**Criminalisation of the Purchase of Sex (Scotland) Bill 2**

Public Consultation Response – December 2012

**Engender**

**Introduction**

Engender is a membership organisation working on gender equality agendas in Scotland and Europe, to increase women’s power and influence and to make visible the impact of sexism on women, men and society. We provide information and support to individuals, organisations and institutions who seek to achieve equality and justice.

We welcome the opportunity to respond to the current public consultation on the Criminalisation of the Purchase of Sex (Scotland) Bill lodged by Rhoda Grant MSP.

Engender recognises prostitution as a form of violence against women. The vast majority of women in prostitution have suffered childhood neglect, violence and abuse. We believe that it is *never* appropriate to accept that women should be “made available” for sex.

Prostitution is not natural or inevitable. It is abuse and exploitation of women and girls that results from structural inequality between women and men on a global scale. These structural inequalities include the gender pay gap, occupational segregation, violence against women and underrepresentation in political decision-making.

Within this broader understanding of prostitution and violence against women, it is the buyers of sex that are ultimately exercising their free choice and therefore should be sanctioned. Crucially, therefore, tackling gender inequality requires changes in public attitude, so that buying sex is culturally unacceptable. We are in agreement with Rhoda Grant that new legislation would send a strong message to this effect, and so reduce long term demand.

**Q1:** Do you support the general aim of the proposed Bill? Please indicate “yes/no/undecided” and explain the reasons for your response.

Yes. Engender supports the objectives outlined in paragraphs 19-22 of this proposal. We recognise prostitution as a form of violence against women, and the purchase of sexual activity as exploitation. We wish to reiterate the instrumental links between sexual exploitation across local and global scales, and the increasing commodification of women’s bodies through trafficking and the globalised sex industry.

We also categorically support the principle outlined in paragraph 14, that the sale of sex must not be criminalised. We advocate decriminalisation of women involved in all kinds of prostitution, especially street prostitution as this is where many of the most vulnerable women are exploited. This would go a long way to shift the stigma that surrounds women in prostitution onto the purchaser instead, and to build public understanding of commercial sexual exploitation. Decriminalisation must be accompanied by outreach services that support women to exit prostitution, such as safe accommodation, education, drug rehabilitation and ongoing support (exit programmes), as well as adequate funding for implementation and enforcement.

**Q2:** What do you believe would be the effects of legislating to criminalise the purchase of sex (as outlined above)? Please provide evidence to support your answer.

A Scottish study, carried out by the Women Support Project in 2008 asked 110 men who had bought sex what would deter them from repeat behavior. 89% stated “being added to the sex offender register”, 79% “spending time in jail” and 72% “increased criminal penalties” (Mcleod 2008). In practice, evidence from Sweden also shows that the combined threat of fines, arrest, police registers and prison sentences has reduced street prostitution by half (Skarhed 2010). Over time, the laws have also had intended normative impacts; for instance changing attitudes within the police force, where growing support and acceptance of the laws can be seen in an increased conviction rate from 5 in 1999 to 93 in 2009 (SCCP).

Reports on the Swedish legislation also show that “there are that there are clear indications that the Law has had direct and positive effects in limiting the trafficking in women for prostitution to Sweden” (Eckberg 2004: 13). The proposed Bill, therefore, represents a clear opportunity for the Scottish Government to make progress on commitments laid out in its violence against women strategy, and to complement recent moves to strengthen anti-trafficking legislation. If the Scottish Government is serious about achieving strong outcomes to these welcome policies, it must also address the roots of the problem and criminalise demand.

**Q3:** Are you aware of any unintended consequences or loopholes caused by the offence? Please provide evidence to support your answer.

In countries that have criminalised demand, there has been an increase in internet prostitution (European Women’s Lobby). Legislative measures that tackle advertising will be a crucial element in mitigating any shift in this direction and may present various challenges. However this trend is widespread, further highlighting the need for effective policing and prohibition on advertising. There is also a commonly held view that legislating against the purchase of sex would drive prostitution further underground and increase risks to safety, health and wellbeing. However, in the case of Sweden, justice sector analysis found that these fears have not been realised (Skarhed 2010).

**Q4:** What are the advantages or disadvantages in using the definitions outlined above?

Definitions which recognise prostitution as violence against women and as sexual exploitation are vital. They reflect the deeply systemic nature of gender inequality and male violence against women in Scotland, and therefore pave the way for transformative change. Policies framed in this way raise awareness of harmful societal impacts and feed into step-change of cultural attitudes over time.

With regard to the terms prostitute and sex worker, Engender takes the view that whilst some women choose to sell sexual services, this choice exists within the wider landscape of gender inequality, structural sexist discrimination, rape culture and gendered violence. This freedom of choice should therefore not be prioritised over the safety and wellbeing of huge numbers of extremely vulnerable women and children, harm caused to communities and society by normalised objectification of women, and the role of the sex industry in perpetuating gender inequality more broadly.

**Q5: What do you think the appropriate penalty should be for the offence? Please provide reasons for your answer.**

As above, fines, the sexual offence register and prison sentences would all be effective sanctions. Penalties should correlate with the severity of the offence, including links to organised crime, and account for the impacts of commercial sexual exploitation on both individuals and communities.

**Q6: How should a new offence provision be enforced? Are there any techniques which might be used or obstacles which might need to be overcome?**

**Q7: What is your assessment of the likely financial implications of the proposed Bill to you or your organisation; if possible please provide evidence to support your view? What (if any) other significant financial implications are likely to arise?**

In Sweden, where the population is 9.5 million, an initial fund of approximately US$1 million was allocated for police enforcement (Eckberg 2004: 7). Resources will also be required for exit programmes for individuals involved in prostitution. Conversely, in the medium term, a decreased need for services such as health, substance abuse and child services will reduce pressure on budgets. Ultimately, a less attractive market for traffickers will also lead to a drop in crime levels and associated costs. Supporting women’s human rights, however, should not be predicated on a cost-benefit analysis.

**Q8: Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?**

Prostitution is a manifestation of women’s inequality and Scotland’s failure to deliver equal opportunities for women and men. The proposed legislation is a vital step forward in ending violence against women. It is also a powerful statement, which challenges normative social attitudes to sexual exploitation and the commodification of women.

**References**

Eckberg, G. (2004) The Swedish Law that Prohibits the Purchase of Sexual Services. *Violence Against Women*, 10: 1187-1218.

European Women’s Lobby: <http://www.womenlobby.org/spip.php?article395&lang=en>

The Swedish Council for Crime Prevention (SCCP):

<http://www.bra.se/bra/bra-in-english/home.html>

Macleod, Farley, Anderson and Golding (2008) *Challenging Men’s Demand for Prostitution in Scotland*, Women’s SupportProject.

Skarhed, A. (2010) *Evaluation of the ban on purchase of sexual services.* Ministry of Justice, Government of Sweden. (summary accessible at: <http://www.government.se/content/1/c6/14/92/31/96b1e019.pdf> )