

SEX WORK AND THE LAW THE CASE FOR DECRIMINALIZATION



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THE CASE FOR DECRIMINALIZATION

Dialogue around the South Africa-based 2010 Soccer World Cup, proposals to introduce a moratorium on the harassment of sex workers by the South African Police Force, and the continued criminalization of sex workers and their clients in South Africa sparked the production of this work. With the eyes of the global media on the World Cup, held for the first time on the African continent and in the country with the highest number of people and one of the highest proportions of people living with HIV and AIDS, there was an opportunity to draw attention not only to issues around the epidemic itself but also to the multiple human rights violations experienced by many sex workers in South Africa and around the world. There was also a need to counteract the significant disinformation around law reform to reduce the pressure of the law and law enforcement systems on sex workers and others involved in the sex industry.

The resultant work has a significant emphasis on why decriminalisation of sex work is as much a public health issue as an HIV and AIDS prevention issue. It outlines several key issues, considerations, challenges and recommendations for policy-makers, NGOs, sex workers and other actors in the fields of HIV and human rights, to help build a supportive and enabling environment for sex workers to realise their rights.

Decriminalisation is the legal model of choice for sex workers and those who advocate for their rights. It allows for access to human rights protections, including delivery of gender equality and the ability to achieve labour protections; it creates a more open relationship between police and sex workers, thus making it easier to expose trafficking, the involvement of children and the abuse of sex workers; and it enables delivery of public health interventions, including "HIV prevention and treatment". All these benefits can be expressed in moral terms, which can be used to counter religious objections to the removal of criminalisation.

We would like to thank the Sex Worker Education and Advocacy Taskforce (SWEAT), the New Zealand Prostitutes Collective (NZPC) and Marlise Richter in particular for their time, effort, support and input into these factsheets.

The World AIDS Campaign
Cape Town MMX



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1. Human Rights and Sex Work Decriminalisation

- **Every person is entitled to their human rights, including sex workers**
- **Many governments and individuals ignore sex workers' rights to equal treatment and non-discrimination**
- **Ignoring sex workers rights increases their risk of violence, HIV, stigma and workplace abuse**
- **Decriminalisation of sex work would protect sex workers against violence, discrimination and abuse**

What are human rights?

Human rights are basic freedoms and entitlements that all human beings can claim. Examples of human rights include the right to freedom of speech, the right to life, the right not to be tortured and the right to non-discrimination and equality.

There are a number of international legal documents that set out the human rights that everyone in the world is entitled to, including the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the International Protocol on Civil and Political Rights. South Africa ratified the Optional Protocol to this in 2002, thus allowing people to complain about breaches of these rights to the UN Human Rights Committee.

Do sex workers have human rights?

Every person is entitled to basic human rights, and all sex workers are entitled to the same rights as anyone else. Yet many individuals and governments ignore the fact that sex workers have the right to equal treatment and sex workers are often particularly vulnerable to be abused, raped and even murdered, while their dignity is violated on a daily basis. Even in countries where sex work is considered a crime, such as South Africa, the state may not ignore sex worker rights. As Charlesworth and Chinkin (2000:214) state "The right of women to equal treatment and non-discrimination on the basis of sex is part of the traditional canon of human rights".

What happens if we do nothing about sex work and human rights?

1. Sex workers will continue to suffer violence from clients, their partners and the police.
2. Sex workers will continue to work in unsafe and dangerous conditions.
3. The stigma around sex work will continue.
4. Sex workers will not have easy access to health, social, police, legal and financial services.
5. Sex workers will find it hard to protect themselves and their clients from HIV.
6. Sex workers will find it hard to get tested for HIV and get treatment for HIV.
7. Sex workers will find it difficult to find other jobs.

The New Zealand Case Study

In New Zealand, where sex work has been decriminalised, these rights are realised. Sex workers have the same employment rights as other workers, and can no longer be coerced into doing work they do not want to do (Mossman & Mayhew, 2007: 43). Sex workers in New Zealand can now challenge brothel operators on such things as sexual harassment, unfair treatment and employment practices, and are able to access government sponsored mediation services, Disputes Tribunals, and join unions. Sex workers are able to request employment contracts and negotiate, and challenge, working conditions.

The New Zealand Prostitution Reform Act 2003 states that all reasonable steps must be taken to ensure that safer sex practices are adhered to – this protects sex workers and their clients from HIV. Sex workers have complained to the police, who investigated these complaints, about clients who remove condoms during sex (R v Morgan, name suppressed). Furthermore, sex workers have said the Act “had helped to increase the reporting of violence to the Police”, and that Police had moved from the role of prosecution to that of protector (Mossman & Mayhew, 2007: 10, 11). Because sex workers in New Zealand are no longer stigmatised by criminal convictions related to sex work that they feel more confident in applying for other work, knowing they won't be exposed by a criminal record (Bennachie & Healy, 2010).

A sub-section of human rights is called sexual and reproductive health rights. This is an umbrella term for entitlements such as the right to choose who one has sex with, when and where, and whether one wants to have sex at all. This means that all governments should protect the right of people to engage in sex between consenting adults and that the state should not interfere with people's sexual choices. If adults want to buy or sell sex from other adults, this is their choice and provided no-one gets hurt or held against their will, or coerced, the state has no legitimate reason to criminalise that choice. Constructive approaches recognise that realising sexual and reproductive health rights is essential for achieving equity and social justice in societies.

Sex workers in the decriminalised New Zealand sex industry have had their right to refuse sex reinforced under the Prostitution Reform Act 2003. Sex workers are aware they have the right to say no to having sex with any client for any reason, or for no reason. This means they can choose who they have sex with, and can stand up to coercion. The fact that sex work is their job does not remove this right. Research has shown that, following decriminalisation, New Zealand sex workers found it easier to refuse clients when they did not want them (Abel, Fitzgerald & Brunton, 2007: 116). Prior to decriminalisation, only 37% of sex workers felt they could refuse a client. Following decriminalisation, this increased to 62% within 4 years (Abel, Fitzgerald & Brunton, 2007: 117). Sex work advocates argue that legal frameworks that make sex work illegal violate a number of important human rights principles – not only of sex workers, but also of their clients and other people in the sex industry (Agustin, 2007; Erickson, 2006; Kempadoo & Doezema, 1998; Monnet, 2006).

Rights of sex workers that are violated by the criminalisation of sex work:

- The right to dignity
- The right to non-discrimination
- Access to health care services
- The right to bodily and psychological integrity
- Freedom of thought, belief and opinion
- The right to choose one's trade, occupation or profession freely

If sex workers' human rights are truly respected, consensual adult sex work would not be illegal and sex workers would have the same labour rights as all other workers. The decriminalisation of sex work means that sex workers would be protected against sexual harassment, violence, rape and unfair working conditions. Sex workers would be able to access non-discriminatory health care services, be able to form unions and be assisted by the police and, where it exists, social security.

2. Sex Work Decriminalisation, Feminism and Women's Rights

- **Feminists have differing views towards sex work**
- **It is possible to be a feminist and support sex work decriminalisation**
- **Arguing for decriminalisation of sex work does not have to mean endorsement of sex work**
- **There are multiple reasons why women's rights groups advocate for sex work decriminalisation**
- **Current laws violate sex workers' rights and increase their vulnerability to HIV**
- **A decriminalised sex work system is the most effective method of addressing violence against women**

Why is sex work a gender issue?

Sex work is essentially the sale of sexual services. All over the world, the majority of sex work clients are male and the providers of sexual services are female. Gender is relevant to this since it examines the relationships and power between men and women (and intersex and transgender people) and asks important questions about who has access to resources, money and decision-making structures and how people make a living.

Isn't sex work bad for women's rights and feminism?

Feminism is an ideology and therefore includes a variety of views and perspectives on the position of women in society. Some branches of feminism believe that sex work is destructive for women and for equality for women. Religious feminists, conservative feminists, some liberal feminists and radical feminists often support this view. They argue that sex work is always, at its heart, an issue of violence against, and abuse of, women and that sex work should be abolished. Many of these feminists argue that sex workers should find other jobs, that the laws that criminalise sex work should be toughened and that sex workers should be "rescued" from their situation. In this perspective, sex workers are cast either as victims of a male-dominated society, or as psychologically unstable women that should be helped.

Some radical feminists even argue that all sex acts subordinate women. Radical feminists¹ in particular argue that sex work is based on violence against women and that the overarching context is that of unequal power relations between men and women. In this view, sex work and trafficking are conflated (Carter & Giobbe; Stark; Pateman; MacKinnon & Baldwin, all in Spector, 2006). Many sex workers point out that this approach to sex work is judgmental and not helpful to the women in the sex industry.

Some women take up sex work as it provides them with more money than they would be able to earn otherwise, and with flexible working hours. They are also often their own bosses and have the power to decide when they want to work and how. Not many jobs with these features are open to women – particularly to women living in poverty or those who have little formal education or training.

However, many liberal and radical feminists are divided on the subject of sex work. Wendy Chapkis, a radical feminist who previously opposed sex work, concludes from her interviews with sex workers in the US and the Netherlands: "*While feminists have been deeply divided for more than twenty years on whether prostitution should be conceived of as sexual violence or sex work ... all who are concerned with women's rights and well-being might unite around proposals to enhance women's power within the trade and to increase their options beyond it*", (Chapkis 2000:200).

¹ Radical feminism sees the male controlled capitalist system as the main source of women's oppression. They believe that women can only free themselves truly when they have brought an end to the oppressive patriarchal system.

Sex-positive feminists² argue that sex work is not inherently oppressive to women and that they are able to claim power from the sexual transaction. **Third-world feminists**³ are particularly critical of the view of conservative, radical and religious feminists on sexuality and sex work and raise important concerns about the realities of women from developing countries. They emphasise that many women who live in low income countries in Africa, South-East Asia and Southern United States have limited access to education and literacy, to jobs and are often the sole-providers for extended families. For women in these contexts, sex work is an option to ensure their survival and that of their families, and these sex workers also claim power from their transactions with their clients. The financial independence that many experience from sex work empowers them and their families. Criminalising the industry or efforts to abolish sex work make their working conditions worse and increase their risk of violence and of contracting HIV. When sex work is pushed underground, it is harder to engage with sex workers in a meaningful way. Feminists who feel uncomfortable with the symbolism and underlying power dynamics of women selling sexual services to men can still support decriminalisation of sex work, without compromising their feminist principles.

Arguing for the decriminalisation of sex work does *not* necessarily mean an endorsement of sex work. It shows an awareness of the dangers of the criminal law; an awareness that criminalising sex workers will neither eradicate the industry, nor alter the set of power relations that may be associated with it. It recognises that the laws that criminalise sex work punish women and particularly women living in poverty, and women of colour most severely and create a dangerous environment for working and living. A decriminalised sex work system is therefore the most effective and pragmatic way of addressing the conditions of women in the sex industry.

"We are harassed, abused by the police, instead of them protecting us they are busy asking for bribes. I think the best way to solve this would be if the laws change, for sex workers to be treated like everyone else, for their rights to be recognized. We deserve to be treated equally, we need our privacy, access to the law and we need for our jobs, sex work, to be recognized as work. Police need to do their jobs to catch criminals not sex workers because we are not criminals." **Busie, Johannesburg-based sex worker, South Africa.**

In contrast, in New Zealand, in a decriminalised environment, a police officer who attempted to coerce a sex worker into providing him with sexual services, was convicted and sentenced to imprisonment for this crime. When the Bill to decriminalise sex work was being discussed in Parliament in New Zealand, it was supported by a variety of feminist groups. Fifty-six submissions were written by feminist individuals or organisations or based on feminist arguments. Forty of these supported decriminalising prostitution (Laurie, 2010). One of these, the National Council of Women (NCW), representing 43 nationally organised societies, strongly supported decriminalising sex work as it: *Aims to safeguard the rights of women and children, provides for protection from exploitation and seeks to create an environment that promotes public health. It is essential that women working in the sex industry have protection regardless of whether they have chosen the industry as a career or have come into the industry because of a lack of options* (NCW, 2001). Importantly for New Zealand, indigenous women's groups also supported decriminalisation: Te Puawai Tapu, and the Maori Women's Welfare League were foremost in this support.

Why should women's rights advocates support sex work decriminalisation?

There are a number of reasons why people who are committed to women's rights should advocate for sex work decriminalisation:

Sex work is a source of income for women and has a long history of existence

For centuries, societies that have viewed sex work as "wrong" or "sinful" have tried to abolish it by imposing a range of criminal penalties for sex work – from stoning, deportation, flogging to imprisoning women. Despite these brutal sanctions by the state, there is no country

² Feminists who focus on issues of women's sexual pleasure, freedom of expression, sex work, and inclusive gender identities.

³ Feminists mainly from so-called "developing" or "third world" countries who concentrate on the role of colonialism and globalisation in women's oppression.

in the world where sex work has been eradicated. Sex work is here to stay and for good reasons! The service is a useful and necessary one for many people. The law needs to be responsive to this reality. Support for decriminalisation is support for women's rights.

The laws criminalising sex work are out-dated and patriarchal

Many of the laws that criminalise sex work at present were introduced at a time when men were the law-makers and law-enforcers. These laws embody out-dated and repressive ideas on sexuality, relationships, who owns women's bodies and the position of women in society.

Current laws violate sex workers' rights

Sex workers are entitled to the same human rights as everyone else. Sex workers have the right to bodily integrity, dignity, freedom from violence, the right to a profession of their choice and the right to fair labour practices. The on-going criminalisation of sex work violates all of these human rights.

Violence against women can only be addressed in a fully decriminalised system

Sex workers are often women who may experience violence, including rape and abuse. Laws and strategies that assist women to access restraint orders against abusive men, obtain the necessary treatment and support after rape, and bolster the penalties for abuse make very little difference to the lives of sex workers. In a system where sex work is illegal, sex workers often do not have the means, the knowledge or the power to make use of the remedies that may be available to other women. The single most powerful strategy in reducing violence against sex workers, is to recognise sex work as viable work and protect those who are doing it-by decriminalising the sex industry.

Current laws increase women's vulnerability towards HIV/AIDS

The criminalisation of sex work increases sex workers' risk of contracting HIV. It reduces their power in negotiating safer sex, limits access to HIV education, condoms and treatment, and increases their risk of violence and rape. If sex workers are not empowered to prevent the spread of HIV through the creation of safe working and living conditions, it increases the risk to the population as a whole.

The decriminalisation of sex work makes sex workers safer, more empowered and brings them into the ambit of protective labour and occupational health & safety laws, where such laws exist. It is a vital component towards the global affirmation and implementation of women's rights and equality.

3. The Right to Work and Sex Work Decriminalisation

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- **The UN's International Labour Organisation indirectly advocates for the legalisation of sex work**
 - **Criminalisation of sex work prevents sex workers from protection from labour, occupation and health and safety laws**
 - **Increasing numbers of sex workers today form part of sex worker unions**
 - **Brothels have an international obligation to promote safer sex**
-

The International Labour Organisation (ILO) was established in 1919 as part of the Versailles Treaty ending World War I, with the principal role of setting international labour standards. The labour standards were designed to eliminate unjust and inhumane labour practices with the main purpose to “promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue in handling work-related issues”. In 1946, after the formation of the United Nations, the ILO became a specialised agency of the UN (ILO, 1996-2010). After many years of lobbying from the sex industry, the ILO has begun to indirectly advocate for the legal recognition of sex work by calling on governments for its recognition as an economic sector and “a legal occupation with protection under labour law and social security and health regulations” (Raymond, 1998).

In countries whose legal systems criminalise sex work, despite international labour standards, sex workers are unable to exercise protection from labour laws, occupation laws or health and safety laws. As a result, many sex workers say they feel incapacitated by the state and not respected (Östergren, 2010). They are unable to demand basic working conditions or legal work contracts (SWEAT, 2006). The case of Kelly, a South African sex worker who went to court over unfair dismissal from the massage parlour where she worked, is an example of this inability to demand basic rights. Even though the lower court agreed that she was an employee in terms of the Labour Relations Act, it found that because she was a sex worker, which is an illegal profession in South Africa, it would not enforce her rights (Sapa, 2008).

Over the past two decades sex workers have begun to unionise (Gall, 2007). Sex worker unions campaign for a variety of human, civil and labour rights for people who work in the sex industry (International Union of Sex Workers, undated). The South African non-profit organisation SWEAT (The Sex Worker Education and Advocacy Taskforce) advocates for decent working conditions for sex workers and decriminalisation of sex work. SWEAT argues that “workers in brothels would also benefit from labour law and would get pensions when they retired. The Department of Labour would also monitor working conditions and the sex workers would be treated with the same dignity afforded to other workers under the Bill of Rights” (SWEAT, 2006).

SWEAT (2006) indicates that the following issues could then be addressed:

- The Labour Relations Act and the Basic Conditions of Employment Act could be applied for sex workers.
- Safer and more hygienic working conditions would be required – most sex workers want to practice safer sex but are unable to enforce it as there is no legal obligation.
- Limits to legal working hours – many sex workers in criminalised systems report working days of over 14 hours.
- Paid vacation time and sick leave - sex workers frequently report no paid leave or sick leave.
- Obligation to display safer sex information, to provide condoms, or to screen clients – if international labour standards were applied brothels would be obliged to promote and perform safer sex, helping to alleviate the HIV risk.

In New Zealand, decriminalisation has allowed sex workers to negotiate employment contracts, and they are able to challenge unfair labour practices. Sex workers also have more choice in respect to work place conditions, and are able to work in big or small brothels, with other sex workers in collectives, or by themselves in environments that they control.

4. Children and Sex Work Decriminalisation

- **In most countries sexually exploiting children for commercial purposes is already illegal**
- **Sex work decriminalisation does not mean the decriminalisation of child sex work**
- **When sex work is decriminalized, operators rather than children are prosecuted for under-age sex work**
- **Research shows that decriminalization of sex work hasn't increased numbers of sex workers or under-age workers**

What does sex work have to do with children?

The term “sex work” generally relates to adult, consensual sex work. It does not include trafficking or sex-for-reward transactions with children. In many countries in the world it is an explicit criminal offence to “sexually exploit children for commercial purposes”.⁴

Do sex work decriminalisation advocates also want to decriminalise child sex work?

No.

Children should be in school - not in the sex industry. Campaigns on sex work decriminalisation focus specifically on changing the criminal law on adult, consensual sex work to reflect human rights principles. This has little to do with the laws on child sex work or trafficking. Shamefully, children are sometimes criminalised for their involvement in sex work in countries where sex work is not decriminalised. Criminalising children and arresting them for soliciting and other sex work related crimes does not help them in any way.

How will sex work decriminalisation impact on child prostitution?

In countries where sex work is criminalised, the state and police authorities are sources of fear and distrust for sex workers. If sex work is decriminalised, the sex industry becomes more open and the role of the police changes from persecutor to protector of sex workers. If a young person is found doing sex work in a decriminalised environment, it is the welfare bodies who become involved in assisting the young person. The police will then take action against those who benefit from the sex work of children. Sex workers often move in contexts in which they could identify children in the sex industry. Sex workers could therefore become important allies to the police and social services in detecting children who need assistance. In New Zealand, it is important to remember that people who are under 18 and working as sex workers are not the law breakers, and vulnerable to prosecution. The focus has shifted to one of providing services related to the protection of children.

Following decriminalisation in New Zealand, several brothel operators and clients have been prosecuted for hiring sex workers who are under 18 (R v Barnett, 2006; R v Booten, 2008; R v Gillanders, 2005; etc). As at March 2008, five years following the passing of the Prostitution Reform Act, there had been 34 convictions for people who had hired or taken money off sex workers who were under 18 (Prostitution Law Review Committee, 2008: 106). It should be noted that it is not the young person who is breaking the law, but the client or brothel operator/manager.

⁴ See for example The United Nations Children's Fund (UNICEF) “Profiting from Abuse - An investigation into the sexual exploitation of our children” New York, 2001, available: http://www.unicef.org/publications/files/pub_profiting_en.pdf

Will sex work decriminalisation mean that my child might want to take sex work up as a career? Or that more young people get involved in sex work?

Many people's biggest fear of the decriminalisation of sex work is that their children might choose sex work as a legitimate occupation when they grow up. This correlates with the anxiety that some people in New Zealand had when that country decriminalised sex work in 2003: that there would be a significant increase in the number of people who would take up sex work. Yet, systematic research showed that the decriminalisation of sex work did not have an impact on the number of sex workers, nor children involved in sex work, in New Zealand (Abel, Fitzgerald, & Brunton, 2009).

Philosopher and advocate for decriminalisation, Laurie Shrage (1996), answers the above question in the following way:

“Anyone who advocates for the legalization of prostitution needs to address the “But would you want your daughter...” argument. I suppose the only way to answer this question/objection is to take it personally – I happen to have a daughter who is now eight. The argument is meant to expose the hypocrisy of anyone who has made the assertions [on decriminalisation] I have made. For, not surprisingly, my answer is “No, I wouldn’t want my daughter to be a prostitute.” So how can I accept this occupation for others? Well, first of all, this isn’t all of my answer. The more nuanced answer is that, although I would prefer my daughter to be a mathematician, pianist, or labour organizer, were she to seek employment in the sex trade, I would still want the best for her. Her choice would be less heartbreaking to me if the work were legal, safe, reasonably well paid and moderately respectable.”

5. The Client and Sex Work Decriminalisation

- **The legality of buying and selling sex depends on the country and its legislation**
- **Criminalisation of sex work clients makes them and sex workers more vulnerable, and doesn't prevent the sale of sex**
- **Decriminalisation of sex work allows the sex industry to be regulated by employment and health & safety legislation.**
- **There is no evidence that criminalising sex work reduces the number of sex workers, they are simply less visible**

Who are the clients of sex workers?

Clients are people who pay sex workers for sexual services. The vast majority of sex work clients are male. Some are in highly functioning relationships, some are not.

Is being a client of sex workers illegal?

The answer depends on your country's legal system.

In the past, some countries had legislation that only made the sale of sex illegal – but not the buying of sex. This means that sex workers were seen as criminals, but there were no consequences for the other party to the transaction: the client. Some countries like Sweden have legal frameworks that do not penalise the selling of sex (the sex worker), but it is a criminal offence to buy sex. In the United Kingdom, penalties are imposed on clients of street-based sex workers for “kerb-crawling” (driving slowly to look for street sex workers) and can include warning letters, “naming and shaming” strategies, taking their drivers' licences away and confiscating their vehicles. In some American states, convicted clients may appear on television, and/or be sent to “John Schools” for rehabilitation. Kinnell (2002) has reported that both kerb crawling legislation and sending clients to be rehabilitated are ineffective. Efforts to criminalise sex work clients have not stopped the buying of sex, but rather make sex workers and clients vulnerable.

Call for ban on King's Cross (London, UK) kerb crawlers

[Extracts]

KERB crawlers who plague Kings Cross could be barred from the notorious red light district or be forced to take courses to confront their sexual urges.

...Sarah Walker, of the English Collective of Prostitutes, based in Kentish Town Road, Kentish Town, said she would oppose any move to crack down on kerb crawlers because it “would make women more vulnerable”.

“The clients would want women to jump into their car more quickly if they knew they were being watched, giving the women less time to judge the situation,” she said.

“We also fear any ASBO's (anti-social behaviour orders) issued against clients are much more likely to be used against Black or Asian men.

“If people want to help these women they should start by abolishing the prostitution laws and let them work from premises rather than in the street.

“Going for the client looks like a quick fix but you must look at the consequences.” ...

Eady (2002)

What impact does decriminalisation have on clients?

Decriminalisation of sex work protects sex workers and clients and allows the sex industry to be regulated by employment and health & safety legislation. It makes the sale of sex less secretive and dangerous – for sex workers and for clients. In a decriminalised system, sex workers and clients do not have to rush the negotiation of their transaction and can do so in a safe area. Both sides have a greater ability to have recourse to support services, and legal protection if they are working in poor conditions – e.g. no condoms available, clients perpetrating violence, sex workers not being paid for the services they have provided, sex workers' money being withheld by others, etc. Trade unions feel they are more able to support sex workers if they call for their labour rights. In an open environment, the stigma associated with the selling and buying of sex can be tackled, and sex workers and their clients can demand protection from the police.

What impact does criminalising clients have on sex workers?

In Sweden, the client has been criminalised, while the sex worker remains decriminalised. The 1999 law that criminalised clients was passed without any consultation with sex workers. When sex workers tried to raise their concerns, they were ignored, and accused of either being non-representative or of having a “false consciousness” (Jacobsson, 2009). This ignores and belittles the real experiences of sex workers.

It is often claimed that criminalising clients led to a reduction in the numbers of sex workers. Although it is true that the number of street-based sex workers declined by about 33% following the criminalisation of clients in Sweden, it did not reduce sex work as such. Even the Swedish National Board of Health and Welfare has admitted that rather than work on the streets, many sex workers moved indoors (Socialstyrelsens, 2000). There is no evidence that the number of clients has reduced.

It is not for nothing that Jacobsson's (2009) article is titled “We want to save you! (And if you don't appreciate it, you will be punished!).” Sex workers who remained working on the streets are subjected to a programme of harassment and abuse by police, being videotaped having sex with clients in their cars, strip searched without cause, and being searched for condoms. When they are the victims of violence at the hands of clients and others, these sex workers are unable to complain to police because of these actions (Eriksson, 2005).

In 2008 Petra Östergren, a Swedish researcher examining the effects of the 1999 law on sex workers, visited the New Zealand Prostitutes Collective (NZPC). While visiting, a police officer came in to talk to NZPC about issues affecting sex workers. During this, a street-based sex worker came in, and the police officer asked the sex worker if there was anything she needed help with, and reminded her that if she was having any problems on the street, to contact her immediately. Surprised at this willingness to help, Östergren stated the Swedish police would never do this, but would rather treat the sex worker as a suspect in a criminal act.

How does the Swedish law and criminalising clients affect men?

As Don Kulick (2005) indicates, the immediate effect of the Swedish law criminalising clients was that “Sweden suddenly acquired hundreds of thousands of new perverts”. Noting that Swedish authorities were claiming that “One man in eight has bought sex”, Kulick (2005) notes that “in sheer numbers this must mean, the report tells us, that ‘more than four hundred thousand men over eighteen years of age have at some point in their lives paid for sexual services.’” Using figures from the Statistics South Africa (2009), this would mean there were over 1,680,000 men over 20 in South Africa who could be clients and therefore classed as “perverts”. This pathologises clients and treats them as criminals, and, by extension, implies that all men are, or could be, “perverts”. Clients, and men in general, are demonised.

Has the Swedish law criminalising clients ever been evaluated?

When passed, the Swedish law that criminalised clients did not require an evaluation to be completed to assess its effectiveness. To date, there has never been any evaluation to establish the effects of the law on sex workers health or welfare. In 2001, the UN CEDAW Committee stated:

“354. While welcoming the criminalisation of the purchase of sexual services, the Committee expresses concern that this might have increased the incidence of clandestine prostitution, thereby rendering prostitutes more vulnerable. It also expresses concern that Sweden has become a country of destination for trafficked women.

355. The Committee encourages the Government to **evaluate the effect of the current policy of criminalizing the purchase of sexual services, especially in view of the complete lack of data on clandestine prostitution which may have incidental effects on the trafficking of women and girls.**”

However, Sweden did not comply with their request to evaluate the law, and at it's next periodic report, the CEDAW Committee stated:

“32. While noting the information provided by the delegation that an evaluation of the prohibition of prostitution, including the effects of the 1999 Law on Purchase of Sexual Services, is scheduled for 2008, the Committee regrets the lack of information and data on the prevalence of prostitution in the State party, including clandestine prostitution.

33. The Committee requests the State party to provide full information and data on the exploitation of women and on prostitution in its next periodic report, including clandestine prostitution.”

Sex workers report, that as at June 15 2009, said the evaluation has been completed, and that it only looked look at how the law may be strengthened, and therefore may make it worse for sex workers (Jacobsson, 2009).

6. Economics and Sex Work

- **Sex workers can earn much more selling sex than doing domestic, low-salaried or unskilled work**
- **The internet may increase or decrease the demand for sex in different regions of the world**
- **There are few barriers to entry and exit into the sex work industry: the dominant driver is immediate financial needs**
- **Radical and comprehensive social change would be needed to dramatically reduce sex work in poorer countries**
- **Decriminalisation would mean the taxation, and police protection of, sex workers**

Why would a person choose to become a sex worker?

Economically speaking, a person may choose to become a sex worker because it 'maximises their utility' (Ahlberg & Jensen, 1998)– that is to say a sex worker, either male, female or transgendered, may be able to earn more selling sex than they could do in other jobs commensurate with their level of education and compatible with the rest of their lives. In a South African study, it was reported that a sex worker with only a primary school education could earn more than five times per month what he or she would earn in other types of work (Gould, 2008). This finding is not limited to South Africa (Dandona et al, 2006). Therefore, in economic terms it can be considered a 'rational choice' to forego domestic, low-salaried or unskilled work in favour of sex work (Gould, 2008). The financial benefit of such a decision becomes increasingly crucial when it is understood that many sex workers are responsible for supporting other dependents. A South African study found that on average the income generated by each sex worker was also supporting two other individuals (Fick, 2005).

"Well, I worked for many years in a factory in the clothing industry, but then with all the difficulties in the industry, I was retrenched. I am the only person bringing in money in my family and I needed to make money". (Gould 2008)

The Demand and Supply for Sex Work

The demand for sex work stems primarily from men, particularly single or divorced men (Ahlberg & Jensen, 1998). Therefore an increase in their numbers is likely to increase the demand for sex work (Ahlberg & Jensen, 1998). Various factors can influence this increase including high average age of marriage, prohibition of sexual activity for women during pregnancy and migration (Ahlberg & Jensen, 1998). Globally, it is estimated that the demand for sex work will rise (Aral & Ward, 2008) due in part to an increase in divorce rates, an increase in the number of people living alone as well as the increased possibility of wide and frequent travel. In addition, a South African report found that brothel owners often employed extra sex workers during the summer months to meet the increased demand (Gould, 2008). Indeed, the 2010 FIFA World Cup in South Africa, drew extra attention to the sex industry as the huge influx of foreign and mainly male tourists, increased the demand for sex work; coupled with high prevalence of HIV, this ran the risk of increasing transmission of HIV both in South Africa and abroad. Effective HIV prevention interventions and the decriminalization of sex work were discussed to help reduce this impact.

Conversely, urbanisation and internet dating have been seen to decrease the demand for sex work since, from an economic perspective, the "cost" of finding various sexual partners is reduced (Philipson & Posner, 1995). Still, significant increases in price would have to be enforced in order for a considerable impact to be seen on demand (Philipson & Posner, 1995) and with comparatively high pay for sex work commensurate with education it is unlikely that sex work will disappear (Philipson & Posner, 1995). Instead, the focus should be on safe sex and making the profession of sex work safer.

Few barriers to entry and exit

Sex workers typically fall into three categories – street-based sex workers, brothel-based sex workers (including those based at clubs and massage parlours) and escorts (who provide home visits). On the street the pay is lower and the risk of violence higher (Leigh, 2009). Economically speaking, there are few barriers to entry and exit into the sex work industry and most do so in accordance with their immediate financial needs (Gould, 2008).

On average, sex workers who are based in brothels earn substantially more than street-based sex workers. Internet escorts in the US and Canada have been found to earn high wages, up to \$280 an hour (Leigh, 2009). Indeed, easy access to the internet has facilitated the expansion of sex work, particularly at the high end. Advertising one's services via the internet therefore carries a premium as it avoids the 'middle man' and more discretely connects sex workers and clients without the need for brothel visits or street cruising (Shuger, 2000).

Economics of Exit programmes

Exit programmes are programmes set up to provide support to sex workers who may wish to leave the industry but typically are faced with multiple challenges around employment, housing and healthcare. Many programmes provide life skills training, mentoring and counselling.

Many sex workers are drawn into sex work because the money that they can earn in the industry is better than they would be offered elsewhere. Countries that have undergone major economic restructuring, such as those of the former Soviet Union, have seen increases both in unemployment and sex work (Ward & Aral, 2006). From an economic perspective it would be difficult to dramatically reduce sex work, particularly in many poorer countries, without a push for radical societal change, a restructuring of available employment opportunities and education, in particular for women (Salazar, 2009).

It has been argued therefore that from an economic perspective exit programmes may be less likely to succeed unless they can offer a path to an equivalent income to that of a sex worker in the industry. However, it should be noted that for younger workers this may not quite be true – the New Zealand Prostitutes Collective was involved in a social work support programme for workers aged under 18 which focussed successfully on training opportunities.

"The income differentials indicate that it would be very hard to eradicate sex work by offering women (and men) on the street alternative jobs that are commensurate with their level of skill and education" (Gould 2008)

The Economics of Decriminalisation

Decriminalisation implies that sex workers will be included in the tax base; by paying tax, employees are indirectly entering into a contract with Government, and can reasonably claim that their work is recognised. SWEAT (Sex Worker Education and Task Force) argues that similar to other businesses the supply will mirror the demand (SWEAT, 2010). Without decriminalization many clients may fear potential arrest or prosecution and so seek encounters away from the public and the police, therefore putting the sex worker at greater risk of robbery, assault or even murder (SWEAT, 2010)

7. HIV, Public Health and Sex Work Decriminalisation

- **Increased risk of HIV transmission is associated with multiple social and personal factors**
- **Drugs and alcohol lower one's inhibitions, and can have a negative impact on the practice of safer sex**
- **Unprotected sex spreads HIV – not any one group of people**
- **Criminalisation of sex work is the most powerful factor in making sex workers vulnerable to HIV**

What is the link between sex work and HIV?

There are a number of factors that make sex workers particularly vulnerable to HIV:

- Sexual intercourse is one of the main ways that HIV is passed from one person to another. Concurrent, multiple sexual partnerships (MCP) are one of the key drivers of the HIV epidemic. UNAIDS defines MCP as “overlapping sexual partnerships where sexual intercourse with one partner occurs between two acts of intercourse with another partner”. A sex worker’s job is to have sex, to have sex often, and to have a number of sexual partners. Sex workers and their clients are therefore at increased risk of contracting HIV if they do not practice safer sex every time they have sex.
- The link between violence and HIV is well-documented. Many sex workers work in violent and dangerous circumstances – particularly in countries where sex work is illegal. Many sex workers experience frequent and high levels of violence and rape from their clients and non-paying partners as well as the police. In this situation, the risk of contracting HIV is high.
- Where women are often subordinate to men they may be unable to fully negotiate safer sex. This may mean that sex workers are subjected to violence when they try to get male clients to wear condoms or use femidoms without the support of the law. It is therefore important that sex workers are not disadvantaged by their illegal status and can draw on the support of the law to back them in their right to have safe sex.

Sex workers' living and working conditions are sometimes oppressive and some sex workers use alcohol and other drugs as a coping mechanism. The majority of sex workers, however, do not have addictions. Some places where sex work is often initiated such as bars and night clubs are also closely associated with heavy drinking and the use of drugs. Drugs and alcohol not only lower one's inhibitions, but can have a negative impact on the practice of safer sex (Saxton & Hughes, 2009; Saxton, Dickson, Hughes, 2006). Many sex workers report that they feel unwelcome at health care centres and that health care workers have negative or judgmental attitudes towards them. This means that sex workers may not seek health care services when they need medical help and treatment. Untreated sexually transmitted infections (STIs) increase the risk of HIV infection. Health care centres are also the main disseminators of condoms and safer sex information, which means that sex workers are often not reached by their services. All the factors that make sex workers more vulnerable to HIV are aggravated in a context where sex work is illegal. At the same time, it does not mean that all sex workers and their clients are HIV-positive and one should guard against stereotypes.

But aren't sex workers making the HIV/AIDS epidemic worse?

Unprotected sex spreads HIV – not any one group of people. Most sex workers would like to use condoms and protect themselves, their clients and their non-paying partners from HIV. It is, after all, in the personal and work interests of sex workers to be healthy and to be free from sexually transmitted infections, including HIV. Research has shown that many clients and non-paying partners of sex workers refuse to use condoms during sex. In a context of unbalanced power relations and a high threat of violence and abuse, many sex workers are not in a position to insist on the use of condoms and could contract HIV from their clients or partners.

How would sex work decriminalisation impact on HIV and AIDS?

The criminalisation of sex work hampers every aspect of HIV and AIDS prevention, treatment and care. If sex work is decriminalised, there is evidence to suggest that it will have the following positive effects on HIV and public health:

1. It will open up the sex industry and facilitate the flow of HIV information, condoms and lubrication. Sex will not have to take place in illicit and dangerous places and sex workers will be empowered to refuse and report abusive clients or those clients who do not want to practice safer sex;
2. Sex workers will be able to enforce their rights. Occupational Health and Safety laws as well as labour laws will apply to sex work. This means that sex workers' bargaining power will increase, with the weight of the law supporting them. They will also have more protection against violence by the police and others.
3. Health care workers who discriminate against sex workers will be held accountable. This means that health care centres are likely to be more sex worker-friendly and will encourage sex workers to seek health care services and treatment early.
4. Sex workers will be free to form collectives and unions, share information and speak out on sex worker rights. This will impact on the stigma that attaches to sex work, counter negative stereotypes of sex work and have a positive impact on HIV prevention and care.

In New Zealand, following decriminalisation in 2003, research has indicated that sex workers are more likely to have a personal doctor and to disclose that they are sex workers (Plumridge & Abel, 2000; Abel, Fitzgerald & Brunton, 2007). Furthermore, Occupational Safety and Health Guidelines were published following consultation with the sex industry in 2003. These guidelines are available online, and help sex workers and brothel owners understand their obligations and rights in respect to workplace safety.

New Zealand's Prostitution Reform Act (PRA) requires that all reasonable steps are taken to ensure that safer sex practices are adhered to. This ensures that sex workers can insist that condoms and dental dams are used for oral, vaginal and anal sex. Sex workers and brothel operators have reported that it is now easier to get clients to use condoms (Mossman & Mayhew, 2007: 33). Because sex work has been decriminalised, sex workers are more willing to report bad client behaviour to the police, stating that the PRA "had helped to increase the reporting of violence to the Police", and that Police had moved from the role of prosecution to that of protector (Mossman & Mayhew, 2007: 10, 11).

The Prostitution Reform Act enables the Ministry of Health to produce posters promoting safer sex which are displayed in brothels, along with condoms, water based lubricants and other safer sex materials. Massage parlours, brothels, and street based sex workers no longer have to hide their condoms in order to avoid detection by the police. Massage parlours can now call themselves brothels, which reflects the true nature of their business and creates an explicit culture in the work place that supports safer sex.

How do politics and ideology impact on HIV and public health interventions?

Because sex work is seen as a sensitive political issue, very few HIV and AIDS programmes on sex work focus on law reform. This is despite the fact that the criminal law is the single most powerful factor in making sex workers vulnerable to HIV. This also regrettably holds true for the multi-billion dollar HIV and AIDS funding organisation PEPFAR (the Presidential Emergency Fund for AIDS Relief), which has made its funding conditional on grant recipients pledging that they will not “promote or advocate the legalization or practice of prostitution or sex trafficking.” These approaches are short-sighted, and not based on evidence; it severely hampers effective HIV strategies. Although UNAIDS and the World Health Organization who did not mention decriminalisation of sex work in their recent guidelines on sex work and public health, in December 2009 the Executive Director of UNAIDS, Michel Sidibé, has called for “the removal of punitive laws, policies, practices, stigma and discrimination that act as obstacles to national AIDS responses” (UNAIDS, 2009). They also do not adhere to the International Guidelines on HIV and AIDS and Human Rights, see below.

International Guidelines on HIV and AIDS and Human Rights

GUIDELINE 4: CRIMINAL LAWS AND CORRECTIONAL SYSTEMS

“21. States should review and reform criminal laws and correctional systems to ensure that they are consistent with international human rights obligations and are not misused in the context of HIV or targeted at vulnerable groups.

(b) Criminal law prohibiting sexual acts (including adultery, sodomy, fornication and commercial sexual encounters) between consenting adults in private should be reviewed, with the aim of repeal.

(c) With regard to adult sex work that involves no victimization, criminal law should be reviewed with the aim of decriminalizing, then legally regulating occupational health and safety conditions to protect sex workers and their clients, including support for safe sex during sex work. Criminal law should not impede provision of HIV prevention and care services to sex workers and their clients.

Furthermore, UNAIDS (2009b) has stated:

Laws that provide criminal penalties for populations at high risk of HIV infection, such as sex workers and men who have sex with men, drive these populations underground and out of reach of HIV services that protect their health and the public's health.”

8. Legal Approaches to Sex Work

- **Legal approaches to sex work greatly vary between countries, from total criminalisation to full decriminalisation**
- **Legalisation and decriminalisation differ with regard to the degree of state control of the sex industry**
- **The law does not have to uphold “morality”; not everything deemed immoral by society is criminalized eg lying**
- **Human rights advocates argue that the state should not interfere when it comes to consensual sex between adults**
- **Decriminalising the sex industry does not mean that violence and coercion are decriminalised**

What is the relationship between sex work and the law?

There are a number of different legal approaches to sex work, and they vary from country to country. Some countries perceive sex work as a crime that should be punished violently, while others recognise it as a legitimate form of work. On the one side of the spectrum there are countries (particularly those that follow Sharia law) that can impose the death penalty on sex workers; while on the other side of the spectrum one finds New Zealand following a decriminalisation approach, which enables the sex industry to work within mainstream law. There are also countries that do not have explicit laws on sex work, but where sex work is still strongly stigmatised.

What legal models regulate sex work?

There are different ways of classifying the law on sex work. The four most significant ones are:

Total criminalisation

All aspects of sex work are illegal (or de facto illegal, and therefore criminalised) and carry criminal penalties. It therefore means that the sex worker, the client and a third party such a brothel-owner could be prosecuted. South Africa and some Muslim countries are examples of this model.

Partial criminalisation

This means that certain aspects of sex work are illegal, while others are not. In this model, sex workers are generally viewed as ‘victims’; they are generally not criminalised under partial criminalisation laws. For example, in Sweden the buying of sexual services is criminalised, while the selling of sexual services is not. In this case, while the sex worker is not criminalised, the client, brothel-keeper or sex worker manager could be prosecuted. Sex workers maintain that this model renders them unsafe as they have to protect their clients from being prosecuted. They are also reluctant to report crimes against them, as it can lead to police surveillance to catch their clients (Jacobsson, 2009).

Legalisation/regulation

This means that the state regulates the sex industry and can declare certain kinds of sex work to be legal, under strict conditions. The Netherlands is an example of a country in which sex work is legal under certain circumstances, including location and licensing of individual sex workers. In other countries where sex work is regulated, some of the following conditions have been imposed on sex workers: some sex workers have to carry cards to show that they are sex workers; sex workers have to go for compulsory health checks and are issued with health status cards; the registration of sex workers are registered with the authorities and, in very few jurisdictions, specific areas are designated as sex worker business areas – so-called ‘street-walker zones’ – also known sometimes as ‘tolerance zones’ or ‘red light districts’. Under this approach street work is often illegal, i.e. Victoria and Queensland in Australia, Nevada in the US.

Decriminalisation

This means that all laws that criminalise sex work in a country are removed, and sex work is governed through the same laws that affect other employment, such as health & safety and employment legislation. In this model, sex workers are able to work as independent contractors, or as employees. Sex workers are able to unionise, mostly regulate the industry themselves, and can expect protection from the police. Brothel operators and management are expected to comply with existing employment and health and safety legislation.

In this model, sex workers have a range of options in terms of places to work. They can work in managed brothels, be street based, on line, or from their own home, or any combination of these. They may choose to work in small collectives with other sex workers, or by themselves. There is a balance of power as managed brothels do not hold a monopoly and sex workers can find a situation that suits their personal circumstances, and ensure they are not in a position where they may be coerced or exploited.

What is the difference between legalisation and decriminalisation of sex work?

Many people assume that the legalisation and decriminalisation of sex work are the same thing. This is incorrect. The main distinction between legalisation and decriminalisation is the degree of state control of the sex industry, whether sex work is treated as something needing special laws or not. In a legalisation model, the state will be the main regulator of the industry and will decide on the conditions under which sex work could take place. With a decriminalisation model, sex workers are more empowered to make decisions about the way they would like to work. Under decriminalisation, consensual activity between an adult sex worker and client would not be illegal; under legalisation it could be.

For example, Victoria, in Australia, legalised sex work, resulting in a model that works against individual sex workers having choices of work places, and favours big business. Street based work is usually outlawed, or unrealistically zoned, rendering these sex workers vulnerable to being ostracised from support. Sex workers are sometimes unable to fit into the onerous “legal” requirements and end up working illegally. On the other hand, New Zealand decriminalised sex work across the board, and uses mainstream law to regulate the sex industry.

Under a legalisation model, sex workers’ position in society does not necessarily improve substantially from a position of total or partial criminalisation. If the state decides that a ‘red light district’ should be proclaimed in an area in a city that not many people frequent, sex workers would be forced to move to a more popular area in order to bring in an adequate income. If a sex worker is caught working in an area that is not designated a ‘red light district’, she/he will be guilty of an offence and will not receive the benefit of the protection of the law that a decriminalisation model has.

But won’t decriminalising sex work mean that a society endorses sex work as a “good” thing?

Many people feel that morality should be enforced by the law. This logic is that if something is deemed “immoral” then it should automatically also be “illegal” and there should be a law against it. There are a number of problems with the “morality as law” or “law as morality” argument. Firstly it is very hard to determine exactly what a society or a country’s “common morality” is – particularly so when it comes to sex and relationships. Secondly, not all laws are “moral”. Certain countries made it a criminal offence for people to have relationships across the colour bar – a good example is apartheid South Africa. Most people today would agree that those laws were racist and immoral. Thirdly, not everything that is regarded as “immoral” is prohibited through the criminal law. A large number of people may regard lying as “immoral”, but yet there is hardly any country where it is illegal to lie to another person.

Sexual morality and the law are even more complex topics. Human rights advocates argue that the state should not interfere, or keep interference to a minimum, when it comes to consensual sex between adults. These arguments have been used with great success to get rid of conservative and destructive criminal laws on adultery and same sex relationships. These same arguments hold true for sex work. The criminal law should have no place in adult, consensual sex work. Therefore, while some people may feel that sex work is “immoral” or “sinful”, this is not a good enough reason to make it a criminal offence.

Although sex work has been decriminalised in New Zealand, the Prostitution Reform Act does not endorse or morally sanction sex work. As a result, government employment agencies cannot refer unemployed people to jobs in the sex industry. This means that no one can be forced to take up sex work and a sex worker’s right to say yes, or no, to sex is further strengthened.

Positives of a Decriminalised Sex industry

When the sex industry was decriminalised in New Zealand, many people claimed a lot of harmful things would happen – more violence, more coercion, more gang involvement, more trafficking, more children involved, and so forth. Evidence-based research has proved these claims to be false. Sex workers now have rights that they can realise. If something is perceived to be unsafe, sex workers, and even clients, have blown the whistle, to report their concerns. They can approach the police to inform them. For example, when children or young people are seen in brothels, or on the streets, adult sex workers and concerned clients have become proactive in approaching an authority. Sex workers can complain to the police if they feel fearful about the actions of clients or brothel operators, or about the person who assaulted or robbed them, or who coerced them.

Decriminalising the sex industry does not mean that violence and coercion are decriminalised.

It does mean that sex workers can make complaints about these without fear of being arrested on sex work related charges. Sex workers in New Zealand have reported that Police had moved from the role of prosecutor to that of protector (Mossman & Mayhew, 2007: 10, 11). Sex workers there now have the same employment rights as other workers, and can no longer be coerced into doing work they do not want to do (Mossman & Mayhew, 2007: 43). The Prostitution Reform Act 2003 states that all reasonable steps must be taken to ensure that safer sex practices are adhered to – this protects sex workers and their clients from HIV. Sex workers have contacted the police about clients deliberately taking condoms off during sex. The police have investigated these sex workers’ concerns (R v Morgan).

9. The Swedish Legal Model for Sex Work

In Sweden:

- **The sale of sex is legal, the purchase of sex is illegal**
 - **Sex work is seen as an expression of inequality between the sexes**
 - **There is no evidence the model has reduced sex work, only relocated it underground**
 - **Prohibiting the purchase of sex increases the risk of HIV transmission.**
-

In Sweden, on the 1st January 1999, the law on prohibition of the purchase of sexual services came into effect following recommendations from three government committees that criminalisation of sex work was necessary for the protection of women (Canadian HIV/AIDS Legal Network, 2005). Although the sale of sex remains legal, the law made the purchase of sex illegal for the client, in light of the Swedish government's view that the purchase (or attempted purchase) is a form of violence by men against women (Canadian HIV/AIDS Legal Network, 2005). In the Swedish model, sex work is seen as a symptom of the inequality between the sexes (Östergren, 1999). All sex workers are seen as victims, needing protection by the State and although the law is formally gender neutral, all proceeding discussion referred to sex workers as women and clients as men (Mak, 1997). Female clients as well as male or transgender sex workers do not feature. Although the law does not criminalize sex workers, all other aspects of the industry are open to prosecution (brothel owners, clients, people who live off sex work earnings).

Even before the law was passed, sex work was not particularly visible in Sweden, and the sex workers' movement was weak (Eriksson, 2005). Paradoxically, Swedish sex workers have now begun to form their own union as a result of the negative effects experienced since the law was passed (Mak, 1997). Swedish sexworkers felt they were not included in the decision-making process (Östergren, 2010). When sex workers tried to raise their concerns, they were ignored, and accused of either being non-representative or of having a false consciousness (Jacobsson, 2009), which ignores and belittles the real experiences of sex workers. Swedish sex workers feel that if they had a stronger voice against criminalisation, the law would have met more difficulty being passed (Östergren, 1999). Unlike countries where sex work is legal and regulated, the radical feminist discourse has featured heavily in public debate and helped to shape the Swedish model of criminalisation (Östergren, 1999).

The Swedish model was structured around the following three arguments (Gould, 2001: 440-441):

1. The purchase of sex is a barrier to a gender equal society.
2. In countries where sex work is "accepted", it is claimed to have had increased.
3. The social costs of disease and crime associated with sex work are damaging to society.

How the model is failing

Although the law was expected to reduce the number of sex workers, the evidence suggests that very few have stopped working (First Decriminalize Sex Work Now! 2009). Several official reports were produced to monitor the effect of the law. Although there was an initial drop in the number of street based sex workers, there was no evidence that sex work was lower overall (Östergren, 1999, 2010). Even the Swedish National Board of Health and Welfare has admitted that rather than work on the streets, many sex workers moved indoors (Socialstyrelsens, 2000). There is no evidence that the number of clients has reduced.

Through criminalisation of the client, the Swedish model forces sex workers to work underground in isolation, making it less safe, harder to control and putting them at increased risk of violence and abuse (The Economist, 2004). While the law has made sex work less visible, street sex work in Sweden is estimated to have decreased by half (Östergren, 1999), it has shifted demand rather than reduced it.

Instead, there has been an increase in sex work in other forms and places (Östergren, 1999). Neighbouring Denmark has noted a marked increase in demand for sex work from Swedish clients (Östergren, 1999). Jacobsson (2009) indicates that sex workers who remained working on the streets are subjected to a programme of harassment and abuse by police, being videotaped having sex with clients in their cars, strip searched without cause, and being searched for condoms. When these are subjected to violence at the hands of clients and others, they are unable to complain to police because of this harassment by police (Eriksson, 2005).

As Kulick (2005: 209-210) reports:

“In reality, however, the law has had entirely predictable and deeply negative consequences for street prostitutes, who by all accounts do not number more than 650 to 1,000 in the entire country. These consequences include increased police harassment; reduced power to choose between clients, since they have become scarcer (hence prostitutes tend to find themselves with precisely the violent and unstable clients they would have avoided before); and the immediate deportation of non-Swedish sex workers discovered in the company of men arrested for purchasing sex.⁹ Despite these outcomes, the law is touted by government representatives as a beacon of hope in what they term “the fight against prostitution ...”.

By prohibiting the purchase of sex the risk of HIV transmission increases, since sex workers are given less time outdoors to negotiate safe sex with clients (e.g. prior to getting into a client’s car to avoid the potential arrest of the client) (Mak, 1997). Another consequence of the law has been reduced prices on the street due to increased competition for fewer clients. As income is negatively affected, sex workers can be more vulnerable and consequently an increasing number engage in unsafe sex and take more clients in order to survive (Östergren, 2010). Combined with increased difficulty and discrimination in accessing health services, since many sex workers feel they are denied the benefits of the welfare state, (Östergren, 2010) the law could serve as an indirect driver of the HIV epidemic in Sweden, precisely the opposite of its intended effect. In contrast, the Prostitution Reform Act of New Zealand, which decriminalised sex work in 2003, protects the health of sex workers and their clients by taking steps to minimize the transmission of HIV and sexually transmitted infections (Canadian HIV/AIDS Legal Network, 2005).

What evaluations have been done to measure the effects of this law on sex workers?

When passed, the Swedish law that criminalised clients did not require an evaluation to be completed to assess its effectiveness, unlike the Prostitution Reform Act in New Zealand. To date, there has never been any evaluation on the Swedish law to establish the effects of that law on sex workers health or welfare. In 2001, the UN CEDAW Committee wanted Sweden to evaluate the law and its effects on sex workers.

10. Religious and Moral Arguments for Sex Work Decriminalisation

- **Culture, religion and education all contribute to interpretations of morality**
- **Decriminalisation ends the moral hypocrisy of laws prohibiting sex work**
- **Sex work is mentioned in many key religious texts as having a role in society**
- **Society should place its focus on gender equity issues, not morality**

A common dictionary definition of morality is ‘a personal or social set of standards for good or bad behaviour and character, or the quality of being right, honest or acceptable’ (Cambridge, 2010). Multiple interpretations of morality exist at the individual and societal levels, formed as a result of culture, religion and education. Indeed, some interpretations of morality may arise from prejudice, discrimination and ignorance (Wikipedia, 2010a). What one person views as immoral another may deem acceptable.

In Germany for example it was not sex work itself that was deemed immoral by locals, but a recently introduced ‘flat rate fee’ being promoted in struggling brothels, which promised sex with as many of the sex workers as the client desired for a single charge in an attempt to generate business (Adams, 2009).

What are the primary moral objections to the decriminalisation of sex work?

- Sex work is viewed as immoral and should therefore be illegal.
- Decriminalisation of sex work challenges the values of multiple faiths.
- Decriminalisation of sex work gives the sex work profession legitimacy and therefore normalizes it in society.

What are the primary moral arguments that justify the decriminalisation of sex work?

- Decriminalisation supports and protects sex workers, who in most societies are a particularly marginalized and vulnerable group.
- Decriminalisation contributes to upholding the well-being, health and human rights of sex workers, enabling them to gain further control over their lives and avoid exploitation. Such an environment is better enabling for sex workers to exit the sex work industry if they so choose (Putsch, 2002).
- Decriminalisation challenges the moral and unjust double standard of the many prohibition laws which place more blame (and punishment) on the sex worker than the client.
- Decriminalisation facilitates the exchange of information with, and positive relationships with, policing authorities necessary for identifying and assisting trafficked sex workers. If clients are not criminalised they will be more likely to come forward with information regarding suspected trafficked victims they may encounter.

Difference between law and morality

In the past, certain laws would be considered void if they were not considered ‘moral’ (Steiner, Alston, & Goodman, 2008). Today, however, many countries recognize the difference between law and morality. A good example of the separation of the law and morality is the treatment of adultery by law. While many individuals, from a range of faiths, may argue that adultery is immoral (since for some adultery is considered a sin), in much of Europe as well many other countries including Chile, China, New Zealand and South Africa, adultery carries no punishment by law. The decriminalisation of sex work would similarly recognize this fundamental difference between law and morality.

In some countries such as Korea, Switzerland and Taiwan, adultery is illegal but the law is not enforced. In other countries including the Pakista, Saudi Arabia, Sudan and United Arab Emirates, adultery does remain a crime and attracts a severe punishment, even death (Religious Tolerance, 2002).

The YWCA does not condone prostitution on moral ground. They do, however, believe it is important to make a distinction between morality and law in the case of sex work. In the time of Jesus, adultery was a criminal act punishable by death by stoning. Jewish law defined adultery as unlawful sex with a married (or betrothed) woman. A married man was not however, considered an adulterer as long as the women he slept with were unmarried. Most people nowadays would recognise the injustice of such a double standard and indeed law has been changed in many parts of the world – adultery has been decriminalised.

Religious and moral arguments for the decriminalization of sex work

Sex work is known to many as the 'oldest profession'. It has played a role in society throughout human history, with multiple references to its existence in the Koran, Torah and Bible among other religious texts. As a Rabbi of the Movement for Reformed Judaism argues *'With so little changing in human nature over the millennia, the government is probably right not to try to eradicate prostitution, but instead ensure it is as safe and crime free as possible. If that includes permitting mini-brothels, or even full-scale ones, then religious protests against «immorality» should be put aside, recognising that condemnation has not made any difference and that regulation might achieve more'* (Romain, 2007).

Most of the prohibitions against, and condemnations of, sex work in the Old Testament, particularly in the first five books, are specifically dealing with the kadeshah (f), kadesh (m), and kadeshim (pl) (Cohen, 1983). Similarly, in the New Testament, the condemnation of sex work is aimed at the porneia, temple prostitutes. What therefore appears to be condemned in the Bible is not sex work per se, but religious prostitution, where sex was used as a method of worship (Bennachie, 1996: 10). Interestingly, while there are severe penalties in Iran and Iraq for adultery (and by default sex work if the client and sex worker are unmarried), there is a Muslim law that arguably facilitates sex work at some level. The practice of 'Nik al-Mut'ah' which in Arabic roughly translates as 'marriage for pleasure', allows couples to have sex for a limited period of time, anywhere between an hour and more than year - with possible renewal (Lapidos, 2008). Payment from the man to the woman is typical since the practice was established as a way of enabling widows to receive an income (Wikipedia, 2010b). Since the sex is sanctioned there are fewer questions of its morality.

Historically the Church/Bible has had an ambiguous position on sex work. At times sex work has been outlawed because of associations with non-Christian religions. At other times it has been openly tolerated as a necessary outlet for men's uncontrollable lusts, thus protecting the nuclear family. Rahab, an ancestor of Jesus, was a sex worker and he was a known friend of prostitutes (Luke 7: 36-50).

The South African organisation SWEAT (Sex Worker Education and Task Force) emphasizes that rather than focusing on the 'immorality' of sex work, society should focus on gender equity issues, appropriate exit programmes and decriminalisation (Sutherland, 2009). These reforms would ultimately lead to a more just society where the rights and lives of sex workers are recognized rather than exploited (Sutherland, 2009).

11. The Impact of Decriminalisation of Sex Work on The Values of Society

- **Where a social and consensual activity is prohibited or criminalised, criminal activity increases**
- **Sex workers are more likely to be victims of crime than offenders**
- **Decriminalisation of sex work would free police resources to deal with crimes which have victims**
- **Claims that decriminalisation will increase numbers of sex workers are inaccurate**

Crime and Sex Work

In 1919, America instituted prohibition of alcohol. Subsequently, 95,933 places of manufacture of alcohol were seized in 1921, increasing to a total of 172,537 in 1925, and then to 282,122 in 1930. Arrests in relation to these seizures were 34,175 in 1921, which increased to 62,747 by 1925, and to 75,307 in 1930 (US Internal Revenue Service, 1921: 95; 1966: 6; 1970: 73). This indicates that where a social, consensual and victimless activity is criminalized, enforcement is virtually impossible and unaffordable and there is a lack of public buy-in to it.

“Nothing is and nothing could be more certain, from all the evidence, than that prohibition is an unqualified failure and a colossal calamity to the Nation. Whatever promotes drunkenness and drug addiction and all forms of intemperance also promotes crime of every kind. We have the unimpeachable evidence of our senses that certainly more than half the crimes and misdemeanors perpetrated throughout the land and sensationally featured and headlined in the newspapers are crimes which are the result of prohibition. Prohibition is a double-headed hydra of lawlessness, for we have on the one hand the crimes that infract the law of prohibition, and crimes that result from alcohol and drug intemperance that follow in the wake Of prohibition; and on the other hand we have the crimes of attempted enforcement of prohibition and the crimes of punishment, which are no less crimes because they have the sanction of expediency of prohibition law enforcement” (Maxim, 1926).

In the Prohibition example given above, crime increased. The consumption of alcohol is a social activity, undertaken by the majority of the population. Therefore, it can be inferred that where other social activities, such as adult consensual sex, are criminalised, crime related to that social activity increases. Where that adult consensual sex is sex work, the crime related to that will continue. It is the law making it criminal that makes the crime continue. As Pearl (1987: 784-5, in Chapkis, 1997: 133) states, arrests for “Prostitution cases raise the ‘closed by arrest rate’ for total crime indices. Prostitution is one of the only offenses for which nearly one hundred percent of ‘reported incidences’ result in arrest. To the extent that total arrest rate indices are elevated by the inclusion of this high percentage for prostitution, they engender a false account of overall police protection”

The South African Law Reform Commission (2009: 63) noted that:

“where prostitutes are brought before court, the charges are often withdrawn at the first court appearance. Upon their release, prostitutes either return to their previous workplaces or, less frequently, move on to new areas, where resident complaints may eventually lead to a fresh round of arrests. In this way, a cycle of complaint and arrest is created, often leading to the violation of rights of prostitutes without addressing the concerns of residents on a long-term basis (see Diagram 1)”.

Prior to decriminalisation of sex work in New Zealand, the police identified that “while not all sex ‘businesses’ are under the influence or control of organised crime”, they found that “organised crime is extensively involved in the indoor sex industry in New Zealand in the form of organised crime groups and criminal entrepreneurs” (New Zealand Police, 2001). However, since the sex industry was decriminalised in New Zealand, “the Police Association told the Committee that prostitution was not a big issue for its members and evidence did not exist of a link between the sex industry and general crime. Sex workers were more likely to be victims of crime rather than offenders” (Prostitution Law Review Committee, 2008: 163). As a result of this and other comments by the Police Association, the Prostitution Law Review

Committee (PLRC) (2008: 164) stated that “the links between crime and prostitution are tenuous. The Committee could not find any evidence of a specific link between crime and prostitution”.

Therefore, it appears that in a decriminalised sex industry, connections to organised criminal gangs are reduced as they have a lack of interest in doing so, since it is high risk for little reward (PLRC, 2008: 163). Furthermore, the South African Law Reform Commission found, in relation to adult prostitution, that “criminalisation of prostitution may encourage rather than reduce connections to crime” (2009: 56).

Violence and sex work

A study of attitudes of business, neighbourhood, and police groups towards sex work in Boston, Massachusetts, indicated that seventy-seven percent of people believed sex work is often accompanied by muggings and violent crimes (Weitzer, 1991: 29, in Chapkis, 1997: 141). However, this violence may be as a result of the continued criminalisation of sex work. The South African Law Reform Commission states “the criminalisation of prostitution and the attendant social stigma contribute to a climate in which society treats prostitutes with discrimination and violence, often with impunity” and further notes (2009: 21-22) “the climate of criminalisation means that prostitutes are abused financially, sexually and physically by gangsters, clients, brothel owners and pimps, often with impunity. Research shows that irrespective of the legal option followed, women and girls in prostitution have a mortality rate 40 times higher than the national average.”

Furthermore, the South African Law Reform Commission (2009: 71) stated: “Existing laws against rape, assault, robbery and harassment are often not applied to prostitutes when such offences are committed against them signifying a lack of adherence to local and international law.”

Serial killers have often targeted prostitutes as a vulnerable population. In pleading guilty in 2003 to the murders of sex prostitutes, Gary Leon Ridgway, from the U.S. Pacific Northwest, told a judge he targeted streetwalkers ‘because I thought I could kill as many as I wanted to without getting caught.’

In 2003, “Green River Killer” Gary Ridgway confessed to having strangled 90 women to death and having “sex” with their dead bodies. He stated, “I picked prostitutes as victims because they were easy to pick up without being noticed. I knew they would not be reported missing right away and might never be reported missing. I picked prostitutes because I thought I could kill as many of them as I wanted without getting caught.”

Sadly some Seattle area prostitutes, their boyfriends or pimps, knew the Green River Killer was Gary Ridgway for years. But they were either afraid to come forward for fear of being arrested themselves, or when they did come forward the police didn’t believe them over the “upstanding family man” Gary Ridgway. It seemed as though the police weren’t working very hard to find the Green River Killer.



If the victims had been teachers, nurses or secretaries or other women, I suspect- as Ridgeway did - that the killer would have been caught much sooner.

Ridgeway remained at large for 20 years. Annie Sprinkle, 2008

Indications are that decriminalisation in New Zealand has meant that sex workers are more likely to report crime against them, and that police are more likely to take action when complaints are made (Mossman, 2007: 10). This may mean that cases like that above are unlikely to occur in a decriminalised environment.

Drugs and Sex Work

When an activity such as sex work, is criminalised, it allows for other criminal elements to enter sex worker more easily. The South African Law Reform Commission (2009: 56) indicated that the “criminalisation of prostitution may encourage rather than reduce connections to crime” (2009: 56)” and as Pearl (1987: 784), in Chapkis, 1997: 133) states, arrests for “Prostitution cases raise the ‘closed by arrest rate’ for total crime indices”. It therefore appears that the decriminalisation of sex work would therefore free police resources to deal with other crimes, such as violence and the supply illicit drugs.

“If we decriminalise sex work, we will get more of it”

During Prostitution Law Reform in New Zealand, the Maxim Institute, which was opposed to the Bill, claimed that there would be more brothels, more sex workers, and so forth. Such claims are difficult to counter when made, as they are often based on unfounded allegations and anecdotes. However, the Prostitution Law Review Committee (PLRC), established by the Prostitution Reform Act, found (2009: 33):

“The number of sex workers in Auckland in 2006 (1,513) was less than half that estimated at the time of decriminalisation (3,390). Wellington (377 vs. 400) and Christchurch (392 vs. 528) also had fewer numbers than were reported in the Committee’s first report.”

Not only this, but despite a claim “that the numbers of street-based sex workers in Auckland increased by 400% as a result of decriminalisation. This claim cannot be substantiated, and was not based on systematic or robust research” (PLRC, 2009: 40); The PLRC (2008: 40) found: *The figure of a 400% increase has been re-reported several times, demonstrating the ease with which opinion can be perceived as ‘fact’. In his speech to the House during the second reading of the Manukau City Council (Control of Street Prostitution) Bill, Gordon Copeland MP attributed the report of a 400% increase to the Maori Wardens’ submission on the Bill in 2006. The Maori Wardens may have been influenced by an article in the NZ Herald in 2005 in which Mama Tere Strickland was reported to say, ‘Numbers have quadrupled since that Bill [Prostitution Reform Act]’ (New Zealand Herald, 2005).*

In the Committee’s first report, the number of street-based sex workers in Auckland was estimated to be 360 (PLRC, 2005). An increase of 400% would mean there would now be 1,440 sex workers on Auckland’s streets. The Committee considers that the research undertaken by the CSOM conclusively refutes an increase of this magnitude, with the 2007 figures estimating the number of Auckland street-based sex workers at 230.

It is therefore quite clear that claims that decriminalisation will cause “more” sex workers are inaccurate and cannot be believed.

12. Trafficking and Sex Work

At the time of writing this section, the Soccer World Cup in South Africa was about to happen. It starts with two sections indicating the concerns expressed at that time about trafficking, and then focuses on more general material on that topic.

- **There is repeated and gross exaggeration of figures concerning trafficking for sexual purposes**
- **Trafficking does exist, and decriminalisation helps minimise it by increasing legal transparency**
- **The harms caused by trafficking are paralleled by the harms caused by criminalization of sex work**

Why was there a lot of anxiety about sex work and the 2010 World Cup?

Big international sport events such as the Soccer World Cup in Germany (2006) and the Olympics in China (2008) sparked popular interest and concern over the sex industry. The fears about the 2010 World Cup related specifically to South Africa's high HIV prevalence rates. Media disquiet seemed to focus on international tourists travelling to South Africa, contracting HIV and returning to their countries with it. Unprotected sexual intercourse is the main cause of spreading HIV and the focus therefore seemed to fall on the sex industry. South Africa is one of the few countries in the world that criminalises all aspects of sex work – selling sex, as well as all other acts relating to sex work are illegal. There were fears that sex work clients (tourists) might be prosecuted under South Africa's conservative sex work laws and spend time in notorious South African jails.

The audience attending the Sweden–Paraguay game of the football World Cup at the Olympic Stadium in Berlin had many odd costumes, from face paint to silly hats. But even for them, the two women dressed as enormous penises stood out. When a group of beefy, blonde Scandinavians wearing blue and yellow jerseys stopped to stare at the cheerfully bobbing phalluses, a petite grey-haired woman in a T-shirt and cap quickly approached them. She smiled broadly, holding out a hand full of plastic-wrapped gifts. “You want to know what we are doing?” she asked brightly. “Handing out condoms so that men will use them when they go to prostitutes.” The young men stared at her in surprise, then tentatively reached out to grab the proffered condoms. One of them decided to double-dip. “Then I’ll need one more”, he said with a grin.

The idea of distributing condoms at sporting events came a few years ago. Schenk says she was discussing the issue of safe sex with some of her clients, and it became clear that while prostitutes almost always wanted to use protection, it was the men who usually resisted. Football matches, they realised, were an ideal place to spread the word. “We were thinking: where can we find the men? Because there is no organisation of ‘johns.’” The condom distribution project, complete with phallus mascots, has now been picked up by women’s groups in towns across Germany.

Loewenberg (2006, p105-106)

What about trafficking and the 2010 World Cup?

The bulk of media attention fell on trafficking. Fears about thousands of young children and women being trafficked into South Africa to satisfy the demand of soccer revellers often circulated in the popular media. Anxiety over trafficking is often exaggerated and is eventually stated as fact. Anti-sex work groups repeated the claim used before the Berlin World Cup in 2006 that there would be “about 40,000 new prostitutes being recruited to come into the country for the World Cup” (Telegraph, 2010). However, these anecdotal statements were without foundation, and appear to almost mirror the claims made prior to the World Cup being held in Berlin, from the actual claimed figure of 40,000 to the description of porous borders, put into a South African context. Needless to say, these claims cannot be verified. They can only be classed as hearsay evidence, and the burden of proof lies with those who make such claims to prove that they are true. Systematic research conducted for the 2010 Vancouver Olympics shows unequivocally that the panic over trafficking and large sports events is unfounded, as detailed below.

“Prostitution and trafficking activities as related to mega sporting events first came to public attention in Athens (2004) and Germany (2006). An increased number of sex workers and trafficking victims were expected to “flood” into these locations during their respective mega events. Neither location experienced any increase that could be attributed to their hallmark event. The commonly held notion of a link between mega sports events, TIP (Trafficking in Persons) and sex work is an unsubstantiated assumption.”

- Bowen & Shannon Frontline Consulting, 2010

What has happened at other major sporting events in other countries?

In 1995, New Zealand hosted the America's Cup, an international yachting event, and Police were pressured to “clean up” central Auckland streets. This resulted in sex workers being targeted for soliciting on the streets in a concentrated campaign. Sex workers were displaced from these inner city streets that were known for their sex work activities. There was a tolerance in the neighbourhood, and even a culture that traded on this diversity. Several street workers relocated at this time to other more conservative areas of the city, where this tolerance never existed. Fifteen years later, councils and the police are having to deal with vigilante groups who have still not accepted the presence of sex workers in these newer sites and are illegally harassing sex workers and their clients. There is a danger when cities approach sex workers as a “problem” to be got rid of, rather than part of the fabric of society. It is extremely important to enable sex workers to operate in areas where they normally work when these events occur. This ensures they stay in contact with the services they regularly access, such as condom distribution schemes, etc.

Although anti-sex work organisations claimed that trafficking increased in Vancouver during the Winter Olympics in February 2010, sex worker groups indicate that this claim is not based on fact. The Royal Canadian Mounted Police state that claims that trafficking increased as a result of the 2010 Winter Olympics are not correct and that they “have to go with the hard evidence and empirical evidence, [and that] is that there has been no documented increase during the Olympic Games” (Kardas-Nelson, 2010).

The Global Alliance Against Trafficking in Women (GAATW), an Alliance of more than 90 non-governmental organisations from all regions of the world, also states that claims that trafficking increases during major international sporting events are without foundation. Three of GAATW's members are from Canada, including GAATW Canada, based in Victoria; another of their member organizations is Ban Ying, who worked on trafficking in Germany during the 2006 World Cup. GAATW states that “Data from previous sporting events indicates that an increase of trafficking in persons into forced prostitution does not occur around sporting events” (GAATW, 2009: 1).

Furthermore, GAATW notes there were claims that there “would be an ‘anticipated’ increase of 20,000 forced prostitutes, many to be trafficked, in Athens during the 2004 Olympics. In reality, some 181 trafficked persons were reported in all of 2004 in Greece, and according to Greece's Annual Report on Organised Crime and International Organisation on Migration (IOM) Athens, there were no instances of trafficking for the purpose of sexual exploitation during the 2004 Olympics” (GAATW, 2009: 1).

While anti-sex work organisations are quick to point out that this is a 95% increase in the number of trafficked women over the previous year, they omit that the Greek anti-trafficking law was passed in 2002 (McKnight, 2009), and that such an increase would be normal over that two year period. Similarly, GAATW (2009: 1) reports that anti-sex work groups estimated there would be up to “40,000 forced prostitutes who would be ‘introduced’ to Germany for the World Cup. In reality, all data, information and expert statements strongly indicate this did not occur either during or after the World Cup”.

People opposed to decriminalisation, are found of claiming “40,000” or “400%” as a figure they liberally apply to indicate the number of sex workers trafficked, or the number by which brothels have increased, or the increase in the number of children involved in sex work. Either way, they can't count.

Why trafficking is unlikely during a major international sports event

While numerous groups who oppose sex work claim that trafficking will increase (by 40,000, by 400%, by 4xxxx...) during a major international sports event in a country, these claims are not based on fact, and are without foundation. Ban Ying, a non-governmental organisation in Berlin which works on trafficking in Germany and provides assistance to trafficked women, and member of GAATW, gave four reasons why trafficking is unlikely to increase during a major international sports event. These are:

1. Trafficking in persons is a business; traffickers want to make profits. It is costly to bring a woman without valid residence papers into another country. Women forced into prostitution would not make enough money for the perpetrators through the duration of the event.
2. Trafficking in persons in most cases means that the women are residing illegally in [the country]. Large sporting events have an increased police presence in the cities where the games are being played. Therefore, the risk to be uncovered is much higher than during other times. In practice, it is evident that traffickers are avoiding places where they could raise suspicion due to the “illegality of the women under the immigration laws”.
3. Some sources are claiming that some brothels have opened their business just for the World Cup. One should look at the relation between the costs to build such an establishment – which could be up to six million euro – and the duration of the sports event (four weeks). The absurdity of this claim becomes obvious.
4. The priority of soccer fans travelling to a city where the games are taking place is to watch the games. How much money, time and energy will then be left for a visit to a sex worker? (Prasad & Rohner, 2006: 1-2).

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