

Charlotte Proudman on prostitution, sex-buyer laws and the “End Demand” campaign

End Demand, a new campaign to change laws relating to prostitution, was launched on 22 October 2014. The campaign calls on the UK government to adopt the Sex Buyer Law. The legislative change would decriminalise the selling of sex, criminalise the buying of sex, and provide support and exiting services for prostituted women. The law is also known as the Nordic model because it was adopted in Sweden in 1999, and Norway, and Iceland in 2009, three of the four countries with the highest ratings for gender equality worldwide according to *The Global Gender Gap Report 2014* published by the World Economic Forum. Canada, France, and Northern Ireland have also adopted the Sex Buyer Law.

Currently, the buying and selling of sex acts is legal in the UK. However, a number of associated activities are criminal offences such as brothel-keeping, soliciting, kerb-crawling and placing prostitution advertisements in public places. The main objective of these laws is to preserve public order and decency. UK prostitution laws are in disarray. Prostituted women and sexually exploited children carry the burden of criminality for activities such as soliciting. Meanwhile, clients exploit women and children without criminal repercussions. The legalisation of prostitution in the UK breeds demand for sexual services. Demand for prostitution fuels human trafficking, sexual exploitation of children, and violence against prostituted women. Over the last 12 months there has been increased political focus on adopting the Sex Buyer Law in the UK. The European Parliament passed a resolution in favour of the Sex Buyer Law on 26 February 2014. The resolution calls on member states to re-evaluate legislation, and find exit strategies and alternative sources of income for prostituted women who want to leave the industry.

In March 2014 an All-Party Parliamentary Group on prostitution and the global sex trade in the House of Commons commissioned an Inquiry into the current legal settlement on prostitution in England and Wales. A key recommendation of the final report, *Shifting the Burden*, is the introduction of the Sex Buyer Law. Fiona Mactaggart, Labour MP, introduced a “probing” amendment to the Modern Slavery Bill on 28 October 2014 to adopt the Sex Buyer Law. The purpose of the amendment was to “discourage demand for trafficked people” as recognised by Article 6 of the Council of Europe Convention on Action against Trafficking in Human Beings. While the amendment was not pushed to a vote, it received cross-party support during the third reading of the Bill on 4 November 2014. In addition the Labour Party called for a consultation.

Human trafficking

The Sex Buyer Law recognises the inextricable link between demand for paying for sex and increased human trafficking for sexual exploitation. An empirical analysis of 150 countries found that the scale and effect of legalising prostitution leads to an expansion of the prostitution market and an increase in human trafficking (Cho, S. Y., Dreher, A., & Neumayer, E. (2013) ‘Does legalized prostitution increase human trafficking?’, *World Development*, 41, 67-82). Figures from the Modern Slavery Strategy published by the Home Office on 29 November 2014 estimate that



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between 10,000 and 13,000 people are victims of modern slavery, and human trafficking for sexual exploitation costs the UK at least £890 million each year. Combating human trafficking requires ending demand for paying for sex by criminalising the buyers. Recognising this link, the UN Convention for the Suppression of Trafficking Persons already called on all states to suppress prostitution in 1949.

Sexual exploitation of children

A fundamental principle of the Sex Buyer Law is the need to reduce the demand for sexual services because of the harm experienced by prostituted women and sexually exploited children. Over 50 per cent of prostituted women in the UK started being paid for sex acts before they were 18 years old (‘Paying the Price: A Consultation Paper on Prostitution’, Home Office, 2004). According to the Home Office, approximately 80,000 people in the UK, mostly women, are

involved in prostitution (‘Paying the Price’, op cit). At present the law is ineffective in curbing demand for sex with children. There is only a strict liability offence for purchasing sexual services from a child under the age of 13. When the child is age 14-17 the law allows perpetrators to use the defence of reasonable belief that the child was over 18. Clearly the age at which strict liability is established needs to be changed to 17. UK legislation creates an environment in which children are sexually abused with impunity.

Rather than criminalising perpetrators of child sex abuse, children carry the burden of criminality. The CPS describes ‘child prostitution’ as a “genuine choice,” stating “only where there is a persistent and voluntary return to prostitution and where there is a genuine choice should a prosecution be considered.” Indeed, a child age 10 or over can commit an offence of loitering or soliciting for prostitution (section 16 of the Policing and Crime Act 2009). Between 2010 and 2013, 15 cautions were issued to under 18s and

seven defendants under the age of 18 were prosecuted and three were found guilty (Ann Coffey MP, ‘Real Voices’, October 2014). It is a national scandal that our legal system criminalises children for their victimisation. In contrast, the Sex Buyer Law protects children by shifting the burden of criminality to perpetrators.

Violence against prostituted women

The Sex Buyer Law identifies that violence against prostituted women occurs because men are willing to pay for sex. Failure to end demand for prostitution signals a failure of the state to end violence against women. Over half of prostituted women have been raped and/or sexually assaulted (Hester, M. & Westmarland, N. (2004), ‘Tackling Street Prostitution: Towards a Holistic Approach’, Home Office). As a result the Crown Prosecution Service and the Mayor’s Office for Policing and Crime define prostitution as a “form of violence against women”. Despite recognising prostituted

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women's social status as victims, the law labels victims as criminals. Prostituted women are arrested, fined and imprisoned for selling sex. They are pushed further into prostitution to pay off court fines. The law is complicit in enforcing the subordination of women by turning victims into criminals. When prostituted women fear criminal sanctions they do not report violence perpetrated by buyers of sex to the police. The design of prostitution laws deny prostituted women a legal right to justice for rape and sexual assault. This results in a culture that normalises violence against prostituted women.

UK legislation acts as a barrier to exiting the industry by criminalising victims for selling sex, rather than providing women with services that support exiting the industry. A study by Farley (2003) found nine out of 10 women report wanting to exit prostitution but feel unable to (see Farley, M. (2003), 'Prostitution and Trafficking in Nine Countries: An Update on Violence and Post-traumatic Stress Disorder', *Journal of Trauma Practice*, Vol. 2, No. 3/4, 2003, pp.33-74). Other forms of coercion that drive prostitution and make exiting impossible are poverty, and drug misuse. Indeed, 95% of women in street prostitution are drug users ('Tackling Street Prostitution', op cit). When prostituted women cannot exercise autonomy, and are unable to leave the industry, they are forced into sex, deprived of their liberty, and become sex slaves.

Prostituted women are often subject to exploitation or duress. Section 14 was inserted into the Policing and Crime Act 2009 to make the buying of sex illegal when force, threats or any other form of coercion is used. Section 14 constructs coercion in prostitution as a rare occurrence. Furthermore, section 14 is ineffective in reflecting the complexity of coercion. Force is often a subtle and manipulative process, and can involve drug and alcohol addictions. As a result coercion is difficult to evidence hindering enforcement. In 2010 there were 49 prosecutions, and in 2012 there were nine prosecutions. Section 14 is ineffective in preventing the exploitation of prostituted women. In contrast, the Sex Buyer Law would only require evidence of payment for sexual services.



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Evidence of the effectiveness of The Sex Buyer Law

Human trafficking, sexual exploitation of children and violence against prostituted women will only decline when buyers of sex are criminalised. The End Demand campaign contend that without demand from men to pay for sex, there would be no supply of women and girls for sex. Supply and demand of prostitution in the UK has varied through the years. During the 1990s, the number of men who paid for sex doubled in the UK, with the rate increasing from one in 20 men to nearly one in 10 men; if demand can increase it can also decrease (see Ward, H., Mercer, C. H., Wellings, K., Fenton, K., Erens, B., Copas, A., & Johnson, A. M. (2005), 'Who pays for sex? An analysis of the increasing prevalence of female commercial sex contacts among men in Britain', *Sexually Transmitted Infections*, 81(6), 467-471).

Indeed evidence from the UK shows that demand for prostitution decreases when the buyers of sex are criminalised. Suffolk Constabulary adopted a similar approach to the Sex Buyer Law in 2007 after a sex buyer brutally murdered five prostituted women in Ipswich in 2006. Suffolk Constabulary implemented a zero tolerance



approach to kerb-crawling and diverted prostituted women from the criminal justice system to local agencies that support women in exiting the industry. An 'Evaluation Research Report for Ipswich/Suffolk Prostitution Strategy 2007-2012' by the University of East Anglia concluded there has been "clear and sustained success in terms of eliminating kerb-crawlers from the streets". The evaluation also found that for every £1 spent as part of the Prostitution Strategy there were savings of £2 to the public purse. However, the police are unable to tackle demand for off-street prostitution, which is legal.

Similarly, evidence of the effectiveness of the Sex Buyer law in Sweden shows that criminalising demand decreases the levels of prostitution and human trafficking. The findings from Sweden are comparable to the effects of the law in Norway and Iceland. Research in Sweden found:

- Street prostitution halved between 1999 and 2008 and there is no evidence women were simply displaced to indoor prostitution or prostitution advertised online ('Who pays for sex?', op cit, 467-471).
- The number of men paying for sex in Sweden declined. In 1996, 13.6% of men reported buying sex by 2008 this figure reduced to 7.9% ('Demand Change: Understanding the Nordic Approach to Prostitution', Coalition Against Trafficking in Women Australia, 2013).
- Public attitudes have changed. In 1996, 45% women and 20% men supported criminalising sex buyers by 2008, 79% women and 60% men were in favour of the law (see Waltman, M. (2011), 'Sweden's prohibition of purchase of sex: The law's reasons, impact, and potential', *Women's Studies International Forum* 34: 449-474).
- According to the National Criminal Police, Sweden has become a more hostile destination for traffickers (*Evaluation of the ban on purchase of sexual services*, Ministry of Justice, Government Offices of Sweden, 2 July 2010, p.37).

Conclusion

Some argue that prostitution is a choice, a means to earn money in a society with unemployment, low rates of pay, and precarious job status. The problem is that demand for prostitution results in increasing levels of human trafficking, child sexual exploitation and violence against prostituted women. These forms of degrading and inhumane behaviour can only be combated if demand for paying for sex is tackled. UK legislation fails to combat demand by legalising the buying of sex. Instead prostituted women and sexually exploited children carry the burden of criminality. The legal design of prostitution laws makes victims into criminals, pushing women and children into further isolation, and making exiting the industry impossible. Evidence from Sweden shows that sexual exploitation can be combatted through shifting the burden of criminality from the exploited to the exploiter. ●



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