Home Affairs Committee Inquiry on Prostitution

Evidence Submitted by Robert Macrae

General Comments

1. The terms of reference of the Inquiry are biased from the outset and do not invite open debate about the legal position on prostitution. Rather, they represent closed questions about limited and specific aspects of prostitution to the exclusion of certain other aspects. It also appears that a set of assumptions about what the law should do have already been taken as read and no comment is invited on these.

2. For example, the first term of reference of the inquiry appears to suggest that it has already been decided that criminal sanction should continue to fall somewhere in respect of prostitution and no comments are invited on the alternative approach of decriminalisation or even legalisation. We are merely being asked to say how the balance of criminality should be apportioned between those involved. This is despite the fact that some recent very influential organisations, including the UN, have called for the decriminalisation of prostitution as the best way of reducing risk of harm to those involved.

3. The second term of reference appears to imply that it has already been decided that prostitution is violence against women and that that assertion is not to be debated. This is despite the fact that there is a considerable body of scientifically objective evidence that suggests that the majority of prostitution does not involve violence to against women, most of whom work as prostitutes of their own free will.

4. The last term of reference asks whether measures are necessary to assist people out of prostitution, hold “exploiters” to account and discourage demand. Notably absent from this is any consideration of whether measures are necessary to support and protect people who wish to remain in prostitution. It appears that the committee is not very interested in prostitutes, their human rights or their welfare but would prefer them simply to give up working as prostitutes. They seem to think that prostitution can be helped to go away if people who continue to involve themselves are punished and that people who crave human intimacy and can only achieve it through payment will simply cease to do so if the law is changed. The reality is that the majority of prostitutes entered and continue in the profession of their own free will and that prostitution exists everywhere, irrespective of whether the sale of sex or its purchase or both are legal or illegal and irrespective of the severity of criminal sanctions involved. The committee should be concerning itself with that reality and not a fantasy world in which a combination of criminal sanction and institutional support for so-called “victims” will make prostitution quietly go away.

5. The laws surrounding prostitution in the UK are a joke and a national disgrace. Brothels are illegal, and yet there are many media reports of police forces around the country “tolerating” them. Some years ago in Surrey, armed robbers burst into a brothel in order to steal the takings and threatened violence against the women there. The escort agency
involved called the police, but when they discovered that the premises were being used as a brothel, they threw the women there out onto the street and prosecuted the owners of the escort agency. In the same police force area and at around the same time, police community support officers regularly visited another brothel which had been held up by armed men to advise the brothel managers on security. PCSOs were often to be found drinking tea with the brothel owner while prostitutes entertained clients upstairs. In a neighbouring county, when armed robbers attempted to steal from a brothel, the police pursued the robbers and brought them to justice while allowing the brothel top continue to operate. The police have known about this and another three brothels in the same town for years and all of them continue in operation today. This muddled and inconsistent approach to brothel policing leaves many people who want to act within the law or within the limits of what is tolerated uncertain about what they may or may not do without sanction.

6. The situation with street prostitution is no less confused. Soliciting and kerb crawling are both criminal offences, but in some parts of the country they are tolerated and even promoted. Indeed, in , an area has been designated for street prostitution between fixed hours and the police stand by and watch while people break the law. And this is hailed as a “success”. In no other area of the criminal law does this sort of nonsense prevail. If the police were to designate areas where armed gangs were allowed to fight each other, or sections of highway where people could drive as fast as they liked, or inner cities where narcotics dealers could sell heroin openly on the streets, the populace would be rightly indignant about it. The real reason

Response to Terms of Reference

7. The Inquiry invites written evidence on four main issues which I deal with below in turn.

Issue 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.

8. The simple answer to this question is that criminal sanction should not fall on either party to a commercial transaction freely entered into by consenting adults in private.
9. The wording of this term is curious in that it suggests that criminal sanction falls on those who sell sex at present. That could be misleading. Currently it is legal for adults over 18 to sell sexual services and it is legal to buy them, provided that the seller has not been forced, coerced or deceived into providing the servicees, in which case the purchaser commits a strict liability criminal offence but the seller commits no offence.
10. The following are all criminal offences: soliciting, kerb-crawling, controlling prostitution for gain, allowing premises to be used as a brothel, managing a brothel and assisting in the management of a brothel. The consequence of this is that if a prostitute receives a customer in her own home, she commits no offence, but if she and a friend receive customers in a rented flat or a room in a premises where other prostitutes work so that they can provide mutual security and protection and mitigate the risks to privacy,
family and possessions involved in working from home, then they and others could be guilty of criminal offences. This is madness. The state is saying to these people that it is perfectly legal to sell sex, but that any steps they may take to mitigate risk and improve their personal safety could land them in prison. It is saying that it does not care about their health, safety or wellbeing as individuals. If the committee does nothing else, it should recommend wholesale revision of these aspects of the law so that prostitutes can take steps to protect themselves, including working in well managed, secure environments.

11. Although there now seems to be a general shift away from persecuting brothel workers in the latest guidance for police, the point is still being missed because sex workers will be treated as if they are “victims” when in fact they are not.

12. This question appears to invite comment on whether the “Nordic” model should be adopted in the UK. This model, first adopted in Sweden and then subsequently in Norway and Iceland, makes it a criminal offence to purchase sex, while decriminalising the sale of sex. The moral minority which originally promoted this model have made grand statements about its success which do not stand up to scrutiny. A Swedish Government report published in 2010 which reviewed the effect of the ban over a ten year period was unable to demonstrate a reduction in demand or in the number of prostitutes. In Norway, which imposed a ban on purchasing sex in 2009, similar to that in Sweden, the number of prostitutes is reported to have increased by 28% over the following two years. In Northern Ireland, which introduced a ban on paying for sex in June 2015, in the six months following, the number of prostitutes advertising their services had not reduced at all and there was only one arrest for the offence. The individual involved was let off with a caution.

13. The Nordic model would be difficult to enforce. In Sweden, the country with the most experience of policing a ban on purchasing sex, the ten year review of the ban stated that:

“Operations have mainly targeted street prostitution and more organized forms of prostitution that are linked to procurement or human trafficking. The police have not normally prioritized, or had the resources for, interventions against the purchase of sexual services via other forms of prostitution. Street prostitution is seen by police to have great symbolic value in the eyes of the public.”

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

1 http://news.sky.com/story/1637747/police-could-stop-raids-on-suspected-brothels
3 Article in The Local: http://www.thelocal.no/page/view/sex-buyer-ban-hasnt-had-desired-effect
14. Again, this term of reference pre-supposes that prostitution is violence against women is established as a matter of fact and that the CPS has “recognised” it as such. Many commentators would say that violence against women is not inherent to prostitution. The CPS's position on this has not been developed out of any objective assessment of the available evidence but is simply representative of a moral standpoint.

15. The plain fact is that the large majority of women who enter prostitution freely choose to do so. Researchers at Swansea University tracked down nearly 400 people involved in off-street prostitution in Wales and found that no one had been forced or coerced. Dr Tracey Sager, lecturer in criminology, stated when interviewed about the research that “the women we spoke to for this research were articulate and knew exactly what they were doing – no-one who we talked to had been pushed into it. Many were giving up well-paid jobs to do it, quoting good money and flexible working hours. These women definitely don’t want to be saved – they have made a choice and we have to respect that choice.”

16. If there were a prevalence of exploitation of women in prostitution, then one would expect to see many convictions under section 53A of the Sexual Offences Act. However, in Wales there were none between 2010 and 2014.

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Issue 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.

17. I am not aware that the Modern Slavery Act has had any impact whatsoever on trafficking for the purposes of prostitution. It is probably too early to tell. Trafficking was illegal before the Act became law, so there are some data already available that relate to it. These show that the proportion of people in prostitution who have been trafficked has been consistently overstated and in reality is very small.

18. An investigation by the Guardian newspaper looked at the results of what was described as the UK’s biggest ever investigation of sex trafficking. Operation Pentameter 2 involved the cooperation of all 55 police forces in the UK, as well as the UK Border Agency, the Serious and Organised Crime Agency, the Foreign Office, the Northern Ireland Office, the Scottish Government, the Crown Prosecution Service and various NGOs over a six month period but failed to find a single person who had trafficked or forced anyone into prostitution despite raids on over 800 premises. Initially it was claimed that over 500 people were arrested as a result of Pentameter 2, but the Guardian found that these figures were wrongly inflated. Of the real arrests about a quarter were released without charge and most of the rest were charged with non-trafficking offences. **No one was prosecuted for trafficking as a result of the**

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4 Reported in [www.walesonline.co.uk/news/wales-news/2011/06/19/study-finds-prostitution-now-a-career-choice-for-many-women-in-wales-91466-28900994/#ixzz27UIuI0zD](http://www.walesonline.co.uk/news/wales-news/2011/06/19/study-finds-prostitution-now-a-career-choice-for-many-women-in-wales-91466-28900994/#ixzz27UIuI0zD)


6 [www.guardian.co.uk/uk/2009/oct/20/government-trafficking-enquiry-fails](http://www.guardian.co.uk/uk/2009/oct/20/government-trafficking-enquiry-fails)
Pentameter operation. The Programme Director of the UK Human Trafficking Centre was quoted as saying "There are more people trafficked for labour exploitation than there are for sexual exploitation. We need to redress the balance here. People just seem to grab figures from the air."

19. A study\textsuperscript{7} by London Metropolitan University funded by the Government’s Economic and Social Research Council found that the vast majority of foreign prostitutes working in London are not trafficked and choose to sell sex because it earns more money than other jobs.

\textbf{Issue 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 and discourage demand which drives commercial sexual exploitation.}

20. There should be support for people in prostitution. They should enjoy the same human rights as everyone else. They should be able to work under the protection of the law and access appropriate healthcare and health and safety advice and services, just like anyone else at work in the UK. Should some of these people wish to leave prostitution, but find it difficult to do so, there should be some welfare provision to support them. Recognising that many women in prostitution are immigrants, some of these services should be provided as outreach services. However, outreach provision will fail if there is criminalisation of purchasers of sex because all the evidence is that prostitution will be driven underground and it will be harder to contact vulnerable people.

21. The Norwegian official help organisation for prostitutes, Pro Sentret, reported that they were in contact with fewer prostitutes after the ban on purchasing sex which was introduced in 2009\textsuperscript{2}, despite the rise in the total number of prostitutes.

22. The United Nations report on Sex Work and the Law in Asia and the Pacific\textsuperscript{8} says that criminalization increases vulnerability to HIV by fuelling stigma and discrimination, limiting access to HIV and sexual health services, condoms and harm reduction services, and adversely affecting the self esteem of sex workers and their ability to make informed choices about their health. This is based on extensive research and surveys in many countries throughout the region.

23. In the run up to the London Olympics Metropolitan Police was given £600,000 to find and rescue victims of sex trafficking in the Olympic boroughs and began a heavy-handed programme of brothel closures. Georgina Perry Perry lamented\textsuperscript{8} that "Of course, the sex industry didn’t go away. Instead, it (as we knew it would) simply stopped contacting services to support them…. And worse, when women were robbed, or beaten, or raped by criminals, they were too frightened of the police’s reaction to them as sex workers that these

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serious and vicious crimes went unreported.” In the aftermath, she concluded that “I’d say that we are currently picking up the pieces, and that it is going to take us a long time to restore sex worker faith in institutional support. Where once the relationship between sex worker services and clients was good, it is now broken. We are now viewed with suspicion as ‘do-gooders or enforcers’.”