

SHOULD PROSTITUTION BE DECRIMINALIZED

Americans enjoy a constitutional right to sexual privacy (*Lawrence v. Texas*). Nevertheless, loud voices insist we must criminalize consenting adult prostitution in order to deter non-consensual and underage prostitution (trafficking). That claim is baseless.

There is no good evidence that Sweden's criminalization of buyers of sex (but not sellers) has decreased trafficking or that legalization of sex work in Germany, the Netherlands, New Zealand or parts of Australia has increased trafficking. (Of course, if you count as a trafficking victim any sex worker who steps across an international border regardless of how voluntary and intentional her travel is, then you may indeed come up with frightening "data.")

The increasingly popular characterization of the sex worker as a victim and the customer as the new folk devil is also misguided. Shaming and criminalizing all customers does not protect the sex-worker from that one customer who is looking for an enslaved or underaged victim. That criminal is not going to be deterred out of fear that when led away to prison as a reviled trafficker he will also be shamed for buying sex.

Moreover, even if directed only at customers, criminalization of consensual sex for hire hurts the sex worker. In 2012 The UN's Global Commission on HIV and the LAW denounced Sweden's criminalization of buyers, saying that it had worsened the lives of sex workers. Criminalization pushes the engagement into the shadows and isolation of the underground, exactly where the killers and traffickers want it. The real criminals are happy to work in those shadows while law enforcement and prosecutors amass statistics on easy arrests of consenting adults as they claim to be fighting sexual slavery.

In place of analysis, the debate often showcases tropes like "using" or "buying" a woman herself: emotionally-charged verbiage that tells us nothing but does insult the woman who claims a personal right to take money for sex. In contrast, Thailand's national sex worker organization, Empower, does tell us something. These workers strike a universal chord in their 2016 statement where they plead for understanding that for them sex work is a way out of generational poverty and that migration is their solution, not their problem. And, most telling, they add, "We want to know, if society were asked to think of us, not as criminals, immoral women, or helpless victims, but as humans, mothers, workers, and family providers, what laws and systems could be imagined?"