

## CEDAW shadow report UK - written evidence from English Collective of Prostitutes

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The ECP is a self-help organisation of sex workers, working both on the street and in premises, with a national network throughout the UK. Since 1975, we have campaigned for the decriminalisation of prostitution, for sex workers' rights and safety, and for resources to enable people to get out of prostitution if they want to. We are submitting this evidence because the decisions directly affect our lives.

### Article 6 Trafficking and Prostitution

#### **Issue 1 – Impact of the Policing and Crime Act (PCA) 2009.**

The Policing and Crime Act increased police powers to arrest sex workers on the street. Support and Engagement Orders meant women were compelled to attend “rehabilitation” meetings under threat of imprisonment. A better approach was taken by the Home Affairs Committee (HAC) which in 2016 recommended that the government: “. . . *change existing legislation so that soliciting is no longer an offence*” in recognition that *“the current practice of treating soliciting as an offence is having an adverse impact, in terms of preventing sex workers from seeking help to exit prostitution, exposing them to abuse and violence, and damaging other areas of their lives, such as access to health and welfare benefits.”* (1)

The PCA extended police powers to close “brothels” using Closure Orders and to seize women’s assets and savings. Brothel-keeping convictions (the charge used against women working together for safety) rose from 55 in 2014 to 96 in 2015. (2) The HAC spelled out how the threat of prosecution undermined sex workers’ safety: *“The current law on brothel-keeping also means that some sex workers are often too afraid of prosecution to work together at the same premises and as a result often compromise their safety and put themselves at considerable risk by working alone.”*

The priority given to raiding and arresting sex workers by many police forces also contradicts National Police Chiefs’ Council (NPCC) Policing Sex Work Guidance, (3) which stress that the safety of people engaged in sex work must be paramount and specifies that: *“brothel closures and ‘raids’ create a mistrust of all external agencies including outreach services. It is difficult to rebuild trust and ultimately reduces the amount of intelligence submitted to the police and puts sex workers at greater risk.”*

Criminalisation exacerbates the harms sex workers suffer. Women are prevented from reporting violence for fear of arrest and for those of us who are migrant, fear of deportation. Our experience shows that when sex workers do report violence they often face prosecution themselves while little is done to catch their attackers. (4) When women are imprisoned, the impact is far-reaching — the lives of children are devastated for a start. Fines force women back into prostitution to get the money to pay the fine. Criminal records prevent sex workers who may want to leave prostitution from getting another job.

In contrast, the HAC reported on full decriminalisation, as introduced in New Zealand in 2003, (5) acknowledging that *“it has resulted in . . . a clear policy message, better conditions for sex workers, improved cooperation between sex workers and the police and no detectable increase in the size of the sex industry or exploitation of sex workers.”* A similar law to the New Zealand legislation could be introduced here. (6) (7)

#### **Links to evidence**

1 House of Commons Home Affairs Committee. Prostitution. Third Report of Session 2016=2017.

<https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/26/26.pdf>

2 Hansard (Citation: HC Deb, 13 October 2015, c61WH). <https://www.theyworkforyou.com/whall/?id=2015-10-13a.58.1&s=prostitution#g61.0>

3 The National Police Chiefs’ Council (NPCC). (2015). National Policing Sex Work Guidance.

<https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/prostitution/>

4 English Collective of Prostitutes. (2017) It’s Time to Protect Sex Workers Not Prosecute Them. Policing Insight.

<http://prostitutescollective.net/2017/11/policing-insight-time-protect-sex-workers-not-prosecute/>

5 Ministry of Justice. (2008). Report of the Prostitution Law Review Committee on the Prostitution Reform Act 2003.

<http://prostitutescollective.net/wp-content/uploads/2016/10/report-of-the-nz-prostitution-law-committee-2008.pdf>

6 English Collective of Prostitutes. (2015). Decriminalisation of Prostitution: the Evidence. <http://prostitutescollective.net/wp-content/uploads/2017/01/Online-Symposium-Report.pdf>

7 English Collective of Prostitutes (2015). Why Decriminalisation? <http://prostitutescollective.net/wp-content/uploads/2018/02/Why-decriminalisation.pdf>

## Government response

In response to the HAC report, the Government has now commissioned research to develop a “*comprehensive, impartial understanding of the nature, prevalence and composition of prostitution and sex work in England and Wales*”.

## Recommendations

Immediately implement the HAC recommendation: that the law be changed so that: “*soliciting is no longer an offence; brothel-keeping provisions allow sex workers to share premises; deletion of previous convictions and cautions for prostitution from the record of sex workers*”.

### Specifically:

Repeal section 1, Street Offences Act 1959 “Loitering or soliciting for the purposes of prostitution” to prevent women being trapped in prostitution by fines and criminal records.

Repeal section 33, Sexual Offences Act 1956 “Keeping a brothel” to allow women to work together more safely from premises.

Amend section 53, Sexual Offences Act 2003 “Controlling prostitution for gain” to ensure that people are prosecuted only where evidence of *threats, force or other forms of coercion* exists. This would ensure that the law targets abuse and violence rather than women working consensually and collectively.

The Government give serious consideration to the New Zealand Prostitution Reform Act 2003 as a model for decriminalising prostitution in the UK and ensure that sex workers and sex workers’ organisations are centrally involved in the research and process of changing the law.

## **Issue 2 – Policing and Crime Act 2009 Section 14: Paying for sexual services of a prostitute subjected to force etc.**

This offence is one of ‘strict liability’. A client can be convicted whether or not he knew the sex worker was being forced, and regardless of what efforts he made to find out. This law is deeply flawed and should never have been introduced. As Women Against Rape commented at the time “*Clause 14 reduces what amounts to rape to a lesser offence, while at the same time denying those accused of a defence. If the woman is being coerced by a client he should be prosecuted for rape – it is discriminatory to charge him with a lesser offence just because she is a prostitute. If she is being coerced by someone other than the client, then the person who coerced her should be prosecuted. The client should not be deprived of all legal defence.*” (1)

The justification for Section 14 was the false claim that the majority of sex workers are trafficked. (2) Cracking down on clients was put forward with the claim that it would reduce trafficking. In fact, criminalising clients undermines sex workers’ safety making it more dangerous and stigmatising to work. Attacks on sex workers doubled in Scotland after kerb-crawling laws were introduced which criminalised clients. (3) A 2014 survey found that where arrests of sex workers and clients were high, only 5% of sex workers who were victims of a crime reported it. This compared to 46% of victims in areas where police adopted a harm reduction approach. (4) Many of the claims that have been made about the impact of the 1999 Swedish law which criminalised clients are false and have no evidential basis. (5)

## Links to evidence

1 Women Against Rape. (2009). Prostitution Proposals Detrimental to Safety. <http://womenagainstrape.net/content/policing-crime-bill-2009-prostitution-proposals-de>

2 English Collective of Prostitutes. (2016). Trafficking Briefing. <http://prostitutescollective.net/wp-content/uploads/2018/02/Trafficking-Briefing.pdf>

3 The Scotsman, 16 April 2008.

[http://www.scotsman.com/news/attacks\\_on\\_prostitutes\\_soar\\_after\\_vice\\_driven\\_underground\\_by\\_law\\_1\\_1164904](http://www.scotsman.com/news/attacks_on_prostitutes_soar_after_vice_driven_underground_by_law_1_1164904)

4 Data provided by National Ugly Mugs (UKNSWP). (2012-2015).

5 Levy, J. (2015). Criminalising the Purchase of Sex: Lessons from Sweden. Routledge. <https://www.routledge.com/Criminalising-the-Purchase-of-Sex-Lessons-from-Sweden/Levy/p/book/9780415739320>

## Recommendations

Abolish Section 14 of the PCA: “Paying for sex with someone forced and coerced”. Non-consenting sex is a serious violent crime and should be prosecuted under existing laws on rape and sexual assault. Prestigious organisations such as the Bar Association, Justice and Liberty briefed the government at the time with their view that: “*Strict liability offences should only apply to minor offences where it seems obvious in the circumstances that an offence has been committed. It should not apply when a person is unable to ascertain whether what they are doing is unlawful.*”

Abolish Section 19 of the Policing and Crime Act 2009: “*Soliciting another for the purpose of obtaining a sexual service as a prostitute*”. Criminalising men who buy sex diverts resources from violent crime to the policing of consenting sex and forces sex workers into more isolated and dangerous areas.

**Issue 3 – In the UK’s seventh periodic report to the committee in 2012, the Government stated their commitment to protecting people from entering prostitution and enabling exiting.**

Yet current government policies have caused prostitution to increase. Since 2010, 86% of austerity cuts have targeted women. (1) As poverty in the UK rises, more women, particularly single mothers, are turning to sex work to survive and feed their families. In some cities massive rises in prostitution are being directly attributed to government policies such as benefit sanctions (Doncaster 40%, Sheffield 166%). (2)

If the rise in prostitution is to be stemmed, austerity and its disproportionate impact on women, must be addressed. To criminalise an industry without giving the workers viable financial alternatives is to exacerbate the dangers some politicians claim they want to prevent.

In addition, prostitute cautions and convictions show up with a criminal record check which can bar access to other jobs, effectively institutionalising women in prostitution, preventing them from leaving.

**Links to evidence**

1 The Guardian, 9 March 2017. <https://www.theguardian.com/world/2017/mar/09/women-bearing-86-of-austerity-burden-labour-research-reveals>

2 The Star, 19 March 2014. <http://www.thestar.co.uk/news/support-bid-for-doncaster-s-prostitutes-1-6508498>

**Recommendations**

Convictions should be expunged from sex workers records and convictions overturned. Abolition of benefit cuts and sanctions so that no-one is pushed into prostitution for lack of economic alternatives and the reinstatement of income support for mothers. The government must also provide economic and other support for those who want to leave prostitution. For example: refuges and other targeted help for women escaping domestic violence; immediate cash payments to cover the transitional period until women are able to get benefits or another form of employment; housing priority for sex workers who are “vulnerable” because of homelessness, drug use, domestic or other violence, especially if they have children; financial help to cover childcare costs and to clear debts; immediate and appropriate drug rehabilitation services for those who want them.