

10 Reasons for Not Legalizing Prostitution

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Summary

The following arguments apply to all state-sponsored forms of prostitution, including but not limited to full-scale legalization of brothels and pimping, decriminalization of the sex industry, regulating prostitution by laws such as registering or mandating health checks for women in prostitution, or any system in which prostitution is recognized as "sex work" or advocated as an employment choice.

As countries are considering legalizing and decriminalizing the sex industry, we urge you to consider the ways in which legitimating prostitution as "work" does not empower the women in prostitution but does everything to strengthen the sex industry.

1. Legalization/decriminalization of prostitution is a gift to pimps, traffickers and the sex industry.
2. Legalization/decriminalization of prostitution and the sex industry promotes sex trafficking.
3. Legalization/decriminalization of prostitution does not control the sex industry. It expands it.
4. Legalization/decriminalization of prostitution increases clandestine, hidden, illegal and street prostitution.
5. Legalization of prostitution and decriminalization of the sex Industry increases child prostitution.
6. Legalization/decriminalization of prostitution does not protect the women in prostitution.
7. Legalization/decriminalization of prostitution increases the demand for prostitution. It boosts the motivation of men to buy women for sex in a much wider and more permissible range of socially acceptable settings.
8. Legalization/decriminalization of prostitution does not promote women's health.
9. Legalization/decriminalization of prostitution does not enhance women's choice.
10. Women in systems of Prostitution do not want the sex industry legalized or decriminalized.

Arguments:

1. Legalization/decriminalization of prostitution is a gift to pimps, traffickers and the sex industry.

What does legalization of prostitution or decriminalization of the sex industry mean? In the Netherlands, legalization amounts to sanctioning all aspects of the sex industry: the women themselves, the so-called "clients," and the pimps who, under the regime of legalization, are transformed into third party businessmen and legitimate sexual entrepreneurs.

Legalization/decriminalization of the sex industry also converts brothels, sex clubs, massage parlors and other sites of prostitution activities into legitimate venues where commercial sexual acts are allowed to flourish legally with few restraints.

Ordinary people believe that, in calling for legalization or decriminalization of prostitution, they are dignifying and professionalizing the women in prostitution. But dignifying prostitution as work doesn't dignify the women, it simply dignifies the sex industry. People often don't realize that decriminalization, for example, means decriminalization of the whole sex industry not just the women. And they haven't thought through the consequences of legalizing pimps as legitimate sex entrepreneurs or third party businessmen, or the fact that men who buy women for sexual activity are now accepted as legitimate consumers of sex.

CATW favors decriminalization of the women in prostitution. No woman should be punished for her own exploitation. But States should never decriminalize pimps, buyers, procurers, brothels or other sex establishments.

2. Legalization/decriminalization of prostitution and the sex industry promotes sex trafficking.

Legalized or decriminalized prostitution industries are one of the root causes of sex trafficking. One argument for legalizing prostitution in the Netherlands was that legalization would help end the exploitation of desperate immigrant women trafficked for prostitution. A report done for the governmental Budapest Group* stated that 80% of women in the brothels in the Netherlands are trafficked from other countries (Budapest Group, 1999: 11). As early as 1994, the International Organization of Migration (IOM) stated that in the Netherlands alone, "nearly 70 per cent of trafficked women were from CEEC Central and Eastern European Countries]" (IOM, 1995: 4).

The government of the Netherlands promotes itself as the champion of anti-trafficking policies and programs, yet cynically has removed every legal impediment to pimping, procurement and brothels. In the year 2000, the Dutch Ministry of Justice argued for a legal quota of foreign "sex workers," because the Dutch prostitution market demands a variety of "bodies" (Dutting, 2001: 16).

Also in the year 2000, the Dutch government sought and received a judgment from the European Court recognizing prostitution as an economic activity, thus enabling women from the EU and former Soviet bloc countries to obtain working permits as "sex workers" in the Dutch sex industry if they can prove that they are self employed.

NGOs in the Netherlands have stated that traffickers are taking advantage of this ruling to bring foreign women into the Dutch prostitution industry by masking the fact that women have been trafficked, and by coaching the women how to prove that they are self-employed "migrant sex workers."

In the one year since lifting the ban on brothels in the Netherlands, NGOs report that there has been an increase of victims of trafficking or, at best, that the number of victims from other countries has remained the same (Bureau NRM, 2002: 75). Forty-three municipalities in the Netherlands want to follow a no-brothel policy, but the Minister of Justice has indicated that the complete banning of prostitution within any municipality could conflict with "the right to free choice of work" (Bureau NRM: 2002) as guaranteed in the federal Grondwet or Constitution.

In January, 2002, prostitution in Germany was fully established as a legitimate job after years of being legalized in so-called eros or tolerance zones. Promotion of prostitution, pimping and brothels are now legal in Germany. As early as 1993, after the first steps towards legalization had been taken, it was recognized (even by prostitution advocates) that 75 per cent of the women in Germany's prostitution industry were foreigners from Uruguay, Argentina, Paraguay and other countries in South America (Altink, 1993: 33). After the fall of the Berlin wall, brothel owners reported that 9 out of every 10 women in the German sex industry were from eastern Europe (Altink, 1993: 43) and other former Soviet countries.

The sheer volume of foreign women who are in the prostitution industry in Germany - by some NGO estimates now up to 85 per cent - casts further doubt on the fact that these numbers of women could have entered Germany without facilitation. As in the Netherlands, NGOs report that most of the foreign women have been trafficked into the country since it is almost impossible for poor women to facilitate their own migration, underwrite the costs of travel and travel documents, and set themselves up in "business" without outside help.

The link between legalization of prostitution and trafficking in Australia was recognized in the U.S. State Department's 1999 Country Report on Human Rights Practices, released by the Bureau of Democracy, Human Rights and Labor. In the country report on Australia, it was noted that in the State of Victoria which legalized prostitution in the 1980s, "Trafficking in East Asian women for the sex trade is a growing problem" in Australia...lax laws - including legalized prostitution in parts of the country - make [anti-trafficking] enforcement difficult at the working level."

3. Legalization/decriminalization of prostitution does not control the sex industry. It expands it.

Contrary to claims that legalization and decriminalization would regulate the expansion of the sex industry and bring it under control, the sex industry now accounts for 5 percent of the Netherlands economy (Daley, 2001: 4). Over the last decade, as pimping became legalized and then brothels decriminalized in the Netherlands in 2000, the sex industry expanded 25 percent (Daley, 2001: 4). At any hour of the day, women of all ages and races, dressed in hardly anything, are put on display in the notorious windows of Dutch brothels and sex clubs and offered for sale

-- for male consumption. Most of them are women from other countries (Daley, 2001: 4) who have in all likelihood been trafficked into the Netherlands.

There are now officially recognized associations of sex businesses and prostitution "customers" in the Netherlands that consult and collaborate with the government to further their interests and promote prostitution.

These include the "Association of Operators of Relaxation Businesses," the "Cooperating Consultation of Operators of Window Prostitution," and the "Man/Woman and Prostitution Foundation," a group of men who regularly use women in prostitution, and whose specific aims include "to make prostitution and the use of services of prostitutes more accepted and openly discussible," and "to protect the interests of clients" (NRM Bureau, 2002:115-16).

Faced with a dearth of women who want to "work" in the legal sex sector, the Dutch National Rapporteur on Trafficking states that in the future, a proposed "solution" may be to "offer [to the market] prostitutes from non EU/EEA countries, who voluntarily choose to work in prostitution..." They could be given "legal and controlled access to the Dutch market" (NRM Bureau, 2002: 140). As prostitution has been transformed into "sex work," and pimps into entrepreneurs, so too this potential "solution" transforms trafficking into voluntary migration for "sex work." The Netherlands is looking to the future, targeting poor women of color for the international sex trade to remedy the inadequacies of the free market of "sexual services." In the process, it goes further in legitimizing prostitution as an "option for the poor."

Legalization of prostitution in the State of Victoria, Australia, has led to massive expansion of the sex industry. Whereas there were 40 legal brothels in Victoria in 1989, in 1999 there were 94, along with 84 escort services. Other forms of sexual exploitation, such as tabletop dancing, bondage and discipline centers, peep shows, phone sex, and pornography have all developed in much more profitable ways than before (Sullivan and Jeffreys: 2001).

Prostitution has become an accepted sideline of the tourism and casino boom in Victoria with government-sponsored casinos authorizing the redeeming of casino chips and wheel of fortune bonuses at local brothels (Sullivan and Jeffreys: 2001). The commodification of women has vastly intensified and is much more visible.

Brothels in Switzerland have doubled several years after partial legalization of prostitution. Most of these brothels go untaxed, and many are illegal. In 1999, the Zurich newspaper, Blick, claimed that Switzerland had the highest brothel density of any country in Europe, with residents feeling overrun with prostitution venues, as well as experiencing constant encroachment into areas not zoned for prostitution activities (South China Morning Post: 1999).

4. Legalization/decriminalization of prostitution increases clandestine, hidden, illegal and street prostitution.

Legalization was supposed to get prostituted women off the street. Many women don't want to register and undergo health checks, as required by law in certain

countries legalizing prostitution, so legalization often drives them into street prostitution. And many women choose street prostitution because they want to avoid being controlled and exploited by the new sex "businessmen."

In the Netherlands, women in prostitution point out that legalization or decriminalization of the sex industry cannot erase the stigma of prostitution but, instead, makes women more vulnerable to abuse because they must register and lose anonymity. Thus, the majority of women in prostitution still choose to operate illegally and underground. Members of Parliament who originally supported the legalization of brothels on the grounds that this would liberate women are now seeing that legalization actually reinforces the oppression of women (Daley, 2001: A1).

The argument that legalization was supposed to take the criminal elements out of sex businesses by strict regulation of the industry has failed. The real growth in prostitution in Australia since legalization took effect has been in the illegal sector. Since the onset of legalization in Victoria, brothels have tripled in number and expanded in size - the vast majority having no licenses but advertising and operating with impunity (Sullivan and Jeffreys: 2001).

In New South Wales, brothels were decriminalized in 1995. In 1999, the numbers of brothels in Sydney had increased exponentially to 400-500. The vast majority have no license to operate. To end endemic police corruption, control of illegal prostitution was taken out of the hands of the police and placed in the hands of local councils and planning regulators. The council has neither the money nor the personnel to put investigators into brothels to flush out and prosecute illegal operators.

5. Legalization of prostitution and decriminalization of the sex industry increases child prostitution.

Another argument for legalizing prostitution in the Netherlands was that it would help end child prostitution. In reality, however, child prostitution in the Netherlands has increased dramatically during the 1990s. The Amsterdam-based ChildRight organization estimates that the number has gone from 4,000 children in 1996 to 15,000 in 2001. The group estimates that at least 5,000 of the children in prostitution are from other countries, with a large segment being Nigerian girls (Tiggeloven: 2001).

Child prostitution has dramatically risen in Victoria compared to other Australian states where prostitution has not been legalized. Of all the states and territories in Australia, the highest number of reported incidences of child prostitution came from Victoria. In a 1998 study undertaken by ECPAT (End Child Prostitution and Trafficking) who conducted research for the Australian National Inquiry on Child Prostitution, there was increased evidence of organized commercial exploitation of children.

6. Legalization/decriminalization of prostitution does not protect the women in prostitution.

The Coalition Against Trafficking in Women International (CATW) has conducted 2 major studies on sex trafficking and prostitution, interviewing almost 200 victims of

commercial sexual exploitation. In these studies, women in prostitution indicated that prostitution establishments did little to protect them, regardless of whether they were in legal or illegal establishments. "The only time they protect anyone is to protect the customers."

In a CATW 5-country study that interviewed 146 victims of international trafficking and local prostitution, 80% of all women interviewed suffered physical violence from pimps and buyers) and endured similar and multiple health effects from the violence and sexual exploitation (Raymond et al: 2002).

The violence that women were subjected to was an intrinsic part of the prostitution and sexual exploitation. Pimps used violence for many different reasons and purposes. Violence was used to initiate some women into prostitution and to break them down so that they would do the sexual acts. After initiation, at every step of the way, violence was used for sexual gratification of the pimps, as a form of punishment, to threaten and intimidate women, to exert the pimp's dominance, to exact compliance, to punish women for alleged "violations," to humiliate women, and to isolate and confine women.

Of the women who did report that sex establishments gave some protection, they qualified it by pointing out that no "protector" was ever in the room with them, where anything could occur. One woman who was in out-call prostitution stated: "The driver functioned as a bodyguard. You're supposed to call when you get in, to ascertain that everything was OK. But they are not standing outside the door while you're in there, so anything could happen."

CATW's studies found that even surveillance cameras in prostitution establishments are used to protect the establishment. Protection of the women from abuse is of secondary or no importance.

7. Legalization/decriminalization of prostitution increases the demand for prostitution. It boosts the motivation of men to buy women for sex in a much wider and more permissible range of socially acceptable settings.

With the advent of legalization in countries that have decriminalized the sex industry, many men who would not risk buying women for sex now see prostitution as acceptable. When the legal barriers disappear, so too do the social and ethical barriers to treating women as sexual commodities. Legalization of prostitution sends the message to new generations of men and boys that women are sexual commodities and that prostitution is harmless fun.

As men have an excess of "sexual services" that are offered to them, women must compete to provide services by engaging in anal sex, sex without condoms, bondage and domination and other proclivities demanded by the clients. Once prostitution is legalized, all holds are barred. Women's reproductive capacities are sellable products, for example. A whole new group of clients find pregnancy a sexual turn-on and demand breast milk in their sexual encounters with pregnant women. Specialty brothels are provided for disabled men, and State-employed caretakers who are mostly women must take these men to the brothels if they wish to go (Sullivan and Jeffreys: 2001).

Advertisements line the highways of Victoria offering women as objects for sexual use and teaching new generations of men and boys to treat women as subordinates. Businessmen are encouraged to hold their corporate meetings in these clubs where owners supply naked women on the table at tea breaks and lunchtime.

A Melbourne brothel owner stated that the client base was "well educated professional men, who visit during the day and then go home to their families." Women who desire more egalitarian relationships with men find that often the men in their lives are visiting the brothels and sex clubs. They have the choice to accept that their male partners are buying women in commercial sexual transactions, avoid recognizing what their partners are doing, or leave the relationship (Sullivan and Jeffreys: 2001).

Sweden's Violence Against Women, Government Bill 1997/98:55 prohibits and penalizes the purchase of "sexual services." It is an innovative approach that targets the demand for prostitution. Sweden believes that "By prohibiting the purchase of sexual services, prostitution and its damaging effects can be counteracted more effectively than hitherto." Importantly, this law clearly states that "Prostitution is not a desirable social phenomenon" and is "an obstacle to the ongoing development towards equality between women and men."**

8. Legalization/decriminalization of prostitution does not promote women's health.

A legalized system of prostitution that mandates health checks and certification only for women and not for clients is blatantly discriminatory to women. "Women only" health checks make no public health sense because monitoring prostituted women does not protect them from HIV/AIDS or STDs, since male "clients" can and do originally transmit disease to the women.

It is argued that legalized brothels or other "controlled" prostitution establishments "protect" women through enforceable condom policies. In one of CATW's studies, U.S. women in prostitution interviewed reported the following: 47% stated that men expected sex without a condom; 73% reported that men offered to pay more for sex without a condom; 45% of women said they were abused if they insisted that men use condoms. Some women said that certain establishments may have rules that men wear condoms but, in reality, men still try to have sex without them. One woman stated: "It's 'regulation' to wear a condom at the sauna, but negotiable between parties on the side. Most guys expected blow jobs without a condom (Raymond and Hughes: 2001)."

In reality, the enforcement of condom policy was left to the individual women in prostitution, and the offer of extra money was an insistent pressure. One woman stated: "I'd be one of those liars if I said 'Oh I always used a condom.' If there was extra money coming in, then the condom would be out the window. I was looking for the extra money." Many factors militate against condom use: the need of women to make money; older women's decline in attractiveness to men; competition from places that do not require condoms; pimp pressure on women to have sex with no condom for more money; money needed for a drug habit or to pay off the pimp; and

the general lack of control that prostituted women have over their bodies in prostitution venues.

So called "safety policies" in brothels did not protect women from harm. Even where brothels supposedly monitored the "customers" and utilized "bouncers," women stated that they were injured by buyers and, at times, by brothel owners and their friends. Even when someone intervened to control buyers' abuse, women lived in a climate of fear. Although 60 percent of women reported that buyers had sometimes been prevented from abusing them, half of those women answered that, nonetheless, they thought that they might be killed by one of their "customers" (Raymond et al: 2002).

9. Legalization/decriminalization of prostitution does not enhance women's choice.

Most women in prostitution did not make a rational choice to enter prostitution. They did not sit down one day and decide that they wanted to be prostitutes. Rather, such "choices" are better termed "survival strategies." Rather than consent, a prostituted woman more accurately complies to the only options available to her. Her compliance is required by the very fact of having to adapt to conditions of inequality that are set by the customer who pays her to do what he wants her to do.

Most of the women interviewed in CATW studies reported that choice in entering the sex industry could only be discussed in the context of the lack of other options. Most emphasized that women in prostitution had few other options. Many spoke about prostitution as the last option, or as an involuntary way of making ends meet. In one study, 67% of the law enforcement officials that CATW interviewed expressed the opinion that women did not enter prostitution voluntarily. 72% of the social service providers that CATW interviewed did not believe that women voluntarily choose to enter the sex industry (Raymond and Hughes: 2001).

The distinction between forced and voluntary prostitution is precisely what the sex industry is promoting because it will give the industry more security and legal stability if these distinctions can be utilized to legalize prostitution, pimping and brothels. Women who bring charges against pimps and perpetrators will bear the burden of proving that they were "forced." How will marginalized women ever be able to prove coercion? If prostituted women must prove that force was used in recruitment or in their "working conditions," very few women in prostitution will have legal recourse and very few offenders will be prosecuted.

Women in prostitution must continually lie about their lives, their bodies, and their sexual responses. Lying is part of the job definition when the customer asks, "did you enjoy it?" The very edifice of prostitution is built on the lie that "women like it." Some prostitution survivors have stated that it took them years after leaving prostitution to acknowledge that prostitution wasn't a free choice because to deny their own capacity to choose was to deny themselves.

There is no doubt that a small number of women say they choose to be in prostitution, especially in public contexts orchestrated by the sex industry. In the same way, some people choose to take dangerous drugs such as heroin. However,

even when some people choose to take dangerous drugs, we still recognize that this kind of drug use is harmful to them, and most people do not seek to legalize heroin. In this situation, it is harm to the person, not the consent of the person that is the governing standard.

Even a 1998 ILO (UN International Labor Organization) report suggesting that the sex industry be treated as a legitimate economic sector, found that "...prostitution is one of the most alienated forms of labour; the surveys [in 4 countries] show that women worked 'with a heavy heart,' 'felt forced,' or were 'conscience-stricken' and had negative self-identities. A significant proportion claimed they wanted to leave sex work [sic] if they could (Lim, 1998: 213)."

When a woman remains in an abusive relationship with a partner who batters her, or even when she defends his actions, concerned people don't say she is there voluntarily. They recognize the complexity of her compliance. Like battered women, women in prostitution often deny their abuse if provided with no meaningful alternatives.

10. Women in systems of prostitution do not want the sex industry legalized or decriminalized.

In a 5-country study on sex trafficking done by the Coalition Against Trafficking in Women and funded by the Ford Foundation, most of the 146 women interviewed strongly stated that prostitution should not be legalized and considered legitimate work, warning that legalization would create more risks and harm for women from already violent customer and pimps (Raymond et al, 2002). "No way. It's not a profession. It is humiliating and violence from the men's side." Not one woman interviewed wanted her children, family or friends to have to earn money by entering the sex industry. One stated: "Prostitution stripped me of my life, my health, everything."

Conclusion:

Legislators leap onto the legalization bandwagon because they think nothing else is successful. However, as Scotland Yard's Commissioner has stated: "You've got to be careful about legalizing things just because you don't think what you are doing is successful."

We hear very little about the role of the sex industry in creating a global sex market in the bodies of women and children. Instead, we hear much about making prostitution into a better job for women through regulation and/or legalization, through unions of so-called "sex workers," and through campaigns which provide condoms to women in prostitution but cannot provide them with alternatives to prostitution. We hear much about how to keep women in prostitution but very little about how to help women get out.

Governments that legalize prostitution as "sex work" will have a huge economic stake in the sex industry. Consequently, this will foster their increased dependence on the sex sector. If women in prostitution are counted as workers, pimps as businessmen, and buyers as consumers of sexual services, thus legitimating the entire sex industry

as an economic sector, then governments can abdicate responsibility for making decent and sustainable employment available to women

Rather than the State sanctioning prostitution, the State could address the demand by penalizing the men who buy women for the sex of prostitution, and support the development of alternatives for women in prostitution industries. Instead of governments cashing in on the economic benefits of the sex industry by taxing it, governments could invest in the futures of prostituted women by providing economic resources, from the seizure of sex industry assets, to provide real alternatives for women in prostitution.

Notes:

*Budapest Group. (1999, June). *The Relationship Between Organized Crime and Trafficking in Aliens*. Austria: International Centre for Migration Policy Development. The Budapest process was initiated in 1991. Nearly 40 governments and 10 organizations participate in the process, and about 50 intergovernmental meetings at various levels have been held, including the Prague Ministerial Conference.

**The National Rapporteur on trafficking at the National Swedish Police has stated that in the 6 months following the implementation of the Swedish law in January 1999, the number of trafficked women to Sweden has declined. She also stated that according to police colleagues in the European Union that traffickers are choosing other destination countries where they are not constrained by similar laws. Thus the law serves as a deterrent to traffickers. Quoted in Karl Vicktor Olsson, "Sexkopslagen minkar handeln med kvinnor," *Metro*, January 27, 2001: 2.

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