Response to the Research Commissioned by the
Scottish Government on the Available Knowledge and
Evidence on Prostitution in Scotland

31 May 2017

This is a response from Nordic Model Now! to the report of the research commissioned by the Scottish Government on the available knowledge and evidence on prostitution in Scotland.

Nordic Model Now! is a grass-roots group campaigning for the adoption of the Nordic Model approach to prostitution in the UK.

Overall response

The report of the research reflects a concerning level of ignorance and cognitive dissonance – as well as an absence of a gender mainstreaming approach. On the one hand there is very clear evidence of the major harms of prostitution to those involved in it, including violence from pimps and prostitution-buyers (referred to below as punters) right up to murder, and long term mental and physical health issues. But on the other hand there seems to be an assumption that “support” can reduce or even eliminate these harms. While addiction services, condoms and sexual health provision are essential, they cannot protect women from pimp and punter violence or from many of the physical health consequences (such as damage to sphincters and internal organs caused by inflammation and mechanical trauma) or from any of the mental health consequences (such as PTSD). These consequences are all the direct result of the actions of the pimps and punters.

Pimps were almost invisible in the report and punters were mentioned as if an afterthought. So much so, that someone visiting from another planet who read the report might think that the women in prostitution do this terrible damage to themselves.

Equally absent was any consideration of how prostitution affects men’s sense of entitlement and how that affects the wider community – for example, in terms of women’s safety and the health of intimate and community relationships – and women’s financial and emotional wellbeing and security.

We set out some of our detailed concerns about the report under separate headings below.

Question 1. Scale and nature of prostitution

We are dismayed at the limited nature of this question and of the assumptions that appear to have been made. For example, there seems to have been an assumption that adverts are always placed by prostituted persons and not by pimps, traffickers, brothel owners and other profiteers.

In particular we cannot understand why there was no attempt to discover:
- The number of brothels
- The number of punters the brothels attract on average per day or week
- The number of pimps and profiteers
- How many women work together independently from a shared premises and how reliable is the evidence of their actual independence from pimps or other profiteers
- The proportion of women who are controlled and/or coerced and/or all or part of whose earnings is taken by pimps/traffickers, “boyfriends,” or other profiteers.
- The age of first involvement in prostitution
- The prevalence of prostitution-buying
- The attitudes of punters

**Human trafficking**

A lack of understanding of the nature of sex trafficking runs through the report along with a misunderstanding of the nature and definition of sex trafficking.

The internationally agreed definition of human trafficking is contained in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (known as the Palermo Protocol). It frames human trafficking as a human rights abuse and a form of slavery:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.
We use the term “sex trafficking” to refer to trafficking in persons for the purpose of the exploitation of their prostitution or other forms of sexual exploitation.

Key points to note are:

- The key element is its **exploitative nature** rather than the movement of the person.
- The movement of the person is not a requisite for trafficking. For example, **recruitment** for the purposes and using the means specified is enough to meet the definition.
- The notion of **abuse of power or a position of vulnerability** implicitly recognises trafficking as an issue of sex, race, caste, nationality and poverty, and covers situations where the person has no real alternative but to submit to the abuse involved.
- The definition acknowledges that much trafficking is for the purpose of the exploitation of prostitution and that the exploitation of prostitution and trafficking cannot be separated.
- The definition separates out the exploitation of prostitution from forced labour because the harms are of a different nature.
- The definition makes it clear that consent is irrelevant.
- The age of consent for prostitution is 18.

The definition makes the essential feature of sex trafficking **third-party involvement in the exploitation of another’s prostitution**. Which, as **Catharine MacKinnon says**, “is straight-up pimping.”

There is an extreme lack of joined up thinking in the report. Even though the **Human Trafficking and Exploitation (Scotland) Act 2015** follows the Palermo Protocol definition more closely than the Modern Slavery Act 2015 which is in force in England and Wales, it appears that the police and those interviewed do not generally understand its significance.

As mentioned above, there is much evidence in the report that many, if not most, of the women and more or less all of the girls in prostitution meet the definition of being trafficked. However, there is a lack of awareness of this and a startling complacency about it. We can only see this as an expression of entrenched patriarchal values in the key institutions.

We urge the Scottish Government to address this by employing a gender mainstreaming approach to prostitution in Scotland, and ensuring that at least 50% of all decision making bodies are female. We recommend the European Commission’s **Study on the Gender Dimension of Trafficking in Human Beings**.

We also urge the Scottish Government to arrange high-quality training for all involved, particularly the police, the relevant workers in the NHS and other government funded agencies and a resetting of the police priorities.
The section of the report on Trafficking reveals misconceptions around the definition of sex trafficking and how it cannot be separated from prostitution. We do not agree that it is as deeply hidden as the report suggests. We think that it is more a case of blindness and denial.

Police Scotland’s current policy and approach

We applaud the Scottish Government’s [Equally Safe](#) strategy that recognises prostitution to be a form of violence against women. We are confused therefore why Police Scotland’s current policy and approach does not specifically mention this understanding. We suspect that this absence is a symptom of Police Scotland’s reluctance to get behind such a paradigm shift. We see further evidence of this throughout the report.

The bullet points setting out the focus of the policy show a lack of clear thinking. For example, let’s look at the first bullet point: “Protection of individuals and communities from threat, risk and harm, including exploitation caused by prostitution.”

This locates the threat, risk and harm, including exploitation, in the abstract concept of “prostitution” without defining who among the actors are the cause of the threat, risk, harm and exploitation. What would a young police officer make of this – given that historically it has always been the prostituted women who have been blamed?

The second bullet point is: “Investigation of those who abuse, exploit or coerce and the investigation and disruption of organised criminal activity associated with prostitution through effective and innovative use of current legislation.” This separates out those who abuse, exploit and coerce from “organised criminal activity”. What does this mean? When does a pimp or brothel owner become an organised criminal? And why are the ones who are not defined as “organised” only going to be investigated and not “disrupted”? Does this mean that the police think that pimping is acceptable if he acts alone?

The third bullet point is: “Support or creation of effective partnerships with other agencies, organisations or individuals which will help minimise or eliminate the harm that can be caused through prostitution to individuals or communities.” This suggests that the harms of prostitution to individuals and communities can be eliminated without eliminating prostitution itself. But how can this be true if prostitution is a form of violence *per se*? How do you eliminate the harm of something that is intrinsically violent? It makes no sense. And again we believe that it reflects a serious lack of clarity. There is a similar oxymoron in the fourth and final bullet point.

This confused and self-defeating thinking can be detected throughout the police evidence in the report.

SHaW visits

While we welcome the aim of building trust and giving information about support services and advice to those who want to exit prostitution, we have a number of concerns about this initiative.
The second stated aim of the programme is to “ensure the safety and wellbeing of persons involved in prostitution.” But the reality of the impact of prostitution on those involved in it, as set out so heartbreakingly in a later section of the report, is that violence and abuse are common. On page 50 one worker is quoted as saying, “I was horrified at the levels of violence that these women were experiencing.”

In this context, how is a single visit from a police officer and support worker, no matter how sympathetic, going to “ensure their safety and wellbeing?”

It seems to us that this is similar to the old way of policing domestic violence, when the police would show up, calm the situation and go on their way, probably wondering why the woman stayed in that situation.

As the Scottish Government correctly recognises, prostitution is itself a form of violence against women. It can therefore never be safe.

The paragraph under the list of bullet points giving the key aims of the visits says that officers “aim to be receptive to ancillary information and to take appropriate action in relation to any other criminality identified, the identification of victims of trafficking and/or sexual exploitation and information in respect of organised crime groups involved in criminality.”

However, there is extensive evidence that there are multiple complex reasons that make it difficult for women to recognise that they are being illegally exploited and if they do, to disclose that fact, let alone who the exploiters are. It seems to us it is unlikely that many (if any) women will disclose this information during a single visit from a police officer at the premises at which the prostitution takes place. Worryingly, that lack of disclosure is likely to be incorrectly interpreted as evidence that she is not being exploited.

Police data

We are appalled at the complacent and inconsistent police statistics cited and how they are unable, by design, to provide a full and clear picture. Yet page 6 of the report states:

“Police data has shown a reduction in prostitution related crimes […] in the 4 main cities over the last ten years.”

However, this cannot be shown from the data and is a misleading statement. The data shows there has been a reduction in prosecutions and convictions for some prostitution-related crimes. It does not show that there has been a reduction in the crimes per se and many prostitution-related crimes, such as pimp and punter violence against prostituted women and girls are not included in the data at all. The following sentences provide a caveat but we are concerned that most people reading the summary of the main findings would take this at face value and assume that there has been a reduction in the size of the prostitution markets in Scotland. As a key aim of study was get an accurate picture of the reality, we believe that starting the main findings about the composition of the sex industry with a misleading statement is unacceptable.
The majority of prostitution-related crimes comprise of brothel keeping, soliciting services of a person engaged in prostitution and offences related to prostitution. Although there are a further 3 crimes aggregated in the “Crimes associated with prostitution” category, in the last two years these only accounted for 5-10% of the category total.

A footnote states that the further three crimes aggregated in the “Crimes associated with prostitution” category are: “Immoral traffic, procuration, excluding homosexual acts and procuration of homosexual acts.”

This is deeply confusing. Is the category “Crimes associated with prostitution” the same as “offences related to prostitution”? We believe that the majority of the crimes recorded in the “offences related to prostitution” category are prosecutions of prostituted women for soliciting or loitering. If this is so, why is this obscured by this opaque name and why are these crimes lumped in with the much more serious trafficking and procuration crimes?

The table on page 23 shows the statistics for the unclear “offences related to prostitution” category broken down by local authority. It is preceded by a paragraph that states that these crimes have decreased considerably in Glasgow and Aberdeen and have fluctuated in Edinburgh and Dundee. As this category apparently mainly consists of prosecutions of women soliciting or loitering, these figures are misleading – because they are dependent on whether the police decide to prosecute the women and the other general trend explained in the document of movement from on-street to off-street.

We are at a loss to understand why there is no data about pimping, grooming, coercion, and exploitation crimes – especially as the section on trafficking seems to be focussed on foreign-born persons.

There is clear evidence that where pimping and brothel keeping are tolerated, sex trafficking is higher. It follows that to reduce sex trafficking, there must be a zero-tolerance approach to pimping and brothel keeping – not least because pimping is prohibited by CEDAW and usually does satisfy the elements of sex trafficking, as defined in the Palermo Protocol, as explained earlier.

We urge Police Scotland to urgently address their confusing and unhelpful categorisation system and to record richer data. For example, on page 21, the report says that “crimes recorded by the police associated with prostitution account for less than 4% of sexual crimes.” However, it seems that the prostitution-related crimes do not include crimes against a prostituted person, many of which will be of a violent and/or sexual nature. We believe that the police should ensure that there is some way of extracting this data.

Police intelligence gathering

The report laments the difficulty of estimating the size of the indoor prostitution markets because of its hidden, “quasi-legal” and stigmatised nature. This feels inadequate given that
punters are able to find prostituted persons without undue difficulty and the entire prostitution system relies on this.

Indoor prostitution is generally considered the primary location of sex trafficking and increasingly of pimping and profiteering. The stated overarching aim of Police Scotland in relation to prostitution is to robustly police “those who control, abuse, exploit or coerce others for the purposes of prostitution.” We would therefore expect Police Scotland to take a pro-active approach to intelligence gathering around the indoor prostitution markets.

The report suggests that there has not been a systematic analysis of the indoor prostitution market in Scotland. There seems to have been a half-hearted attempt to research adverts on four websites, which came up with significantly fewer adverts than research a couple of years earlier, even though there has been a continuing shift indoors during those years. This suggests that a large number of adverts were missed.

Page 68 acknowledges that complaints from the public about brothels and prostitution taking place in residential areas are not consistently recorded and if they are recorded there is no mechanism for extracting them from the database. We are at a loss to understand this perfunctory approach to collecting such potentially important intelligence.

The brothel-keeping crime statistics are very low indeed and cannot reflect the actual number of brothels, suggesting that policing brothels has a very low priority in practice.

All of this suggests that Police Scotland is not in fact implementing its overarching aim in policing prostitution.

In our response to the Scottish Government-commissioned research on the impacts of the criminalisation of the purchase of sex, we included a section on institutional resistance to the implementation of the Nordic Model in countries that have passed the legislation. We suspect that something similar is happening here.

To accept that prostitution is in fact a form of violence against women and part of the system that keeps women subordinate and to act on that, requires a profound paradigm shift that provides a body blow to men’s historic entitlement to sexual access to women and girls. Many people, particularly men, but also many women, resist this shift. It is clear to us that there is resistance to implementing in practice Police Scotland’s overarching aim in respect to prostitution. We trust that Police Scotland will address this as a matter of urgency and at the very least instigate a comprehensive training programme that explains the key role of the prostitution system in sex inequality and the rampant male violence against women and children that we are currently witnessing.

We recommend that Police Scotland urgently takes the advice of the European Commission’s Study on the Gender Dimension of Trafficking in Human Beings and develops gender expertise in relevant cybertechnologies in order to gain an accurate picture of the indoor prostitution market, to identify traffickers, pimps, brothel keepers and other profiteers, including the movement of their illicit profits and to identify their victims.
Police summaries of local area context

The report includes detailed summaries provided by the police on the situation in the four major cities. These are almost exclusively focused on the prostituted people with little information about punters, pimps, brothel keepers and other profiteers and again reveal a startling ignorance.

In the report on Aberdeen, prostituted people are repeatedly referred to as “workers.” The police apparently decided that some of them had made a “deliberate choice to become involved,” although what relevance that has was not explored (especially given the well-documented difficulty that many women have in exiting prostitution); others were “suspected of trafficking” and not of “being trafficked” as would be more likely. This was perhaps a Freudian slip, but as such, it reveals a serious and disappointing lack of analysis and understanding of the reality.

When discussing the advertising of indoor prostitution, the report describes adverts being placed by the women. It does not appear to have occurred to the police that it is likely that many, if not most, are placed by pimps and traffickers or their agents.

There is an acknowledgement that many of the foreign-born women move around frequently and that there are “cultural barriers” to these women accessing services. It seems to us that these factors and others, suggest that these women are being trafficked, but there seems to be a total lack of awareness of this. In fact page 35 reports the police in Dundee struggling to understand the “drivers for [these] women’s involvement” as if they (the police) hadn’t understood the prevalence and profitability of pimping and trafficking.

There is a recurring emphasis on ensuring the women’s “safety” in spite of the fact that this is impossible given that prostitution is intrinsically violent. Similarly there seems to be a passive acceptance of this violence with little, if any, determination to bring the perpetrators to account.

Pathways and personal circumstances

The “Pathways and personal circumstances” section of the report summarises information gained from agencies and services about the women they work with. It paints a grim picture of poverty, disadvantage, male violence, and predatory individuals (mostly men) who groom, pimp, exploit and/or traffic vulnerable women and girls. We are concerned that this knowledge appears not to be acted upon. For example, the police’s apparent lack of practical determination to disrupt the pimps and profiteers and their almost obsession with understanding whether women had “chosen” prostitution, as if a choice in these desperate circumstances is equivalent to choosing whether to apply for a job in the police or fire services.
Young adults and vulnerable people

We are concerned with the repetition of the phrase “over the age of consent” when referring to young people involved in prostitution. We assume that this means the age of consent for sex and not 18, as defined in relation to prostitution in the Palermo Protocol and the Human Trafficking and Exploitation (Scotland) Act 2015. This suggests an urgent need for training of all those involved to recognise this important fact. Once this is understood, it becomes clear that the grooming and pimping of young people under 18 does in fact meet the international definition of sex trafficking.

Many, if not most, adult women in prostitution got involved in it before they were 18, and usually through the involvement of a third-party. We believe it is important to connect the sexual exploitation of children and adults – not least because the punters who buy them are not discrete and separate groups. Rather there is evidence that punters want the youngest girls they can find. This is yet another compelling argument for making the purchase of sex a criminal offence.

Impact of involvement in prostitution: risk and health and wellbeing

This section of the report provides harrowing evidence of the short and long-term mental and physical harms of prostitution to those in it and of the appalling levels of violence the women in prostitution face from pimps and punters and how the women almost become inured to it and seldom report it to the police.

However, some of the things reported – or the way they are reported – again reveal a worrying level of ignorance of the realities and the power differentials involved. For example, this on page 52 in the section on Sexual Health:

“The Women’s clinic reported seeing a recent slight increase in serious sexually transmitted infections between 2014 and 2015. This was thought to be due to demand from some men for unsafe sex, as well as some women’s lack of understanding of risk and lack of ability to negotiate condom use. Another possible factor highlighted was that some of the managers of off-street venues (i.e. saunas) are described as reluctant to keep condoms on site.” [Emphasis added]

The highlighted section of the second sentence comes close to victim blaming and disregards the inherent power differential within the prostitution relationship such that it is inevitably the punter, rather than the woman, who is able to call the shots. The final section seems to whitewash the fact that the saunas are brothels and their managers are brothel keepers and/or pimps.

The final paragraph in the Sexual Health section seems oblivious to the fact that there are many factors that suggest that the migrant women are almost certainly sex trafficked.
Support for those involved in prostitution

We welcome many of the observations in this section, the further evidence it provides of the violence and harms intrinsic to prostitution and the huge barriers that make it difficult, if not impossible, for women to leave. We also applaud the analysis of the gaps in service provision and we call on the Scottish Government to urgently work to fill these gaps with high-quality services that provide genuine routes out.

We agree with the respondents who think that more needs to be done to prevent women and girls becoming involved in prostitution and those who want to see more long-term support for those exiting prostitution. This needs to include measures to address women’s poverty, especially of young women and single mothers, and to urgently close the pay gap and to hold absent fathers to account in terms of providing adequate financial support for their children.

While we agree with respondents who suggested more needs to be done to change societal attitudes around prostitution, we feel the message needs to be targeted at men about the unacceptability of buying human beings for sexual use.

We add our voice to the call for secure long-term funding for high quality services for those who are or have been involved in prostitution. This must include trauma-informed psycho-social support.

Impact on local communities

This section of the report was disappointing in that it ignored the impact of prostitution on equality between the sexes and on women and girls’ safety. For example, it ignored research that shows that punters\(^\text{12}\) are more likely than other men to commit rape and other violent and sexual crimes against women and girls and that studies\(^\text{13}\) have shown that rapists are connected with prostitution-buying.

Similarly there was no recognition that when prostitution is prevalent, it is more likely that girls will be groomed into it, and that a proliferation of prostitution is connected with higher levels of sexual harassment\(^\text{14}\) of young women in the street and elsewhere.

Just as women in prostitution get inured to the terrible violence they face, women and girls get inured to the levels of sexual harassment and violence they face in their daily lives so that it is accepted as a fact of life and not reported. The reluctance of many police forces to accept reports of these kind of issues also discourages women and girls from reporting.

It was disappointing that the report put “community impact” in quotation marks as if it is a figment of the imagination, and that it suggested that community concerns were a symptom of “moral panic.”

The recent judicial review\(^\text{15}\) of Sheffield City Council’s decision to renew Spearmint Rhino’s sexual entertainment venue licence hinged on the dismissal of objections on the basis that they were “moral panic” or “prudish morality.” The judge disregarded this argument and accepted that, on the contrary, the issues relate to women’s inequality and the sexual
objectification of women and girls. Sheffield Council agreed to settle the case after admitting it failed in its equality duty. This has relevance to prostitution policy making and shows that it is unacceptable to dismiss community concerns about the impact of prostitution as “moral panic” or similar.

Demand

The project made no attempt to conduct systematic research into punters – even though they are the drivers of prostitution and that without them, prostitution would simply not exist. This absence therefore undermines the validity of the research.

This section reports that some interviewees linked the social causes of male demand for prostitution to the normalisation of prostitution and the sexualisation of women in mainstream media and linked the conditions that make women vulnerable to structural gender inequality.

However, it disappointingly inserts the word “perceived” in front both “normalisation” and “structural” suggesting that the authors do not believe that either the normalisation of prostitution and the sexualisation of women in mainstream media or structural gender inequality actually exist. We won’t spell out the evidence for these things because we believe they are self evident. However, this does support our observation that the report lacks a gender analysis without which it is impossible to understand prostitution as violence against women and girls.

There was also no mention of the well documented fact that prostitution feeds both the sexualisation of women and girls and the inequality between the sexes.

We call on the Scottish Government to ensure that any future research and policy development on prostitution centres a gender mainstreaming analysis.

Conclusion

The report makes it clear that the Scottish Government’s strategy of viewing prostitution as a form of violence against women is neither widely understood nor implemented in key Scottish institutions like Police Scotland, Justice Analytical Services (Scottish Government), which conducted the research, and the policy advisers in the Criminal Justice Division.

There is a similar failure to understand the definition of sex trafficking and the obligations conferred by CEDAW and the Palermo Protocol to tackle traffickers, pimps and other profiteers of women and girls’ prostitution, to deter men’s demand for prostitution, which drives sex trafficking and to tackle the structural inequalities that make certain groups – particularly women and girls from disadvantaged backgrounds – disproportionately vulnerable to being groomed and exploited by pimps and traffickers.

We also observe an alarming inability to recognise and respond appropriately to the key warning signs of sex trafficking and exploitation.
It is our belief that these disconcerting issues will not be solved unless a gender mainstreaming approach is implemented and that female gender experts trained in the analysis of prostitution as a form of violence against women lead policy work on the issues.

There obviously needs to be investment in high-quality training in a gender mainstreaming approach at all levels in Police Scotland and the Scottish civil service and similar organisations.

Otherwise, we see it is as inevitable that confirmation bias will sabotage attempts to develop policy that reflects the Scottish Government’s existing strategy and its obligations under international treaties. Meaning that another generation of girls and young women will have their lives blighted by being sexually exploited and Scottish society will experience further degradation and damage.

1 http://nordicmodelnow.org/
3 http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx
5 http://www.antislaverycommissioner.co.uk/media/1064/asp_20150012_en.pdf
9 http://www.un.org/womenwatch/daw/cedaw/cedaw.htm
11 http://theprostitutionexperience.com/?p=135
14 http://nordicmodelnow.org/2016/05/14/young-womens-daily-reality-in-east-london/
15 http://www.ibtimes.co.uk/britains-lap-dancing-clubs-must-be-shut-down-once-all-1620883