Written evidence submitted by the International Union of Sex Workers

The International Union of Sex Workers:
For our human, civil and labour rights. For our inclusion and decriminalisation.
For freedom to choose and respect for those choices, including the absolute right to say no.
For the full protection of the law.
For everyone in the sex industry.

We write in response to the Home Affairs Committee inquiry into legislation on prostitution, particularly "whether the balance in the burden of criminality should shift to those who pay for sex rather than those who sell it":

- Whether criminal sanction in relation to prostitution should continue to fall more heavily on those who sell sex, rather than those who buy it.
- What the implications are for prostitution-related offences of the Crown Prosecution Service's recognition of prostitution as violence against women.
- 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.
- 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


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For a fully referenced version of this paper, please contact the IUSW via our website.
Executive summary
1. The IUSW campaigns for sex workers’ inclusion in decisions which affect us and for policy and practice that protects the rights and safety of everyone in the sex industry. Everyone in the sex industry - whether there by choice, circumstance or coercion – is entitled to equal human rights, the full protection of the law and freedom from discrimination.

2. Those of us who turn to sex work because of limited options need more options; our circumstances are not improved by loss of income, police aggression and arrest of ourselves, our colleagues or our clients. A living wage, effective welfare system, affordable housing and childcare and adequate support systems – particularly for vulnerable groups like children in care and asylum seekers - are ways to address “push factors” like poverty, drug use and lack of options. Taking action against clients not only drives HIV and correlates with increased violence but does nothing to expand economic options or assist those in need.

3. There is no evidence that most purchasers of sexual services wish to buy services from the unwilling; evidence shows that clients are not the primary perpetrators of violence against people who sell sex.

   There is no evidence that demand for commercial sex is the primary cause of trafficking: trafficking occurs in the sex industry for the same reasons it occurs in other industries.

   There is no evidence that the majority of sex workers are unwilling.

4. The evidence shows that full and complete decriminalisation of sex work - the removal of legal sanction for consensual adult sexual behaviour and decriminalisation of sex workers sharing premises, third parties and clients – is most effective way to reduce the harms associated with the sex industry and to enable people who sell sex to call the police without fear, receive the health care or support they need and to move on from sex work unimpeded by a criminal record.

About the IUSW
5. The International Union of Sex Workers, founded by a migrant sex worker in 1999, is a grassroots organisation that brings together people from all sectors of the sex industry in order to give voice to current, active sex workers. We have no funding and all work is by volunteers.

6. We are an inclusive organisation, open to everyone in the sex industry and adult entertainment – a very diverse group. The way someone makes a living is less important than whether they respect diversity of experience and support human, civil and labour rights for all within the sex industry.

7. Our network also includes allies who recognise that everyone in the sex industry is entitled to equal human rights and freedom from discrimination and supporters of evidence-based policy.

8. More important than our differences are the things we share: everyone in the sex industry lives with stigma. We all experience social exclusion. We all face vulnerability. Many of us are criminalised.

   Our principles and practice are born from our experience, the experience of real people within the sex industry.

9. We campaign for sex workers’ inclusion in decisions which affect us and for policy and practice that protects the rights and safety of everyone in the sex industry, that, in order to effectively tackle abuse and exploitation, is based on evidence and in reality, rather than ideology, assumptions, stereotypes or individual cases.

10. Our lives and livelihoods are directly and immediately affected by policy and policing decisions on the sex industry; our safety and rights are diminished by discrimination or enhanced by fair and equal
11. We evaluate policy and practice on the grounds:
   • does it promote the human rights and safety of people in the sex industry?
   • does it respect our consent to sexual activity?
   • does it facilitate the reporting and prosecution of crimes of violence (e.g., robbery, sexual assault, coercion, trafficking) against people in the sex industry?
   • does it challenge the stigmatisation and social exclusion of people who sell sexual services?
   • does it reflect the evidence base on prostitution and related issues?

12. Like every other organisation of sex workers in the UK – the English Collective of Prostitutes, Scot-PEP, Sex Worker Open University and x:talk – we campaign for full and complete **decriminalisation of sex work**. Globally, hundreds of organisations, comprising hundreds of thousands of individual sex workers, say that **decriminalisation is essential for safety, human rights and fair and equal treatment**.

**UK law: criminalisation and its consequences**

13. Current UK law on prostitution is complicated, unclear, ineffective in targeting exploitation or abuse and in breach of the Universal Declaration of Human Rights (articles 7, 20, 21 and 23).

14. Brothel keeping legislation concerns premises and location, rather than coercion or exploitation. The effect of this is that people who have sex for money cannot own or share property together without risk of prosecution. In addition, UK legislation on “controlling for gain” (“pimping”) is entirely unconnected with trafficking or exploitation. **It criminalises almost every way of working with or for a third party and explicitly includes people working of their own free will. The only way to exchange sex for money indoors and be free of the risk of successful prosecution is to do so entirely in isolation.**

15. Women connected with the IUSW have received criminal convictions as a result of sending two dozen text messages – over a period of two years - ensuring another woman would be present for her shift at a brothel and for working from a holiday flat, rented for a fortnight, with another woman on the basis that both were running the brothel created by the other’s presence.

16. On street, both sex workers and clients are almost completely criminalised and, in the 50 years since Wolfenden, this has entirely failed to solve the problems associated with street sex work. The vulnerability of street sex workers is widely accepted: a high proportion are survivors of child sexual abuse, have been in care, have poor educational achievement, are IV drug users and are homeless or in insecure housing situations. Criminalisation is at best ineffective in addressing these problems and at worst traps women in sex work with a criminal record and a profound distrust of the authorities who persecute them. “Persistent” soliciting or loitering is defined as occurring twice in three months, giving this profoundly vulnerable group of women the opportunity to have contact with the police four times a year without fear of arrest.

17. A smaller number of clients does nothing to reduce the amount of money women need, so kerb crawling crackdowns mean street sex workers
   • work longer hours
   • compete more aggressively with other street workers
   • are more likely to cut prices in order to secure a client
   • take greater risks and engage in activities they would prefer to avoid, including sex without a condom
   • work in more isolated locations and further from other sex workers
   • have less time to assess potential clients or agree prices, boundaries, safe sex and other limits so are more likely to go with clients without negotiation, finding themselves in situations they would have declined with more time to make a decision.
18. Disrupted working hours and dispersal over a greater geographical area makes it more difficult for outreach workers to contact sex workers for safe sex counselling, drug rehabilitation or support in exiting prostitution.

The reality of violence

19. Prostitution is not violence and reiteration does not make it so. Our consent counts: rhetoric cannot justify disrespect for our fundamental bodily autonomy. Criminalising our clients does nothing to increase the range of options available to people who sell sex; in fact, it actively works to reduce them by decreasing our income and thus the resources available to us.

20. Evidence shows that clients are not the primary perpetrators of violence against people who sell sex. A substantial proportion of violence to street sex workers comes from members of the general public, such as groups of youths, aggrieved local residents and vigilantes. Attacks include shouted abuse, projectiles (e.g. cups of urine) thrown from cars, and assaults requiring hospital treatment.

21. Much violence experienced by indoor sex workers is through robbery. Gangs make a rational choice, in the expectation of a small number of people on the premises, cash available, reluctance to report, and the knowledge that if the robbery, rape or other assault is reported, the police may be dismissive in their response or at worst, prosecute those who make the mistake of coming to the attention of the authorities. Criminalising clients as a whole is the opposite of targeting those who actually commit acts of violence against us.

22. Crackdowns on kerb-crawling demonstrate a correlation with increased violence against street sex workers. Aggressive prosecution of kerb-crawlers does not increase the options and support available to street sex workers, but increases their fear of the police. Those clients deterred by knowledge of police campaigns against kerb-crawlers are the most law-abiding; such campaigns do nothing to affect the behaviour of the worst. An individual intending to assault, rape, rob, or kill will not be prevented by the prospect of a fine for kerb-crawling or for paying for sex.

How criminalisation enables trafficking

23. Legislation on trafficking in the sex industry is so broadly drawn as to actively assist exploiters in operating undetected. Despite the uselessly loose definition of trafficking in UK law, it is indisputable that victims as defined under the Palermo Protocol – women coerced into selling sex or grievously exploited when doing so, women trapped in debt bondage and under threat of violent reprisal - do exist, though research suggests they make up less than 10% of those who sell sex.

24. Three groups of people are likely to see such victims: sex workers, clients and those who run brothels, working flats and escort agencies. The law builds in structural reasons to dissuade all of these groups from reporting anxieties about trafficking. As two people working together fulfils the legal definition of a brothel, many working flats decrease their likelihood of being raided by arranging for only one individual to work on each day of the week. Due to this “rota system,” sex workers are unlikely to see other people working in the same flat, losing an opportunity to identify and report anxieties about trafficking.

25. Sex workers in brothels are discouraged from reporting concerns by fear of losing their livelihood as a result and the potential for arrest and prosecution: such prosecutions may fail or may, and have, succeeded. Anyone who runs a brothel, working flat or escort agency is criminalised under legislation against controlling for gain, brothel keeping etc. so is at risk of arrest if s/he contacts the police.

26. Despite this, there have been cases where brothel owners have alerted police to suspicions of trafficking. Regrettably, there have been cases where those suspicions have been proven correct, where victims have been rescued, traffickers arrested – and the police have then returned to the source of their information, to arrest, prosecute, imprison and confiscate their assets. This acts as a massive disincentive to report, allowing trafficking to go undetected.
The role of demand

27. **There is no evidence that demand for commercial sex is the primary cause of trafficking:** trafficking occurs in the sex industry for the same reasons it occurs in other industries. Indeed, Professor Julia O'Connell Davidson states “…we could almost say that supply generates demand rather than the other way about… attempts to suppress the prostitution market, whether focused on sex workers or their clients, necessarily implies subjecting those who sell sex to what Radin describes as "the degradation and danger of the black market … it is … hard to see why anyone genuinely concerned with protecting and promoting human rights would place measures to tackle consumer demand for commercial sex at the top of their policy agenda” (italics ours).

28. Elsewhere, O'Connell Davidson explains how criminalised markets increase harm: “…three related factors are key to … exploitative conditions … (a) The unregulated nature of the labour market segments in which they work; (b) the abundant supply of exploitable labour and (c) the power and malleability of social norms regulating the behaviour of employers and clients…the absence of effective regulation is one of the factors that help to create an environment in which it is possible and profitable to use unfree labour.”

29. Measures which improve the situation of migrant workers in other industries will improve the situation of migrants in the sex industry. Trafficked persons are not found in businesses which operate openly and where conditions are monitored.

30. However, trafficking within the sex industry is different from that in other sectors since clients are able to interact privately with victims and build relationships of trust with them. There are numerous cases of clients assisting victims of trafficking – for example, in the Oriental Gems case, one of the UK's largest trafficking investigations, part of the reason the prosecution was viable was due to evidence from a victim freed from slavery due to a client paying £20,000 of her debt.

31. **Criminalisation of clients ensures that the vast majority of people who are in a position to report anxieties about coercion and trafficking for sexual exploitation face enormous disincentives to do so.**

Criminalisation of clients – a failure on its own terms and actively harmful

32. In Sweden, clients were criminalised in 1999, with the stated aim of decreasing trafficking and the overall number of women in who sold sex. The Swedish government’s evaluation of the effect of the law, ten years after it was introduced, stated “prostitution … has at least not increased” and “it is difficult to assess the exact extent of human trafficking for sexual purposes”. In addition, the National Board of Health and Welfare has conducted four surveys of the extent of prostitution in Sweden and none have been able to give “an unambiguous answer to that question.”

33. Eurostat’s “trafficking in human beings” reports “EU Member States that reported a gradual increase in the total number of identified and presumed victims over the three reference years are: Bulgaria, Denmark, Finland, Netherlands, Slovenia, Slovakia and Sweden”.

34. The Swedish National Police Board reported in 2012 that in the number of Thai massage parlours – and, of course, being a migrant does not mean being trafficked - in Stockholm had increased from 90 to 250 in the past three years and that there were 450 such premises across Sweden as a whole. Despite a decrease in the number of convictions for sex trafficking, they stated “traffickers and pimps looked … to new and more financially profitable markets … in Denmark, Finland, Norway and Sweden.”

35. Public health bodies state that “the number of Swedish men who pay for … sex is increasing” and that law and policy impedes effective HIV prevention, care and support to sex workers. Independent academics assessing services that “assist” people in the sex industry found attitudes of discrimination and rejection towards service-users: “services may be actively withheld from those who fail to comply with desired models of behaviour or identity [i.e., do not describe themselves as victims or have no
wish to exit prostitution]” and “next to no information regarding safer sex selling [is] available in much of Sweden.”

36. Sex workers report increased likelihood of rape due to having to accept clients who give no personal information who then act in the knowledge that identification of perpetrators is more difficult and many recount stories of police abuse and disrespect, including being harassed at home, being made homeless due to police threats to prosecute their landlords as living off proceeds of prostitution, being told by police that sex workers cannot be raped and being gang-raped by a group of police officers.

37. In the UK, clients of sex workers onstreet are already effectively subject to complete criminalisation since the removal in 2009 for any requirement for “persistent” kerb-crawling, allowing the police to arrest immediately. This has not resulted in the eradication of street sex work promoted as its natural effect by advocates of criminalisation of clients.

38. Criminalising paying for sex is a vile inversion of the old prejudice “you can’t rape a hooker”. It sends the message that a woman’s consent to sex is not her own to give, but – because she is a whore - can be overruled by the state, creating an underclass of women whose consent to sex is deemed less valid than that of others. Women will not achieve equality while a woman’s sexual activity is still used as justification for social exclusion and legally enshrined discrimination.

Decriminalisation – for rights, for safety, for health

39. Decriminalisation is portrayed by its opponents as a celebration of prostitution. This is a misrepresentation: **decriminalisation is value-neutral, simply a recognition that the criminal justice system does not offer the best way to solve the complex social problems associated with the sex industry.**

40. Decriminalisation does nothing more than recognise that the sexual behaviour of consenting adults requires no regulation by the state. It acknowledges that people in the sex industry are entitled to the same rights and safety as others and enables us to access those rights. Decriminalisation allows better delivery of services to those who need support and removes the chance of criminal conviction that makes it almost impossible to move into other employment. Decriminalisation means that our consent to sex counts, respecting adults’ right to decide for themselves when, why and with whom to have sex, and gives people who sell sex the full protection of the law – rather being feared, the police can be seen as a source of safety.

41. The positive effects of decriminalisation can be seen in New Zealand. Since sex work was decriminalised in 2003
   - an intensive nationwide survey has demonstrated no dramatic increase in the number of people selling or buying sex, the number of under-age people in the sex industry or of trafficking
   - nationwide standards of occupational health and safety have been created and are enforced
   - sex workers are reported to have a greater sense of well-being
   - sex workers are more likely to report incidents of violence to the police and these are now taken seriously
   - a police officer has been imprisoned after being found guilty of coercing a sex worker to perform sexual acts
   - a number of clients have been fined for removing condoms during sex and
   - a sex worker has won a landmark sexual harassment case against the owner of a brothel where she worked.

Conclusions

42. Prostitution is having sex for money, and neither having sex nor getting paid is inherently degrading, abusive, exploitative or harmful. There are people in prostitution who are coerced or drug dependent or have otherwise limited choices – but the problem is coercion, drug dependency, social exclusion,
limited options, lack of rights, not having sex for money itself. It is vulnerability that creates victims, not prostitution itself and there are no simplistic legislative pronouncements to remedy complex social problems. But by confusing prostitution with a whole host of other problems, those problems are permitted to flourish.

It is vulnerability which creates victims, not sex work itself, and, as the evidence shows, criminalisation increases our vulnerability.

**Recommendations**

These recommendations are not about being for or against sex work itself. They are about ensuring that all people have full and equal protection of the law as well as freedom from violence and discrimination.

R1. Full and complete decriminalisation of sex work, including decriminalisation of sex workers sharing premises, third parties and clients – the "New Zealand model"
R2. Recognition of sex work as work to enable access to the protections of labour law.
R3. The Committee jointly and severally issue a statement that
   - policy must be based on on evidence and in reality, not ideology, assumptions, stereotypes or individual cases
   - there must be meaningful involvement of those most affected – current sex workers – in developing policy, practice and services
   and
   - everyone in the sex industry is entitled to equal human rights, the full protection of the law and freedom from discrimination as other citizens, including respect for our consent to sex
R4. Target violence directly by adopting a hate crime model for violence against sex workers, supporting “National Ugly Mugs” specialist crime reporting scheme and believing people in the sex industry when we talk about our experience of sexual violence
R5. Tackle discrimination and stigma by adopting the New Zealand legislation that protects sex workers from discrimination on the grounds of their involvement in the sex industry
R6. Support effective and adequately resourced support projects lead by service-user need rather than staff opinion and informed by evidence rather than ideology
R7. Address causes, not symptoms
   - promote policies to create a labour market that fairly balances the needs of staff and employers
   - act to tackle the gender pay gap, so that women - particularly those working part time or with caring responsibilities - have more options for flexible, well-paid work
   - support the provision of affordable, flexible childcare

A community’s worth is measured by the way it treats the most vulnerable.
It is time for the UK to treat people who sell sex and adult entertainment services with respect and to prioritise our rights and safety.