

# Prostitution - Commercial Sex: Repression Or Legalization?

women prostitutes customers decriminalization

In the United States, 49 states make prostitution a crime. The only exception is Nevada, which permits brothels to operate in specific areas of the state. Since the 1970s, advocates of reform have called for either the legalization or the decriminalization of prostitution. Proponents see these approaches as a way of preventing women from being punished for making a choice on how they want to earn an income. Opponents of these changes dismiss the idea that women voluntarily choose this type of work and claim that prostitution is yet another part of the U.S. commercial sex industry, which systematically subordinates women.

Proponents of decriminalization argue that it would remove the stigma associated with prostitution and increase profits. They contend that decriminalization would also relieve the police of the costly and futile effort to stop an unstoppable practice.

Legalizing prostitution would mean regulating it. Supporters contend that this would allow the government to collect millions of dollars annually in taxes, reduce collateral crime, and protect the public from sexually transmitted diseases. Proponents point to Nevada, where the use of brothels facilitates testing for diseases and reduces the number of street prostitutes.

Other supporters of decriminalization and regulation challenge what they see as the paternalistic argument that women need to be protected from sexual exploitation. This argument, they claim, is nonsensical because it means that to protect women from exploitation, society must imprison them for engaging in prostitution.

In addition, those who favor decriminalization note that the worst form of exploitation suffered by prostitutes is from pimps. If prostitution were legal, women would generally conduct business on their own, free from the parasitic and abusive conduct of pimps.

Decriminalization supporters also cite the difference between the lax policing of off-street prostitutes and the harsh treatment of street prostitutes. These observers argue that the enforcement disparity is a matter of race and class: most street prostitutes are members of historically oppressed groups, whereas off-street prostitutes generally have middle-class backgrounds. They argue that it is unfair for society to tolerate and even promote escort services while regularly jailing street prostitutes.

Opponents of legalization of prostitution have traditionally based their opposition on the immorality of commercial sex. However, modern feminist thought has developed other arguments against the removal of legal barriers to selling sex.

Many feminists have attacked the "career-choice" argument. They see it as a corruption of feminist values that otherwise favor the economic liberty of women. They contend that, from a limited range of options constrained by economics, education, **SEXUAL HARASSMENT**, and abuse, the decision to sell one's body cannot be deemed a choice. Even if a woman makes a conscious decision to enter prostitution, this does not redeem the trade from being the worst form of gender-based exploitation.

The "choice" argument is also undercut, argue the opponents of legalization, by the fact that the average prostitute starts working at the age of fourteen and suffers **SEXUAL ABUSE**, drug dependency, violence at the hands of customers, and emotional control by pimps. From this point of view, women are victims of commercial sex work.

More radical feminist critics of legalization argue that prostitution, like **PORNOGRAPHY**, is an example of the unequal status of women in the United States. The right to privacy arguments advanced by legalization proponents may sound reasonable, contend critics, but they mask the systematic subordination of women. Noted feminist legal scholar **CATHARINE A. MACKINNON** has defined pornography as "the graphic sexually explicit subordination of women, whether in pictures or words," especially in a violent or degrading context. Prostitution is worse than pornography, contend these critics, because women are subjected to sex in violent and degrading contexts.

For these more radical critics of legalization and decriminalization, making commercial sex legal would legitimize the subordinated position of women in U.S. society. Just as the legalization of casino gambling has caused a dramatic increase in the number of people gambling and the amount of money wagered, the legalization of prostitution would give the commercial sex industry the opportunity to legitimately expand. Critics argue that in a consumer culture already permeated with sexual imagery, legalization is not the answer.

Legalization critics have acknowledged, however, that prostitutes are prosecuted for their acts while their male customers usually are not. In the 1980s and 1990s, many state and local governments have sought to end this double standard by enacting laws that target customers of prostitutes. This legislation has also been triggered by residents of local communities who have grown tired of enduring the presence of customers who visit their neighborhoods. These so-called anti-john laws seek to discourage customers by impounding their cars, and, in some cases, notifying their spouses of their arrest.

Many police departments have also increased their use of police decoys—officers disguised as prostitutes who lure unsuspecting customers into arrest. In addition, customers who have been arrested may find their names listed in the local newspaper or photographs broadcast on a local **CABLE TELEVISION** station.

It is unlikely that prostitution will be legalized or decriminalized because few politicians would relish being associated with so morally explosive an issue as commercial sex. It is also unlikely, given prostitution's persistence throughout history, that efforts by law enforcement to prosecute prostitutes and their customers will bring an end to prostitution.

#### **FURTHER READINGS**

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Law, Sylvia A. 2000. "Commercial Sex: Beyond Decriminalization." *Southern California Law Review* 73 (March).

Lefler, Julie. 1999. "Shining the Spotlight on Johns: Moving Toward Equal Treatment of Male Customers and Female Prostitutes." *Hastings Women's Law Journal* 10 (winter).

#### **CROSS-REFERENCES**

[Feminist Jurisprudence; MacKinnon, Catharine.](#)

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