

# **The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill: 2012-13, Northern Ireland.**

## **Response from a group of seven UK-based academics experts, 29<sup>th</sup> October 2013.**

This response is from seven academics with combined expertise of many years researching sex work and related issues, funded by a variety of governmental research councils, charities and higher education institutions. All are considered key experts on the sex industry in the UK. Collectively, we have made several representations to UK and Scottish governments, including expert statements to the on-going All Party Parliamentary Group for Prostitution, England and Wales, as well as responding to other national policy consultations to the Home Office. Biographical details are included in the Appendix. We wish the contents of this letter to be made public and disclosed in any analysis of findings. Representatives from this group would also be happy to attend any parliamentary sessions to give expert advice and to assist deliberations.

### **Response**

Whilst we support the proposed Bill's intentions of introducing offences relating to trafficking, (in line with other countries and specifically to England and Wales) and providing resources for investigating and prosecuting, we have a number of concerns. We are very concerned about the very problematic conflation of trafficking with all forms of prostitution and the implied causality that criminalising the purchase of sex would reduce demand for trafficking. We also would strongly advise against introducing Clause 6 - 'a new offence of purchasing sexual services to reduce demand for trafficking individuals'.

Our objections are derived from the research evidence and information from many projects across the UK who work directly with sex workers. Our four main points of objection are as follows:

#### **1. Rejection of the 'Swedish Model' as a means to address exploitation and trafficking.**

- We do not support the assertion in Clause 6 that trafficking will be reduced by criminalising purchasing sex. Trafficking is a much wider and multi-faceted issue than this Bill recognises. Prostitution is also too complex an issue to view through the narrow lens of 'trafficking and exploitation'. By collapsing the two a more comprehensive and effective regulatory approach, in which criminal law is but one of the responses, is denied.

- While much is made of the Swedish position in the consultation paper which preceded the draft Bill, research evidence is in fact mixed as to the effects of this law (see Scoular, 2004; Kulick, 2003; Dodillet and Östergren, 2011). The credible research there suggests displacement of sex work and further threats to the safety of workers (Kulick, 2003; Scoular, 2004; Hubbard et al, 2008; Dodillet and Östergren 2011). It is important to acknowledge that sex workers are a diverse group, as with any section of society. People enter sex work for a range of reasons, which may include to pay off debt, to finance their studies, to provide for their family, or to earn sufficient income to ensure a reasonable standard of living. Many may have limited alternative options available to them. While this should concern for government and society, criminalising aspects of their work does not give them further options, but takes away the one solution currently available to them. Recent studies of the criminalisation of purchase in Sweden (e.g. Dodillet and Östergren 2011; Jordan, 2012) have questioned the evidence that the change in the law has led to a reduction in the number of sex workers or people purchasing sex, or of trafficking into prostitution. The implications of the criminalisation of purchase of sexual services, are, however that there is a likelihood of an increased risk of violence, as sex workers are working in more hidden locations to avoid the police, and fewer reports of actual abuse are likely to be made, by either clients or sex workers, because of fear of prosecution. The evidence also suggests that the criminalisation of clients in Sweden has increased social stigma relating to sex work. This then further undermines the rights of sex workers and presents a significant obstacle to accessing support for their health and safety needs<sup>1</sup>.
- In England and Wales, the 'Tackling Demand' Home Office Review (2008) considered the Swedish model of making it a crime to pay for sex, which was rejected in favour of a specific crime relating to the purchase of sexual services by someone coerced or forced.
- Both the Scottish attempts in 2012 and the England and Wales proposals were met with significant criticism from academics across the UK.

## **2. Negative effects of criminalisation on sex workers in particular on reporting violent crimes against sex workers**

- Extensive evidence demonstrates how any form of criminalisation of the sex industry has a detrimental effect on sex workers, in particular their safety and reporting of crimes. Existing evidence (e.g. McKeganey and Barnard, 1996; Pitcher et al, 2006) and on-going research by Jane Pitcher in her current study shows that an environment of enforcement can lead to sex workers being reluctant to approach the police or other agencies when crimes are committed against them. Rosie Campbell's research also identifies that in terms of the existing laws on soliciting, "kerb crawling" and brothel keeping, an enforcement-based approach creates a climate which works against the

---

<sup>1</sup> For politicians to take a balanced and informed approach to this issue, it is important that this more critical literature is read alongside promotional papers by government and its supporters.

reporting of violent and other crimes by sex workers and leaves sex workers unprotected.

- Relevant to this bill is the Ontario Charter Challenge, wherein three sex workers in Ontario, Canada have challenged the constitutionality of Canadian prostitution law. The Bawdy House Laws, preventing individuals from working together in inside spaces have been twice struck down in the Ontario Superior Court of Justice and the Ontario Court of Appeal. Judges ruled the laws un-fit for purpose and in violation of the Charter Rights of Canadian citizens to life, liberty and security of the person. The case has been heard in the Supreme Court of Canada with the outcome pending, but that the Bawdy House Law has been struck down twice reflects the research evidence that laws which criminalise adult sex workers and customers involved in consenting commercial transactions creates a legal framework which tends to generate an adversarial relationship between sex workers and the police, deters reporting, and contributes to cultural and structural factors which lead to violence.
- Further criminalisation, including of the purchase of sex, will serve to reduce sex workers' protection and increase their isolation, as they will be even less likely to trust in the law to protect them (and this will become known by more dangerous individuals who target sex workers because of their vulnerability). Criminalising the purchase of sex in Clause 6 which will not impact positively upon the experiences of violence, nor right to life, liberty and security of sex workers. It will, in fact, have negative material consequences and simply add another layer of complexity to the deeply problematic circumstances in which sex is bought and sold.

### **3. Lack of recognition of voluntary adult sex work**

We do not wish to minimise the seriousness of violence that is perpetrated against sex workers, as we feel strongly that incidents of violence and other crimes against sex workers should be addressed (and have campaigned for many years for such recognition).

- Treating all sex work as exploitation or violence against women, however, both trivialises actual violence and ignores the fact that many adult sex workers, not only women, but also men and transgender people, enter the sex industry of their own volition and have taken a decision to undertake the work, based on consideration of the options available to them (O'Connell Davidson, 1998; O'Neill 1996, 2001, Sanders et al, 2009).
- Our own current and previous research, and that of other academics undertaking robust and ethical research with sex workers, has found that many adult sex workers have entered sex work because they find it preferable to other forms of work which are often less satisfactory, not only in terms of income, but also their relative autonomy compared with many service sector jobs where they have felt exploited. More than anything else, criminalising the purchase of sex and using increased criminal justice interventions is a very blunt and ineffective tool when the overall objective is to reduce exploitation and improve social justice (Scoular and O'Neill, 2007, 2008).

- By assuming that the economic, social, welfare, educational, health and psychological factors that lead people into prostitution can be reduced through the criminalisation of the purchase of sex itself ignores possible alternative political and legal strategies that might be more effective in achieving safety, security, equality and social justice for people in prostitution. Importantly, by banning the purchase of sex, the law and the state closes off alternative models that have been used in other countries to make sex workers safe. For instance, the safer option of legalised premises (as evidenced in Nevada and Holland) which have directly reduced the exploitation and abuse sex workers experience by providing regulatory alternatives.

## References

Campbell, R (2014) forthcoming 'Linking Sex Work and Hate Crime in Merseyside' in: Chakraborti, N.A and Garland, J (eds) 'Responding to Hate Crime: The Case for Connecting Policy and Research', The Policy Press: Bristol

Dodillet, S and Östergren, P *The Swedish Sex Purchase Act: Claimed Success and Documented Effects*, Conference paper, 2011.  
<http://www.petraostergren.com/upl/files/54259.pdf>

Hubbard, P.J., Matthews, R. and Scoular, J. (2008) 'Re-regulating sex work in the EU: prostitute women and the new spaces of exception' *Gender Place Culture* 15:2, 137-152.

Hubbard, P and Scoular, J (2009) 'Making the dangerous more dangerous?: The contradictions of British street prostitution policy' in Canter, D. (Ed) *Safer Sex In the City* Ashgate.: Aldershot.

Jordan, A (2012) *The Swedish law to criminalize clients: a failed experiment in social engineering*. Washington College of Law, Center for Human Rights and Humanitarian Law, Issue paper 4.

Kulick, D 'Sex in the New Europe. The Criminalization of Clients and Swedish Fear of Penetration' *Anthropological Theory* June 2003 vol. 3 no. 2 199-218.

McKegancy, N and Barnard, M (1996) *Sex Work on the Streets, Prostitutes and their Clients*, Open University Press, Buckingham.

O'Neill, M. (1996) 'Prostitution, Feminism and Critical Praxis: women at work in conditions of later modernity.' *Umbruch Neue Sozial-Wissenschaftliche Perspektiven* a special edition of the Austrian Journal of Sociology edited by Johanna Hofbauer and Jorg Flecker, Summer 1996.

O'Neill, M. (2001) *Prostitution and Feminism* Polity Press: Cambridge.

O'Neill, M. (2007) 'Community Safety, Rights and Recognition: towards a Coordinated Prostitution Strategy?' in *Community Safety Journal* 6. 1. Feb 2007 45-52

O'Neill, M. Campbell, R, Hubbard, P. Pitcher, J. and Scoular, J. (2008) 'Living with the Other: Street sex work, contingent communities' *Journal of Crime, Media and Culture* 4, 1, 73-93.

O'Neill, M. and Pitcher, J. (2010) Sex work, communities and public policy in the UK in *Sex Work Matters: beyond divides* [eds] Ditmore, M., Navarro, A and Levi, A. Zed Books: London.

O'Neill, M. & Campbell, R. 2010. Desistance from Sex Work: Feminist Cultural Criminology and Intersectionality: The Complexities of Moving in and Out of Sex Work. In *Theorizing Intersectionality and Sexuality*. Taylor, Y., Hines, S. & Casey, M. Palgrave Macmillan Basingstoke:.

Phoenix, J (ed. 2009) *Regulating Sex for Sale: Prostitution, Policy Reform and the UK*. Bristol: Policy Press.

Pitcher, J (2006) 'Support services for women working in the sex industry' in Campbell, R and M O'Neill (ed) *Sex work now*. Cullompton: Willan Publishing.

Pitcher, J, R Campbell, P Hubbard, M O'Neill and J Scoular (May 2006) *Living and working in areas of street sex work: from conflict to coexistence*. Policy Press: Bristol.

Sanders, T and R Campbell (2007) 'Designing out vulnerability, building in respect: violence, safety and sex work policy'. *British Journal of Sociology*, 58 (1).

Sanders, T, M O'Neill and J Pitcher (2009) *Prostitution: sex work, policy and politics* Sage: London.

Scoular, J 'Criminalising 'Punters': evaluating the Swedish position on prostitution' (2004) 26 *Journal of Social Welfare and Family Law*, pp195-210.

Scoular, J and O'Neill, M. 'Regulating Prostitution: social inclusion, responsabilisation and the politics of prostitution reform' 2007 *British Journal of Criminology* 47(5) 764-778.

Scoular, J and O'Neill, M (2008) 'Legal Incursions into Supply/ Demand: Criminalising & Responsibilising the Buyers and Sellers of Sex' in Munro, V & Della Giusta, M (eds) *Demanding Sex: Critical Reflections on the Regulation of Prostitution* Ashgate: Aldershot.

### **About the authors of this response:**

**Teela Sanders** is a Reader in Sociology at the School of Sociology and Social Policy, University of Leeds. Her research focus is on the intersections between gender, regulation and the sex industry, with a focus on exploring hidden economies. She has represented evidence from her research to various Parliaments, called as an expert witness and is a regarded expert in this field at an international level. Alongside 3 edited collections and over 40 peer reviewed journal articles, her monographs include *Sex Work: A Risky Business* (2005) and *Paying for Pleasure: Men who Buy Sex* (2008). *Prostitution: Sex Work, Policy and Politics* (Sage, 2009) is co-written with Jane Pitcher and Maggie O'Neill. With Kate Hardy, Sanders has recently completed a large scale project funded by the ESRC on the lap dancing industry. This project uncovered working conditions of dancers and will be detailed in the forthcoming book, *Flexible Workers: Labour, Regulation and Mobility in Lap Dancing* (Routledge, 2014). An ESRC Follow on award for further dissemination and impact from this study has been awarded. Working with Rosie Campbell, the project aims to influence Sex Entertainment Venues licensing policy and create innovative impact by creating an Iphone App for dancers with safety, self employment rights and tax awareness information.

**Jane Scoular** is Professor in Law at the University of Strathclyde. She has published a number of books, refereed articles and research reports on the subject of prostitution. Her research combines both empirical investigation (in Scotland, the UK and internationally) with theoretical analysis and has been funded by Joseph Rowntree Foundation, the ESRC and the Scottish Executive. Key works include: 'What's law got to do with it? How and why law matters in the regulation of sex work' 2010 37(1) *Journal of Law and Society* 12-39; (with O'Neill, M.) 'Regulating Prostitution: social inclusion, responsabilisation and the politics of prostitution reform' 2007 *British Journal of Criminology* 47(5) 764-778; (with Sanders, T. eds) *Regulating Sex/Work: From Crime Control to Neo-liberal Regulation* (Wiley Blackwell, 2010); 'Criminalising 'Punters': evaluating the Swedish position on prostitution' (2004) *Journal of Social Welfare and Family Law* 26, 195-210; (with Hubbard, P.J. and Matthews, R.); 'Re-regulating sex work in the EU: prostitute women and the new spaces of exception' (2008) 15:2 *Gender Place Culture* 137-152; and a forthcoming

monograph on '*The Subject of Prostitution: Sex/work, Law and Social Theory*' to be published by Routledge/Cavendish. Jane was a Visiting Scholar at the Universities of Stockholm in Sweden in 2003 where she researched the Swedish law relating to prostitution. She was a member of the Scottish Parliament's Expert Panel on Prostitution advising on 'Being Outside: Constructing a Response to Street Prostitution.

**Jane Pitcher** is a researcher with a longstanding experience of undertaking policy research and evaluation, in academic, public and voluntary sector organisations, including the University of Warwick and Nacro. Over more than ten years she has carried out a number of studies with a diverse range of sex workers in many different settings in the UK, including leading a Joseph Rowntree Foundation-funded study in England and Scotland with other academics (published as *Living and working in areas of street sex work: from conflict to coexistence*, Policy Press 2006). Other publications include: *Prostitution: sex work, policy and politics* (with Sanders, T and O'Neill, M, Sage, 2009); 'Support services for women working in the sex industry' in Campbell, R and M O'Neill (eds) *Sex work now* (Willan, 2006); and 'Sex Work, Communities and Public Policy in the UK' in Ditmore, M, A Levy, and A Willman-Navarro (eds) *Sex Work Matters: beyond divides* (with O'Neill, M, Zed Books, 2010). She is currently undertaking an ESCR-funded PhD at Loughborough University into off-street sex work in Great Britain, drawing on in-depth interviews with nearly 40 female, male and transgender sex workers in parlours and saunas, flats and independent sex work. She is joint academic representative on the Board of the UK Network of Sex Work Projects and in this role has undertaken reviews of effective practice in delivering services to sex workers. She has also been a volunteer for the past 12 years with a project providing support to street-based and off-street sex workers in Coventry.

**Mary Laing** is a Lecturer in Criminology, at Northumbria University. She has been doing research on sex work in various capacities (as a PhD student, as a post-doctoral candidate and as a lecturer) for the past 8 years. She is the author of several articles and book chapters on the sex industry, and her research thus far has focused on male sex work and the gendered policy context in England and Wales. Most recently she has been working on a project focusing on the adult entertainment industry in Canada, and also a peer-based research project in Newcastle upon Tyne. She has approximately 8 years 'on the ground' experience as a volunteer outreach worker in both the UK and Canada. She has experience delivering harm minimisation services and provision to both male and female street based sex workers, as well as massage parlour based female sex workers. Mary is the joint academic board representative for the UK Network of Sex Work Projects and has been engaged with this network since 2005.

**Rosie Campbell OBE** is a sociologist who has carried out academic research on sex work and sexual exploitation for 17 years, in a number of regions throughout the UK and a range of sectors of the sex industry. In 2013 Rosie received an OBE for services to women, showing her extensive involvement in sex work politics in the UK

and beyond. She is considered an expert on the sex industry and support service provision in the UK. She is currently a freelance consultant and completing her PhD at Durham University which has examined Merseyside's policy of addressing crimes against sex workers as hate crime. She has published widely on sex work and is co-author of the book "Sex Work Now" (2006) with Professor Maggie O'Neill. As a founder member and Chair (2002-2009) of the UK Network of Sex Work Projects (UKNSWP), she worked with sex work projects at local, national and international level and been a member of a range of national advisory groups, e.g. Association of Chief Police Officers National Prostitution Working Group (2010-2012) and Home Office Advisory Group on Effective responses to Prostitution (2010-2011). With a colleague she carried out the National Ugly Mugs Development Project, proposing a model for a national scheme, which the Home Office made a decision to fund as a pilot. She has carried out frontline outreach and support work in Liverpool for 13 years and been active in establishing and developing a number of sex work support projects in both a trustee and manager role. Between 2005-2008 she was Co-ordinator of Armistead Street & Portside (off street), female sex work outreach and support projects, within Liverpool PCT she established a number of innovative provisions such as the first specialist Independent Sexual Violence Advisor for Sex Workers.

**Maggie O'Neill** is Professor in Criminology at Durham University and has conducted extensive research on sex work and sexual exploitation since 1990. Her work is instrumental in the development of the sociology of prostitution/sex work in the UK. Research activity and outcomes include the development of theory; a focus upon innovative biographical, cultural and participatory research methodologies; and the production of praxis - knowledge which addresses and intervenes in public policy. Most of her research involves the use of participatory action research and she often uses visual methods. Books include: Prostitution: Sex Work, Policy and Politics (October 2009) co-authored, Sanders, T., and Pitcher, J. London: Sage; Prostitution and Feminism (2001) Cambridge: Polity Press; Sex Work Now co-edited with Rosie Campbell (UKNSWP) (2006) Devon:Willan; and Prostitution: a Reader co-edited with Roger Matthews (2002) London: Ashgate. See for example:

<http://www.walsallartsintohealth.co.uk/safetysoapbox/> and

<http://www.jrf.org.uk/publications/living-and-working-areas=street-sex-work>

**Phil Hubbard** is Professor of Urban Studies in the School for Social Policy, Sociology and Social Research at the University of Kent. He has researched and written on the geographies of the sex industries over two decades, with a particular focus on the forms of spatial governmentality that have been used to police sex workers, past and present. His work has encompassed studies of the policing of street sex work, the regulation of sex shops and sexual entertainment venues, and the licensing of massage parlours and brothels in different jurisdictions. On this basis, he has sought to promote a harm-reduction perspective in which sex work is not subject to forms of regulation which make it less safe. His work has been cited in NSW parliamentary reviews of Best Practice in Brothel Regulation, and he gave evidence to the APPG on Prostitution in 2013. His work is summarised in Sex and



the City: geographies of prostitution in the urban West (Ashgate, 1999) and Cities and Sexualities (Routledge, 2011).