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Introduction. Sex Work in the UK: Stereotypes and Statistics in the 21st Century

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Abstract

This introduction to the collection of papers on *Sex Work in the 21st Century* takes the UK as an example to demonstrate the kinds of data which can be found from which to develop informed argument about the current state of legal regulation and the need for change.

Key words

Sex work data; UK legal regulation; UK policy debate

Resumen

Esta introducción a los artículos sobre trabajo sexual en el siglo XXI toma como ejemplo el Reino Unido para mostrar el tipo de datos que se pueden encontrar y desde los cuales se pueden desarrollar argumentos documentados sobre el estado actual de la regulación jurídica y la necesidad de cambio.

Palabras clave

Datos sobre trabajo sexual; regulación jurídica en el Reino Unido; debate sobre la política del Reino Unido

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1. Background: Current Law and Policy in the UK

LAW: The legal position in England and Wales is complex and confusing, and has recently been the subject of an inquiry by the Parliamentary Home Affairs Select Committee. Northern Ireland since 2014 has banned paying for sex. But paying or charging for sex is not illegal in the rest of the UK, provided that the provider is aged over 18, though certain more visible associated activities are forbidden, including soliciting for custom in the street, placing advertisements in public phone boxes, or kerb crawling by clients, and running a brothel (defined as any premises where more than one sex worker is present and working). And in a further small move towards liberalisation, in 2009 the Policing and Crime Act introduced Engagement and Consent Orders which provide courts with an alternative to fining those convicted of loitering or soliciting and instead enabling courts to require attendance at meetings with a court appointed supervisor, who will help with providing support and access to services that might otherwise be out of reach including medical care, housing and drug/alcohol dependency programmes.

<u>POLICY:</u> What position is taken by the various political parties? The leader of the opposition Labour Party, Jeremy Corbyn, stands with the Amnesty position and has long been in favour with them of total decriminalisation of consensual sex work. He said recently: "I don't want people to be criminalised. Let's do things a bit differently and in a more civilised way" (Jeremy Corbyn, cited in Mason 2016). He is opposed by the previous interim leader of the Labour Party and Minister for Equality who preceded him, Harriet Harman MP, who supports the Nordic model, criminalising men who buy but not women who sell. She tweeted in response: "Women should be protected and men prosecuted" (Harman 2016).

The Government however, presents its case as concern about exploitation of harm to the sex workers, and seeks more information before adopting a clear position.¹ The House of Commons Home Affairs Committee, which has cross party membership of members of parliament responsible for considering government policy, in early 2016 launched a major inquiry into "prostitution", with a view to considering whether the balance in the burden of criminality should shift to those who pay for sex and away from those who sell it. February 18th 2016 was the closing date for the submission of written evidence, and parts of this evidence were published shortly afterwards. The Home Office evidence submitted says: "[W]e have not seen any unequivocal evidence that any one approach is more effective at tackling harm and exploitation, which remains our priority" (Home Office 2016, p. 6). The European Union (EU) seems to have been moving the other way, following the European Parliament's non-binding resolution of 2014 in favour of criminalising purchase (EP resolution of 26-02-2014). The Home Affairs Committee, Keith Vaz, said:

This is the first time that Parliament has considered the issue of prostitution in the round for decades (...). It is a polarising subject with strong views on all sides (...) this interim report will be followed by final recommendations when we consider other options, including the different approaches adopted by other countries. As a first step, there has been universal agreement that elements of the present law are unsatisfactory. Treating soliciting as a criminal offence is having an adverse effect, and it is wrong that sex workers who are predominantly women should be penalised. The criminalisation of sex workers can be too afraid of prosecution to work together on the same premises, which can often compromise their safety. There must however be zero tolerance of organised criminal exploitation (...) the Committee will evaluate the sex buyers law as operated in Sweden, the full decriminalised model used in Denmark and the legalised model used in Germany and the Netherlands. (Home Affairs Select Committee 2016)

¹ Though a current minister was at the time subject to press attention for having had a relationship with a dominatrix some time before entering government and concealing this while now responsible for regulation of the press.

On the 6th of September however, Vaz stepped down from his position as committee chair following revelations that he had hired two young male sex workers inviting them to his flat, suggesting that they brought drugs to enhance the occasion, while pretending to be a washing machine salesman named Jim. The complex reaction to this development included statements from colleagues saying that private life is private, and even suggestions that this experience made him better qualified to investigate sex work. There were no legal issues for him to answer with respect to the sex work arrangements as such, but there could have been issues in relation to the suggestion that he had offered to purchase drugs for the young men to enjoy perhaps at the meeting. Vaz apologised, retained his seat in Parliament, and shortly afterwards was elected to the House of Commons Justice Committee.

The government responded to the Home Affairs Select Committee's initial findings to date (Prostitution Cm 9361, 2016) by reaffirming the policy of tackling the harm and exploitation that can be associated with prostitution and sex work, and quoting the a study from South Bank University (Bindel *et al.* and LSBU 2012) which had found around two thirds of those involved had experienced violence from buyers, and recognising "the strong arguments for commissioning a research project into the prevalence and nature of prostitution in England and Wales" to enable evidence based policy based decision making promising to scope such a project.

The policy debate in the UK remains, in the government's view, about safety. Sadly the reality of police and Crown Prosecution Service action has not consistently been found to be so. For example, the recent x:talk Project report published in October 2010 refers to recent changes in police behaviour, which they say is mainly because sex work is now so often equated with migration, exploitation and trafficking whereby both coercive and coerced providers may be adversely affected (x: talk Project 2010). Of course there are grave issues here, but there are other strategies which could well be more helpful than further criminalisation, given that sexual assault and fraud are already covered by the criminal law. If we think back to the recent debate in the United Kingdom about deciding to criminalise forced marriage, this took place without any evidence to suggest that criminalising already criminal behaviour was helpful, but rather that it might make matters worse by making it harder for women to speak out about their concerns. A good example of a positive intervention was described at the x:talk Project (whose conference I attended in February 2016 on St Valentine's Day in the East End of London). The x:talk Project has as a priority the teaching of English language to migrant sex workers as a way of enabling them to explain themselves to the police, to open bank accounts and avoid cash transactions, to access health and benefit services, and last but not least to be better able to negotiate a fair price with their clients. This articulate and energetic group which developed from the Wages for Housework movement of the 1970s values the protection of the current law of the land which covers health and safety at work, personal safety, and honest trading for all citizens. But they also support the right to an honest day's pay for an honest day's work, whatever that work may be. They do not seek specific protection for sex work per se. As sociologists of law, those present at the Oñati Workshop on sex work in 2016 might well agree with the UK government's view on the wisdom of basing any attempt to reform the law on the best available information, providing research is not an excuse for delaying action. But the first task is to get beyond the stereotypes. The second part of this paper therefore looks at what evidence is available.

2. Stereotypes and statistics

<u>STEREOTYPES</u>: At present the stereotypical sex worker is presented in the media most often as a young trafficked female from the global South without residence papers, or from Eastern Europe without English language. Clearly these groups exist and are in need of support. But this stereotype does not provide the whole story. We need to look carefully at what information is available about the different groups involved in sex work, and about sex workers as a group.

<u>STATISTICS:</u> When the Wellcome Museum for the History of Medicine in London recently presented an exhibition on erotic experience, the statistician David Spiegelhalter, Professor of Risk in the University of Cambridge, was invited to prepare an account of existing data and to rate its reliability. He published *Sex by Numbers*, which collects data on what are we all doing, how often we do it, and how it has changed over time, cutting through the confusion of scaremongering in the press and dubious scientific studies to the *real* story of sex in society. He draws on a wide range of data sets ranging from the NATSAL survey [the national survey of sexual attitudes and lifestyle, NATSAL-3, 2010, British, which interviews 15,000 men and women, conducted by NATCEN (National Centre for Social Research, a highly regarded survey organisation)] and presents the widest survey of sexual behaviour since the Kinsey Report, all the way through to providing marketing information on purchase of sex toys. Nothing is taken for granted. The sources of data quoted are graded by level of reliability. The book was published for the Wellcome Foundation in 2015.

The questions addressed in the book include: Is there reliable data on the numbers of prostitutes, the number of clients, the size of the industry, and patterns of use and payment? Professor Spiegelhalter's answer is *Yes...* but only up to a point

Chapter 4 of *Sex by Numbers* (Spiegelhalter 2015) presents the available data on prostitution, the pox (Sexually Transmitted Disease) and involuntary sex, ie having sex against your will.

NUMBERS:

How many sex workers?

The first question to be raised asks: is there reliable data on the numbers of prostitutes, the number of clients, the size of the industry and patterns of use and payment. Spiegelhalter suggests that there is, and comments on the long tradition of counting prostitutes in England (Spiegelhalter 2015, chapter 14). For example, in 1796 a police magistrate Patrick Colguhoun guessed there to be 50,000 in London, 2,000 of whom were well educated, and 3,000 who were above the rank of menial servant. There were also 20,000 who were members of the lower classes who live wholly by prostitution, and 25,000 living partly by prostitution who cohabit with labourers and others outside matrimony (Colquhoun 1796). As the population of London was then in the order of 1 million, Colquhoun was estimating that one in five women were prostitutes and one house in 60 was a brothel (Spiegelhalter 2015, pp. 257-258). Estimates varied wildly at this time, and only fifty years later Dr William Acton's report published by John Churchill in 1857 stated that it was estimated by police that there were only 8,500 prostitutes in London. Police estimated that 1,000 of these were well dressed and living in brothels, 2,600 were well dressed and walking the streets, and 5,000 were "low", infesting low neighbourhoods. To the religious these women were temptresses to be controlled (Acton 1857). For Acton they were women in economic need, who should be regulated to control disease.

How many clients?

We have less information on this matter in the United Kingdom, and must turn firstly to the US. In the 1940s Kinsey held that 69% of US men had visited a prostitute at some time, including a higher proportion of older men, and the average frequency per client was five times a year. While in England and Wales NATSAL in 2010 estimated that 3.6% of men in the past five years (including proportionately more of the 25-34 age group) had paid for sex, and 9% of men had paid for sex at some time in their lives. The proportion had increased between 1990 and 2000, but no association was found with ethnicity or class, but only with age. UK prostitutes are not held to be the primary source of Sexually Transmitted Disease infection, as condoms are more likely to be worn with paying than with non-paid partners. Very few women paid for sex, only 1 in 1,000 in 2010 (The DHS Program n.d.).

The next question arising is about *the size of the industry*. In 2014 the Office of National Statistics estimated the contribution of prostitution to the UK economy as £5.7 billion (the estimate was required by the European Union as part of the UK data on National Accounts and estimates of gross domestic product). The Office for National Statistics estimated that there were 61,000 prostitutes working in the United Kingdom, working 52 weeks a year and seeing 25 clients a week at £67 per visit. If so, individual net income would be £87,000, a rather unlikely figure. The writer and sex worker Brooke Magnanti, whose professional name was Belle de Jour, thought this was ten times too high (Magnanti 2014), while blog *TaxRelief4Escorts*, written by a Cambridge graduate with a maths degree, stressed that by his calculations many sex workers were working legally and paying tax already.

The various estimates use different data sources, with different effects on their reliability and validity. For example, using the US capture recapture techniques (Spiegelhalter 2015, p. 262) on the UK Network of Sex Work Projects led to an estimate of 48,500 prostitutes. And the greater prevalence of prostitution in London can affect attempts to estimate national prevalence. The Association of Chief Police Officers carried out Project Acumen by collecting information from advertisements, and using expert knowledge, estimated there to be 30,000 sex workers in England and Wales (Jackson *et al.* 2010, p. 5).

But the industry is changing rapidly, and the internet is making it easier to start up as an independent sex worker. For example, *adultwork.com* advertises 31,000 individual sex workers, including 11,000 men. So, according to Spiegelhalter, the ONS estimate of 61,000 nationally may not be reasonably accurate.

The cost per visit was estimated by using *PunterNet.com*, a TripAdvisor for British prostitutes saying what went on during sex work and what prices were paid: the result was an estimate of average cost at £100 per hour, the average length of visit was 75 minutes, and 90% of those reporting to the website would recommend the service. *PunterNet*, however, does not include street workers, nor the high cost sex workers.

The Office for National Statistics estimated that the number of transactions is high, as many women work part time, but an income of £100,000 a year is just not plausible. If 2% of all men told NATSAL they paid for sex last year, and there really were 1,250 transactions per woman per year, then each active male client would be buying sex three times a week, which is unlikely.

Spiegelhater concludes that it is not easy to produce precise numbers, but also that it is not impossible to produce estimates and identify trends.

The fourth and most important question is *how many women are trafficked for sex and harmed*?

In 2009, Member of Parliament Denis MacShane announced that there were 25,000 sex slaves in the UK (MacShane 2009). *The Guardian* had claimed earlier in April of that year that 80% of the 80,000 women in prostitution are foreign nationals, most of whom had been trafficked (Gupta 2009). This was contradicted the next day by Dr Belinda Brooks-Gordon, a socio-legal researcher in London, who claimed that inflated trafficking statistics were being used by those trying to abolish prostitution, and were deliberately conflating legal sex work with illegal trafficking and abuse (Brooks-Gordon 2009). Project Acumen, who interviewed 254 women from 142 premises, concluded that 10% had been trafficked though none had been kidnapped or imprisoned, and very few had been subjected to violence (Jackson *et al.* 2010, p. 27).

Are there stronger figures on trafficking?

The Home Office figure for trafficked cases is 4,000, but Project Acumen estimated only 2,600. Spiegelhalter thinks even this lower figure is too high, and though these

are without question serious crimes, that poor statistics are being used as a general weapon against the sex industry.

The new National Referral Mechanism established by government for such cases received 580 referrals in 2013 for the sexual exploitation of adults, of which a third on investigation were classified as *trafficked* (see National Crime Agency figures for 2013 at Spiegelhalter 2015, chapter 14, fn 27).

Finally, we might compare these figures with those for the number of people who have had sex against their will (not necessarily involving physical violence). This is perhaps the most problematic topic of all in this field of data collection. There is no clear answer to questions to be answered: how can we count rape when we cannot define it, when variation in reporting and recording is assumed to be great? The number of prosecutions or convictions is little help. But trends may be helpful even if total figures are not precise. In England and Wales, in the year ending March 2014, 20,725 rapes were recorded, a 27% rise over the year before. But we do not know whether this shows an increase in events or an increase in the willingness to report events. Figures from the Crime Survey for England and Wales are considered more reliable, and give an estimate of 85,000 (one in 200) rapes of women, 90% of whom knew their attacker, plus one rape in 1,000 population for men (Ministry of Justice *et al.* 2013).

The NATSAL, when asking about "sex against your will", found that 29% women reported having such an experience, for whom 10% the act was completed, with a median age for the victim of 18 (Spiegelhalter 2015, p. 282).

For men, the figures were 6.4% having experienced involuntary sex, and for 1.4% of the men the act was completed, and the median age was 16.

3. Concluding Observations

So having looked at the statistics and the stereotypes, we find a real attempt by Spiegelhalter to set paid sex in the context of everyday behaviour, but also to check the incidence of non-consensual sex and trafficked sex work. It looks very much as if the trafficked group, though of course a cause of great concern, may not constitute the main group of sex workers. A considerable proportion of sex workers choose their profession, and simply seek decent working conditions and a good rate of pay for a reasonable number of hours, just like everyone else.

The groups we hear less about in the press, some of whom I met at The x:work Project on February 14 2017 included, amongst others:

- 1. Phone sex workers who spoke of how they could work at home, safely, do not need child care, and can spend time with their children;
- 2. Workers in massage parlours; also often safe, in good company, with a steady income;
- 3. Single practitioners whose work situation is legal but more risky;
- 4. Workers who share a flat, who are safe but whose position is illegal.

Any attempt to strengthen the criminal law regarding injury and exploitation is of course to be welcomed. But we may need to think also of the civil law where any change must be advised to consider regulating for health and safety, and a proper rate of pay for all workers including sex workers.

Since the 2016 Workshop in Oñati and the Home Affairs Committee inquiry in London, there has been renewed discussion from the various positions taken with respect to sex work and the law. Is prostitution always violence against women and should therefore be subject to criminal law? Do penalties drive sex work underground and thereby increase the dangers for those earning their living in this way, from choice or necessity? A new and widely discussed strongly feminist contribution from Kat Banyard in *Pimp State: Sex, Money and the Future of Equality* was published by Faber

& Faber, in London, shortly after the Oñati Sex work Workshop (2016). The arguments are clear and straightforward: demand for the sex trade is not inevitable, consent cannot be purchased, and the porn industry exploits its workers and normalises sexual violence. The same data has been examined by Melissa Gira Grant, who reached the opposite conclusion, focusing on labour rights. Both sides are dissatisfied with the present legal regime, which leaves prostitutes vulnerable to both clients and law enforcement. There are alternative responses. Violence towards sex workers could be treated as hate crime. Criminal records for those leaving prostitution could be cancelled or concealed. But the final decision remains a moral one: is buying sex inherently wrong? Or, to quote Helen Lewis, writing in The New Statesman, "is it only wrong in a world driven by sexual and economic inequality?" (Lewis 2016). She goes on to give her own position as supporting whatever framework will cause the greatest reduction in misery, and the view that clients are largely gross. Banyard (2016) has taken the sex work is work argument to its extreme, suggesting that female bank employees of the future might be asked to include sex work in their contracts of employment as an extension of the duty to entertain clients, and that brothels might be able to discipline or fire sex workers who refuse a particular client or type of service. Legalisation in Germany in 2002 led to the establishment of mega brothels, largely staffed by migrants who work as independent contractors. Paradise, in Stuttgart, serves 55,000 men a year, while sex workers pay a daily fee for the room and city tax. Brooke Magnanti, from the higher income end of the market, says that treating sex workers as victims is patronising. Banyard's book focuses on the sex workers at the lower end of the market and seeks protection. Lewis poses the question: do those seeking full decriminalisation want to minimise harm first with a view to reducing the volume of sex work? Or are they making the fundamentally libertarian argument that the state has no business restricting a free market?

This paper ends with reference to another less visible but longstanding group of sex workers: the older ladies. The most famous in London was the much loved Cynthia Payne (1932 to 2015). Her obituary in *The Times* (2015) describes how when her house (32 Ambleside Avenue Streatham) was raided in 1978, a sex party was in full swing with more than 50 guests including members of parliament, Commons and Lords, barristers, solicitors and business men. She famously offered poached eggs and a chat, with discounts for pensioners. Her biography written with Paul Bailey, *An English Madam: the life and work of Cynthia Payne*,² was made into a film starring Julie Walters called *Personal Services*, in 1986. She served six months in prison, and on release was collected from Holloway Prison by a retired judge and longstanding friend in his limousine. She emerged unscathed and later stood as a parliamentary candidate.

This group of ladies made a widely publicised reappearance in a Youtube film clip entitled *My Granny the Escort* (2014). This was taken from a BBC documentary made in 2016 about Cynthia Payne (or Madame Cyn, as she was affectionately called) and her tradition of providing comfort, relief from tension, or loneliness, and seeing her ladies as members of the caring professions. Madame Cyn said many of her gentlemen just came along to watch, or enjoyed doing a bit of gardening or hoovering in return for a little bit of humiliation. She said: "The way my little house was run definitely saved marriages". In 1988 and 1992 she stood (unsuccessfully) for Parliament. She might have made an excellent chair of the Home Affairs Committee Inquiry. But her spirit lives on. The Youtube clip *My Granny the Escort* (2014) is a kindly account of shy young men, and lonely older men being looked after by three sprightly and rather jolly older ladies. One 84 year old lady was working full time for £350 an hour. When asked by the interviewer how she had got into this kind of work,

² She stood for parliament in 1988 in Kensington receiving 193 votes for the Rainbow Alliance Payne and Pleasure party, and again in 1992 in Streatham where she won 145 votes.

she replied that she had had two lovely husbands who had sadly died, and she just loved sex.

It is highly unlikely that this lady is typical of the modern British sex worker. But she is, at the very least, an important warning on the danger of stereotyping and the importance of taking a broad perspective.

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