Written evidence submitted by Dr Belinda Brooks-Gordon

Dr Belinda Brooks-Gordon is chartered psychologist and university academic who has researched sexuality, psychology, and sex work for over 22 years. Her research experience includes carrying out the largest study to date on clients in the UK carried out over three years with the Metropolitan Police (Brooks-Gordon, 2006) and writing extensively on sex work and its regulation in both legal and medical journals. Most recently she was the Principal Investigator analyzing the economic contribution of sex work to the UK GDP for the Office of National Statistics (ONS). The aim of developing sound policy on the matter is to be welcomed, as would be the opportunity to present evidence orally to the Committee.

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.

There is no offence of buying or selling sex; to create one would require a major new piece of legislation and with it a philosophical rationale for why the purchase or sale of sex between consenting adults should be different from recreational sex in other contexts such as swinging parties, one-night-stands, threesomes, or ‘dogging’ to name but a few. Wolfenden made the important distinction between public nuisance and morality and it was accepted that morality should be no business of the law. Within ECHR, Art.8 is enshrined the right for respect to private life, and case law has shown this to encompass a person’s sex life as the most intimate aspect of private life1 So the first question that should be asked is whether the behaviours involved in the sale and purchase of sexual services ought to be the province of the criminal law, or whether that is likely to be a disproportionate response or even counter-productive. My paper in the Criminal Law Review addresses the important question of whether the best interests of society are served by criminalizing sex workers’ clients and whether it is synonymous with protection of ‘Convention Rights’ under the European Convention on Human Rights (Brooks-Gordon, 2005).

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

For the CPS to broaden the definition of violence against women to include consenting activity between adults would be net-widening of unmanageable proportions. Sex work exists in a vast variety of contexts and has different meanings for those working in it. To rename it as ‘violence against women’ in order to prohibit it would have a number of effects:

a) Issues like sex work generate irrational emotions and excessive zeal in the attempt to reform those who take part in it. Where the support of one conception of morality is at the expense of another it becomes a battle in the struggle for status between two divergent styles of life. Analysis of other prohibitions shows how a status law, one based on morality (even if rebadged as ‘exploitation’) can only ever be a symbolic law (Gusfeld, 1981).

b) Attempts at coercive reform ends up with institutionalised evasion. Such evasion is common over moral issues when people do not agree with the morality enshrined in law and suggests that measures against the buying and selling of sex may be counterproductive.

c) For a law to work it must be effective, fair and have legitimacy. To be workable, any law must have legitimacy with those who have to police it and a quasi-religious moral or radical-separatist view of sex work as any form of ‘exploitation’ is not a view shared by the police who deal with sex work on a daily basis (see Brooks-Gordon, 2006) nor by an increasingly secular Britain, as an Ipsos-Mori poll showed.2 The majority of officers who police prostitution do not feel that increasing sanctions against sex workers and clients is effectual (Sharpe, 1998), that such sanctions reduce the legitimacy of the law to police officers (Brooks-Gordon and Gelsthorpe, 2003).

d) To suggest that only women sell sex marginalises men who sell sexual services to men, and to women, as well as transgender people who sell sex. It is inaccurate to assume that the same conditions exist for men selling sex to men, men selling sex to women, women selling sex to men, and women selling sex to couples. However, in marginalising men in sex work, who generally have greater autonomy than women in sex work, not only is the rhetoric of victimhood reinforced, but

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the needs of male sex workers are overlooked.

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.

The broadening of modern slavery to include domestic servitude and other types of labour reflects more accurately other more numerous forms of labour exploitation into which men and women are coerced. The definition in the Act that encompasses fear, force, and fraud, so bringing it into line with the Palermo Protocol is an improvement, as the overly broad definition in the Sexual Offences Act 2003 was unworkable. A sensible workable law would also recognize that it is often clients who are concerned about a sex worker’s status who alert police to any trafficking activities so that criminalizing this group of informers would seem to be counterproductive.

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

i) Assist those involved in prostitution to exit from it.

Any help to those who want to stop selling sex, should also be extended to help and support for those still involved in selling sex because it has to be recognized that exiting is not a linear process (Cusick, Brooks-Gordon, Campbell, and Edgar, 2010). Many who sell sex may exit by taking up ‘maiding’ for others, or use earnings from sex work to buy premises to rent to others who sell sex, or ‘straight’ businesses on the property market. Support has to be non-judgemental, provided by trusted sources, and has to provide a sufficient safety net so that return to selling sex is not a more attractive option.

ii) Increase the extent to which exploiters are held to account.

Those who exploit sex workers in a variety of markets by increasing premises rental prices or cab fares should be challenged and sex workers should be supported when they challenge these behaviours. Decriminalization clearly goes some way to removing the stigma, and may enable sex workers to have greater consumer rights when they face unequal treatment.

Exploiters, however, who perpetrate harms with fear, force, or fraud are already held to account in a vast array of legislation covering controlling offences that carry penalties of up to 14 years custodial sentences (Brooks-Gordon, 2010). What prevents people from taking part in harmful activity is the risk of being caught rather than increased penalties – this is the case for rational offences like drink driving as well as violent offences. So exploiters can only be held to account with an increased chance of being caught. Currently, the likelihood of being caught is low because sex workers are so stigmatized they are reluctant to report offences. Decriminalization is an effective way to ensure that exploiters are more likely to be held to account (Barnet, 2004), as is making violence against sex workers a hate crime.

iii) Discourage demand which drives commercial sexual exploitation.

There is no evidence to suggest that commercial sexual activity is either demand-driven or supply-led. Indeed, applying such basic economic models to a human activity related to complex psychological factors as fantasy, desire, loneliness, and the drive for human company is overly simplistic. It could equally be argued that successive governments’ reduction of welfare support may increase ‘supply’. An issue known to be a ‘supply’ factor is violence, including state violence, against sex workers in their home state which may cause them to migrate and sell sex in a safer country (Brooks-Gordon, 2008). Such simple models, however, don’t get very far to explaining or understanding the behaviour in question.

There is, however, a well-established body of research from which we can understand clients of sex workers. For example, object relations theory explains the needs of men who sexualise their need for intimacy and comfort. In-depth interviews with clients found that most men were seeking sexual solutions for emotional problems, and that for these men going to a sex worker relieved feelings of despair and intense loneliness (Jordan, 1997). This has empirical support from client surveys (Kinnell and Griffiths, 1989). Moreover, men who go to prostitutes enjoy the psychological build-up of planning and
preparing to go to a sex worker (Holzman and Pines, 1982). Many male clients dislike, and have difficulty with, ‘dating rituals’ such as clubbing and chatting up and some men create a ‘rhetoric of mutuality’ to create a fantasy relationship out of the commercial interaction with a sex-worker (Plumridge, Chetwynd, Reed, Gifford, 1996). Such difficulty may also indicate the pressure put upon men in conventional roles that feminists argue are as damaging to men as to women (Segal, 1997). Men also eroticise the phantasy of the dominant woman and this is one reason men enter into commercial sex contracts. Men who are not in relationships have a huge range of psychological, genetic, economic, social, and geographic reasons for buying sex. These include for example: at the margins, the relative search costs of finding a willing sexual partner in ad hoc or formal settings in a given time period, low self-esteem in conventional social gatherings, fear or dislike of emotional entanglements, and perceptions about one’s own level of physical attractiveness (e.g. in matters relating to height, build, or looks). Other factors include unsocial working hours, persistent gender imbalances at work, thin markets for potential sexual partners in rural areas, and tight social controls such as community disapproval against pre-marital sexual activity (such as within certain faiths) The question ‘Why do men in relationships buy sex?’ has been answered including: (1) the need for variety, (2) sexual frustration with a shortfall of sexual activity in their current relationship, and (3) not wanting a committed emotional relationship which may threaten their current relationship (Cameron and Collins, 2003). Men with partners have stated that they wanted only sex with sex workers—and that they got other things like commitment, intimacy and love from others (Campbell, 1997). There is also the fantasy of ‘risk’, associated with the activity and while the conceptualisation that these men make of risk including the risk of legal censure, is not yet fully understood we do know that kerb-crawling itself, because of the risks involved, is a source of significant ludic utility in a sexual context. Clients purchase sex, at least in part because of the dare of doing it, ‘the thrill of being illicit’ (McKeganey and Barnard, 1996). The decision to use sex work services are therefore conditioned by: location, disposition, religion, range of opportunities to conceal consumption, and risk. While the further systematic study of the accounts of these men may provide useful data on the motivations and behaviour of these men, our current understandings do not provide justification for the criminalization.

What is understood is that the net-widening effect of expanding offences generally diverts policing resources away from grooming gangs and violent offenders, and onto ordinary clients as the police focus on what they have called ‘low hanging fruit’. We also know that clients are, in general, more law abiding than males in the general population - who have higher offence rates than clients (Brooks-Gordon, 2006). A more sensible approach is to use what we know about clients to encourage safer behaviour from clients, and to improve working conditions of sex workers so they are not made to work in the kind of isolated situations that leave them prey to violent people who masquerade as clients.

**Human rights of sex workers.**

On November 2001, the European Court of Justice (‘ECJ’) decided that prostitution is ‘a provision of services for remuneration of which . . . falls within the concept of economic activities’ within the meaning of Art.2 of the EC Treaty. Markets in consenting commercial sexual activity were included in the national UK accounts for the first time in 2014 to enable the comparison of GDP measures across EU countries. The results from the financial model used to calculate the total financial turnover from sex work in the UK and the intermediate calculations of income and expenditure by type of sex worker and geographical region were also calculated. The total number of sex workers in the UK is estimated to be 72,800 comprising of approximately 32,000 in London and 41,000 outside London. Their total gross annual income earned from sex work is estimated to be £5.09 billion leading to a net income, after costs, of £1.23 billion (Brooks-Gordon, Mai, Perry, and Sanders, 2015).

Given the net turnover of sex work to the British economy, and given the danger to these workers of criminalization, current policy discussion could productively include measures on pay, time off, workplace safety, working conditions, hygiene, health, and the recognition of the rights of sex workers.

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References


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