



## The effects of different legislative approaches to prostitution on persons in prostitution and society in general

In Europe, there is currently a big debate regarding whether the regulation or the abolition approach to prostitution is more protective of women's rights, including the rights of prostitutes. Regulationists consider that prostitution is a job; in regulationist systems, the organising of prostitution is legalised as are venues of prostitution such as brothels; procuring is de-facto decriminalised. Abolitionists on the other hand consider prostitution a form of violence against women; in abolitionist systems, procuring and prostitute-users are criminalised (but not the prostitute).

This article compares the situation in two EU countries which have opted for regulation with that of Sweden, which has taken an abolitionist approach. It shows that existing research, as well as contacts with local social workers and law-enforcement officials, support the argument that regulation increases trafficking and organised crime surrounding the sex industry and worsens the situation of persons in prostitution in terms of their physical and mental health and social standing, while legislation based on an abolitionist approach has positive effects in these areas.

### Regulation in Germany and the Netherlands

The Netherlands lifted its ban on brothels in 2000. In 2002, Germany decriminalised procuring for purposes of prostitution, widened the legal basis for establishing brothels and other prostitution businesses, lifted the prohibition against promoting prostitution and gave women the right to contracts and benefits in prostitution establishments. Since then, in both countries, government, police and NGO reports have found the following:

**The situation of women in prostitution has not improved.** Despite the new law in Germany, most prostitutes still work under poor conditions. The majority of the money they earn goes to pimps and 'managers'.<sup>1</sup> In the Netherlands, the number of prostitutes with pimps has not decreased.<sup>2</sup> Prostitutes interviewed in Germany do not consider the new law to have improved their legal, social or economic situation.<sup>3</sup> Although the Dutch government-commissioned Daalder report of 2007 gives an overall favourable evaluation of the legislative approach to regulating prostitution in the Netherlands, it notes that prostitutes' 'emotional well being is now lower than in 2001 on all measured aspects, and the use of anti-depressants has increased.'<sup>4</sup>

<sup>1</sup> Emilija Mitrovic, *Working in the sex industry: Report on the findings of a field research "Social change in dealing with prostitution since the new legislation's entry into force on 1.1.2002"*, 2004, p. 3.

<sup>2</sup> A.L. Daalder, *Prostitution in the Netherlands Since the Lifting of the Brothel Ban*, WODC (Research and Documentation Centre, Dutch Ministry of Security and Justice), 2007, [www.wodc.nl/images/ob249a\\_fulltext\\_tcm44-83466.pdf](http://www.wodc.nl/images/ob249a_fulltext_tcm44-83466.pdf), p. 13.

<sup>3</sup> Sozialwissenschaftliches FrauenForschungsInstitut an der Evangelischen Fachhochschule Freiburg, *The Act Regulating the Legal Situation of Prostitutes – implementation, impact, current developments*, 2007, [http://www.turnofftheredlight.ie/wp-content/uploads/2011/02/Germany-prostitution-report\\_englisch.pdf](http://www.turnofftheredlight.ie/wp-content/uploads/2011/02/Germany-prostitution-report_englisch.pdf); and Emilija Mitrovic, *Working in the sex industry*.

<sup>4</sup> A.L. Daalder, *Prostitution in the Netherlands Since the Lifting of the Brothel Ban*, p. 15.



**Women in prostitution are not provided with adequate alternatives.** In the Netherlands, the above-mentioned 2007 report found that ‘only 6% of the municipalities reported that their policy pays attention to the subject of the possibilities to leave the prostitution business.’<sup>5</sup>

### Abolition in Sweden

In 1999, Sweden took a very different approach, being the first country to pass a law criminalising those who purchase or attempt to purchase sexual services. It is important to note that the law does not punish persons in prostitution in any way. This reflects the Swedish approach, which considers prostitution to be a form of violence against women and therefore a gender equality issue, and asserts that there can be no real gender equality as long as there is prostitution. In 2010, the Swedish government released a report<sup>6</sup> evaluating the law since it came into effect. The evaluation found that:

**The prevalence of prostitution has declined.** The number of persons, mainly women, in street prostitution in Sweden has halved since 1999, while in the neighbouring countries of Denmark and Norway – in which the prevalence of street prostitution was about the same as in Sweden before it introduced its 1999 ban – the number increased dramatically, and by 2008 was estimated to be three times higher than in Sweden.<sup>7</sup> It should be noted that there is no evidence of an increase in sex tourism by Swedish men going abroad to purchase sexual services,<sup>8</sup> and therefore of the increase in street prostitution in neighbouring countries as being caused – or at least significantly contributed to – by a demand from Swedish ‘sex tourism.’ The government report goes on to state that, in addition to the reduction in street prostitution, there is also no evidence of an increase in indoor prostitution in Sweden. Although there was an increase in prostitution through the internet, this trend can be seen in all countries; furthermore, the number of individuals sold for prostitution purposes via the internet increased to a greater extent in neighbouring countries. The report concludes therefore that ‘the halving of street prostitution that took place in Sweden represents a real reduction in prostitution (t)here, and that this reduction is also mainly a result of the criminalisation of sex purchases.’<sup>9</sup> Indeed, according to a 2008 study, the number of Swedish men who have bought someone for the purpose of prostitution decreased from 13.6% in 1996 to 7.8% in 2008, and a number of respondents stated that the ban on purchasing sexual services affected them to the extent that they no longer bought sexual services at all.<sup>10</sup>

**The conditions for persons in prostitution have not worsened.** Regarding another concern voiced before the introduction of the law, the inquiry did not find that social workers and authorities had

<sup>5</sup> Ibid.

<sup>6</sup> En utvärdering. Förbud mot köp av sexuell tjänst (SOU 2010:49) (1999-2008). <http://regeringen.se/content/1/c6/14/91/42/ed1c91ad.pdf>. Summary in English: Government Offices of Sweden. Evaluation of the ban on purchase of sexual services (2010). [www.sweden.gov.se/sb/d/13358/a/149231](http://www.sweden.gov.se/sb/d/13358/a/149231).

<sup>7</sup> Ibid., p. 35.

<sup>8</sup> Gunilla S. Ekberg, Kasja Wahlberg, “The Swedish Approach: A European Union Country Fights Sex Trafficking”, Solutions Journal, Volume 2: Issue 2: Mar 02, 2011, <http://www.thesolutionsjournal.org/node/895>

<sup>9</sup> Government Offices of Sweden. Evaluation of the ban on purchase of sexual services, pp. 35-36.

<sup>10</sup> Gunilla and Wahlberg, “The Swedish Approach.”



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more difficulties in accessing persons in prostitution or that the situation for persons in prostitution worsened as an effect of the ban.<sup>11</sup>

Although there are certainly some shortcomings in the implementation of the Swedish law, overall the effects have been found to be positive thus far.

## **Conclusion**

No doubt inspired by the positive effects of the Swedish legislation, Norway and Iceland in 2009 both passed laws banning the purchase of sexual services, and Ireland is currently considering doing the same. Law-enforcement officials in Norway have reported similar positive effects of the law in the approximately two years that it has been in effect, including the reduction of prostitution, as well the fact that it is now easier for the Norwegian police to monitor the industry and catch pimps and traffickers.<sup>12</sup>

Beyond the circle of those involved in the system of prostitution, it should also be noted that the legal situation has a strong impact on respect for women's rights and gender equality more widely. For example, the experience of the US state of Nevada clearly demonstrates that tolerance for prostitution has an impact on social tolerance for violence against women. Nevada is one of the few US states to have legalised prostitution in some of its counties. In 2007, rape rates were over five times higher in those counties with legalised prostitution than elsewhere. This data does not support the myth that legalised (regulated) prostitution may reduce sexual assaults by providing a legitimate outlet for men's 'sexual desires'; rather they support the assertion that legalised prostitution may increase a woman's risk of sexual victimisation, irrespective of whether she is directly involved in prostitution herself.<sup>13</sup> It is time that we take a stand for the abolition of prostitution, for the sake of those who are consistently and brutally exploited by this system, for women and society as a whole.

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<sup>11</sup> Ibid., pp. 37-38.

<sup>12</sup> Presentation by Birgitte Ellefsen, Head of the Coordination Unit for Victims of Trafficking (KOM) in Norway at the conference „Legal and institutional conditions for combating prostitution and trafficking for the purpose of sexual exploitation—Hungarian and international experiences” organised by MONA Foundation for the Women of Hungary in Budapest, Hungary on March 9, 2010. A summary of the presentation can be found in: *Legislation, rights protection and assistance. Development of Inter-disciplinary Cooperation in Hungary to Combat Prostitution and Trafficking for the Purpose of Sexual Exploitation and to Support Victims (Project Summary)*, MONA Foundation (2010), [http://www.mona-hungary.hu/kepek/upload/2010-11/Legislation\\_rights%20protection%20and%20assistance\\_MONA%20Foundation.pdf](http://www.mona-hungary.hu/kepek/upload/2010-11/Legislation_rights%20protection%20and%20assistance_MONA%20Foundation.pdf), pp. 20-21.

<sup>13</sup> Chrystal Ruggieri, Terance D. Miethe and Timothy C. Hart, Rape and other Sex Offenses in Nevada, 1990-2007, State Data Brief, University of Nevada Las Vegas, July 2009. CACS 2009-01-03EN, <http://www.unlv.edu/centers/crimestats/SDBs/Rape/Rape%20in%20Nevada%20v4.pdf> .