



## **A Brief Review of the Evidence on the Consequences of Legalizing or Decriminalizing Prostitution**

The idea that legalizing or decriminalizing commercial sex would reduce its harms is a persistent myth. Many claim if the sex trade were legal, regulated, and treated like any other profession it would be safer. But the research says otherwise. Countries that have legalized or decriminalized commercial sex often experience more human trafficking, pimping, and other related crimes. The following research affirms that legalization or decriminalization is not the answer to reducing the harms inherent to commercial sex.

### **1. Prostitution, regardless of whether it's legal or not, involves so much harm and trauma it cannot be seen as a conventional business.**

- Interviews with prostituted individuals in New Zealand reveal that legalization or decriminalization does not curb the violence they experience, demonstrating that prostitution is inherently violent and abusive.<sup>1</sup>
- One study of prostituted women in San Francisco massage parlors found that 62% had been beaten by sex buyers.<sup>2</sup>
- An investigation of the commercial sex industry in America found that 36% of prostituted people reported that their buyers were abusive or violent.<sup>3</sup>
- The “workplace” homicide rate among prostituted women is 7 times higher than what it was in the most dangerous occupation for men in the 1980s (which was taxi driver).<sup>4</sup>

### **2. Prostitution and human trafficking are forms of gender-based violence.**

- Most persons in prostitution are either female or transgender (male-to-female).<sup>5</sup> In contrast, the vast majority of sex buyers are male.<sup>6</sup>

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<sup>1</sup> New Zealand's Prostitution Law Review Committee (2008) *Report of the Prostitution Law Review Committee* (Ministry of Justice: Wellington, New Zealand): pp. 14.

<sup>2</sup> Tooru Nemoto et al. (2003) “HIV Risk among Asian Women Working at Massage Parlors in San Francisco,” *AIDS Education and Prevention*, 15(3): pp. 248.

<sup>3</sup> Meredith Dank et al. (2014) *Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities* (The Urban Institute): pp. 242.

<sup>4</sup> John J. Potterat et al. (2004) “Mortality in a Long-term Open Cohort of Prostitute Women,” *American Journal of Epidemiology*, 159(8): pp. 783.

<sup>5</sup> See, e.g., Meredith Dank et al. (2014) *Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities* (The Urban Institute): pp. 219 (only 2.8% of prostituted individuals in their sample are male).

- Prostituted persons are mostly women and face exceptional risks of murder<sup>7</sup> and violence at the hands of male sex buyers,<sup>8</sup> signifying that the practice is on the continuum of gender-based violence. This remains true even in areas where prostitution is legal or decriminalized<sup>9</sup>
- In many countries, human trafficking tends to be a result of women's "disadvantageous position in the society that is often reflected in increasing preference for son and neglect for daughters."<sup>10</sup>

### **3. Legalizing or decriminalizing prostitution has not decreased the prevalence of illegal prostitution.**

- An investigation commissioned by the European Parliament found that in countries with legal prostitution, like Austria, "the effect of regulation can be a massive increase in migrant prostitution and an indirect support to the spreading of the illegal market in the sex industry."<sup>11</sup>
- Denmark decriminalized prostitution in 1999, and the government's own estimates show that the prevalence increased substantially over the decade that followed.<sup>12</sup>
- Interviews with prostituted persons in the Netherlands found "legalization entices foreign women to come to the Netherlands, causing an increase [in prostitution]."<sup>13</sup>

### **4. Legalization or decriminalization has not reduced the stigma faced by prostituted people.**

- After New Zealand decriminalized prostitution, there were still reports among prostituted persons of "continuing stigma" and "harassment by the general public."<sup>14</sup> In addition, there was little difference in disclosure of occupation to healthcare professionals before and after decriminalization.<sup>15</sup>

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<sup>6</sup> Chris Atchison et al. (2015) *Executive Summary of the Preliminary Findings for Team Grant Project 4 – Sex, Safety and Security: A Study of Experiences of People Who Pay for Sex in Canada* (University of Victoria: Victoria, British Columbia): pp. 3.

<sup>7</sup> See, e.g., John J. Potterat et al. (2004) "Mortality in a Long-term Open Cohort of Prostitute Women," *American Journal of Epidemiology*, 159(8): pp. 784.

<sup>8</sup> See, e.g., Tooru Nemoto et al. (2003) "HIV Risk among Asian Women Working at Massage Parlors in San Francisco," *AIDS Education and Prevention*, 15(3): pp. 248.

<sup>9</sup> See, e.g., New Zealand's Prostitution Law Review Committee (2008) *Report of the Prostitution Law Review Committee* (Ministry of Justice: Wellington, New Zealand): pp. 14.

<sup>10</sup> Nishith Prakash & Krishna Chaitanya Vadlamannati (2014) "Girls for Sale? Child Sex Ratio and Girls Trafficking in India," *IZA Working Paper*, No. 8293: pp. 1.

<sup>11</sup> Andrea Di Nicola et al. (2005) *Study on National Legislation on Prostitution and the Trafficking in Women and Children*. Commissioned by the European Parliament: pp. 132.

<sup>12</sup> Socialstyrelsen, Kontoret for voksne med sociale problemer (2014) *Prostitutionens omfang og former 2012/2013*: pp. 7.

<sup>13</sup> Annelies L. Daalder (2007) *Prostitution in the Netherlands since the lifting on the brothel ban* (the WODC of the Ministry of Justice: The Hague, The Netherlands): pp. 38.

<sup>14</sup> Gillian M. Abel et al. (2007) *The Impact of the Prostitution Reform Act on the Health and Safety practices of Sex Workers*. Commissioned by Prostitution Law Review Committee (Department of Public Health and General Practice, University of Otago: Christchurch, New Zealand): pp. 11.

<sup>15</sup> Gillian M. Abel et al. (2007) *The Impact of the Prostitution Reform Act on the Health and Safety practices of Sex Workers*. Commissioned by Prostitution Law Review Committee (Department of Public Health and General Practice, University of Otago: Christchurch, New Zealand): pp. 12.

## **5. Legalization or decriminalization increases human and sex trafficking.**

- One study with data from 150 countries found that those with “legalized prostitution experience a larger reported incidence of trafficking inflows.”<sup>16</sup>
- Another quantitative analysis similarly reported that sex trafficking is “most prevalent in countries where prostitution is legalized.”<sup>17</sup>
- Regulated prostitution has been found in general to fuel the illegal sex market, which includes increasing the prevalence of human trafficking.<sup>18</sup>

## **6. Attempts to regulate prostitution have failed and adherence is low.**

- A large-scale evaluation of the legalization of prostitution in the Netherlands, coordinated by the Ministry of Justice, found that licensed brothels did not welcome frequent regulatory inspections, undermining their willingness “to adhere to the rules and complicates the combat against trafficking in human beings.”<sup>19</sup>
- A review of the empirical evidence on the Dutch legalization of prostitution found that many prostituted persons still rely on anonymity, secrecy, and cash transfers, demonstrating that a legalized prostitution market operates much like a market for organized crime.<sup>20</sup>
- New Zealand’s Prostitution Law Review Committee found that a majority of prostituted persons felt that the decriminalization act “could do little about violence that occurred.”<sup>21</sup> The Committee further reported that abusive brothels did not improve conditions for prostituted individuals; the brothels that “had unfair management practices continued with them” even after the decriminalization.<sup>22</sup>

## **7. Attempts to provide prostituted individuals with rights through legalization or decriminalization have failed.**

- New Zealand’s Prostitution Law Review Committee found that after decriminalizing prostitution, there still is a lack of respect for employment arrangements among brothel operators.<sup>23</sup>
- The German government’s own evaluation of the 2001 law that legalized prostitution suggested that fewer than 8% of prostituted individuals are “officially insured as a prostitute.”<sup>24</sup>

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<sup>16</sup> Seo-Young Cho et al. (2013) “Does Legalized Prostitution Increase Human Trafficking?” *World Development*, 41: pp. 76.

<sup>17</sup> Niklas Jakobsson & Andreas Kotsadam (2013) “The Law and Economics of International Sex Slavery: Prostitution Laws and Trafficking for Sexual Exploitation,” *European Journal of Law and Economics*, 35(1): pp. 87.

<sup>18</sup> See, e.g., Andrea Di Nicola et al. (2005) *Study on National Legislation on Prostitution and the Trafficking in Women and Children*. Commissioned by the European Parliament: pp. 132.

<sup>19</sup> Annelies L. Daalder (2007) *Prostitution in the Netherlands since the lifting on the brothel ban* (the WODC of the Ministry of Justice: The Hague, The Netherlands): pp. 11.

<sup>20</sup> Maite Verhoeven et al. (2013) “Legale sector, informele praktijken. De informele economie van de legale raamprostitutie in Nederland,” *Cahiers Politicestudies*, 29: pp. 115-130.

<sup>21</sup> New Zealand’s Prostitution Law Review Committee (2008) *Report of the Prostitution Law Review Committee* (Ministry of Justice: Wellington, New Zealand): pp. 14.

<sup>22</sup> New Zealand’s Prostitution Law Review Committee (2008) *Report of the Prostitution Law Review Committee* (Ministry of Justice: Wellington, New Zealand): pp. 17.

<sup>23</sup> New Zealand’s Prostitution Law Review Committee (2008) *Report of the Prostitution Law Review Committee* (Ministry of Justice: Wellington, New Zealand): pp. 159.

- It's estimated that only 1% of prostituted persons in Germany have a contract of employment.<sup>25</sup>

## **8. Legalization and decriminalization promotes organized crime.**

- Evaluations have found that regulation of prostitution creates a façade of legitimacy that hides sexual exploitation, and that brothels can “function as legalized outlets for victims of sex trafficking.”<sup>26</sup>
- An example of how sex trafficking can operate behind a veil of legalized prostitution is the so-called “Sneep case.” German pimps traveled across the border to the Netherlands and took over large parts of the Red Light District in Amsterdam, using intimate relationships and brutal violence to coerce women to sell sex and hand over their profits.<sup>27</sup>

## **9. The Swedish Model (criminalizing the act of buying sex, but legalizing the act of selling sex) has lowered the prevalence of street prostitution.**

- An evaluation of the impact of the Model's impact in Sweden found that street prostitution had been cut in half.<sup>28</sup>
- Similarly, when Norway adopted the Swedish Model in 2009 and began targeting sex buyers, there was a dramatic decrease in street prostitution in the country's second-most populous city.<sup>29</sup>

## **10. The Swedish Model has prevented an increase in prostitution overall.**

- While Sweden's neighbors, such as Denmark and Finland, experienced increases in prostitution, data suggest that it remained flat in Sweden for the decade that followed the implementation of the Model.<sup>30</sup>

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<sup>24</sup> Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2007) *Report by the Federal Government on the Impact of the Act Rrgulating the Legal Situation of Prostitutes (Prostitution Act)* (BMFSFJ: Berlin, Germany): pp. 26.

<sup>25</sup> Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2007) *Report by the Federal Government on the Impact of the Act Rrgulating the Legal Situation of Prostitutes (Prostitution Act)* (BMFSFJ: Berlin, Germany): pp. 17.

<sup>26</sup> Wim Huisman & Edward R. Kleemans (2014) “The challenges of fighting sex trafficking in the legalized prostitution market of the Netherlands,” *Crime, Law and Social Change*, 61(2): pp. 227.

<sup>27</sup> See, e.g., Maite Verhoeven et al. (2015) “Relationships Between Suspects and Victims of Sex Trafficking. Exploitation of Prostitutes and Domestic Violence Parallels in Dutch Trafficking Cases,” *European Journal on Criminal Policy and Research*, 21(1): pp. 49-64, and Wim Huisman & Edward R. Kleemans (2014) “The challenges of fighting sex trafficking in the legalized prostitution market of the Netherlands,” *Crime, Law and Social Change*, 61(2): pp. 218.

<sup>28</sup> Anna Skarhed (2010) *Förbud mot köp av sexuell tjänst: En utvärdering 1999–2008*. Commissioned by the Government of Sweden: pp. 34-35.

<sup>29</sup> Bergen Kommune (2009) *Kriminalisering av sexkjöp. En foreløpig karteleggingsrapport om: kortsiktige effekter for kvinnene, markedet og lokalsamfunnet i Bergen*: pp. 13.

<sup>30</sup> Anna Skarhed (2010) *Förbud mot köp av sexuell tjänst: En utvärdering 1999–2008*. Commissioned by the Government of Sweden: pp. 36. On prostitution figures in Denmark specifically, see also Socialstyrelsen, Kontoret for voksne med sociale problemer (2014) *Prostitutionens omfang og former 2012/2013*: pp. 7.

**11. Countries that have implemented the Swedish Model have seen lower prevalence of human trafficking than countries that have legalized prostitution.**

- Since legalizing prostitution is related to an increase in trafficking,<sup>31</sup> it should not be surprising to learn that the Swedish Model has been effective at combating trafficking. According to the European Union’s harmonized data on human trafficking, Sweden and Norway have done much better than the Netherlands.<sup>32</sup>

**12. Prostituted individuals often come from vulnerable populations and lack choice. Sex buyers willingly choose to participate in the sex industry.**

- Individuals who are prostituted are often poorly educated<sup>33</sup> and they are forced into prostitution by the lack of opportunities.<sup>34</sup>
- An evaluation of New Zealand’s decriminalization revealed that 73% of prostituted individuals needed money to pay for household expenses, and about half of those who were street-based or transgender had no other sources of income.<sup>35</sup>
- In sharp contrast, sex buyers are more likely to be employed full-time, more likely to have graduated from college, and have higher-than-average incomes.<sup>36</sup>

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<sup>31</sup> See, e.g., Seo-Young Cho et al. (2013) “Does Legalized Prostitution Increase Human Trafficking?” *World Development*, 41: pp. 76.

<sup>32</sup> European Union (2015) *Trafficking in Human Beings: 2015 Edition* (Eurostat: Luxembourg): pp. 23.

<sup>33</sup> See, e.g., Tooru Nemoto et al. (2003) “HIV Risk among Asian Women Working at Massage Parlors in San Francisco,” *AIDS Education and Prevention*, 15(3): pp. 248 (70% of interviewed women had not graduated from high school).

<sup>34</sup> See, e.g., Meredith Dank et al. (2014) *Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major US Cities* (The Urban Institute): pp. 220 (prostitution is a way “to pay for essential needs and family expenses and ensure survival”).

<sup>35</sup> Gillian M. Abel et al. (2007) *The Impact of the Prostitution Reform Act on the Health and Safety practices of Sex Workers*. Commissioned by Prostitution Law Review Committee (Department of Public Health and General Practice, University of Otago: Christchurch, New Zealand): pp. 9.

<sup>36</sup> See, e.g., the analysis of arrested sex buyers in Martin A. Monto & Christine Milrod (2014) “Ordinary or Peculiar Men? Comparing the Customers of Prostitutes With a Nationally Representative Sample of Men,” *International Journal of Offender Therapy and Comparative Criminology*, 58(7): pp. 812, and Chris Atchison et al. (2015) *Executive Summary of the Preliminary Findings for Team Grant Project 4 – Sex, Safety and Security: A Study of Experiences of People Who Pay for Sex in Canada* (University of Victoria: Victoria, British Columbia): pp. 3.

