

**ESHE POSITION STATEMENT ON PROSTITUTION**  
**(AS A FORM OF COMMERCIAL SEXUAL EXPLOITATION)**

**OVERVIEW**

1. ESHE is a two-year pilot project which aims to introduce a strategic approach to the prevention of gender-based violence (GBV) in a higher education setting in line with Equally Safe, the Scottish Government's Women and Girls (VAW&G) strategy. The Project will generate new data on attitudes to and the extent of gender-based violence (GBV) on campus, develop a coordinated response to GBV and produce an Equally Safe Higher Education toolkit for dissemination to other Scottish Higher Education institutions (HEIs). ESHE takes a partnership approach which involves Strathclyde University students, staff and their representatives and key external stakeholders to implement measures which closely reflect the twin themes of the Equally Safe approach – Prevention and Early Intervention.
2. This paper outlines ESHE's position on prostitution as a form of commercial sexual exploitation, informed by evidence gathered on international approaches to addressing prostitution.
3. It is expected that the University will formally endorse this position and agree that this is the position the University will hold in relation to prostitution.

**DEFINITIONS**

**Gender-based Violence**

ESHE utilises the definition of gender-based violence (GBV) outlined in Equally Safe which recognises that it is a function of gender inequality. While it is acknowledged that GBV mostly affects women and that men are the main perpetrators, it may impact individuals of any gender, sexual orientation, faith or ethnicity. GBV takes the form of actions that result in physical, sexual and psychological harm or suffering to women, children and young people, or an affront to their human dignity, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. These include:

- domestic abuse;
- rape & sexual assault
- child and childhood sexual abuse
- Stalking, sexual harassment and intimidation at work and in the public sphere
- commercial sexual exploitation, including prostitution, pornography and trafficking
- dowry related violence
- female genital mutilation (FGM);
- forced and child marriages
- 'honour' based or dowry related crimes

## Sexual Exploitation

“Sexual exploitation is a practice by which person(s) achieve sexual gratification, or financial gain, or advancement through the abuse of a person’s sexuality by abrogating that person’s human right to dignity, equality, autonomy, and physical and mental well-being.”<sup>1</sup>

Sexual exploitation includes sexual activities such as prostitution, phone sex, stripping, internet sex/chat rooms, pole dancing, lap dancing, peep shows, pornography, trafficking, sex tourism and mail order brides. Sexual exploitation includes offering drugs, food, shelter, protection, other basics of life, and/or money in exchange for sex or sexual acts.

## EQUALITY IMPLICATIONS

The ESHE Project is based on promoting the principles of gender equality. ESHE recognises that gender-based violence is a function of gender inequality. This position statement clearly outlines that the root cause of prostitution is gender inequality. In supporting this position statement, assertive action is therefore being taken to promote understanding and awareness of gender inequality issues.

## OUR POSITION

4. *Equally Safe*, Scotland’s national strategy for preventing and eradicating all forms of violence against women and girls, defines prostitution as a form of violence against women. The City of Glasgow’s Violence Against Women Partnership and the national Encompass Network advocate a challenging demand approach.
5. It is proposed that ESHE adopts a position, aligned to that of national and local policy which also seeks to challenge demand.
6. ESHE supports the establishment of a legislative framework in Scotland that is founded on addressing the causes of commercial sexual exploitation and prostitution i.e. gender inequality and the demand for men to buy sexual access to women.

Given this, we advocate measures to:

- Decriminalise those selling sex.
- Provide support and exiting services for those exploited through prostitution.
- Criminalise the buyers of sex in all settings (on, off street and online).

## EVIDENCE

7. The main international approaches addressing prostitution are:
  - Legalisation
  - Decriminalisation
  - Challenging demand
8. There is little difference with regard to legalisation and decriminalisation – they are both sides of the same coin with the pervading view that prostitution is work and should be treated as such. This approach lobbies for legalising the buying and selling of sex (on or off

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<sup>1</sup> (Part I, Article 1, draft Convention Against Sexual Exploitation) Prostitution of Sexuality, 1995 Appendix

street) and licensing brothels to enable owners, and governments, to profit from those selling sex.

9. Unlike legalisation and decriminalisation, a challenging demand approach does not see prostitution as work but instead views it as a form of violence against women.
10. Evidence gathered against legalisation and decriminalisation approaches are outlined below:
  - In 2012, the Stop Demand Foundation in New Zealand published a summary of the impact of decriminalisation over the nine year period from 2003, when it was passed into law by 1 vote. The findings included increased numbers of children and young people (including overseas students and foreign women) involved in prostitution.
  - The normalisation of prostitution and continuation of violence and exploitation of women involved.
  - A negative impact on residential and business communities and problems for local councils trying to manage street prostitution.
  - An increase in brothels, including a dramatic increase in unlicensed brothels, with links to organised crime and sex trafficking.

### **Legalisation and Decriminalisation**

11. An empirical analysis of a cross-section of over 150 countries revealed that reported human trafficking inflows were higher in countries where prostitution is legal. In the Netherlands, the sex industry increased by 25% after legalisation. In Victoria, Australia, the number of legal brothels doubled and illegal brothels increased by 300%. In Auckland, New Zealand, a 200% to 400% increase in street prostitution has been reported since decriminalisation.
12. In 2007, a Government report in Germany stated that its Prostitution Act has “not been able to make actual, measurable improvements to prostitutes” social protection.
13. In Sydney, NSW, in September 2015, a parliamentary enquiry heard that sexual servitude and human trafficking is widespread in Sydney brothels and the Australian Federation of Police revealed that 1 in 4 investigations into sexual exploitation is centred on brothels.
14. The power dynamics inherent in prostitution do not change because it is labelled work – and men who buy sex know this.
15. In contrast to the popular myth, regulating the sex industry through health checks does not help reduce HIV/AIDS given that current programmes only test women involved in prostitution. Any effective anti-AIDS programme should instead target the group who engages in high risk sexual behaviours and spreads most cases of HIV - men.
16. When prostitution is ingrained in mainstream culture as work, a valid choice and empowering for women, these messages serve to misrepresent, distort, dilute and desensitise people to the reality i.e. that prostitution is a systematic practice of sexual exploitation which is profoundly harmful to women and girls.

## Challenging Demand

17. This approach decriminalises and supports those exploited through commercial sexual exploitation (mainly women) and criminalises the buyers of sex (mainly men).
18. Countries which have adopted this approach to date include: Sweden, Norway, Iceland, Finland, Israel, Northern Ireland, the Republic of Ireland, Canada, South Korea and India. Countries currently considering adopting the model include France, Argentina and Lithuania..
19. Aligned with the aims of *Equally Safe*, the challenging demand approach advocates that addressing demand is fundamental to reducing violence against women and children, and promoting gender equality.
20. It recognises the inherent imbalance in power between men and women in society, which in turn is mirrored and reinforced through commercial sexual exploitation.
21. Challenging demand aims to prevent and reduce levels of gender-based violence as well as change cultural attitudes that perpetuate such abuse.
22. In contrast to the legalisation and decriminalisation models, the challenging demand approach advocates decriminalising *solely* those selling sex and criminalising *solely* those buying sex.
23. The challenging demand approach is formally supported by the European Union and the Council for Europe.
24. Moreover, challenging demand has proven to be the only approach that successfully reduces the prevalence of prostitution and trafficking i.e. evidence from countries where the purchase of sex is criminalised shows a shift in public attitudes, a decline in the numbers of men buying sex and a reduced market for traffickers. Evaluations confirm:
  - ✓ **A reduction the demand for prostitution** (12.7% to 7.6% in Sweden from 1996 - 2008.)
  - ✓ **A change in attitudes:** In 1996, 45% of women and 20% of men in Sweden supported criminalising the purchase of sex. By 2008, support for the law had risen to 79% amongst women and 60% among men.
  - ✓ **A reduction in prostitution markets:** Since criminalising the buying of sex in 2009, Norway has seen a 20% decrease in street prostitution, a 16% decrease in indoor prostitution and a 60% decrease in advertisements for sexual activities.
  - ✓ **Street prostitution has halved in Sweden** and there is no evidence that it has been displaced. Despite Sweden having almost 4 million more inhabitants than neighbouring Denmark, Sweden's prostitution population is approximately a tenth of Denmark's, where buying sex is legal.
  - ✓ **Respective countries become a more hostile destination for traffickers:** Since criminalising the buying of sex in 2009, an evaluation of the law in Norway in 2014 found a reduced market for human traffickers.

- ✓ **Women in prostitution are supported to exit:** five years after the implementation of the law in Sweden, it was reported that 60% of the women put in touch with social services, successfully exited the sex industry.

**Appendix 1** contains a paper, *Prostitution: What Could Work in Scotland*, prepared on behalf of the End Prostitution Now Campaign Group which includes references for all evidence included in this statement and further advocates for the challenging demand approach.

## APPENDIX 1

### End Prostitution Now Campaign

#### Prostitution - What could work in Scotland?

November 2015

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#### Scottish Context

- This briefing on prostitution is located within the context of **Equally Safe**: Scotland's Strategy for preventing and eradicating Violence against Women and Girls.<sup>i</sup>
- The Strategy cites prostitution as a form of commercial sexual exploitation, part of the wider spectrum of gender-based violence and founded on gender inequality.

#### Prostitution - What could work in Scotland?

- The briefing outlines the key facts on prostitution, divergent international approaches to address it and puts forward proposals for what could work in Scotland to help prevent and eradicate the harm of prostitution.
- It highlights the areas of consensus and disagreement between challengers and defenders of prostitution.
- Although it is recognised that men too can experience gender-based violence, including exploitation through prostitution, the focus of this briefing reflects the disproportionate impact on women and girls globally and therefore refers throughout primarily to women.<sup>ii</sup>

#### Who are we?

The [End Prostitution Now \(EPN\) Campaign](#) is made up of a broad coalition of national and local violence against women and gender equality organisations across Scotland. These include the Women's Support Project, Trafficking Awareness Raising Alliance (TARA), Rape Crisis Scotland, Zero Tolerance and the Scottish Trades Union Congress (STUC).

Local support comes from a range of individuals and organisations across the country i.e. services which provide direct support to women and men involved in prostitution, Child Protection Committees and Violence against Women Partnerships.

The Campaign is endorsed by the National Violence Against Women Network and the Office of the Children's Commissioner in Scotland.

#### Our position on prostitution

Millions of women and girls around the world are harmed by commercial sexual exploitation (the buying and selling of sex), primarily through prostitution and trafficking for the purpose of prostitution.<sup>iii</sup>

In line with the Scottish Government, EPN views commercial sexual exploitation as part of the wider continuum of violence against women and girls and recognises that such violence, globally and in Scotland, is rooted in gender inequality.

**We fully support** the decriminalisation of women, vulnerable men and children sexually exploited through prostitution, but do not support the system of prostitution which exploits them.

**We are emphatically against** the wholesale decriminalisation and legalisation of the sex industry, which serves only to legitimise the systematic abuse of women in prostitution by buyers, pimps, brothel owners, organised criminals and traffickers.

**We ask:** Where else in law would you seek to legalise or decriminalise the actions of those who profit or benefit from the exploitation of others?

**We support** Equally Safe, the Scottish Government's Strategy on Violence against Women and Girls i.e. we want to prevent and eradicate the harm of prostitution. We want to live in a Scotland founded on gender equality, which sends a clear message that gender-based violence, in any form, is fundamentally unacceptable within our society.

**We support** existing legislation in Scotland that holds men to account for perpetrating abuse against women and children and wish to see this extended to include specific legislation aimed at preventing and addressing the harm of prostitution.

Given this, EPN **aims** to secure comprehensive legislation in Scotland which would:

- decriminalise individuals (mostly women) exploited through prostitution
- provide long term support and exiting services for those exploited
- criminalise the buyers of sex (mostly men) in all settings - on street, off street and online.

### **Prostitution: Violence against Women or Work?**

- Both challengers and defenders of prostitution **agree** that those who sell sex should be decriminalised and advocate the provision of harm reduction interventions and support to exit prostitution.<sup>iv</sup>
- The one area where challengers and defenders **disagree** is on the pros and cons of decriminalising or legalising the sex industry per se.
- The **crux of disagreement** centres on whether or not prostitution is viewed as a form of violence against women or a form of work.<sup>v</sup>
- If, alongside trafficking, sexual violence and domestic abuse, prostitution is seen as a form of violence against women, it is then recognised as part of a continuum of harm, which should be prevented and eradicated.
- On the other hand, for those who do not see prostitution as violence, it is elevated to the status of work and framed in terms of 'agency' and 'empowerment' for the women involved. It is then something to be regulated, rather than prevented or eradicated.<sup>vi</sup>
- All forms of violence against women are characterised to varying degrees by physical, emotional, psychological, economic and sexual abuse.<sup>vii</sup>
- The table below illustrates the ways in which violence against women is recognised as something harmful until it comes to the exception of prostitution, when the same harm changes to 'individual choice' and a form of 'work' because an exchange of 'something' for sex is involved.

<b>Violence against women</b>	<b>Challengers of prostitution</b>	<b>Defenders of prostitution</b>
Physical and sexual assaults, psychological and emotional abuse and threats of violence by intimate other/s	Not tolerated Named as violence against women Recognised as harmful	Not tolerated Named as violence against women Recognised as harmful
Physical and sexual assaults, psychological and emotional abuse and threats of violence by intimate other/s + <b>exchange of cash, shelter, goods, food etc....</b>	Not tolerated Named as violence against women Recognised as harmful	Tolerated  Named as work  Distorted as empowering

*(adapted from the Stop Demand Foundation, New Zealand)<sup>vii</sup>*

***“The act of prostitution by definition joins together two forms of social power (sex and money)....”<sup>ix</sup>***

### **Key facts on prostitution**

At present, prostitution is legal in the UK. However, particular activities related to prostitution are illegal, such as soliciting in a public place, kerb crawling, pimping and brothel keeping.

In Scotland during the last few years, there has been a marked fall in the numbers of women involved in street prostitution and relatively small numbers of convictions for off street prostitution i.e. 38 convictions for brothel keeping in 2014/15.

### **Gender**

***“Prostitution exists because inequality exists”<sup>x</sup>***

- Prostitution is primarily a gendered issue. As with all forms of gender-based violence, it stems fundamentally from gender inequality and is created and maintained by the demand from men to buy sexual access to women. <sup>xi</sup>
- There is a major power differential between the man who buys sex and the woman he buys, in terms of her poverty, unequal social status and abuse history. <sup>xii</sup>
- Being female is a key risk factor for gender-based violence. Recent global prevalence figures indicate that 35% of women worldwide have experienced intimate partner violence or non-partner sexual violence in their lifetime and sexual violence is associated with being a victim of violence for females <sup>xiii</sup>
- Some men also experience gender-based violence, most notably childhood sexual abuse i.e. international studies reveal that approximately 5-10% of men report being victims of sexual



violence as children. <sup>xiv</sup>

- Evidence confirms that perpetrators of sexual violence are overwhelmingly male. <sup>xv</sup>
- Prostitution is not the oldest profession, but the oldest oppression – of women’s equality. <sup>xvi</sup>
- “Prostitution is an institution which reinforces and perpetuates the unequal status of **all** women.”<sup>xvii</sup>

## **Human Rights**

Given that the system of prostitution is premised on gender inequality, it is wholly incompatible with universal standards of human rights.

Human rights don’t exist in a vacuum i.e. one person’s ‘right’ is not upheld at the cost of the rights of others e.g. since 1989 in Scotland, husbands no longer have the ‘right’ to rape their wives within marriage; people no longer have the ‘right’ to smoke in a public place and parents no longer have the ‘right’ to smack their children. Given this:

- It is not a human right to have sex
  - It is not a human right to buy sex
  - It is a human right not to be sexually exploited through prostitution
- 
- Violence against Women, particularly intimate partner violence and sexual violence are major public health problems and violations of women’s human rights. <sup>xviii</sup>
  - “Sexual exploitation is a practice by which person(s) receive sexual gratification, or financial gain, or advancement through the abuse of a person’s sexuality by abrogating that person’s human right to dignity, equality, autonomy, and physical and mental well-being.”<sup>xix</sup>
  - The recent decision by Amnesty International to move towards a policy to decriminalise prostitution is not a current priority for Amnesty UK, including Scotland. <sup>xx</sup>
  - The human rights of a minority of individuals i.e. those who view prostitution as work, do not take precedence over the systematic exploitation of the majority i.e. those who are harmed through prostitution. <sup>xxi</sup>
  - Under Article 1 of the European Convention of Human Rights, the UK is required to convey the Convention Rights and fundamental freedoms of ‘everyone within their jurisdiction’. Given this, a failure to protect a woman from violence may breach: Article 2 (her right to life); Article 3 (her right to be free of inhuman and degrading treatment); Article 4 (her right to be free of slavery and servitude).

## **Choice**

- In Edinburgh, the majority of women accessing services have indicated that they do not ‘enjoy’ it. They are involved out of necessity and would leave if they could. <sup>xxii</sup>
- Prostitution is not a choice for the vast majority of women with 50% in the UK entering prostitution before the age of 18. <sup>xxiii</sup>
- The experience of sexual abuse as a child is a fundamental human rights violation and also compromises adult self-determination i.e. when a 14 year old girl is sexually exploited through prostitution, how can she suddenly make an informed ‘choice’ when she turns 18?
- In Scotland, the majority of women involved in prostitution are affected by poverty, welfare cuts, substance misuse, homelessness and involvement in the criminal justice system. These are not causes of prostitution, but secondary symptoms that underscore women’s inequality and together compound her lack of choice. . <sup>xxiv</sup>

- Whilst there are a small number of women who say they choose to be involved in prostitution, the evidence shows that the vast majority are involved through lack of choice and economic alternatives.<sup>xxv</sup>
- Men can buy sex from a woman but they can't buy her consent
- Consent is more than the absence of force.<sup>xxvi</sup> It also requires the presence of sexual autonomy, which is violated whenever the person has not freely agreed or is otherwise not a voluntary participant.<sup>xxvii</sup>
- In a study<sup>xxviii</sup> comparing sex buyers to men who did not buy sex, one man who didn't buy sex stated:  
*"I don't think prostitution is quite the same as rape. Rape is worse, but it is close to the rape end of the spectrum. It's not rape because there's a superficial consent. On the face of it, the prostitute is agreeing to it. But deeper down, you can see that life circumstances have kind of forced her into that, even though she has agreed to it. It's like someone jumping from a burning building – you could say they made their choice to jump, but you could also say they had no choice."<sup>xxix</sup>*
- It is men who make a free choice to buy women in prostitution. The vast majority of men choose **not** to buy sex.
- There are no negative consequences for men if they choose **not** to purchase sex.

### **Becoming involved in and staying in an abusive situation: parallels between domestic abuse and prostitution**

Sex purchasers, traffickers and other profiteers of prostitution use the same manipulative tactics as violent and abusive male partners. Given this, there are clear parallels between women affected by prostitution and domestic abuse. i.e. they might enter into, stay in or return to a violent situation, they may deny the abuse and defend their abusers.

In Scotland, we understand that women feel trapped and forced to stay in abusive relationships for a range of valid reasons i.e. fear, economic dependence, the erosion of their self-esteem and to protect their children. We appreciate that it's a long, complex and highly dangerous process for women to 'leave' the relationship.

In this context, we do not blame women for entering into abusive relationships or say that women 'choose' to stay in a domestic abuse situation, so logically, why would it be a woman's 'choice' to enter or stay in prostitution?

### **Supply and Demand**

Prostitution is underpinned by supply and demand.

- The demand is created by a minority of men in Scotland, who currently feel entitled to buy sex, mostly from women but in some cases from children and vulnerable men, including those who have been trafficked.<sup>xxx</sup>
- The social acceptability of prostitution feeds into the demand to buy sexual access to vulnerable children and young people, including those who have been trafficked. In 2014, 61 UK girls and 11 UK boys were trafficked internally, an 18% increase from 2013.<sup>xxxi</sup>
- As many as 2,600 migrant women are trafficked into England and Wales each year and

- up to 5,000 children involved in prostitution at any one time. <sup>xxxii</sup>
  - The practice of prostitution brands all women as something that can be bought and sold<sup>xxxiii</sup>
  - Prostitution is the main driver for trafficking, with evidence indicating that the majority of victims are female, reflecting the fact that the most common purpose uncovered is sexual exploitation. <sup>xxxiv</sup>
  - “Demand is a pull factor for destination countries. It’s therefore important that trafficking destinations like Scotland recognise that demand is an issue within their control and take steps to tackle it.”<sup>xxxv</sup>
- Simply put, if there was no demand from men to purchase sex, there would be no supply of women, vulnerable men or children.***

### ***Who are the men who buy sex?***

In Boston 2011, one study<sup>xxxvi</sup> comparing sex buyers with non-sex buyers highlighted:

- 61% of sex buyers currently had a wife or girlfriend.
- 41% of sex buyers had used a woman in prostitution who was controlled by a pimp.
- Sex buyers (37%) were more likely than non-sex buyers (21%) to state that once sex is paid for, women are obligated to do whatever the buyer wants.
- Sex buyers (96%) and non-sex buyers (97%) shared the opinion that minor children are almost always available in bars, massage parlours, escort and other prostitution settings in Boston.
- Those who buy sex, on average, have less empathy for women in prostitution and view them as intrinsically different from other women
- Both sex buyers (91%) and non-sex buyers (88%) agreed that the most effective deterrent to buying sex would be to be listed on a sex offenders registry.
- Men who buy sex are more likely to report having committed rape and other sexually aggressive acts.
- Men who buy sex share certain key characteristics with men who are at risk of committing sexual aggression.

In Scotland:

- The demand to buy sex is from ordinary men i.e. study of 258 men who attended a sexual health clinic in Glasgow and reported buying sex found the average age of buyers to be 34, with 43% in a relationship. <sup>xxxvii</sup>
- Men themselves have stated that certain legal sanctions would deter them from buying sex e.g. fines, imprisonment, to be placed on the sex offenders register or have a letter sent to their home would deter them from buying sex.

### ***Harm***

- Prostitution, by its very nature, is exploitative, harmful and traumatic for the women involved. Calling it a job will not make it harmless – as soon as prostitution is legalised and defined as work, the harm is made invisible. <sup>xxxviii</sup>
- Women’s involvement in prostitution is survival, not sexual behaviour. <sup>xxxix</sup>
- The single, most harmful aspect of prostitution for those involved is to have to repeatedly endure paid for but unwanted sex.<sup>xl</sup>
- The harm of multiple, unwanted sexual acts, translates into profound physical and mental trauma for women e.g. depression, post-traumatic stress disorder, sleep difficulties, eating

disorders, emotional distress and suicide attempts.<sup>xli</sup>

- 68% of women in prostitution experience post-traumatic stress disorder<sup>xlii</sup>
- Survival strategies for women include dissociation (switching off mentally), drug and alcohol dependency and self-harm.<sup>xliii</sup>
- 95% of women in street prostitution are problematic drug users.<sup>xliv</sup>
- Once in prostitution, 9 out of 10 women report wanting to exit but feel unable to do so<sup>xlv</sup>
- Over half of women involved in prostitution in the UK have been raped and/or sexually assaulted – the vast majority of these assaults by men buying sex.<sup>xlvi</sup>

#### **Harm** : Indoor prostitution

\*Indoor prostitution is not safer for women. Unwanted sex is unwanted sex regardless of the setting.

In a BMJ study on client violence, it was reported that in addition to physical violence, women in indoor prostitution report higher levels of coercion and control from pimps and brothel owners.<sup>xlvii</sup>

In the same study, of the 125 women in indoor prostitution contacted, 48% experienced a range of violence including being slapped, punched or kicked; robbery; being beaten; threatened with a weapon; held against their will; attempted rape; strangulation; kidnap; forced oral sex; vaginal rape and anal rape.<sup>xlviii</sup>

#### **Harm** : links with sexual violence against non-prostituted women.

- In a study of Scottish men, 54% who frequently used women in prostitution committed sexually aggressive behaviour towards non-prostituted partners.<sup>xlix</sup>

In the same study, over one quarter of men who paid for sex, had attitudes tolerant of rape, with 12% believing that it is not possible to rape a woman in prostitution.

### **Sexual health**

Prostitution is incompatible with global and Scottish definitions of good sexual health:

- The World Health Organisation states that: 'sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free from coercion, discrimination and violence.'<sup>i</sup>
- This statement is supported by the Scottish Government's Sexual Health Framework, which has a key outcome to ensure that 'sexual relationships are free from coercion and harm.'<sup>ii</sup>

### **Profits**

Prostitution and trafficking are linked to huge profits and organised crime.

- It is estimated that trafficking of women in the UK is worth £130 million.<sup>iii</sup>
- In the UK alone, the annual estimated profits from prostitution runs to over £5 billion.<sup>iiii</sup>
- **Include illustrative calculation of profits from prostitution in Scotland**
- The human and economic cost of prostitution for women is profound and damaging i.e. most women and girls emerge from prostitution ill, traumatised and as poor as when they

went in. <sup>liv</sup>

- Legitimising prostitution as a 'job' facilitates enormous legal profits for the sex industry and tax revenue for governments. In reality, such profits are generated from the sexual exploitation of mainly poor women.

## International Approaches to Prostitution

- ✚ **Legalisation**
- ✚ **Decriminalisation**
- ✚ **Challenging demand**

### **Legalisation**

- This approach involves legalising the buying and selling of sex through applying various specific regulations to the sex industry e.g. licensing brothels and requiring the sellers of sex to sign a national register, undertake mandatory health checks, be employed and pay tax.
- In practice, this means that both the buying and selling of sex is legal and pimping and brothel-keeping constitute legitimate business.
- Countries that have legalised prostitution include some Australian states (1994-1999), Denmark (1999), the Netherlands (2000) and Germany (2002).

### **Decriminalisation**

- The decriminalisation of prostitution includes removing **all laws** against prostitution, without imposing any regulations specific to the sex industry.
- In practice, this means that both the buying and selling of sex is legal and pimping and brothel-keeping constitute legitimate business.
- At present, only three areas in the world decriminalise prostitution; New Zealand, Australia, New South Wales (NSW) and some States in Nevada, USA.

### **Spot the difference?**

There is little difference with regard to legalisation and decriminalisation – they are both sides of the same coin i.e. both view prostitution as work, legalise the buying and selling of sex on or off street and license brothels to enable owners and governments to profit from those selling sex.

### **Challenging Demand**

- Unlike countries which have legalised or decriminalised prostitution, a challenging demand approach does not see prostitution as work but instead, views it as a form of violence against women and a cause and consequence of gender inequality.
- This approach decriminalises and supports those exploited through prostitution (mainly women) and criminalises the buyers of sex (mainly men).
- Countries which have adopted this approach to date include: Sweden, Norway, Iceland, Finland, Israel, Northern Ireland, Canada, South Korea and India. Countries currently considering adopting the model include France, Argentina, Lithuania and the Republic of Ireland.
- Aligned with the aims of **Equally Safe**, the challenging demand approach advocates that addressing demand is fundamental to reducing violence against women and children and promoting gender equality.
- It recognises the inherent imbalance in power between men and women in society which in

turn is mirrored and reinforced through prostitution.

- It aims to prevent and reduce levels of gender-based violence as well as change cultural attitudes that perpetuate such abuse
- In contrast to the legalisation and decriminalisation models, the challenging demand approach advocates decriminalising *solely* those selling sex and criminalising *solely* those buying sex.
- The Challenging Demand is approach formally supported by the European Union and the Council for Europe

### What doesn't work?

The evidence from Amsterdam, Germany (where there are now mega-brothels), Australia, New Zealand and Rhode Island shows that legalisation and decriminalisation are failed experiments that did not achieve their intended aims of:

- improving the safety of women involved in prostitution
- removing the stigma of prostitution by calling it work
- preventing the sexual exploitation of children and young people through prostitution
- ending street prostitution because women would have option of selling sex from legal brothels
- controlling illegal prostitution and sex trafficking

Evidence of why legalisation and decriminalisation don't work includes the following:

- ✚ In 2012, the Stop Demand Foundation in New Zealand published a summary of the impact of decriminalisation over the 9 year period from 2003, when it was passed into law by 1 vote. The findings included:<sup>lv</sup>
  - increased numbers of children and young people, including overseas students and foreign women involved in prostitution.
  - the normalisation of prostitution and continuation of violence and exploitation of women involved
  - a negative impact on residential and business communities and problems for local councils trying to manage street prostitution
  - an increase in brothels, including a dramatic increase in unlicensed brothels, with links to organised crime and sex trafficking
- ✚ An empirical analysis of a cross-section of over 150 countries revealed that reported human trafficking inflows were higher in countries where prostitution is legal.<sup>lvi</sup>
- ✚ In the Netherlands, the sex industry increased by 25% after legalisation. In Victoria Australia, the number of legal brothels doubled and illegal brothels increased by 300%. In Auckland, New Zealand, a 200% to 400% increase in street prostitution has been reported since decriminalisation.
- ✚ In 2007, a Government Report in Germany stated that its Prostitution Act has 'not been able to make actual, measurable improvements to prostitutes' social protection.'<sup>lvii</sup>
- ✚ In Sydney, NSW, in September 2015, a parliamentary enquiry heard that sexual servitude and human trafficking is widespread in Sydney brothels and the Australian Federation of Police revealed that 1 in 4 investigations into sexual exploitation is centred on brothels.<sup>lviii</sup>
- ✚ The power dynamics inherent in prostitution do not change because it is labelled work – and men who buy sex know this.
- ✚ In contrast to the popular myth, regulating the sex industry through health checks does not help reduce HIV/AIDS given that States only test women involved in prostitution. Any effective anti-AIDS programme should instead target the group who engages in high risk sexual behaviours and spreads most HIV - men.<sup>lx</sup>

In Rhode Island, where, until 2009, prostitution was decriminalised for almost 30 years, 16 year old girls could be employed legally in stripping and prostitution.

Crimes in sex businesses ranged from assault, sexual slavery and murder to extortion and racketeering.

In 2009, the General assembly in Rhode Island decided that decriminalisation did not work and therefore introduced 3 new laws: to criminalise prostitution, address human trafficking and prohibit minors from working in the sex industry.<sup>lxi</sup>

When prostitution is ingrained in mainstream culture as work, a valid choice and empowering for women, these messages serve to misrepresent, distort, dilute and desensitise people to the reality i.e. that prostitution is a systematic practice of sexual exploitation which is profoundly harmful to women and girls.<sup>lxii</sup>

### What works

Challenging Demand has proven to be the only approach that successfully reduces the prevalence of prostitution and trafficking i.e. evidence from countries where the purchase of sex is criminalised shows a shift in public attitudes, a decline in the numbers of men buying sex and a reduced market for traffickers. Evaluations confirm:<sup>lxiii</sup>

- ✓ **A reduction the demand for prostitution**<sup>lxiv</sup> (12.7% to 7.6% in Sweden from 1996 - 2008.)
- ✓ **A change in attitudes:** In 1996, 45% of women and 20% of men in Sweden supported criminalising the purchase of sex. By 2008, support for the law had risen to 79% amongst women and 60% among men.<sup>lxv</sup>
- ✓ **A reduction in prostitution markets:** Since criminalising the buying of sex in 2009, Norway has seen a 20% decrease in street prostitution, a 16% decrease in indoor prostitution and a 60% decrease in advertisements for sexual activities.<sup>lxvi</sup>  
Street prostitution has halved in Sweden and there is no evidence that it has been displaced. Despite Sweden having almost 4 million more inhabitants than neighbouring Denmark, Sweden's prostitution population is approximately a tenth of Denmark's, where buying sex is legal.<sup>lxvii</sup>
- ✓ **Respective countries become a more hostile destination for traffickers:** Since criminalising the buying of sex in 2009, an evaluation of the law in Norway in 2014 found a reduced market for human traffickers.<sup>lxviii</sup>
- ✓ **Women in prostitution are supported to exit.** 5 years after the implementation of the law in Sweden, it was reported that 60% of the women put in touch with social services, successfully exited the sex industry.<sup>lxix</sup>

In 2006, former Superintendent Alan Canton OBE, led the response in Ipswich to the murders of 5 women involved in prostitution by a man who bought sex from them. He said:

'From years of policing in this field, I believe that prostitution is dangerous and harmful regardless of whether it takes place on the street or in a flat. Sex buyers feel the present law gives them license to exploit vulnerable women - and they are right.

We can shut down the demand that is fuelling the exploitation of women through prostitution. And that is something I believe, as a society, we have a duty to do.'

### **What could work in Scotland?**

Given that Scotland's Equally Safe Strategy already defines prostitution as a form of violence against women, it would be a logical step for Scotland to adopt a Challenging Demand approach.

In line with Equally Safe, we support the establishment of a legislative framework in Scotland that is founded on addressing the **causes** of prostitution i.e. gender inequality and the demand for men to buy sexual access to women. Given this, we advocate that the Scottish Government pass legislation to:

- Decriminalise those selling sex
- Provide support and exiting services for those exploited through prostitution
- Criminalise the buyers of sex in all settings (on, off street and online)

### **Benefits of this approach**

#### **Decriminalising women in prostitution would mean that they would:**

- no longer be jailed for non-payment of fines
- retain their tenancies and contact with their children
- no longer have a criminal record thus removing a barrier to employment.

#### **Providing support to those involved in prostitution would:**

- reduce immediate harm in relation to substance misuse and sexual health
- address the complex trauma associated with prostitution
- enable those involved to consider their options to move on from prostitution

#### **Legislation to criminalise the buyers of sex would serve to:**

- support the implementation of **Equally Safe**
- address the root cause of sexual exploitation and trafficking
- prevent women and vulnerable men becoming involved in prostitution in the first place
- address gender inequality and associated cross cutting inequalities such as poverty, homelessness, health and employment
- act as a lever to deliver a clear message that women, children and vulnerable men in Scotland are not commodities to be bought for sexual gratification
- make Scotland a hostile destination for traffickers – by tackling the cause (demand) as well as consequences of trafficking.
- contribute to changing mainstream cultural messages and attitudes that legitimise or glamorise prostitution and other forms commercial sexual exploitation.



### **Culture change: men can change their choices:**

In May 2015, A group of 16 men all old school friends recently met up for a stag night in Glasgow. After a meal, and a couple of drinks it was suggested that they visit a local bar which was a lap dancing club. After a brief but resounding silence 1 of the men stated his objection to the club, his voice then gave 11 other men in the group permission one by one to speak out and excuse themselves from the next stages of the celebrations. In the end, only four of the men went into the club with another 1 man leaving after 30 minutes of going in, for the other 12 men the night out was over at 9pm.

This illustrates that men can and do make different choices and that there can be peer support from other men to say no to objectifying and buying women.

(Interview with Community Safety Glasgow, June 2015)

Challenging demand in Scotland would be a step in the right direction to securing the kind of Scotland that we aspire to i.e. one that is fairer and healthier and where we have tackled significant inequalities in Scottish society.

We either want an equal, fair and healthy Scotland or we don't.

In relation to prostitution, we have 2 choices:

- ✚ change our view of prostitution from violence against women to work. Regulate prostitution and take the tax profits, alongside the profits to pimps, brothel owners and traffickers.
- ✚ maintain the current progressive stance on prostitution, recognising it as a form of violence against women. Continue to aim to prevent and eradicate the harm to those sexually exploited through prostitution and hold men to account for purchasing sex by applying the legal measures that they themselves have said would deter them.

***“Women and men will never be equal as long as prostitution exists. It shouldn't be acceptable to buy a woman for sex, not if we care about each other and we care about what we want our society to be like”.*** (RM, Survivor Network)

A culture of prostitution damages the possibility of creating relationships of equality, respect and honesty between men and women.

**Scotland has an opportunity to create a counter culture to prostitution:** one in which we care about each other, we care about our society and where women and men are equal.

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<sup>i</sup> Equally Safe: Scotland's Strategy on Preventing and Eradicating Violence against Women and Girls. Scottish Government, 2016

<sup>ii</sup> WHO Factsheet on Violence Against Women No239, November 2014

<sup>iii</sup> UN Global Report Report on Trafficking

<sup>iv</sup> Prostitution Reform (Scotland) Bill, 2015

<sup>v</sup> Equally Safe, Scottish Government, 2015

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