

Consultation Questions With Relevant Facts and Information to Help in Creating Your Submission

Q1: Do you support the general aim of the proposed Bill? Please indicate “yes/no/undecided” and explain the reasons for your response.

A. Prostitution is a form of violence against women.

- Field research that took place in nine countries (5 of the nine were countries where prostitution is legal) surveyed 854 prostituted women and the study concluded that 60-75% of women in prostitution were raped, 70-95% were physically assaulted, and 68% met the criteria for post traumatic stress disorder, in the same range as treatment-seeking combat veterans and victims of state-organized torture. Eighty-nine percent of the 854 prostituted women told the researchers that they urgently wanted to escape prostitution. (Farley, Melissa et al. 2003. "Prostitution and Trafficking in Nine Countries: An Update on Violence and Post-traumatic Stress Disorder." *Journal of Trauma Practice*, Vol. 2, No. 3/4: 33-74; and Farley, Melissa. ed. 2003. *Prostitution, Trafficking, and Traumatic Stress*. Haworth Press, New York.15 Ramsay, R. et. al. 1993. "Psychiatric morbidity in survivors of organized state violence including torture." *British Journal of Psychiatry*. 162:55-59.)
- More than half of women in prostitution in the UK have been raped and/or seriously assaulted and at least 75% have been physically assaulted at the hands of pimps and punters. 74% of women in prostitution identify poverty, the need to pay household expenses and support their children, as primary motivators for being drawn into prostitution. (Home office (2004) *Solutions and Strategies: Drug Problems and Street Sex Markets*: London: UK Government)
- A report in the *British Medical Journal* about client violence towards women in prostitution stated that of the 125 women in indoor prostitution contacted, 48% had experienced client violence. The types of violence experienced included: being slapped, punched, or kicked; robbery; attempted robbery; beaten; threatened with weapon; held against will; attempted rape; strangulation; kidnapped; attempted kidnap; forced to give client oral sex; vaginal rape and anal rape. (Violence by clients towards female prostitutes in different work settings: questionnaire survey, Stephanie Church et al in *BMJ* 2001;322:524-525)
- A study published in the *American Journal of Epidemiology* found the mortality rate of women in prostitution to be 200 times higher than the general population. (J. Potterat, D. Brewer, S. Muth, R. Rothenberg, D. Woodhouse, J. Muth, H. Stite, and S. Brody, "Mortality in a Long-term Open Cohort of Prostitute Women," *American Journal of Epidemiology* 159:778-785, (2004). Longitudinal study of prostitution in Colorado Springs – sample size: 1,969 people in prostitution from 1967-1999.)
- Women who have worked in prostitution exhibit the same incidents of traumatic brain injury (TBI) as a result of being beaten, hit, kicked in the head, strangled or having one's head slammed into objects which have been documented in torture survivors and battered women. (Jacobs, U., & Iacopino, V. (2001). *Torture and its consequences: A challenge to clinical neuropsychology*. *Professional Psychology: Research and Practice*, 32, 458-464.)

B. Criminalising the purchase of sex in Scotland will reduce the demand for prostituted people and will help reduce both prostitution and human trafficking.

- According to a 2011 peer reviewed study which surveyed 110 Scottish men, the most effective deterrent to purchasing prostituted people according to the men interviewed, included being labeled a sex offender and other public exposure, jail time, and high fines. (Melissa Farley, Jan Macleod, Lynn Anderson, & Jacqueline M. Golding (2011))
- According to the economic theory of supply and demand, if there was a reduction in demand for prostituted people there would be a corresponding reduction in supply, and thus a reduction in the trafficking of people into and within Scotland for the purpose of sexual exploitation. This can be accomplished by criminalising the purchase of sex, but not the sale of sex in Scotland, as proposed.
- Research has proven that legal (or decriminalised) approaches to prostitution increase human trafficking. Researchers Seo-Young Cho, Axel Dreher and Eric Neumayer of the Courant Research Center conducted a quantitative empirical analysis for a cross-section of up to 150 countries has shown that, on average, countries with legalised prostitution experience a larger degree of human trafficking inflows. When prostitution is legal or decriminalised the market for prostituted people is drastically expanded. (Seo-Young Cho, Axel Dreher, Eric Neumayer Does Legalized Prostitution Increase Human Trafficking? September 2011 (updated January 2012) Courant Research Centre 'Poverty, Equity and Growth in Developing and Transition Countries: Statistical Methods and Empirical Analysis' Georg-August-Universität Göttingen)
- "Trafficking for sexual exploitation is the most common form of trafficking in the EU. Victims are moved in and around the EU, both across borders and internally, and are exploited in all environments."(Europol Knowledge Product "Trafficking in Human Beings in the European Union" September 2011, The Hauge)
- The 2010 report of the United Nations Office on Drugs and Crime stated that worldwide, 79% of identified victims of human trafficking were subject to sexual exploitation. Of these victims, 66% were women, 13% girls, 12% men and 9% boys. In order to prevent human trafficking, sexual exploitation through prostitution must be tackled. (2010 United Nations Office on Drugs and Crime Annual Report Pg. 23 http://www.unodc.org/documents/frontpage/UNODC_Annual_Report_2010_LowRes.pdf)

Q2: What do you believe would be the effects of legislating to criminalise the purchase of sex (as outlined above)? Please provide evidence to support your answer.

A. In Sweden after the criminalisation of the purchase of sex, both indoor and outdoor prostitution were significantly reduced, gender equality was promoted as an important value, attitudes toward purchasing people for sex changed, demand was reduced and instances of human trafficking were reduced. Similarly, in Norway, one year after the criminalisation of the purchase of sex, prostitution on the whole both indoor and outdoor was halved.

- The approach has reduced demand and the sale of sex in Sweden. On January 1, 1999, Sweden became the first country in the world to introduce legislation criminalising the purchase, but not the sale, of sexual services. Since the introduction of the ban on the purchase of sex, street

prostitution in Sweden has been reduced by 50%. 10 years after the ban less than 7.8% of its active adult male population now buys sex, compared to 13.6% before the law was enacted, which is 51% overall reduction in demand. (Selected extracts of the Swedish government report SOU 2010:49: “The Ban Against The Purchase of Sexual Services. An evaluation 1999-2008 Swedish Institute & Ministry of Justice. Also see The Swedish Law That Prohibits the Purchase of Sexual Services Best Practices for Prevention of Prostitution and Trafficking in Human Beings Gunilla Eckberg Ministry of Industry, Employment, and Communications Violence Against Women, Vol. 10 No. 10, October 2004 1187-1218 DOI: 10.1177/1077801204268647 2004. Also see “Targeting the Sex Buyer The Swedish Example: Stopping Prostitution And Trafficking Where it All Begins. Kajsa Claude 2010 The Swedish Institute.

- In Sweden the ban on the purchase of sex changed attitudes especially among the youth. To gauge Swedish public opinion concerning sex purchases, surveys were conducted before and after criminalisation was introduced. Judging by the results of four population-based opinion polls, there has been a change of attitude with regard to the purchase of sexual services that coincides with the criminalisation of the purchase of sex. In all of the surveys conducted since the ban was introduced, more than 70% of those asked took a positive view of the ban. (Selected extracts of the Swedish government report SOU 2010:49: “The Ban Against The Purchase of Sexual Services. An evaluation 1999-2008 Swedish Institute & Ministry of Justice. Also see The Swedish Law That Prohibits the Purchase of Sexual Services Best Practices for Prevention of Prostitution and Trafficking in Human Beings Gunilla Eckberg Ministry of Industry, Employment, and Communications Violence Against Women, Vol. 10 No. 10, October 2004 1187-1218 DOI: 10.1177/1077801204268647 2004. Also see “Targeting the Sex Buyer The Swedish Example: Stopping Prostitution And Trafficking Where it All Begins. Kajsa Claude 2010 The Swedish Institute.)
- On January 1, 2009 Norway adopted legislation that explicitly criminalised the purchase of sex. After the law was put into effect there was a dramatic reduction in both indoor and outdoor prostitution. Pro Centre a neutral group that has carefully the sex industry in Norway for many years noted that a year after the ban on the purchase of sex Pro Centre reported, “The figures speak for themselves: it is clear that fewer women are selling sex, both indoors and on the streets.” (2009 Report “New Conditions, New Opportunities?” Pro Sentret Oslo Kommune)
- By the end of 2009 the number of people selling sex in Norway in traditional street prostitution areas fell by between 50 and 60 percent in relation to 2008 before the law was enacted. Indoor prostitution in the whole of Norway was reduced by 19% and advertisements for sexual services were reduced by 28% showing that the outdoor market did not move indoors. (2009 Report “New Conditions, New Opportunities?” Pro Sentret Oslo Kommune)

Q3: Are you aware of any unintended consequences or loopholes caused by the offence? Please provide evidence to support your answer.

- The argument that criminalising the purchase of sex will drive it “underground” is not based on any evidence. To the contrary it has been found that in Sweden and in Norway criminalising the purchase of sex reduced the number of men purchasing prostituted women thus less women were prostituting on the whole.

- “Underground” is another word for “indoor”, “out of sight”, or “below the law”. Because the nature of prostitution is such that it must be visible to the clients who purchase the women it is not possible for it to go so far underground as to be undetected. If the men who purchase women are able to find the women, than trained police surely can as well.
- In 2009 after the law criminalising sex was enacted for the whole of Norway, the number of advertisements fell by 28 percent. This means that “underground” or “indoor” prostitution could not have increased as advertisements are necessary in order for punters to find the prostituted people. (2009 Report “New Conditions, New Opportunities?” Pro Sentret Oslo Kommune)

Q4: What are the advantages or disadvantages in using the definitions outlined above?

Q5: What do you think the appropriate penalty should be for the offence? Please provide reasons for your answer.

A. In order to be an effective deterrent, the penalty has to be severe. According to a 2011 peer reviewed study which surveyed 110 Scottish men, the most effective deterrent to purchasing prostituted people according to the men interviewed, included being labeled a sex offender and other public exposure, jail time, and high fines. Therefore, the possibility of being labeled as a sex offender, jail time and significant fines must be imposed in order for the law to be as effective as possible. (Melissa Farley, Jan Macleod, Lynn Anderson, & Jacqueline M. Golding (2011) in Psychological Trauma: Theory, Research, Practice, and Policy)

Q6: How should a new offence provision be enforced? Are there any techniques which might be used or obstacles which might need to be overcome?

Q7: What is your assessment of the likely financial implications of the proposed Bill to you or your organisation; if possible please provide evidence to support your view? What (if any) other significant financial implications are likely to arise?

Q8: 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?

A. The proposed Bill will have a positive implication for gender equality in Scotland.

- Scotland will never be able to achieve gender equality while there is a sub-group of women legally being sexually exploited through prostitution. Most people in prostitution in Scotland and around the globe are women and girls, as are 98% of all victims of sex trafficking according to the International Labour Organization (ILO) 2012 global human trafficking/forced labour estimate.
- The Swedish law criminalising the purchase sex stands upon the belief that prostitution is a serious barrier to equality and that “any society claiming to defend principles of equality must reject the idea that women and girls are commodities that can be bought, sold, and sexually exploited by men.” (Gunilla Eckberg) The foundation of the Swedish model of legislation is a political vision of a nation in which all women and girls are able to live without any forms of violence being committed against them. (Gunilla Eckberg)

- Prostitution is not about the commodification of sex and of people, but is actually a manifestation of sex inequality thus criminalising the purchase of sex is an effective way to reduce this inequality and change attitudes that objectify women by seeing women as objects that can be bought and sold. Across the world research shows that women are the majority of those being sold in prostitution, and men are those buying. In cases where men are sold, they are most often feminised “lady boys,” trans-gendered or trans-sexual. Thus, on the whole, the feminine is sold to the masculine. This is evidence that prostitution is a manifestation of sex inequality, and that sex trafficking is largely a gendered injustice. If it were not so, and if the phenomenon of prostitution was only about the commodification of sex, then the masculine would be sold to the feminine in an equal manner as feminine is sold to masculine, but this is not the case. Therefore, if gender equality is ever to be accomplished, and the oppression of women overcome, there cannot continue to be a sub-group of women and feminine men being sexually exploited through prostitution.