Written evidence submitted by Anna Fisher

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

1.1. Absolutely NO. Criminal sanctions should not fall on those who sell sex for many reasons, including:

1.1.1. The evidence suggests that the vast majority of women and children in prostitution enter it as a result of childhood abuse, poverty and misfortune, grooming, coercion, and/or betrayal, rather than as a free choice between a number of viable options.[1]

1.1.2. There is evidence that the hyper-sexualisation of mainstream culture and the proliferation of violent misogynistic porn act as a form of childhood sexual abuse, grooming girls to accept a life of objectification and service to men’s needs rather than their own, thus making them prime targets for prostitution. The involvement of girls and young women in prostitution cannot therefore be considered a free choice between a number of viable options when their choices and sense of possibilities have been shaped and limited by the pornified and misogynistic culture and environment in which they grew up.[2]

1.1.3. A variety of social and economic forces (such as entrenched poverty in many communities, the near collapse of employment opportunities for young people, the lower minimum wage for young people, the changes to the benefit system, the housing crisis and the costs of higher education) mean that many young people are driven into the informal economy in an attempt to generate an income and survive. In practice this often means prostitution for the girls and young women. Again this cannot be considered a free choice between a number of viable options but rather an extreme lack of viable options caused by forces outside her control.[3]

1.1.4. Once in prostitution, it is hard to get out, not least because when applying for a job, it is now necessary to account for every month of your life since leaving school, and admitting to time in prostitution either rules you out of the job or risks opening yourself to harassment and abuse.[4]

1.1.5. Criminal sanctions make it harder for women to leave prostitution, not least because most low-skilled work for women is in the care sector and requires an enhanced criminal records check. A criminal record for prostitution-related offences therefore puts much work out of reach. This is a significant problem, given that most women who get entrenched in prostitution lack skills and advanced education.
1.1.6. Prostitution is hugely damaging to those in it. Physical and verbal violence and sexual assault are the norm and psychological damage is inevitable, along with sexually transmitted diseases, unwanted pregnancy and damage to orifices and internal organs. Those in prostitution have suffered enough and should not be punished any further.[3]

1.2. Given that prostitution causes extreme damage to both those in it and to society as a whole, **criminal sanctions should fall on the buyers**:  

1.2.1. Sexuality is a key aspect of our humanity. When our sexual integrity is violated, our whole sense of self is violated. When we want to have sex with someone who wants to have sex with us, no one needs paying because sex in those circumstances is its own reward. Therefore when you buy someone for sex it means that person does **not** want that sex and so that sex is, in reality, an assault on that person’s integrity, an abuse of their human rights.[6]

1.2.2. Rachel Moran[7] has spoken eloquently about the awful, unbearable horror of having an unwanted man’s hands all over her body, and his dick ramming up her vagina or rectum or down her throat. To survive, women invariably have to dissociate which causes long term psychological problems and post traumatic stress disorder. Many other survivors of prostitution have similarly spoken out about its awful reality.[8][9]

1.2.3. Prostitution feeds men’s narcissism and entitlement. Research on punernet makes this clear – when men rate women badly, it is not because they have not provided sex but because they failed to show they were enjoying it and to boost the man’s ego.[10]

1.2.4. Prostitution affects how sex buyers treat their wives, their female colleagues, and ultimately all the women and children they encounter.[11]

1.2.5. The damage that prostitution causes goes beyond the women and children directly involved – it sends out a message to the whole of society that women are second class citizens, women are commodities, that buying and selling human beings is acceptable, that women’s rights are secondary to men’s rights, that men and boys have a right to sex, regardless whether it is desired or not, and so on.

1.2.6. Male sexual violence against women and children is entrenched at alarming levels.[12] This suggests that a radical new approach is required. Evidence in Sweden and Norway suggests that tackling prostitution has an impact on male violence against women and children more generally.[15]

1.2.7. Prostitution is incompatible with equality between men and women and is therefore incompatible with the Universal Declaration of Human Rights.[13]
1.2.8. Research shows that criminal sanctions are one of the main things that would deter men from buying women and children in prostitution.[14]

1.2.9. Making buying sex a criminal offence sends out a powerful message that deters sex buyers, changes attitudes, and reduces the demand that drives this terrible trade, from which ruthless people make vast profits at such a terrible cost to the women and children involved and to the entire community.

1.2.10. Countries that have implemented a Nordic Model approach (criminalising buyers, decriminalising those in prostitution and providing them with high quality exit services) have seen a reduction in inward trafficking, in the overall amount of prostitution, and in violence against women and girls more generally.[15]

2. Implications for prostitution-related offences of the Crown Prosecution Service’s (CPS) recognition of prostitution as violence against women.

2.1. There must be an **immediate ending** of the criminal sanctioning of all those in prostitution and instead they should be directed towards high quality services, including long term practical support (housing, training, childcare, etc) and psychological support.

2.2. In addition criminal records for offences related to a person’s own prostitution should be wiped clean.

2.3. The priorities and targets of the police and CPS must be changed so that the policing and prosecution of pimps and traffickers, kerb crawlers, and sex buyers are made explicit priorities and targets.

2.4. High quality training must be developed and delivered to the police, CPS staff, judiciary, etc. This training should counteract the misogynistic culture we are all embedded in and cover the complexities and realities of prostitution, sex trafficking and child sexual exploitation, including the power relationships involved, and also the structural oppression of women and children, etc.

2.5. Lessons must be learnt from innovative policing strategies based around zero tolerance to kerb-crawling, diverting women involved in prostitution away from the criminal justice system and towards local agencies for support and exiting services, such as Suffolk Police’s strategy after the Ipswich murders, the Merseyside initiative[16] and the more recent initiative in Hounslow. An independent evaluation of the Suffolk strategy found it to be cost effective.[17]

2.6. Police should make full use of Section 53A of the Sexual Offences Act 2003 to prosecute sex buyers, including for tackling indoor prostitution where the kerb crawler laws are not relevant.
2.7. However, Section 53A has proven to be ineffective because of the difficulty of proving that the person being bought has been coerced. This is one of the best arguments for changing the law so that buying sex is a criminal offence per se. This would make it much easier to police and enforce and it would therefore act as a more effective deterrent.

2.8. Changes need to be made to the law to properly reflect the understanding of prostitution as a form of violence against women. For example, making buying sex a criminal offence as mentioned in the previous point; increasing the maximum sentences for pimping; amending the strict liability offence for purchasing sexual services from a child by raising the age at which strict liability is established from 13 to 18; and creating sex trafficking legislation that would meet our obligations under the Palermo Protocol (see following points).

3. **Concerns about the Modern Slavery Act 2015**

3.1. I am dismayed to find that the definition of slavery in the Act excludes sexual slavery/forced prostitution. This is extraordinary given that commercial sex trafficking is recognised as the most prevalent form of modern slavery and that the vast majority of those trafficked in this way are female.[18]

3.2. I am also dismayed that the definition of human trafficking does not conform to the internationally agreed definition of human trafficking set out in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol) which the UK ratified on 9 February 2006.[19]

3.3. In particular the central feature of the definition of human trafficking in the Modern Slavery Act is arranging or facilitating the “travel” of a person “with a view” to that person’s exploitation. The Palermo Protocol does not centre the movement of the person from place to place.

3.4. Instead the Palermo Protocol places the **forced exploitation** of the person at the centre and it separates out the exploitation of the prostitution of a person from other forms of forced labour, in recognition that the harms to the person are significantly different. It also includes the notion of “abuse of power or a position of vulnerability” which implicitly recognises trafficking as an issue of sex, race, caste, nationality and class and covers situations where the person has no real alternative but to submit to the abuse involved.[20]

3.5. According to the Palermo Protocol definition, the essential feature of sex trafficking is therefore **third-party involvement in the exploitation of another’s prostitution**. Which, as Catharine MacKinnon says, is “straight-up pimping”. When we consider that most women and children in prostitution have a pimp – a third-party who exploits their prostitution – it comes as no surprise that Sigma Huda, UN Special Rapporteur on Trafficking 2004–2008, observed that
“prostitution as actually practised in the world usually does satisfy the elements of trafficking”. [21]

3.6. So the Palermo Protocol recognises that the coerced exploitation of another person’s prostitution is a grave human rights abuse, a form of slavery. But instead the Modern Slavery Act makes arranging a person’s travel the key act. How can this possibly be justified? This is surely a grave contravention of our obligations as a ratifier of the Palermo Protocol.

3.7. Just imagine for a moment that you are a young woman who has been ensnared by a pimp and forced to have 20 or so men every day groping your body and ramming their penises into your orifices for the pimp’s enrichment. Unlike the Palermo Protocol definition, the Modern Slavery Act does not make this an offence. Instead it makes the offence hinge on whether he moves her from, say, London to Manchester. Now if you were that woman, would it really make any difference whether you were in Manchester or London? In fact might you not find a journey to be a respite from the awful, hourly, daily assaults? Because it is those awful daily, hourly assaults and your powerlessness to get out that is the problem, not the place.

3.8. Given that the sex trafficking is recognised as the most common form of modern day slavery and that the vast majority of the victims of sex trafficking are female, and that it is women and girls in the wider community who are most affected by its proliferation, it is particularly heinous that the gender implications of this Act were not fully thought through as required by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which the UK has ratified. [22]

3.9. This suggests that those responsible for the Modern Slavery Act were either culpably ignorant or never had any intention of making it an effective tool for tackling sex trafficking and the appalling suffering it causes to individuals and communities, and the damage it does to equality between the sexes more generally.

3.10. This MUST be put right as a matter of urgency.

4. Are further measures necessary to assist those involved in prostitution to exit?

4.1. Absolutely YES. Women need both practical assistance, such as training, housing, childcare, legal and benefits advice, and emotional support and psychological therapy.

4.2. The Swedish experience has shown that to be effective services must be provided within a feminist framework, such as was provided by Eaves before it had to close through withdrawal of funding.

4.3. This means that funding must be made available for those services and there must be an immediate reversal of the trend for removing funding from specialised services (such as Eaves) that have developed expertise in supporting women who are in, and have been in, prostitution.
4.4. Given that the vast majority of the abuse that women and girls suffer in prostitution is perpetrated by male sex buyers and pimps, services for women and girls must be female only, so that they can feel safe. Services for transgendered people and men should be provided separately.

5. **Are further measures necessary to increase the extent to which exploiters are held to account?**

5.1. Absolutely YES.

5.2. Changes need to be made to the law to properly reflect the understanding of prostitution as a form of violence against women. For example, the current maximum sentence for rape is life imprisonment. However, the current maximum sentence for pimping is 6 months or 7 years depending on whether it is prosecuted as a summary or indictable offence.[23]

5.3. When we understand prostitution as violence against women – as paid rape (the buyer is buying her consent, which is therefore not freely given) – and that pimping is making a profit from someone else’s prostitution, this is clearly untenable and must be changed. The majority of pimping does in fact fall within the Palermo Protocol definition of trafficking and should be treated as such – as a grave human rights violation – and sentenced accordingly.

6. **Are further measures necessary to discourage the demand that drives commercial sexual exploitation?**

6.1. Absolutely YES. It is clear that we have an unequivocal obligation to do this under the Palermo Protocol, which requires ratifying states to take measures to reduce the demand for sex trafficking.

6.2. The demand that drives the sex trafficking is ordinary men who are prepared to pay good money to buy (mostly) women and children in prostitution. The research is clear that the greatest deterrent is the possibility of being caught, criminally sanctioned and exposed. Section 53A of the Sexual Offences Act 2003 has proved to be ineffective as mentioned above and I therefore call for legal reforms to introduce a full Nordic Model approach.

6.3. Any changes in the law need to be accompanied by a strong public information campaign and educational programmes in schools.

6.4. CEDAW requires states to consider the impact of all policies on gender equality and the health, status and well being of women and girls. It is clear that sex trafficking and the proliferation of prostitution in all its forms is having a devastating effect on gender equality and the status and well being of women and girls. This is another pressing reason for legal reforms to introduce a full Nordic Model approach.
6.5. Many people argue that the Nordic Model makes it more dangerous for those in prostitution. However, these same people seem oblivious to the fact that prostitution can never be made safe[5] and that girls and young women have the right to a life free from violence and being funnelled into prostitution, which is the inevitable result of policies that legitimise prostitution.

6.6. It needs to be remembered that many individuals who claim to be “sex workers” are often in fact pimps or have other vested interests in prostitution. Similarly many organisations who claim to represent “sex workers” often in fact represent pimps or others with a vested interest in prostitution, whether commercial or personal.[24]

References


[8] See also Rebecca Mott’s blog: http://rebeccamott.net/

[9] And the testimony of other survivors, such as: “Trafficking Survivor Letters to Amnesty International USA” at: http://www.cancerincytes.org/#!/v4-iss2moore/cun6


Joanna Bourke writing in The Guardian, “The battle against sexual violence is being lost – look at the number of young victims”


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