Written evidence submitted by Nina de Paula Hanika

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

Why criminalise either activity? There is little evidence to suggest criminalising the buying of sex does anything to protect those who sell sex – in fact, the opposite, since buyers are less willing to divulge personal information meaning sex workers are less able to screen or control the clients they accept. Criminalising those who buy sex merely pushes the sex trade further underground making it much more dangerous for those who sell.

There is no reason why sex between two consenting adults, where money is exchanged, should be illegal. If individuals are working in the sex trade due to external factors such as poverty, drug addication, homelessness, etc., what they require is access to support in these areas, not to be stuck in a cycle of continued criminalisation that offers them no opportunity for exit.

New Zealand successfully decriminalised prostitution in 2003. The New Zealand Prostitution Reform Act (PRA) is a good basis for any serious change in prostitution law and policy. It removes sex work from the criminal law, allows people to work together collectively, and distinguishes between consenting sex and violence and exploitation. Crucially, it has been shown to improve sex workers’ working conditions, while making it easier for those who want to get out, to do so: “The majority (70%) felt sex workers were now more likely to report incidents of violence to the police. It appeared that this was particularly true for the street workers.”

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

The CPS policy simply results in increased arrests of sex workers, often violent in themselves. In the cases of migrant women involved in sex work, raids from the Home Office are also frequently violent and traumatic, while the following experiences many face in detention centres like Yarl’s Wood, where the racism and sexual violence detainees have experienced at the hands of guards has been well documented, further extend this violence.

The brothel-keeping restrictions more often than not prevent women from controlling their own working conditions with the exact intent of maintaining their own safety – by working collectively, they can keep each other safe and work co-operatively. This also decreases the risk of relying on controlling or coercive bosses. The policy does nothing to prevent violence against women since it contains no reference to abuse or coercion, merely the length of time women have been working and how much money has been made.
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.

The proposal to criminalise clients as part of the Modern Slavery Act (occurring little over a year ago, so why there is need for yet another inquiry so soon after is unclear) was resoundingly defeated. The Mactaggart amendment was filled with false claims, such as the idea that over 80% of sex workers are trafficked. In fact, the true figure is less than 6%.

By criminalising sex work, police attention is diverted away from policing activities whereby no violence may actually be occurring – instead of focusing on reported rapes and sexual assaults. This increased policing causes increased harm – sex workers quoted in an article for the Guardian around the time of the last inquiry stated the following:

“Without taking sex workers’ experience into account there can be no protection, only repression. The raids on Soho flats last year, done in the name of freeing victims of trafficking, are one example. Two hundred and fifty police broke down doors and dragged handcuffed immigrant women in their underwear onto the streets. Women describe daily humiliation, bullying and threats: “The police wait outside my house to catch me when I leave ... they jeer at me, and make sexually explicit jokes. I’m strip-searched and they sometimes leave the door open so the male officers can see in.”

(http://www.theguardian.com/commentisfree/2014/nov/06/sex-workers-decriminalisation-amendment-modern-slavery-bill)

Much greater numbers of men, women and children are trafficked for the purposes of labour exploitation, so why the greater focus on the sex industry? The approach is grounded in moralising and does nothing to holistically support people seeking to exit the trade, should they have entered it via trafficking.

Whether further measures are necessary, including legal reforms, to:

Assist those involved in prostitution to exit from it

It is talking at crossed purposes to inquire as to whether further legal reform is required to allow those involved in the sex trade to exit in, when this government is systematically decimating the support systems that are pushing people into these forms of work. If the goal is to prevent people from entering the trade to begin with, or to support them in exiting it should they wish, what is required is a realistic address to savage benefit sanctions and cuts, rising homelessness, domestic violence and low wages. Domestic violence services, in particular, have been savaged since 2010, with some services losing up to 80% of their budgets. New processes for administering Universal Credit means abusive partners have much greater ability to control their partners finances – it is not out of the question that women fleeing domestic violence, unable to access refuges due to slashed housing benefits (which is how refuge spaces are paid for), and no swift recourse to safe housing, should turn to the sex trade as a means of surviving. Seeing the solution as increased legislation is shortsighted and does not tackle the roots of this issue.
Increase the extent to which exploiters are held to account
Who is being referred to by the term “exploiters”? As discussed above, Brothel-keeping and controlling law claims to target those who exploit sex workers but in reality are used against women working together for safety. These laws criminalise consenting relationships between prostitute women and partners, family members, friends, working colleagues and others. Trafficking law also claims to target violent exploiters but the law is more often used to target immigrant women for deportation.

Discourage demand which drives commercial sexual exploitation
Research on the Swedish law which criminalised clients found: “no convincing empirical evidence that the law has resulted in a decline in sex work . . .” Under the constant threat of police interference, sex workers are forced to hurry the process of screening and negotiating with clients, which makes them take more risks. It also found that sex workers have often been prosecuted as ‘pimps’ when they band together for safety. Landlords have been pressured by police to evict sex worker tenants under threat of being prosecuted themselves. Police have also been known to report sex workers to hotels and – most devastatingly – sex work is frequently cited as a reason for refusing child custody. Rose Alliance, the sex worker organisation in Sweden, conducted their own research and found that 63% of sex workers said that the sex purchase law had created more prejudices. Domestic violence, including rape, is the most common form of violence against women, yet no-one suggests that relationships between women and men should be banned.