

Being Outside: Constructing a Response to Street Prostitution – Report of the Expert Group on Prostitution in Scotland

Response from the Christian Institute

The Christian Institute is a registered charity which seeks to uphold the truth and standards of the historic Christian faith. Our work is supported by individuals from across the Christian denominations. Our public policy work has included research in the fields of family policy, religious liberties, sexual offences, and education.

Throughout history, Christians have always opposed turning sex into a commodity. Prostitution is morally wrong¹ and is degrading for both parties involved.² The historic biblical Christian position is that the only acceptable context for sexual activity is within marriage.³

In response to the present consultation The Christian Institute calls upon the Executive to maintain, strengthen and enforce the laws relating to prostitution and to increase funding for organisations that seek to help women *leave* prostitution, not those which facilitate prostitution.

The proposals for repealing section 46 in chapter 11

Our response focuses on chapter 11 of the Report.⁴

The Institute notes that:

“The fundamental principles underpinning the work of the Group were to provide greater protection and support for women involved in street prostitution ... against the need to offer adequate protection to those communities which suffer from the serious and detrimental consequences of street prostitution.”⁵

We do not believe these aims can be achieved by repealing section 46 of the Civic Government (Scotland) Act 1982, which makes soliciting or importuning by a prostitute an offence.

Prostitution is intrinsically wrong and, as with other seriously harmful vices such as drug abuse, must be prohibited by law. Any policy that directly or indirectly accepts the existence of prostitution will both normalise and give legitimacy to an activity that abuses and degrades women and damages local communities. The Christian Institute agrees with the Group that “...street prostitution should be seen as exploitative. It consists overwhelmingly of exposing vulnerable people to high risks.”⁶ We must not therefore make it easier for prostitutes and those who use them by removing the criminal sanctions on prostitution-related activities.

¹ 1 Corinthians 6:16-18

² Leviticus 19:29; Proverbs 6:26

³ See Genesis 2:24. The Apostle Paul quotes this verse in his denunciation of prostitution in 1 Corinthians 6:15-20. The Seventh of the Ten Commandments prohibits adultery: Exodus 20:14; Deuteronomy 5:18.

⁴ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, pages 51-70

⁵ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, page v

⁶ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, page 26

We note the Group believes the law should “not criminalise on a moral basis”.⁷ We do not consider that it is rational to seek entirely to divorce law from morality. Most of our criminal law reflects, to a greater or lesser extent, society’s view of what is morally right or wrong. The Report itself suggests the law should “address the imbalance between men and women arising from the present emphasis on the person soliciting...”⁸ What is this if not a moral judgement?

The Institute wishes to draw attention to the example of Dundee as described in the Report. The police have taken a strict enforcement approach which has led to lower levels of street prostitution than might be expected.⁹

Legalising prostitution-related activities and focussing on public offence caused, as mooted in the report,¹⁰ would signal a clear validation of prostitution. Rather than offering an escape route, it would lead to more women being trapped in prostitution.

Overall these proposals would make the situation far worse, not better.

An example from history

Government policy between 1864 and 1883 was to tolerate prostitution. The regime then in place involved forced medical examinations, but, for those women who were found to be ‘clean’ and operated in the designated tolerance zones, prostitution was effectively ‘licensed’.

Many aspects of our current laws governing sexual offences still bear the influence of Josephine Butler. (The previous Home Secretary commended her as an example of the compassion that he wished to emulate.¹¹) She opened up her home to care for sick and dying prostitutes; she exposed the international trade in women abducted for prostitution. Many feminists applaud the heroic compassion of Josephine Butler.

But Josephine Butler’s compassion drove her to break with the consensus of the time and vigorously oppose the tolerance laws. She sought the complete repeal of the laws which from 1864 legalised prostitution in certain garrison towns and ports.

The *Contagious Diseases Acts* of 1864, 1866 and 1869 were finally suspended in 1883 following her 19-year campaign.¹²

As well as repealing these laws, as a direct result of her efforts, Parliament raised the age of consent from 12 to 16, the same age that we have today.

⁷ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, page 55

⁸ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, page 55

⁹ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, pages 18-19

¹⁰ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, page 60-62

¹¹ *The Guardian*, 30 December 2003 and 7 July 2004

¹² The Acts were repealed in 1886.

The current law

Current laws criminalise activities *associated* with prostitution. The law is not neutral. It is clearly against prostitution, but it also recognises that prostitutes are exploited. The law was framed in this way for good reasons:

- Prostitutes are not criminalised for being prostitutes. Rather it is public actions associated with prostitution (soliciting or loitering) that are criminalised.
- In the Victorian era there was considerable Police corruption which protected brothel owners. The Police often refused to act when allegations of abuse and abduction were brought to them. Because pimps often escaped the reach of the law, subsequent legal reforms directly tackled pimping. The law recognises that prostitutes are exploited by the pimps who profit from them.
- In respect of young people the law recognises that prostitutes are exploited by those who use them. The exploitation of child prostitutes was a main reason why the age of consent was originally raised to 16.

'Managed zones'

The Christian Institute is strongly opposed to the setting up of 'managed zones'.¹³ 'Tolerance zones' are indefensible, unworkable and unsuccessful. Whilst intended to provide protection and regulation, they fail to prevent exploitation and instead permit the abuse to continue. James Coleman, the deputy leader of Glasgow city council has written:

"Prostitution is a portal to access every social, criminal and health issue imaginable. Human trafficking, social exclusion, domestic violence, drug and alcohol addiction, drug dealing and smuggling, violent assault, the spread of sexually transmitted diseases, HIV and AIDS. Trafficking women from Eastern Europe and Africa is a multi-million-pound criminal industry and I firmly believe any attempt at management or control of prostitution is a green light for these people to expand their loathsome activities into Scottish towns and cities."¹⁴

Significantly, in 2003, the Scottish Parliament heavily rejected proposals for tolerance zones, following strong opposition from police and councils across Scotland.¹⁵

What should be done?

The state must not condone prostitution. It should ensure that activities associated with prostitution are firmly prosecuted as criminal offences, whilst ensuring that there is proper help and support for prostitutes wanting to leave a life of vice. As the Report states:

"**The law** remains the key means to ensure continued protection from exploitation through prostitution to vulnerable groups, including young people and vulnerable adult women. Effective enforcement of those aspects of the law should be a priority in the local plan."¹⁶

The report recognises that we must seek "to safeguard women involved in prostitution... and help them towards exiting prostitution."¹⁷

¹³ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, page 67-68

¹⁴ *The Scotsman*, 14 December 2004

¹⁵ *The Herald*, 28 February 2003; see also Prostitution Tolerance Zones (Scotland) Bill, SPICe Briefing, 02/138, 2002, page 12; see also <http://news.bbc.co.uk/1/hi/scotland/2017413.stm> as at 16 November 2004

¹⁶ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, page 2, emphasis original

¹⁷ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, page 1

These things can be achieved by:

- Maintaining and enforcing the existing laws against prostitution.
- Introducing penalties for 'kerb crawlers', for those purchasing sexual services (see below), and for advertising prostitution.
- Increasing penalties for 'pimps'.
- Strengthening police resources and prioritising fighting prostitution.
- Increasing funding for organisations that seek to help women *leave* prostitution, not those which facilitate prostitution.

Prohibiting the purchase of 'sexual services'

The Christian Institute supports introducing a law against purchasing or attempting to purchase 'sexual services'. This would reduce the demand for prostitution. A Swedish Ministry of Industry, Employment and Communications fact sheet says:

"Since the Act [the Act Prohibiting the Purchase of Sexual Services (1998:408)] came into force, there has been a dramatic drop in the number of women in street prostitution, according to information provided by the police and social services. Criminalization has also meant that the number of men who buy sexual services has fallen, as has the recruitment of women into prostitution. According to The National Criminal Investigation Department the Act deters traffickers from establishing in Sweden."¹⁸

This provision would also address the perceived "imbalance between men and women arising from the present emphasis on the person soliciting, without reference to the potential purchaser of sexual services".¹⁹ This new offence should be in addition to, not instead of, the offence of soliciting.

Conclusion

Prostitution, by its very nature, is harmful and degrading to women. It is inextricably linked to drug abuse, exploitation and violence. The state should not condone or facilitate prostitution in any way. The evidence of legalisation or decriminalisation abroad clearly shows that such an approach leads to a proliferation of prostitution, whilst doing little to protect those involved.

The Christian Institute
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¹⁸ *Prostitution and Trafficking in Women – Fact Sheet*, Swedish Ministry of Industry, Employment and Communications, October 2004, see <http://www.sweden.gov.se/content/1/c6/03/16/13/110ab985.pdf> as at 15 March 2005

¹⁹ *Being Outside: Constructing a Response to Street Prostitution – A Report of the Expert Group on Prostitution in Scotland*, Scottish Executive, 2004, page 2