

# **Ten Reasons for *Not* Legalizing Prostitution And a Legal Response to the Demand for Prostitution**

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## Summary

Since the mid-1980s, the debate about how to address prostitution legally has become a subject of legislative action. Some countries in Europe, most notably the Netherlands and Germany among others, have legalized and/or decriminalized systems of prostitution, which includes decriminalizing pimps, brothels and buyers, also known as “customers or johns”. Other governments, such as Thailand, legally prohibit prostitution activities and enterprises but in reality tolerate brothels and the buying of women for commercial sexual exploitation, especially in its sex tourism industry. Sweden, has taken a different legal approach --penalizing the buyers while at the same time decriminalizing the women in prostitution.

This article offers ten arguments for not legalizing prostitution. These 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. This essay reviews the ways in which legitimating prostitution as work makes the harm of prostitution to women invisible, expands the sex industry, and does not empower the women in prostitution.

What happens when prostitution is treated as “sex work” rather than when it is treated as sexual exploitation and violence against women? What happens when a country such as Sweden rejects legalization and addresses the demand for prostitution?

## **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 buyers, 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.

Some people believe that, in calling for legalization or decriminalization of prostitution, they dignify and professionalize 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 means decriminalization of the whole sex industry, not just the women in it.

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.

In countries where women are criminalized for prostitution activities, it is crucial to advocate for the *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 to end the exploitation of desperate immigrant women who had been trafficked there for prostitution. However, one report found that 80% of women in the brothels of the Netherlands were trafficked from other countries (Budapest Group, 1999)(1). In 1994, the International Organization of Migration (IOM) stated that in the Netherlands alone, "nearly 70 % of trafficked women were from CEEC [Central and Eastern European Countries]" (IOM, 1995, p. 4).

The government of the Netherlands presents itself as a champion of anti-trafficking policies and programs, yet it has removed every legal impediment to pimping, procuring and brothels. In the year 2000, the Dutch Ministry of Justice argued in favor of a legal quota of foreign "sex workers," because the Dutch prostitution market demanded a variety of "bodies" (Dutting, 2001, p. 16). Also in 2000, the Dutch government sought and received a judgment from the European Court recognizing prostitution as an economic activity, thereby enabling women from the European Union and former Soviet bloc countries to obtain working permits as "sex workers" in the Dutch sex industry if they could prove that they are self employed. Non-governmental organizations (NGOs) in Europe report that traffickers use the work permits to bring foreign women into the Dutch prostitution industry, masking the fact that women have been trafficked, by coaching them to describe themselves as independent "migrant sex workers" (Personal Communication, Representative of the International Human Rights Network, 1999).

In the year since lifting the ban on brothels in the Netherlands, eight Dutch victim support organizations reported an increase in the number of victims of trafficking, and twelve victim support organization reported that the number of victims from other countries has not diminished (Bureau NRM, 2002, p. 75). Forty-three of the 348 municipalities (12%) in the Netherlands choose 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 federally guaranteed "right to free choice of work" (Bureau NRM, 2002, p.19).

The first steps toward legalization of prostitution in Germany occurred in the 1980s. By 1993, it was widely recognized that 75% of the women in Germany's prostitution industry were foreigners from Uruguay, Argentina, Paraguay and other countries in South America (Altink, 1993, p. 33). After the fall of the Berlin wall, 80% of the estimated 10,000 women trafficked into Germany were from Central and Eastern Europe and CIS countries (IOM. 1998a , p. 17). In

2002, prostitution in Germany was established as a legitimate job after years of being legalized in tolerance zones. Promotion of prostitution, pimping and brothels are now legal in Germany.

The sheer volume of foreign women in the German prostitution industry suggests that these women were trafficked into Germany, a process euphemistically described as facilitated migration. 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 intervention.

In 1984, a Labor government in the Australian State of Victoria introduced legislation to legalize prostitution in brothels. Subsequent Australian governments expanded legalization culminating in the Prostitution Control Act of 1994. Noting the link between legalization of prostitution and trafficking in Australia, the US Department of State observed: “Trafficking in East Asian women for the sex trade is a growing problem... lax laws – including legalized prostitution in parts of the country – make [anti-trafficking] enforcement difficult at the working level” (U.S. Department of State, 2000, p. 6F).

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

Contrary to claims that legalization and decriminalization would control the expansion of the sex industry, prostitution now accounts for 5% of the Netherlands economy (Daley, 2001, p. 4). Over the last decade, as pimping was legalized, and brothels decriminalized in the year 2000, the sex industry increased by 25% in the Netherlands (Daley, 2001, p.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. Most of them are women from other countries who were probably trafficked into the Netherlands (Daley, 2001, p. 4).

In addition to governmental endorsement of prostitution in the Netherlands, prostitution is also promoted by associations of sex businesses and organizations comprised of prostitution buyers who consult and collaborate with the government to further their interests. 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” (Bureau NRM, 2002, pp.115-16).

Faced with a dwindling number of Dutch women who engage in prostitution activities and the expanding demand for more female bodies and more exotic women to service the prostitution market, the Dutch National Rapporteur on Trafficking has stated that in the future, a solution may be to “offer [to the market] prostitutes from non EU/EEA [European Union/European Economic Area] countries, who voluntarily choose to work in prostitution...” These women would be given “legal and controlled access to the Dutch market” (Bureau NRM, 2002, p. 140). As prostitution has been transformed into “sex work,” and pimps into entrepreneurs, so too this recommendation transforms trafficking into “voluntary migration for sex work.” Looking to the future, the Netherlands is targeting poor women for the international sex trade to remedy the

inadequacies of the free market of “sexual services.” Prostitution is thus normalized as an “option for the poor.”

Legalization of prostitution in the State of Victoria, Australia, resulted in massive expansion of the sex industry. Along with legalization of prostitution, 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 legalization (Sullivan & Jeffreys, 2001). Prostitution has become an integral part of the tourism and casino boom in Victoria with government-sponsored casinos authorizing the redeeming of casino chips at local brothels (Sullivan & Jeffreys, 2001).

A range of state-sponsored prostitution systems exist in Austria, Denmark, Germany, the Netherlands and Switzerland. It seems likely that European state-sponsored prostitution countries serve as magnets and, ultimately, as conduits through which significant numbers of women are trafficked to other European nations. Europe has a high density of women trafficked per square mile compared to North America, for example. Given the porousness of national borders facilitated by the Schengen agreement (2), it is not surprising that high numbers of trafficked women are also present in other European countries that do not have legalized or decriminalized systems of prostitution. Although accurate numbers of women trafficked are difficult to obtain, the International Organization of Migration (IOM) has estimated that 500,000 women and children are trafficked in Europe annually (IOM, 1998). In contrast, it has been estimated that 45,000-50,000 women and children are trafficked annually into the United States (Richard, 1999, p.3).

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

One goal of legalized prostitution was to move prostituted women indoors into brothels and clubs where they would be allegedly less vulnerable than in street prostitution. However, many women are in street prostitution because they want to avoid being controlled and exploited by pimps (transformed in legalized systems into sex businessmen). Other women do not want to register or submit to health checks, as required by law in some countries where prostitution is legalized (Schelzig, 2002). Thus, legalization may actually *drive some women into* street prostitution. Arguing against an Italian proposal for legalized prostitution, Esohe Aghatise has suggested that brothels actually deprive women of what little protection they may have on the street, confining women to closed spaces where they have little chance of meeting outreach workers or others who might help them exit prostitution (Aghatise, in press)..

In the Netherlands, women in prostitution point out that legalization or decriminalization of the sex industry does not erase the stigma of prostitution. Because they must register and lose their anonymity, women are more vulnerable to being stigmatized as “whores,” and this identity follows them everywhere. Thus, the majority of women in prostitution still operate illegally and underground. Some 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, p. A1).

Chief Inspector Nancy Pollock, one of Scotland's highest-ranking female police officers, established Glasgow's street liaison team for women in prostitution in 1998. Pollock stated that legalization or decriminalization of prostitution is "...simply to abandon women to what has to be the most demeaning job in the world" (Martin, 2002, p. A5). Countering the argument that legalized prostitution provides safer venues for women, Pollock noted that women in sauna prostitution, for example, "have even less control over what services they will perform. On the street, very few women will do anal sex and few do sex without a condom. But in the saunas, the owners, who obviously don't want their punters going away disappointed, decide what the women will do, and very often that is anal sex and sex – oral and vaginal – without a condom" (Martin, 2002, p. A5).

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. Over a period of 12 months from 1998-1999, unlicensed brothels in Victoria tripled in number and still operate with impunity (Sullivan & Jeffreys, 2001). In New South Wales where brothels were decriminalized in 1995, the number of brothels in Sydney had tripled to 400-500 by 1999, with the vast majority having no license to advertise or operate. In response to widespread police corruption, control of illegal prostitution was removed from police jurisdiction and placed under the control of local councils and planning regulators. However, the local councils do not have the resources to investigate illegal brothel operators (Sullivan & Jeffreys, 2001).

## **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. Yet child prostitution in the Netherlands has increased dramatically during the 1990s. The Amsterdam-based ChildRight organization estimates that the number of children in prostitution has increased by more than 300% between 1996–2001, going from 4,000 children in 1996 to 15,000 in 2001. ChildRight estimates that at least 5,000 of these children in Dutch prostitution are trafficked from other countries, with a large segment being Nigerian girls (Tiggeloven, 2001).

Child prostitution has increased dramatically in the state of 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 (ECPAT Australia, 1998).

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

In two studies in which 186 victims of commercial sexual exploitation were interviewed, women consistently indicated that prostitution establishments did little to protect them, regardless of whether the establishments were legal or illegal. One woman said, "The only time they protect

anyone is to protect the customers” (Raymond, Hughes & Gomez, 2001; Raymond, d’Cunha, Ruhaini Dzuhayatin, Hynes & Santos, 2002).

One of these studies interviewed 146 victims of trafficking in 5 countries. Eighty percent of the women interviewed had suffered physical violence from pimps and buyers and endured similar and multiple health effects from the violence and sexual exploitation, regardless of whether the women were trafficked internationally or were in local prostitution (Raymond et al, 2002, p. 62).

A second study of women trafficked for prostitution in the United States yielded the following statements. Women who reported that sex businesses gave them some protection qualified it by pointing out that no “protector” was ever in the room with them. 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” (Raymond et al, 2001, p. 74).

In brothels that have surveillance cameras, the function of cameras was to protect the buyer and the brothel rather than the women, with one brothel putting in cameras after a buyer died (Raymond et al, 2001, p. 74). Protection of the women from abuse was of secondary or no importance.

**7. Legalization/decriminalization of prostitution increases the demand for prostitution. It encourages men to buy women for sex in a 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 previously would not have risked buying women for sex now see prostitution as acceptable. When legal barriers disappear, so too do the social and ethical barriers to treating women as sexual merchandise. Legalization of prostitution sends the message to new generations of men and boys that women are sexual commodities and that prostitution is harmless fun (Leidholdt, 2000).

As men have a plethora of “sexual services” offered to them in prostitution, women must compete by engaging in anal sex, sex without condoms, bondage and domination and other acts demanded by buyers. Once prostitution is legalized, for example, women’s reproductive capacities are sellable products. Some buyers find pregnancy a turn-on and demand breast milk in their sexual encounters with pregnant women (Sullivan & Jeffreys, 2001, p. 10).

In the State of Victoria in Australia, specialty brothels are provided for disabled men. State-employed caretakers (who are mostly women) must take these men to the brothels if they wish to go and literally facilitate their physical sexual acts (Sullivan & Jeffreys, 2001). Advertisements line the highways of Victoria offering women as objects for sexual use. Businessmen are encouraged to hold their corporate meetings in 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” (Sullivan & Jeffreys, 2001). Women in relationships with men find that often the men in their lives are visiting the brothels and sex clubs.

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

A legalized system of prostitution often mandates health checks and certification, but only for women and not for male buyers. Health examinations or tests for women but not men make no public health sense because monitoring prostituted women does not protect *them* from HIV/AIDS or STDs. This is not to advocate that both women in prostitution and male buyers should be checked. It is simply to point out the duplicity of a policy that implies, "We'll have safer sex and HIV/AIDS control if we examine the women under a regulated or decriminalized system of prostitution." Male buyers can and do originally transmit disease to the women they purchase.

It has been argued that legalized brothels or other "controlled" prostitution establishments protect women through enforceable condom policies. In one study, 47% of women in U.S. prostitution stated that men expected sex without a condom; 73% reported that men offered to pay more for sex without a condom; and 45% of women said that men became abusive if they insisted that men use condoms (Raymond et al, 2001, p. 72). Although certain sex businesses had rules that required men to wear condoms, men nonetheless attempted to have sex without condoms. 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 et al, 2001, p. 72)."

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 (Raymond et al., 2001, p. 73)." 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.

"Safety policies" in brothels did not protect women from harm. Where brothels allegedly monitored the buyers and employed "bouncers," women stated that they were injured by buyers and, at times, by brothel owners and their friends. Even when someone intervened to momentarily control buyers' abuse, women lived in a climate of fear. Although 60% of women reported that buyers had sometimes been prevented from abusing them, half of those same women answered that, nonetheless, they thought that they might be killed by one of their buyers (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 from among a range of other options. They did not sit down one day and decide that they wanted to be prostitutes. They did not have other real options such as medicine, law, nursing or politics. Instead, their "options" were more in the realm of how to feed themselves and their children. Such choices are better termed survival strategies.

Rather than consenting to prostitution, a prostituted woman more accurately complies with the extremely limited options available to her. Her compliance is required by the 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 the studies authored by Raymond et al. reported that choice in entering the sex industry could only be discussed in the context of a lack of other options. Many described prostitution as their last choice, or as an involuntary way of making ends meet (Raymond et al., 2001; Raymond et al., 2002). In one study, 67% of a group of law enforcement officials expressed the opinion that women did not enter prostitution voluntarily. Similarly, 72% of social service providers did not think that women voluntarily choose to enter the sex industry (Raymond et al 2001, p. 91).

The distinction between forced and voluntary prostitution is precisely what the sex industry is promoting because it will give the industry more legal security and market stability if this distinction can be utilized to legalize prostitution, pimping and brothels. Women who consider bringing 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 amphetamine. However, even when some people consent to use dangerous drugs, we still recognize that is harmful to them, and most people do not seek to legalize amphetamine. In this situation, it is *harm* to the person, not the *consent* of the person that is the governing standard.

A 1998 International Labor Organization (United Nations ILO) report suggested that the sex industry be treated as a legitimate economic sector, but still 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, p. 213).

When a woman remains in an abusive relationship with a partner who batters her, or even when she defends his actions, concerned people now understand that she is not there voluntarily. They

recognize the complexity of her compliance. Like battered women, women in prostitution may deny their abuse if they are not provided with 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, most of the trafficked and prostituted women interviewed in the Philippines, Venezuela and the United States (3) strongly stated their opinion 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). One woman said, “No way. It’s not a profession. It is humiliating, and violence from the men’s side.” Not one woman we interviewed wanted her children, family or friends to have to earn money by entering the sex industry. Another woman stated: “Prostitution stripped me of my life, my health, everything” (Raymond et al., 2002).

#### **An Alternative Legal Route: Penalizing the Demand**

There is no evidence that legalization of prostitution makes things better for women in prostitution. It certainly makes things better for governments who legalize prostitution and of course, for the sex industry, both of which enjoy increased revenues. The popular fiction that all will be well in the world of prostitution once the sex industry is legalized or decriminalized, is repudiated by evidence that the degradation and exploitation of women, as well as the harm, abuse, and violence to women still remain in state-sponsored prostitution. State-sponsored prostitution sanitizes the reality of prostitution. Suddenly, dirty money becomes clean. Illegal acts become legal. Overnight, pimps are transformed into legitimate businessmen and ordinary entrepreneurs, and men who would not formerly consider buying a woman in prostitution think, “Well, if it’s legal, if it’s decriminalised, now it must be O.K.”

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, then governments can abdicate responsibility for making decent and sustainable employment available to women.

Instead of abandoning women in the sex industry to state-sponsored prostitution, laws should address the predation of men who buy women for the sex of prostitution. Men who use women in prostitution have long been invisible. Legislators often leap onto the legalization bandwagon because they think nothing else is successful. But there is a legal alternative. Rather than sanctioning prostitution, states could address the demand by penalizing the men who buy women for the sex of prostitution.

Sweden has drafted legislation recognizing that without male demand, there would be no female supply. Thinking outside the repressive box of legalization, Sweden has acknowledged that prostitution is a form of male violence against women and children, and the purchase of sexual services is criminalized. The inseparability of prostitution and trafficking is recognized by the Swedish law: “Prostitution and trafficking in women are seen as harmful practices that cannot,

and should not be separated; in order to effectively eliminate trafficking in women, concrete measures against prostitution must be put in place” (Ekberg, 2003, p. 69).

Sweden’s Violence Against Women Government Bill (1997/98:55 (4), prohibits and penalizes the purchase of “sexual services” (Swedish Government Offices, 1998). This approach targets the male demand for prostitution: “By prohibiting the purchase of sexual services, prostitution and its damaging effects can be counteracted more effectively than hitherto” (Swedish Government Offices, 1998, p.2). The Swedish legislation criminalizing the buyers is based on the policy that “Prostitution is not a desirable social phenomenon” and is “an obstacle to the ongoing development towards equality between women and men (Swedish Government Offices, 1998, p.2).” Furthermore, the law against purchasing sexual services is part of a wider Violence Against Women Bill that allocates resources to support the development of alternatives for women in prostitution

Results of the Swedish legislation thus far have been promising. The prohibition against men buying prostituted women has received strong social support. Several polls, conducted in 2000 and 2001, show that approximately 80% of the Swedish population support the law. Of those who want to repeal the law, the majority are men, with only 7% of women in support of repeal (Jacobson, 2002, p.24). Most importantly, women who are attempting to leave prostitution support the law (Ekberg, 2001). Swedish NGOs that work with women in prostitution also support the law and maintain that since passage of the law, increased numbers of women contact them for assistance. The very existence of the law, and the fact that people know it will be enforced, they say, serve as an aid to young women who are vulnerable to pimps and procurers (Ekberg, 2001).

Street prostitution has declined in the three years since the law was passed. The number of prostituted women has decreased by 50%, and 70-80% of the buyers have left public places. Furthermore, a police representative maintained that there is no indication that prostitution has gone underground, or that prostitution in sex clubs, escort agencies and brothels has increased (Björling, 2001). Police have also stated that the Swedish law prohibiting the purchase of sexual services has had a chilling effect on trafficking (5). According to police, were it not for the law, Sweden, like Norway and Finland, would experience major trafficking of Russian women across the border. In the northern regions of both Norway and Finland, trafficked Russian women are made to service Scandinavian men in prostitution camps (Bystrom, 2001).

Women’s and human rights groups should be advocating for study and replication of the Swedish law. Instead of giving carte blanche to profoundly abusive sex industries, governments should respond to the male violence and sexual exploitation of women in prostitution by legally addressing the demand for prostitution.

Sweden has also focused on *preventing* the demand for prostitution by initiating a national campaign against prostitution and trafficking. One of the innovative aspects of this effort has been to take the campaign to the racetrack. In May 2002, the Swedish campaign against prostitution and trafficking was launched at the *Solvalla* Racetrack in Stockholm. Racing fans often celebrate their winnings at a brothel or by paying for sex acts with women in street prostitution. At *Solvalla*, pimps commonly hustle buyers at the racetracks or give them a ride to

sex clubs after the races end (Ekberg, 2003, p. 72). The *Solvalla* racetrack dedicated its first race of the evening to the campaign against prostitution and trafficking, advertising the campaign in its racing program. After the first race, Swedish Vice-Prime Minister and Minister for Gender Equality Margareta Winberg spoke to the 5000 persons in attendance about the campaign and about its focus on the buyers of women and children in prostitution (Ekberg, 2003, p. 71). Opening a national campaign against trafficking and prostitution at a racetrack must rank as one of the most inventive “best practices” to prevent sexual exploitation, targeting a large population of men who actually and potentially buy women for sex acts.

Sweden also launched a nationwide poster campaign focusing on the demand for prostitution. Colorful posters publicizing the *Law Prohibiting the Purchase of Sexual Services* were displayed in bus shelters, subway stations and on streetcars throughout Sweden. The posters were designed to increase public awareness about prostitution and trafficking in women by spotlighting the men who buy women for sex. For example, one poster was a representation of Swedish sex tourists who travel to Baltic countries. The poster featured a well-dressed man in a suit, wearing a wedding band, with the caption, “Time to flush the johns out of the Baltic.” Another poster depicted a young man surfing for Internet pornography. The poster reads: “More and more Swedish men do their shopping over the Internet (Ekberg, 2003, pp. 75-76).” The poster campaign attracted much public attention both within and outside Sweden (Ekberg, 2003, p. 72).

We hear too little about the role of the sex industry in creating a global sex market for women and children. Instead, we hear that prostitution could be made into a better job for women through regulation and/or legalization, through unions of so-called “sex workers,” and through campaigns that provide condoms to women but fail to 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*.

Sadly, in several countries, labor unions have been encouraged to accept prostitution as work (Young, 2002). Rather than affirming prostitution as work, labor unions could follow the example of Denmark’s Confederation of Trade Unions (LO) which, in June, 2003, prohibited its 1.5 million members (in a country of 5.4 million) from engaging in prostitution when they represent the union on business and travel abroad (Agence France Presse, 2003).

It would be a great leap forward in the campaign against sexual exploitation for governments and UN agencies to prohibit their diplomats, military personnel, UN police and peacekeepers from engaging in prostitution activities on or off duty. Some agencies, such as the UN Inter-Agency Standing Committee (IASC) that brings together over 15 UN and multilateral agencies, have devised codes of conduct for their personnel in humanitarian crisis situations (Inter-Agency Standing Committee, 2002). One of the core principles of the IASC code of conduct states: “Sexual exploitation and abuse by humanitarian workers constitute acts of gross misconduct and are therefore grounds for termination.” Another core principle makes clear that “Exchange of money, employment, goods, or services for sex, including favours or other forms of humiliating, degrading or exploitative behavior is prohibited” (Inter-Agency Standing Committee, 2002).

The way in which countries address the legal status of prostitution will have an enormous impact on efforts to combat trafficking. Anti-trafficking advocates and legislators must address

prostitution as a root cause of sex trafficking, and not be silenced by those who insist that we must speak only about trafficking – not prostitution -- in governmental or non-governmental forums. Many governmental and nongovernmental representatives have capitulated to *censorship* at international forums where pressure is exerted not to mention prostitution, but only to talk about trafficking -- as if this were possible.

Finally, rather than cashing in on the economic profits of the sex industry by taxing it, governments could seize assets of sex businesses and then use these funds to provide real alternatives for women in prostitution. Measures to prevent trafficking and prostitution, or to prosecute traffickers, recruiters, pimps and buyers, will be inadequate unless governments invest in the futures of prostituted women by providing economic resources that enable women to improve their lives.

#### **Notes:**

1) Nearly 40 governments and 10 organizations participate in the Budapest process, initiated in 1991. Approximately 50 intergovernmental meetings at various levels have been held, including the Prague Ministerial Conference.

2) Citizens of European Union countries are guaranteed the right of common travel, among other measures, under the Schengen agreement. This means that trafficked women entering one of the Schengen countries legally or illegally can easily be trafficked to another country within the Shengen territory.

3) The 5 countries studied in this report were Indonesia, the Philippines, Thailand, the United States and Venezuela. The question about legalization of prostitution was not asked in the Indonesian and Thailand interviews. In the Philippines country report, 96% of the women interviewed recommended that prostitution not be legalized. In the United States country report, 56% of the Russian/Newly Independent States (NIS) women interviewed said that prostitution should not be legalized, with the remaining 44% stating that they were unsure or had no opinion; 85% of the U.S. women in prostitution who were interviewed stated that prostitution not be legalized. In the Venezuelan country report, 50% stated that prostitution should not be legalized, 29% stated that legalization would protect women, and 21% did not respond to the question.

4) All references to the Swedish Law Prohibiting the Purchase of Sexual Services, 1998, quote the English summary of the law from the Swedish Government Offices Fact Sheet, 1998, available at [www.kvinnofrid.gov.se](http://www.kvinnofrid.gov.se). The actual text of the law states: “A person who obtains casual sexual relations in exchange for payment shall be sentenced - unless the act is punishable under the Swedish Penal Code - for the purchase of sexual services to a fine or imprisonment for at the most six months. Attempt to purchase sexual services is punishable under Chapter 23 of the Swedish Penal Code” (Sweden, Law Prohibiting the Purchase of Sexual Services 1998, p. 408).

5) According to a 2002 report of the National Criminal Investigation Department (NCID) of the National Swedish Police, the Swedish National Rapporteur on Trafficking has stated:

In recent years there have been obvious indications that the Act relating to purchase of sexual services have (sic) had a positive result as regards trafficking in human beings. Several women have in interrogations told that pimps and traffickers in human beings that they have been in contact with do not consider Sweden a good market for these activities. The women must be escorted to the purchasers and then they do not have time with as many purchasers as they would have in a brothel or in street prostitution. So pimps and traffickers in human beings do not earn money quickly enough. Another aspect is that the purchasers in Sweden are very afraid of being discovered and they demand that the purchases of sexual services take place with much discretion. To carry on the activities indoors it is necessary to have several apartments or other premises available. The necessity of several premises is confirmed in almost all preliminary investigations that are carried on in 2002. Some women have also stated that countries like Denmark, Germany, Holland and Spain have appeared as more attractive for traffickers in human being and pimps.

Telephone interception has also demonstrated that Sweden does not stand out as a good market for selling women...criminals complain about the purchasers being afraid and about the fact that the activities in Sweden must be more organized to be profitable. On several occasions also the police from the Baltic States have informed that criminals in the native countries do not consider Sweden a good market for trafficking in human beings. (National Criminal Police, 2002, pp. 33-34)

In the NCID report, the National Rapporteur does not include any information about total numbers of victims trafficked into Sweden. She states that there is no available information to indicate "...that trafficking in human beings to Sweden has increased. But there is nothing that is indicating that trafficking in human beings has decreased" (National Criminal Police, 2002, p.2).

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