>

Far from providing an ideal model to be transferred to Scotland, there would appear to be fundamental flaws with the PRA.

We suggest the development of an alternative comprehensive model for Scotland, which promotes the rights and needs of those involved in prostitution whilst challenging long held assumptions around entitlement and inequality.

### **A way forward for Scotland – a new model**

*“We want women to be safe, but we also want women to be human. We want women to have rights, but we also want women to have real choices. We want respect and equitable treatment for women but we don’t believe that johns will ever provide this. No man who thinks he has the right to purchase women is a man who believes in real equality and a man who can legally do this is a man who thinks that this is what women should do for him. No woman should be thrown in jail for having to do what she needs to in order to survive, but certainly we don’t need to accept and legalize exploitation from men in order to decriminalize the women?”*

<http://www.feministcurrent.com/2011/11/07/why-does-the-left-want-prostitution-to-be-a-job-like-any-other/>

Prostitution is a complex issue but this complexity should not prevent Scotland from developing its own approach. A strong foundation of work and expertise on gender equality and gender based violence should underpin any future legislative and policy changes on commercial sexual exploitation. Scotland’s VAW approach grew from direct work with those affected and as a result focused on targeting perpetrators. Scotland has developed innovative approaches, which have focused on those who choose to commit violence e.g. Domestic Abuse Courts.  
[www.gov.scot/Publications/2007/03/28153424/0](http://www.gov.scot/Publications/2007/03/28153424/0)

In no other area of gender-based violence do we say that the abuse is inevitable, part of human nature or insurmountable. Scotland should not therefore move towards normalising this violence and making it an acceptable business or a form of leisure and entertainment.

***We are emphatically against*** the wholesale decriminalisation and legalisation of the sex industry, which serves only to legitimise the systematic abuse of women in prostitution by buyers, pimps, brothel owners, organised criminals and traffickers. *Where else in law would you seek to legalise or decriminalise the actions of those who profit or benefit from the exploitation of others?*

***We support*** Equally Safe, the Scottish Government’s Strategy on Violence against Women and Girls i.e. we want to prevent and eradicate the harm of prostitution. We want to live in a Scotland founded on gender equality, which sends a clear message that gender-based violence, in any form, is fundamentally unacceptable within our society.

***We support*** existing legislation in Scotland that holds men to account for perpetrating abuse against women and children and wish to see this extended to include specific legislation aimed at preventing and addressing the harm of prostitution.

Given this, the WSP            to secure comprehensive legislation in Scotland, which would:

- Decriminalise individuals (mostly women) exploited through prostitution
- Provide long term support and exiting services for those exploited
- Criminalise the buyers of sex (mostly men) in all settings - on street, off street and online.

Both challengers and defenders of prostitution agree that those who sell sex should be decriminalised and advocate the provision of harm reduction interventions and support to exit prostitution.

Challengers and defenders disagree on the pros and cons of decriminalising or legalising the sex industry per se, including buyers, pimps and brothel owners.

The crux of disagreement centres on whether or not prostitution is viewed as a form of violence against women.

If, alongside trafficking, sexual violence and domestic abuse, prostitution is seen as a form of violence against women, it is then recognised as part of a continuum of harm, which should be prevented and eradicated.

On the other hand, for those who don't see prostitution as violence, it is elevated to the status of work and framed in terms of 'agency' and 'empowerment' for the women involved. It is then something to be regulated, rather than prevented or eradicated. <sup>i</sup> We support the establishment of a legislative framework in Scotland that is founded on addressing the <sup>ii</sup> of prostitution i.e. gender inequality and the demand for men to buy sexual access to women.

Given that Scotland's Equally Safe Strategy already defines prostitution as a form of violence against women, it is totally incompatible to introduce the proposed changes to legislation. A more logical step for Scotland is to adopt a Challenging Demand approach.

#### **Decriminalising women in prostitution would mean that they would:**

- No longer be jailed for non-payment of fines
- Retain their tenancies and contact with their children
- No longer have a criminal record thus removing a barrier to employment.
- 

#### **Providing service support to those involved in prostitution would:**

- Reduce immediate harm in relation to substance misuse and sexual health
- Address the mental health issues and complex trauma associated with prostitution
- Enable those involved to consider their options to move on from prostitution at time which suits them best
  
- Support the implementation of
- Address the root cause of sexual exploitation and trafficking
- Prevent women and vulnerable men becoming involved in prostitution in the first place
- Address gender inequality and associated cross cutting inequalities such as poverty, homelessness, health and employment
- Act as a lever to deliver a clear message that women, children and vulnerable men in Scotland are not commodities to be bought for sexual gratification

#### **In summary:**

- It will not be possible to achieve gender equality in Scotland so long as vulnerable women and men continue to be exploited through prostitution.

- Prostitution and trafficking form part of the continuum of commercial sexual exploitation, which in turn forms part of the wider spectrum of gender based violence.
- Prostitution markets are driven by the demand from men to buy sexual access to women, vulnerable men and children.
- Prostitution and trafficking are governed by the principles of supply and demand.
- Involvement in prostitution brings long term negative health consequences
- Prostitution and trafficking are linked to huge profits and organised crime, both internationally and nationally.
- Disrupting and reducing prostitution markets will reduce trafficking into Scotland for the purposes of prostitution

### **Consultation questions.**

#### 1. Do you support the general aim of the proposed Bill?

We support the general purpose of the Bill to *promote the safety and uphold the rights of people selling sex in Scotland*. We agree that there is violence and exploitation within the sex industry.

We agree that those who are involved in prostitution should not be criminalised. 'Equally Safe' names commercial sexual exploitation as part of the spectrum of gender based violence against women, yet women and men involved in street prostitution are still being convicted for soliciting offences. In no other area of VAW are those who are directly affected penalised under legislation. We have consistently supported and called for changes in legislation to address this and are pleased to see this at the forefront of the current proposals under consultation.

We do not share the view that prostitution is a form of legitimate work or that it should be managed or regulated as such. We do not support the decriminalisation of activities where profits are made from the prostitution of other, such as pimping and brothel management. These proposals stand in complete opposition to the considerable work and investment undertaken in Scotland to date to tackle male violence against women.

#### 2. Do you agree that the New Zealand Prostitution Reform Act is a model for Scotland to follow?

*"It is obvious that a real change in this field presupposes a radical reconsideration of men's responsibility in prostitution. The basis of such a reconsideration is that prostitution must be defined as a male issue. Prostitution is about men's sexuality, not women's. Without men's demand for prostituted women, there would be no such women."* Monto (2000)

No, we do not agree that the PRA is a model for Scotland to follow.

The model adopted in New Zealand is not one we would support in Scotland. We do not believe that simply decriminalising the sex trade will remove the harm and believe that instead it risks an increase in sexual exploitation.

It is not desirable to take a model that has been developed in one country and impose it on another. We would prefer to look at developing and implementing a new Scottish model which fits with national outcomes, is based on our experience of VAW, and utilises the expertise which has been developed through direct service provision alongside those who have been affected by prostitution. This model would be aligned with the aims of Equally Safe, which recognises the inherent imbalance in power between men and women in society, which in turn is mirrored and reinforced through prostitution. It would aim to prevent and reduce levels of gender based violence as well as change cultural attitudes that perpetuate such abuse. Reducing demand to buy sex is fundamental to reducing violence against women and children and achieving gender equality and must be at the core of all work to tackle the harms caused through prostitution.

There is no critical review of the New Zealand model in the consultation document and as outlined in earlier sections, we have highlighted some of the problems that exist with this model. The CATW in New Zealand highlighted concerns in 2007 in a shadow report to CEDAW (Instone, T and Margerison, R., 2007) -

- A rise in the number of unregulated brothels and a suggested expansion of the sex industry a whole.
- Conflict over prices charged for sexual activity which suggests those involved in selling are not in full control with the power still lying with punters and managers / pimps.
- An increase in the involvement of organized crime in the sex industry
- A rise in the sexual exploitation of young women under the age of 18. This would give serious concern for the National Working Group on Child Sexual exploitation in Scotland.
- The PRA has reportedly made it much more difficult for police to target and prosecute men who buy sex from sexually exploited young people. This led to an investigation into the prostitution of children in NZ.
- Vulnerable indigenous (Maori and Polynesian) women and girls under 18 are over represented in the sex industry.
- An increasing number of migrant women in NZ brothels, working illegally and therefore not afforded any kind of 'worker' protections.

There are also concerns that the PRA has in effect turned to Government into “a pimp through profiting in license fees and in taxes from this form of violence against women.”

Kelly, Coy and Davenport (2009) found that:

*“At the same time, evidence of physical and sexual assaults persisting emerged, with the majority of those selling sex who were interviewed making clear that they did not think the PRA could protect them from the violence in prostitution.”*

These findings lead Kelly *et al* to conclude that with regard to improvements for those selling sex in brothels in NZ “*the PLRC places its trust in negotiations between women and owners, and that such voluntary compliance will ‘evolve naturally’ within the current legislative framework. This, to our eyes, is considerably short of the rights based approach that New Zealand has promised and claimed...Whilst decriminalisation in New Zealand has not had the kind of unintended consequences*

*associated with legalisation, it has also yet to deliver on many of the hoped for changes in the organisation of prostitution, and regulation has been consistently under-enforced.”*

### 3. What (if any) would be the main advantages of the legislation proposed?

An advantage would be the decriminalisation of the sale of sex in public places. This would mean that women and men involved in selling sex would -

- No longer be convicted of soliciting offences thereby removing one barrier to future employment
- No longer be jailed for non-payment of soliciting fines
- No longer be under pressure to have money to pay such fines and potentially have to return to selling sex to do so.
- No longer be defined as ‘a known prostitute’

This could also support those selling sex to report violent crimes committed against them to the police.

However there are risks to decriminalising street prostitution without the introduction of adequate safeguards to prevent vulnerable person entering the sex industry. See information above on benefits cuts impacting disproportionately on women.

### 3.b What (if any) would be the disadvantages?

The proposed legislative changes do not acknowledge the influence of gender and class, particularly how these impacts on who will be prostituted and who will benefit. There are many potential disadvantages to the introduction of a system, which effectively legalises all aspects of the sex industry.

Decriminalising activities such as kerb crawling, pimping and brothel keeping legitimises exploitation and would undermine work on gender equality in Scotland. Furthermore we believe that it would make Scotland a more attractive target for traffickers, particularly since neighbouring countries have implemented or are considering further legislation to challenge abuse through prostitution and trafficking. See for example,

- “On average, countries where prostitution is legal experience larger reported human trafficking inflows”  
[www.lse.ac.uk/geographyAndEnvironment/whosWho/profiles/neumayer/pdf/Article-for-World-Development-\\_prostitution\\_-anonymous-REVISED.pdf](http://www.lse.ac.uk/geographyAndEnvironment/whosWho/profiles/neumayer/pdf/Article-for-World-Development-_prostitution_-anonymous-REVISED.pdf)
- ‘Paying for sex becomes a crime in Northern Ireland’ [www.bbc.co.uk/news/uk-northern-ireland-32955767](http://www.bbc.co.uk/news/uk-northern-ireland-32955767)
- ‘Irish Government proposes new legislation on paying for sex’.  
[www.bbc.co.uk/news/world-europe-30242641](http://www.bbc.co.uk/news/world-europe-30242641)
- 

These proposals fail to address the involvement of organised crime in the sex industry in Scotland. We are concerned that the full decriminalisation of the sex industry gives the opportunity for further exploitation with little opportunity for controls and effective sanctions.

### 4. Do you agree that current laws against soliciting and kerb-crawling should be repealed?

We agree with the repeal of legislation that penalises women and men who solicit for sex in a public place.

We strongly disagree with repealing of legislation for loitering or soliciting to buy sex in a public place, commonly referred to as 'kerb crawling'. This would remove an offence that allows Police and Local Authorities to challenge the behaviour of men who cause nuisance and disruption in communities. It would also send the message that this behaviour is acceptable.

Any moves to legitimise the purchase of sex sanctions the bodies of women as acceptable commodities and institutionalises of the rights of men as purchasers of these bodies. It serves to normalise sexualised inequality and reframes this as an acceptable form of work. This is a backward step that contradicts and undermines the work of both the Scottish Government and many direct service providers in VAW who see prostitution as inherently harmful.

We would prefer to see legislation on buying sex being extended to the purchase of sex in all settings and venues. This extension would reflect the changing nature of the sex industry, which has moved indoors in recent years. This widening of the law places focus on the act of purchasing sex, not on the location.

5. Do you agree that small groups of up to four sex workers should be legally entitled to work collectively from the same indoor premises?

No we do not agree.

Those selling sex should not be criminalised for doing so but we do not support the legitimisation of brothel keeping under the guise of safety. We have concerns about a move to consider groups of individuals together in an unlicensed, "Small Owner Operated Brothel". This would classify the situation as a business and give it a degree of legitimisation. Costs for developing guidance and for regulating and overseeing operation of licensed brothels could be considerable. In New Zealand, few women had the resources on hand to set up a SOOB and instead – had to sell sex in the larger licensed brothels.

In addition this proposal ignores the inherent harm of prostitution, which is constantly having to submit to unwanted sex. Once again legalising or decriminalising an activity does not make the harm disappear.

We would support the development and allocation of resources, which help to keep women safer. Harm reduction interventions are at the core of a challenging demand model, supporting those involved in selling sex to identify and utilise a number of ways to keep themselves as safe as can be possible. However harm reduction will not in itself end sexual exploitation and it must be accompanied by medium and long term strategies to reduce demand and so reduce harm.

6. Do you agree that the licensing regime already in place for sexual entertainment venues should be extended to cover indoor premises where more than four sex workers are employed?

No we do not agree.

We would not support a system of licensed brothels in Scotland. This would effectively endorse and introduce brothels as legitimate businesses and lucrative

ventures where profits are made from the sexual exploitation of others. We do not see how such a licensing regime would fit with a VAW approach in Scotland.

There is the potential for exploitation of such a system with the focus moving onto occupational hazards and standards and as is mentioned above there would be considerable costs involved in regulation. Evidence from elsewhere highlights the difficulties in developing guidance or 'national standards' for what is in nature an exploitative business. See for example this excerpt from the State of Victoria Prostitution Control Regulations, Part 2—Health and Safety Requirements Prostitution Control Regulations 2006

4 (2) A licensee and the approved manager must ensure that persons acting as receptionists or telephone receptionists for the licensee's business do not—

(a) misrepresent the qualities of any prostitute; or

(b) negotiate on behalf of a prostitute the sexual services to be provided by the prostitute.

(3) If a business is, or includes a brothel, the prostitution service provider and the approved manager must ensure that—

(a) all rooms used for prostitution have a concealed alarm button, or equivalent communication device, that is in working order and can be easily accessed by the prostitute throughout the delivery of sexual services; and

(b) all rooms used for prostitution have sufficient lighting to enable prostitutes to check for readily evident signs of sexually transmitted diseases; and

(c) a safe-sex sign containing an illustration that depicts the whole or a portion of an adult male wearing a condom is prominently displayed in the reception area of the business and in every room used for prostitution.

*“Regulation is invariably under-enforced and under-resourced, with a lack of clarity in law and policy as to who is responsible. This has led, in many regimes, to unchecked growth in illegal sectors and/or a failure to police the exploitations of prostitution offences. Both create disincentives for the licensed sector to comply with policy goals.”*

Liz Kelly 2003 –A critical Examination of responses to prostitution in 4 countries.

7. Do you agree that the laws on living on the earnings of prostitution and procuring should be repealed and that there is a need for more stringent and robust laws against coercion in the sex industry modelled on the New Zealand Prostitution Reform Act?

At this stage it is difficult to provide a definitive response to this question and all the differing elements in it.

We agree that there is grooming, manipulation and coercion within the sex industry and this needs to be addressed.

A consultation has recently closed on the Abusive Behaviour and Sexual Harms Act and there is potential to use parts of this proposed legislation to support those in prostitution.

We are awaiting further information as to how the current law on living on the earnings of prostitution has been used in Scotland. We of course would oppose any enforcement, which would be oppressive to any non-abusive family members of

those involved in the sale of sex and as yet are awaiting evidence that flatmates have been targeted under such legislation.

It is very difficult to prove force / coercion and we believe that the proposals do not recognise that vulnerable women are often pimped by partners and that this can also be within the context of domestic violence. (Bindel et al 2014) Women in situations of domestic violence find it difficult to report this to authorities and we do not see the current proposals changing or dealing with the coercion experienced by women in prostitution.

Ruhama, an organisation working to support women involved in prostitution in Dublin highlighted the control, manipulation and grooming technique used by pimps. These include:

- A controller (an intimate partner or otherwise) will threaten the safety and even the lives of the woman, her children and other people she loves if she ever attempts to seek help
- A woman/girl is 'coached' by her controller to answer questions by the authorities or support providers in a way that deflects or avoids raising their concerns
- A controller will instil a deep mistrust and fear of authority in the woman/girl he is controlling – e.g. by telling her that the police are corrupt/will deport her/that he has 'friends in high places' that will report back to him if she 'steps out of line'
- Less overtly, a controller will groom a woman/girl to believe that she is proving her love for him by remaining in prostitution or that she does not really need or indeed deserve any assistance or any better kind of life

(Breslin, R., 2015.)

We are concerned that that if the existing legislation on living on the earnings of prostitution and procuring should be repealed there may be inadequate safeguards to prevent coercion and exploitation, especially from partners and family members. .

If all laws relating to the living on the earnings of prostitution and procuring were repealed this could effectively mean a system of legalised pimping which would again reinforce the idea that women's bodies are a commodity for profit.

#### 8. Do you agree that there should be a statutory right for sex workers to refuse to provide, or refuse to continue to provide, sexual services?

Women should always have the right to refuse to engage in a sexual activity or to withdraw from a sexual activity of any kind at any time, whether or not payment in any way involved. We believe that women should be supported to pursue any incidence of sexual violence or assault through the criminal justice system, if they so choose.

The idea of introducing a statutory right to refuse or withdraw from sexual activity in prostitution would set women in prostitution apart from other women - and even to propose this is an inherent recognition that the very nature of prostitution places women at a disadvantage with regard to punters, pimps and managers.

Research with men who buy sex has highlighted that some men who buy sex consider that the payment of money takes the place of consent and entitles them to do whatever they want. (Coy, Horvath & Kelly 2014)

Public education campaigns and discussion around consent can help inform people of the law and potential penalties around sexual violence.

9. Do you agree that there should be a statutory obligation on brothel operators to ensure safer sex supplies are made available on their premises?

We support easy access to condoms and any method of barrier contraception, which provides protection around sexually transmitted infections (STIs), blood borne viruses or unplanned pregnancies. Currently in Scotland these are freely available through sexual health services and specific clinics / projects. We feel it is appropriate for harm reduction services to be funded and resourced to engage with women in prostitution in all settings. Harm reduction alone is not enough to support those who have experienced trauma in prostitution and those who are seeking to exit the sex industry. Harm reduction work should not be done in isolation and needs to be part of a more comprehensive approach which deals with all of their physical, sexual and emotional needs, and not just those that relate to their immediate safety.

With the positioning of prostitution as legitimate work within licensed brothels, the risk of STIs would become redefined as occupational hazards as opposed to highlighting the unequal relationship between buyers / punters and those in prostitution. Women and men who are involved in selling sex are not always able to remain in control of their sexual health, having to compromise on the wishes and demands of punters for unprotected and unsafe sex.

We do not support the use of condoms being used as evidence in investigations around brothel keeping as we feel this places undue additional pressures on those selling sexual activity when the focus should be on those organising, managing and profiting from brothel keeping.

10. What is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation?

With the introduction of this proposed legislation – services funded under VAW may risk the loss of funding. If prostitution is seen as a form of employment – regulation could fall under employment and occupational health. It would no longer be seen as an equality issue and therefore services, which use a VAW approach, may not be funded. All the expertise and experience gained over many years would no longer be available to those involved in prostitution.

The WSP receives a small but growing number of support enquiries about prostitution, including; women who have been involved; people who have a friend or relative involved; and people concerned about a brothel in their neighbourhood. We have also been contacted by men who have developed a 'personal relationship' with women in prostitution, and/or who want to 'rescue' a woman' as well as men who have bought sex and want to report poor conditions and/or coercion of women.

We do not currently receive dedicated funding for support work around prostitution - any current support and information work has to be funded through fundraising and donations. We do not advertise a support service for issues around prostitution but nevertheless this is currently the largest single area of support enquiry. We anticipate that this demand will increase as the sex industry expands and additional resources will be required to meet this new area of enquiry. We do not see that decriminalising prostitution would end the harm involved or necessarily reduce the number of support calls.

10 b. What (if any) other significant financial implications are likely to arise?

We see significant costs to operating an efficient Licensing and policing system. This is resource intensive and would place much additional demands upon local Council and authorities.

For more information see

[http://www.equalitynow.org/sites/default/files/Does\\_Legalizing\\_Prostitution\\_Protect\\_Women\\_and\\_Girls\\_EN.pdf](http://www.equalitynow.org/sites/default/files/Does_Legalizing_Prostitution_Protect_Women_and_Girls_EN.pdf)

There is likely to be health consequences for those involved in prostitution, which would require short, medium and long term resources with implications for NHS funding and services.

The American Journal of Epidemiology reported on research, which found that women in prostitution were 18 times more likely to be murdered than non-prostituted women. [www.aje.oxfordjournals.org/content/159/8/778.full](http://www.aje.oxfordjournals.org/content/159/8/778.full)

Apart from the obvious human cost this also involves significant costs to the criminal justice system. Press reports put the cost of one (as yet unsolved) murder investigation in Glasgow at more than £4million

<http://www.deadlinenews.co.uk/2011/11/16/murdered-prostitute-case-cost-police-4-million/>

11. Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

The proposals are likely to have significant negative implications for gender equality.

Whilst the proposals are framed in supporting the human rights of those involved in selling sex – we see that the main beneficiaries are those who gain or profit from the sex industry. The suggested changes do not address or tackle wider inequalities and instead reframe them as issues of employment or labour. Legalising harm and exploitation does not prevent it, eradicate it or make broader social attitudinal change. We do not believe that Scotland should be a country where those with resources and money should have a right to buy access to sexual services, very often provided by those with fewer options and choices.

The proposed changes to legislation ignore the gendered nature of prostitution. The vast majority of sellers are female with some men and transgender people and the vast majority of buyers are male.

Prostitution is both a cause and a consequence of gender inequality, and the proposed legislation would serve to normalise and sanction the idea that there should be a group of women available for sexual services. (see European

Parliament Resolution 2014) This treats the bodies of women as acceptable commodities to be bought for sexual purposes, whilst institutionalising the rights of men as purchasers of these bodies. We struggle to see how this challenges hierarchical relations between the genders at the societal level and would argue that it widens the inequality gap between *all* men and women.

The Scottish Government is committed to ensuring a 'fairer, safer and stronger and healthier' Scotland for all its citizens. We fail to see how a system of licensed and legal prostitution will meet that objective.

Women's Support Project  
December 20015

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