Written evidence submitted by Rachel Stuart

My name is Rachel Stuart and I am a PhD research student at the University of Kent. I wish to draw attention to a form of sex work that is currently unlegislated and which I believe is likely a place of both affective labour and abuse. It deserves to be included in any debate that centers around criminal sanctions or the abolition of sanctions which pertain to prostitution.

Introduction

The growth and expansion of the internet has had a profound effect on the development of both pornography and prostitution. One of the most significant and least researched changes has been the blurring of the lines between these two activities. This merging of prostitution and pornography has seen the development of a type of erotic labour which this work will refer to as webcamming. The term will be used to refer to a webcam model, usually a woman performing a masturbatory or in some way sexually gratifying show for a paying client. All that is required is a computer, webcam, internet access and a hosting site. Hosting sites provide the performer with access to an established customer base along with facilities for payment from customers and a chatroom from which they are able to perform a show. Mimicking a virtual lap dance club performers use chatrooms to sell everything from conversation to explicit sex acts. Although it is women who make up the majority of performers offering these services there are also a significant number of transgendered individuals who participate in webcamming as well a number of male performers.
Customers pay performers using credits or tokens for example Adultwork.com use credits with one credit being the equivalent of one pound. The customer purchases the credit online from the site that the performer is working from using a variety of methods. These methods include credit cards, debit cards Click and Buy or Pay Safe. In the case of Adultwork the performer retains 70% of their earnings and Adultwork retains 30% a proportion of which is used to provide server space, web maintenance and payment processes. The amount of money retained by access provider varies from site to site with Chaturbate retaining 60% of what a performer is paid by her customers. A figure justified partly perhaps by the heavy traffic that Chaturbate receives, reportedly around 3 million visitors a day.¹ Performers are generally paid weekly or fortnightly and payments are submitted electronically into their account²

A cursory investigation of the Adultwork.com website reveals that the women who webcam also offer a variety of other sexual services such as phone sex and video clips of short duration available for customers to download and view. My investigation of Adultwork.Com also revealed that some women offering webcamming also participate in traditional forms of prostitution such as escorting. While this information suggests boundaries between various forms sex work and pornography are collapsing, legal and academic discourses still remains very much focused on street work.

¹ ibid (n5) 166
² Ibid (n8) 9
In 2005 Weitzer found that street prostitution accounts for as little as 20% of the entire market and yet it accounts for over 80% of the academic research\(^3\). Rubin has claimed that the worst available examples of sex work is treated as representative with the academic and legal gaze being so distracted by the conflated discourses around trafficking and prostitution that all other types of sex work are to a great extent ignored. The result of this ignorance is a lack of academic understanding and legislation around an activity which Alec Helmy, the publisher of Xbiz a sex industry journal has claimed is currently driving the adult sex industry.\(^4\) When coupled with the opinion of Douglas Richter, an executive-level consultant with LiveJasmine one of the most visited cam sites that their annual revenue from camming is more than a billion dollars per annum this lack of academic research and legislation is not just overdue but also somewhat perplexing\(^5\). This I believe needs to be addressed.

1 'Whether criminal sanction in relation to prostitution should continue to fall more heavily on those who sell sex, rather than those who buy it.'

Kempadoo and other third world feminists such as Jo Doezema have criticised this type of sanctioning as ignoring that the root of all potential exploitation is the inequality which is born of global capitalism\(^6\)

\(^3\) Ronald Weitzer, ‘New directions in research on prostitution’ (2005) *Crime, Law and Social Change* 211
\(^5\) Ibid (n18)
\(^6\) K Kempadoo, ‘The Modern-Day White (Wo) Man’s Burden: Trends in Anti-Trafficking and Anti-Slavery Campaigns’
The responsibility for the economic conditions that make prostitution what Agustin describes as a logical and mainstream choice for women with limited options is then shifted from structural factors and dominant institutions onto individual and deviant men. In the case of webcamming I believe that this shift from the overarching social conditions that make sex work a viable option for women also distracts from a third driving force in this particular form of sexual commerce. That is the webhosting sites which profit from webcamming and the banking system that benefits from every single act of prostitution that is performed via webcam. There is no such thing as a cash in hand webcamming session and to have a discussion about the driving factors that underpin prostitution and not include either this form of sex work or the profits garnered by the banking system and the corporations that own the hosting sites is, I believe, remiss.

2 'What the implications are for prostitution-related offences of the Crown Prosecution Service's recognition of prostitution as violence against women.'

The limited scope of legislation currently contemplates mostly women selling sex in massage parlors, brothels and outdoors while ignoring the proliferation and variety of commercial sex available online such as webcamming. This lack of recognition of other forms of sex work renders the law as it currently stands as something other than pertinent in its ability to regulate all the current methods which are

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7 ibid
being used to sell sex and thus its ability to protect those that may be abused or trafficked via webcam.

The law currently remains steadfastly and myopically focused on the more traditional and more visible forms of sexual commerce. While being seemingly oblivious to hybrid sex markets like webcamming. Pettinger has theorised that the lack of discourse around the phenomena of webcamming could due to current social and legal policy lacking any real understanding of the complexities of the new markets for commercial sex and how it is mediated in different ways.³ This lack of acknowledgement and understanding of the new hybrid sex markets that have evolved on the internet may explain why webcamming finds its self currently situated in a niche which appears to fall outside of the reach of the prevailing legislation.⁹

Let us consider the Policing and Crime Act 2009 and the circular that was published by the Home Office providing guidance for police and practitioners enforcing the provisions in the act.¹⁰ In this circular a prostitute is defined as outlined in Section 54 of the Sexual Offence Act 2003. This defines a person who, on at least one occasion and whether or not compelled to do so, offers or provides sexual services to another person in return for payment or a promise of payment to the person offering or providing sexual services or a third person. It also clarifies that an offence is not limited to particular localities or types of premises. It could apply to situations where, for example, the sexual services are provided in a place that may have a legitimate business

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⁹ Ibid 136
front (e.g. a nightclub) as well as internet-based services. It would seem that there is legislation in place for potentially defining performing a sex act for money via a webcam as an act of prostitution. At the same time as the Policing and Crime Act 2009 is not being used against those engaged in webcamming it is being used to make prostitution increasingly dangerous for women involved in direct and more traditional forms of sexual commerce. This is illustrated in the way that it is used to prosecute prostitute’s maids. For obvious reasons of safety the majority of sex workers prefer to either work with a maid or another sex worker. In the past maids were prosecuted using brothel laws such as Section 55 of the Sexual Offences Act 2003 and were generally expected to receive non-custodial sentences. The introduction of The Policing and Crime Act 2009 has seen charges of trafficking being bought against maids with custodial sentences of up to four years. The result is women are forced to work alone as understandably many women who would have been happy to act as a maid are now reluctant to do so in light of the increased criminalization. Where maids are employed it is often off premises, handling clients from a remote location leaving sex workers at increased risk from problem clients, violence and robbery.

Why the current legislation that exists for controlling prostitution is not being used in reference to webcamming could be rationalized as because this is an indirect form of sexual commerce with no actual contact between the performer and client then it is not prostitution. Bleakley theorizes that the buffer of the webcam offers performers protection from legal definitions of receiving payment for sexual services. This buffer doesn’t just protect the performer it also protects

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the consumer from prosecution under Section 14 of the Policing and Crime Act 2009. As previously described this effectively criminalizes the purchasing of sexual services from adult prostitutes if they are exploited. There is a reasonable case to make that someone paying a proportion of her earnings to an organization is potentially being financially exploited for the benefit of that organization.

It would appear that the law in its attempt to protect women from the risks that are associated with trafficking has resulted in them being exposed to more danger. While at the same time, paradoxically, by not enforcing any legislation in connection with webcamming an arena is being created where it is possible to traffic and exploit those who are vulnerable.

3 'What impact the Modern Slavery Act 2015 has had to date on trafficking for purposes of prostitution, what further action is planned, and how effectively the impact is being measured.

I think to limit ideas of sexual slavery to notions of travel is again leaving a potential arena of exploitation unregulated. At the same time as not “ferreting out” webcamming the current legislation has allowed for the creation of a space that could be considered what Brown has described as ‘a spatial fix where sexual relations are commodified.’

Although speaking geographically Brown theorises that in order for corporations to maximise profits they develop consumer spaces where the sale of sex is acceptable. We must be aware that in allowing such a space to develop we also allowing a space where abuse and trafficking may occur. After all it is expensive and risky to cross borders while the internet effectively crosses all borders. In effect this act by not

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13 Ibid (n2) 900
14 M Brown, Closet Spaces (Routledge 2000) 85
considering that trafficking can occur virtually is again leaving potential victims at risk of exploitation

4 'Whether further measures are necessary, including legal reforms, to:
- 'Assist those involved in prostitution to exit from it'
'Increase the extent to which exploiters are held to account'
'Discourage demand which drives commercial sexual exploitation'

The rise of neo-liberalism has seen the collapse of the Fordist-Keynesian compromise that formed the basis of the dominant economic structure in the global north-west from the 1880’s until the 1980’s. The neo-liberalism movement has resulted in the erosion of stable wage work with the working classes being marginalised by a governmental policy which deregulates the economy and reduces legitimate employment opportunities. In a period of economic insecurity and austerity the lack of discourse around webcamming has created a space for sex work to be conducted away from the constraints of the law. Jones describes how there has not been merely a move of existing sex workers from traditional modes of prostitution to online environments. Instead the internet has created a new space for the expansion of sexual commerce and I would posit potential abuse. 15

Governments may be reluctant to recognize some forms of sexual labour as being legitimate forms of body work. However, the existence of an extrajudicial space that allows for the development and practice

15 Angela Jones, ‘Sex Work in a Digital Era’ (2015) 9 (7) Sociology Compass 561
of sexual commerce along with an economic climate that facilitates it means that webcamming may be the first that is legitimized by virtue of the silence that surrounds it.

To date campaigns that have sought to protect women from the alleged exploitation and abuse of prostitutions have been launched against the subaltern other. The sex trafficker in the twenty first century, the pornographer in the twentieth and the white slaver in the nineteenth century were ethereal and insubstantial opponents to wage a campaign against. This is not the case when one thinks of webcamming with the principal profiteers being the corporations that provide hosting and payment facilities. The figure of the pimp or pornographer who has been recently reinvented as the trafficker and who is so beloved of anti-prostitution campaigners has been replaced. This time by the hosting site whose role is not to abuse and control but merely to facilitate and profit. Being entirely based online webcamming can only function by using the facilities that corporations provide such as banking facilities and service providers while at the same time providing these corporations with profit.

Conclusion

As Negri and Hardt theorised at the beginning of this century the supremacy of the state has been surpassed by the corporations and nowhere is this more apparent than in the muted discourses that surround webcamming. While it would be politically imprudent to alienate governance feminism and their right wing allies it is equally imprudent to attempt to outlaw a form of sexual commerce that is conducted entirely via corporations. However, by neither managing nor regulating webcamming the government is allowing a space where trafficking and abuse can occur. This need to be discussed in any significant debate which pertains to trafficking. What also needs to be
considered is the elephant in the room, in this case the corporate greed that facilitates a convenient way to buy and sell sex and which is creating a space where abuse and trafficking can occur. The neo-liberal system is creating a climate where women are turning to webcamming as a viable option to work their way out of poverty. Because of the lack of regulation, it is also an environment where the most disadvantaged are open to the abuse and trafficking the government purports to be protecting the vulnerable from