

## **Response to Rhoda Grant's Consultation around a Proposed Bill to criminalise the purchase of "sex".**

### *Cover Page.*

In the pages which follow I show that the proposals put forward by Grant and Godman are not only illogical but also grounded in dangerous authoritarian, stereotyped, thinking. They would, if implemented, have seriously detrimental consequences for the promotion of the feminist cause, those the proposers ostensibly seek to protect, those who purchase the services of sex workers, and society in general.

By and large, the proposals reveal serious ignorance of many of the activities to which their proposals relate and a lack of awareness of that ignorance.

They reveal a contempt for the values, priorities, lives and livelihoods of those who would be affected, including many sex workers and the, often valuable, work they do.

The proposals are illogical in that they seek to deal with important issues (namely people trafficking, violence, exploitation, and images of women) by mounting a crusade around a very different issue, namely one specific form of prostitution.

In pursuit of this crusade they choose to ignore the huge variety of services subsumed into an umbrella category of "sex work" and the huge variety of clients who purchase different variants of those services.

The proposals are discriminatory in that they focus mainly on seeking to help those sex workers who are subject to people trafficking, coercion, exploitation, and violence and make no reference to the many other workers who are subject to these social processes.

They are sexist in that they focus mainly on female sex workers and male clients, portraying the former as victims and the latter as ogres taking advantage of all opportunities to dominate. They largely ignore male sex workers and female clients.

They are defamatory in that they project a very negative image of "sex work".

The proposal is to imprison (ie remove from the community) those who fall foul of the proposed regulations without regard for the effects on the lives and livelihoods of those concerned, their families, or their communities. Thus the proposals are reminiscent of the ways in which Hitler sought to eliminate homosexuals, Mao "bourgeois thought", and McCarthy communists.

By the same token, the writers ignore the many negative effects their proposals would have on the huge variety of "sex workers" (and their families) that would be drawn into their net.

The tone of the proposals is deeply puritanical, moralistic, and evangelical, even fascist, apparently seeking to exorcise a virus from our midst in a manner reminiscent of the way in which religious fanatics sought to exorcise heretics, Mao "bourgeois thought", and McCarthy communists. The proposers seek to impose what they take to be a pure (and uniform) way of life *by police force* after the manner of Mussolini.

In reality, the proposals are seriously unethical, if not criminal, in that they amount to an attack on human rights and promote an image of the way society should be run that would stifle diversity and thus the evolution of ways of life that might enable us to survive as a species.

These writers clearly believe that they know best what is best for other people and society, regard themselves as guardians of public morality, and are willing to impose their views on others at any cost in terms of human suffering. Such people are dangerous and to be strongly resisted.

John Raven 27 November 2012

Response to  
Rhoda Grant MSP's  
consultation on her proposed Bill entitled  
Criminalisation of the Purchase of Sex (Scotland) Bill (2)  
[http://www.scottish.parliament.uk/S4\\_MembersBills/  
Criminalisation\\_of\\_the\\_Purchase\\_of\\_Sex\\_%282%29\\_Consultation.pdf](http://www.scottish.parliament.uk/S4_MembersBills/Criminalisation_of_the_Purchase_of_Sex_%282%29_Consultation.pdf)

(Version dated 11th September 2012)

from  
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There is something uncanny, even bizarre, about this Proposal.

In essence, it acknowledges that both the purchasers and providers of a range of widely valued services provided by what is generically known as the “sex industry” are extremely diverse.

It then links the provision of these services to clearly unacceptable activities like people trafficking, exploitation, and violence (without noting that these things are rife in other sectors of “the economy”).

It then argues that the *only* way to reduce these unacceptable activities (but, strangely, only insofar as they affect sex workers) is to criminalise the purchasers of the wide range of services offered by “sex workers”.

It overlooks the fact that exactly the same logic would lead one to criminalise all purchasers of Adidas clothing (and many other things), the production and distribution of which likewise often involves people trafficking, coercion, exploitation, prostitution (viz the exercise of many intimate human capacities for the pleasure and aggrandisement of others), and the destruction of lives, families, communities and, indeed, the planet on which our survival as a species depends.

One has the impression that the proposers are either (i) casting about for some justification for criminalising something they don’t like for reasons that are not shared with the reader, or (ii) seeking in some way to advance themselves by, for example, by presenting themselves as some kind of “moral crusaders”. (The same is true of much of the “war on drugs”.)

Their fanaticism reminds one of that of the activities of religious “leaders” over the ages (imprisoning and torturing heretics), the anti-“communist” campaigns of McCarthy, the criminalisation of drinking and gambling during the prohibition era in the USA, Mao’s campaigns to exterminate those harbouring bourgeois thoughts, and the “purist” campaigns of Mussolini and Hitler.

To elaborate on these remarks.

Bizarrely, the proposers acknowledge that the purchasers of the diverse activities they categorise under the undifferentiated label of “sex” and condemn are extremely diverse.

These purchasers:

- Are sometimes male, sometimes female.
- Have a wide variety of different needs.
- Purchase a wide variety of different services, ranging from opportunities for immediate sexual gratification, through, among other things, delightful massage and wonderfully relaxing full-body psychotherapy involving intimate body contact, opportunities to exercise authority over others who can be regarded as despicable and therefore in need of punishment, to the experience of sado-masochistic activity and bondage.
- Are willing to pay widely differing amounts of money for the services they purchase.
- Have widely different opportunities to visit alternative suppliers both in the UK and abroad.

- Vary enormously in the rewards and other benefits they offer those who provide those services and the harm (if any) they inflict on some of those providing them, their families, their communities, and the environment more generally.

The providers, likewise:

Are sometimes male, sometimes female.

Deliver a wide range of very different services ranging from the crudest forms of mechanical sex to highly specialised expert services. The expertise required to deliver the latter can sometimes only be acquired through extensive experience and practice. Some of these services offer important, but rarely recognised, psychological, and social benefits to the clients, their families, and their communities.

Work in conditions which are

- Economically diverse, ranging from a desperate quest for the funds required to stay alive to the extremely comfortable. (The second group includes professionals with expertise in other fields offering sexual services as a sideline.)
- Physically diverse, ranging from streets to penthouse flats.
- Sometimes do and sometimes do not involve violently enforced commitments to repay outrageous “trafficking” costs.
- Sometimes do, and sometimes do not, involve working under duress, such as the control of pimps or the Mafia.
- May, despite the widespread desire for their work and the benefits they deliver, be socially stigmatised in the way in which actors and others delivering widely desired services have been stigmatised in the past.
- May or may not enjoy, be indifferent to, to hate all or part of their work.
- May situate their sex work in the context of lifestyles offering other non-standard patterns of life satisfaction and dis-satisfaction such as travel or opportunities to home-school their children.

Yet, despite having acknowledged this variety of purchasers and providers, the authors bizarrely go on to make draconian proposals which would criminalise tens of thousands of people engaged in variants of entirely normal (if not statistically common) and harmless behaviour and deprive others of their livelihoods and opportunities to exercise their talents – and perhaps their chosen ways of life.

These proposals would drive many providers and purchasers deep into the criminal world.

Yet the activities for which it is proposed to criminalise the purchasers have no direct connection to the abhorrent activities (trafficking, exploitation, and violence) that are put forward as justifications for the criminalisation.

And all of this is being done without mention of, indeed a seeming indifference to and lack of compassion for, the effects of that criminalisation on the small proportion of “offenders” who will get caught. Criminalisation entails not only disruption of previously continuous employment and associated income but also, as a result of having a criminal record, reduced chances of obtaining employment in the future together with an inability to obtain mortgages and insurance. Prison itself often results in people being driven (or sucked) into the criminal world, and has effects on the lives of partners, wives, and families who are faced with the task of finding ways of surviving and bringing up children without a husband,

father, and breadwinner. There is likewise no mention of possible knock-on effects arising from the withdrawal of perhaps socially important individuals from the social networks of communities.

Also disturbing is the lack of any reference to other possible ways of meeting some of the more obvious needs of some of the, perhaps most troublesome, clients<sup>1</sup>. Such alternatives might include the provision of access to same or mixed-sex dark-rooms and saunas having safe changing rooms, lockers, and cubicles.

(Unfortunately, one feels that the very idea of offering such facilities would evoke the same emotional reaction as is produced by even mentioning word “brothel” – or even the word “sex” – in the company of some of the supporters of the proposed Bill.)

The images of “sex”, “sex worker”, and purchasers of “sex services” conjured up by the proposal are crudely stereotypical and, contrary to the avowed aims of the proposal, do little to advance the feminist cause. Sex workers are portrayed as victims and the activities in which they engage somehow despicable, almost undiscussable. If the activities of those who seek their services are criminals simply because they seek those services (and not because they condone sex trafficking or violence) it follows that those who provide those services must also somehow be engaging in some anti-social (if not actually criminal) activity. Put more strongly, the image of “sex worker” embedded in the proposals is deeply defamatory, to all intents and purposes implying that the services provided are somehow disgraceful, reflecting badly on the community which “tolerates” them.

If the objective is indeed to advance the feminist cause, the proposers would be better advised to make recommendations which would promote wider recognition that many “sex workers” are involved in providing valuable services to the community and doing so in a professional way. They would seek to promote arrangements in which those concerned can deliver those services in safety without being subject to attack and exploitation on the one hand and disrespect, derogation, and stigma from other members of the community on the other<sup>2</sup>.

In fact, the proposal is sexist (in that, despite the occasional reference, it is pervaded by a stereotypical image of “prostitutes” as female and purchasers as male), discriminatory (in that its proposals apply only to sex workers and not others who are subject to people trafficking, exploitation, violence, and coercion), and destructive of human rights (in that it would both prevent many responsible citizens purchasing beneficial, quality of life enhancing, services and deprive many of those engaged in offering variants of what is stereotypically portrayed as the “sex” industry of opportunities to pursue their chosen way of life).

In short, the framing of the proposal reveals terrifying, blinkered, simplistic, stereotyped, thinking apparently driven by, at best, a desire to present Scotland as a moral beacon to the world and, less certainly, but more disturbingly, an evangelical quest to eliminate signs of the work of the devil and legislate the arrival of a pure society devoid of what some prejudicially

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<sup>1</sup> Less troublesome clients whose needs the public sector might reasonably make more effort to meet include disabled people who sometimes have difficulty finding partners.

<sup>2</sup> Some, including the World Health Organisation, have argued (and Brazil has demonstrated) that sex work offers important opportunities to disseminate experience with, and information about, the varieties of sexual behaviour and their merits on the one hand and STIs and their prevention and treatment on the other. Sex workers can also offer opportunities for people to discuss, and evolve ways of dealing with, such things as family breakdown (including eviction from the home as a result of parentally disapproved sexual behaviour).

regard as deviant behaviour.

The document reveals an alarming absence of systems thinking on the one hand and the presence of authoritarian, even fascist, predilections on the other.

Fortunately, the tone of the Document contrasts sharply with that of the report of the Equality and Human Rights Commission on people trafficking (which is cited on page 16 of the Proposal<sup>3</sup>). One can only hope that the members of the Scottish Parliament will follow the lead set by the authors of that report and not by the authors of the current document.

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<sup>3</sup> Interestingly, the "quotation" nominally from p 10 of the executive report on that enquiry does not appear on p10 of my copy of the executive report and is, in any case, out of character with the tone of the report on the Inquiry.

Nor, so far as I can see, does the report call, on page 14, for "zero tolerance". On the contrary, what is said urges us to seek to understand, and do something about, the more basic causes of the problems exposed. The sentence quoted by Grant comes from a paragraph about international travel to stag nights in Thailand. As presented by Grant it again misrepresents the general tenor of the Inquiry's conclusions.

**COMMENTS PREPARED, BUT NOT SUBMITTED, IN  
RESPONSE TO  
TRISH GODMAN'S CONSULTATION.**

The remainder of this Commentary was drafted in September of this year in response to the consultation which was expected to take place in response to the earlier version of the current consultation document that was put up by Trish Godman.

Since Rhoda Grant's proposal builds on, and fails to retract, what was said in this earlier version of the proposal, it seems appropriate to include these comments here.

This commentary is itself divided into two Parts. Part I deals mainly with the assumptions and logic which guide Godman's proposal but which also apply to the logic of much legislation introduced by modern governments. Part II deals with specific issues raised by Godman's proposal.

**PART I  
PROBLEMS WITH PROCEDURE AND LOGIC**

It is important to respond to Godman's proposal, not only because it is essential to challenge the assumptions and logic of the specific proposals that are being made (although its defects in these areas are disturbing enough), but because it is vital to halt the spread of certain assumptions and thoughtways that appear to be characteristic of much of the legislative process.

These appear to form part of a seemingly increasing, and deeply disturbing, tendency to try to deal with poorly understood problems, often simplified and exaggerated via the media, via simplistic interventions. These often involve criminalising behaviours which are sometimes engaged in, in one way or another, by very many people without study or recognition of the wider consequences that those interventions will have.

This is far from being the first time that concern about this way of proceeding has been expressed. Adam Smith and John Stuart Mill drew attention to some of the difficulties by describing the process as "government by 'committees of ignoramuses'". The members of governmental committees, because of the number of issues with which they have to deal and their distance from the problems they are discussing, usually know very little about them. As a result, they act on the basis of myth and hearsay, often informed by dark conjectures about demonic happenings that well up from the unconscious.

In this particular case, one might have imagined that some of the dangers and difficulties of proceeding in the proposed manner might have been better known to those promoting a Bill as a result of the documentation of some of the varieties of "sexual" behaviour and their origins and consequences by a series of researchers starting with Alfred Kinsey. However, it is not irrelevant to note that Kinsey wrote at a time when American prisons were full of people had been criminalised only because they had engaged in consensual activities to which neither party objected. Many of these "criminals" were the later-to-be-reprieved, and widely misunderstood, homosexuals who were deemed by people who had no real contact



with them to be a threat to the common good. As in the present case, most of the assertions on which the legislation was based came from religious fanatics whose statements had been hyped up by a media seeking to enhance their readership by activating images and fears embedded in our unconscious by suggesting that new demons are lurking in our midst. (Compare the later quest to identify and exorcise “communists” and legislation currently being introduced in Uganda to make homosexuality a crime punishable by death.)

**These generic thoughtways that lie behind such legislation include:**

**1. Allowing a single (if laudable) consideration to dominate thinking and drive out other, often more humanitarian, considerations - and especially failing to consider *all* the likely important consequences of a proposed action.**

Perhaps one of the best known examples of this process was the prohibition of drinking and gambling in the USA.

A more recent, but currently less well known, example has been legislation introduced into Spain and Turkey in connection with the laudable goal of reducing violence against women. In actuality, this has led to practices every bit as unsupportable as burning heretics at stake with a view to protecting a “pure” version of “Christianity”. In the current situation, men are being sentenced to lifetime imprisonment, without meaningful trial, on the basis of a mere assertion of a wife who got into an argument ... without any reference to the legitimacy of the argument or the possible role the wife might have played in creating the argument. Amazingly, it is actually *illegal* for the “offender” to speak to anyone about his case or present his side of the argument.

The case against “pornography” in the UK is even more interesting. Initially justified on the basis of a Puritanical objection to portraying body parts in public and, in the case of films, explicit sexual activity (a viewpoint forced upon entire Hollywood community by a small self-appointed group of activists whose manifest objective was to safeguard public morality), it later came to be justified using the violence against women argument.

But there is also something much deeper in the case of so-called “pornography”. The furore about this is essentially diversionary. The word “pornography” in fact refers to that which is likely to corrupt and deprave. But nothing could be more corrupting and depraving than the endless portrayal of interpersonal violence, glorified acts of war, and the selling (largely on the basis of their connection to sex) of endless goods and service the purchase of which adds little to quality of life but does destroy our habitat and thus our chances of survival as a species. A focus on the trivial thus serves to deflect attention from the serious.

More recently, legislation dealing with “Extreme Pornography” has been vigorously promoted on the grounds that “pornography” (undefined) is offensive to women<sup>1</sup> (undefined and generalised ... almost anything is bound to offend someone) and encourages violence against women. Few of these claims are supported by evidence ... indeed the collection of evidence is generally seen as irrelevant. The result has been (i) disrespect for, and disregard of, the law, (ii) extreme persecution of the few who get caught in ways that destroy their lives and livelihoods by exposing huge chunks of their private lives to public scrutiny and leaving them with criminal records which make it extremely difficult for them, at any time in their lives, to arrange employment, mortgages, or insurance, (iii) dissipation of police resources and vast amounts of public money, and (iv) the creation of diffuse climates of fear



of outlandish police intrusion into peoples' homes on the suspicion that one of the occupants might be engaging in one or another of a range of activities that are, in reality, essentially harmless and of no concern to anyone other than those involved. The prosecution (involving grotesque displays of police force, deception, and intrusion and the subsequent public display of details of his private life, loss of his job, and destruction of career) of Simon Walsh<sup>4</sup> for nothing more serious than having an email containing a picture of a gas mask (expertly described as "a potential danger to human life") in his home beggars all faith in the ability of our institutions to act in a sane and reasonable way and the integrity of those who administer the "law".

The UK government's activities leading to the resignation of the Nutt committee on drugs has many similar elements. "The government" simply did not wish to understand the problem or take account of the horrifying effects (in terms of destruction of the future career and livelihoods) of criminalising a few for activities in which many, if not most, people engage. All they seemed to be interested in was being seen to oppose something deemed demonic and "unhealthy"<sup>2,3</sup>.

At this point it may be useful to comment that the kinds of activities described above seem to result, not merely from such things as assumed directive from God to eliminate – imprison – people who have values and priorities which differ from one's own, but also from a fundamental inability to handle complexity. They stem from simplistic images of the problems and fail to consider the multiple consequences of the actions being promoted. Put another way, they arise in part from a failure to appreciate that common-sense-based intervention in complex systems almost always produces counterintuitive, and usually counterproductive, results.

## **2. Legislating on the basis of inadequate knowledge, public myth (often based on media hype), or pronouncements of self-appointed "guardians of morality".**

The cases of homosexuality, the burning witches, and the torturing of heretics – where prescriptions were derived from bigoted, nominally "religious" (but certainly self-righteous), "authorities" who had virtually no knowledge of the range of relationships covered by the terms and were indifferent to the, even seriously unchristian, consequences of what they were doing for the lives of those directly or indirectly involved – have already been mentioned.

The drugs/cannabis situation, in which the public outcry was largely orchestrated, via skilful manipulation of the media, by those with huge financial stakes in the outcome, has likewise been mentioned<sup>5</sup>.

Current examples of legislation being introduced on the basis of hyped-up "public opinion" and hearsay (without careful study of either the problem or the actual consequences of the legislation introduced) include that relating to "Binge drinking". Here, the problems are themselves largely created by inappropriate policies based on false conjectures and assumptions about what is going on. Systematic observation reveals a largely orderly and unproblematic process in which the real problems are not at all what they are (largely as a

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<sup>4</sup> See <http://www.newstatesman.com/blogs/politics/2012/08/porn-trial-defendant-cleared-all-counts>

<sup>5</sup> See endnote i.

result of media hype) commonly taken to be. Perhaps the most important of the real problems is the general absence of appropriate spaces in which to engage in consensual sex. Bushes, alleyways, and toilets are anything but ideal!<sup>4</sup>

### **3. Acting on the basis of simplistic beliefs and opinions (almost sound-bites) which have spread like viruses through the international community of legislators.**

A charitable view of the situation would be that most legislators are in the position of having to enact legislation relating to so many issues that they have little time to study any one of them carefully. They therefore rely on guidance from others. Too often the guidance from others amounts to fashionable, but uninformed and prejudiced, hearsay. This is the position noted by Adam Smith, John Stuart Mill, and Fred Hayek.

A less charitable view is that many legislators are more concerned with the impact that being seen to be involved in supporting the legislation will have on their own prospects for re-election and advancement than with the public good.

In recent years we have seen many examples of concern with personal advancement overriding other considerations. Perhaps one of the most conspicuous has been the way in which many who previously ardently promoted “communist” arguments rapidly changed the colour of their spots, reaping huge financial rewards in the process, when it became expedient for them to do so.

But advancement can also be bought by supporting measures which either appeal to psychopathic “leaders” or to a public who have been manipulated into believing that certain forms of behaviour are abhorrent.

Examples of advancement being bought by appearing to support popularised, simplistic, “solutions” to complex problems include the previously mentioned campaigns relating to drugs, homosexuality, religion, and “violence against women”.

But it is worth digressing to take a look at public reaction to the widely experienced problems of the educational system (see endnote iii).

For more than half a century researchers in many countries have established that current “educational” arrangements damage about one third of the population.

Politicians who have claimed that they have some magic solution to the problems posed by the system have, therefore, been able to recruit considerable public support (although support for the particular “solutions” that have been proposed has mostly come from those who know least about the problems).

In reality, the problems as experienced by individuals arise from the system’s failure to generate ways of recognising, nurturing, and credentialing the particular talents they have --- and, contrary to what many people believe, there is a huge variety of these.

Dealing with these problems requires levels of systems thinking in which few politicians have the time, or, it often seems, the inclination, to engage. Not surprisingly, therefore, they promote simplistic “solutions” which have often been derived from political speeches (designed to evoke emotions which will advance the careers of those who gave them) that

have been given at international conferences of legislators. Given their source, these easily verbalised and superficially attractive proposals are rarely questioned. Indeed they are often venerated by other people as emanating from some authority who is believed to have special competence and understanding in the area.

In the case of “education”, the “solution” to the diverse and difficult problems that arise has come increasingly to be seen as lying in “high stakes” testing at a selection of ages from 5 to 30. This framework of testing has then been reinforced by armies of curriculum-writers seeking to generate teacher-proof materials, inspectors (OFSTED), attendance officers, and so on who enjoy not only the relatively high incomes, but also the sense of power, that results. (Similar developments could be expected to follow increasing regulation of the “sex industry”.)

All of this has the effect of exacerbating the problem as experienced by the previously mentioned third of the population. Notably, these students are increasingly seen, like many of the “prostitutes” who are the subject of the present proposal, as being neither capable nor worthy of contributing to the “solutions” that are about to be imposed upon them. Worse, they are then not seen as having a right to employment or income<sup>5</sup>.

This observation applies *a fortiori* to the issues to which the current consultation relates.

The moral is clear: following fashions (mental viruses; media sound-bytes) that are spreading through the international network is no way to develop policies appropriate to dealing with any presenting problem as it is experienced by sub-sets of the population.

If a reasonable way forward is to be found it is going to come from acceptance of variety, experimentation and learning. It is not going to come from the centralised prescription and enforcement of authoritarian,, single-variable, solutions developed on the basis of assumptions, stereotypes and hearsay.

## **PART II COMMENTS RELATING SPECIFICALLY TO TRISH GODMAN’S CONSULTATION DOCUMENT**

Although it is my intention to turn now to issues specifically related to the proposed Bill, it is nevertheless useful to begin by making some general observations relating to the treatment of sex in puritanical cultures.

It should not escape notice that more puritanical cultures tend also to be those most characterised by the “work ethic”. Unfortunately, it is this “work”, much of it devoted in the end to the production, distribution, deployment, and disposal of physical goods, that is currently destroying our planet – and thus our chances of our survival as a species – at an exponentially accelerating rate.

Nothing could be more unethical.

Given the plight in which we find ourselves as a species, many people have realised that it is essential to “change the rules”<sup>6</sup>. This is reflected in such things as exhortations to focus on “quality of life” rather GNP. Such an objective requires us to pay more attention to the

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<sup>6</sup> Barker, M. (2012)

actual sources of life satisfaction. Among these, the material possessions with which “the economy” is so preoccupied are among the least important<sup>7</sup>. In many cases, pursuing greater life satisfaction whilst consuming fewer resources implies more relaxed attitudes toward enjoyable activities many of which involve variants of sexual activity. Among other things, this implies changed attitudes toward activities which are often singled out from many others of a similar (although often much darker) character for designation as “pornography”, “promiscuity”, “infidelity”, and “prostitution”.

In the past, concern with sexuality has, in puritanical cultures, been regarded as somehow tainted. It is almost impossible to mention or discuss sex in polite company. Such “discussion” as there is, is often conducted in terms of crude, and often vulgar, banter.

At the same time, the very words “pornography” and “prostitution” have come to be reserved for use in a sexual context to the neglect of other, often much more serious, forms of pornography and prostitution.

Thus pornography – viz that which is likely to corrupt and deprave – has come to refer mainly to the explicit portrayal of the sex act and to exclude such things as the portrayal of interpersonal dominance and violence as “normal”, to be admired and emulated, rather than as corrupting and depraved. Likewise, the massacre of millions of people through the war machine is daily portrayed on television and glorified in events such as the Edinburgh Military Tattoo. The term “pornography” is almost never applied to advertisements disseminating deeply destructive values and marketing material possessions which entirely fail to deliver the personal and social, even sexual, benefits they purport to offer. Yet these activities are often deeply destructive of the lives of many of those who produce them, those who mine the commodities deployed in the production process, the environments from which the necessary materials are extracted, those who market the products themselves, and those who dispose of the products of production. If the word “pornography” is to be applied to anything it should surely be applied to this entire collection of activities which corrupt and deprave the minds of generations.

The word prostitution – meaning the *selling* of the labours of one’s body and mind for the satisfaction of others – has likewise come to be applied mainly to the selling of often the crudest types of sex – when it in fact applies to the widespread enforced selling – indeed enslavement – of physical and mental labours for the benefit of others.

Tens, if not hundreds, of thousands of people find themselves forced by armies of “benefits” officers and lawyers (earning vastly more than most “pimps”) to engage against their will in work which is dangerous, personally degrading, and socially and environmentally destructive from both a family and societal point of view. Many workers of all kinds are “trafficked” across international borders and exploited on arrival ... and millions more (whether they or we like it or not) seek to be so “trafficked” in order to escape from the conditions in which they live. Very many more “choose” to be employed in difficult, dangerous, demeaning, and exploitative work deploying their bodies in degrading ways in order to sustain a livelihood. Why single out sex workers for “protection” in the extraordinary way envisaged in the proposal under consideration here – a way which would criminalise, and potentially destroy the lives and livelihoods, of many entirely humane and responsible citizens who have committed no crime more serious by those perpetrated by the vast majority of the population? More than that, if the proposals were effective, they would deprive many of those who work

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<sup>7</sup> Marks, N., Simms, A., Thompson, S., & Abdallah, S. (2006)

in the “sex” industry of their current livelihoods and, in all probability, force them to seek more degrading and demeaning sources of income. (Note that some sex workers, even those who work under otherwise unsatisfactory conditions, have more freedom to engage in other desired activities [such as child care and drug-based experiences] that would not be open to them in many of the other types of “employment” that are available.)

In reality, of course, many workers, whether sex workers or not, have some choice of the kind of work they do, many enjoy that work, and some workers of all kinds are stigmatised and ridiculed by some others. Most of the population derives satisfactions from the results of the labours of all these people despite the fact that the production and marketing activities that lie behind them are, in actuality, seriously unethical.

This blinkered application of the terms “prostitution” and “pornography” has been accompanied by a widespread unwillingness to acknowledge the existence, let alone the legitimacy, of the huge varieties of sexuality that exist within and between cultures. Indeed, there has been a persistent tendency for many of those living in puritanical work-cultures to condemn many forms of consensual sexual/erotic activity.

Changes in the “rules” are long overdue. Why is it, for example, that it is widely accepted that it is appropriate to pay for expert services (which, in reality, often fail to deliver the desired benefits) in, for example, psychotherapy, whilst payment for sexual services, expertise in the delivery of which may have taken equally long to acquire and which may, in reality, have much more beneficial quality-of-life enhancing and therapeutic effects, is widely regarded as inappropriate?

Why is it that the trafficking and exploitation of sex workers is regarded as requiring special legislation in comparison with the trafficking and exploitation of agricultural workers, factory workers, and many others in relation to whom the arrangements to enforce existing legislation are often grossly ineffective?

The authors of the consultation paper opine that:

“People who buy sex do so of their own free will, whereas the majority of prostitutes are unwilling participants in this exchange of cash for sex. It is time to place the purchaser in an entirely different role, namely as one who commits a criminal offence”

It is necessary only to replace the word “prostitute” by “employees” and “sex” by “their services” to see the absurdity of the statement if treated narrowly (although, ironically, the sentence as revised is actually astute if correctly interpreted). It can also be written as the majority of workers prostitute themselves by selling the labours of their bodies and minds for cash.

The consultation paper also opines that:

“It is widely accepted that demand fuels prostitution and only by targeting this demand can this harmful activity be stopped.”

But demand also fuels the production of fashion clothes – Nike, Adidas, etc. – often by seriously exploited workers both in the UK and elsewhere. It would be absurd to argue that these harmful production and distribution arrangements can *only* be stopped by criminalising the demand for them.

The consultation paper cites Glasgow city council (which is somehow regarded as having some kind of moral authority and special insights in the area despite the ease with which its attention was diverted to emotive discussion of such issues to prevent it paying attention to the fraud and organised crime that was taking place in its housing and urban planning and development offices) as saying:

*“we want something that challenges the acceptability of prostitution. At the moment, buying sex is viewed as something that men do, to which there is an entitlement, and which causes no harm. It is an individual transaction. We want there to be a clear message that that is not the case, and that buying sex has an impact: it supports organised crime and brings harm to women and their families. The proposed change sends out a clear message about the kind of Scotland that we want.”*

Why should this be singled out for attack? Buying much branded clothing has similar personal effects and buying cars much more damaging effects on society.

If this is the kind of Scotland Glasgow City Council and the Scottish Government wish to construct I do not wish to be part of it. And a society which proceeds in this illogical and bigoted way is certainly *not* the sort of society I want to live in!

Apart from anything else, even their most basic assumption is conspicuously wrong. It is not only men who buy sex and building any kind of policy on such assertions and the assumptions behind them is terrifying. The statement amounts to nothing more than a rabble-rousing sexist declaration citing an authority whose pronouncements have no evidential weight. It reminds one of the kinds of racist claims the Nazis made about Jews.

“Whatever the numbers, there is a principle at stake, individuals are harmed by prostitution and Scotland should call time on those who sustain prostitution and those who profit from it”.

One has only to substitute “their work and the conditions in which they live” for the word prostitution in this sentence and one has a statement with which one can wholeheartedly agree. However, doing that immediately results in a mental substitution of “some” before “individuals” and thus dramatically changes the perceived implications of the original statement.

The tone of the statement is not only moralistic. It is also evangelical. It conjures up an image of Scotland acting as a moral beacon to the world.

The “background to the consultation” paper states that

There have been a number of UK studies providing useful background information in this area. Some of the findings are disturbing for example 75% of women in prostitution became involved when they were children<sup>4</sup>; 70% spent time in care and 45% report experiencing sexual abuse during their childhoods<sup>5</sup>. More than half of UK women in prostitution have been raped and/or seriously sexually assaulted at the hands of pimps and others; up to 95% of women in street prostitution are problematic drug users<sup>6</sup>; and 68% of women in prostitution meet the criteria for Post Traumatic Stress Disorder in the same range as victims of torture undergoing treatment<sup>7</sup>.



One is forced to wonder about the nature of the samples on which such extraordinary statistics could be based.

The answer is in the research paper that is cited. It reads:

The data on which I am drawing in this paper was generated by in-depth interviews with forty-six women, all of whom had become involved in prostitution before they were 18. At the time of the interviews, 32 were still involved in prostitution. Approximately three-quarters of those interviewed were street-working prostitutes. These are thought to be the most vulnerable and exploited of all sex industry workers (O'Connell-Davidson and Layder 1994). Indeed evidence suggests that most teenagers work on the streets, which is estimated to be ten times more dangerous than working from houses or flats (Adams *et. al.* 1997).

From a naive point of view, it hard to believe that those who are proposing draconian legislation such as that envisaged in the consultation paper can believe that figures derived from a study based on such a sample are generalisable. Possibly, their citation represents a failure to do homework thereby discrediting themselves as a group able to form a balanced judgment. More likely, their citation represents selective reporting designed to create a particular image.

The other study cited is, however, both serious and interesting. However, even allowing for the difficulties involved in conducting studies of this sort, it is clear that the arrangements made to recruit the participants somehow did not enable them to contact a representative sample.

The sample does not seem to include any male sex workers. Beyond that, there do not appear to be any representatives of the considerable number of escorts who advertise such services as "travel companionship", "dinner companion", "dance partner" or, among male escorts seeking both male and female customers "Boy Friend Experiences"<sup>8</sup>. Nor is there any mention of the considerable number of people who regularly visit, or are visited by, the same sex workers over a longer period of time for a wider range of activities other than those conveyed by the popular interpretation of what is meant by "sex".

In this context it is interesting to note that, the Edinburgh University Student newspaper ("The Student") recently carried an article outlining the benefits and hazards of engaging in sex work (with a view to raising the cash needed to live and pay fees) in which they specifically advised their readers that the most difficult part of the job is not what might be understood by the term "sex" but engaging in the social activities associated with it.

Although I cannot place my finger on it, I have the distinct impression that even such common practices as oral and anal sex were frowned upon by the interviewers who conducted the study reported here. I can only imagine how they would have reacted had they come across many of the varied and widespread activities documented by Kinsey and others

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<sup>8</sup> The Wikipedia entry on male prostitution current at the time of writing reports that women constitute a significant sector of the sex tourism industry and that, when doing so, they are seeking a holiday they will enjoy. Such a holiday is in part defined as one which will include a "temporary boyfriend" who will fill the roles of sexual partner, dining companion, tour guide, and dancing companion/instructor - and sometimes procure softer illicit drugs like marijuana and ecstasy for them.



who have seriously studied the variants of human sexual behaviour.

One thing which does emerge from lateral thinking stimulated by the research just mentioned (although the authors entirely fail to comment on it [instead reinforcing conventional mean-minded thoughtways seeking to drive those concerned off the streets]) is that many of the needs of at least some of those who were interviewed could easily have been met by making bars and saunas offering, among other things, mixed sex darkrooms with lockers and cubicles, more widely available.

Indeed, just as local authorities might be required to enact their duties to provide adequate public toilets (instead of preferring to rake in fines [funds] from persons urinating in the street), one might reasonably lay upon them a duty to offer their citizens safe premises, equipped with condoms, lube, etc., in which to engage in sexual and similar activities.

The study's failure to include male sex workers has already been mentioned. Yet there are some interesting studies in this area. Some years ago the Wikipedia included information derived from a study of male sex workers. It emerged that *both sex workers and their clients* came from all walks of life, ranging from judges to street people. It also gave the fees to be expected for offering/receiving a wide range of different types of service.

Another study, this time in Scotland<sup>9</sup>, also focussed on male sex workers. In most cases, the money involved was indeed of some importance. But many had other reasons for engaging in the work. These included experiencing, and developing expertise in, a wider range of sexual activities than those concerned would otherwise have encountered and even searching for a lover.

In this context, it is important to note that few regular sex partners are able to deliver a wide range of different types of sexual experience and that developing expertise in any one of them demands time and effort. It is hard to see why the effort required to develop these areas of expertise should not be seen as so open to financial reward as developing expertise in other areas ranging from singing to psychotherapy. Just as most singers offer their services for free but some make a living out of it, so most of those seeking and offering sexual experiences do so for free while others make a living out of it. Most psychotherapy is provided by friends who make no charge for their services. But some people make a living out of it. It is difficult to see why someone hiring a sex worker should be persecuted whilst another hiring a singer, musician, or guard should not. It is true that sexual activity may result in procreation and thus inflict longer term costs on the provider. But times have changed. Unsafe sex may indeed have substantive consequences ... but that's not why most people engage in sexual activity. And purchasing the services of a soldier or garment worker may certainly have unforeseen and unrewarded long term consequences for the individuals concerned, their families, and their communities.

Yet, despite the information contained in the reports they cite and in other available research reports, the authors of the consultation paper say that

“Th(is) consultation paper focuses on women as victims and men as the perpetrators”

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<sup>9</sup> Joffe, H., & Dockrell, J. E. (1995)

This focus, and the assumptions behind it, are sufficient to make one's flesh creep. The blatant sexist nature of the sentence mirrors the focus and assumptions behind the previously mentioned Spanish and Turkish legislation that has led to the lifetime imprisonment of many men and led in the past to people being burned at stake for "heresies". Many sex workers are not women. Most sex workers are not victims. Many sex workers derive great satisfaction from being with at least some of their clients. Some seek, and find, love. Some use the income to purchase other desired benefits (such as travel or education). Others escape from tyrannical regimes, from destructive families, from so-called, but actually destructive, "educational" programmes, or from what is essentially slave labour in manufacturing, service, or agriculture.

Most of those who sell "sex" – a term which, as we have seen, encompasses a huge range of different activities – often in return for other services, are not regarded as prostitutes. Most of those who sell much less cost-effective relaxation therapies on the basis of false claims are not labelled as criminals. And the vast majority of those who sell goods and services purporting to lead to the acquisition of desired sexual experiences – from those marketing or selling fashion clothes to those selling erotic films and audio recordings – are actually eulogised. One is tempted to accuse the authors of hypocrisy.

The consultation paper advocates "The Swedish Model" citing various statistics in support.

But these statistics simply cannot be taken at their face value.

Experience suggests that draconian criminalisation of desired activities does not get rid of them: Criminalisation of homosexuality did not get rid of it: it only drove it underground, inflicting misery on many, and destroying the lives and livelihoods of the few who got caught. Criminalising cannabis smoking has had a similar effect. Prohibition of alcohol and gambling in the US similarly.

So what is one to make of the Swedish statistics? What can be wrong with them? Of course the behaviour has not gone away. What can have happened to it?

The obvious suspect is concealment of the activity ... which means that it will be much more difficult to get people to come forward to provide the relevant information and even more difficult to deal with the many real problems which exist in the area.

In fact, Dodillet and Östergren<sup>10</sup> have reviewed a remarkable range of studies in the area and come to conclusions very different from those presented in the consultation document. For example, in 2010, ten years after criminalisation, the Swedish National Police Board stated in a press release that 'Serious organized crime, including prostitution and trafficking, has increased in strength, power and complexity during the past decade.' (Rikspolisstyrelsen 2010).

It is known from other sources<sup>11</sup> that one effect of the legislation has been the temporary import of non-national, financially desperate, sex workers. Such workers are unable to offer major potential benefits like continuing "relaxation therapy" in a secure environment. These workers are much more subject to exploitation by those who organise their even-more-clandestine working arrangements. It becomes impossible to offer such people the

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<sup>10</sup> Dodillet, S. and Östergren, P. (2011)

<sup>11</sup> Magnanti, B. (2012)

kinds of support previously available to national sex workers because they dare not show up with problems because they might be required to identify their, now criminal, clients and those who make the now even more unsatisfactory arrangements to meet them. This prevents exposure of behaviour which really does need to be exposed and dealt with. Then again, it can be difficult for the authorities to engage them as witnesses in the prosecution of “offenders” because the sex workers are free to go to some fictitious “home” having committed no offence themselves.

Dodillet and Östergren found many cases in which these remarks apply to National sex workers as well. Under the circumstances, there arise enormous barriers to reporting even seriously criminal activities. And neither can clients report important information ... such as their observations of pimps. Many of the sex workers surveyed felt that they were never consulted and are being used by politicians to create a false moralistic image of their country as a beacon to guide the world. Far from advancing the feminist cause they felt that the legislation presented them as powerless and despicable. The prejudicial image of sex workers is embedded in the legislation itself. They are presented and treated with contempt. Perceived as scum, their views are treated as not worthy of consideration.

The authors conclude that the discrepancy between their findings and the official “findings” presented by those promoting the legislation on the world stage has to do with a desire to present Sweden as a shining light to the world on the international stage. They say:

“It has to do with a desire to create and uphold a national identity of being the moral consciousness in the world; with notions of “good” and “bad” sexuality; with the whore stigma; with creating new forms of sexual deviancy; with a communitarian, rather than liberal, political culture, and perhaps above all: a stereotypical and uninformed understanding of prostitution.”

The legislation has also promoted sex tourism. This leads people to spend money on the energy needed to engage in internet activity with unknowable contacts in other countries and to divert money into much more unethical activity like fuelling the coffers of “low-cost” airlines and paying for the fuel they consume ... destroying the atmosphere in the process. (Incidentally, the internet now consumes more energy than the entire world-wide aviation industry or, put another way, the entire economies of France and Germany combined.)

The claim that the Swedish laws have widespread public support should likewise carry little weight. There was, in the UK, widespread public support for burning witches and heretics at stake, hanging “criminals” for stealing a loaf of bread, persecuting, even electrocuting, homosexuals and subjecting them to debilitating mental treatments, criminalising possession of “pornography”, and even for using the four-letter Anglo-Saxon “f” word. And, in Mao’s China, for attacking, imprisoning, and killing millions of people, on the say-so of a single informant, for entertaining “bourgeois” thoughts. Public support for executing homosexuals is currently rife in Uganda. Public behaviour is fickle and easily manipulated – particularly by those proposing draconian simplistic “solutions” organised around idealistic notions of purity<sup>12</sup>.

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<sup>12</sup> One needs only to remind oneself of the grip of fascism.

There have been other dramatic changes in “public opinion” in the UK. Other professions previously despised and stigmatised despite the benefits of the work being desired by many have included acting (especially by females)<sup>13</sup>.

But there are still more serious and basic problems with the proposal.

Those proposing the legislation use the term “sex” in an unexamined way.

They are clearly unfamiliar with the range of services explicitly offered in advertisements placed by “sex workers”. I have seen escorts offering everything from sado-masochistic experiences, bondage, and “watersports”, to companionship when attending company board meetings, travelling, or attending a formal dinner or dance. Some sex workers will engage more than willingly in many such activities at very low fees because they take them to places they would otherwise never have visited and enable them to meet people with whom they would otherwise never have been able to interact.

The authors of the consultation paper are clearly unfamiliar with – and would probably be horrified by – even consider “bestial”, “animal”, or “inhuman” – the range of sexual activities in which researchers such as Kinsey (who was prevented from mounting a further study to document the *frequency* with which people engage in these activities) have shown people commonly engage.

Finally, we may offer some brief comments on the scope of the net it is proposed to cast to entrap possible offenders

The authors make it clear that they wish to include those exchanging “sex” for goods and services, specific mention being made of such things as the tacit exchange of hotel rooms and meals for enjoyable, intimate, and erotic activity.

The mind boggles. On such logic many “marriages” and “partnerships” would fall within the net.

It seems that one can take a friend out to dinner but cannot conclude a delightful evening by engaging in a more engaging and intimate relationship.

To say the least, such legislation would create a goldmine for lawyers.

Where is the boundary? Is selling cosmetics with a view to attracting a partner for sex to be viewed as payment for an activity ancillary to a crime? Is the orgasm often associated with creative acts in areas from mathematics to athletics to be regarded as sex (as Freud argued) so that hiring a computer programmer to generate a website is to be regarded as payment for sex (it can certainly involve payment for intimate erotic activity)?

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In conclusion, the proposal is flawed from beginning to end. It is based on conjecture, hearsay, and almost total ignorance of the complexity of the issues under discussion. Like legislation relating to drug-taking, it is devoid of compassion for the unlucky few whose lives and livelihoods will be destroyed by court procedures and subsequent criminalisation or even

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<sup>13</sup> See Nussbaum, M. (2008)

for the plight of the sex workers whose incomes will be destroyed.

By singling out for attention the conditions in which sex workers live and work from those in other occupations who live and work in similar conditions and then prescribing a different treatment the proposal is not only illogical but deeply sexist and discriminatory.

Most seriously there is no sign of the systems thinking which is required to understand and intervene in complex social problems and anticipate the multiple, counterintuitive, and usually counterproductive, effects of many common-sense-based interventions – and especially those grounded in single-factor, centralised, command and control thinking. By failing to do these things the proposal demonstrates that its advocates are unfit to hold a place in any legislative assembly.

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And so to our final conclusion.. The real criminals in this case, as in the case of so-called drug-takers, porn-viewers, drug pushers, and porn promoters, are not those who are most often regarded as the criminals in the case but those ... who actually include most of the population. .. who have failed to shoulder their part of the responsibility required to address the fundamental social issues involved and protest against the simplistic, uncritical, thinking that gave rise to the problems in the first place.

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## Itemised Summary.

1. The vast majority of the population are more or less forced to sell their bodies – the labour of their minds, hands, arms, backs, legs, voices – for monetary reward. What is so different about sex?
2. While, like proffering sexual services, this work can be enjoyable, much of it – especially given the way it is organised – is extremely damaging to the individuals concerned, their families, their communities, society more generally, and our habitat and therefore our species.
3. Most of it is highly unethical – consisting of the production, distribution, and marketing, of junk foods (cf obesity), junk toys, junk insurance, junk pharmaceuticals, junk “security” systems, junk "education" (most "education" is deeply damaging to many of those concerned), junk legal and law enforcement systems, and junk "defence" services (manufacturing and selling, guns, fighter planes, rockets, ammunition, and bombs which result in millions of people around the globe being murdered and maimed annually).
4. The marketing of many of these goods and services is heavily reliant on fraudulently misrepresenting their purchase as a route to sex. This would seem to be much more unethical than selling sexual services directly.
5. Much of this work is also highly coercive and exploitative of those involved. Conspicuous among those activities is a great deal of mining, agricultural production in many countries, and the manufacture of clothes whose logos drip with blood. But these are only the most conspicuous activities: much work in the UK is conducted under extremely demeaning and exploitative conditions. (It is surely preferable to be a sex worker in at least reasonable conditions than to be stamping body panels for BMW on "work only on demand" contracts.)
6. Much of this work involves selling a fraudulent illusion of sex in place of the real thing: buying these clothes, these cosmetics, this car, this training programme, will lead to the sex one desires.
7. Much of this work is executed purely for the pleasure of others ... working on the manufacture and staffing of cruise ships, restaurants, manufacture of fashionable clothes, "acting" (especially as "extras") in films and TV programmes, the building of elaborate houses.
8. Huge numbers of men and women are trapped into highly destructive marriages and other relationships in order, in effect, to purchase sex in a nominally legal and acceptable way.
9. The craze for criminalising activities – of every kind (many simply because other people do not like them) – has been spreading like a virus through the international community.
10. Singling out directly sexual activities for derogation as "prostitution" or "pornography" is deeply tainted by puritanical values. Other varieties of prostitution have already been mentioned. Pornography is defined as that which will deprave and corrupt. It follows that the most virulent pornography in the media is that which induces people to purchase socially and environmentally destructive goods and services .... and especially that which glorifies violence, destruction, and war.
11. Many sex workers derive great satisfaction from at least some of their clients, some seek and find love, some use the income to purchase other desired benefits (such as travel and education). Others escape from tyrannical regimes, from destructive families and so-called "educational" programmes, from what is essentially slave labour in manufacturing, service, and agriculture.
- 12 Many of those willing to pay for "sex" (which has many variants besides penetrative sex) derive important mental health and quality of life benefits from the services they purchase. These are often much greater than those which could be derived from less intimate forms



- of psychotherapy and "counselling".
13. The tendency to prescribe what others can, shall, and shall not, do (as would be the case if this bill passed into law) must itself be considered among the most unethical, even contemptible, human activities since it results in such things as prescriptions to burn disbelievers at stake and to enrol citizens in military "services" which inflict endless damage on those conscripted, their families, and their communities and which result in the murder and maiming of millions of others.
  14. Intolerance of diversity is another highly destructive human characteristic. Nurturance of diversity is crucial to the evolution of the radically different way of life we require if *homo sapiens* and the planet as we know it are to survive. The huge variety of sexual desires and satisfactions has been well documented by such authors as Alfred Kinsey. These cannot be incorporated into the rigid frameworks (mostly grounded in stereotypical thinking) envisaged by puritanical groups. The same can be said of many other frameworks including, not least, that being pursued via the draconian centrally designed "educational" programmes being inflicted on youth. This is not the place to develop this wider argument, but it does have important implications for perceptions of the way forward in creating environments which will nurture and promote diversity in human relationships, not least sexual activity.
  15. The history of attempting to proscribe widely desired human activity ... from drinking alcohol to same-gender sex ... shows that it always has endless undesirable consequences for both those directly involved and the wider community.

## **ENDNOTES**