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# LEGALIZING PROSTITUTION

An Introduction

Kristie Trifolis  
May 15, 2012

*'Prostitution forms an age-worn but interesting chapter in the history of civilization and presents an important problem for modern society. All civilized countries have offered solutions, none of which are satisfactory, and only a few of them have even modified its baneful influence'*  
--Arnold Clarkson<sup>1</sup>

Prostitution is commonly referred to as “the oldest profession”, which is, unfortunately, far from an exaggeration. Prostitution has been ubiquitous from the times of the epic tale of Gilgamesh and the Old Testament to today’s “red light” districts. It has gone from being praised, to being tolerated, prosecuted, or ignored. This paper considers whether we ought to legalize prostitution. A brief history of prostitution is in order to fully understand where the debate on legalizing prostitution fits into our world.

Ancient Greek literature referred to three different kinds of prostitutes. The first were referred to as *pornai*, or slave prostitutes; the second as freeborn street prostitutes; and the third were called *hetaera* and were educated prostitute-entertainers who enjoyed a level of social influence that was denied to nearly all non-prostitute women.<sup>2</sup> *Pornai* and street prostitutes could be either female or male, but only had a male clientele. *Hetaera* were always female.<sup>3</sup>

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<sup>1</sup> Arnold Clarkson, *History of Prostitution*, 41 Can. Med. Assoc. J. 296-301 (1939).

<sup>2</sup> Tom Head, *An Illustrated History and Timeline*, (2012), <http://civilliberty.about.com/od/gendersexuality/tp/History-of-Prostitution.htm>.

<sup>3</sup> *Id.*

According to literature, Solon<sup>4</sup> established government-supported brothels in high-traffic urban areas of Greece that were staffed with inexpensive *pornai*.<sup>5</sup> Therefore, all men, regardless of income level, could afford to hire a sex partner should they choose. Prostitution remained legal throughout the Greek and Roman periods, though later, Christian Roman emperors strongly discouraged it.<sup>6</sup>

In 590 AD, the newly-converted King of Spain put a ban to prostitution in an effort to unite his country under Christianity and its morals. He did not order punishment for men who hired or sold prostitutes, but any woman found guilty of prostitution was whipped 300 times and subsequently exiled.<sup>7</sup> By the medieval era, prostitution in England was accepted in major cities as commonplace.<sup>8</sup> Although King Henry II discouraged prostitution, he also permitted it.<sup>9</sup> However, he only allowed prostitutes that were single, and he mandated weekly inspections of London's brothels.<sup>10</sup>

Between 1300-1400 AD, there were different views formulating across the world on the issue of prostitution. Italy declared prostitution to be "absolutely indispensable to

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<sup>4</sup> Solon, known as one of the Seven Wise Men of Greece, was an Athenian statesman, lawgiver, and poet. His reforms prepared the way for the introduction of democracy in Athens. (<http://www.hyperhistory.com/>).

<sup>5</sup> Tom Head, *An Illustrated History and Timeline*, (2012), <http://civilliberty.about.com/od/gendersexuality/tp/History-of-Prostitution.htm>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Pippa Bailey, *The Hard Truth: Legalisation and Control*, (Sept. 25, 2011), <http://www.lippymag.co.uk/prostitution-the-hard-truth>.

<sup>10</sup> Tom Head, *An Illustrated History and Timeline*, (2012), <http://civilliberty.about.com/od/gendersexuality/tp/History-of-Prostitution.htm>.

the world".<sup>11</sup> Government-funded brothels were subsequently established in major Italian cities.<sup>12</sup> Meanwhile, in Europe, penalties for prostitution were put in place and ranged from maiming to execution.<sup>13</sup> However, because penalties generally went unenforced, in 1586 the newly-elected Pope Sixtus V ordered that all women who participated in prostitution be put to death.<sup>14</sup>

As events moved toward the 18<sup>th</sup> century, the French government replaced the traditional bans on prostitution with a new Bureau of Morals (Bureau des Moeurs).<sup>15</sup> The Bureau was responsible for monitoring brothels to ensure that they complied with the law, as well as not becoming centers of criminal activity.<sup>16</sup> During this time brothels and criminal activity went, and they continue to go, hand in hand. The agency operated for over a century before it was abolished.<sup>17</sup>

In 1932, Japan gathered between 80,000 and 300,000 women to participate in what the government referred to as "comfort battalions" during the war.<sup>18</sup> In essence, this

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<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> ProCon.org. *Historical Timeline*. (Jan. 31, 2012), <http://prostitution.procon.org/view.resource.php?resourceID=000117>.

<sup>15</sup> Tom Head, *An Illustrated History and Timeline*, (2012), <http://civilliberty.about.com/od/gendersexuality/tp/History-of-Prostitution.htm>.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

was prostitution. While in 1956, India worked towards banning all of prostitution and was semi-successful.<sup>19</sup>

In 1971, brothels in Nevada became legalized. Although many politicians of the state will claim that they are against prostitution, they will also admit that they do not feel it should be banned. Some counties in Nevada allow prostitution, while others still do not.<sup>20</sup>

In 1967, Europe was known for its prostitution, and mainly for its six floor Eros Center.<sup>21</sup> Here, several hundred women would gather on what was called the 'contact area' to entice sailors and other clients and then move on to the dozens of bars and hundreds of bedrooms.<sup>22</sup>

In 1999, the Swedish government took a new approach toward regulating prostitution. The government classified prostitution as a form of violence against women and initiated new programs to help the women move into other lines of work.<sup>23</sup> Under this new approach, it became illegal to buy sex, but legal to sell sex.<sup>24</sup> It is still unclear whether this approach is working. South Africa also has taken a new approach to this

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Serge Schmemmann, *A Red-Light District Loses Its Allure*, New York Times, May 14, 1988.

<sup>22</sup> *Id.*

<sup>23</sup> Tom Head, *An Illustrated History and Timeline*, (2012), <http://civilliberty.about.com/od/gendersexuality/tp/History-of-Prostitution.htm>.

<sup>24</sup> *Id.*

issue. Known as a haven for sex trafficking, South Africa is a nation where an estimated 25 percent of prostitutes are children.<sup>25</sup> Recently in 2007, the Criminal Law Amendment Act 32 was passed which targets human trafficking.<sup>26</sup> Along with this, a team of legal scholars has been commissioned by the government to draft new regulations governing prostitution.<sup>27</sup> South Africa's innovative legislative successes and possible failures will be helpful to other nations to create their own forms regulations to govern prostitution.<sup>28</sup>

Currently, there is wide debate on the issue of whether prostitution should be legalized, and whether the pros of legalization outweigh the cons. There are seemingly many different opinions and approaches to this dispute. Set forth below is a description of the places in which prostitution is legalized, explanations and examples of how those places are faring, the cons of legalization, and subsequently the pros of legalization. While many will debate the advantages of legalizing prostitution, it is, and always will be, outweighed by the disadvantages.

## **I. PLACES PROSTITUTION IS ALREADY LEGALIZED**

There are a number of places in the world where prostitution is legalized. One of the most important of those places is the Netherlands. In 1997, there were 250 officially

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<sup>25</sup> *Id.*

<sup>26</sup> Criminal Law Amendment Act 32 of 2007

<sup>27</sup> Tom Head, *An Illustrated History and Timeline*, (2012), <http://civilliberty.about.com/od/gendersexuality/tp/History-of-Prostitution.htm>.

<sup>28</sup> *Id.*

listed brothels in Amsterdam.<sup>29</sup> Currently, in the Netherlands, prostituted women pay rent for shop windows that look onto the street (about \$90 a day).<sup>30</sup> The only content of the rented room is the bed where she has sex, sleeps on, and lives on.

‘In some establishments, two women share a kitchen, a room for eating, a bathroom and toilet. At some sites the buildings comply with general sanitary and administrative rules for the municipality, men patrolling the streets assure security, rents are fixed, and neither minors nor victims of trafficking are officially allowed to work. In others, up to four women may use the same window room, share a single toilet, an improvised shower and no kitchen. In some cases, the women receive one towel and two sheets for use throughout the week. On the average, the women work between 12 and 17 hours a day, receiving from 10 to 24 clients, at a usual charge of 50 florins for 15 minutes sessions.’<sup>31</sup>

However, The City of Amsterdam claims that in order to end the abuse in the sex industry, they needed to change the law and lift the ban on brothels in order to reflect everyday reality.<sup>32</sup> Now, it is legal to employ only prostitutes who are over the age of consent, and who wish to do the work voluntarily.<sup>33</sup> Also, stricter measures have been used under the criminal law in order to prevent exploitation.<sup>34</sup> The government claims

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<sup>29</sup> Marie-Victoire Louis, *Legalizing Pimping, Dutch Style*, *Le Monde Diplomatique*, March 8, 1997.

<sup>30</sup> *Id.*

<sup>31</sup> Janice G. Raymond, *10 Reasons for not Legalizing Prostitution*, 2 *J. of Trauma Pract.* 315-332 (March 25, 2003).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

that the legislation of brothels enables them to exercise actual control over the sex industry, and, in return, counter abuses.<sup>35</sup>

Another place where prostitution is legalized is in Australia. Today, only 10% of the prostitution industry operates in Australia's legal brothels; the other 90% operates in underground, illegal sex markets thick with forced prostitution and human trafficking victims.<sup>36</sup> The view in Australia is that 'it will always be cheaper to set up an illegal brothel full of slave labor than to pay fees and salaries and health care to licensed workers. As long as there are men demanding cheap commercial sex, there will be traffickers willing to supply it, and where there is a legal market, there will be more men demanding sex, though not always at legal market prices.'<sup>37</sup>

In Australia, legalizing prostitution has only led to more demand for sex. Since it has become legal, it has also led to a mass increase in underground sex markets that are illegal and full of abuse.<sup>38</sup> The underground market forces women who never chose to be in the sex industry, but were trafficked. The University of Queensland Working Group on Human Trafficking recently released a report stating that the prostitution laws in Australia have failed.<sup>39</sup> In this report, it is noted that since 1999 women in Australia have

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<sup>35</sup> RNW English Section. *FAQ: Prostitution in the Netherlands*, (2009), <http://www.rnw.nl/english/article/faq-prostitution-netherlands>.

<sup>36</sup> Amanda Kloer, *Legal Prostitution in Australia a "failure"*, (2009), <http://news.change.org/stories/legal-prostitution-in-australia-a-failure>.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

had the option of working legally in licensed brothels or on their own.<sup>40</sup> The goal of the Australian government was that women would set up their own businesses, thus making the sex industry safer, legal, and regulated.<sup>41</sup> However, this is far from the result.

‘What has happened, instead, is entrepreneurial pimps have lured and trafficked Asian women to Australia and set up illegal brothels with lower prices. Trafficking is ‘booming’ in Queensland, and there are few laws to help protect women who are lured or coerced into prostitution against their will. And as legal brothels try and compete with the trafficking boom, they cut costs, which often involves cutting freedom and benefits for women. Even in the legal, licensed brothels of Queensland, women have reported being coerced into working under unfair conditions or against their will.’<sup>42</sup>

Since allowing prostitution, Australia has failed to maintain regulations and standards to keep the women safe, healthy, and free of abuse.

In January 2002, Germany fully legalized prostitution.<sup>43</sup> As early as 1993, during the first steps toward legalization, it was recognized (even by pro-prostitution advocates) that “75 per cent of the women in Germany's prostitution industry were foreigners from Uruguay, Argentina, Paraguay and other countries in South America.”<sup>44</sup> In Germany now, up to 85% of women are foreigners which casts doubt on the fact that this amount

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Janice G. Raymond, *10 Reasons for not Legalizing Prostitution*, 2 J. of Trauma Pract. 315-332 (March 25, 2003).

<sup>44</sup> *Id.*

of women could have entered Germany without facilitation.<sup>45</sup> NGOs<sup>46</sup> report that most of these foreign women have been trafficked into the country 'since it is almost impossible for poor women to facilitate their own migration, underwrite the costs of travel and travel documents, and set themselves up in "business" without outside help.'<sup>47</sup>

Legalizing prostitution in Germany has not been successful. Germany stands as the third example of a country that has failed to regulate legal prostitution.

There is one place in the United States that is quite similar to the countries we have described. That place is Nevada.

'For years, the locations of brothels were basically regulated by using public nuisance laws, enabling local authorities to shut them down when they managed to declare them as such. Both Reno and Las Vegas cleared out their red light districts using this tactic. Nevada state law has evolved to where it is now a

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<sup>45</sup> *Id.*

<sup>46</sup> A non-governmental organization (NGO) is any non-profit, voluntary citizens' group which is organized on a local, national or international level. Task-oriented and driven by people with a common interest, NGOs perform a variety of service and humanitarian functions, bring citizen concerns to Governments, advocate and monitor policies and encourage political participation through provision of information. Some are organized around specific issues, such as human rights, environment or health. They provide analysis and expertise, serve as early warning mechanisms and help monitor and implement international agreements. Their relationship with offices and agencies of the United Nations system differs depending on their goals, their venue and the mandate of a particular institution.

<sup>47</sup> Janice G. Raymond, *10 Reasons for not Legalizing Prostitution*, 2 J. of Trauma Pract. 315-332 (March 25, 2003).

county option whether or not to allow licensed brothels to operate within their jurisdictions.’<sup>48</sup>

The Nevada Revised Statutes contain two sections related to prostitution. The first section prohibits the licensing of prostitution in counties with populations of over 400,000 people.<sup>49</sup> In essence, what this actually does is legalize prostitution in the counties that do not have over 400,000 people. The second section is the regulatory section. It attempts to provide is protocols relative to pimping, zoning, sexually transmitted diseases, and advertising.<sup>50</sup>

NRS 201.300-360, part of the regulatory section of the statute, prohibits anyone from forcing or attempting to entice a woman in becoming a prostitute. It also prohibits anyone from forcing or attempting to entice a woman to work in a brothel, while also protecting spouses from being forced into prostitution. The last thing it does is prohibit forcing women into marriage.<sup>51</sup> Some of the other sections of the NRS are put in place in order to prohibit anyone from living off a prostitute’s earning, and also to enable zoning

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<sup>48</sup> *Id.*

<sup>49</sup> Nevada revised statutes, NRS 201.300-360

<sup>50</sup> Barbara Brents. *Violence and Legalized Brothel Prostitution in Nevada: Examining safety, risk, and prostitution policy*, 20 J. Interpers Violence 270 (2005).

<sup>51</sup> *Id.*

restrictions.<sup>52</sup> These restrictions are designed to keep brothels a “safe distance” away from places like schools, main streets, or churches.<sup>53</sup>

Before the mid-1980s, some brothels put in place testing regimens for sexually transmitted diseases.<sup>54</sup> However, after that time period, Nevada enacted health regulations designed to regulate the transmission of AIDS, which had become a growing problem. Currently, any person who applies to be a prostitute in a county where it is legal must undergo testing for HIV, syphilis, gonorrhea, and chlamydia.<sup>55</sup> Subsequently, each prostitute must be tested again for gonorrhea and chlamydia on a weekly basis, and monthly for HIV and syphilis. Any person who attempts to work in a brothel who is HIV positive is liable to suffer a sentence of two to ten years in prison or a fine of \$10,000 (NRS 201.356-358), and the brothel owner will also be held criminally responsible.<sup>56</sup>

In Nevada, there exists at least one group, the Nevada Coalition Against Sex Trafficking<sup>57</sup>, which is actively seeking to end legal prostitution. In addition to this group,

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<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> The Nevada Coalition Against Sex Trafficking (NCAST) is a non-governmental, nonprofit organization. NCAST's mission includes educating Nevadans and other concerned citizens about the harms of prostitution, including the underlying and fundamental human rights violations of prostitution, the link between prostitution (both legal and illegal) and human trafficking, and developing and promoting policy and functional alternatives to current laws and practices within the State of Nevada.

U.S. Senator Harry Reid<sup>58</sup>, in a recent speech before the Nevada Legislature (February 22, 2011), said ‘the time has come to end Nevada's brothel industry’.<sup>59</sup> He cited the poor image it gives to the Silver State.<sup>60</sup>

### III. THE “PROS” OF LEGALIZING PROSTITUTION

As there are seemingly many anti-legalization arguments for prostitution, there are also pro-legalization advocates whose argument is that the ‘pros’ of legalization outweigh the cons. For example, those who fight for prostitution being legalized will argue that it will reduce trafficking, bring the sex industry under control, regulate prostitution activities, remove prostitution from the street, end the prostitution of children because child prostitution becomes unnecessary if adults can prostitute legally, protect women in the industry from abuse and violence because now it is no longer against their will and they will voluntarily engage in sexual acts. They argue that it would promote

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<sup>58</sup> Harry Reid is the senior United States Senator from Nevada, serving since 1987. A member of the Democratic Party, he has been the Senate Majority Leader since January 2007, having previously served as Minority Leader and Minority and Majority Whip.

Previously, Reid was a member of the U.S. House of Representatives, representing Nevada's 1st congressional district, and served in Nevada local and state government as city attorney of Henderson, a state legislator, the 25th Lieutenant Governor, and chairman of the Nevada Gaming Commission.

<sup>59</sup> Standley White. *Legal Prostitution in Nevada: Brothels are Legal in Some Nevada Counties*, (2012), <http://renotahoe.about.com/od/governmentcityservices/a/Legal-Prostitution-In-Nevada.htm>.

<sup>60</sup> *Id.*

women's health because men 'must' wear condoms and women must get health checks.<sup>61</sup> They argue that it would enhance women's choices because now women would be free to choose whether they want to be a part of the sex industry and offers them the opportunity to be self-employed.<sup>62</sup>

Another argument is that 'it is estimated that if prostitution were legalized in the United States, the rape rate would decrease by roughly 25% for a decrease of approximately 25,000 rapes per year.'<sup>63</sup> Also, that 'sex work is legitimate work and problems within the industry are not inherent in the work itself. It is vulnerability, not sex work, which creates victims. Sex workers should enjoy the same labour rights as other workers and the same human rights as other people.'<sup>64</sup>

Voluntary prostitutes themselves are also obviously advocates for legal prostitution. In an interview with Veronica Monet, prostitute and author in Gauntlet Magazine, she explains,

'We chose sex work after we did a lot of things we couldn't stand. Sex work is better. For me, sex work isn't my first choice of paying work. It just happens to be the best alternative available. It's better than being president of someone else's corporation. It's better than being a secretary. It is the most honest work I know of.'<sup>65</sup>

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<sup>61</sup> Janice G. Raymond, *10 Reasons for not Legalizing Prostitution*, 2 J. of Trauma Pract. 315-332 (March 25, 2003).

<sup>62</sup> *Id.*

<sup>63</sup> Kirby Cundiff. *Prostitution and Sex Crimes*, (2004), [http://www.independent.org/pdf/working\\_papers/50\\_prostitution.pdf](http://www.independent.org/pdf/working_papers/50_prostitution.pdf).

<sup>64</sup> Ana Lopez. *Stigmatising Sex Workers*, The Chartist, 2006.

<sup>65</sup> ProCon. *Should Prostitution Be Legal?*, (2009), <http://prostitution.procon.org/view.resource.php?resourceID=000115>.

An argument can be made for why it is illegal to charge for what can be freely dispensed.<sup>66</sup> It has been argued that sex work is no moral or immoral than the chocolate or distilling industries.<sup>67</sup> Marjan Wijers explains in his book that ‘criminalizing the sex industry creates ideal conditions for rampant exploitation and abuse of sex workers. It is believed that trafficking in women, coercion and exploitation can only be stopped if the existence of prostitution is recognized and the legal and social rights of prostitutes are guaranteed.’<sup>68</sup>

However, set forth below are indisputable facts relative to why legalizing prostitution is a mistake.

## II. THE CONS OF LEGALIZING PROSTITUTION

### i. Legalizing Prostitution Expands the Sex Industry

The arguments are endless as to whether legalizing prostitution is an advantage or a shortcoming. However, the cons outweigh the pros significantly. One of the many cons of legalizing prostitution is that it actually promotes illegal sex trafficking.<sup>69</sup> Many pro-legalization people will claim that legalization controls the sex industry. However, if anything, it only expands it.

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<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> Marjan Wijers. *Global Sex Workers*, (1998).

<sup>69</sup> Janice G. Raymond, *10 Reasons for not Legalizing Prostitution*, 2 J. of Trauma Pract. 315-332 (March 25, 2003).

For example, the sex industry now accounts for 5 percent of the Netherlands economy.<sup>70</sup> Over the last decade, as pimping became legalized and then brothels decriminalized in the Netherlands, the sex industry expanded 25 percent.<sup>71</sup> At any hour of the day, women of all ages and races, dressed in hardly anything, are put on display in the notorious windows of Dutch brothels and sex clubs and offered for sale -- for male consumption; most of them are women from other countries who have in all likelihood been trafficked into the Netherlands.<sup>72</sup>

‘There are now officially recognized associations of sex businesses and prostitution customers in the Netherlands that consult and collaborate with the government to further their interests and promote prostitution.[footnote] These include the Association of Operators of Relaxation Businesses, the Cooperating Consultation of Operators of Window Prostitution, and the Man/Woman and Prostitution Foundation, a group of men who regularly use women in prostitution, and whose specific aims include to make prostitution and the use of services of prostitutes more accepted and openly discussible, and to protect the interests of clients’<sup>73</sup>

Legalization of prostitution in the State of Victoria, Australia, has led to massive expansion of the sex industry. ‘Whereas there were 40 legal brothels in Victoria in 1989, in 1999 there were 94, along with 84 escort services. Other forms of sexual exploitation, such as tabletop dancing, bondage and discipline centers, peep shows, phone sex, and

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<sup>70</sup> Suzanne Daley. *New Rights for Dutch Prostitutes, but No Gain*, New York Times, pp. A1 and 4, August 12, 2001.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> Janice G. Raymond, *10 Reasons for not Legalizing Prostitution*, 2 J. of Trauma Pract. 315-332 (March 25, 2003).

pornography have all developed in much more profitable ways than before.’<sup>74</sup>

Prostitution has become an accepted sideline of the tourism and casino boom in Victoria with government-sponsored casinos authorizing the redeeming of casino chips and wheel of fortune bonuses at local brothels.<sup>75</sup>

Brothels in Switzerland have doubled several years after partial legalization of prostitution.<sup>76</sup> Many of these brothels are illegal and/or untaxed. In 1999, a Zurich newspaper known as *Blick* claimed Switzerland to have the highest amount of brothels in Europe and expressed the opinions of the people who felt like they had become overrun by prostitution venues and activities.<sup>77</sup>

Not only does legalizing prostitution expand the sex industry, it also increases hidden prostitution.

## **ii. Legalizing Prostitution Increases Hidden Prostitution**

Legalization schemes, while they may seemingly be operational from the outside, actually increase hidden prostitution for numerous reasons. To start, it makes women register.<sup>78</sup> Many women don’t want to register and undergo health checks as required by

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<sup>74</sup> Mary and Jeffreys Sullivan. *Legalising Prostitution is Not the Answer: the Example of Victoria, Australia. Coalition Against Trafficking in Women, Australia and USA*, (2001), <http://action.web.ca/home/catw/attach/AUSTRALIAlegislation20001.pdf>.

<sup>75</sup> *Id.*

<sup>76</sup> Janice G. Raymond, *10 Reasons for not Legalizing Prostitution*, 2 J. of Trauma Pract. 315-332 (March 25, 2003).

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

law in certain countries where prostitution is legalized because they don't want to lose their anonymity.<sup>79</sup> Therefore, legalization often drives them into street prostitution, and many women choose street prostitution because they want to avoid being controlled and exploited by the new sex businessmen.<sup>80</sup>

The growth of prostitution in Australia since legalization has been largely in the illegal sector. In Sydney there are 400 to 500 brothels, most of which do not have a license to operate.<sup>81</sup> Since the onset of legalization in Victoria, 'brothels have tripled in number and expanded in size; the vast majority having no licenses but advertising and operating with impunity.'<sup>82</sup>

Legalization of prostitution in Nevada, Germany, Australia and the Netherlands has resulted in an increase in illegal, hidden, and street prostitution.<sup>83</sup> Decriminalization and legalization promote sex trafficking.<sup>84</sup> Germany and the Netherlands are currently reconsidering whether to get rid of legal prostitution because of these social problems.<sup>85</sup>

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<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> Mary and Jeffreys Sullivan. *Legalising Prostitution is Not the Answer: the Example of Victoria, Australia. Coalition Against Trafficking in Women, Australia and USA*, (2001), <http://action.web.ca/home/catw/attach/AUSTRALIAlegislation20001.pdf>.

<sup>83</sup> PRE. *Myths and Facts About Nevada Legal Prostitution*, (2010), <http://www.prostitutionresearch.com/faq/000146.html>.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

### **iii. Legalizing Prostitution Increases Child Prostitution**

Not only does legalizing prostitution increase hidden prostitution, but it also increases child prostitution. An Amsterdam-based Child Right organization estimates that the number of the children in prostitution has gone from 4,000 children in 1996 to 15,000 children in 2001, and that at least 5,000 of the children are from other countries. There is also increased evidence of organized commercial exploitation of children in Australia.

The FBI arrested nearly 900 people in a nationwide crackdown on sexual exploitation of children.<sup>86</sup> Of those, 51 adults were from Vegas.<sup>87</sup> Since 2003, over 1000 children have been rescued from prostitution in Nevada, with many more left to still be rescued.<sup>88</sup>

### **iv. Legalizing Prostitution Does Not Promote Women's Health**

Legalizing prostitution does not promote women's health. A CATW<sup>89</sup> study reported that 47% of women stated that men expected sex without a condom, 73%

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<sup>86</sup> Nevada Public Radio. *Child Prostitution in Nevada*, (Nov. 16, 2010), <http://www.knpr.org/son/archive/detail2.cfm?SegmentID=7341&ProgramID=2096>.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> The Coalition Against Trafficking in Women (CATW) is a non-governmental organization that promotes women's human rights. It works internationally to combat sexual exploitation in all its forms, especially prostitution and trafficking in women and children, in particular girls.

reported that men offered to pay more for sex without a condom, and 45% of women said they were abused if they insisted that the men use a condom.<sup>90</sup>

The safety policies in many legal brothels simply do not protect women from harm. Women who work in these brothels have indicated that they were abused by buyers, brothel owners, and even their friends.<sup>91</sup> 'Although 60 percent of women reported that buyers had sometimes been prevented from abusing them, half of those women answered that, nonetheless, they thought that they might be killed by one of their 'customers'.'<sup>92</sup>

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CATW is composed of regional networks and of affiliated individuals and groups. It serves as an umbrella that coordinates and takes direction from its regional organizations and networks in its work against sexual exploitation and in support of women's human rights.

CATW brings international attention to all forms of sexual exploitation, including prostitution, pornography, sex tourism, and mail order bride selling. Working with national and international policy makers, women's rights and human rights advocates, and the United Nations, it promotes the fundamental human right of women and children, in particular, girls, to be free from sexual exploitation.

<sup>90</sup> Janice G. Raymond, *10 Reasons for not Legalizing Prostitution*, 2 J. of Trauma Pract. 315-332 (March 25, 2003).

<sup>91</sup> Janice G. Raymond, *Guest Editor's Introduction*, Violence Against Women. (2004).

<sup>92</sup> *Id.*

## v. Legalizing Prostitution Does Not Enhance Women's Choice

Making prostitution legal does not enhance women's choice. Prostitution for most women is an involuntary way of making ends meet. A 2009 article in the Guardian<sup>93</sup> stated that some brothels 'impose some extraordinary restrictions on commercial sex workers' in order to 'separate sex workers from the local community'.<sup>94</sup> It was noted that there are brothels that will forbid prostitutes to leave the worksite for extended periods of time.<sup>95</sup> Some require that the prostitutes leave the county when they are not working.<sup>96</sup> Other places, including Nevada, do not allow the children of the women who work in the brothels to live in the same area.<sup>97</sup> Some brothel workers who have cars must register the vehicle with the local police and are not permitted to leave the brothel after 5pm. In some counties, registered sex workers are not allowed to have cars at all.<sup>98</sup>

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<sup>93</sup> *The Guardian*, until 1959 known as *The Manchester Guardian* (founded 1821), is a British national daily newspaper in the Berliner format. Currently edited by Alan Rusbridger, it has grown from a 19th-century local paper to a national paper associated with a complex organisational structure and international multimedia presence with sister papers *The Observer* (British Sunday paper) and *The Guardian Weekly*, as well as a large web presence.

<sup>94</sup> Melissa Ditmore, *Sex and Taxes*, *The Guardian* (London), April 16, 2009.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

Most women in prostitution did not make a rational choice to enter prostitution,. Rather, such choices are better termed survival strategies.<sup>99</sup> Rather than agreeing to become a prostitute, a woman more accurately ‘complies’ with the only options available to her at that point in time.<sup>100</sup>

Most of the women interviewed in CATW studies reported that choice in entering the sex industry could only be discussed in the context of the lack of other options.<sup>101</sup> Most emphasized that women in prostitution had few other options. Many spoke about prostitution as the last option, or as an involuntary way of making ends meet. In one study, 67% of the law enforcement officials that CATW interviewed expressed the opinion that women did not enter prostitution voluntarily. 72% of the social service providers that CATW interviewed did not believe that women voluntarily choose to enter the sex industry.<sup>102</sup> The CATW studies are thoroughly conducted and therefore can be well-relied upon.

The CATW study continued to explain that:

“There is no doubt that a small number of women say they choose to be in prostitution, especially in public contexts orchestrated by the sex industry. In the same way, some people choose to take dangerous drugs such as heroin. However, even when some people choose to take dangerous drugs, we still recognize that this kind of drug use is harmful to them, and most people do not seek to legalize

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<sup>99</sup> Janice G. Raymond, *10 Reasons for not Legalizing Prostitution*, 2 J. of Trauma Pract. 315-332 (March 25, 2003).

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

heroin. In this situation, it is harm to the person, not the consent of the person that is the governing standard. When a woman remains in an abusive relationship with a partner who batters her, or even when she defends his actions, concerned people don't say she is there voluntarily. They recognize the complexity of her compliance. Like battered women, women in prostitution often deny their abuse if provided with no meaningful alternatives.<sup>103</sup>

The ILO [International Labour Organization]<sup>104</sup> also reported that most women 'choose' prostitution purely for economic reasons.<sup>105</sup>

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<sup>103</sup> *Id.*

<sup>104</sup> To address the problems caused by the industrialization of Europe in the 19th century, Robert Owen of Wales, and Jerome Blanqui and Daniel Legrand of France, among others, brought the need for international cooperation in setting labor standards to international prominence. The reasons articulated for the necessity of cooperation were both benevolent and economic. Cooperation was necessary to eradicate poverty and injustice, not just to protect workers, but also to prevent the social unrest these conditions could engender. Furthermore, international cooperation was necessary because each nation would be at a competitive disadvantage if it imposed higher standards unilaterally. Ultimately, these concerns led to the formation of The International Labour Organization on April 11, 1919 as an affiliated agency of the League of Nations. The original ILO Constitution was drafted as Part XIII of the Treaty of Versailles. After the creation of the United Nations, the ILO became the first specialized agency to be affiliated with the UN in 1946.

The ILO website states the organization's goal as "bringing decent work and livelihoods, job-related security and better living standards to the people of both poor and rich countries." From its inception, the ILO has recognized social justice as a prerequisite to world peace. After the Second World War, its aims and purposes were reasserted and strengthened in The Declaration of Philadelphia, adopted on May 19, 1949. [perhaps some of this should go in the text]

<sup>105</sup> Diane Post. *Legalizing Prostitution: A Systematic Rebuttal*, (1999), <http://prostitution.procon.org/view.resource.php?resourceID=000115>.

#### **vi. Legalizing Prostitution Takes Away From Family Values**

Not only does legalizing prostitution hurt women and children, but it also hurts families. What legalizing prostitution does is create in increase in infidelity, which, in turn, creates an increase in divorce.<sup>106</sup>

#### **IV. CONCLUSION**

For every argument insisting that legalizing prostitution is the better choice, there is a stronger counter argument. Not only is there a stronger counter argument, but there are clear examples in the countries and places that have legalized prostitution showing that legalization is not the solution.. Legalizing prostitution in these areas has led to more problems than had the matter been left alone and kept illegal. Legalization of prostitution is undoubtedly the wrong decision.

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<sup>106</sup> Kingsley Davis, *The Sociology of Prostitution*, 2 Amer. Soc. Rev. 744-755 (1937).