

# Give Prostitution the Red Light?

A Question Time style debate  
on prostitution in Scotland –  
reform, regulate or reject?

This report follows the **'Give Prostitution the Red Light?'** event held by the Equality and Human Rights Commission Scotland in September 2009.

The views expressed in this document are those of the authors, Cambium Advocacy, and reflects opinions expressed at a discussion event. They do not necessarily represent the policy or views of the Equality and Human Rights Commission.

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# Foreword



**Ensuring fairness, dignity and respect for all is part of our core business at the Equality and Human Rights Commission.**

It's not always an easy job. We know that we can't just take these concepts for granted and that it's sometimes necessary for us to look afresh at issues facing us, and have honest and open discussion as to the best way forward, regardless of taboo or controversy.

'Give Prostitution the Red Light?' was the second in our series of debates looking at issues facing Scotland today. It examined how Scotland could move forward on the issue of prostitution and asked the question 'Should Scotland adopt legislation that criminalises the purchase of sex, or is regulation – or indeed is decriminalisation – a better option?' It is a live issue and one that's likely to be aired as the Scottish Parliament debate the Criminal Justice and Licensing (Scotland) Bill.

The debate was passionate, sometimes difficult and at times emotional, but it was honest and it provided a platform for all voices and all points of view to come together in a way which is perhaps too rare. We are very grateful to those who took part and to those who supported our efforts.

This policy options discussion paper will be submitted as evidence to Parliamentary Committees considering the legislative aspects of the issues, to assist and inform in considering ways forward. It also forms part of a continuing dialogue the Commission will undertake on the issues. I hope you find it as thought provoking as we did.

A handwritten signature in black ink that reads "Ros Micklem". The signature is written in a cursive, flowing style.

**Ros Micklem**  
Scotland National Director,  
Equality and Human Rights Commission



Give Prostitution  
the Red Light?

Equality and  
Human Rights  
Commission

# Summary

This 'Question Time' style event was organised by the Equality and Human Rights Commission on 24th September. It was designed to debate the main issues around the law and prostitution and to facilitate the expression of people's views.

The main issues raised during the debate are presented in this report. For the sake of clarity they are presented thematically rather than how they chronologically developed on the night. The broad themes are organised in a way that firstly considers some of the value and belief based issues, then looks at the impact of prostitution on women before considering what intervention, if any, is required by policy makers/legislators.

At the end of each section are possible policy and legislative responses and/or issues requiring further consideration drawn from the points raised.

The debate centred on whether a change in the legal position in Scotland was required. Within this, the main focus was around whether there should be a criminal sanction on those purchasing sexual services.

There was disagreement on the terminology used around this issue, the main contention being the use of the term 'sex worker'. For the purposes of this discussion paper the terms prostitute and prostitution will be used to reflect the title of the debate set by the Commission.

Opinions expressed included:

- prostitution should be viewed as a form of violence against women. From this viewpoint it followed that demand for prostitution should be criminalised and laws which currently criminalise women should be removed
- current policy and legislation reinforces the stigma attached to women who work in prostitution and should be replaced with policy which is evidence based
- legislation to criminalise demand would be a key step in challenging attitudes which view women as objects that can be used for sexual gratification
- criminalising demand will lead to women working as prostitutes being at greater risk of violence and abuse as prostitution is driven underground

In considering how Scotland should approach the issue, participants in the debate were keen to draw on the experience of Sweden (where demand has been criminalised and supply decriminalised) and New Zealand (where there has been full decriminalisation). There were mixed views, however, about whether the evidence from these countries suggests successful models or approaches that have worsened the position of women involved in prostitution.



# Introduction:

## Give Prostitution the Red Light?

### **The Equality and Human Rights**

**Commission** (EHRC) was established in October 2007 and has a remit to champion equality and human rights for all, work to eliminate discrimination, reduce inequality, protect human rights and to build good relations, ensuring that everyone has a fair chance to participate in society.

To this end the EHRC will facilitate a series of debates tackling some of the policy issues that impact upon this remit and require attention due to the changing social, political, cultural and legislative contexts in which we live. The Commission will use these debates as part of a process to ensure that:

- all points of view and opinions are able to be expressed, and
- all interest groups have the opportunity to participate in the formulation of Commission policy which will allow it to effectively drive wider public debate whilst informing policy, legislation and regulation.

This was the second such debate and focussed on prostitution and whether or not there is a need for a change in the legal position in Scotland. The debate took place following the relatively recent passing of the Prostitution (Public Places) (Scotland) Act 2007 and the introduction of the Sexual Offences (Scotland) Act 2009.

Prior to this a private members Bill, The Prostitution Tolerance Zone Bill (2003), was introduced by Margo McDonald MSP but failed to become law.

Prostitution has been increasingly linked to the trafficking of women for sexual exploitation and England now criminalise men who 'pay for sex with a prostitute subjected to force' (Policing and Crime Act 2009).

The Scottish Parliament is currently considering the Criminal Justice and Licensing (Scotland) Bill. It is possible that an amendment to this Bill will be tabled aiming to criminalise the purchase of sexual services. This report will be submitted to the Parliament's Justice Committee to assist in its deliberations on the Bill and any amendments.

# Policy and Legislative Options

## **Consideration of how prostitution is dealt with in different countries**

reveals a mix of policy and legislative approaches. It is widely recognised that there are four main public policy responses to prostitution:

**Regulation** - the control of the abuses and disorder that are often associated with prostitution. The objective is to manage the unwanted and undesirable consequences of its operation.

**Decriminalisation** - involves the removal of all or some of the laws relating to prostitution. Historically, legislation in the UK and abroad has concentrated on penalising the prostitute, ignoring the role of the client, thus reinforcing the view that prostitution is supply rather than demand, driven.

**Legalisation** - can result in the establishment of state-approved brothels, and the creation of designated tolerance zones on the street. This is based on the view that prostitution will be more visible and therefore safer for the women involved.

**Prohibition** - the criminalisation of the exchange of sexual services for payment. This approach can be aimed at ending or reducing prostitution or simply making it a criminal offence.

Sweden and the majority of American states are normally associated with prohibition although in Sweden the law is aimed solely at the buyer. In America, although buyer and seller are equally culpable, the implementation of the law tends to be focussed on the seller.

Various countries tend to be characterised as having a policy of either ‘criminalisation’ or ‘legalisation’. However, in practice most operate a mix of policies at different levels. Moreover, in many countries there will be different tiers of government/public agencies responsible for regulation. These in turn may have differing views and interpretations of law.

As Matthews<sup>1</sup> points out, the various options are rarely implemented in their pure forms. There is nearly always a mix of policies operating in each country and this mix can change over time. These four main options should be treated as ‘ideal types’, which signal a policy direction that in practice will be subject to qualifications, overlap and contradictions.

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1 Matthews R Prostitution, **Politics and Policy (2008)** p97

# The Legal Position in Scotland

**In Scotland, in terms of prostitution, the buying and selling of sex, is not itself illegal.** However, activities relating to prostitution are.

Street prostitution is dealt with under the Civic Government (Scotland) Act 1982 s46(1), which states that it is illegal for a prostitute (male or female) to loiter, solicit or importune any person in a public place. The Prostitution (Public Places) (Scotland) Act 2007, outlaws kerb crawling.

As the law stands, soliciting on the part of both the buyer and the seller is outlawed. In Scotland, a Prostitution Tolerance Zone Bill (2003) was introduced to Parliament but failed to become law. This would have enabled the suspension of the law relating to solicitation in certain designated areas so as to manage and control street prostitution.

The Prostitution (Public Places) (Scotland) Act 2007 was passed by the Scottish Parliament on 28 February 2007. The Act makes it an offence for any person to solicit for the purpose of obtaining the services of someone engaged in prostitution and for a person to loiter such that, in all the circumstances, it is reasonable to assume that they are doing so for the purpose of obtaining the services of someone engaged in prostitution.

Operating a brothel and pimping are illegal under the Criminal Law (Consolidation) (Scotland) Act 1995 s11.

A new Sexual Offences (Scotland) Act 2009 has recently been passed by the Scottish Parliament. The Act creates an offence of sexual coercion if a person intentionally causes another, without their consent, to participate in sexual activity. The Act also makes it an offence for sexual activity to take place without free agreement. The Sexual Offences (Scotland) Act (2009) has the potential to be used to prosecute pimps and purchasers in relation to coercion, consent and free agreement.

The report of the then Scottish Executive's Expert Group in 2004<sup>2</sup>, which led to the establishment of the 2007 Act, also recommended that the main aims of policy and legislation should be about

- addressing the needs of women involved or at risk of becoming involved in prostitution,
- addressing the needs of affected communities and tackling the attitudes which fuel the persistence of prostitution

There is, then, a wide range of legislation in Scotland that impacts on many aspects of prostitution.

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2 Scottish Executive **Being Outside: Constructing a response to street prostitution (2004)**

The Scottish Government has stated that violence against women is not only a consequence of gender inequality, it also perpetuates it. Tackling violence against women is therefore a prerequisite to reducing inequality between women and men in Scotland. The Government's approach is informed by the UN definition of Violence Against Women, which includes prostitution and other forms of commercial sexual exploitation.

### **Local Implementation**

The implementation of legislation and policy in relation to prostitution – and street prostitution in particular – has involved a mix of approaches that can be demonstrated by considering Scotland's three largest cities.

Aberdeen and Edinburgh have at times maintained 'informal' tolerance zones. The zone in Edinburgh collapsed in 2001 after it was moved by the police from Leith's Coburg Street to Salamander Street. In Aberdeen the police ended the zone following the passing of the Prostitution (Public Places) (Scotland) Act 2007 after discussions with the procurator fiscal made it clear that the zone would be "legally unsustainable"<sup>3</sup>.

Edinburgh and Aberdeen have tended to follow a regulatory approach which, it is argued, assumes that prostitution is inevitable<sup>4</sup>.

Glasgow has favoured a model which rejects the idea that prostitution is inevitable and takes a strong multi-agency approach to helping women move out of prostitution.

National legislation has focussed on increasing sanctions for those purchasing sexual services while maintaining penalties on women involved in the selling of these services.

Table 1 demonstrates how local as well as national attitudes drive the policy approach to regulating prostitution. In Scotland all of these policy approaches have been taken variously in the major cities and, as set out above, have resulted in a broad range of legislation.

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3 Grampian Police News Release October 2007: [www.grampian.police.uk/NewsItems.aspx?id=130&nid=396&pid=30;33;14](http://www.grampian.police.uk/NewsItems.aspx?id=130&nid=396&pid=30;33;14)

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4 Holmes L. **A Tale of Three Cities: Regulating Street Prostitution in Scotland**. Report for the Scottish Affairs Committee(2005)

**Table 1: Three Approaches to Regulating Prostitution**

Model	Attitude	Policy Approach	Favoured Legislation
Regulatory	Tolerance	<ul style="list-style-type: none"> <li>■ Health and Safety</li> <li>■ Harm Reduction</li> <li>■ Labour Rights</li> </ul>	<ul style="list-style-type: none"> <li>■ Range from Tolerance Zones to decriminalisation to legalisation.</li> <li>■ Management and regulation</li> </ul>
Policing	Zero Tolerance	<ul style="list-style-type: none"> <li>■ Public Health</li> <li>■ Public Morality</li> <li>■ Law and Order</li> <li>■ Legalistic</li> </ul>	<ul style="list-style-type: none"> <li>■ Extension of powers of arrest of clients, kerb crawling legislation.</li> <li>■ Harsher sentencing</li> </ul>
Abuse Discourse	Zero Tolerance	<ul style="list-style-type: none"> <li>■ Social Welfare</li> <li>■ Social Inclusion</li> <li>■ Feminist</li> <li>■ Encouraging and helping prostitutes exit prostitution</li> </ul>	<ul style="list-style-type: none"> <li>■ Removal of gender imbalance</li> <li>■ Social attitudinal change</li> <li>■ Policies to prevent women becoming involved/help them exit</li> </ul>

Source: **Holmes: A tale of three Cities: Regulating Street Prostitution in Scotland**

There is then a mix of approaches which includes prohibition – encapsulated in the 2007 Act and the Civic Government (Scotland) Act - and regulation related to street prostitution. The approach to indoor prostitution is a combination of regulation, decriminalisation and prohibition.

**Extent of Prostitution in Scotland and the UK**

Estimating the numbers of prostitutes working in Scotland has proven to be difficult. Figures from 2004 estimate the number of street prostitutes working in Edinburgh, Glasgow, Aberdeen and Dundee to be as follows:

**Table 2: Estimates of the number of women working in street prostitution (2004)**

Aberdeen	150
Dundee	10-15
Edinburgh	100
Glasgow	1000-1200 (this could now be as low as 700)

Source: **Being Outside: Constructing a Response to Street Prostitution.** Scottish Executive 2004

The Home Office estimate there are around 80,000 people working in street prostitution in the UK<sup>5</sup> in a market estimated to be worth around £1 billion. Estimates of the proportion of men paying for sex range from 4.3% to 11%<sup>6</sup>.

## Trafficking

Prostitution has been increasingly linked with the trafficking of women for commercial sexual exploitation. The most recent analysis by the Home Office estimated that up to 4000 women in the UK had been trafficked for sexual exploitation and that the UK market in trafficked women was worth up to £275 million<sup>7</sup>. The Home Office admits that this is likely to be a significant underestimate.

## International Comparisons

Approaches to regulating prostitution vary across the world. Different countries are given as examples for dealing effectively with the issue. However there is significant disagreement among academics, campaigners, politicians and the public about the success or otherwise of each model.

In Sweden, prostitution is viewed as violence against women. The Law that Prohibits the Sale of Sexual Service came into force in January 1999. The Swedish model, it is argued, demonstrates the success of an approach which criminalises demand but decriminalises supply. Supporters of the Swedish approach argue there has been a reduction in the numbers of women working in street prostitution. In 1999, it was estimated there were 2500 prostitutes working in Sweden and approximately 650 were working on the street. In 2004 the number working in street prostitution had decreased by between 30% and 50%, and the recruitment of new women had come almost to a halt<sup>8</sup>.

In Finland the law stops short of criminalising all men who buy sex by limiting criminal sanction to the buying of sexual services linked to human trafficking.

In New Zealand the Prostitution Reform Act (PRA) 2003 decriminalised the supply and demand of sexual services. The New Zealand experience is held up as an example of the success of the decriminalisation approach (which also involves a large degree of regulation). This has, according to the New Zealand Associate Justice Minister<sup>9</sup>, seen the numbers of sex workers stay broadly stable. However, there is also dispute as to the success of the New Zealand approach.

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5 Home Office **Paying the Price: A Consultation Paper on Prostitution**, (July 2004)

6 Thomas R.M, Plant M.A and Plant M.L **Alcohol, AIDS risks and sex industry clients** (1990)

7 Home Office, **Tackling the Demand for Prostitution: A Review** (Nov 2008)

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8 Ekberg, E. **The Swedish Law That Prohibits the Purchase of A Sexual Service: Best Practices for Prevention of Prostitution and Trafficking in Human Beings** (2004)

9 [www.scoop.co.nz/stories/PA0805/S00449.htm](http://www.scoop.co.nz/stories/PA0805/S00449.htm)

The Prostitution Law Review Committee commented that as a direct result of the PRA, women involved in prostitution had an increased sense of confidence, well being and a sense of validation <sup>10</sup>.

The Committee report also gives a useful breakdown of the adverse experiences of sex workers in relation to assault, threats of violence and rape, which give context to reports of increased well being (Appendix 1)

### Public Opinion and Attitudes

An Ipsos MORI <sup>11</sup> poll, conducted in July and August 2008 found that in the UK:

- 61% of women felt paying for sex was unacceptable. 65% felt that selling sex was unacceptable
- 42% of men felt paying for sex was unacceptable whilst 40% felt that selling sex was unacceptable
- 49% agreed with the statement “most prostitutes are only in that role because they are victims of exploitation” 34% disagreed
- 59% agreed with the statement “prostitution is a perfectly reasonable choice that women should be free to make”, while 27% disagreed
- 50% agreed that the purchase of sex by men should be legal, 43% agree that it should be illegal
- 51% felt the sale of sex by women should be legal. 42% thought it should be illegal

- 58% supported making it illegal to pay for sex if it will help reduce the numbers of women and children being trafficked into the UK for sexual exploitation
- young people were more likely than older people to find paying for sex and selling sex unacceptable (64% and 69% respectively).

There are no polls that specifically focus on Scottish Public opinion on prostitution and the sale of sex generally. However a poll <sup>12</sup> conducted in 2002 for the Scotland on Sunday newspaper following the publication of the Prostitution Tolerance Zone Bill (2003) found that:

- while only 24% opposed tolerance zones outright, 61% would object to one being set up near their home,
- on prostitution being illegal, 24% agreed strongly that it should be, and 11% agreed slightly, while half of Scots disagreed - 23% strongly and 26% slightly,
- 86% agreed it is “important to consider the safety of prostitutes” compared to just 6% who did not. A large majority (73%) agreed that tolerance zones would reduce the number of attacks on prostitutes.

Public opinion appears to be almost equally divided on the issue of whether men should be able to buy sex and whether the sale of sex by women should be legal or illegal. These polls suggest that there is slightly more support for a woman’s right to choose prostitution. There is support for the idea that for women working in prostitution safety should be considered, and that tolerance zones should be part of this, although

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<sup>10</sup> **Report of the Prostitution Law Review Committee:** New Zealand Ministry of Justice (2008) S4.1.1

<sup>11</sup> [www.ipsos-mori.com/research/publications/researcharchive/poll.aspx?oItemId=2308](http://www.ipsos-mori.com/research/publications/researcharchive/poll.aspx?oItemId=2308)

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<sup>12</sup> [www.scotlandonsunday.scotsman.com/prostitution/Public-happy-to-tolerate-hookers.2380595.jp](http://www.scotlandonsunday.scotsman.com/prostitution/Public-happy-to-tolerate-hookers.2380595.jp)

people were considerably less likely to support a zone being established near their home. This suggests that whilst people appear to have a liberal attitude to prostitution they might also view it as undesirable if it intrudes on their lives in any way.

### **Attitudes of Women working as prostitutes**

Much of the evidence on attitudes pertains to the public's view of prostitution. There is a dearth of information on women's experience of working as prostitutes.

Evidence gathered in New Zealand<sup>13</sup> as part of the review of the PRA found that over 93% of women entered prostitution for money. The review reported that few street based workers would talk about exiting prostitution. However those who did talk about this said they would look to exit when they could 'turn their life around'. It is difficult to ascertain what women meant by this.

Nevertheless the review also reported that 'there is a common perception that sex workers are in the industry through desperation or lack of choice, most are not, and some may be offended by being offered assistance to leave'.

Research on the experiences of escort workers found low levels of vulnerability among respondents who included women, men and transgender individuals and reported that escort work had, for the majority, had a positive impact on self confidence. The study found that around 57% of women involved in escort work had never felt exploited by a client although 40% had felt exploited<sup>14</sup>.

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13 **Report of the Prostitution Law Review Committee:** New Zealand Ministry of Justice (2008) S5.2.1

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14 Jenkins S, Keele University: **Beyond Gender: An Examination of Exploitation in Sex Work**

# The Panel

## Bill Skelly



Bill became HM Inspector of Constabulary for Scotland in April 2009. He is seconded from Lothian and Borders Police where he was appointed

temporary Deputy Chief Constable in August 2008, having previously been the Assistant Chief Constable (Crime and Operational Support). He joined Lothian and Borders in 1990 and during this time he completed an MBA, the Strategic Command Course at Bramshill and graduated from Cambridge with a Diploma in Applied Criminology.

In 2005, he was seconded to New Scotland Yard leading the Immigration Crime Team within the Covert Policing Branch of the Metropolitan Police, followed by nine months in charge of the operational strands of the UK campaign targeting criminals involved in the trafficking of women for sexual exploitation. His work in this area was recognised by the award of his second Chief Constable's commendation. On his return to Lothian and Borders, Bill led on a number of national policing issues including Liquor Licensing, CBRN, Public Protection and Ports Policing.

## Julie Bindel



Julie has been active in the campaign to end violence against women since 1979, as an activist, researcher and writer. In 1998, along with Professor Jalna Hanmer, she

was instrumental in implementing and coordinating the very first feminist initiative in the UK to tackle men's use of women in prostitution.

The Kerb Crawler's Re-education Programme ran for a twelve month period in West Yorkshire, offering men an opportunity to become educated about the realities of prostitution and the related harm. Since then, Julie has worked on numerous projects relating to local and international sex industries, such as research into the connections between lap dancing and prostitution; a comparative study of legal and policy regimes dealing with prostitution in four countries, and research mapping on and off street sex industries in various cities and local boroughs in the UK.

She has written a variety of book chapters and papers on aspects of violence against women, and is co-editor of 'The Map of My Life', the Story of Emma Humphreys, Astraia Press, 2003.

Julie is a founder member of the national feminist law reform campaign, Justice for Women, and a trustee of the Emma Humphreys Memorial Prize. Julie currently works part-time as a consultant for the London-based POPPY Project and as a freelance journalist writing mainly for the Guardian newspaper.

### **Catherine Stephens**

Catherine has worked in the sex industry for the past nine years. She loves her job. Catherine is also an activist with the International Union of Sex Workers and a member of the GMB trades union's branch for people who work in the sex industry.

The IUSW campaigns for the human, civil and labour rights of those who work in the sex industry, for everyone who works in the sex industry to have the full protection of the law and to be included in the process of making decisions which will affect them, and for freedom to choose and respect for those choices, including the absolute right to say no.

### **Roger Matthews**



Roger is Professor of Criminology at London South Bank University and Director of the Crime Reduction and Community Safety Research Unit.

Roger's work on prostitution began in 1985, early in his academic career. During the 1980s and 1990s Roger conducted research on street prostitution and kerb crawling throughout the UK. In 2003, he was involved in an ESRC funded research project that considered different legislative approaches to prostitution from around the world. He is currently involved in research on women exiting prostitution in collaboration with Eaves Housing (The Poppy Project). Roger has written a number of articles and reports on prostitution and last year he published a book with Routledge-Cavendish entitled 'Prostitution, Politics and Policy'.

# Give Prostitution the Red Light? The Debate

**A 'Question Time' style debate** was opened by Chair, Alex Bell and began with opening remarks from the panel. Alex explained that Margo McDonald MSP was unfortunately unable to participate. The debate was then opened to questions from the floor. What follows is an analysis of the main issues raised on the night, organised into themes.

## **Opening Remarks and Views from the Panel**

Director of the Equality and Human Rights Commission in Scotland (EHRC), Ros Micklem explained that part of the role of the Commission is to “shine a light” on some of the big problems that our society faces. To this end she said that;

**“We are asking - should Scotland adopt legislation that criminalises the purchase of sex or is regulation, or indeed, is decriminalisation a better option?”**

## **Roger Matthews**

Roger set the issue of prostitution in its historical context, arguing that it was not until the 1980s that, due to concern about the spread of HIV, people began to take an interest in prostitution. He pointed to the growth of support groups for prostitutes

as being a key factor in the politicisation of the issue. Additionally, there has been increasing concern that street prostitution was negatively impacting on some communities, resulting in campaigns to limit it.

He also argued that, whilst recently there has been a significant decline in street prostitution the violence associated with it has become more apparent:

**“In all the research I have been involved in, in doing work with street prostitution I have never met a woman involved who has not had at least one life threatening experience.”**

## **Catherine Stephens**

Catherine believes that people are generally unaware of the reality of sex work and argued there was a:

**“ ... profound mis-match, between the day to day reality of working in the sex industry and the social discourse about sex work ... ”**

She went on to state that the consequences of current debates and decisions in relation to the sex industry make the situation worse for those working in it.

She argued that prostitution is having sex for money and that neither having sex nor getting paid are inherently degrading, abusive, exploitative or harmful.

She acknowledged that there were women and men in prostitution who are coerced, have a drug dependency, are socially excluded or lack rights, but stated that:

**“By confusing prostitution with a whole host of other problems we allow the problems to flourish.”**

She argued that prostitutes are people who bear the consequences of poorly drafted legislation. She believed there is a need for evidenced-based policy that recognises the diversity of prostitutes experiences :

**“ ... draws upon the large range of academic literature available - that should be the basis for policy, not assumption, ideology and stereotype.”**

### **Julie Bindell**

Julie argued that anyone who sells sex should be decriminalised and that those who pay for sex or attempt to pay for sex should be criminalised. She was not interested in punishment but in prevention.

Julie questioned Catherine’s right to represent sex workers;

**“It is inherently wrong to ... have a spokesperson in the debate about an industry in which millions upon millions of women and children have been abused, have died, have lived lives of misery around the world who are actually the norm within this hideous industry, to speak for them.”**

She believed this was on the basis that:

**“We have a situation where we are told ‘I’m a sex-worker, my work is fabulous, it is a great industry’.**

**Ask yourself, are they selling sex or are they pimping and running prostitution?”**

She was interested in exploring the language particularly the use of “sex-worker” and “sex work” which implies working as a prostitute when it also means pimps and punters as well. She believed that we need to clarify the terminology used.

### **Bill Skelly**

Bill stated that as a police officer his greatest concern was harm:

**“As a senior police officer, and given the responsibility of using the resources you pay for in the most effective and efficient way, what’s of concern to me the most is harm and the most vulnerable.”**

He believed this was an emotive debate taking place in a society that found it difficult to talk about sex openly, but that it was important to discuss the issues in a mature way. He argued that a lot of what was in the audiences mind would be stereotypical images of what the sex industry is about.

He did not agree that more legislation was required:

**“Coming from a basis of looking to protect the most vulnerable from harm, my view is legislation isn’t required. We have a plethora of legislation covering everything from brothel keeping, to those involved in harassing on the streets of our cities, towns and rural areas, trafficking and crimes of physical violence Do we need more? My response is no.”**

# Themes from the Debate

## Values and Beliefs

A great deal of the debate focussed on the issue of gender equality:

**“Women live under sexual oppression from men. They (women) have one thing that unites us all over the world, and only one thing, and that’s fear and the reality of sexual violence. In my view you wouldn’t have prostitution if you didn’t have subordination, sexual subordination. I believe men wish to gain power and absolute control over women by paying for sex.”(Julie Bindell)**

There was a strong view that prostitution itself represented oppression of women, and thus undermined gender equality. However some argued that criminalisation of sex workers reinforces gender inequality by stigmatising women and denying their right to choose.

## Reinforcing Gender Inequalities: Stigmatising Sex Workers

Catherine Stephens argued that gender equality is not achievable whilst we continue to marginalise and simplify the experience of women in the sex industry:

**“The way sex workers are treated undoubtedly reinforces gender inequality. The idea that groups of women shouldn’t be listened to, can be judged on the basis of their sexual behaviour ... absolutely contributes to gender inequality.”**

This argument puts forward the idea that women involved in prostitution are disempowered because society judges what they do as being somehow unacceptable, dismisses their views and restricts their freedoms through legislation.

To address this Catherine Stephens believed that there needs to be full decriminalisation of the buying and selling of sexual services and full protection of the law for the women involved. She believed that:

**“Human rights are for everyone ... ”**

However Julie Bindell pointed to the experience of decriminalisation or legalisation in Australia, the Netherlands and New Zealand. She asserted that the women there were promised social justice including money to exit prostitution:

**“They were promised money and resources to exit prostitution if they wished. The government said the only women who would be left in the industry would be those that chose to do so. That never materialised.**

**The stigmatisation of every woman (involved in prostitution) is rife but decriminalisation never removed it.”**

The Report of the Prostitution Law Review Committee in New Zealand appears to confirm that it is not only those women who chose to stay in the industry who are left. Although the review was looking at the numbers of women entering the industry since decriminalisation it reports that the numbers have remained relatively static<sup>15</sup>. This would suggest that there has not been a great number exiting or entering prostitution as a result of the law.

**Reinforcing Gender Inequalities: Normalisation of Prostitution**

Arguments were also made that gender inequality is reinforced through the commoditisation of women working as prostitutes. There was a view that, by failing to criminalise the purchase of sex, society gives tacit approval to the view of women as objects that can be bought and sold.

Julie Bindell argues that:

**“ ... normalising prostitution creates more punters, a climate where women are seen as chattels to be bought and sold and are seen as objects. That feeds the misogyny of society that we challenge as feminists.”**

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<sup>15</sup> **The Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003**

Added to this was the view that:

**“Laws are a reflection of society’s views and by taking a far more robust view of domestic abuse we have seen a brilliant multi-agency response (in Glasgow) and far more women coming forward. Why should prostitution be any different?” (Speaker from the floor)**

Central to these views was the contention that inequality lies in the power relationship between the man and the woman and of the advantageous position that the buyer has over a seller in an economic transaction. Roger Matthews argued that the relationship in the buying of sexual services is not about sex but about the exertion of power:

**“ ... you can hear in their language (the punters) that actually a lot of this activity is not about what we might call sex. But it is about something else which very much looks like power.”**

This standpoint holds that, rather than seeing prostitution as somehow ‘normal’, society, through its laws, policy and allocated resources, should take a similar view of prostitution as it does of domestic abuse:

**“Sometimes a woman may ‘choose’ to live with an abusive partner but it doesn’t stop us saying domestic abuse is wrong and that we want to eradicate it. That’s the view we should be taking on prostitution.” (Speaker from the floor)**

The arguments here centred on the belief that the lack of legislation making the purchase of sex a criminal offence reinforces gender inequalities in society, and the view that women are somehow inferior to men.

However, some believed that the introduction of more legislation will not only increase the stigma attached to those working as prostitutes but create the idea that a group of women in society should not be listened to. The lack of an input in this debate from street prostitutes reflects the difficulty in getting those women's views at any time. The counter argument was that stigma will continue to be attached to prostitution as long as it exists and that decriminalisation of the purchase of sex will not change that.

### **Options**

- Support legislation to criminalise purchasers of sex on the basis that this would send out a clear message that such a practice only reinforces gender inequalities, should not be considered 'normal' or 'inevitable' and is not deemed acceptable by Scottish society.
- Reject legislation to criminalise purchasers of sex on the basis that this would reinforce the negative images of women working as prostitutes and undermine their right to choose.

### **Issues for further consideration**

- Clarity is required on whether legislation has an impact on the stigmatisation of prostitutes, or whether any stigma is a result of wider societal factors such as economic inequalities, social inclusion or citizenship status.
- Will legislation to criminalise the purchase of sex have more of an impact on levels of prostitution because criminal sanction is involved?
- What is likely to be the longer-term impact on society's views of the buying and selling of sex – will legislation change social attitudes about prostitution?

## Choice

The issue of choice emerged in the debate as central to questions of whether more legal intervention was required. There were challenges to any notion that prostitution was something that women did through choice.

**“If we are clear that prostitution is survival behaviour for economic necessity, then people will naturally consent to something which is still inherently harmful to them because of the need for money. The consent issue becomes a moot point.” (speaker from the floor)**

This view introduces the idea that women working as prostitutes do so purely on the basis of economic choice (or lack thereof).

Some argued that a woman will enter into a contract with a client on an equal basis. This argument, that choice is made on the basis of mutuality, has to be set against the view that a contract is entered into on the basis of economic necessity despite the risks to health and personal safety. The point here is that rationally this is not a ‘choice’ that any economically capable person would make.

There were however some strong views that there should be no interference with the right to choose:

**“I find it disgusting that you tell them (sex workers) that they can’t choose what to do with their own bodies. They have a right to choose. You can’t tell me I can’t have a tattoo because you object.” (Speaker from the floor)**

## Consent or Coercion?

The issue of consent was also explored in relation to trafficking of women for sexual exploitation. One view was that a distinction needs to be made between migrant sex workers who choose to come to this country to make money and trafficked women who are brought by force:

**“The definition of ‘trafficked’ as well, lots of people are under the impression women trafficked are forcibly taken into brothels, tied to a bed and forced to endure any sexual service, when in effect they are sexual migrant workers, prostitutes in their own country and they come to this country in order to make money, more money as prostitute.” (Speaker from floor)**

Julie Bindell challenged the stereotyping of a trafficked woman as ...

**“ ... chained to a radiator with a gun to her head ... it is clear in international law, if there is a facilitator and a woman has been trafficked across a border into prostitution consent is irrelevant.”**

This argument puts forward the view that just because women don’t always fit the more extreme stereotype of trafficked women doesn’t mean they are not being exploited – reality can be much more subtle.

However Catherine Stephens argued that the intervention of the law in the practice of sexual activity was fundamentally wrong:

**“Punitive laws ... override a woman being able to say yes or no to sexual activity. It is dangerous to all women to say there is a group of people where the state can override their individual right to consent to sex. Every woman should be fighting against that.”**

This concern is based on the right of an individual to be able to use their own body in a way that they wish. Balanced against this is the impact that the exercise of that right will have on those who have been coerced into some form of sexual activity and where the choice has been removed by an external factor.

A number of speakers from the floor questioned Catherine Stephens' views of women involved in prostitution:

**“If you consent to have sex and take money for it that is your right but I think that for every one of you there must be 1000 other women who are coerced, have come into prostitution either through child abuse, trafficking or addiction” (speaker from floor).**

Arguments centred on the concept that a woman should be able to choose to be involved in prostitution and that interference with this right to choose would impact on all women's right to consent to sex.

Against this is the idea that entry into prostitution is dictated by economic necessity or coercion of some kind. Beyond that, exercising the right to choose to sell sex makes commodities of the large numbers of women who are involved in prostitution through necessity or coercion.

## Options

- Support the criminalisation of the purchase of sex on the basis that women who enter prostitution do not do so through a choice but through some form of coercion or economic necessity.
- Reject any further legislation on the basis that women have a right to sell their bodies for sex and any further laws aimed at criminalising purchasers would infringe on that right.

## Issues for further consideration

- The Sexual Offences (Scotland) Act 2009 has provisions which deal with issues around consent and coercion. It remains to be seen to what extent this legislation is used to criminalise pimping, and also if it could be used as a sanction against purchasers of sexual services.

## **The Impact of Prostitution**

### **Vulnerability and Harm**

**“The big change that occurred in the 80’s and 90’s was ... a gradual movement towards seeing women involved in prostitution principally as victims in need of care and protection.”**

**(Roger Matthews)**

There was general agreement that women involved in prostitution are very often vulnerable, face violence, rape and coercion. There also appeared to be agreement that any action taken should focus on reducing harm to the women involved. There was however disagreement over how this should be done whilst ensuring that whatever action is taken does no harm.

Catherine Stephens argued that legislation to criminalise men will make women more vulnerable. She believed that the consequence of the Swedish approach has been to make the process less safe. She points to evidence that suggests criminalisation has made it:

**“ ... harder to assess clients if they are more nervous and negotiations are rushed. On the street in particular you are looking at lower prices, longer hours, unsafe sex and aggressive competition. Sex workers say that they are more apprehensive about approaches from the police.”**

This research<sup>16</sup> comparing the purchasing of sexual services in Sweden and the Netherlands heard from street prostitutes in Sweden that since the introduction of the 1999 Act, they have had to deal with more dangerous clients, violence and intimidation.

Julie Bindell gave a different view that suggested ...

**“If you had easily accessible prostitution ... , you will have more punters. If you have a situation like Sweden you will have fewer punters and hopefully governments pledging more to help women out of the industry.”**

The suggestion here is that there is a direct link between decriminalisation and the resources that are made available to support women out of prostitution. It is argued that in a decriminalised system it is likely that there will be less funding to support women and help them exit prostitution as there will be limited responsibility on government to act due to the absence of legislation making such activity illegal.

Additionally, it is argued that criminalisation of demand will lead to less punters and more resources and funding aimed at support and exit packages.

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**16 Purchasing Sexual Services in Sweden and the Netherlands: Legal Regulation and Experiences.** A report by a working group on the legal regulation of the purchase of sexual service. October 2004

## **On Street and Off Street Prostitution**

The extent of street prostitution is often used as a measure of how successful policy or legislation has been in a particular country. This would seem to be tied to the fact that street prostitutes are viewed as being the most vulnerable to harm, violence and exploitation. Roger Matthews outlined the issue:

**“We know that most of the women, particularly involved in street prostitution in this country enter under the age of 18 and most come through things like local authority care and other kind of marginal routes into prostitution.”**

Evidence suggests that:

- 52% of women in street prostitution were under 18 when they first worked in prostitution<sup>17</sup>,
- 37% of women in prostitution have spent time in care<sup>18</sup>,
- 22% of women in prostitution were homeless or living in temporary accommodation when they first sold sex<sup>19</sup>.

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17 Hester, M. & Westmarland, N. (2004) **Tackling Street Prostitution: Towards an Holistic Approach**, Home Office: London

18 **Street Business: Links Between Sex and Drug Markets**, Home Office 1999 p.22

19 Cusick, L, Martin, A, May, T **Vulnerability and involvement in drug use and sex work**. 2003 HORS 268, Home Office

Bill Skelly suggested that the role of the police is to target resources at those most in need and most vulnerable. He argued that where prostitution takes place has a direct impact on how vulnerable the women are:

**“If someone is working in a lap-dancing bar, a public place, where a licence is required, and it is visited by people responsible for enforcing that licence and by a large number of members of the public they tend to be (at less risk of) ... harm than someone standing on a street corner in the middle of the night.”**

Roger Mathews cautioned against thinking that off-street prostitution was somehow safer and pointed to emerging research that suggests there are also substantial problems for women working in off-street prostitution:

**“ ... we are beginning to discover information about people working off street, and what we are beginning to realise is that the notion of off-street prostitution as being somehow safer, cleaner and happier may very well be a myth.”**

A British Medical Journal survey found that 69% of women working in off-street prostitution used illegal drugs and that 48% had experienced violence by a client<sup>20</sup>.

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20 Church S, Henderson M, Barnard M, Hart G **Violence by clients towards female prostitutes in different work settings: questionnaire survey** BMJ 2001;322:524-525

Evidence suggests that many women who are entering prostitution are doing so from a position of relative disadvantage due to their age, social background or economic status. Once involved in prostitution, they are at greater risk of violence and likely to be involved in the use of illegal drugs. Whilst the dangers and risks involved in street prostitution are well documented, the same dangers and risks exist in off-street prostitution. This has implications for how resources are allocated to support women to exit.

It was argued that a reduction in demand, by criminalising the purchasers, would place more emphasis on increasing resources to help women exit prostitution. Conversely there was a view that criminalisation will make women more vulnerable and push them to increasingly work ‘underground’.

## **Options**

- Support criminalisation of the purchase of sex on the basis that this may cause a reduction in demand, and an increase in resources to support women to exit prostitution.
- Reject criminalisation of the purchase of sex on the basis that this will put women – particularly those working in street prostitution – at increased risk of violence.

## **Issues for further consideration**

- Whilst there is emerging evidence of the risks involved in off-street prostitution, understanding of this area is as yet patchy. Further clarity through research is required.
- There may be a need for further guidance from the Scottish Government on a multi-agency approach to preventing entry to prostitution and to supporting exiting.

## Intervention

Whilst there is agreement that current legislation and policy reinforces gender inequalities – albeit that view is from different perspectives – and that the prevailing view is that women working in prostitution are vulnerable to harm, exploitation and abuse, the main area of contention was around what needs to be done to address these inequalities. If it is accepted that prostitutes are in need of protection from men then as Roger Matthews argued:

**“The issue is what is the appropriate type of regulation for the punters, how strict and coercive does it need to be.”**

Beyond this, more consideration needs to be given to the interventions, both in terms of policy and resources, that will help vulnerable women avoid entering prostitution, support those that are prostitutes and help them exit

## Impact of criminalisation

Sweden was held up as an example of where criminalisation:

- has shifted public attitudes to the buying of sex: In the most recent survey of public opinion in Sweden it was found that 63% of people believed that it should be illegal to buy sex – higher than the UK. The same survey also found that 54% of people thought that it should be illegal to sell sex<sup>21</sup>.

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21 Working Papers in economics: **What Explains Attitudes towards prostitution** Niklas Jakobsson and Andreas Kotsadam April 2009

- has reduced the number of street prostitutes: It is reported that between 1999 and 2002 there was a reduction in overall prostitution from 2500 to 1500. Street prostitution fell from 650 to 500 between 1999 and 2004<sup>22</sup>
- has resulted in a lower number of women being trafficked: Comparisons were made in 2004 between Sweden, Finland and Denmark in relation to the number of women trafficked. It was estimated that between 400 and 600 women were trafficked into Sweden each year for sexual purposes. Estimates put the number in Finland as between 10,000 and 15,000 and Denmark as 5,500 to 7,800 .

These statistics suggest that the 1999 law has had a substantial impact on public attitudes and led to an increase in the number of women working in prostitution.

On the issue of public opinion Roger Matthews noted:

**“Surveys carried out with young people in Sweden show that there is a very different set of values and ethos amongst young people, most of whom feel it is not legitimate to buy the sexual services of other people.”**

This supports the view that legislative change can drive public attitudes, rather than merely reflecting them, although it should be noted that the UK poll described earlier also found a higher percentage of young people believed that selling and

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22 & 22 Ekberg E **The Swedish Law That Prohibits the Purchase of A Sexual Service: Best Practices for Prevention of Prostitution and Trafficking in Human Beings**

paying for sex was unacceptable<sup>23</sup>. The difference in attitudes therefore may be due to age rather than the law per se.

In terms of the Swedish legislation overall he pointed out that:

**“The percentage of people that continue to support the legislation remains high, about 70% of the population, quite unusual for any bit of legislation to have that level of support.”**

Catherine Stephens, however, questioned whether the popularity of the legislation could be taken as evidence that it was effective.

**“One of the things we know about sex work, as others have said, is that we don’t know a lot about it. There is no evaluation or baseline in Sweden and no solid stats.”**

The last major evaluation of the Swedish legislation was in 2004<sup>24</sup> and gives a breakdown of the number involved in prostitution and trafficking and comparisons between the situation before the law was introduced and up until that date.

The questioning of research, whilst not peculiar to this debate, is a significant factor with both sides claiming their evidence base is unjustifiably undermined by the other:

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23 [www.ipsos-mori.com/research/publications/researcharchive/poll.aspx?oItemId=2308](http://www.ipsos-mori.com/research/publications/researcharchive/poll.aspx?oItemId=2308)

24 Ekberg E **The Swedish Law That Prohibits the Purchase of A Sexual Service: Best Practices for Prevention of Prostitution and Trafficking in Human Beings**

**“Those who research (activists) in the area of prostitution, who take the line against the sex industry, are told our research is shoddy, unethical, irrelevant and inaccurate.” (Julie Bindell)**

Catherine Stephens argued that those who carry out research on the issue of prostitution have been involved in a form of deception:

**“It is part of a rather unpleasant tradition of unethical research in the sex industry ... it is seen as quite acceptable to deceive people in the sex industry to do research that is claimed can’t be done in any other way.”**

It is perhaps inevitable that, in such a debate, statistics will be used to support or refute the various arguments. What seems to be important is that at the very minimum any action taken to address the issue of prostitution is based on evidence that this action will do no harm to those most at risk and vulnerable.

It was argued that criminalisation of demand will lead to less evidence of what is happening:

**“The bottom line is that, when you start criminalising prostitution you finish up as the Professor (Matthews) said with less statistics, that’s natural, people disappear off the streets, it goes elsewhere. (If) You punish the men you are punishing the women.” (Speaker from the floor)**

Catherine Stephens expanded on this and argued that criminalising men is a simplistic solution to a complex problem and would drive things underground.

This was a common argument attached

to criminalising the buyers of sex and is difficult to prove or disprove due to the very nature of the issue. One speaker from the floor felt that prostitution was already underground:

**“Go along the street for five minutes, down a dark lane, you are likely to see a woman on her knees in the mud, giving a punter a blowjob. You can’t get much more underground than that.” (Speaker from the floor)**

The primary consideration in assessing the impact of the criminalisation of demand has to be the effect on vulnerable and at risk women. Evidence from Sweden suggests that there have been changes in public attitudes, a reduction in trafficking and a reduction in the number of prostitutes. However, there is some dispute that there has been a real reduction in the number of prostitutes, arguing instead that the figures result from more women being driven to work underground and being at greater risk as a result.

### **Demand and Deterrent**

Bill Skelly had two main concerns in relation to adoption of the Swedish model in Scotland. Firstly he questioned whether such an approach could be transferred to a different cultural context:

**“The model in Sweden involves a range of different activities which together have been brought in that country to deal with a problem. You have to set it against the background of the culture of the country and the background of the criminal justice system and the mandate they give to that system.”**

In this view, regardless of whether the Swedish approach is effective it might only be so in that culture.

Secondly he suggested the widespread nature and extent of prostitution (and trafficking) meant that it could not be solved by more legislation:

**“It is because society has failed. That’s normally what has happened when we are thinking about throwing laws around and asking the criminal justice system to sort out problems. If you are looking for the law to solve the problem you are going to be disappointed. All that will happen is we’ll have a criminal justice system clogged with issues and other priorities.”**

The suggestion here is that more legislation would not be effective in dealing with a problem that is complex and multi faceted.

This argument assumes current legislation is effective in acting as a deterrent. More legislative intervention might result in an increased number of people being processed through the criminal justice system, but would not necessarily impact upon the level of prostitution.

However, Roger Matthews believes that men will be deterred from buying sexual services fairly easily. He pointed to research which suggests:

**“If your picture was in the paper, you had your licence endorsed – anything that looked like a sanction against buying sexual services – it would put about 75% of punters off.”**

In Scotland, a survey of men found that 85% would be deterred if their photographs and/or names were displayed on billboards

following conviction for kerb crawling. 83% said they would not seek paid sex if their details were published in local newspapers and 77% said the same if they were 'named and shamed' on the internet. Around 69% would be deterred by heavier fines<sup>25</sup>. (See Appendix 2 for full breakdown)

Roger Mathews believes that men's level and depth of motivation is very superficial. This challenges the view that the criminal justice system would be clogged if legislation criminalising men were to be adopted. Citing Sweden as an example he argues:

**“ ... you don't have to lock up hundreds of people, you don't need to process a lot of clients to put a lot of punters off.”**

Whilst much of the debate focussed on whether more legislation was or was not required, there were strong views that where resources were targeted at support for women, they would be effective in dealing with the issue of prostitution. It was argued that to be most effective these resources should be combined with the criminalisation of demand:

**“In Glasgow I would argue there is more resources than any other city in Britain (you have) agencies and the police working together (but) we need legislation to criminalise demand.” (Speaker from the floor)**

A key issue is whether the model adopted in Sweden could be used successfully in Scotland and travel across cultural boundaries. As well as considering the different cultural barriers to taking an approach that criminalises the purchase of sex, there was a feeling that legislation may not be effective in dealing with the issue and may only serve to put strain on the criminal justice system.

There is evidence that men's motivation for buying sex is fragile and that deterrents centred on exposing their activities – to family or society generally – would be effective in curtailing them from using prostitution. Glasgow was discussed as an example of a city that, with strong multi agency support to prostitutes who wish to exit, combined with legislation, may prove to be an effective example in the approach to reducing the harm caused by prostitution.

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25 Macleod et al: **Challenging Men's demand for prostitution in Scotland** 2008

## Options

- Support criminalisation of the purchase of sex on the basis that it could reduce the numbers of women in prostitution and the number of women trafficked to Scotland.
- Reject criminalisation of the purchase of sex as it could make prostitution less visible and more dangerous for women by driving it underground.
- Review provisions of current legislation to ensure that sufficient powers exist to develop deterrents to men purchasing sex.

## Issues for further consideration

- Concerns have been expressed about the ability of the justice system to cope with any law which criminalises demand. Would Scotland have a similarly low number of prosecutions as Sweden if legislation was introduced to criminalise demand?
- More evidence is required on the impact that criminalisation would have on prostitutes and women trafficked for prostitution. If it is accepted that women are not making a 'free' choice when entering prostitution, then they will continue to do so regardless of legislation, but they will do so in a way that increases their vulnerability and exposure to harm.
- Taking this into account will mean that significant extra resources will have to be allocated to developing robust care and exit packages.
- More consideration needs to be given to other measures to deter men from using prostitutes including a Government Social Marketing Campaign. Does the Government need to set out its aspirations for Scotland on this issue –confirming Scotland as a nation of social justice where people are not bought and sold? What difference would leadership messages like this make to the public?

## Supply

**“There are many women who have benefited from criminalisation of punters because they have been assisted to leave the industry which a huge number of women are desperate to do.”(Julie Bindell)**

Although there were disagreements on whether women choose to become involved in prostitution and make informed choices about when to stop their involvement, there was general agreement that:

- most prostitutes are vulnerable women and in need of support for problems such as addiction and help to exit prostitution,
- criminalising women involved in prostitution is in no one's interest,
- many women are prostituting themselves because of their own or their partner's drug addiction or another economic necessity.

Bill Skelly argues that, rather than focussing on more legislation, exit should be a priority:

**“Exit strategies are part of the current Scottish Government's approach to dealing with prostitution, being able to assist people to exit and deal with the problems in their lives. That is where we should be heading, not throwing laws at the problem.”**

Roger Matthews argued that evidence suggests a lot of women want to get out of prostitution and that there is a moral imperative to help them do this:

**“We have a humanitarian, moral position and everyone around this table says they want to reduce harm and exploitation ... it is very much part of the equation.”**

There was general agreement in this debate that most prostitutes should be seen as victims in need of care and protection and that laws criminalising them are undesirable. Moreover, there is a pressing need for more resources to be aimed at support and exit packages for these women.

## **Options**

- Adopt the Swedish model in full by decriminalising women involved in prostitution as well as criminalising the purchase of sex .
- Consider what package of support and services (including help to exit prostitution) needs to be developed in Scotland, regardless of legislative approaches taken.

## **Issues for further consideration**

- Different approaches to prostitution are evident in Scotland across local authorities and police forces. How much does this impact on investment in local support services for prostitutes?
- Can legislation assist in achieving a degree of uniformity not only in the attitude of local authorities to prostitution but in the allocation of resources? Is uniformity desirable?
- What are the implications of the different legislative approaches for ensuring support and services are able to identify and reach women involved in prostitution (or at risk of becoming involved)?

# Conclusions

Central to this debate on prostitution was the idea that a woman has the right to sell sex without outside interference from the state or society more generally. In this view, outside interference has negative implications for the right of all women to do what they want with their bodies and reinforces gender inequalities.

Opponents argue against this on the basis that, for most women involved in prostitution, the choice they make is driven by economic necessity or coercion. Moreover, they believe that the exercise of a right to sell sex contributes to and exacerbates the harm that comes to women involved in prostitution.

The validity of this argument must be based on evidence of vulnerability and harm. Indeed, there is little disagreement that most women involved in prostitution are from disadvantaged backgrounds where poverty and sexual abuse are common, and that once involved in prostitution, they suffer varying levels of violence, threat and rape.

Although there is general agreement on the issue of vulnerability related to prostitution there is much less agreement on what should be done to deal with it.

One view is that criminalising the purchase of sex will drive the practice underground thus increasing the risk to women as activities become more hidden. If the punter is criminalised, women's opportunities for assessing and negotiating danger will be reduced and the chance of coming to harm increased.

On the other hand, opponents point to the success of Sweden in reducing the numbers of women in prostitution. They argue that criminalising demand will mean more resources will be aimed at supporting women to exit prostitution. In this view, criminalising demand reflects the fact that society rejects the notion that it is acceptable for women's bodies to be regarded as commodities to be bought and sold. This is a view that recognises the power relationship involved in prostitution and opposes it on the basis that it is the exploitation of women by men.

Whichever view one takes it is clear that any intervention must first be aimed at doing no harm to those who are vulnerable and be focussed on helping them to improve their lives and move away from the circumstances that put them at risk. In this respect there is general agreement that funding and resources aimed at stopping women entering prostitution and at helping women exit must be greatly increased regardless of the legislative framework.

If it can be demonstrated that no further harm will come to those women involved in prostitution as a result of the criminalising of the purchase of sex, then such an approach would have merits through helping women to exit prostitution. It is also likely to help in shaping and reflecting society's attitudes to the buying and selling of sex.

It may also be necessary to consider how effectively current legislation is being used to deal with the issue of demand and whether the Sexual Offences (Scotland) Act 2009 could have a role to play. In addition, the fragile nature of men's motivation to purchase sex needs to be further explored in relation to currently available sanctions.

Legislation in this area is fragmented and interpreted differently across Scotland which not only has an impact on what sanctions are applied to those involved but may also affect how much resource is aimed at support for women.

There was little room in this debate for discussion of whether complete decriminalisation should be an option to reduce the vulnerability to harm and risk that women working in prostitution face. This is an important area that involves consideration of tolerance zones, public order and the licensing of brothels. Many of the perceived benefits of this approach are reflected in this report in relation to findings in New Zealand.

**It is clear that whatever legislative option is chosen, it is only part of the answer. It is as important that the policy and resources that accompany any legislative change or review ensures there are sufficient support services for vulnerable women who may be at risk of entering prostitution. At the same time, co-ordinated, multi-agency support must be available to those women working as prostitutes and help should be available to help them exit.**

**Acceptance that most women are vulnerable to abuse and violence as a result of working as prostitutes means that attitudes need to be challenged, in particular, the belief that it is acceptable for women to be viewed as commodities whose bodies can be bought and sold. In doing so, it is crucial to have a wider policy response to complement any legislative framework.**

# Appendices

## Appendix 1

### Adverse Experiences of sex workers in New Zealand while Working in the Last 12 Months by Sector

	Total %	Street Workers %	Managed Indoor %	Private Indoor %
Experienced refusal by client to pay	12.6	31.5	7.5	12.6
Had money stolen by a client	8.3	24.4	4.2	7.9
Been physically assaulted by client	9.8	13.4	10.4	7.3
Threatened by someone with physical violence	15.9	39.5	9.3	16.3
Held somewhere against their will	4.7	10.2	4.2	3.2
Been raped by a client	3.0	5.3	3.3	1.5
Received abusive text messages from clients	17.3	11.0	7.4	36.4

Source: **The Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003.**

## Appendix 2

### What Would Deter Men in Scotland from Buying Sex

Being added to a sex offender registry	89%
Having your picture and/or name on a billboard	86%
Having your picture and/or name in the local newspaper	84%
Having your picture and/or name posted on the internet	78%
A letter being sent to your family saying you were arrested for soliciting a woman in prostitution	77%
Greater criminal penalty	72%
Having your car impounded	70%
Higher Monetary Fine	69%
Required to attend an educational programme for men who buy prostitutes	56%

Source: **Challenging Men's Demand for Prostitution in Scotland**

# Contacts

## **Scotland**

Equality and Human Rights Commission Helpline

FREEPOST RSAB-YJEJ-EXUJ

The Optima Building, 58 Robertson Street, Glasgow G2 8DU

Main number: 0845 604 5510

Textphone: 0845 604 5520

Fax: 0845 604 5530

## **England**

Equality and Human Rights Commission Helpline

FREEPOST RRLG-GHUX-CTRZ

Arndale House, Arndale Centre, Manchester M4 3AQ

Main number: 0845 604 6610

Textphone: 0845 604 6620

Fax: 0845 604 6630

## **Wales**

Equality and Human Rights Commission Helpline

FREEPOST RRLR-UEYB-UYZL

3rd Floor, 3 Callaghan Square, Cardiff CF10 5BT

Main number: 0845 604 8810

Textphone: 0845 604 8820

Fax: 0845 604 8830

**Helpline opening times:** Monday to Friday: 8am - 6pm

Calls from BT landlines are charged at local rates, but calls from mobiles and other providers may vary. Calls may be monitored for training and quality purposes.

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