

Sex work is not 'commercial sexual exploitation'

a briefing
from SCOT-PEP

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Sex work is where an adult consensually sells or exchanges their sexual labour. It is not intrinsically violence. Sex workers are people of all genders, who are entitled to human rights and labour protections – crucially, within sex work, as well as if they choose to leave. The phrase 'sex work' does not deny that exploitation exists any more than the phrase 'domestic work' denies that some people experience exploitation within the sphere of domestic labour; however, to use the phrase 'sex work' roots the solution to exploitation in sex workers' calls for 'rights, not rescue'. Sex work is often conflated with trafficking, and this conflation and the policies that result from it harm the rights and safety of migrants, sex workers, and migrant sex workers.

Sex work – including activities such as pole dancing and stripping, as well as brothel work, escorting, and street-based sex work – are defined in Scotland as 'commercial sexual exploitation'.

Equally Safe, the Scottish government document that lays down this definition¹, codifies into current Scottish policy an argument familiar to sex workers and sex worker rights advocates around the world: sex work, sex workers are told, is intrinsically 'violence', and in particular, violence against women². For example, the Swedish government, which also holds this analysis, states: *'the distinction between voluntary and non-voluntary prostitution is not relevant'*³.

Many well-meaning people might instinctively support the definition of sex work as violence against women. For people who have never

knowingly met a sex worker, the diversity and complexity of sex working experiences and lives is liable to have been diminished by simplistic media portrayals and the stigmatising assumptions our society fosters.

Even if people reason that such a definition might well lack a degree of nuance, the ways in which this definition *harms* sex workers is, in general, apparent only to sex workers and those familiar with advocating for sex workers' rights. Therefore, many well-intentioned people might miss this crucial perspective. The insight of sex workers in matters of designing sex work policy is critical both for reasons of justice and of pragmatism, and so this briefing paper lays out the key ways in which the Scottish Government's definition of sex work – as intrinsically a form of violence against – women *creates and exacerbates* profoundly serious harms to sex workers.

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1 *Equally Safe*, Scottish Government 2014, <http://www.scotland.gov.uk/Resource/0045/00454152.pdf>, p8

2 *'Prostitution is a form of violence against women that is inherently harmful'*: Councillor James Coleman, Chair of the Glasgow Violence Against Women Partnership, <http://www.scotsman.com/news/opinion/letters/sex-workers-1-3165519>

3 *The Swedish Law to Criminalise Clients*, Ann Jordan, 2012, Program on Human Trafficking and Forced Labor, Center for Human Rights and Humanitarian Law, American University, Washington College of Law. [http://www.nswp.org/sites/nswp.org/files/Issue-Paper-4\[1\]_0.pdf](http://www.nswp.org/sites/nswp.org/files/Issue-Paper-4[1]_0.pdf), p3

The key harms fostered by the conflation of sex work with commercial sexual exploitation, and violence against women, are that this conflation:

- Makes *invisible* the violence that sex workers themselves define, meaning there is no incentive to pursue policies that reduce that violence;
- Provides political justification to push for policies that demonstrably *increase* violence against sex workers, as defined by sex workers themselves;
- *Impedes harm reduction strategies*, by positioning harm reduction – such as non-judgemental health services – as akin to condoning the ‘violence’ that is sex work; and
- Means that in Scotland, sex workers are *systematically excluded* from policy-making around sex work, as participation in Scottish sex work policy discussion requires pre-emptive ‘agreement’ with the definition of sex work as commercial sexual exploitation.

Makes invisible the reality of violence as sex workers themselves define it, meaning there is no incentive to pursue policies that tackle that violence.

‘To see all sex work as violence, against the wishes of the specific sex worker you’re speaking to, treats our consent as meaningless – which is the position of an abuser, [and should not be] the position of a support service.’⁴

When sex workers object to the *definition* of sex work as violence, they are not denying that violence and exploitation are often present in sex workers’ workplaces: no one knows that reality better than sex workers themselves. Criminalisation is a fertile ground for human rights abuses. But policy-makers and campaigners who insist that sex work is, by definition, violence deprive sex

workers of their voice, and attempt to apply to a multiplicity of diverse contexts, a single, monolithic, dangerous ‘solution’.

Furthermore, this conflation means there is no incentive to pursue policies that reduce the violence that sex workers themselves identify. If sex work *is* violence, and so is sexual assault, then disrupting a sex worker’s workplace can be presented as ‘tackling violence’ in the same way that preventing or punishing sexual assault is. That’s despite the fact that limiting or displacing a sex workers’ ability to sell sexual services, or disrupting their workplaces, might force them to seek out unfamiliar or risky work venues, making them *more* vulnerable to violent individuals.

To define sex work as intrinsically violence renders invisible the fact that some sex work contexts are markedly more dangerous than others – for example, sex workers who work indoors and with a friend are half as likely to suffer violence as sex workers working outside⁵ – and therefore obscures the need to observe which sex work contexts are *safer* (and why), and learn policy lessons from those observations.

Provides political justification to push for policies that increase violence against sex workers

The things that sex workers define as violence against them – robberies, assaults, sexual violence, as well as harassment from members of the public, and things such as the threat of eviction from landlords – *all increase* when anti-prostitution policies are implemented⁶.

UK Home Office research found: ‘*Police operations can have the effect of reducing the number of men seeking prostitutes in an area. Women, sometimes desperate to earn money to fund drug use, will still go out on the streets, often at a later hour, remaining there for longer, thus increasing their vulnerability*’⁷. However, if

4 <http://confideinfo.com/why-have-we-set-this-up/>

5 *Violence and Sex Work in Britain*, Kinnell, p46

6 Petra Boynton (2006), *Sex workers to pay the price: UK plans to cut street prostitution will threaten sex workers’ health*. BMJ. 332 (7535), p190–191; Phil Hubbard (1998) *Community action and the displacement of street prostitution: evidence from British cities*. Geoforum 29: p269–86; Teela Sanders (2004). *The risks of street prostitution: punters, police and protesters*, Urban Studies 41: p1703–17; Crago et al (2014), *Human rights violations against sex workers: burden and effect on HIV*, the Lancet.

7 *Tackling Street Prostitution: Towards an holistic approach*, Marianne Hester and Nicole Westmarland, Home Office Research Study 279, 2004, p24.



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sex work itself is defined as violence, anti-prostitution policies can be promoted as 'anti-violence', and 'in the best interest' of sex workers.

For example, *Being Outside* (a report by Expert Group on Prostitution in Scotland) notes that anti-prostitution legislation – specifically that which targets kerb-crawlers, in this instance – can heighten risks to sex workers, through displacement and an increase in stigma⁸. Street-based sex workers have described the harmful impact of kerb-crawler crackdowns that *Being Outside* warns against, stating⁹: 'Car pulls up, you haven't got time to check it out as well as you like, it's just in and off'¹⁰. The guidance¹¹ on 'street prostitution' that the Scottish Government issued to local authorities as part of its response to *Being Outside*, however, re-frames sex work as intrinsically violence against women¹², and therefore recommends 'an effective strategy to tackle demand for prostitution... taking effective enforcement action against those who seek to purchase sex on the street'¹³, and in 2007 the Prostitution in Public Places Act (Scotland) was introduced, criminalising kerb-crawling. Violent attacks on street-based sex workers, as reported to outreach workers, increased by 95% in the first six months after the legislation was implemented. One street-based sex worker in Glasgow, asked about the changes brought in by the introduction of the kerb-crawling law said, '[it used to be] a lot safer – there were tolerance zones and it felt like the police were there to protect you – but they've taken all that away. I used to feel I could talk to the police if I had a problem, but now that's changed. People have started changing how they work [in response to the legislation]... they are going out

of areas they usually work in because clients don't want to risk coming in [to Glasgow's street-based sex work area] where the cameras are... what I have started doing is going out later – two or three in the morning – to avoid the police... it has got more dangerous'¹⁴. To crackdown on clients might seem progressive and 'anti-violence', but evidence shows that the intensification of violence is the same as if criminalisation had been directly that of sex workers themselves¹⁵.

Furthermore, when sex work is conceptualised as intrinsically violence, additional violence becomes acceptable in order to 'rescue' women from sex work. When the saunas in Edinburgh were raided by police, in June 2013, one woman told SCOT-PEP: 'I felt so bad, so violated. I've never been so humiliated in my life'¹⁶. Women were detained for over seven hours, strip-searched, their personal phones and money taken and never returned. Edinburgh Violence Against Women Partnership (EVAWP), which upholds the Scottish Government definition of sex work as intrinsically violence, subsequently noted: 'We support this police action'¹⁷.

'Support' services in Scotland advocate for the arrest of their service users, with a manager at Glasgow Community Safety Services (GCSS) telling the Guardian: 'We don't wait until [prostitutes] say they want to exit and we share all our info with police... We try everything to engage with them. That could be a [criminal] charge, which puts them in a system where they have support.'¹⁸ Questions of consent ('we don't wait until prostitutes say they want to exit...') and violence ('a criminal charge, which puts them in a system...') are more or less collapsed here into the idea of 'support': incarceration,

8 *Being Outside: Constructing a Response to Street Prostitution*, A Report of the Expert Group on Prostitution in Scotland, 2004: <http://www.scotland.gov.uk/Resource/Doc/30859/0024989.pdf>, p66.

9 *Tackling Street Prostitution: Towards an holistic approach*, Marianne Hester and Nicole Westmarland, Home Office Research Study 279, 2004.

10 <http://www.theguardian.com/media/2002/sep/16/crime.comment>

11 *Guidance for Local Authorities and Their Community Planning Partners on Street Prostitution*: <http://www.scotland.gov.uk/Resource/Doc/1099/0051328.pdf>

12 *Guidance for Local Authorities*, as above: 'street prostitution... amounts to an abuse of the women involved': <http://www.scotland.gov.uk/Resource/Doc/1099/0051328.pdf>, paragraph 13.

13 *Guidance for Local Authorities*, as above, paragraph 12.

14 *Violence and Sex Work in Britain*, Kinnell, p79.

15 *Criminalisation of clients: reproducing vulnerabilities for violence and poor health among street-based sex workers in Canada*, Krusi et al, 2014, British Medical Journal, <http://www.ncbi.nlm.nih.gov/pubmed/24889853>

16 <http://www.scot-pep.org.uk/news/i-felt-so-bad-so-violated>

17 Edinburgh Council Public Consultation: Sauna Licensing: comments from the Edinburgh Violence Against Women Partnership, December 2013, p2.

18 <http://www.theguardian.com/society/2013/jul/15/scotland-prostitution-debate-criminalisation-legalisation>



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with its attendant humiliations, evictions, or loss of child custody, is now 'helpful', whether that 'help' was wanted or not. Sex workers report the state's occasional removal of their children as among the most harrowing violence they experience¹⁹.

Impedes harm reduction strategies: This definition means that service provision for sex workers cannot be person-centred.

Instead of listening to what an individual person needs or wants, health and support services in Scotland have to talk to sex workers with a 'one-size fits all' cookie-cutter approach.

Furthermore, when sex work is defined as 'violence', policies and approaches that permit a person to continue to sell sex – focusing instead on their safety, and on solving the issues that they identify as problematic for them – at best make no sense, and at worst can be viewed as 'encouraging' the 'violence' that is sex work. This is hugely damaging: even for people who do wish to leave sex work, issues such as housing and employment mean that 'exit' does not happen overnight; and if harm reduction schemes are impeded, the safety of those people who are looking towards leaving is threatened alongside the safety of those who intend to continue to sell sex.

The obstruction of harm reduction is sometimes very clear. Ugly Mugs schemes have been run – at first informally, by sex workers, and now on a more formalised basis – around the UK and the world for several decades, recording what sex workers define as violence (attacks, assaults, robberies), and passing on information to warn other sex workers. In 2006, Julie Bindel, a high-profile British

feminist, wrote: '*such schemes... can be seen as a way to maintain women in the sex industry, as opposed to assisting their exit from it*'²⁰, raising as a spectre the idea that warning women about potential perpetrators of violence is of questionable value if those women continue to sell sex. When National Ugly Mugs (NUM), the Home Office pilot of a nation-wide Ugly Mugs scheme to assist sex workers in sharing information about violent offenders approached an NHS-funded sex worker support organisation in Glasgow, NUM were rebuffed. Rosie Campbell, OBE, told SCOT-PEP: '*An ideological position seemed to override practical advantages and improvements for sex workers*'. Hilary Kinnell writes, of such situations, that harm reduction measures '*can be rejected lest they 'encourage' women to enter or remain in prostitution, by making it safer and, therefore, more attractive. The logical corollary is that violence against sex workers should not be prevented, because it acts as a control on the numbers of women involved*'²¹. Permitting violence against sex workers as a form of 'discouraging' sex work cannot be an acceptable bargain.

In Sweden, where sex work is again defined as violence against women, harm reduction has been impeded to the extent that distributing condoms to street-based sex workers is officially discouraged²², with Stockholm Prostitution Unit declining to distribute condoms while on outreach. This has led to desperate sex workers shoplifting condoms around Stockholm's street-based sex work district. The provision of condoms to clients of sex workers had to be stopped after a national outcry, during which such an activity was compared to providing '*tools with which to commit a violent offense*'²³. Sweden gathers no data on HIV prevalence among sex workers.



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19 *Violence in sex work extends to more than risks from clients*, Ward & Day, 2001, British Medical Journal. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1120842/>

20 *No Escape? An investigation into London's service provision for women involved in the commercial sex industry*, Julie Bindel, 2006, Poppy Project. <http://projectrespect.org.au/system/files/poppysurveyfinal.pdf>, p15

21 *Violence and Sex Work in Britain*, Hilary Kinnell, p29 – 30.

22 *Swedish Abolitionism as Violence Against Women*, Jay Levy, 2013: http://www.sexworkeropenuniversity.com/uploads/3/6/9/3/3693334/swou_ec_swedish_abolitionism.pdf, p4.

23 *ibid*, p5

Sex workers are systematically excluded from policy-making and service delivery around sex work

Sex workers – who inevitably speak from a huge diversity of experiences – are automatically disqualified from participation in sex work-related policy-making in Scotland, unless they adhere to the Scottish government’s definition. Participation that is premised on only being listened to if you say the ‘right’ thing is not real participation.

The World Health Organization states that sex workers should not only participate in, but lead in policy discussions around sex work, emphasising: ‘a [sex worker] community-led approach to planning, delivering and monitoring services for sex workers is essential’²⁴.

Because sex workers are not permitted into policy discussions about sex work in Scotland, they have no opportunity to challenge the definition that keeps them excluded. This leads to absurdities like Edinburgh City Council’s ‘expert working group on men and women selling sex’ containing no men or women who sell sex. Glasgow city councillor James Coleman, who chairs the Glasgow Violence Against Women Partnership, refused to allow a sex worker-led support service to join, stating: ‘it appears that your organisation does not take the view that all prostitution is a form of violence against women’.

Sex workers in Scotland have no meaningful input into planning, delivering, or monitoring services for sex workers. If sex workers had meaningful input into policy spaces that discuss their ‘needs’, it seems unlikely that organisations such as the Edinburgh Violence Against Women Partnership would respond supportively to police raids that sex workers described as ‘violating’. In excluding sex workers and sex worker-led groups – even when those groups are already doing service delivery – from the discussion, the Scottish Government is in violation of the WHO’s *minimum global standards*²⁵, as well as in violation of basic justice and common sense.



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²⁴ *Implementing Comprehensive HIV/STI Programmes with Sex Workers: Practical approaches from Collaborative Interventions*: http://www.who.int/hiv/pub/sti/sex_worker_implementation/en/, pXVII.

²⁵ *Ibid*, pXX