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Prostitution Policy: Ending the World's Oldest Profession

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INTRODUCTION

When it comes to prostitution, “a prostitute treats herself like a chair for someone to sit on. Her mind goes blank. She just lies there. You become just an object...After a while, it becomes just a normal thing.”¹ As the “world’s oldest profession,” prostitution permeates all countries and cultures. So for centuries, women have endured this “chair” reality, an object to service men. Most societies would point to sex work as a black mark on society, but even that is up for debate. It is unusual for any social practice to have the kind of longevity and breadth of prostitution across the globe. The magnitude and stamina of prostitution worldwide are alarming. In this paper I will look at prostitution as a whole, in order to comprehensibly understand why it is a relevant area of study. Then two drastically different policies —legalization and criminalization—will be compared in order to understand the effectiveness of each. Along with these two policies, the countries of the Netherlands and Sweden will be looked at to provide a concrete comparison of how the policies play out in reality. After a comprehensive analysis, criminalizing the demand for prostitution is a more appropriate response to prostitution than legalization, but with a few caveats. As a result of the lack of clarity from a statistical standpoint, the paper will then transition to an analysis of why prostitution in society is so harmful, looking specifically at the exploitive and inequality-promoting aspects. Overall, this paper will determine practical policy applications for prostitution in the United States, as well as prove why this

¹ Farley, “Bad for the Body”, 1106.

is a problem that needs to be addressed, and why it ought to be addressed in accordance with the policy recommendations.

PROSTITUTION

Prostitution involves the exchange of sexual services for some type of material good, most often money.² It may also refer to stripping, lap dances, pornography, etc. Each year on average, 186 billion dollars can be attributed to prostitution revenue, and it is estimated that between 40 and 42 million people worldwide are prostitutes.³ This is a huge market and one that affects a significant portion of the world's population. It is not something that can be ignored. Nor should it be. To have this industry be so large is alarming. It is exploiting something that ought never to be exploited. Sex is deeply personal and cannot truly be separated from the individual. But if the drastic numbers just mentioned are any indication, the world has done a poor job of creating a space where prostitution is not needed. In order to close this gap of reality and the ideal, one must have a thorough understanding of prostitution itself. Only then can finding a solution be realistic.

It is likely prostitution first originated within religion. There are records of prostitution in religious ceremonies of Astarte, Ishtar, and Aphrodite.⁴ Though ancient records are limited, the Bible mentions male prostitutes in the temples of Canaan, as well

² Weitzer, *Legalizing Prostitution*. 3.

³ Schulze, *Sexual Exploitation*.

⁴ Clarkson, "History of Prostitution," 297.

as the prostitutes Rahab and Tamar. The Athenian statesman, Solon, is accredited with the establishment of the first public brothel. Most of the women in this brothel were slaves and other lower-class, however, there was a small percentage of upper-class women as well.⁵ As it developed, prostitution became quite normal in ancient Rome, and the more popular prostitutes actually attained a fair amount of influence within Roman society. However, over time, societies values shifted to deeming prostitution a social evil and public health problem, and prostitutes began to become segregated from the rest of society.⁶ As these accounts demonstrate, prostitution has been a part of society for at least as long as there have been records, and there is no indication prostitution is going anywhere anytime soon. Yet what it also shows is that the attitudes towards prostitution can change. Prostitution was not always condemned by society. While glorifying it is not the answer either, it is a source of hope that perhaps the attitudes of people to prostitutes can be more loving, though not to the profession as a whole. While it might seem like a large ask, history shows it is not an impossible one.

Prostitution has, throughout recent history, been tied to industrial development and modern-day capitalism.⁷ Prostitution was so prevalent in the era of gold mining in large part because women had no other way to access the mines. Selling sex was not only a way

⁵ Ibid., 299.

⁶ Ibid.

⁷ Laite, "Historical Perspectives."

for the women to head out to the mines, but it was the most profitable way to do so.⁸ The sex industry tends to thrive in both conditions of large economic success, and that of extreme economic failure. The economic circumstances affect the wages the prostitutes earn. In times of financial ruin, those purchasing pay less, because the prostitutes need money enough not to have a choice.⁹ Thus, while there will always be exceptions, most often, when prostitution is a choice, it stems from a strong financial need. Understanding the circumstances in which prostitution thrives is necessary to break the cycle.

Recognizing that is in the extremes of economic success (or lack thereof) that prostitution picks up should help countries to recognize when they are at risk to increase their numbers.

If a country were to go through rapid growth or some situation starting a period of economic hardship, they must be prepared for what that means for their sex industry.

Being prepared can help with prevention, and preventing prostitution from being a need is much easier than trying to eliminate what already exists. Proactivity is key in these situations.

Prostitution does not affect genders equally. According to a study in the UK and the Sex Work Research Hub, 80 percent of those in prostitution are women. As was noted in a prostitution policy campaign targeting the British Parliament, in prostitution, most of the individuals exploited are women and girls. Most of those who pay for a prostitute are

⁸ Ibid.

⁹ Raymond, "Not a Choice Not a Job."

men.¹⁰ It is difficult to get around this fact. Thus, for all discussion of the issues surrounding prostitution, the effects inherently apply much more to women than to men. Additionally, for this paper, the prostitutes discussed will be assumed to be female and the clients male. This is not to discriminate, but to simplify the analysis and accessibility of findings. Furthermore, the stark divide of gender makes prostitution a matter of gender inequality. Prostitution becomes a patriarchal method of women's suppression. With the gender equality debate front and center in today's society, it is important prostitution is not left out of the debate.

In addition to perpetuating inequality, prostitution should be relevant because it has a huge negative effect on the health of those involved. There are a number of health problems associated with prostitution. Some of the physical maladies include STDs, vaginal infections, exhaustion, viral illness, headaches, stomach aches, backaches, sleeplessness, depression and eating disorders.¹¹ Any occupation for which these are common side effects ought to raise concern. How can any society dedicated to the good of the people allow women to suffer from all of this, without making any attempt to help? Post Traumatic Stress Disorder is another common phenomenon. A study of prostitutes in nine countries found that 68 percent of them suffered from PTSD.¹² While the majority of people understand Post Traumatic Stress Disorder in the context of the military or severe

¹⁰ United Kingdom, "Prostitution," 9.

¹¹ Farley, "Bad for the Body," 1097.

¹² Ibid., 1105.

accidents, many fail to consider or take seriously the lasting psychological effects that accompany strangers using and abusing another's body. And even more alarming is the risk of death linked with the profession. In a study of 1,600 prostitutes in the United States who had died, 50 percent of the deaths were a result of murder. This is a higher percentage of deaths as a result of murder than any other group of women.¹³ The United States is not alone in this. A Dutch brothel owner is quoted as having said, "You don't want a pillow in the [brothel's] room. It's a murder weapon."¹⁴ The little regard with which societies treat women who lose their life should say a lot about how prostitutes lose their identity as people and become their profession in the eyes of society. No matter what the job, death should never simply be considered an "occupational hazard." Life as a prostitute may cost an individual many things, not the least of which may be their life.

HUMAN TRAFFICKING

Human trafficking is a major concern where prostitution is concerned. Human trafficking is defined by the United Nations as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."¹⁵ This

¹³ Ibid., 1097.

¹⁴ Ibid., 1102.

¹⁵ Parreñas, "What is Human Trafficking?" 1015.

closely ties to prostitution because the sex workers often are coerced into the industry, or do so as a last resort, but then find they cannot leave. Even countries that allow for legal prostitution recognize the problem of human trafficking within the sex industry. Though prostitution itself may be legal in some places, human trafficking is not. In a study of nine countries, 89 percent of those in prostitution said they stayed as prostitutes because they felt it was the only choice for them economically, and furthermore, that they saw no feasible way to leave.¹⁶ Moreover, the International Labor Organization, which operates under the definition of prostitution as work, found that 96 percent of those they interviewed in Indonesia wanted to escape prostitution.¹⁷ It can be difficult to distinguish between prostitutes and trafficking victims. However, as these statistics suggest, the distinction is an important one. According to the European Parliament, statistics suggest that 1 in 7 prostitutes in Europe are victims of trafficking. Other studies in individual countries estimate their number to be between 60 and 90 percent of all prostitutes. Whatever statistics are closer to the truth, prostitution and human trafficking have deep ties.

Understanding the nuances of trafficking should help in combatting it. Although most of those perpetuating human trafficking (the pimps and sex traffickers) tend to be male, anywhere between 15 and 31 percent are female.¹⁸ Thus, just as though mainly

¹⁶ Farley, "Theory versus Reality," 1.

¹⁷ Ibid.

¹⁸ Raphael, *What We Know*, 43.

women are prostitutes, but not all, so it is true that most traffickers are men, but there are exceptions. Additionally, those who are traffickers fall into a wide range of ages. Several studies report the average age to be between 37 and 38. However, another study found that 77 percent of human traffickers were between the ages of 18 and 34.¹⁹ Understanding who these individuals are can help with identifying them and putting an end to the exploitation.

The relationship between traffickers and their victims can be an interesting dynamic. One study analyzed twelve different police investigations into sex trafficking in the Netherlands between the years of 2006 and 2010. This study focused specifically on the intimate relationship between traffickers and their victims. Most studies such as this are set up to look at a different aspect than the transportation of foreign girls across country lines like human cargo, treated in a similar manner to other illegal merchandise such as drugs and weapons.²⁰ Instead, the study analyzed the intimate relationships that often is accompanied by intimidation and other control techniques, such as violence. And in combination with affection and economic dependency, the relationship between the two becomes both bonded and warped. One of the ways these bonds are created is through the constant flow of money from the trafficker to the prostitute, which leads to a financial reliance on the trafficker. Other methods include talk of a shared future together, the promise of safety or simple demand on the part of the trafficker. The findings of the study

¹⁹ Ibid., 24.

²⁰ Verhoeven. "Relationships between Suspects," 850.

revealed the men and women often live together and develop a relationship with affectionate feelings. However, while the victim may develop caring feelings towards her pimp, there are additional forms of control that keep her in her situation, such as violence and isolation. Ultimately, the relationships within prostitution begin to look a lot like domestic violence.²¹ Developing a clear understanding of why some women stay in prostitution helps in understanding the longevity of the industry. While it may seem from an outsider perspective that most women can leave prostitution any time they choose, the emotional ties between a sex worker and her pimp are stronger than makes logical sense. In many ways, the relationship takes on an aura of Stockholm-syndrome. It is important to not blame these women for their situation and feelings. It is psychological and emotional manipulation that traps them. Instead of condemning these women for not being stronger, help should be offered. Breaking the emotional ties is not easy, nor is it clean, but it is vital in breaking the cycle. Help offered in the wrong way is no help at all. Realizing how best to help is the only way to make any real difference.

INDOOR VS STREET

Prostitution happens in two circumstances; indoors and on the street. In many countries, indoor prostitution is much more common than street. While street prostitution refers to the women who stand on the corners in order to attract clientele, indoor prostitution takes place in brothels, massage parlors, bars, hotels, saunas, private

²¹ Ibid., 62.

residences, dance halls, or even docked boats in harbors. The back rooms of tanning salons, barbershops, beauty shops, cafes, and other regular businesses can also be locations of prostitution.²² Indoor and outdoor prostitution cater to two very different markets. Indoor can often be a “safer” situation for the prostitutes. Indoor prostitutes are less accessible and have a greater ability to screen clients. Indoor prostitution often has a pimp, madame, manager, etc. available who can intervene should the client become abusive. Those on the street are alone once they leave their corner and are potentially subject to a variety of harsh elements and unknown venues. Furthermore, indoor prostitution is generally much more discreet, and thus causes fewer complaints than street prostitution from nearby businesses and individuals.²³ However, it is also more difficult to measure. Because of the more covert and inconspicuous nature of indoor prostitution, often accompanied by the illegal nature, finding accurate data and numerical values are nearly impossible.

POLICY CHALLENGES

Creating a policy regarding prostitution is, for a variety of reasons, not an easy task. Public policy is defined as “a purposive course of action, authorized [...] by the government to deal with a problem.”²⁴ Prostitution clearly falls within this realm. One of the main reasons for creating this type of policy is challenging is because of the stigma that

²² Weitzer, *Legalizing Prostitution*, 22.

²³ Ibid.

²⁴ Wagenaar, *Designing Prostitution Policy*, 27.

surrounds prostitution. The stigma has created an aspect of asymmetry with regards to gender roles. These gender roles differentiations are best exemplified by the phrase ““She is bad for what she is, he is bad for what he’s done.””²⁵ Because the stigma of prostitution views it as a problem to be managed rather than behaviors to be regulated, there is a distinct feeling of needing control.²⁶ Yet even when it comes to legislation, most often prostitutes are rarely at the center of creating prostitution policies and indeed often must rely on other political actors to speak for them. This leaves prostitutes without a platform from which to voice their opinions regarding the work they do.²⁷ This causes issues because society treats prostitutes in a way that the prostitutes are no longer viewed as women who work in the sex industry but are forced to take on “prostitute” as their whole identity.²⁸ Bias can clearly permeate the rule of law. A judge in California once overturned the jury’s decision to charge the defendant with the rape of a prostitute. His reasoning? ““A woman who goes out on the street and makes a whore out of herself opens herself up to anybody.””²⁹ Another quote that captures many of the challenges of creating a policy on the subject is ““Prostitution laws don’t work because sex workers still do.””³⁰ With something so ingrained into the darkest parts of society, there will always be someone

²⁵ Ibid., 29.

²⁶ Ibid.

²⁷ Verloo, “Editorial: Differences.”

²⁸ Wagenaar, *Designing Prostitution Policy*, 30.

²⁹ Farley, “Bad for the Body,” 1096.

³⁰ Vanwesenbeeck, “Sex Work Criminalization Is Barking Up the Wrong Tree,” 1636.

there to supply for the demand. Not unlike the prohibitionist movement in the United States during the 1920s, when there are people who want something illegal, there is profit to be made, and whatever has been outlawed will still be supplied. Additionally, dealing with legislation that takes on sexuality and sexual expression is deeply personal.

Traditionally a taboo subject altogether, individuals have many differing opinions on what sexual expression should look like in society. Whatever they may be, these opinions are personal and unlikely to be changed.

When prostitution is illegal, there are many traditional human rights and liberties that suddenly become violated. Many prostitutes do not have the right to work or start their own business, they often lose custody of their own children, are refused medical checks, cannot take crimes to the judicial system because it will not result in anything, cannot take out a loan or health insurance.³¹ Though criminalization is the most common policy—including the United States—it becomes problematic when the very ideals that hold up a free society suddenly do not apply to a struggling group of people.

Another complicating factor is the divisiveness of the issue. It is, at its core, a morality issue. Whether a person believes people should have the right to do what they please with their body or they believe selling sex is inherently wrong, it comes down to a difference of moral values. And moral values produce high emotions, emotions which are

³¹ Wagenaar, *Designing Prostitution Policy*, 31.

resistant to facts.³² But morality politics are challenging to navigate. A small group of individuals making moral decisions for the group as a whole often creates conflict. Specifically in the international realm, these differences in moral opinion make it difficult for individuals to work together to accomplish anything. The disagreement gets in the way of limiting international human trafficking and stifled feminist agreement on strategies to best help women.³³ Even the language used when discussing it implies where an individual stands on the issue. “Sex work” implies a legitimate profession, often accompanied by a belief of labor rights and embracing women’s sexuality. However, “prostitution” implies a form of exploitation, abuse, and form of slavery.³⁴ As for this paper, both words will be used interchangeably and without bias or other implication.

There are two main policy responses to prostitution, which this paper will investigate in depth; legalization and partial criminalization. These two very contrasting legal stances stem from very different philosophical views of prostitution and its relationship to the individual and society. The Netherlands and Sweden are both champions of their respective policies. A comparison of the two policy models and countries proves to be insightful. Yet only criminalization will prove to be worthwhile.

LEGALIZATION

³² Ibid., 42.

³³ Jeffries, “Prostitution, Trafficking and Feminism,” 317.

³⁴ Wagenaar, *Designing Prostitution Policy*, 33.

Legalization of prostitution is where “sex work (or sex work under certain circumstances) has been made legal and brought under a regulatory regime in the way that tobacco and alcohol, for example, are controlled in many countries.”³⁵ This might include licensing and regulating brothels. The strategy of legalization was started by the Netherlands but adopted by Germany in 2002.³⁶ Many other countries have since followed. Legalization was born out of a revolution of sexual liberalism in which pornography and prostitution were viewed as a form of “freedom” and not any type of exploitation. The famous American economist Milton Friedman endorsed the idea that both prostitution and pornography should be decriminalized and thus under the regular rules of the economic market. As such, these industries would provide the government with money from taxes, making it an appealing choice to some.³⁷

As an example of what legalization might look for the prostitutes, in Senegal, women over the age of 21 are able to register and work as a sex worker legally, given that they submit to periodical medical examinations and carry their registration record and medical exam results.³⁸ In New Zealand, the country passed a law of legal prostitution in 2003. This permits voluntary adult prostitution and allows soliciting escort agencies, brothels, and any other third party facilitator. Street prostitution is also permitted, although

³⁵ *Laws and Policies*, 6.

³⁶ Michelle Goldberg, “Should Buying Sex Be Illegal?” 20.

³⁷ Jeffries, “Prostitution, Trafficking and Feminism,” 316.

³⁸ *Laws and Policies*, 6.

specifics fall under the local laws regarding public nuisances. Prostitution establishments are subject to periodic inspections by police, health departments, and social services.³⁹ The Netherlands has a variety of rules and regulations as well, which will be examined shortly.

Under a policy of legalization, there is the possibility of unions, which could be used as a method for the prostitutes themselves to better their circumstances. On paper, it seems like a helpful method for prostitutes to make real change for the aspects of their work that they deem unacceptable. Due to the collective nature of unions, in theory, it could help to identify trafficking victims, as they would be less likely to join the unions and overseeing the prostitutes conditions would bring more visibility into their spheres.⁴⁰ However, this is not the reality of the situation. In both Germany and New Zealand, the membership of prostitution unions is incredibly low. While there may be less of a stigma in countries with legalized prostitution, to some degree the stigma persists. As a result, publicly identifying as a prostitute holds very little appeal, and thus joining a prostitution union holds little appeal.⁴¹ Unions also may carry some rather inexcusable bias. For example, the Task Force on Prostitution includes a variety of pro-decriminalization advocates and members of COYOTE (Call Off Your Old Tired Ethics) blatantly denied the huge amount of violence associated with prostitution. They consciously excluded any

³⁹ Weitzer, *Legalizing Prostitution*, 97.

⁴⁰ Farley, "Theory versus Reality," 312.

⁴¹ Ibid.

testimony from individuals who had left prostitution because of the ill effects.⁴² As such, though a legalized policy allows for prostitution unions, it essentially amounts to very little benefit. Gaining enough membership to have an impact is challenging enough, but when unions do form, often they pursue their agenda without recognition of some of the real harms of the profession. By failing to recognize the challenges, the prostitution unions do not live up to their potential. As a result, potential unions offer no evidence legalization helps any more than any other policy.

There are many ways in which the legalization of prostitution appears to help the sex workers live in safety. To start, there is theoretically much less of a stigma attached with the profession and prostitutes are able to have the right to work. It should be easier to negotiate safer sex with clients, specifically condom use. This helps to cut down on the risk of HIV and STI's. Sex workers gain more access to public health and financial services because the system acknowledges the legitimacy of their profession. Prostitutes can report crimes committed against them to the authorities without concern for exploitation by the police because of their work. Because of the legality, they do not have to deal with the consequences of having a criminal record.⁴³ This is important because should anyone desire to leave prostitution, it becomes very challenging to find another occupation with a criminal record.

⁴² Ibid.

⁴³ Goldenberg, "Sex Worker Rights," 7.

However, though possibly to a lesser degree, the stigma surrounding prostitution persists. This comes from trying to change the history of hiding prostitution from the forefront of society. Prostitution has been deemed “immoral” for so long that simply making new laws will not change anything for a while.⁴⁴ As a result, prostitutes often still feel very little empowerment, which means they are less likely to assert the rights now given to them by law. They are less likely to insist on their rights to their managers, clients and government officials. The prostitutes still rarely report violence and abuse to the police. Instead, most opt to stay in the shadows of society. As such, the reality for prostitutes looks pretty similar regardless of their legal standing. Furthermore, prostitutes in legalized countries must register to be considered legal and receive any of the benefits. However, this takes away their anonymity and become much more susceptible to public scrutiny and judgment.⁴⁵ Even to the extent that prostitution dignifies prostitution, it “doesn’t dignify the women, it simply dignifies the sex industry.”⁴⁶ So the prostitutes themselves face the same stigmatized hardships, while men feel freer to purchase sex. Thus, overall, the benefits of a reduced stigma, in reality, bring about very little change and a negligible net benefit.

Furthermore, there are plenty of other drawbacks to the policy of legalization.

Without diving too deep into the philosophical issues, legalizing prostitution “gives men

⁴⁴ Weitzer, *Legalizing Prostitution*, 100.

⁴⁵ Raymond, “Ten Reasons,” 6.

⁴⁶ *Ibid.*, 2.

moral and social permission to practice the prostitution of women and girls, which in turn encourages an increase in the demand that fuels sex trafficking,” according to the UN Coalition Against Trafficking in Women.⁴⁷ Additionally, regulation is often under-enforced and lacks the necessary resources. This is in part because of the covert reality of prostitution even in legal societies and because of a lack of proper understanding of the policies. This allows the illegal sector to continue to grow and fails to properly punish the exploitations when they do occur. Because the illegal sector and the licensed sector remain closely tied, these issues for the illegal sector create disincentives for the licensed sector to abide by the current policy.⁴⁸ When the legal systems and police fail to effectively enforce the legalization legislation, the purpose of the legalization suddenly becomes lost and irrelevant.

A policy of legalization could have some unintended consequences. Though it may not currently be the case in any country, legalization runs the risk of becoming a slippery slope. Though it might initially sound outlandish, with the legalization of buying and selling sex as a cultural norm, regular jobs could start to include sexual tasks. Similarly, courts would be forced to uphold legal contracts which included sexual services. It would also open the door to corporations providing sexual services to monitor the sexual acts of their employees. Or the government could find itself involved in regulating the personal

⁴⁷ Raymond, “Ten Reasons,” 2.

⁴⁸ Schulze, *Sexual Exploitation*, 11.

sex life of sex workers to limit any potential “risky” behavior.⁴⁹ Legalization could be only the first step in corporate and governmental regulation of the sexual behaviors of its employees/citizens. It is not inconceivable that this could be where the future of legalization lies. As such, countries with such policies must be careful not to let this happen.

Pro-legalization advocates raise some questions as well. Some believe the Dutch system of legalization does not go far enough because places and establishments are licensed rather than the individuals. This means the owners of brothels and clubs have the licenses, but the sex workers do not, thus creating a dependence on the owners, which could result in exploitation of the prostitutes. It gives the owners a “legal monopoly” of the trade.⁵⁰ Thus, in some ways legalizing prostitution benefits the pimps far more than it helps any of the women.

When prostitution is legal it means the business is taxed. Taxation can create benefits for society from an inevitable market and help cut down on the quantity of prostitution. However, it creates an incentive for sex work businesses and establishments to go underground as they wish to avoid paying taxes. And there is much riskier behavior in the underground market. Therefore, while prostitution might be completely legal, there will always be reasons why individuals and businesses prefer to keep it in the unregulated

⁴⁹ Liberto, “Normalizing Prostitution,” 139.

⁵⁰ Goldberg, “Should Buying Sex Be Illegal?” 21.

underground market.⁵¹ Instead of limiting prostitution, legalization merely splits it into two categories; legal and illegal.

Legalization policy allows health issues to continue. Many proponents of a legalized system point out the benefits of having health care for prostitutes. However, as previously noted, the stigma of prostitution continues to exist even when the laws no longer deem it to be criminal activity. This affects the police and health care workers as well, meaning prostitutes rarely seek out the health care to which they are entitled, nor do they feel free to report the rapes.⁵² Additionally, the health examinations and tests are required by the prostitutes to protect their customers. Yet this is not required for the men, meaning the prostitutes are at risk of contracting STDs or AIDS from their customers.⁵³ While one of the main reasons cited in support for legalized prostitution is the health benefits for prostitutes, in practice, results are negligible.

Legalization is not the answer to the issue of prostitution. According to various European non-governmental organizations, Dutch traffickers coach their trafficking victims to describe themselves as “migrant sex workers” and because of the legalization, they get away with it.⁵⁴ This makes sex trafficking easier, and far from the desired result of the policy. Relatedly, between the years of 1996 and 2001, ChildRight—an organization

⁵¹ Immordino, “Regulating Prostitution,” 15.

⁵² Farley, “Bad for the Body,” 1093.

⁵³ Raymond, “Ten Reasons,” 8.

⁵⁴ *Ibid.*, 3

based in Amsterdam—estimated the increase of children in prostitution has risen by over 300 percent. In 1996 the estimated total was four thousand children, but in 2001 that number was around fifteen thousand children.⁵⁵ Even a one percent increase in child prostitution is too much. Three hundred percent is unacceptable.

Therefore, legalization may look appealing on paper, but in reality it some do not result in any worthwhile benefits. Public support for these laws often waivers as well. It seems attractive and progressive at first. Many people consider tolerance valuable in the abstract. Yet when the laws are enacted, it can be easy to become disenchanted with the reality.⁵⁶ Legalization promises a great deal but truly delivers on very little.

THE NETHERLANDS

The Netherlands is perhaps the most well-known model of legalized prostitution. As such, for the sake of this paper, it will be the country used to exemplify how a legalized model of prostitution plays out in a real sense. To truly understand the situation in the Netherlands, it is important to understand exactly what the laws are. To work legally as a prostitute, an individual must be from a European Economic Area or Switzerland. Furthermore, all brothels, sex clubs, and escort services must have a license. In the Netherlands, in order to be a legal sex worker, one must be at least 21 years of age. This was recently raised from 18 years old.⁵⁷ However, if a minor is caught, they are not put

⁵⁵ Ibid., 7.

⁵⁶ Weitzer, *Legalizing Prostitution*, 100.

⁵⁷ The Netherlands. *Prostitution in the Netherlands*.

under arrest but instead are helped to leave prostitution. Any individual who facilitated or profited from the minor's prostitution can receive up to six years in prison. Clients of these minors are also subject to punishment.⁵⁸ This is an important distinction which the Netherlands does well to recognize.

The Dutch laws emphasize the difference between the legalization of prostitution and trafficking, another important distinction. The laws point out it is illegal to participate in any variety of coercion, whether that be threats, deceptive recruitment or work requirements. Anyone who forces an adult into prostitution or profited from it will also face a maximum of six years in prison.⁵⁹ Still, as the ChildRight statistics revealed, child prostitution thrives in the Dutch legalized environment. And trafficking efforts are only as good as those seeking out trafficking victims. A newly added section of the Dutch Criminal Code has moved to penalize all forms of exploitation. The Dutch government has decided to make fighting sex trafficking a higher priority. The Minister of Justice and the Public Prosecutors Service both introduced new criminal policies intended to fight organized crime, with human trafficking specifically in mind. In order to accomplish this, a national “Task Force to Combat Human Trafficking” was created.⁶⁰ The effectiveness of this has yet to be established. Perhaps the Dutch government will achieve some success in limiting human trafficking within its borders. Yet these efforts must rely on transparency

⁵⁸ Weitzer, *Legalizing Prostitution*, 149.

⁵⁹ Ibid.

⁶⁰ Huisman, “The Challenges of Fighting Sex Trafficking,” 220.

that reveals the illegal trafficking efforts. The effectiveness of city administrations' regulations largely hinges on the work of the police to uncover illicit operations.⁶¹ Because even legal prostitution still operates as though it is illegal, the regulation efforts suffer. This, in turn, allows trafficking operations and organized crime to continue.

Any reduction in the number of prostitutes may have nothing to do with the legalization laws in the Netherlands. There are a number of other outside factors which may have affected the number of prostitutes. Some of these factors include, but are not limited to the introduction of the Euro to the Netherlands in 2002, the economic downswing, as well as the growth of the internet and cellular devices, which made sex lines and home prostitution much more accessible.⁶² These alternative reasons for any varying levels of prostitution call into question any dramatic conclusion of the success of the Dutch policy.

As an example, the Dutch government sponsored a number of studies which found that overall legal prostitution in the Netherlands has declined slightly over time and that although the legal facet is declining, it remains greater than the illegal sector. The study also found the illegal activity is rare in the legal venues. And the number of licensed brothels, sex clubs, and escort agencies fell by 17 percent between 2000 through 2006, and even further in 2009, attaining numbers of 1,325, 1,270, and 1,150 respectively.⁶³ Often it

⁶¹ Ibid., 227.

⁶² Daalder, *Prostitution in the Netherlands since Lifting the Brothel Ban*, 35.

⁶³ Weitzer, *Legalizing Prostitution*, 154.

would make more sense for the legalization of prostitution to increase the amount of it, as was seen with the number of child prostitutes from 1996 to 2001.⁶⁴ However, other potential explanations might include the expense of participating in a legal network of businesses, with regulations, taxes, and competition. Another reason may simply be the old brothel owners are retiring and the younger owners and pimps lack the resources to operate in an expensive city like Amsterdam. Finally, it could be a result of policies within the different municipalities which allows them to buy out brothels in an effort to keep a feeling of integrity within their region.⁶⁵ Whatever the reason, attaining these numbers is a challenge as much of the legal sector still operates in secret. Obtaining accurate numbers for the illegal sector proves near impossible. Furthermore, this trend of decline must persist for it to have any lasting significance.

According to another study, there are 674 licensed sexual establishments in total in the Netherlands. Forty percent of the municipalities there is one or more established prostitution business.⁶⁶ According to the National Threat Assessment on Organized Crime, in 2012 there were at least 20,000 people working in prostitution, and likely more.⁶⁷ This is not an insignificant number. The Netherlands are famous for their window prostitutes in the Red Light District in Amsterdam. However, only 1 in 5 prostitutes use the windows in

⁶⁴ Raymond, "Ten Reasons," 7.

⁶⁵ Weitzer, *Legalizing Prostitution*, 155.

⁶⁶ The Netherlands, *Prostitution in the Netherlands*, 2.

⁶⁷ Goldberg, "Should Buying Sex Be Illegal?" 23.

the Netherlands.⁶⁸ Of those not working in the windows, 25 percent work in brothels, 50 percent work as escorts or at home, and only around 1 percent works in street prostitution.⁶⁹ Though there are no reliable numbers regarding an accurate measure of prostitutes in countries, according to a 2010 survey of Amsterdam, there was a daily minimum of 570 individuals working in the windows, 688 working in brothels, 1,680 individuals working from their own home or residence, and 1,408 escorts operating either for an agency or independently. The survey reported between 40 and 45 individuals working on the street.⁷⁰ If these results are to be trusted, the reduction in prostitutes was temporary.

There is also evidence that prostitution has expanded in the Netherlands to a different type of establishment, namely sex saunas and erotic sauna clubs. These types of establishments began in Germany and might either be licensed or non-licensed businesses. These places are challenging to regulate or pinpoint the prostitution because then the two enter as paying visitors, seemingly innocent, but then reach an agreement regarding sexual services and payment once inside.⁷¹ This makes it difficult for the government to regulate, which is likely the point.

⁶⁸ Ibid., 22.

⁶⁹ Weitzer, *Legalizing Prostitution*, 151.

⁷⁰ Ibid.

⁷¹ Daalder, *Prostitution in the Netherlands since Lifting the Brothel Ban*, 35.

According to the World Values Survey, in comparison to other European countries, the Netherlands is more tolerant of prostitution, and this has been the case over a period of time. Surveys in 1990 and 2005 reveal only 20 percent of Dutch citizens felt prostitution can ““never be justified.””⁷² Comparatively, this is rather low. Although, as previously pointed out, legalization does not eliminate disdain for prostitution. Evidence of this disdain can be seen in the way Dutch prostitutes still operate in a sense of anonymity and secrecy, often using cash transfers as a method payment.⁷³ The survey results may reveal an overall bent towards tolerance, but between the limited accuracy of surveys and the physical evidence, the Netherlands might not be quite as progressive as they preach to be.

Furthermore, prostitution is harmful to the stability of relationships in Dutch society. There was a study conducted in the Netherlands in which men who bought the services of a prostitute revealed that more than half were in a relationship while they purchased the sexual services of a stranger. A portion of these men made this choice because their partner did not satisfy their needs. It seemed that the fact that the men who bought prostitutes had a partner was not a deterrent in their decision to visit prostitutes.⁷⁴ Thus, while their liberal approach might be helpful in some areas, the availability to cheat on a partner undoubtedly negatively effects the levels of trust in relationships and the strength of the public morale.

⁷² Weitzer, *Legalizing Prostitution*, 149.

⁷³ Huisman, “The Challenges of Fighting Sex Trafficking,” 225.

⁷⁴ Daalder, *Prostitution in the Netherlands since Lifting the Brothel Ban*, 34.

CRIMINALIZATION

On the opposite end of the policy spectrum, there is the policy of criminalization. There are two types of criminalization. Full criminalization—the United State’s policy—punishes all parties involved, although that punishment might vary. With this policy, the goal is to eliminate prostitution altogether. Partial decriminalization, famously exemplified by Sweden, punishes buying and facilitating buying of sex while protecting the prostitutes themselves from any legal ramifications. With this model, the prostitutes are viewed as victims and the overall goal is to end human trafficking by cutting back on the demand. In this model, prostitution is viewed as harmful, a form of violence, and a barrier to gender equality.⁷⁵ The partial decriminalization, also known as prohibition, stems from the principles which underly society. One of the main reasons for this policy is because countries do not want to have a society where it is acceptable to buy another person.⁷⁶ This is especially true for Sweden and other Nordic countries. The laws are just as much a message about societal ideals as they are about the actual issue of prostitution. For this paper, criminalization will be referring to the Nordic policy model.

Yet prohibition is not without its consequences. When prostitution remains an illegal activity, it increases the negative stigma surrounding it. This stigma makes life more dangerous and difficult for prostitutes.⁷⁷ It can cause discrimination by others in society,

⁷⁵ Andriano, “Sex Trafficking and Prostitution.”

⁷⁶ Goldberg, “Should Buying Sex Be Illegal?” 25.

⁷⁷ *Ibid.*, 3.

especially with regard to the legal system, healthcare, and education. Prostitutes rarely have the access they are entitled to in these areas of life, and more. They may not receive proper healthcare, a proper police investigation into their assaults or perhaps a denial of future education as a result of their profession. Because in these three realms prostitutes will likely be denied proper service, the prostitutes often must lie or fail to seek help from these services altogether.⁷⁸ Prostitutes are also at a higher risk for physical and sexual violence from their clients. Because the work is driven underground, clients feel they have the ability to get away with harming the sex workers because there is little ability to seek justice from the legal system. This allows for violence to be more common and for retribution to be less so. One study of Kenyan prostitutes indicated that 58 percent of Kenyan prostitutes experienced forced sexual experiences.⁷⁹ During a TED talk of sex worker Juno Mac, she points out that even when prostitutes are not punished, they must protect their clients, which often leads to secrecy and less ability to screen clients and operate safely.⁸⁰ As such, criminalization policy does not solve all of the issues regarding prostitution.

Not only do the legal systems often fail violated prostitutes, but the police force often does as well. It has been found that prostitutes suffer from coercion, extortion, harassment, further sexual and physical abuse, arbitrary detention and other similar

⁷⁸ Goldenberg, "Sex Worker Rights," 6.

⁷⁹ Ibid.

⁸⁰ Mac, "The Laws that Sex Workers Really Want."

violations by the police. This is especially true of less developed countries with criminalization policies. It was reported that in a study of prostitutes in Cambodia, 72 percent of brothel-based sex workers have been beaten by police and 57 percent have been raped by police.⁸¹ Thus, while the stigma halts police intervention in the work of prostitutes in countries with legalized prostitution, prostitutes under criminalization fair no better with the police. If prostitutes cannot trust the only people meant to truly protect them, the business of prostitution will continue to be a very dangerous one.

However, there is some evidence that the stigma is limited in some circumstances. In a study of Norway, which practices prohibition laws, those living in the Norwegian capital of Oslo, became more opposed to prostitution than the general population which had little change in attitude regarding selling sex. This led the study to conclude that the prohibition laws had a greater effect on those who had a greater likelihood of exposure to prostitution.

Criminalization can also facilitate the spread of sexual disease including HIV and STI's because it becomes a challenge for sex workers to perform safe sex. Condoms can be used as evidence of the criminalized prostitution and thus many prostitutes do not use them, which in turn leaves them exposed to many health risks.⁸² The risk of going to jail outweighs that of risky sex. As Juno Mac pointed out in her talk, the risk is clear, but the prostitutes are faced with the question, can they afford to take the risk? Can they afford not

⁸¹ Goldenberg, "Sex Worker Rights," 6.

⁸² Ibid.

to?⁸³ Because many women enter into prostitution as a solution to economic problems, often the answer to the second question is “no”.

Therefore, while there are still many drawbacks to the policy of criminalization, no prostitution policy is a blanket solution. All policies have a great number of unintended consequences. Yet a deeper look into the Swedish model will reveal some of the reasons while punishing the demand still creates a stronger foundation for society than legalization.

SWEDEN

The Swedish system of government prioritizes equality when creating legislation in their country. Because the principles of legal, political, economic, and social equality stand in direct contrast to the idea that women and girls can be bought and used sexually by men, it naturally follows that prostitution would have no place in Swedish societal goals.⁸⁴ The cornerstone of Sweden’s policy is the recognition that without men’s desire to use women and girls, prostitution could not flourish.⁸⁵ As such, Sweden designs its laws to punish the “demand” of prostitution rather than the “product” itself in the hopes that the “supply” will ultimately decrease. The Swedish government has published documents saying prostitution is undesirable for society because it prevents equality between women and men from developing. By criminalizing the purchase of prostitution, the Swedish government looks

⁸³ Mac, “The Laws that Sex Workers Really Want.”

⁸⁴ Ekberg, “The Swedish Law That Prohibits,” 1188.

⁸⁵ Ibid., 1189.

to counteract the negative consequences of prostitution.⁸⁶ The Swedish culture is one that places a high emphasis on equality of all its citizens. Prostitution stands in direct contrast to this equality.

The Swedish government justifies its decision to have prohibitionist laws because, in the words of Olga Persson, secretary general of the Swedish Association of Women's Shelters and Young Women's Empowerment Centres, "We don't base our legislation on individuals' experiences; we base it on the society we want."⁸⁷ Initially, this might come across as a bit harsh. But this kind of thinking reflects the way the Swedish prioritize the whole rather than the individual, which fits with the collective nature of Swedish society. Another reason for their laws is because they believe prostitution is a male problem. It is about men's sexuality, not women's.⁸⁸ The issue of male sexuality is further exemplified by the fact that male prostitutes are not subject to the same kind of stigma as women because male sex work fits into the traditional understanding of masculinity and male sexuality.⁸⁹ This is the Swedish response to individuals who preach legalization because it allows women to embrace their sexuality. But if women's sexuality is not the root of the issue, then this logic falls apart, and the Swedish model starts to make a lot more sense.

⁸⁶ Raymond, "Ten Reasons," 12.

⁸⁷ Goldberg, "Should Buying Sex Be Illegal?" 25.

⁸⁸ Harrington, "Prostitution Policy Models," 345.

⁸⁹ Vanwesenbeek, "Prostitution Push and Pull," 14.

Sweden introduced the “Law That Prohibits” on January 1, 1999. It criminalized the buyer of prostitution and was written with gender-neutral language in the hopes that this would help combat prostitution and human trafficking.⁹⁰ If an individual offers anything—money, drugs, or even a place to stay—as payment for sexual services, it is considered an attempt at prostitution. Police are cleared to intervene if there is evidence before a crime even occurs.⁹¹ In order to increase the knowledge and understanding of prostitution in the minds of the police, the National Criminal Police worked with the Division for Gender Equality and many local police forces to establish educational materials for officers. As a result, one year after the commencement of the program, arrests went up by 300 percent. This was attributed to the police officers better understanding and recognition of prostitution and human trafficking indicators and a better understanding of the reasons behind the laws.⁹² This training could be the start to a solution for the problem of police brutality towards prostitutes and taking their accusations of violence seriously.

However, one challenge of the Swedish policy is that when it comes to punishing the “buyer” it is much easier to prove criminal guilt after any sexual relations have been completed. However, this is counter-productive, because the hope is to prevent it from

⁹⁰ Ekberg, “The Swedish Law That Prohibits,” 1191.

⁹¹ *Ibid.*, 1195.

⁹² *Ibid.*, 1196.

happening in the first place.⁹³ And yet according to the BRA Report, 51 percent of all prostitution cases were dropped because of difficulties with evidence.⁹⁴ There is no clear way to fix this issue, but doing so would go a long way in establishing clear effectiveness to the policy. As a result of the Swedish Law on the Purchase of Sex, the success of undercover detection and investigation by local police were often the most effective and noticeable changes.⁹⁵ Undercover operations would help to fix some of the issues of substantial evidence. But these operations, while successful, are costly and time-consuming. However, the higher success rate following the policy change is still substantial in counteracting prostitution.

The Swedish model has seen some success. According to the Swedish Government Chancellor's Report, street prostitution has been cut in half since the introduction of the prohibitionist laws in 1999.⁹⁶ In 1999, it was estimated that 125,000 Swedish men bought about 2,500 prostituted women at least once a year. Of these women, about 650 were street prostitutes. From 1999 until today, it has been estimated that the recruitment of new women has almost completely stopped. According to one report, out of the 9 million Swedish inhabitants, there are no more than 500 women in street prostitution.⁹⁷ Admittedly

⁹³ Norway, *Purchasing Sexual Services*, 18.

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*, 22.

⁹⁶ Sweden, *Evaluation of the Prohibition*, 2.

⁹⁷ Ekberg, "The Swedish Law That Prohibits," 1193.

these statistics do not take into account the numbers for indoor prostitution, but nor should they be completely ignored.

According to a research project studying the internet as a means of sexual interaction, the number of Swedish women prostituted over the internet remains at a stable range of 80 to 100 women. The same women are often advertised on many different sites.⁹⁸ As far as the punishment of those purchasing prostitution, 734 male individuals between January 1999 and April 2004 have been reported for violating the law.⁹⁹ Another study found that in the three years since the prostitution law was passed, the number of women in street prostitution declined by 50 percent, and anywhere between 70 to 80 percent of buyers left public locations.¹⁰⁰ While most prostitution occurs indoors, a minimization of street prostitution is still a victory. A study in 2001 found of the 2,500 prostitutes in Sweden, 1,850 did not work on the streets.¹⁰¹ The extent of the accuracy of these numbers is unknown. However, it speaks to the fact that most prostitution in Sweden does not take place on the streets. This is just the most visible type, and so it is how most people perceive prostitution. As was pointed out in the beginning, street prostitution is often the more dangerous of the two, so this is a small victory on the behalf of Swedish prostitutes. The Swedish model has achieved at least some success in its endeavors. Its

⁹⁸ Ibid., 1194.

⁹⁹ Ibid., 1195.

¹⁰⁰ Raymond, "Ten Reasons," 12.

¹⁰¹ Norway, *Purchasing Sexual Services*, 11.

stark deviation from the Netherland's policy of legalization may make it seem especially strict. However, the policy of punishing the buyer over the seller has allowed the country to use the law to help create the kind of equality in a society that allows all its members to truly thrive. And thriving citizens ought to be a goal of successful societies.

RESEARCH STUDY

In a research study I conducted, I looked at the relationship of the prostitution laws of countries and the number of prostitutes in those countries. In the study, I tested the number of Prostitutes per 10,000 people in the population as the dependent variable¹⁰² against Prostitution Laws, the independent variable. There are two main legal responses to prostitution; legalization and criminalization. My hypothesis was countries that legalize prostitution will have a higher amount of prostitution. As a result of not having to worry about legal retribution, it would seem that prostitution could expand much more than in locations where, if discovered, criminal acts or fines would be enforced. The two policies of criminalization and legalization were coded into a ratio measurement so they could be tested.¹⁰³ A bivariate regression analysis was run, and the results were found to be

¹⁰² This data was gathered from a variety of sources which identified the estimated number of prostitutes in a country. The data was combined with data which identified the population of these same countries. The number of prostitutes in a country was then divided by the total population in order to find the percent of the total population that are prostitutes. However, in order to make the results simpler to use, this percentage was then multiplied by 10,000, finding the number of prostitutes per 10,000 individuals in the country. These results generally fell anywhere in-between 1 and 400. The total sample size gathered of proportion of prostitutes was 138.

¹⁰³The data was gathered from a total of 138 countries on their legal policies. In order to test it, legalization became the "dummy variable" in which countries that exemplified criminalization policies were given the value "1", while the other countries had policies that are "not criminalized", also known as legalized prostitution were coded as "0". Thus, countries either received a value of one or zero.

statistically insignificant.¹⁰⁴ Only 0.4 percent of the number of prostitutes in a country can be explained by the country's policies, according to this study. As a result of this study, it can be concluded that the laws do not have a direct effect on the number of prostitutes in a country.

As my results demonstrated, the laws are not about reducing the number of people in prostitution, in reality. Instead, the laws dictate the conditions that the prostitutes live in and the attitude of the public towards prostitution, sex, women, and gender equality. If the current two policy trends have little to no bearing on the number of women in prostitution, then the other effects become more important to the debate. Therefore, if there is no clear current policy which dramatically lowers the number of those in prostitution, then when analyzing whether a policy of legalization or criminalization is better, one can look at results other than the number of prostitutes.

LIMITATIONS

Due to the scope of the research, there are many other factors that may be relevant to the prostitution debate but were left out. Limited time and resources make exploring every avenue impossible. As such, this study, while thorough, cannot cover all related factors. Another limitation is the scope of the data itself. Attaining accurate numbers on the number of prostitutes in a given industry or country is a difficult task given the nature of the work and the presence of prostitution operating underground. Given the illegal

¹⁰⁴ P-value is 0.488, and it would need to be less than 0.05 to be considered statistically significant.

nature of prostitution in many countries, those involved in prostitution tend to keep their involvement as discreet as possible. Additionally, research reaching out to sex workers usually have very low response rates. Conducted studies tend to focus on smaller groups of sex workers, as it is much more manageable than attempting to identify the entire industry. The sex industry is also incredibly diverse in the spheres in which they operate.

Furthermore, those reaching out to collect this data usually has some sort of agenda. Data is most often gathered by countries looking to promote their policy, or NGO's seeking to prove their cause worthwhile. This happens on both sides of the debate. And while the data may, in fact, be as accurate as is reasonable, there is always the chance of researcher bias in these circumstances. While this may not necessarily be true, it is something to keep in mind when looking at the different statistics and sources of data. When gathering data, it is rare for the method of data collection to be explicitly noted. This makes it challenging to assess which sources are the most accurate. Thus, when gathering this data, there was, at times, conflicting data, and often it was a judgment call to determine which was likely the most accurate. This conflicting data made it difficult to make any clear judgment on the policies based solely off of the results of the policies.

THE HARM ON SOCIETY

When it comes down to it, what does prostitution as a whole mean for women in American society? Is it morally acceptable for women to sell their bodies? The short answer is no. Prostitution is inherently unequal and perpetuates harmful values within

society. It fuels further exploitation of already vulnerable women and sustains the patriarchal domination of women. It allows for people to purchase another's body. According to Merriam-Webster, morality deals with what is "right" and "wrong".¹⁰⁵ Slavery is a person as another's piece of property. Let it be assumed that slavery is "wrong". Prostitution allows another person to temporarily own another person's physical body. As such, prostitution must also be "wrong" and thus immoral. The exploitation and inequality of prostitution fuels this immorality, as does the concept of buying something that ought not to be commodified.

EXPLOITATIVE

Prostitution systematically traps vulnerable women in its web. When looking at the options facing at-risk individuals, there is no question that options can be very limited. Yet, why is it then that "women who are poor 'choose' prostitution, while their male counterparts decide on some other way to survive?"¹⁰⁶ Should the options not be the same? And if they are, what pushes women to choose prostitution over other options more commonly selected by males? These are the questions necessary to understand not only the inequality of the situation but how to change it.

While many women "choose" prostitution, it only comes out of an economic need. Just as is true regarding the legitimate economy, the economic opportunities women face

¹⁰⁵ "Dictionary by Merriam Webster."

¹⁰⁶ Barrera, "In Whose Interests?" 16.

in the underground economy is highly gendered. As such, prostitution is a commonly available job for women in the underground market.¹⁰⁷ For the lack of education and formal training needed, prostitution is a well-paid job. As Catherine MacKinnon points out, ““Aside from modeling [...] hooking is the only job for [which] women as a group are paid more than men”” and this should be alarming as a society.¹⁰⁸ Yet it helps to explain why so many women turn to prostitution when in financial need.

Adding to the financial trouble of many is the drug epidemic running rampant across the country. More women are using drugs and are arrested and jailed for drug-related offenses than ever before. The expensive drugs—heroin, cocaine, crack, etc.—cost money, yet are used by women with very low social influence, and economic, and political power. This means they must rely on a limited set of skills to obtain the money needed to feed their addiction. Prostitution becomes an easy choice because it requires very little skill, yet provides quick cash. Thus, even within criminal activities, women often gravitate towards the roles that traditionally fall to women and female roles. This, in turn, means the use of drugs by women, addiction and prostitution are intertwined.¹⁰⁹ To think of it another way, the world of illegal activity has its own glass-ceiling situation. Research has demonstrated that men and women commit different crimes. While drug-using men often occupy the higher level positions in the drug trade—such as selling drugs—female drug

¹⁰⁷ Coontz, “Drug Use, Prostitution, and Globalization,” 194.

¹⁰⁸ MacKinnon, *Feminism Unmodified*, 25.

¹⁰⁹ Coontz, “Drug Use, Prostitution, and Globalization,” 195.

users often shoplift or work as prostitutes.¹¹⁰ Even when faced with the same economic hardship, men and women gravitate to different options. Because overall in society women earn less than men, they have a greater incentive to offer sex for payment.

The cost of prostitution does not affect all those involved equally. The prostitutes (women) are arrested, while the johns and pimps (men), more often than not, go unpunished. The arrests on the prostitutes affect poor minorities more so than any other group; 55 percent of women arrested for prostitution are minorities and 85 percent of women incarcerated for prostitution are minorities.¹¹¹ So not only does prostitution almost solely have a negative impact on women over men but it also drastically has a greater effect on minorities. When looking at the flaws of society as a whole, the treatment of women and minorities will always surface as a major current issue. Prostitution is also ageist because it takes advantage of young people, some of who are still children, to provide this service. Then when these individuals grow older, the system throws them out because old women are not viewed as sexually desirable the way young women are¹¹². The cycle of prostitution chews up these young people and then spits them out, without a useful resume and with a traumatic past. Prostitution only adds to these already apparent problems. And yet, the inequality in prostitution does not make it to the spotlight because, once again, the taboo and stigma force those affected to suffer in silence.

¹¹⁰ Ibid., 197.

¹¹¹ Ibid., 194.

¹¹² Overall, "What's Wrong With Prostitution?" 717.

If drugs and prostitution are intertwined beyond both being vice issues, perhaps looking at them together could help to reduce the need for both. If women did not need to find money to feed drug addictions, perhaps the number of prostitutes would be reduced. Or if the prostitutes who are hooked on drugs by their pimp after entering prostitution are reduced, the number of women on drugs would be less as well. Perhaps as a society, there ought to be a re-evaluation of what options are available to women—specifically minority women—with little resources.

INEQUALITY

Prostitution fuels gender inequality. Like the philosophy of Sweden, prostitution simply cannot exist in a world where men and women are viewed as equals. What many feminists who take the liberal approach to prostitution aim to do is to look at two people each acting with autonomy, both choosing to participate in prostitution of their own free will. Yet prostitution cannot be simply understood as simply something that transpires between two individuals. It must be considered within the larger status of society.

Prostitution both reflects and perpetuates the domination of women by men.

The existence of prostitution throughout history has provided a standard with which society has judged women. Prostitutes are “bad” women and all others are “good,” or they are until they exhibit any characteristic associated with prostitution. A deviation of sexual fidelity suddenly becomes an excuse not to show empathy or institutional protection. For this reason, rape is often viewed as an occupational hazard of prostitution, and police are

reluctant to take allegations seriously.¹¹³ Yet the men who participate in this with them are viewed no differently. Nor do they face the same violence from it and skepticism from police afterward. So not only does society then punish the prostitute for the service she performs for the men who decide they need her body for the pleasure it provides them, but the “buyer” faces no such punishment. And yet the buyer is the reason for the need for the service in the first place.

According to feminist Andrea Dworkin, part of the appeal of prostitutes to men is the inherent power to degrade women and treat them inhumanely.¹¹⁴ Buying a body indicates there is a “master” who buys and determines what the body they purchased must do. Purchasing the body of another individual so that they may service that individual sexually makes them the master of a temporary sexual slave. Because the john has paid for the service, he has the right to dictate exactly what kind of service he desires. The sex worker must then meet the demands regardless of her own personal preferences. The degradation that often accompanies these demands poses no real issue because the john paid good money to do as he pleased.

Although the data has already supported the assertion that men are the “buyers” of prostitution, this stems from a difference in sexuality between men and women. Men experience a “separateness” which results in feelings of need for sexual domination over

¹¹³ Coontz, “Drug Use, Prostitution, and Globalization,” 199.

¹¹⁴ Liberto, “Normalizing Prostitution,” 139.

women. As a whole, women do not experience these same feelings. This not only helps to explain the gender role divide in prostitution, but it undermines the claim of COYOTE's Margo St. James that men and women's sexuality are interchangeable. Prostitution exists to the extent that is done to satisfy male sexual needs.

Some feminists—like those of COYOTE—argue women have the right to do as they please with their body; that buying sex is the same as buying the skills of a mechanic. Yet, no matter how much these individuals would like to equate the two, they are not—and cannot be—the same. In the context of today's society, women struggle to attain the same level of respect as men in nearly all areas of life. Prostitution exemplifies these inequalities because there is a stigma within society associated with prostitution that applies to the woman much more so than it does to the man. Prostitution is viewed as ““a problem about the women who are prostitutes...[rather than] a problem about the men who demand to buy them””.¹¹⁵ Societies view of men's sexuality allows them to buy prostitutes and keep their reputation. Yet the prostitute suffers a much different fate. As previously mentioned, she is made an outcast of society, a woman of no morals, and one with very little value. These are simply not the same responses as those given to a woman mechanic.

There will always be some minority group of sex workers that professes satisfaction and even enjoyment from their work. This small group cannot be the loudest voice when it comes to what prostitution means to women. Only a small number of women

¹¹⁵ Satz, “Markets in Women's Sexual Labor,” 79.

would freely choose prostitution as their desired career. As such, the demand for women would fall to already vulnerable disadvantaged women. These women fall into this low-skill career because the demand for it is already there. The call for sexual liberation for a few should not justify the inevitable exploitation. Nor does it justify the broader message sent to society as a whole. As long as men can purchase a stranger's body for their personal satisfaction, there cannot be true equality of gender.

The phrase "money can never buy consent" seems to illustrate the issue with prostitution.¹¹⁶ If rape is an objectively immoral act, then how can prostitution be moral, given this? Consent is meant to express freedom of desire, not as a form of compensation for services rendered.¹¹⁷ As such, prostitution will always be a violation of women. Simply receiving payment does nothing to account for the sexual use of one person by another. Prostitution is just part of a larger conversation, accompanying rape, domestic violence, sexual harassment, pornography and abuse of children, all of which create a pattern of male power over females in society.¹¹⁸

THE COMMODIFICATION ISSUE

Why does prostitution sit so poorly with people? The difference between paying a prostitute and paying a mechanic has already been touched on. And yet it can be difficult to pinpoint exactly how those two things differ. But differ they do. It stems from the idea

¹¹⁶ Barrera, "In Whose Interests?" 17.

¹¹⁷ MacKinnon, *Feminism Unmodified*, 11.

¹¹⁸ *Ibid.*, 5.

that the body—and in turn, sex—has a certain sacredness and integrity that should not be commodified. It also is a form of exerting power over the vulnerable. In many ways, prostitution is the ultimate form of inequality between two individuals. As such, it cannot be as simple as a mere transaction between two people.

While money can buy most things, that does not necessarily mean that it should. There are certain things that simply should not be commodified. Friendship is one of those things. Sex is another. Putting a price on anything innately good risks corrupting it because the market ends up conveying and promoting certain attitudes towards that good being exchanged.¹¹⁹ In the case of prostitution, the markets allow something that should be a choice of expressed intimacy between two individuals to become something that a person with money can order from someone who needs something whether that is money, “security” through their pimp, etc. Corruption happens when any good, service, or social practice is treated according to a lower norm than it was intended to be.¹²⁰ Buying sex trivializes the intimacy of the act.

As soon as something can be bought and sold, it then becomes acceptable to treat whatever it is as a commodity, a tool to attain profit and to use for personal gain.¹²¹ When sex is sold it not only becomes something entirely self-centered, but it becomes innately unequal. And human beings must be valued “in the appropriate way—as persons worthy of

¹¹⁹ Sandel, *What Money Can't Buy*, 9.

¹²⁰ *Ibid.*, 46.

¹²¹ *Ibid.*, 9.

dignity and respect, rather than as instruments of gain and objects of use”.¹²² When an individual pays for the body of another person to play out whatever sexual fantasy the buyer has, the prostitute is merely an instrument of pleasure used by the john. There is no respect that comes into play. The same way people use the term “whore” as an insult, prostitution will never be anything that is treated with dignity. One person buying another for what their body can do turns essentially that person into an object.

Then comes the question of whether one’s body is their possession that they can do whatever they please to, or if there are some uses that simply are self-degrading.¹²³ While everyone has the ability to do what they please with their body, that does not mean they should, or that it is healthy to do so. Within the context of prostitution, prostitutes sacrifice the ability to do as they wish with their body. So while individuals should be able to have autonomy over their body, there are some things that people should just not do, including any release of sexual autonomy.

The thing about the economy is markets are objective. They do not ask whether the things in demand are things that ought to be or if some things are worthier than others. The market just takes supply and demand and produces its results. But this objectivity is not always what society needs. Nor does it end at objectivity. Because of the inability for markets to discriminate, markets are not just mechanisms of the economy, but rather they

¹²² Ibid., 10.

¹²³ Ibid., 47.

embody certain values. When sex can be bought and sold in a society, that society promotes values of inequality, of sex as a contract between two staunchly unequal parties.

One issue that arose as a result of this state is the issue of a wife having sex with her husband with the hopes he will buy her the new car she has her eye on. Is using sex in this way still as questionable as prostitution? This becomes tricky. But the difference is the emotional ties involved. Think of it as a sliding scale of emotional connection. The greater the emotional connection, as one would hope in a marriage, the lesser the issue of inequality. It is not a perfect system, but a distinction must be made in differentiating prostitution and what happens in a marriage.

When people buy and sell while in a situation of inequality, the market is no longer as voluntary as it is professed to be. Economic circumstances force the hand of individuals in a way that creates injustice.¹²⁴ This is exactly true of what is happening in prostitution. As previously stated, prostitution is never just a choice. Because of this, all forms of consent involved becomes tainted. A woman is not saying yes to sex because she wants to have sex with a stranger, but because she needs to do so in order to make money. And in the case of trafficking, because she has no choice.

And yet, this inequality is not even the sole objection to prostitution as a part of the market. There is a basis for objecting to it as a function of corruption. When this happens,

¹²⁴ Ibid., 111.

“certain moral and civic goods are diminished or corrupted if bought and sold”.¹²⁵

Prostitution exemplifies this by promoting harmful attitudes toward sex. It is saying that the most intimate act between two people can now be bought with a mere matter of dollars. There are simply some things that should not be able to happen as a result of having any level of wealth. Even in a society free from any unjust variations of wealth and power, there ought to still be some things money cannot buy. It also promotes the idea of sex as purely for self-gratification and as something without reaction to duty or care.¹²⁶ When duty and care are no longer an important principle of society, society suffers. By eliminating the commodification of the select few categories that ought to stay separate, the type of society desired—one where people can truly thrive—becomes much more attainable.

POLICY RECOMMENDATIONS

Overall, like the research study I conducted, the difference between how the legislation affects the number of prostitutes shows no clear “winner”. Yet criminalization is a policy much more preferable to legalization. While there are undoubtedly flaws, the simple fact that people cannot buy other people for any reason, let alone a sexual one, should be enough of a reason for supporting criminalization. Moreover, many of the theoretical benefits of a legalized policy end up failing to live up to the expectation. Many

¹²⁵ Ibid.

¹²⁶ Peterson-Iyer, “Prostitution: A Feminist Ethical Analysis,” 35.

of the issues faced by both policies are very similar. As such, the differences between the two policies is nearly negligible. The pros and cons of both policies generally even out. This means two things. First, it means that the general message sent by the policies becomes more important. Second, it means developing a truly successful policy is still in the works.

As far as a policy recommendation goes, the Swedish model is the best place to begin. In order to create the most effective policy, start with the Swedish model and then make corrections based on where this model is still failing. It is important not to criminalize the women prostituted, as an unfortunate turn in circumstances in some way led them to the place where they must sell their bodies. Adding a criminal record to these women will not enable them to have many other career options. Additionally, girls should not grow up in a society in which men can purchase their bodies for any reason. Instead of punishing these women and girls who are being used for what their bodies can give to men, they should be empowered. If they were criminalized, society would ultimately look down on them. Instead, these women must be empowered by all of society to feel as though they can leave their circumstances for one that grants them more freedom. And options should be made available, perhaps by the government, so that another alternative is clear and attainable.

Criminalization was never meant to eliminate prostitution, but rather to control the visibility of it. If the police can remove and punish prostitution strictly in the public eye,

but let it go in the dark alleys of rough neighborhoods, then the job is done.¹²⁷ As long as it is not clear to the public that prostitution exists in their communities, prostitution continues in the margins of society. This approach of criminalization is wrong. It should not be the goal to hide it from “proper” society. Rather, men should be punished for their desire to selfishly exploit women in this way, and women should have alternative choices that should make prostitution an undesirable choice and something easier to leave than it currently is.

When creating a policy, it is important for the legislatures to talk to prostitutes themselves. Whether they agree with criminalizing their buyers, hearing the prostitutes out, and working with them to create laws that allow them to feel empowered could go a long way. Too often, the prostitutes themselves are left out of the policy debate. So while a certain model might be preferable to some and not others, understanding exactly what the concerns are from a variety of sex workers should help these individuals to feel heard.

Police should regularly be instructed on ways to treat the women who come to them and take their accusations of rape or violence seriously. When the police deem individuals unworthy of being taken seriously when it comes to crime, society fails. Understanding trafficking and the signs should be a regular part of police training. A part of this might be making law enforcement aware of the deep emotional connection between a prostitute and her pimp. The Swedish model saw success once the police intentionally

¹²⁷ Coontz, “Drug Use, Prostitution, and Globalization,” 199.

explained the laws and reasons behind them. This ought to continue to be reinforced.

Proper police training and reforming the attitude taken by the police will be instrumental in shaping the way prostitutes are viewed within society, and the way they are able to seek help.

Change also starts with the way individuals speak about prostitution. It helps no one to patronize prostitutes or to scorn them. Nor does it help to glorify the profession in the media. What should be emphasized is the empowerment of women everywhere, but especially towards prostitutes. It needs to go farther than just not punishing the women and girls by law. When an individual speaks about prostitution, if there is any shame to be cast, it must be on the buyer and the seller. These are the individuals keeping prostitution alive. While there need to be people willing to sell their bodies for anyone to buy them, the demand outweighs the supply. It honestly might need to be something that schools incorporate into their curriculum. It does no one any good to pretend prostitution is not happening all around. Denying it will not make it go away. In fact, it will likely allow it to fester in the darkness, growing increasingly large and dangerous. Changes ought to be made now.

Furthermore, there should be a greater effort to eliminate the underground market. Governments should make identifying trafficking victims a top concern when designating police priorities. Regardless of the stance on prostitution, human trafficking must be halted. This starts with educating the public and police force on these matters and then

making a plan of action. A policy meant to reduce prostitution over time is necessary because as one prostitute put it, ““what is rape for others, is normal for us.””¹²⁸ This simply should not happen in any society. When phrased this way, prostitution becomes a clearer problem needing to be solved. The need for solutions becomes more pressing when it is viewed as a constant rape of women within society. And even when prostitution is a choice, no woman should have to choose between selling her body and failing to pay rent. It should not come to this point.

One area for further exploration and policy is the use of artificial intelligence in prosecuting those interested in buying sex. Men text online ads for sex and receive responses, which sound like a real person on the other end, but in reality, it is a bot, programmed to sound like a sex worker. After a short bout of conversation, the man receives a text that has a photo of a man in jail and this message; ““This is the New York Police Department. Your response to an online ad for prostitution has been logged. Offering to pay or paying someone for sexual conduct is a crime and punishable by incarceration up to 7 years.””¹²⁹ The point of this is to deter men from ever actually buying the sex. Those that do show up are arrested, and those that do not hopefully reevaluate and come to the realization that purchasing sex is not worth everything they have to lose. These bots are cheaper, safer, and ““1,200 percent more effective than full operations”” that

¹²⁸ Farley, “Bad for the Body,” 1096.

¹²⁹ Rosenberg, “A.I. joins the Campaign.”

involve sending undercover officers.¹³⁰ And they deter before the sex is purchased, attacking from the proactive stance that is needed to make any lasting change. It was also programmed to send a text to prostitutes who have published their numbers online. The text will say something along the lines of “I was in the life, and now I help people find housing and counseling. Are you interested in talking more?”¹³¹ Sex workers can read this message and respond should they choose, without the fear of their pimp observing anything that might tip them off. The bot receives a response, on average, from around 15 to 30 percent of those who received a text. As far as the message to the buyers go, those who received messages were anywhere from 50 to 80 percent less likely to be caught again than those who did not receive a message.¹³² Both New York and Chicago, as well as eleven other cities, use a chatbot which places fake advertisements on the internet when someone searches anything related to buying sexual services. The next step would be for every city to do use a chatbot. Implementing these bots across the country would be a worthwhile policy.

The prostitution debate follows a larger discussion on vice. Vice—unlike murder and robbery—is distinguished by “moral ambivalence” because it is both considered to be pleasurable and deviant behavior. Even those who participate in some variety of vice have mixed feelings about their actions, which complicates the reactions of individuals to

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Ibid.

regulations of their vices. And morality politics is complicated enough. Furthermore, not all vices are “equal” because some are more socially acceptable than others.¹³³ Alcohol and gambling are probably deemed more socially acceptable than drugs and prostitution.

Though let the prohibition era not be forgotten. What this period of time exemplifies is the outright ban of anything viewed as “pleasurable” will never be effective. All it will do is drive the entire market underground. If a method of safely and reliably reducing prostitution within society is discovered, a similar strategy could apply to a policy of other vices, and visa versa. One way in which the Swedish model could pertain to the use of drugs would be not to punish the use of drugs with jail time or steep fines, but instead to have rehab or some sort of counseling take place. Those who sell drugs would be punished accordingly. This not only might help cut down on mass incarceration but might actually help people get clean in a way that also allows them to make something of their life. A criminal record or high fines only serve to set addicts back and minimize the potential they have to make a positive impact on society. But those intent on selling drugs would face the fines and jail time, hopefully continuing to be a deterrent. As such, the prostitution policy debate has much larger implications. If the livelihood of marginalized women in society was not reason enough to care, perhaps better control of all types of vice might be. After all, a solution to vice has been elusive for decades.

CONCLUSION

¹³³ Weitzer, *Legalizing Prostitution*, 81.

While there is no one-size-fits-all solution for prostitution, a better understanding of the relevance and nuances of the debate is undoubtedly a good place to start. Though these findings have found the Swedish model to be the most appropriate response, there are still many flaws still associated with this choice. A better understanding of prostitution within the context of one's society should be much more common. Further research would be helpful in clarifying many of the results and statistics of prostitution. The limitations of the research make understanding all of the nuances incredibly difficult, especially when it comes to understanding the effectiveness of policies. However, when it is all stacked up, the Swedish model of criminalization provides a better platform on which to start making real change. The message behind the policies begins to take greater effect. With the Swedish model, the law is saying that it is not acceptable for someone to pay for a woman's body. The effects of prostitution on the women and society as a whole create far greater issues when prostitution is allowed. The exploitive nature of the profession can simply not be allowed to continue. Prostitution illustrates one of the greatest inequalities between two people. Money is power and the corruption of something so personal in this way sustains the inequality—specifically gender inequality—and exploitation. There are so many women and girls out in the world forced to make a choice they should never have to make. Prostitution not only mirrors the inequality within society but enforces it. Staying silent and keeping all the previously mentioned issues under the table is unacceptable. The first step in helping these women and ending the demand for the world's oldest profession

starts with acknowledging it in the first place. These women deserve respect and the opportunity to thrive. They cannot truly do this while in the profession, but they also cannot achieve it when society continuously scorns them. Real change starts today. Be a part of it.

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