

International Union of Sex Workers response to amendments 11A to 11C to the Criminal Justice and Licensing (Scotland) Bill (SP Bill 24).

The International Union of Sex Workers is the only UK organisation of individuals themselves working in the sex industry. We are the people who see reality of the industry day to day. We are the people who will be living with the consequences of the decisions that you make.

We campaign for laws that prioritise and protect the human rights and safety of everyone in the sex industry, whether by choice, circumstance or coercion, and for the inclusion of those who will be affected in decisions which concern our rights and safety. Although the amendments proposed do not explicitly criminalise selling sex, they vastly increase the web of criminality by which sex workers are surrounded: this cannot be to our benefit.

It is generally the case that proposals for increased criminalisation of consensual adult commercial sex are based on the allegation that they will decrease violence against people in the sex industry, prevent trafficking and coercion in the sex industry, and dissuade people from entering the sex industry in the first place.

There is no evidence for these outcomes. Indeed research suggests that increased criminalisation at best *makes no difference* if measured against these outcomes, and that a range of harmful unintended consequences ensue.

- There is no evidence that demand for commercial sex is the primary cause of trafficking: trafficking occurs in the sex industry for the same reasons it occurs in other industries.
- There is no evidence that the majority of sex workers are unwilling. Research finds a range of reasons people enter and remain in sex work.
- There is no evidence that trafficking for sexual exploitation is demand led.
- There is no evidence that most purchasers of sexual services wish to buy services from the unwilling.

There is considerable evidence that criminalising consenting commercial sex is harmful both to those directly involved and to society as a whole – criminalisation has been recognised by UNAIDS and the UN Secretary General as contributing to the spread of HIV.

“In countries without laws to protect sex workers, drug users and men who have sex with men, only a fraction of the population has access to prevention. Conversely, in countries with legal protection and the protection of human rights for these people, many more have access to services. ... Not only is it unethical not to protect these groups; it makes no sense from a health perspective. It hurts all of us.”

United Nations Secretary General Ban Ki-moon

Amendment 11A Engaging in a paid-for sexual activity

This seems intended to criminalise sex workers' clients, i.e., giving the state the power to overrule a woman's consent to sex, but is so broadly drafted that sex workers may be subject to prosecution as well as our clients.

The Swedish National Board of Health and Welfare has carried out surveys since the criminalisation of clients and in 2007 concluded “This is the third time we have done such a survey ... once again ... it is difficult to get a clear cut picture on the extent of prostitution.”

Don Kulick sums up the harm done to people in the sex industry by “the Swedish model”: “The truly surprising thing is not that the law impacts extremely negatively ... The truly surprising thing is that politicians and feminist groups ... resolutely ignore these negative consequences in their continual insistence that the law is good. ... the law may indeed feel good for those who are only interested in ... ‘sending a message’ they don't like prostitution. But for those involved in sex work, the law ... is a disastrous throwback to an era of violence, exploitation,

persecution and police harassment that many of us thought could never be possible in a country that is supposedly so enlightened and progressive as Sweden.”

The only UK academic to repeatedly examine the role of demand in trafficking into the sex industry, Julia O'Connell Davidson, concludes: “...we could almost say that supply generates demand rather than the other way about... attempts to suppress the prostitution market, whether focused on sex workers or their clients, necessarily implies subjecting those who sell sex to what Radin describes as “the degradation and danger of the black market ... *it is ... hard to see why anyone genuinely concerned with protecting and promoting human rights would place measures to tackle consumer demand for commercial sex at the top of their policy agenda*” (Italics ours.)

Amendment 11B Advertising paid-for sexual activities

If made law, this amendment sends a clear message to everyone in the Scottish sex industry that our lives and our livelihoods are of no importance to our elected representatives. It is disingenuous and hypocritical to allow the sale of sexual services to be described as a legal act, and yet prevent us from advertising that legal service.

The amendment will directly push sex workers into the hands of (criminal) third parties as we will be committing an offence if we advertise our own (legal) services.

11C Facilitating engagement in a paid-for sexual activity

This amendment is the one that will have the most immediate consequences in terms of increased violence against sex workers, as it imposes a legally enforced isolation. Although all the amendments combine to infringe the Universal Declaration of Human Rights, this is the most direct breach - Article 20, section 1 states “Everyone has the right to freedom of peaceful assembly and association.” Again, the breadth of criminalisation means that everyone associated with sex workers if we work together in ways that increase our safety will be at risk of prosecution.

These amendments, if passed, ensure that the isolation, vulnerability and social exclusion of everyone in the sex industry are built solidly into Scottish law. The social and legal framework in which the sex industry is placed perpetuates our exclusion and increases our vulnerability to violence and other abuses.

Exclusion and vulnerability are perpetuated by those who refuse to listen to our complaints of actual violence and real abuses because they consider all our work to be violent and abusive. The abuses we suffer are used to argue for the eradication of our work, by those who dismiss the voices of sex workers that contradict their ideological positions.

Tackling violence against people in the sex industry requires listening to what we say when we talk about actual violence. That this can be done successfully has been demonstrated in Liverpool. With the assistance of specialist services, Liverpool police are achieving a 40% detection rate for rapes committed against street sex workers reported to the police; six times higher than the national average for *all* women. 90% of cases for violence against sex workers that went to court during 2005 to end March 2009 resulted in convictions. To do this means treating crimes of violence – rather than the placement of advertisements – as a priority: there is an inherent contradiction between the police role of protection and enforcement.

A community's worth is measured by the way it treats the most vulnerable. We ask that the Scottish government treat women, men and transgender people who sell sex and adult entertainment services as equal members of society and pursue policies that prioritise our rights and safety.