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Government plans changes to the law on prostitution

The Government's Policing and Crime Bill includes significant changes to the law regarding prostitution in England and Wales. It has been introduced to deal particularly with the problem of sex trafficking. Proposals to regulate lap-dancing more strictly have been widely welcomed and we strongly support them.

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.

This Bill provides an opportunity to improve the law on prostitution and protect the women exploited by it. The new proposals will strengthen the law by criminalising purchasers of sex where the prostitute is coerced into prostitution. This is an important step forward. However, there are other aspects of the Bill which have not been properly thought through.



Current law does not criminalise buying or selling sex

Under the existing law brothels and the public nuisance associated with prostitution, rather than prostitution itself, are illegal:

- It is illegal for either the buyer or seller of sex to loiter or solicit in a street or public place for the purpose of prostitution.¹
- It is illegal for a person to cause or incite another person to become a prostitute in any part of the world if he does so with the expectation of gain for himself or a third person.²
- It is also illegal for a person to control any of the activities of another



person relating to that person's prostitution in any part of the world, if it is done for or in the expectation of gain for himself or a third person.³

The current law does not make the buying or selling

of sex in itself a criminal activity. When a person pays for consensual sex with a prostitute, without either the prostitute or the purchaser making a public approach, then no crime has taken place.

Proposed changes target 'demand' side of prostitution but on the 'supply' side they replace fines with therapy

Good Under the Bill, a buyer would be committing an offence if sex was purchased from a prostitute who had been subjected to force, deception or threats. Force would include coercion by psychological means, including exploiting someone's vulnerability.

This would be a strict liability offence, meaning that the buyer could be guilty regardless of:

- (a) whether they knew the prostitute was subjected to force; and
- (b) whether they made attempts to find out.

Kerb crawling or soliciting by a purchaser will be an offence on the first occasion.

Bad The soliciting offence would only be committed if solicitation was "persistent", occurring twice or more in any three month period.

When sentencing, a judge will be able to issue an order that the prostitute must meet with a supervisor three times within six months of the conviction. Such an order would replace a fine.

Individuals caught up in prostitution should be helped to escape from it. Counselling is undoubtedly a part of that process. However, the Bill as drafted does nothing to ensure that the counselling will be adequate. There is all the difference in the world between chats over coffee and a properly funded drugs treatment order.

Critics say the proposals will make bad law, breach human rights and force prostitution underground. Is that true?

Bad law?

It has been argued that the strict liability proposal will make bad law either because it is unjust or unenforceable.⁴ However, there are examples of other strict liability offences currently being enforced, such as driving under the influence of drink or drugs.⁵ The dangers of driving in such a condition are deemed to be sufficiently serious that individuals are held responsible regardless of whether they believed they were fit to drive. When a person is being coerced and forced to sell themselves for sexual services this is serious enough to warrant a strict liability offence.

Human rights?

Parliament's Joint Committee on Human Rights has said that the strict liability offence is "extremely broadly drafted" and risks being incompatible with human rights.⁶ But there is no human right to purchase sex from a prostitute. The human rights relevant to the offence are those of a person not to be forced into sexual activity in order that someone else may profit. The Bill rightly seeks to criminalise those who are participating in a modern day slave trade by purchasing sex from an individual under coercion.



Underground?

Some groups and MPs have argued that a strict liability offence will push prostitution further underground and increase the vulnerability of women trapped in prostitution.⁷ Those making this argument are usually in favour of legalising prostitution completely. But overseas examples such as Amsterdam illustrate that legalisation does not make women safer. If the aim is to reduce exploitation through prostitution, then criminalising the exploiters is a clear way forward. Tackling demand will not eliminate abuse, but it will reduce it as long as the political will is there to enforce the law.

The plan aims to cut demand

Given the Government's rationale of reducing sex trafficking and exploitation by cutting demand for prostitution,⁸ the idea behind the strict liability offence is that people will be reluctant to pay for sex because of the consequences should the seller happen to have been coerced.

It would be no defence for the purchaser to be ignorant of the coercion, even if they had asked about the issue and been lied to.

The resulting drop in demand for prostitutes should mean that there would be no market for trafficking them.

Making it an offence on the first occasion for a purchaser to solicit for sex, whether by kerb crawling or otherwise in a public place, is also a measure that targets the demand for prostitution. Knowing that being caught once will constitute an offence increases the deterrent for would-be purchasers of sex.

Trafficking into prostitution includes girls as young as 14

It is impossible to know exactly how many prostitutes are working in the UK; however it has repeatedly been said to be 80,000.⁹

An estimate from 2008 suggested that up to 18,000 females, including girls as young as 14, have been trafficked into UK brothels to meet the rising demand for prostitutes.¹⁰ This would mean almost 23% of prostitutes are trafficked.

In October 2007 the police began a six month anti-trafficking investigation, Operation Pentameter 2. The operation revealed an increase in the use of young British women who are groomed by older men



and trafficked within the UK.

Prostitution and people-trafficking is now the third most lucrative black market trade in the world after gun-running and drugs smuggling.¹¹

This is being driven in part by the growing demand for prostitutes in the UK.

Most prostitutes have been assaulted at some stage

Prostitution is inherently dangerous. More than half of UK prostitutes have been raped or suffered indecent assault and three quarters have experienced physical violence.

Over half the prostitutes involved in one study said that they had feared for their lives at least once.¹²

An international study found that 68% of prostitutes met the criteria for Post Traumatic Stress Disorder, with symptoms as severe as victims of torture.

Nine in ten prostitutes wanted to escape prostitution but felt unable to do so.¹³

Drug abuse is also an almost universal problem amongst prostitutes. Statistics from the 'Crime and Disorder associated with Prostitution Initiative' showed that 93% of prostitutes were using non-prescribed drugs, including 88% using heroin.¹⁴

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'Softly, softly' approach of other nations fails

 The Netherlands legalised

prostitution in 2000. However, problems became so serious that Amsterdam began to close down its brothels in December 2006.¹⁵ The Dutch government is now considering major policy reversals, including raising the minimum age for selling sexual acts from 18 to 21 years old.¹⁶



New Zealand legalised prostitution

in 2003. A number of the main towns and cities are struggling to control the expansion of brothels. The severe problems have caused Manakau Council to try to re-criminalise street solicitation. New Zealand police have complained that the new policy has tied their hands when it comes to tackling underage prostitution.¹⁷



Brothels were legalised in Melbourne,

Australia more than 20 years ago. Since then the number of unlicensed brothels has trebled. Last year \$11.3bn was spent on prostitutes and strippers in Australia, and the trade is growing at approximately 8% a year.¹⁸ In Melbourne, more trafficked women have been discovered in *legal* establishments than illegal ones.¹⁹

Christian care and concern for prostitutes

Throughout history Christians have always opposed turning sex into a commodity.

In past generations Christians have pioneered initiatives to help and protect women caught up in the sex trade.

In the 19th century Josephine Butler opened up her home to care for sick and dying prostitutes and she uncovered an international trade in women trafficked for prostitution. She successfully campaigned against laws which legalised prostitution in certain garrison towns and ports.

It is thanks to her that our age of consent was raised from 12 to 16.

Christians seek to follow the example of Christ, who showed great compassion by associating with women caught up in prostitution, while clearly teaching that any form of sex outside of marriage is wrong.

The Christian faith teaches that the lifelong commitment of marriage provides a stable and secure environment for sexual intimacy and the rearing of children.

When a society departs from this and turns sex into something which can be bought and sold, it brings untold harm on the individual and on wider society.

Footnotes

¹ Street Offences Act 1959, Section 1; Sexual Offences Act 1985, Sections 1-2

² Sexual Offences Act 2003, Section 52

³ Sexual Offences Act 2003, Section 53

⁴ House of Commons, Hansard, 19 January 2009, cols 532 and 561

⁵ Road Traffic Act 1988, Section 4
Joint Committee on Human Rights, 10th Report, Session 2008-09, HL Paper 68, HC 395, paras 1.15, 1.20 and 1.21

⁷ House of Commons, Policing and

Crime Bill Public Bill Committee, Session 2008-09, 5 February 2009, col. 276

⁸ House of Commons, Hansard, 19 January 2009, col. 526

⁹ *Paying the Price: A Consultation Paper on Prostitution*, Home Office, July 2004, page 15

¹⁰ *The Independent*, 3 July 2008

¹¹ *The Independent*, 3 July 2008

¹² *Tackling Street Prostitution: Towards an Holistic Approach*, Home Office, July 2004, page 82

¹³ Farley M, Cotton A, Lynne J et al, 'Prostitution and Trafficking in Nine Countries', *Journal of Trauma Practice*, 2(3&4), 2004, pages 34 and 56

¹⁴ *Tackling Street Prostitution: Towards an Holistic Approach*, Home Office, July 2004, pages 1 and 80

¹⁵ *BBC News Online*, 1 December 2006, see <http://news.bbc.co.uk/1/hi/world/europe/6198264.stm> as at 5 June 2009; *BBC News Online*, 21 September 2007, see <http://news.bbc.co.uk/1/hi/world/europe/7005768.stm> as at 5 June 2009

¹⁶ *Reuters News*, 17 December 2007; *Reuters News*, 16 May 2008

¹⁷ *Daily News*, 30 January 2009

¹⁸ *The Guardian*, 10 September 2008

¹⁹ *The Guardian*, 15 May 2004



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