

## Scottish Women's Convention response to:

### Exploring Available Knowledge and Evidence on Prostitution in Scotland via Practitioner-Based Interviews

June 2017

#### The Consultation

The Scottish Government is seeking comments concerning potential policy implications arising from research put forth in the report, "Exploring Available Knowledge and Evidence on Prostitution in Scotland via Practitioner-Based Interviews". In commissioning such a report, the Scottish Government is acknowledging that more must be done to eliminate the harm caused to women through prostitution.

Whilst welcoming this much-needed research and understand limited time constraints, it is our view that it does not go far enough in highlighting the problems and abuse which occur to women as a result of this form of sexual exploitation. In terms of the report's implications for policy relating to prostitution, the Scottish Women's Convention (SWC) believes research is lacking. Further investigations in future around this subject should include the likes of real women's experiences and evidence-based assessments on policy in countries with different legislation than the current Scottish political context.

The Scottish Government's solid commitment to protecting all women from gender-based inequalities has been illustrated continuously in reforms to protect and progress women's rights. This is distinctly laid out in the likes of the "Equally Safe" strategic framework and the introduction of legislation concerning the likes of domestic abuse and sexual offences in order to recognize the abuse that women suffer simply because of their gender. However, without explicit laws in place to protect women as sellers of sex whilst criminalizing demand, gender based exploitation and abuse will continue in Scotland.

#### The Scottish Women's Convention (SWC)

The Scottish Women's Convention (SWC) is funded to engage with women throughout Scotland in order that their views might influence public policy. The SWC uses the views of women to respond to a variety of Parliamentary, Governmental and organisational consultation papers at both a Scottish and UK level.

The Scottish Women's Convention engages with women using numerous communication channels including Roadshow events, Thematic Conferences and regional contact groups. This submission provides the views of women and reflects their opinions and experiences in a number of key areas relevant to the issues around prostitution and commercial sexual exploitation.

**Under current laws in Scotland it is a criminal offence to solicit or to loiter in a public place with the purpose of either buying or selling sex. It is an offence to exploit others by running or managing a brothel and to live off the earnings of the prostitution of others. It is also an offence to traffick people for sexual exploitation.**

Under current legislative powers, women who sell sex continue to be punished in far greater numbers than men who purchase it, despite the law admonishing both. For far too long the focus has been on the women who sell sex. The likes of social stigma and a lack of gendered awareness throughout Scotland concerning prostitution contribute significantly to charges being brought against these women.

Women are convicted of crimes relating to prostitution, for example soliciting, which are often punishable by a fine. Inability to pay these results in imprisonment and removal from family and support networks, which leads to the establishment of a dangerous and vicious circle. These women require help and support to exit prostitution and should not be criminalised. Most girls and young women do not enter prostitution through choice. These women often have complex needs, such as mental health issues, extreme poverty and drug and alcohol misuse problems. The men who purchase sex are the only ones who make a free choice and at present face little to no repercussions for doing so.

The dialogue surrounding this subject has been moving towards seeing prostitution as a choice for women. Prostitution is a form of violence against women and girls (VAWG) and a cause and consequence of gender inequality. Women throughout Scotland have spoken of their concern that whilst recognised as a form of VAWG, no laws relating to this have been established. Many have noted the lack of education and information around this as a form of exploitation where a woman is so desperate she can be bought for sexual gains.

While the SWC accepts that there are women working in the sex industry who are there by choice, the majority sell their bodies as a last resort. They are forced into prostitution as a result of chaotic lifestyles and a vicious cycle of poverty, deprivation and inequality. Instead of attempting to make working in the sex industry a legitimate and viable career choice, efforts should be focused on providing help and support for women to exit prostitution.

The Scottish Government's strategic framework to eradicate VAWG, "Equally Safe" defines prostitution as a form of Commercial Sexual Exploitation (CSE) and, thus, VAWG. However, it is not stated in sufficient detail how this will be combated. Many women have told the SWC that continuing to place onus upon the seller of sex is a "*step back in time for women's rights.*"

*"All political parties should take action, including legislation, to suppress trafficking and all types of exploitation in prostitution of women."*

Whilst the research touches on the legislative notion of living off the earnings of those coerced into prostitution, it does not go into detail concerning how this is an explicit form of CSE or the affect this has on the women involved.

Many women have commented to the SWC that current gaps should be addressed within legislation in order to highlight the many forms that VAWG can take. Laws should be enacted concerning this area as a major form of gendered abuse. Despite the Scottish Government's condemnation of this, there is a sufficient lack of policy surrounding it. Without this, women are at a severe disadvantage for an upholding of their basic human rights.

**The research findings highlighted that the available empirical evidence is largely focused on street-based prostitution and that there is a universally acknowledged uncertainty about the numbers and lack of evidence surrounding those involved in in-door prostitution such as online and indoor sex work.**

Whilst noting that the evidence contained within the report is based almost solely on street-based prostitution and the difficulties in obtaining data concerning off-street, it is the SWC's belief that this contributes a major flaw in methodology. Considering that approximately 90% of prostitution falls under indoor or online work, however, the notion of how this may affect the conclusions drawn fails to be given real mention.

Social media is only briefly examined without going into great detail about the extent of digitalisation on the exploitation of women within Scotland. A fuller analysis should be undertaken, not just involving sites advertising sex, but also other online influencers. Blogs, for example, which glamorise prostitution and the influence this has, particularly on enticing young women to enter should be examined in detail.

A wider illustration involving this and how it operates is needed to allow for clearer decisions to be made in terms of policy making. As a growing part of the sex industry this 'discrete' method of purchasing sex should be given full examination as part of the research.

**The research findings highlighted that the evidence available in relation to prostitution cannot be considered as "value free" or "neutral".**

Whilst appreciating that evidence available in relation to any subject can never be judged to be "value free", it is an unfair assessment to merely state this when the report presents a skewed account that cannot even be considered an attempt to be neutral.

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 priority 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.

The SWC believes that any research focusing on prostitution should systematically involve all arguments and debates surrounding it in order to be fully evidential. This should include interviews with women involved in selling sex currently and those who have since exited in order to understand best practice.

The research findings highlighted that the evidence is inconclusive in relation to the impact of the criminalisation of the purchase of sexual services;

#### On reducing the harm associated with prostitution:

The stance that prostitution is a violation of women's rights is one we believe should not be taken lightly. Not only does it exploit and harm those involved, it also has wider negative consequences.

When discussing reducing the harm associated with prostitution, any attempt to state that evidence is inconclusive in relation to criminalising the purchase of sex cannot be justly put forward without engaging with women directly involved in it. In not doing so, the research systematically misses out on many of the most vital risks that have been directly associated with involvement for many women, such as Post-Traumatic Stress Disorder (PTSD) and sexual assault, to name but a few.

*“Many people don't associate prostitution with violence against women. We must be explicit about the violence used”*

In depth analysis of support needs can only be brought forward with the use of women's voices.

#### In assisting those who work in prostitution to exit and how successful such exit strategies are:

The value of support services to women in prostitution is undeniable. The provision of refuge accommodation, as well as assistance with applications for housing, welfare benefits and other support mechanisms allow women to recognise, survive and exit.

*“I wouldn't be where I am today without the support and assistance I've had from these services. They saved my life.”*

Whilst the report acknowledges that women often partake in a service to not only support them exiting prostitution but as a network whilst they continue to operate within it, no account of the extent of these exit strategies in helping these women are made. As highlighted by many support groups and Police Scotland, a “holistic” approach is necessary, treating every woman on an individual basis and tailoring to her needs in order to offer as much assistance as possible. It is not a case of “one size fits all”.

As mentioned previously, a key flaw of the findings is a lack of voices throughout, both from women who are still in and those formally involved in prostitution. Without this, the full extent of the damage of not only sexual exploitation, but also what these women are subjugated to in other aspects of their life, fails to show how vulnerable they are.

Many women have spoken of the fact that they are unaware they are being exploited through prostitution; it is often only when they have exited that they realise, using denial as a “coping mechanism”. It is our belief that this work cannot be deemed conclusive without the use of reliable testimony from these women in an attempt to state a case for any policy going forward.

### **In challenging men's demand for sexual services in any significant way:**

The SWC believes that the measures contained within legislation concerning full decriminalisation for both sellers and buyers seeks to normalise prostitution, and therefore VAWG overall. Whilst we accept that a number of women work in this industry through choice, a significant proportion are coerced and exploited into prostitution due to a wide variety of factors. Any attempts to challenge men's demand for sexual services must clearly take this into account and outline it as the fundamental objective going ahead.

*"I think targeting young boys is the way forward. If you asked them about women and prostitution or commercial sexual exploitation, they probably wouldn't know much about it. If, however, you asked if they would be happy if it was their sister/aunt/mum then it might put it into perspective."*

Any future research should consider prevention work which needs to be undertaken at a local level to tackle this abuse. Both young men and young women need to be educated on and given the opportunity to talk about issues around sexualisation, consent and prostitution. Instilling in them the dangers of these at a young age would raise awareness and go some way to preventing instances of CSE.

Challenging demand and the idea of entitlement to sex must be put at the forefront of the agenda if anything is to be done to reduce harm for those involved in prostitution. In order to challenge and change societal attitudes towards women selling sex, the government should use its legislative powers to influence society.

**The research concluded that there is insufficient robust evidence available to be able to say with any degree of certainty what the impacts of criminalising the purchase of sex would be in the Scottish context.**

Prostitution is a form of violence against women and is both a cause and a consequence of gender inequality with women being subjected to exploitation on a daily basis. Young women are often seen as easy targets for those exploiting the sex trade. Many women in prostitution – including victims of trafficking - are in a spiral of abuse and see no way out.

*"People do not associate sex trafficking and prostitution with Scotland and the UK."*

Women in these situations need support, not punishment. Conviction for prostitution is often penalised with a fine. Current legislation criminalises women for being in this spiral of abuse. The message has to be that prostitution is a form of gender-based violence. People are not commodities. The buying and selling of a human being is abuse.

*"Information or research can be anecdotal but that should not deter us from dealing with it. The numbers are not the issue. The fact that it goes on at all must be dealt with. Without concerted action this dreadful crime and abuse of human rights will thrive in Scotland."*

Women throughout Scotland have spoken of their concern that whilst recognised at a Government level as a form of VAWG, no laws relating to this have been established. Many have noted the lack of education and information around this as a form of exploitation where a woman is so desperate she can be bought for sexual gains. Criminalising the purchase of sex should be a priority and debated as such in order to account for women's basic human rights.

*"Don't assume MSP's and MP's know about this subject."*

**The research included data that police recorded crime statistics show a reduction in prostitution related crimes and public complaints about prostitution in the 4 main cities over the last ten years. Police interviewees and third sector support organisations confirmed that this reflected the overall decrease in on-street prostitution.**

The SWC commend the report for acknowledging the vast move to indoor prostitution due to the increasing presence of digitalisation within society. However, analysis into how existing legislation, which only covers crimes related to public places concerning "soliciting", is effective considering this move to indoor prostitution over the past number of years would be welcomed.

Whilst recording of prostitution related crimes may have decreased as a result of this change, this is not to say the dangers associated have been eradicated or even reduced. The subsequent risks that are associated with indoor prostitution must be taken into account. Whilst noting that there are different threats associated with both on and off-street prostitution, these can all be summarised as violence in many forms against women and thus should be dealt with accordingly.

Although the report points to the problems in reaching out to women as being increasingly difficult due to the "hidden" nature of indoor work, more must be done to understand this and explore alternative options. Failure to do so results in a greater number of women being exposed to risk and exploitation from punters, exploitative partners and trafficking.

More research is required to look at the many aspects of "online" prostitution from a Scottish perspective in order to understand how to effectively combat this through legislation and public awareness. Women involved in prostitution, either off street or on street, are at a significant risk of danger. Women often feel they cannot report abuse suffered: either mental, physical or sexual. In order to reduce the harm, the dialogue must change to viewing prostitution as a form of social inequality that forces many women into exploitation in order to alleviate poverty.

**Women involved in on-street prostitution were identified as a vulnerable group with complex needs, (commonly including alcohol and substance misuse problems, lack of secure accommodation, mental health problems and backgrounds of deprivation and abuse).**

Women involved in prostitution often have complex needs. An individual, holistic approach is required when offering support.

For the prostituted women, a system of abuse is normalised, where she continues to be coerced into this cycle through the likes of poverty, substance dependency and inequality. The research fails to take into account the vulnerability of those involved in off-street prostitution, including the scale of coercion and control by men who use these women as a way of making money. Failure to highlight this as vulnerability is a major flaw of the research and thus makes no attempt to understand the complexities that are underlying for the women involved.

However, appreciation of these needs is not enough. Without legislation that criminalises demand, these vulnerable women will continue to be exploited. There needs to be an increase in consciousness, both at a legislative and societal level, around prostitution and how it is linked to poverty, drug abuse and violence. Whilst men can continue to legally have access to the body of a female that does not freely want to have sex with him, this is sexual abuse.

*“Many people don’t associate prostitution with violence against women. We must be explicit about the violence used. Shock tactics.”*

Any group of people within society classed as vulnerable is protected by law to prevent harm and exploitation taking place through criminalising those who would use them for their own advantage. The two statements which imply there is no evidence to support criminalisation of purchase to reduce harm but identifying those involved in prostitution as a vulnerable group with complex needs are fundamentally opposing arguments.

**The research findings found evidence of under reporting to the police and health providers when those involved in prostitution become victims of crime.**

VAWG-related crimes continue to go under-reported at all levels of society. However, those concerning prostitution have a significant higher level. There is a commonly-held assumption that because prostitution is “hidden”, that it simply does not exist and can be blanked out. Crimes related to this form of exploitation can affect women from any background.

*“I’ve tried to raise the issue in my community. Most of the people I’ve tried to talk to about it, however, have the attitude that it ‘can’t be happening in a quiet place like this’. It’s seen as far removed from real life, as opposed to something which is actually happening.”*

Many women involved in prostitution are controlled by men who exploit their bodies for their own economic gain. Being held under such coercive power means that these women understandably feel they cannot speak out about abuse inflicted on them by either customers or controllers.

*“We need to provide evidence on how sexual exploitation affects everyone in society.”*

Whilst women continue to be prosecuted under current laws for selling sex, they will continue to leave crimes unreported for fear of persecution. Criminalisation of women in prostitution is wrong. For far too long the focus has been on women who sell sex. Not only does this ensure perpetrators are not brought to justice, but it leaves them open to continue to abuse women again.

**The research in Scotland has provided little consistent or reliable information about men who purchase sex, their backgrounds and reasons for buying it. The evidence on the impact of the criminalisation of the purchase of sex on demand is inherently problematic and tenuous, with no reliable evidence to compare before and after the introduction of legislation to criminalise purchase.**

The justification for legalising/decriminalising prostitution is to recognise it as work. Women would, therefore, have access to the likes of employment rights. Full decriminalisation, in the likes of Berlin, has led to an exponential rise in abuse and human trafficking where those that exploit these women legally escape justice for their crimes.

*“Full decriminalisation is not enough. It just adds to the abuse.”*

Anyone who due to social inequalities and poverty feels they are so desperate that they have to trade their body for money automatically becomes abused. Failure to tackle the inequalities that allow women to suffer this abuse is explicitly condoning that women can be exploited and traded for economic purposes.

Whilst the report mentions that evidence concerning the criminalisation of purchase is “inherently problematic and tenuous”, no comment is given on evidence available of other options such as full decriminalisation. A comparative analysis of all the options would provide a framework. By denying the evidence for criminalising purchase is void of any argumentative merit if it is not backed up and thus lacks sufficient basis.

The overwhelming majority of women that the SWC have consulted do not concur with the view that it is an issue of “*free choice*” to engage in prostitution. They say this is an extremely damaging myth that is continually recycled to absolve “*the public, punters and profiteers*” from addressing the root cause of this exploitation – the demand.

The potential to be named and shamed was thought to be a substantial disincentive to buying sex. It was strongly felt the threat of public awareness would result in a greater disinclination by individuals to participate in purchasing sex.

The current lack of legislation criminalising the purchaser provides for an “*invisible man*” protection being enjoyed by those who purchase sex. This status is defining too many of social tolerances of “*men’s needs*” and “*boys will be boys*” attitudes which deeply distorts wider gender perceptions and attitudinal behaviour towards women.

Prostitution is a significant barrier to gender equality. Without legislation which criminalises the purchaser, women will continue to be subjected to exploitation and wider inequalities. Meanwhile, men who pay for sex will continue to do so without repercussions. The criminalisation of the purchase of sex would be a real opportunity to advance equality in Scotland and to send a clear message to future generations that prostitution is harmful to society as a whole.

Women will continue to be subjected to exploitation and wider inequalities, while male demand for financially procured sexual activity is viewed purely as a commercial transaction for ‘punters’ and not as a criminal offence.

*“This issue is so important. The only way to ensure women have access to justice, support and most importantly safety, is by putting laws in place which punish the men who abuse.”*

### Conclusion

The SWC welcomes the publication of research concerning prostitution in Scotland, which has been needed for some time. The impact of further research into prostitution including interviews with women involved in it and analysis of the increasing movement to online exploitation for prostitution is needed in order to influence future policy options. In doing so, this would recognise the exploitative nature of prostitution and the abuse that women continue to suffer on an ongoing daily basis. The Scottish Government’s commitment to protect women of all backgrounds from gender-based inequalities and VAWG must take this into account when considering further research and future legislation.

Prostitution is inherently harmful and dehumanising. The buying of sexual activity is exploitation and should be recognised as a form of violence against women. The demand creates a market where vulnerable individuals are compelled and/or forced into a cycle of exploitation that places them, and their families, at risk. It is vital that Scotland takes a zero tolerance stance on the buying of sexual activity. Creating an offence will strengthen the existing legislative framework against purchasers. Scotland should aim to be an unattractive market for those who organise prostitution activities and sexually exploit individuals for commercial purposes.

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