

Response to the proposal to criminalize the purchase of sexual services in Scotland.

1. The ban of the purchase of sexual services in Norway.

On January 1st, 2009 the Swedish model was introduced in Norway. In 2012 Pro Sentret released the report “Farlige Forbindelser”(Dangerous Liaisons)¹ which examined the violence sex workers in Oslo experienced after the purchase of sexual services was banned.

1.1 A buyer's market

Section 3.3.1 of the report outlines a very important and dangerous result of the Swedish model, namely, the fact that the sex purchase ban has turned the sex industry in Norway into a buyer's market.

One trend that is consistently reported both from support services and the police is that the customer base has changed. There is an agreement that the number of customers in street prostitution, and parts of the indoor market, has decreased somewhat. If you look at the relationship between supply and demand you will see a trend towards a shift in the market where supply is greater than the demand.

This means that it is a customers/buyers market.
(Dangerous Liaisons: Section 3.3.1)

The “End Demand” proponents claim that a reduction of the demand for sexual services would be a good thing for sex workers, but they also claim that people only become sex workers because they have no other options, because they are forced into it. This is contradictory, if sex workers don't have the option to quit sex work then arresting their clients will only harm them. They will still need money, but they will have to compete for the remaining customers. This shifts power away from sex workers and towards the clients.

This means that the clients to a greater degree than before the ban are able to dictate the terms and conditions. This includes what sexual services are offered, price, where the service is conducted, and whether condoms will be used. This makes sex workers more vulnerable.

The sex workers themselves also report feeling more vulnerable and not in as much control as they were prior to the ban.

Since the customer base has shrunk somewhat in parts of the prostitution market many of the women also report having to lower their standards for the customers. Many women have in the past had clear standards for what sort of customer they were willing to accept: nationality, inebriation, psychological health or customers' appearance, for example. The women also have other standards that used to be absolute: what sexual services they sell/do not sell, where the sale is concluded, number of customers at the same time, what price they charge, and use of condom. Several support services believe that the women have had to lower their original standards in order to get customers and make the money they need. Whether this has led to increased violence and increased transmission of disease it is difficult for the support services to judge, but there appears to be a broad agreement among the support services that the women

¹ <http://humboldt1982.files.wordpress.com/2012/12/dangerous-liaisons.pdf>

feel more vulnerable, more exposed to risk, and that they have less control in relation to the customer now than they did in the past – precisely because they have had to lower their standards.

(Dangerous Liaisons: Section 3.3.3)

1.2 A higher ratio of dangerous clients.

Another problem is that the abusive clients are much less likely to be scared away from buying sexual services by the ban.

Another trend is that the customer base has changed because there are fewer “nice” customers than previously. By “nice” customers we refer to men who seek out the women to buy sexual services, pay the agreed price, and stick to the boundaries of the agreement. These are customers that are often an average man. With criminalization many believe that fewer of this type of man buys sexual services, because this customer group often consists of law abiding citizens. They now refrain from buying sex due to the new law. These customers are described as the easiest to serve. A reduction in the amount of “mean” customers is on the other hand not reported from either the police or the support services. The term “mean” refers to customers who do not stick to the boundaries of the agreement, try to haggle, do not wish to use a condom, show a lack of respect for the women by treating them in a derogatory manner, are violent/threatening, are intoxicated, are psychologically unstable/ill or who seek the women out with the intention to humiliate them – not just to buy sexual services.

(Dangerous Liaisons: Section 3.3.1)

The result is that not only do sex workers have to compete more intensely for the remaining customers, but the customer base after the ban has a higher proportion of abusive clients.

The consequences of a reduction in the total amount of customers, and fewer “nice” customers while the amount of “mean” customers stays constant, is that the “mean” customers make up a greater proportion of the customer base for many of the women than previously. This means that even though the amount of “mean” customers has not necessarily increased, the sellers of sexual services have become more dependent on precisely this group because the amount of money that can be made from the “nice” customers has decreased.

(Dangerous Liaisons: Section 3.3.1)

This should not be surprising, the type of person that believes abusing sex workers is an acceptable thing to do is obviously not going to be scared away by a sex purchase ban. After all abusing sex workers is already illegal. The only type of client likely to be scared away by this ban is the type of client sex workers want, the law abiding type that respect the sex workers' boundaries.

1.3 Sex workers perceive themselves to be criminalized

In section 3.3.2 it is mentioned that sex workers feel criminalized because of the sex purchase ban, and that sex workers do not consider the police their ally but a threat.

The increased control of the market has led many of those who sell sex to feel that they have been criminalized. This is despite the laws not having changed in regards to those who sell sexual services.

Both the police and the support services report this trend.

Many of the support services report that the police is no longer perceived by the women as allies they can turn to when they have been subjected to something illegal, because they fear that they will be investigated when they contact the police.
(Dangerous Liaisons: Section 3.3.2)

1.4 Operation “Husløs”

Another big problem for sex workers in Norway is know as operation “Husløs”. Operation “Husløs” means that the police will warn the owners of property where sexual services are provided that they will be prosecuted for pimping unless the contract with the sex worker(s) is terminated. The result is that many sex workers have been evicted from their apartments, hotel rooms or other facilities where they sell sexual services. Sometimes they are even evicted immediately with loss of their deposits.

This has also made it very difficult for sex workers to rent apartments to live in or facilities to run a massage parlor. This has led to many sex workers finding a third party that will rent on their behalf, the sex workers then pay rent to this third party which is often higher than the original rent because the third party demands payment for their services.

The result is that many sex workers depend upon a third party for their income, this obviously makes sex workers more vulnerable.

The result of all this is that sex workers are less likely to contact the police when they experience abuse because they fear the police more than they do abusive customers.

1.5 Role changes as a result of the ban

The relationship between sex workers and clients has also changed.

Several support services report that the women's relation to the customer is now that they have to “protect” the customer from the police, to avoid the police fining them. This means that the customers have gone from being a sort of “business partner” to an ally, while the police have gone from being an ally the women can go to for protection to being someone they need to protect the customer from. Many of the initiatives believe that these relationship and role changes are experienced as a heavy burden for the women.

(Dangerous Liaisons: Section 3.3.3)

1.6 Sex workers are isolated

Another trend that has been observed subsequent to the introduction of the sex purchase ban is that sex work has been more individualized and sex workers have become more isolated.

Among those who work in massage parlors it is reported that many have stopped selling sex in the parlors themselves, because they are afraid of being detected by the police. Now they make a deal with the customers to meet later in the sex worker's apartment. This means that sex workers are alone with the clients when the sexual service is provided. This obviously makes sex workers more vulnerable.

A further consequence of the increased individualization of prostitution is that the community among women who sell sex has weakened in parts of the prostitution market. Prostitution is no longer something you do together by selling sex from the same corner/apartment/parlor, but something that is isolated and personal. When the common gathering points (also the use of low threshold offers at the prostitution initiatives) disappear, the safety provided by having others

look after you/keeping track of you as well as being open about prostitution and sharing their experience also disappears. This increases the women's vulnerability in relation to their customers, but the lack of the community and the lack of openness also lead to prostitution becoming a taboo that few talk about and the stigma placed on those that are open about it increases. Especially in the drug community it is reported that few speak openly about selling sex and many speak in very derogatory ways about those who sell sex.

(Dangerous Liaisons: Section 3.3.3)

Even the police agree that this is a trend and that it makes sex workers more vulnerable to abuse from their clients.

The police agree that individualization of prostitution is a trend. They also agree that the fragmentation of communities is due to police activity making it more difficult to organize.

(Dangerous Liaisons: Section 3.3.3)

The fragmentation has also made sex workers less willing to warn other sex workers of dangerous customers.

Pro Sentret register a considerable reduction in women who come to warn other women about violent clients on the "warning board" in the common room. Previously various women would visit monthly to report about dangerous clients, from 1. January 2011 to 1. June 2012 only 6 warnings have been put up on the board.

(Dangerous Liaisons: Section 3.3.4)

1.7 Negotiations have to be rushed

Another problem is the fact that because the clients are worried about being caught by the police the time pressure for making a deal with the customers has increased.

In street prostitution the support services report that the time pressure for making a deal with the customer had increased considerably after criminalization. The customers are more stressed because they are worried that the police will discover them, something which means that the contact that is established on the street has to be conducted faster and that they have to get out of the area quickly.

(Dangerous Liaisons: Section 3.3.3)

This makes it more difficult for the sex workers to properly judge whether they feel that the customer is trustworthy. Additionally they are alone with the customer when the details of the deal are worked out, this increases the risk that disagreements with the customer will occur when they are alone and unable to get help.

1.8 Increased hostility towards sex workers

The sex purchase ban has also led to a society that is more hostile towards sex workers.

The sex workers experience increased amounts of harassment after the sex purchase ban.

The last few years the prostitution initiatives have regularly had reports of people going to the prostitution district in Oslo and harassing the women. The incidents that have been described are, among other things, verbal abuse, objects thrown at the women, and derogatory treatment.

This has especially occurred subsequent to negative media coverage of these women.
(Dangerous Liaisons: Section 3.3.5)

They are also discriminated against on the rental market.

The prostitution initiatives have in the last few years experienced an increase in inquiries from women in prostitution who experience discrimination on the rental market. This applies to apartments, business facilities, and hotel rooms. The women report difficulties renting a hotel room or renting apartments/business facilities, because they have an ethnic background which is associated with prostitution. There are also reports of hotels and serviced apartments establishing “black lists” of women involved in prostitution and refusing them the possibility of staying in their hotels. In 2010 the Church's City Mission prostitution initiative, Albertine, contacted the Data Protection Agency. Some women contacted Albertine after being denied a hotel room because of a black list. An evaluation of the legality of such a practice was requested. The Data Protection Agency concluded that this was not legal. Despite this the prostitution initiatives regularly receive reports of women who have been denied staying in a hotel in Norway because they are suspected of selling sexual services, without the women bringing customers to the hotel or having planned to do so.

(Dangerous Liaisons: Section 3.3.5)

1.9 Sex workers are being preyed upon by criminals

Dangerous criminals have also realized that sex workers are now more vulnerable and are exploiting that fact.

The indoor market has experienced criminal groups seeking out apartments and massage parlors, posing as police to get inside the facilities. When they get inside they rob, rape, and abuse the women. These gangs speculate that the women have to let the police in; thus, getting easy access, they also know that very few women in this community will contact the police after their visit.

(Dangerous Liaisons: Section 3.3.6)

1.10 Conclusion

The closing comments of the report sum up the current situation in Norway. Sex workers in Norway are frequently exposed to violence.

In the 2012 survey 59% of the participants said that they had been exposed to violence in the last three years. That is 73 people in a sample of 123 people. It is extremely rare that you see this many violent incidents in a population as small as the prostitution community in Oslo. This is discouraging and very worrying.

(Dangerous Liaisons: Section 5.1)

This report points out various changes the market has been characterized by in recent years. It ascertains that the number of respondents that are exposed to violence in prostitution has not decreased. The numbers are if anything pointing in the opposite direction. In the 2007/08 survey 52% of participants reported experiencing violence in the course of their career in prostitution. In the 2012 survey 59% report violent experiences in prostitution in the last three years.

(Dangerous Liaisons: Section 5.2)

It is clear that the sex purchase ban has not made sex workers in Norway less vulnerable to violence. In fact the data suggests that sex workers might be more vulnerable as a result of the sex purchase ban.

2. The claimed success of the ban in the official Swedish evaluation

Much has been claimed about the supposed success of the Swedish model, but there has been plenty of criticism of the official evaluation of the sex purchase ban in Sweden.

The criticism has primarily been focused on the evaluation's lack of scientific rigor: it did not have an objective starting point, since the terms of reference given were that the purchase of sex must continue to be illegal; there was not a satisfying definition of prostitution; it did not take into account ideology, method, sources and possible confounding factors; there were inconsistencies, contradictions, haphazard referencing, irrelevant or flawed comparisons and conclusions were made without factual backup and were at times of a speculative character.

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 2)²

2.1 Lack of scientific rigor

The fact that the evaluation started with the conclusion that was desired rather than objectively examining the evidence and *then* drawing a conclusion means that the evaluation is not based on sound scientific principles. It is not an evaluation that is based on science and fact, but ideology and a desire to impose a narrow definition of "proper" sexuality.

In order to determine whether the amount of sex workers has decreased as a result of the ban it is necessary to know how many sex workers there were in Sweden *before* the ban.

Unfortunately for the proponents of the Swedish model there are no solid numbers for this.

2.2 Dubious claims about the reduction of street-based sex work

The most frequently used figures indicate that there were about 650 women in street-based prostitution in the three largest cities, Stockholm, Malmö and Gothenburg, and it is estimated that two to three times as many sold sex indoors. This is said to make the total number of sex workers working before the new law between 1,850 – 2,500, but sometimes the number 3,000 is used.

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 8)

This estimate contains many uncertainties. It is not stated how the number 650 was determined: was it a headcount on a given day or an annual estimate? Did the women sell sex full time or part time? How long did they do it, why did they do it, and under what conditions did they sell sex? The evaluation doesn't answer any of these questions.

Nor is it known who made the "twice or three times as many indoors" estimate or how it was derived. Additionally, men and transgendered people selling sex were not accounted for at all.

With this many uncertainties it seems impossible to compare statistics before and after the ban.

Accurate statements about how much, if any, impact the sex purchase ban has had on the number of sex workers in Sweden simply do not exist.

² <http://www.gu.se/forskning/publikation?publicationId=140671>

But despite this it is generally agreed that the amount of street-based sex workers declined by approximately 50% after the sex purchase ban was introduced. The real question is whether this can be attributed to the ban.

The Department of Criminology at Stockholm University has stated that 50% declines are rarely seen in criminological literature. In other words the reported changes are perhaps “too good”, which is something that would need to be addressed if it is to be used as an example of the success of the sex purchase ban.

The effects also vary to a large degree between the three cities, and a longer period would have to be looked at because the 1998 figures could be an exception.

It is also important to remember that the estimated numbers of street-based sex workers have been declining since the late 1970's, which might mean that any observed decline after the introduction of the sex purchase ban is simply part of a larger trend.³ This trend is observed internationally, not just in Sweden.

It is also uncertain how stable this development is.

The overall picture emerging from the interviews is that the sex trade virtually disappeared from the street during a brief period immediately after the law went into effect. It later returned, albeit to a lesser extent. For instance, representatives of the Stockholm Prostitution Centre say that prostitution initially vanished from the streets when the law was passed, only to later return at about half the former extent. Now about two thirds of street prostitution is back, compared to the situation before the law against purchasing sexual services went into effect.
(The National Board of Health and Welfare)⁴

There are also specific objections to the relationship between the ban and the reduction of observed street-based sex workers. According to the social workers interviewed by the National Council for Crime Prevention it is more difficult to determine how many street-based sex workers there are, because they have moved to side streets and are more spread out than previously. The numbers also fluctuate, and some authorities claim that the fluctuations depend more on police activity than the sex purchase ban.

A rather extensive disruptive activity has been targeted at street prostitution in large city areas. Traffic controls have been a part of these disruptions. For community police and traffic police the motive for these activities has primarily been to guarantee nighttime peace for the residents, while for those working against prostitution it has been a way to combat the prostitution problem. This means other laws are being used in order to combat the problem that the new law is designed to counter, which might mean that the new law in itself is not an efficient measure to counter prostitution.

The National Council for Crime Prevention
(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 10)

3 Holmström 2008, p 306. & Institutionen för socialt arbete vid Göteborgs universitet 2010.

4 National Board of Health and Welfare 2008, p 33.

2.3 An absence of reliable data

What about sex work in general, both outdoors and indoors?

One problem with determining the extent of the indoor market is that the more “up-market” it is, the less reliable the data is.

While the official Swedish evaluation claims that sex work overall has decreased, it also states this:

When it comes to indoor prostitution in which contact is made at restaurants, hotels, sex clubs or massage parlors, the available information on the extent to which this occurs is limited. We have not been able to find any in-depth studies of these forms of prostitution in the past decade. (The 2010 official evaluation)

Nor does there appear to be any solid numbers for internet based sex work, but the Prostitution Knowledge Center in Malmö reports a noticeable increase in the Öresund area during 2009.

Also, accordingly to the Malmö Knowledge Center, the changing technology has resulted in the “hidden” (indoor) prostitution now making up four-fifths (80%) of the overall prostitution prevalence, compared to two-thirds (67%) before the ban was introduced.⁴⁷ This would leave us with a similar total number of people involved in prostitution as before the ban, or about 1,500 people.

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 11)

Methodological problems mean that there is no way of knowing what has happened after the introduction of the sex purchase ban.

This is summed up by the National Board of Health and Welfare:

It is also difficult to discern any clear trend of development: has the extent of prostitution increased or decreased? We cannot give any unambiguous answer to that question. At most, we can discern that street prostitution is slowly returning, after swiftly disappearing in the wake of the law against purchasing sexual services. But as said, that refers to street prostitution, which is the most obvious manifestation. With regard to increases and decreases in other areas of prostitution – the “hidden prostitution” – we are even less able to make any statements.

The National Board for Health and Welfare

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 11)

The claims made in the official Swedish evaluation regarding the supposed “success” of the sex purchase ban is not supported by the data.

2.4 Unsupported claims about trafficking

The proponents of the Swedish model claim that the sex purchase ban has dramatically decreased the amount of trafficking for sexual purposes in Sweden. But the claims made about trafficking in Sweden are both vague and contradictory.

The official evaluation claims:

According to the Swedish Police, it is clear that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers who are considering establishing themselves in Sweden.

(The 2010 official evaluation)

But in a press release only months before the evaluation was published the very same police authority said:

Serious organized crime, including prostitution and trafficking, has increased in strength, power and complexity during the past decade. It constitutes a serious social problem in Sweden and organized crime makes large amounts of money from the exploitation and trafficking of people under slave-like conditions.

(National Police Board press release March 2010)

It should be noted that Malmö University criticized the official evaluation for not presenting evidence that backs up its claim that the ban has deterred traffickers from establishing themselves in Sweden.⁵

And the Board of Health and Welfare had the following to say:⁶

We have determined in previous reports [1, 2] that prostitution is a multifaceted phenomenon that is affected by several interacting factors. No causal connections can be proven between legislation and changes in prostitution. It is also difficult to identify the impacts of legislation because social processes are affected by several complex and situational factors.

The Board of Health and Welfare

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 14)

2.5 Questionable claims about the amount of support

It is also often claimed that the sex purchase ban will change peoples attitudes regarding sex work and that most Swedes support the sex purchase ban.

This is questionable because it appears that many of those who support criminalizing the *purchase* of sex also believe that *selling* sex should be illegal.

But one must ask what people are in favor of. Because, as Kuosmanen points out, the respondents not only wish to criminalize the buyer – they want the seller to be criminalized as well. In the 1999 SIFO poll, 71 percent wanted the sale of sex to be illegal (78 percent of the women and 64 percent of the men). In Kuosmanen's 2008 survey, 59 percent thought the sale of sex should be criminalized (66 percent women and 49 percent men). Kuosmanen therefore concludes that “most people seem to perceive prostitution as a general problem, and not first and foremost as an expression of gender inequality.

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 18)

It is also claimed that the support is greatest among the young but there is little reason to believe that this is the case.

In 2009 the Board for Youth Affairs sent out a questionnaire where 1.7 percent of the respondents, which would extrapolate to 20,000 girls and boys, stated that they had taken money for sex. But also, more than one out of ten would consider taking payment for sex, and four out of ten felt that it is acceptable to have sex for money if both parties are willing. Perhaps more significant is that 11.4 percent stated that they knew someone who had received payment

5 Institutionen för Hälsa och samhälle vid Malmö högskola 2010.

6 The National Board of Health and Welfare 2008, p 46.

for sex. Therefore the proportion who actually sold sex may be closer to 10 percent than 2 percent. In relation to the claims made by the official evaluation, several of the respondents point out that these figures must be interpreted as a liberal attitude to prostitution, not the other way around.

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 18)

As many as 40% of the young people who participated in the questionnaire believe that sex work is acceptable as long as both parties consent.

And the general attitude towards sex work in Sweden seems to be more positive than is generally claimed.

In 2011 the critics have proliferated to such a degree that they are difficult to keep track of. Prominent social commentators, as well as young bloggers write columns and articles against the ban and in favor of a more nuanced understanding of prostitution. Feminist and queer activists and academics, as well as artists, speak out against the way sex workers are treated in Sweden and the way prostitution is perceived. Even sex workers are increasingly less stereotypically portrayed in media and in research, and they themselves have begun to voice their own opinions and relate their experiences and opinions on blogs, in books, article and to organize in forums like Rose Alliance.

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 19)

Newsmill, a much-read on-line debating forum, routinely lets their readers express their feelings (“mill”) on the topics of the articles. As we write this article, 49 articles have been posted on the topic of the Sex Purchase Act where 13,855 people have voted on the question “How do you feel about: The Sex Purchase Act”, out of whom 81 percent are 'angry' with the ban, 12 percent are “happy” with it, 4 percent are “bored” and 1 percent are “curious”.

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 20)

2.6 Outdated and paternalistic views of sex work

As mentioned earlier, the official evaluation has been extensively criticized for its methodological failings, but many are also critical of the way it portrayed sex work.

The Criminology Department at Stockholm University think that the view of prostitution expressed by the evaluation is “obsolete”.

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 20)

The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL) among others has criticized the evaluation for ignoring data that show that more men than women sell sex, as well as not differentiating between trafficking and paid sex between consenting adults.⁷

The Swedish Association for Sexuality Education (RFSU) also recognizes that there are those who state that they have freely chosen to sell sex.⁸

7 RFSL 2010.

8 RFSU 2010.

And according to Sociologists at Gothenburg University:⁹

In other words it is problematic to approach people who sell sex with too strongly preconceived notions and definitions regarding their status as victims.

This is not consistent with the ambition of empowerment that contemporary social work perceives as an important platform for its work. To unilaterally proclaim someone as an exploited victim or needy belongs to the so called paternalistic tradition where the experts have power to define the clients.

Department of Social Work, University of Gothenburg

(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: pp. 20-21)

2.7 Claims that negative effects are actually positive

Negative effects of the sex purchase ban were covered in the previous section, unsurprisingly the same problems have been observed in Sweden.

One problem the official evaluation mentioned was the increased stigma against sex workers; however, according to the evaluation this is a *good* thing.

For people who are still being exploited in prostitution, the above negative effects of the ban that they describe must be viewed as positive from the perspective that the purpose of the law is indeed to combat prostitution.

(The 2010 official evaluation)

This is simply unconscionable; that an official evaluation contains something so callous is simply beyond the pale. *Especially* when the proponents of the Swedish model claim that it's intended to *help* sex workers.

This statement was criticized by the Discrimination Ombudsman, who called it “remarkable” given that the supposed motivation for the law was to not further stigmatize an already marginalized group.¹⁰

The Ombudsman’s office also criticized the fact that sex workers had not been given enough opportunity to participate in the official evaluation and claimed that the evaluation contributed to their disempowerment.

2.8 Conclusion

The official Swedish evaluation makes it clear that the goal of the sex purchase ban is not to help sex workers but to establish notions of “good” and “bad” sexuality.

It is an illiberal and misconceived law. It is based on an extremely conservative and judgmental view of sexuality, and a complete lack of understanding of the realities of sex work.

⁹ Institutionen för socialt arbete vid Göteborgs universitet 2010, p 2.

¹⁰ Diskrimineringsombudsmannen 2010.

3. Decriminalization

3.1 Experiences with decriminalization of sex work in New Zealand and New South Wales.

Sex work is decriminalized in both New Zealand and New South Wales (Australia) and the official evaluations show that decriminalization is a far more successful model than the counterproductive model used in Sweden and Norway.

Sex work prohibitionists claim that decriminalization will lead to increased abuse, exploitation, and coercion, but this has not been observed in either New Zealand or New South Wales.

In New Zealand it was found that:

Despite the perception that most sex workers are coerced into entering the sex industry, only a very small number of sex workers reported being made to work by someone else at the time of entry and after (an average of 3.9% across the three sectors).

(Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003¹¹: p. 15)

And the LASH report said:

Since the legal reforms in 1979 sex workers in NSW have had no use for pimps.

Notably, the LASH study found no evidence that any of the women had been coerced into working in a brothel.

(The Sex Industry in New South Wales¹²: p. 22)

It is also frequently claimed that decriminalization of sex work will lead to more criminal activity in the sex industry, despite the fact that this makes absolutely no sense and contradicts all experience with prohibition.

Unsurprisingly, no link was found between the decriminalization of sex work and organized crime in either New Zealand or New South Wales.

On the topic of underage sex workers and criminal gangs the New Zealand report said:

The Association said there was no evidence of a linkage between under age people used in prostitution and the 'traditional' patched gangs. One reason given for gangs' lack of interest is that it is high risk for little reward.

(Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003: p. 163)

11 <http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/plrc-report/documents/report.pdf>

12 [http://www.med.unsw.edu.au/ncheerweb.nsf/resources/SHPReport/\\$file/NSWSexIndustryReportV4.pdf](http://www.med.unsw.edu.au/ncheerweb.nsf/resources/SHPReport/$file/NSWSexIndustryReportV4.pdf)

Nor was there found any general link between sex work and organized crime.

The Committee considers that the links between crime and prostitution are tenuous. The Committee could not find any evidence of a specific link between crime and prostitution. (Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003: p. 164)

The LASH report found the same thing.

There is nothing in the comments by sex workers and owner managers in the brothel industry in NSW to indicate any systematic misconduct or corruption by officials, or any serious crime involvement. (The Sex Industry in New South Wales: p. 29)

Another claim that is frequently made by prohibitionists is that the decriminalization of sex work will lead to a larger sex industry (as if this is something inherently negative).

But no such effect has been observed, according to the New Zealand report:

Baseline estimates of the size of the sex industry were provided in the Committee's first report, *The Nature and Extent of the Sex Industry in New Zealand: An Estimation (2005)*. To the extent that it is possible, the baseline data is compared with more recent estimates carried out for this report. Assertions about increased numbers of sex workers are also examined.

The Committee concludes, based on the research undertaken for this review, that the number of sex workers in New Zealand has not increased as a result of the passage of the PRA. (Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003: p. 29)

The LASH report states:

Criminalisation may exacerbate opportunities for coercion and exploitation by encouraging sex workers to seek the protection of pimps and criminals (Harcourt et al., 2005). There is no evidence that criminalisation reduces the incidence of prostitution (Abel, 2009; Rissel et al., 2003; Neave, 1988) (The Sex Industry in New South Wales: p. 9)

Nor is there more street-based sex work subsequent to decriminalization; if anything, decriminalization has made street-based sex work less common.

In the Committee's first report, the number of street-based sex workers in Auckland was estimated to be 360 (PLRC, 2005). An increase of 400% would mean there would now be 1,440 sex workers on Auckland's streets. The Committee considers that the research undertaken by the CSOM conclusively refutes an increase of this magnitude, with the 2007 figures estimating the number of Auckland street-based sex workers at 230. (Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003: p. 40)

And the LASH report mentions this about street based sex work:

Interestingly in Melbourne, where all street-based sex work is illegal, there are many more street workers than in Sydney (Morton et al., 1999).
(The Sex Industry in New South Wales: p. 20)

The excuse that is often used for promoting the criminalization of the sex industry is of course human trafficking, it is the modern day boogeyman that is intended to appeal to emotion rather than rational thought. It plays the same role as the white slave trade did before it. It is a convenient excuse for wishing to dictate what consenting adults do in private. But the claim that decriminalization of sex work will lead to more trafficking is not supported by the facts.

According to the LASH report:

The LASH team found no evidence of recent trafficking of female sex workers in the Sydney brothel survey (see The size and structure of the sex industry in NSW, page 16) or in a clinic study (Pell et al., 2006). This was in marked contrast to the 1990s when contacted women from Thailand were common in Sydney (Brockett & Murray, 1993; O'Connor et al., 1996; Payne C, 1997).
(The Sex Industry in New South Wales: p. 11)

And the New Zealand report states that:

The argument that trafficking in humans and prostitution are inexorably linked is in part due to policy decisions made by the United States. Although much international dialogue surrounding both trafficking and prostitution claims prostitution and trafficking are often linked, the extent of this link is debated. The Committee considers that in the case of New Zealand, there is no link between the sex industry and human trafficking.
(Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003: p. 167)

There is no factual basis for the claim that the decriminalization of sex work will lead to more human trafficking. It is merely an excuse used by moralists who wish to punish people for having the “wrong” kind of sex. Anyone who genuinely wishes to help human trafficking victims should work *with* sex workers, not *against* them.

3.2 Endorsements of the decriminalization of sex work by health and human rights organizations.
In 2012 UNAIDS released the report “Sex Work And The Law In Asia And The Pacific”¹³ in which the decriminalization of sex work, including decriminalization of the purchase of sexual services, is unambiguously endorsed.

On the “end demand” initiatives it states:

(iv) Criminalization of clients
Some countries have opted to criminalize clients of sex workers, rather than or in addition

13 <http://www.snap-undp.org/elibrary/Publication.aspx?ID=699>

to sex workers. For example, Nepal criminalizes clients but not sex workers. A similar approach has been proposed in India. Laws have been enacted that criminalize clients in American Samoa, Bhutan, Cambodia, China, Fiji, Guam, Republic of Korea, Palau, and Taiwan. *The UNAIDS Advisory Group on Sex Work has noted that there is no evidence that 'end demand' initiatives reduce sex work or HIV transmission, or improve the quality of life of sex workers.* Efforts targeting clients sometimes encourage law enforcement officials to use condoms as evidence of involvement in sex work.

(Sex Work And The Law In Asia And The Pacific: Executive Summary, p. 2)

About the recognition of sex work as work:

Evidence from the jurisdictions in the region that have decriminalized sex work (New Zealand and New South Wales) indicates that *the approach of defining sex work as legitimate labour empowers sex workers, increases their access to HIV and sexual health services and is associated with very high condom use rates.* Very low STI prevalence has been maintained among sex workers in New Zealand and New South Wales, and HIV transmission within the context of sex work is understood to be extremely low or non-existent. *In decriminalized contexts, the sex industry can be subject to the same general laws regarding workplace health and safety and anti-discrimination protections as other industries. The legal recognition of sex work as an occupation enables sex workers to claim benefits, to form or join unions and to access work-related banking, insurance, transport and pension schemes.*

(Sex Work And The Law In Asia And The Pacific: Executive Summary, p. 6)

It recommends that:

Laws that criminalize sex work and the sex industry should be reviewed, taking into account the adverse impact of these laws on public health and the human rights of sex workers. *To enable sex workers to fully enjoy legal rights to health and safety at work requires decriminalization. Decriminalization of sex work requires the repeal of:*

- a. laws explicitly criminalizing sex work or clients of sex workers;*
- b. laws that criminalize activities associated with sex work, including removal of offences relating to: soliciting; living on the earnings of sex work; procuring; pimping; the management and operation of brothels; and promoting or advertising services;*
- c. laws that require mandatory HIV or STI testing or treatment of sex workers;*
- d. laws that authorize the compulsory detention of sex workers for the purpose of re-education, rehabilitation or correction.*

(Sex Work And The Law In Asia And The Pacific: Executive Summary, p. 7)

“(ii) Recommendations of the Global Commission on HIV and the Law (2012)

Countries must:

1. *Repeal laws that prohibit consenting adults to buy or sell sex,* as well as laws that otherwise prohibit commercial sex, such as laws against ‘immoral’ earnings, ‘living off the earnings’ of prostitution and brothel-keeping. Complementary legal measures must be taken to ensure safe working conditions to sex workers.

2. ***Take all measures to stop police harassment and violence against sex workers.***
(Sex Work And The Law In Asia And The Pacific: Executive Summary, p. 34)

About trafficking the report states:

(x) Anti-trafficking laws, policies and practices

Laws that conflate human trafficking and sex work and define sex work as ‘sexual exploitation’ contribute to vulnerability, generate stigma and create barriers to HIV service delivery. Trafficking laws have been used to justify crackdowns and raids that suppress adult voluntary sex work (e.g., Cambodia, India, Malaysia, the Philippines and Thailand). This has resulted in abuses of sex workers’ human rights and undermining of HIV responses.

(Sex Work And The Law In Asia And The Pacific: Executive Summary, p. 2)

The report examines the various legal approaches to sex work throughout Asia and the Pacific.

New Zealand:

The Committee concluded that sex industry had not increased in size since the law had been enacted, and the vast majority of people involved in the sex industry were better off under the new law than they had been previously.

Research has shown that, following decriminalization, sex workers found it easier to refuse clients when they did not want them. Around two thirds of sex workers surveyed in 2006 who had been working prior to decriminalization reported that it was easier to refuse to have sex with a client since the law had changed. Condom use is reported to be high and HIV prevalence among sex workers is very low. A study found no HIV infections among the 298 female, 32 male and 13 transgender sex workers who attended sexual health clinics in 2006.
(Sex Work And The Law In Asia And The Pacific: Section 7.8)

Australia:

New South Wales has some of the highest rates of condom use among sex workers anywhere in the world (exceeding 99 percent), and consistently low STI prevalence. There is no evidence that decriminalization increased the frequency of commercial sex in New South Wales.

An assessment of the New South Wales model found that ***it had significantly “improved human rights; removed police corruption; netted savings for the criminal justice system; and enhanced the surveillance, health promotion and safety of the NSW sex industry.***

(Sex Work And The Law In Asia And The Pacific: Section 7.9)

To assess whether different legal models have an impact on the delivery of health promotion services to sex workers, researchers compared health promotion programmes in three Australian cities. The cities were Melbourne (Victoria: unlicensed brothels are criminalized), Perth (Western Australia, criminalization) and Sydney (New South Wales: sex work largely decriminalized, no licensing). ***Research comparing the situation in states with different legal models concluded that the decriminalization of sex work is associated with better coverage of health promotion programmes for sex workers.***

(Sex Work And The Law In Asia And The Pacific: Section 7.9)

It is also important to remember that sex workers themselves are very much opposed to the sex purchase ban.

Sex workers in Sweden oppose the laws that have criminalised their workplaces. Sex workers in Australia oppose such laws being implemented in Australia. Sex workers globally oppose these laws.

(The Swedish Model of criminalising sex work since 1999 - Briefing Paper)¹⁴

The Swedish model is not acceptable for anyone who is concerned about the well being of sex workers, it is not supported by the facts and it is not supported by sex workers.

4. Various criticism of the proposal.

4.1 The claim that the majority of sex workers are “unwilling”

The majority of those who are involved in prostitution are unwilling participants.
(Criminalisation of the Purchase of Sex (Scotland) Bill (2), p. 6)

How do you define unwilling? Are they “unwilling” if they dislike doing sex work? By this definition most workers are “unwilling”: a Right Management (subsidiary of the staffing firm ManpowerGroup) survey in 2012 found that only 19%¹⁵ of the participants were satisfied with their jobs. A more in-depth survey (Mercer, 2011) of 30,000 workers from 17 locations around the globe found that between 28% and 56% of employees want to leave their jobs¹⁶.

On the other hand, if you claim that most sex workers are forced into sex work by a “pimp”, then that is contradicted by the available evidence. In New Zealand only 3.9% reported being forced into sex work by someone else¹⁷, and in New South Wales they found no evidence that anyone had been coerced into working in a brothel.¹⁸

In the paper “The Commercial Sexual Exploitation of Children in New York City”¹⁹ very few of the children who participated in the study were found to have a market facilitator (or “pimp”). According to the authors of the paper themselves they started the study already believing that “pimps” were a dominating factor in the under aged sex trade.

When the research team prepared for conducting this study, pimps were believed to be important, indeed, dominant actors in CSEC markets.
(The Commercial Sexual Exploitation of Children in New York City: p. 72)

But what they found was that only 16.5% (out of a sample of 249) of the children had a pimp. In other

14 http://www.scarletalliance.org.au/issues/swedish_model/

15 <http://www.forbes.com/sites/susanadams/2012/05/18/new-survey-majority-of-employees-dissatisfied/>

16 <http://www.forbes.com/sites/susanadams/2011/11/10/employee-loyalty-dropping-worldwide/>

17 Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003: p. 15

18 The Sex Industry in New South Wales: p. 11

19 <http://www.ncjrs.gov/pdffiles1/nij/grants/225083.pdf>

words, 83.5% of the children in the study did not have a pimp.

This means that even among children (many of them homeless) who trade sex for money as a matter of survival, the majority is forced into trading sex not by a pimp but by circumstances. This group is one of the most vulnerable groups you can find; if pimps are that uncommon among this group, they are likely very rare among adult sex workers. (It is also important to remember that criminalizing the purchase of sex will do nothing to help homeless youths who trade sex for money, it will almost certainly make their situation much worse. What is needed is more (and better) shelters as well as targeting the root causes that lead to young people becoming homeless.)

The claim that the vast majority of sex workers are unwilling participants does not hold up to scrutiny.

4.2 The claim that 75% of women who are sex workers started as children

75% of women in prostitution in the UK became involved when they were children
(Criminalisation of the Purchase of Sex (Scotland) Bill (2), p. 6)

This claim is based on “Ties that bind – Young People and the Prostitution Labour Market in Britain”, but the study does not support this claim. It was based on interviews with 46 women, **all** of whom had started sex work when they were below 18 (age of majority in England and Wales). 100% (not 75%) of the women interviewed started selling sex as minors because that is the demographic the study was looking at.

This study is no more applicable to the claim than using research about infant mortality to determine the average life span. Furthermore, approximately 75% of the women interviewed were street-based sex workers, which is yet another reason this study does not apply to the sex industry as a whole. Street-based sex workers are the minority. In Scotland, according to Scot-PEP, they make up 8-10% of all those involved in sex work. In New South Wales approximately 5% of sex workers are street-based²⁰.

In New Zealand it was found that only 41 out of 772 survey participants had entered the sex industry when they were younger than 18, and out of those as many as 31 started in the street-based sector²¹.

4.3 Claims about violence

It is claimed in this proposal that 48% of indoor sex workers have experienced violence from “purchasers”²², but yet again this is not the case - at least not where sex work has been decriminalized. In New South Wales 5-10% of brothel and independent sex workers reported some form of violence in their work²³. It might be interesting to compare this to the reports of violence experienced by nurses: in the paper “Violence Against Nurses and its Impact on Stress and Productivity”²⁴ it was found that as many as 67% of nurses had been assaulted at least once in the previous 6 months by patients²⁵. Perhaps it should be illegal to hire nurses?

20 The Sex Industry in New South Wales: p. 16

21 Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003: p. 102

22 Criminalisation of the Purchase of Sex (Scotland) Bill (2), p. 6

23 The Sex Industry in New South Wales: p. 13

24 <https://www.nursingeconomics.net/ce/2013/article29059066.pdf>

25 Violence Against Nurses and its Impact on Stress and Productivity, second page of the PDF.

4.4 The claim that the sex purchase ban will not criminalize sex workers

The proposal also makes this astonishing claim:

It is important to stress that this proposed bill does not seek to further criminalise prostitutes. It seeks to focus on those who buy sexual services and who drive the demand for sexual exploitation in Scotland.

(Criminalisation of the Purchase of Sex (Scotland) Bill (2), p. 6)

This is pure sophistry; you **cannot** criminalize clients without also indirectly criminalizing sex workers. Would a law against the purchase of psychotherapeutic services not criminalize those who offer such services? It should be obvious that such a law would punish not only those who purchase psychotherapeutic services but also those who sell them. So why should it be any different for those that sell sexual services?

4.5 The claim that most sex workers did not choose sex work

Throughout this consultation the word prostitute will be used to designate a person who is exploited sexually while recognising that a minority of individuals state that they have chosen to be a prostitute.

(Criminalisation of the Purchase of Sex (Scotland) Bill (2), p. 6)

I have already addressed this but it bears repeating. In New Zealand only 3.9% reported being forced into sex work by someone else, this means that sex workers who choose sex work aren't just the majority, they are the *vast* majority.

4.6 Gunilla Ekberg

Any society that claims to defend principles of legal, political, economic, and social equality for women and girl must reject the idea that women and children, mostly girls, are commodities that can be bought, sold and sexually exploited by men.

Gunilla S. Ekberg

This statement is offensive and insulting to sex workers and it completely misinterprets the realities of sex work. Sex workers do not sell themselves, they provide a service like any other. It is the prohibitionists who commodify sex workers and treat them as objects that need rescue rather than individuals with the right to self-determination.

Quoting Gunilla Ekberk in this consultation as if she was a completely uncontroversial and respectable source of information on sex work is also highly indicative of the lack of understanding MSP Grant has of sex work. Ekberg seems to be lauded as a famous lawyer by her supporters, but she has been criticized in Sweden for calling herself a lawyer because she is not a member of the Swedish Bar Association²⁶.

Furthermore, Ekberg had a close association with ROKS²⁷, an organization that runs shelters for

²⁶ <http://www.dn.se/nyheter/sverige/jamstalldhetsexperts-advokattitel-ifragasatt>

²⁷ <http://www.roks.se/kvinnotryck>

women. In 2005 Evin Rubar made a documentary that included testimony of a woman “saved” by ROKS complaining about her treatment at the hands of her “rescuers”. When interviewed, Ekberg refused to answer the questions and later, assuming that the microphone was off, she threatened Rubar that should she ever need help as a woman, she would receive none in Sweden²⁸.

It is clear that if you dare to question Ekberg’s dogma, you are a traitor and do not deserve protection and aid. Ekberg is not someone you want to associate yourself with if you support women’s safety.

4.7 The claim that demand forces people into sex work and exploitation

The demand creates a market where vulnerable individuals are compelled and/or forced into a cycle of exploitation that places them, and their families, at risk. It is vital that Scotland takes a zero tolerance stance on the buying of sexual activity.

(Criminalisation of the Purchase of Sex (Scotland) Bill (2), p. 8)

It is not the demand for sexual services that leads to exploitation, it is the fact that some people have few options. If the goal is to end exploitation, one should attack the underlying causes, not the consequences. Removing the best (or the least bad) option many people have available to them does not help them in anyway, they will still need money and if sex work remains their best option they will continue practicing it under more dangerous conditions. Sex workers are placed at risk by harmful policies like the Swedish model, not by the demand for sexual services.

4.8 The claim that sex work is a barrier to equality

Prostitution acts as a serious barrier to equality and dignity by reducing sexual activity and individuals to a commodity that can be exchanged for money or goods. The buying of individuals for sexual purposes creates a form of sexual servitude.

(Criminalisation of the Purchase of Sex (Scotland) Bill (2), p. 8)

Sex work does not involve buying or selling of individuals. And the claim that sex work is a barrier to equality coming from someone who declares women incapable of making their own decisions about sex is absolutely laughable. Is it effrontery or ignorance bordering on the absurd that allows MSP Grant to present herself as a champion of equality while promoting a policy that considers women perpetual wards of the state? Any rational supporter of equality has no choice but to oppose this toxic proposal.

4.9 The use of Melissa Farley's “research”

MSP Grant seems to be under the impression that Melissa Farley is a credible expert, which is far from the case. Melissa Farley has been widely criticized, including by Justice Himel of the Canadian Supreme Court²⁹.

4.9.1 Justice Himel's comments about Melissa Farley

Justice Himel found that the evidence given by Melissa Farley did not meet the standards set by Canadian courts for the admission of expert evidence: her own findings contradicted her claims and she

28 <http://youtu.be/gHiX8xT2jmw>

29 <http://www.canlii.org/en/on/onsc/doc/2010/2010onsc4264/2010onsc4264.html>

failed to “qualify her opinion regarding the causal relationship between post-traumatic stress disorder and prostitution, namely that it could be caused by events unrelated to prostitution” (Bedford v. Canada, 2010, [353]). During cross examination it was found that many of Farley's negative opinions of sex work were formed prior to her “research” (Bedford v. Canada, 2010, [355]). For these reasons Justice Himel assigned “less weight to Dr. Farley’s evidence” (Bedford v. Canada, 2010, [356]).

4.9.2 Criticism of “Challenging Men’s Demand for Prostitution in Scotland”

This proposal points specifically to “Challenging Men’s Demand for Prostitution in Scotland: A Research Report Based on Interviews with 110 Men Who Bought Women in Prostitution”. This paper has been lambasted for its unethical approach and its pervasive bias, which are visible straight from the title. Farley's intention was not to gain understanding of men who pay for sexual services but to vilify them.

A Commentary³⁰ on ‘Challenging Men’s Demand for Prostitution in Scotland’ points out that Farley's paper “violates fundamental principles of human research ethics”, and that “the interviewers were drawn from a group with strong prejudices against men who buy sexual services”. Other numerous criticisms include the authors’ ignorance of basic legal principles, such as the principle of proportionality, and misrepresentation and distortion of the report’s own findings. The questionnaire was not presented for scrutiny and there was neither control group nor mention of previous research that suggests that men who buy sex are indistinguishable from the population in general. This study was published “outside the normal academic peer review process and it is not entirely surprising that the report is not of an acceptable academic standard.”

4.9.3 The pending complaint against Farley

There is a pending complaint filed against Farley at the American Psychological Association³¹. The complaint specifically addresses Farley's paper “What Really Happened in New Zealand after Prostitution was Decriminalized in 2003?” in which Farley criticizes the report of the Prostitution Law Review Committee. The complaint states that Farley conducted research in New Zealand in 2003 without first seeking approval from the New Zealand Psychological Society (NZPsS).

Further, the complaint accuses Farley of deliberately misleading people: on several occasions she repeats claims that have been specifically refuted in the report, for example

Decriminalization can’t stop the violence, abuse, and stigma that are built-in to prostitution. Prostitution has increased dramatically in New Zealand since decriminalization in 2003, with a 200-400% increase in street prostitution in Auckland.

But the New Zealand report states:

In the Committee's first report, the number of street-based sex workers in Auckland was estimated to be 360 (PLRC, 2005). An increase of 400% would mean there would now be 1,440 sex workers on Auckland's streets. The Committee considers that the research

30 http://www.scot-pep.org.uk/sites/default/files/download-files/a_commentary_on_challenging_mens_demand_for_prostitution_in_scotland.pdf

31 <http://cybersolidaires.typepad.com/files/complaint-to-apa-against-mfarley.pdf>

undertaken by the CSOM conclusively refutes an increase of this magnitude, with the 2007 figures estimating the number of Auckland street-based sex workers at 230. (Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003: p. 40)

Farley also claims that the “Law Review Committee was biased and blatantly favored the sex industry”. This seems to be an absurd claim as

The members of the Committee consisted of a former police commissioner, a Catholic nun, and the co-ordinator of Streetreach, as well as the National Co-ordinator of the New Zealand Prostitutes Collective, and a regional co-ordinator of that organisation. NZPC also nominated Dr Jan Jordan, a criminologist from Victoria university of Wellington.

I suppose it's possible that 11 people of such diverse backgrounds might all have a bias in favor of the sex industry, but given that some of the people on the committee were against the Prostitution Reform Act this is clearly not the case.

Farley also claims that she is able to diagnose sex workers with post-traumatic stress disorder after a 15 minute self administrated questionnaire, but according to the National Center for PTSD³²

Proper assessment of PTSD is complex, and in a forensic setting, it should include substantial attention to corroboration of self-reports through a records review and collateral information.

The method used by Farley is insufficient to to diagnose PTSD, which discredits her statements about the link between sex work and PTSD.

The fact that Farley is presented as a credible expert in this proposal is highly troubling. Any proposal that leans so heavily on the discredited work of Melissa Farley must be subjected to harsh scrutiny, as it indicates that this proposal is based on anti-sex work ideology rather than facts.

4.10 Claims that legalization increases sex trafficking

Paragraph 61 of the proposal points to a study that supposedly found that legalizing sex work increases sex trafficking³³. But this is not what the statistics from Germany show³⁴. There was an increase in sex trafficking numbers the year after sex work was legalized, but this could very well be a result of the police focusing on sex trafficking because of the legalization. After that the numbers started declining, and in 2010 they were lower than they were before legalization³⁵. And the paper includes this statement:

In terms of human trafficking victims, the ILO estimated the stock of victims in Germany in 2004 to be approximately 32,800
(Does Legalized Prostitution Increase Human Trafficking?: p. 19)

32 <http://www.ptsd.va.gov/professional/pages/forensic-validity-ptsd.asp>

33 http://www2.lse.ac.uk/geographyAndEnvironment/whosWho/profiles/neumayer/pdf/Legalization_prostitution.pdf

34 http://www.bka.de/nn_194550/EN/SubjectsAZ/TraffickingInHumanBeings/traffickingInHumanBeings__node.html

35 Bundeskriminalamt, 2010, Trafficking in Human Beings, p. 8

But according to the German authorities, in 2004 the number of trafficking victims was 972³⁶.

The paper also relies heavily on comparing trafficking statistics from different countries, this is generally a bad idea as the definition of 'human trafficking' can be radically different from one country to the next. It's an especially bad idea when one of those countries is Sweden:

The report by the Norwegian Ministry of Justice talks about a “general problem” with statistics from Sweden since they are "highly uncertain".
(The Swedish Sex Purchase Act: Claimed Success and Documented Effects: p. 8)

Indeed the authors themselves admit that their data is not solid:

Naturally, this qualitative evidence is also somewhat tentative as there is no “smoking gun” proving that the scale effect dominates the substitution effect and that the legalization of prostitution definitely increases inward trafficking flows. The problem here lies in the clandestine nature of both the prostitution and trafficking markets, making it difficult, perhaps impossible, to find hard evidence establishing this relationship.
(Does Legalized Prostitution Increase Human Trafficking?: pp. 20-21)

Additionally they argue that even if legalizing sex work were found to increase trafficking, this does not in itself support the criminalization of sex work:

The likely negative consequences of legalized prostitution on a country's inflows of human trafficking might be seen to support those who argue in favor of banning prostitution, thereby reducing the flows of trafficking (e.g., Outshoorn 2005). ***However, such line of argumentation overlooks potential benefits that the legalization of prostitution might have on those employed in the industry.*** Working conditions could be substantially improved for prostitutes – at least those legally employed – if prostitution is legalized. ***Prohibiting prostitution also raises tricky “freedom of choice” issues concerning both the potential suppliers and clients of prostitution services.*** A full evaluation of the costs and benefits, as well as of the broader merits of prohibiting prostitution, is beyond the scope of the present article.
(Does Legalized Prostitution Increase Human Trafficking?: p. 21)

Either MSP Grant did not read this paper or she was hoping that no one else would. I'm unsure which explanation would be most damning for her credibility.

It should also be mentioned that both Germany and the Netherlands legalized sex work, not decriminalized it. Thus, using statistics from these countries as arguments against decriminalization is either ignorant or dishonest.

4.11 Conclusion

This proposal makes many claims that are unsupported, and in some cases directly contradicted by the available evidence.

36 Bundeskriminalamt, 2004, Trafficking in Human Beings, p. 9

5 Closing comments

If the reason behind this proposal is a desire to help sex workers it is precisely the wrong approach. But if the article written for the Huffington Post by Alex Bryce is accurate then Rhoda Grant has made it clear that she has no desire to help sex workers, and that this proposal is an attempt to send a message about what sort of sex is acceptable. She seems more concerned with proselytizing her own narrow view of sexual morality than she is about the safety of sex workers.

Considerable emphasis was placed on the concept of 'poverty as a form of coercion' into the sex industry. And whilst Rhoda Grant pledged to fight poverty she was not prepared to recognise that her proposals would plunge sex workers into even deeper financial straits. Indeed, when asked about her justification for the collateral damage her legislative changes would cause, she claimed that damage to individual sex workers was a "price worth paying" for the settlement to be established. A fascinating insight into the mind of an individual so focused on the ideology that the impact for those she seeks to 'help' is of little consequence.³⁷

I guess sex workers are just a necessary sacrifice to Grant, which frankly makes her the sort of person who should never under any circumstances be allowed to influence public policy about sex work.

Sex workers need rights, not “rescue”. Proposals like this are ignorant both of the facts, and the wishes of sex workers themselves. Scotland’s own Scot-PEP are opposed to the ban, as are the Rose Alliance (Sweden) and the Scarlet Alliance (Australia).

Sex workers are almost always ignored in the sex work debate, even though they are the primary stakeholders. In Pro Sentrets 2007/08 survey the following question was asked: “Do you believe that the vulnerability to violence among women in prostitution will change when purchasing sex becomes criminalized?”. The majority of the sex workers were opposed to the sex purchase ban:

74% of the participants in the study said that they believed their vulnerability to violence would change. Of these 90% said that they believed they would be **more** exposed to violence after criminalization of the purchase of sexual services.
(Dangerous Liaisons: Section 3.1)

And 12% stated that they did not believe the sex purchase ban would help them.

Of the participants in the study 12% said that they did not believe their vulnerability to violence would change after criminalization.
(Dangerous Liaisons: Section 3.1)

That means that as many as 86% of sex workers did not support the sex purchase ban. They were duly ignored.

No one has greater motivation to end abuse and exploitation in the sex industry than sex workers, yet sex work prohibitionists not only ignore them but are actively trying to silence them. The prohibitionists are quick to accuse any sex worker who oppose criminalization as “not representative” or even as a “pimp”.

³⁷ http://www.huffingtonpost.co.uk/alex-bryce/sex-workers_b_2192575.html?utm_hp_ref=tw

This proposal seeks to provide law enforcement with more power over sex workers. This is extremely dangerous and shows a total lack of understanding of the problems sex workers actually have to deal with. A report by the Young Women's Empowerment Project (YWEP)³⁸ found that sex workers are frequently subjected to harassment or even violence by law enforcement. Out of the 146 incidents looked at in the report, 48 were law enforcement versus 13 for clients and 6 for pimps, the second highest source of negative incidents was health care services at 34 incidents³⁹.

Sexual Violence by Police Officers made up 11% of the total Bad Encounters reported by youth in the sex trade & street economy.
(Bad Encounter Line Report: p. 30)

If the goal is to help sex workers then using law enforcement to target the buyers of sexual services is using the wrong tool for the wrong job.

There is no denying that there are many things about the sex industry that could be improved, but all too often law enforcement is not a part of the solution, they are a part of the problem.

In conclusion this proposal is both illiberal and misguided. It is based on a view of sex work that is ignorant and outdated, it is simply unacceptable that a politician with such an appalling lack of knowledge of sex work would put forth a proposal such as this without first consulting with sex workers rights organizations such as Scot-PEP⁴⁰, the Rose Alliance⁴¹, and the Scarlet Alliance⁴². It shows a shocking arrogance that MSP Grant would presume to know what is best for sex workers without consulting them. You simply cannot present yourself as an ally to sex workers when you treat them as passive observers to their own lives.

The Swedish model is not merely unrealistic, it is fundamentally flawed. It assumes that reducing the demand for sexual services would benefit sex workers, but it also claims that most (or even all) sex workers are only doing sex work because they have no other options. If that is the case, then it is difficult to see how reducing the amount of clients would be a positive development for sex workers. It turns the sex industry into a buyer's market where the terms are set by buyers rather than sellers, and since (according to the Swedish model) sex workers have no other options, they will continue doing sex work, but they will do so under more dangerous conditions.

The Swedish model is also based on the assumption that criminalizing the purchase of sexual services will be an efficient deterrent to clients, but this makes no sense, because the only clients that are going to be scared away by a ban is the sort of client that follows the law. Clients who abuse sex workers are already breaking the law, they are unlikely to suddenly turn into law-abiding citizens simply because of a sex purchase ban. The end result is that not only is the sex industry turned into a buyer's market, but the buyers that are left are more likely to be abusive risk-takers.

The approach advocated in this proposal will shift power away from sex workers towards clients. It

38 <http://ywepchicago.files.wordpress.com/2012/09/bad-encounter-line-report-2012.pdf>

39 Bad Encounter Line Report: p. 19

40 <http://www.scot-pep.org.uk/>

41 <http://www.rosealliance.se/>

42 <http://www.scarletalliance.org.au/>

will place sex workers in a much more dangerous situation. It will reduce their ability to set their own terms, while increasing the bargaining power of clients. It will make sex workers more isolated. It will make it more difficult for sex workers to build support networks. The end result is that sex workers will become much more vulnerable.

If this proposal is turned into policy, it will not eradicate sex work, it will simply force it further underground and lead to untold harm. We need to focus on harm-prevention and empowerment of sex workers, and most importantly politicians and society in general need to respect and listen to sex workers.