

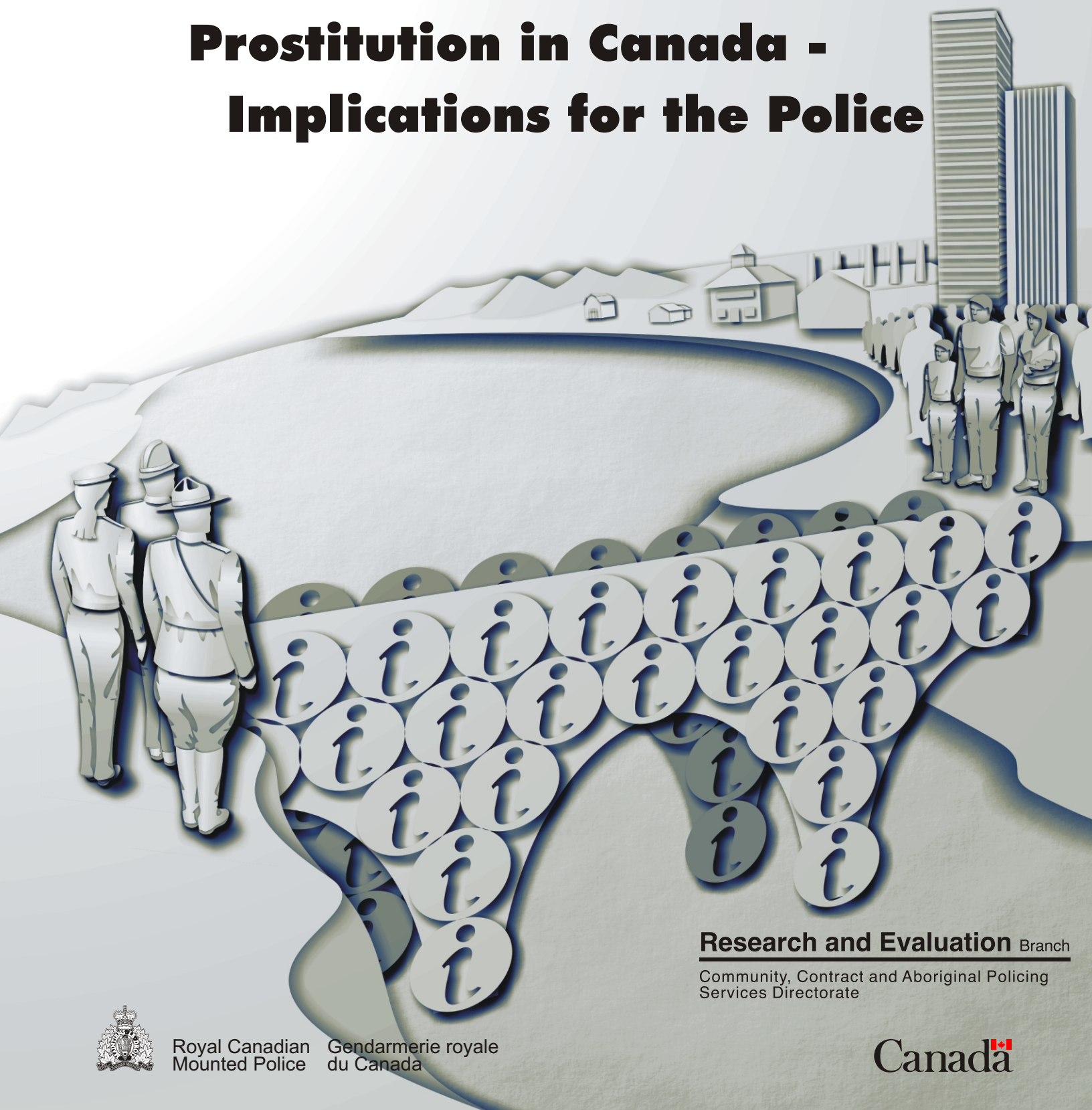
Control or Regulation of

RCMP



ROYAL CANADIAN MOUNTED POLICE

Prostitution in Canada - Implications for the Police



Research and Evaluation Branch

Community, Contract and Aboriginal Policing
Services Directorate



Royal Canadian
Mounted Police

Gendarmerie royale
du Canada

Canada

Control or Regulation of Prostitution in Canada - Implications for the Police

by

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Opinions expressed are those of the author and do not necessarily reflect those of the Royal Canadian Mounted Police or the Government of Canada.

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Executive Summary

On November 2004, Canada's Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness asked the Subcommittee on Solicitation Laws to examine prostitution laws. The objective: to improve the safety of sex workers and the community as a whole, and to make recommendations for ways to reduce the exploitation and violence to which workers are subjected.

The Subcommittee met with stakeholders including municipal representatives, police forces, community groups, citizens and sex workers. It consulted experts in the field and solicited studies and briefs. The RCMP was among the witnesses invited to appear before the Subcommittee and to submit a brief. More than 300 witnesses appeared before the Subcommittee to speak to such issues as victims' rights and violence, and to discuss prostitution from health and safety, religious, legal and academic perspectives.

Health and safety of sex workers, the current legal situation in Canada and experiences with legalization or criminalization from other countries were among the most discussed and documented issues. Defining the role of police is difficult, as there is little rigorous research on this complex subject. In the literature the police perspective is too often based on traditional, unfounded, unproven and biased opinions of prostitutes and prostitution. This is problematic for legislators, who require objective and well documented information.

This study is a first step in clarifying that relationship. It examines issues relating to legal options, their impact on prostitution and their impact on the police: This study answers the following questions:

- Does legalization of prostitution imply absence of police action or does it entail

new police activities?

- Would legalization allow police resources to be reallocated to other crimes?
- Does legalization reduce forced prostitution, human trafficking, pimping, organized crime, use of illegal drugs, etc?

Current Legal Situation

Prostitution means exchanging sex for money or other things of value (such as meals, housing, or drugs). Prostitution is not illegal. It is legal to be a prostitute but not legal to practice the profession anywhere in Canada. It is illegal to communicate for the purpose of prostitution in public places; illegal to operate out of one's own home; illegal to have a third party managing system. Provincial laws or municipal laws may also control prostitution such as permit requirement for certain type of business.

Studies

Studies on how law enforcement regulates prostitution are neither new nor unusual. It has been the object of numerous studies over the last past 25 years in Canada and abroad. A literature review covering Canadian studies as well as of foreign evaluation studies on prostitution shows that traditional law enforcement was not a deterrent to decrease street solicitation. The efficiency of law enforcement strategies may only be at the level of displacement of prostitutes from their usual working areas to unknown zones which may increase their isolation and vulnerability. They also show, that social services provided to prostitutes to leave prostitution or reducing the harms associated with prostitution are solutions more adapted to their needs than traditional police action against prostitution. Where prostitution activities are legalized, the police still hold a law enforcement capacity in controlling the sector and is still involved fighting illegal prostitution.

Prostitution-related Issues

The Issue of Harm

Whether regulated or not, prostitution activities can be a source of harm. This begs the question, why do women get involved in prostitution? How much of the trade is free and how much forced?

Forced prostitution

Forced prostitution is linked to clandestine migration of human beings either by smuggling (illegal transportation of migrants) or by trafficking (recruiting, transportation and exploitation of human beings, especially women and children, for sexual purposes). Countries around the world are combating human trafficking, Canada included.

The RCMP Human Trafficking Awareness Program reports that human trafficking is perceived as a huge issue but there is little documented information, reliable police data or evidence collected to give a clear picture of the Canadian situation.

Measuring prostitution

Clandestine migration, illegal prostitution and organized crime activities are hardly accessible to police. There are no valid or current statistics on the scale of these businesses. Many authors rely on estimates. In the Netherlands legal sex work is not documented because it is now a normal occupation. Illegal prostitution is as difficult to measure in the Netherlands as well as anywhere in the world.

Legal Options

There are two options :

- Maintain the status quo or criminalize prostitution
- Decriminalize or legalize prostitution in criminal law

Criminalization and status quo

One of the only country to criminalize prostitution recently is Sweden. The 1999 Swedish legislation defines prostitution as a serious social problem of violence of men against women. The law punishes buying of sexual services, not the sex workers themselves, who were given financial and social support to quit. Pimping, brothels and sex shows are illegal.

Similar but not the same is the status quo in force in such countries as the United States, Canada and the United Kingdom. In these countries, criminalization is directed at those who recruit prostitutes, customers who abuse prostitutes, underage prostitutes and those forced into prostitution. This is accomplished with penalties, stepped-up law enforcement and vigorous police patrols.

Positive Effects

In Sweden: Within five years, the visibility of prostitution was dramatically reduced.

- street prostitution was reduced by two-thirds
- clients (the primary target of criminalization) reduced by 80%
- virtually no foreign women were being trafficked into the country for use as prostitutes
- 60% of sex workers left prostitution permanently

Negative Effects

Criminalization forces both workers and customers to choose less visible ways of making contact, therefore criminalization may just push sex workers underground.

In Sweden: Sex workers moved to apartment brothels, porn clubs, massage parlours and escort agencies; prices on the street dropped.

- workers were more frequently exposed to dangerous clients and disease
- police harassment increased on prostitutes
- clients no longer provided tip-offs about pimps because of the fear of being arrested
- workers robbed or blackmailed clients who were then afraid to report to the police

In Canada: Laws against prostitution are rarely enforced as long as it is off the street (which accounts for 80% of activity). Owners of the sex industry (massage parlours, escort agencies, nude dancers, etc.) pay municipalities licence fees to conduct business, virtually creating a licensed off-street prostitution trade.

Women sex workers are disproportionately punished by law enforcement practices:

- they get sentenced to prison more often and get longer prison sentences than men
- they do not get probation as often as men and, if they do, the probation is usually twice as long
- they are not offered diversion programs such as “john school” nearly as often as men

Legalization and decriminalization

Legalization and decriminalization means removing prostitution-related activities from criminal law. The objective is to ensure that prostitution activities do not interfere with or disrupt public life while attention is being paid to public health concerns and the safety of sex workers.

Prostitution becomes a legitimate independent business for consenting sex workers of legal age, who operate freely as entrepreneurs within clear regulations and under licence.

Legalization may apply nationally as in Denmark or within restricted areas (“red light districts”) such as Amsterdam in the Netherlands. In a decriminalized environment, the criminal laws will respond to all types of violence, of exploitation, of abuse of minors. Sex workers may require licences or, as in New South Wales, Australia, not require a licence. Forced prostitution by violence and coercion is always forbidden and penalized.

Positive Effects

Legalization and decriminalization helps protect the health of vulnerable women and men by giving them access to health services and to occupational safety programs.

- greatly decreases sexual procurement of under-age workers and discourages male sexual exploitation
- treats sex workers as any self-employed trade person who pays taxes, thus helping remove the negative stigma attached to sex work

Negative Effects

Legalization of prostitution fails to alleviate the harms of prostitution to workers. It may create a culture of prostitution and increase the number of sex workers.

- sex workers do not stay in identified zones; some do not register because they are under age, use drugs or are illegal immigrants
- police make few checks on brothels and medical check-ups are ineffective
- pimping, organized crime and connections with illegal drugs persist

Impact on the Police

In Sweden: Criminalization of prostitution did not come cheap:

- police technical undercover work cost \$1 million the first year
- three years later \$4.1 million was spent to combat prostitution, human trafficking and

- violence against women
- police and prosecutors required extensive (and expensive) training from the top ranks down
- although street prostitution decreased, there was very limited effect on the indoor market (two-thirds of prostitution takes place indoors).
- police couldn't prove there had been a statistical reduction in other crimes associated with prostitution

Where prostitution is legalized, illegal prostitution and related illegal activities will continue (theft, drugs).

- police must continue their regular enforcement and also take on new tasks related to regulation and risk reduction
- local police and health services must work collaboratively with sex workers to minimize the harm attached to prostitution
- funds are required to prepare police to work within the new framework and also to develop effective strategies for addressing continued illegal/forced prostitution, trafficking of human beings, etc.

Conclusion

- Documented studies show that it is difficult to measure the effectiveness of legislation in fighting prostitution activities because so many variables are at play at the same time (law enforcement capacity, priorities, location, funding, etc).
- Where prostitution is legalized, tolerance zones and brothels create a safe known environment for sex workers. It also means that the community and the police know where prostitution activities take place.
- Legalization of prostitution does not eliminate illegal activities related to prostitution.
- Criminalization of prostitution implies more focus and aggressive police action against the buyers of sex or the sellers of sex.

- The police need funds when new legislation is adopted to sensitize and train officers to the new reality, either to work in a legalized set up or to focus on enforcing the law against the demand.

Notes of caution:

The described foreign experiences may not transpose into our Canadian and North American context. For example, in Canada some Aboriginal women may be at a very high risk of violence, may not have an easy access to health care services, or to any support systems in their home communities or in urban centres where they migrate to survive. The sex trade industry may have become their only way to survive despite its threats, risk and isolation. This is certainly an issue to explore and to evaluate.

From a more global perspective, it would be interesting to gather more information on sex workers actually practising in the sex industry in Canada, or at least at the street level, to really identify what issues are at stake from their perspective.

Reports and studies address the organized crime involvement with the sex industry, legalized or not, with human trafficking, and more globally with crimes such as the drug trade, stealing, pimping, etc. There are few official figures or police statistics to back up the strong connection between prostitution and these crimes. This is an issue that needs to be seriously explored now.

Introduction

In November 2004, the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness gave the Subcommittee on Solicitation Laws the mandate to examine prostitution laws in order to improve the safety of sex workers and the community as a whole and to make recommendations to reduce the exploitation and violence to which workers are subjected.

In that regard the Subcommittee¹ solicited studies, briefs, and met with municipal representatives, police forces, community groups and citizens as well as sex workers, and subject matter experts. The RCMP as well as many other witnesses, was invited to appear before the Subcommittee and to submit a brief. More than 300 witnesses (representing victims' groups, violence, academic perspective, religious opinion, law considerations, etc) appeared at private and public hearings before the Subcommittee.

Many issues were discussed by a great number of witnesses, as shown in the debate reports available online. The health and safety of sex workers, the current legal situation in Canada, and experiences with legalization or criminalization from other countries were among the most discussed and documented issues. Their report was released in December 2006 (Canada. Standing Committee on Justice and Human Rights, 2006).

This report highlights some of the challenges faced by the police and shows that, contrary to what could have been expected with the legalization of prostitution, the police remain involved with prostitution by controlling the legal sector, and in law enforcement activity related to the illegal

¹ There have been at least two different committees from two different legislatures looking at prostitution law.

underground sector, which has not disappeared.

The Study

Since the work of the Subcommittee involved discussions around many important issues related to prostitution such as legalization, health and social services to put in place, the community perspective, this study will look at prostitution from the police perspective only. More specifically, the study presents what issues are at stake and the impact available legal options may have on the police.

We investigated legal options available in Canada and abroad, their impact on prostitution activities and, most specifically, on the police. This study answers the following questions:

- Does legalization of prostitution imply absence of police action or does it entail new police activities?
- Would legalization allow police resources to be reallocated to other crimes?
- Does legalization reduce forced prostitution, human trafficking, pimping, organized crime, the use of illegal drugs, etc?

This study is important because from a search of the literature, we noticed that defining the role of the police is difficult as there is little rigorous research on this complex subject. The police perspective in the literature is too often based on traditional, unfounded, not proven and bias opinions of prostitutes and on prostitution.

The Canadian Legal Situation

Prostitution means exchanging sex for money or other things of value (such as meals, housing, or drugs) (Canadian HIV/AIDS Legal Network, 2005a). In Canada, prostitution is not illegal, nor

has it ever been. It is legal to be a prostitute² but not legal to practice the profession anywhere (illegal to communicate for the purpose of prostitution in public places; illegal to operate out of one's own home; illegal to have a third party managing system).

Criminal Code Provisions

- The provisions of the Criminal Code do not prohibit the buying and selling of sex but make only the communication of that transaction an offence (S.213).
- If sexual service is provided from one location only, it becomes a criminal offence under S.210 (bawdy house).
- It is illegal to take or direct a person to a bawdy house (S.211).
- Procuring and living on the avails of prostitution are prohibited under S.212.
- It is not illegal to advertise in magazines and newspapers (call girls, escort services). The telephone can be used to communicate for the purpose of prostitution since calls are not considered to be occurring in a public place.

Provincial and Municipal Laws

Even though the focus of this study is on the Criminal Code provisions, it is worth mentioning that the police may rely upon provincial laws or municipal laws to control prostitution. Provincial highway acts may forbid offering any commodity to the driver or soliciting transportation. Municipalities can adopt by-laws to prohibit soliciting or loitering, for example, through the zoning restrictions for certain types of business, or license permit requirements. Off-street prostitution might also be regulated like it is in Edmonton where an individual needs an escort license to place an ad in a paper (for other details, see Canadian HIV/AIDS Legal Network,

²Generally the term “prostitutes” describes mostly women involved in illegal prostitution activities as described by criminal codes and has a negative social stigma attached to it, whereas “sex worker” is used to describe women and men working in a regulated environment and includes other activities such as stripping, phone sex, pornography, escort services, massage parlors.

2005c).

Before describing the legal options for prostitution activities, it would be helpful to look at some of the issues related to prostitution as described in the literature.

Law Enforcement Regulating Prostitution

Prostitution has been the object of studies with a variety of approaches over the past 25 years in Canada and abroad.

Canadian Studies

At the end of the 1980s the federal Department of Justice sponsored an evaluation of the new section on street prostitution solicitation (Bill C-49) which was a response to this societal problem. A new section made criminal the attempt to communicate with or to stop a person in a public place for the purposes of obtaining the services of prostitutes.

The evaluation tried to answer the following questions:

- Has there been a reduction in the number and visibility of street prostitutes and their customers?
- What have been the law's other effects?
- Have the police and court found the law easier to apply?
- Has the law been applied equally to male and female prostitutes?

Field studies were done in Halifax, Montreal, Toronto, Calgary and Vancouver. Data collected in 1987 came from police arrest reports, Crown files, interviews with police officers, Crown attorneys, defense lawyers, judges, prostitutes, pimps and customers. Results of the studies did not provide definitive answers to the questions because of too many uncontrollable variables,

such as different law enforcement policies in different regions, the difficulty to gather data and to make comparisons among cities, etc. (For more details, see Graves, 1989; Department of Justice, 1989). Lowman (2005), commenting on this evaluation, says rigorous law enforcement, at considerable cost, did not reduce the incidence of street prostitution.

The 1990s were prolific in studies on Canadian prostitution. The Ottawa Task Force on Prostitution conducted a public consultation and published its report in 1992. Public disturbance was at the forefront of the study. The task force recommended more police presence, more law enforcement for clients³ and by-law applications regarding noise, impaired drivers, procuring, rerouting traffic in certain areas, and encouraging people to create a safer neighborhood. The police role or impact was not evaluated in the study.

Another report focuses on street prostitution in Vancouver where 42 prostitutes were murdered between 1985 to 1993. A policing inquiry was set up. There was also a major concern with juvenile prostitution. An ethnographic study examined the street prostitution law enforcement practices of three police services. These were: Vancouver Police Department's Vice intelligence Unit (eight officers); Surrey RCMP's criminal intelligence section (one full time officer); and Victoria Police Department's sex crime unit. Objectives were to find out their practices: identification, taking pictures, charging or not charging prostitutes, juvenile prostitutes, etc. The study shows that the vice squad focused exclusively on street crime. There were a few complaints to police about off-street prostitution, but this was not a great concern to persons making submissions to the Policing Inquiry. The study proposed the development solutions with the people and organizations affected by these issues. (Wilkinson, 1993).

A Federal-Provincial-Territorial Working Group on Prostitution, established in 1992, presented

³Arrested purchasers of sex may be invited to attend "John Schools", an alternative measure to fines or imprisonment, to educate people on the life of street prostitutes: pimps, drug addiction, health risks, etc. (Gibbs Van Brunschot, 2003; Wortley, Fisher, 2002).

its interim report following a national consultation on prostitution in selected jurisdictions in 1995. The focus was on the prevention of youth (under 18 years of age) in prostitution and on violence. The report recommended making it easier to convict pimps, providing a mandatory jail sentence for customers, and increasing penalties for customers. The police position is absent from the interim report. The FPT Working Group published its final report in 1998.

Recommendations focused on soliciting, especially by young persons, suggesting the creation of a new offence of procuring liable to imprisonment of a minimum of five years, and proposed special measures to help young people when they go on trial (Federal-Provincial-Territorial Working Group on Prostitution, 1998). Legalization of prostitution was not an option for the Working Group.

Foreign Studies

An evaluation of a multi-agency project was published by the Home Office in the UK in 2004. The multi-agency project aims at reducing the number of young people and women involved in prostitution in a London borough (Hester, Westmarland, 2004). The rationale was that arrest and increased visibility will deter those involved in prostitution. The main objective of the project was directed at arresting and prosecuting the women involved in prostitution, on police crackdowns, on soliciting and “kerb-crawlers”, traffic management schemes and on the use of closed circuit televisions. The report describes a “revolving door” experience for prostitutes: when arrested for soliciting without providing any kind of support, they have to go back to the street to pay their fines. Traditional enforcement involving police crackdowns did not appear to reduce the disorder or nuisance factor for the local community. Some geographical displacement resulted, but this tended to be temporary and unpredictable. Displacement increased the isolation and vulnerability of sex workers in unknown and unfamiliar areas. Police crackdowns on “kerb-crawlers” similarly tended to reduce activity temporarily (p.53). A more positive outcome was achieved where a non-police community worker/officer conferred with both the local residents and the women involved in prostitution to agree on and reduce activity in more sensitive areas. The report said, “where police enforcement is being implemented, community liaison and

support for women also need to be in place”. It is also said that “community mediation should be encouraged involving community-based rather than police officers”. As far as prosecutions of men was concerned, none of the adults abusing young people within the project areas was charged. This raises questions, said the authors about the willingness and ability of the police and prosecutors to pursue such cases. More training is needed for the police.

A few years earlier, a similar issue was addressed with an innovative arrest referral scheme targeting sex workers in Kings Cross, London. The sex market provided a core of high-spending core buyers for the drug market, and the drug market drew in clients for the sex market (May, Harocopos, Turnbull, 2001:2). The project was tailored specifically to the needs of drug-dependent sex workers. Social workers, support, and information were provided to prostitutes. The preferred solution to prostitution in this case was a welfare approach rather than traditional law enforcement.

A White Paper was issued in July 2004 in England and Wales to prompt a public debate on how to deal with the concerns raised by prostitution (Home Office, 2004). The White Paper was meant to develop a coordinated strategy for prostitution aimed at reducing the associated harms experienced by those involved and by those communities in which they occur. It is one of the most well done and comprehensive reports on prostitution issues and legislation. The role of the police is described as detection, protection and prevention, which are traditional activities. There is no proposal that the police should withdraw from its traditional role while fighting prostitution.

In October of the same year, the Association of Chief Police Officers from the UK published “Policing Prostitution”, its holistic comprehensive policy strategy for prostitution (street and off-street). The strategy aims at reducing prostitution and exploitation of children. It is mainly an operational guideline consolidating law enforcement practices such as traditional police enforcement, intelligence gathering, and sharing and implementing partnerships with agencies and the community to help prostitutes exit prostitution. For the authors of the strategy, alternative solutions from other jurisdictions are, on closer inspection, illusory (Brain et al, 2004:5).

As a response to the White Paper, a strategy was published in January 2006 to challenge the view that street prostitution is inevitable, to reduce street prostitution, to improve safety and quality of communities and workers and reduce sexual exploitation (Home Office, 2006:4). The strategy includes:

- prevention tactics so that individuals will not get involved in prostitution
- responses to communities' demands for a safe environment
- proposed routes out of prostitution
- assurances that those who exploit individuals and commit violent offences will be brought to justice
- plans to tackle off street prostitution in particular for young and trafficked individuals.

The report does not consider or propose legalization of prostitution for the UK context.

From another perspective, there has been evaluation of legislation where prostitution has been legalized. The Attorney-General's Street Prostitution Advisory Group from Victoria (Australia) (2002) conducted a review of street prostitution and the operation of the sex industry in the city of Port Phillip. Street prostitution is illegal there and predominantly conducted by women. The Advisory Group noted that their review of international approaches to street prostitution provided no evidence that a strict law enforcement strategy, emphasizing prohibition, has been effective in reducing street sex activity (p.46). Law enforcement strategies can only be effective when employed as part of a harm minimisation approach they said (p.48). They also concluded that where zones of tolerance have been established, it has been easier for governments to police the street sex industry (p.47). The advisory group recommended the establishment of tolerance areas in Port Phillip. It also recommended the establishment of street sex workers' centres (brothels) to provide secure venues for them, and additional resources for enforcement of illegal prostitution and related offences such as noise, littering from a motor vehicle, etc. A welfare approach was also part of the strategy to help sex workers leave sex work, and it included as well as an educative and communications strategy (support services group, feedback from the community, etc.).

The Queensland Crime and Misconduct Commission conducted an assessment of legislation three years after the parliament legislated the licensed brothel industry in 1999⁴. Sole operators are legal. However the following circumstances are still illegal:

- street prostitution;
- two workers working together (if not established as brothel);
- two workers at a single location;
- a network of people with mobile phones pretending to be sole operators (escort).

According to the report, illegal prostitution has continued despite the increase in policing activities. The Commission listed the following explanations as to why there is still illegal prostitution:

- it is difficult to provide effective law enforcement for an industry that is highly fragmented, decentralized and mobile;
- penalties are ineffective;
- the cost of operating a legal brothel is high (between \$17,000 and \$20,000 per annum for the licence);
- the demand for escort services is considerable (escort services are illegal);
- workers earn less income when working in brothel because they have to pay the booking fees charged by the brothel; also legal brothels require sex workers to pay taxes (Queensland, Crime and Misconduct Commission, 2004: 81).

The conclusion of the Queensland Crime and Misconduct Commission was that an increase in prostitution-related offences since the enactment of the new legislation reflects increased police-enforcement activity, but not necessarily an increase in prostitution activity (Queensland, Crime and Misconduct Commission, 2004: 80).

An evaluation of the Netherlands experience by the Norwegian Ministry of Justice and Police

⁴ Following the new legislation, a prostitution licensing authority was established to regulate prostitution (Queensland Government, 2003).

Affairs (Norway, 2004) shows that an effective and coordinated enforcement of the criminal provisions and the administrative legislation is considered necessary in the fight against involuntary prostitution, prostitution of underage persons, and trafficking in human beings. One major conclusion of the report is the following: “as legalization opens up for freedom of trade, it is not enforcement of the criminal law which is the central issue, but the statutory and administrative controls under the municipal authorities” (p.51).

In summary, studies conducted in Canada or in the UK focused on street prostitution. They show that traditional law enforcement was not a deterrent to decrease street solicitation. The effect of law enforcement strategies appears merely to displace of prostitutes from their usual working areas to unknown zones, which may increase their isolation and vulnerability. They also show, that social services provided to prostitutes to leave prostitution or reduce the harms associated with prostitution are solutions more adapted to their needs than traditional police action against prostitution. They also show that where prostitution activities are legalized, the police still have a responsibility to control the sector and are still involved in fighting illegal prostitution.

Prostitution Related Issues

Why do countries struggle with regulation of prostitution? It is not solely a moral issue. There are many legal and social factors influencing such a decision. Let's examine them.

Violence

Street prostitution but also other forms such as escort service are a source of violence – both psychological and physical (Farley, Kelly, 2000) from clients, pimps, drug pushers, citizens, co-workers even police officers. In the last few years over 140 sex workers have disappeared or been murdered in Canada, especially in Vancouver and Edmonton (Canadian HIV/AIDS Legal Network 2005a:4).

The Issue of Choice

Why do women and, to a lesser extent, men get involved in prostitution? Many authors have examined this question. Prostitution is mainly a female occupation and therefore women have been the focus of research. The literature has paid little attention to male and transgender sex workers, therefore little is known about them.

There is no predictable pattern related to entering or exiting prostitution (Hester, Westmarland, 2004). Some suggest drug use, a history of sexual abuse or violence (Brents, Hausbeck, 2005; May, et al., 2001). However, a former spokesperson for the Foundation Against Trafficking in Women based in the Netherlands stated, “When does anyone make free decisions, especially in the labour market? Why does the question of free choice only apply to prostitution, [and not to whether] a chemical factory worker will earn enough to be over the line of poverty or a cleaning women whose background will never allow her to develop any skills?” (as reported by Otchet, 1998)

Free or Forced Prostitution

One dividing line in the literature is between so-called free and forced prostitution. Forced prostitution is linked to clandestine migration of human beings, either by smuggling, which means illegal transportation of migrants, or by trafficking, which means recruiting, transportation and exploitation of people (Poulin, 2005).

Human trafficking is itself a major issue that supplies not just prostitutes but also agriculture or industrial workers, cleaners and domestics, etc. In Europe, as elsewhere, there is a link between prostitution and trafficking of human beings, especially women and children, for sexual purposes. This is a major problem that needs to be dealt with legally (Skilbrei, 2004). In April 2000, the Netherlands created a National Rapporteur on Trafficking in Human Beings, who reports annually on known victims, enforcement of prostitution and public prosecution, as well

as on international developments. Sweden also has National Rapporteur on Human Trafficking.

Canada ratified the United Nations Convention Against Transnational Organized Crime, as well as two supplementary protocols, the United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air, and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. These address human trafficking and human smuggling from an international perspective.

Until Canada passed Bill C-49 in November 2005, there was no criminal law specifically prohibiting trafficking in persons. Bill C-49 specifically makes this a criminal offence. Human trafficking is also dealt with by the 2002 Immigration and Refugee Protection Act, which creates the offence of trafficking. This is supported by other Criminal Code prohibitions against fraudulent documentation, prostitution-related offences, physical harm, abduction and confinement, intimidation, conspiracy and organized crime.

A case law review by the Department of Justice shows that between March 2004 and February 2005, 31 individuals were charged with trafficking-related offences, resulting in 19 convictions. Twelve cases were ongoing at the time of writing the report (Barnett, 2006: 15).

The RCMP E Division's Human Trafficking Awareness Program (British Columbia) shows that even though human trafficking is perceived as a huge issue, there still isn't enough documented information, reliable police data or evidence collected to give a clear picture of the Canadian situation. According to one RCMP human trafficking awareness coordinator, Canada's human trafficking situation is a mystery. It is not known, for example:

- how many individuals are involved?
- how big the problem is?
- how to document the situation?
- where traffickers and their victims come from?
- what occupations they are targeted for?

Small steps are being taken to fill our knowledge gaps. The 2000 Status of Women Canada study on trafficking of women (McDonald et. al, 2000), examined why women from the former Soviet Union were trafficked in Canada and what their life as involuntary sex workers was like. It demonstrated how their illegal status gave these women no other option but to continue working in the sex industry because they need money to survive.

Canada's justice system is also working to close the knowledge gap. The RCMP in E Division in collaboration with the Human Trafficking National Coordination Center in Ottawa, Canada Border Services Agency, Citizenship and Immigration Canada and the Department of Justice have produced a training video to help uniform officers deal effectively with human trafficking and contribute to our knowledge base. It addresses how to identify and document human trafficking incidents that occur within their jurisdiction.

Project KARE, a RCMP initiative that includes full partnership between the RCMP, the Edmonton Police Service, Criminal Intelligence Service Alberta and the Alberta Solicitor's and Alberta Attorney Generals Departments with long term secondments from several other Alberta police agencies including the Blood Tribal Police, Lacombe Police Service, Lethbridge Police Department, Camrose Police Service – is picking up from the High-Risk Missing Persons Project and supporting the investigation of deaths of high-risk victims in the Edmonton area. Project KARE is recording names, photographs, and DNA profiles of those working on the streets as part of the support plan for prostitutes and the agencies that work with them. The KARE web site (<http://www.kare.ca>) is a collaborative project offering the public and police a forum for addressing unsolved homicides. This initiative is an example of how police, social agencies and sex workers could work together in a possible threatening environment.

Measuring Prostitution

One major methodological challenge with clandestine migration, illegal prostitution and

organized crime activities is they are not documented through regular statistical studies. There are no current statistics on the scale of these businesses. Many authors rely on estimates, often given by activist groups. In many cases, the scale of the illegal industry is based on newspaper articles or information from activist groups' web sites. This creates a dubious circle of evidence in which references cited in articles are based on the same estimates in other articles.

The number of sex workers migrating to the Netherlands is often used as the example of sex work exploding in response to legalization. It is claimed that sex workers are coming from other European countries or beyond, legally or illegally, to supply manpower for the Netherlands sex industry (Real Women of Canada, 2001, 2005). However, this is a difficult point to prove. Legal sex work is not documented because it is a normal occupation in the Netherlands; and illegal prostitution is as unmeasurable in the Netherlands as anywhere in the world.

The Control of Prostitution

In recent years a number of countries have been reviewing their approach and legislation. In some cases, they have concluded that a greater acceptance of the existence of sex business is justified in order to minimize the stigmatization associated with prostitution and introduce greater controls over the health and safety of those involved and of the wider public. In other cases, advocates would rather support a tougher law enforcement strategy to curb prostitution. These options stand in opposition rather than in harmony. Here are the legal options currently available.

Legal Options

Essentially two options emerge : the criminalization of prostitution and the status quo and the decriminalization and legalization of references to crimes in criminal laws. There is often confusion in the terminology used in the literature because of specification from different

jurisdictions in the world⁵. We will examine each option and how they impact on the police role.

Criminalization⁶

Definition

One current and recent instance of criminalization of prostitution in the world took place in Sweden. In 1999, the Swedish adopted legislation to define prostitution as a serious social problem of violence of men against women. The objective is to stop making criminals out of prostitutes and instead to target the men who abuse them (Carvel, 2005). The legislation does not criminalize sex workers, but rather the purchase of sexual services. Pimping, brothels and sex shows are illegal. The aim is to reduce the number of people involved in the industry and encourage sex workers to retrain in another field of work. The main argument is the following: “...even if prostitution in itself is not a desirable social activity, it is not reasonable to prosecute the party that, at least in most cases, is the weaker party, exploited by others to satisfy their sexual drive....also prostitutes are to be encouraged to get help to leave prostitution”.

A similar line of thought is from Real Women of Canada (2005:10) who recommended to prohibit prostitution itself, and the activities surrounding it, meaning to criminalize the buying and selling of sex, which are not prohibited by the CC provisions. They also recommended increasing penalties for those sexually exploiting children and to make S.213 (solicitation) a summary or indictable offense that would allow police to fingerprint and photograph offenders.

Positive Effects

- an observable decrease in the number of women overtly involved in prostitution

⁵For more details see Appendix A

⁶This information was retrieved from reports and articles on the topic.

(Kilvington, Day, Ward, 2001).

- in five years Sweden has dramatically reduced the number of its women in prostitution
 - street prostitution has been reduced by two thirds
 - clients reduced by 80 per cent
 - the number of foreign women being trafficked is virtually nil (De Santis, 2005).
- between 2001-2004, 60 per cent of sex workers have left prostitution permanently (new funds helped develop a program for prostitutes to leave prostitution (Ekberg, 2004:1204).

Negative Effects

- the legislation may have diverted Swedes to neighboring countries (Kilvington, Day, Ward, 2001:85)
- the local industry becomes more dominated by migrants who avoid contact with police, health and social workers (Kilvington, Day, Ward, 2001).
- workers and customers choose less visible ways of making contact, therefore it may have forced sex work to go underground
- negative effects on sex workers are⁷:
 - prices on the street have gone down and the fear of violence has increased (Norway, 2004: 49)
 - workers are more frequently exposed to dangerous clients while the serious clients are afraid of being arrested (Norway, 2004: 19)
 - workers have less time to assess the client
 - there are many clients with peculiar tastes
 - they are exposed to violence and sexually transmitted diseases
 - harassment by the police has increased; clients no longer provide tip-offs about pimps because of the fear of being arrested
 - demands for unprotected sex

⁷ The report from Canadian HIV/AIDS Legal Network (2005a:13) arrived at similar conclusion for the Canadian situation.

- new crime appeared: workers rob the clients who don't report to the police (Norway, 2004: 20); or prostitutes threaten to report clients
 - statistically the police could not prove that there had been a reduction in other crime associated with prostitution (Norway, 2004: 22).
- targets of the legislation were men buying from the street; now sex workers operate out of apartment brothels, porn club, massage parlors, escort agencies (Ekberg, 2004:1193)
- Legislation required extensive funds for police enforcement (\$1 million in the first year for technical undercover work) and three years later \$4.1 million was spent to combat prostitution and trafficking. These have become a major responsibility as well as a focus of violence against women (Ekberg, 2004:1193; Sweden, Ministry of Labor, 1999: 2,5 6; Norway, 2004).
- enforcement has been focused on street prostitution (Norway, 2004: 50) - enforcement was difficult because of unclear wording of legal texts
- enforcement in the indoor market has a very limited effect, as two thirds of the prostitution takes place indoors
- the legislation has caused the expenditure of extensive funds to develop and give training to the police at all ranks and to prosecutors to change their attitudes and focus on the new philosophy of the legislation (De Santis, 2005).

A similar version of the criminalization model is : Status quo.

Maintaining status quo or prohibiting prostitution fall into the same category because essentially the argument is that prostitution and related activities are a threat to communities and must be prohibited. There is demand to prohibit prostitution itself (for example to make it a summary or indictable offences that would allow police to fingerprint and photograph offenders) and the activities surrounding it either by an increase of law enforcement, or increase of penalties for clients of under age workers or, those who recruit, etc.

The main argument is to stop prostitution and to stop customers from buying services. The

criminalization of activities is expected such as for those who recruit, customers who abuse prostitutes, under age prostitutes, forcing people into prostitution (Carvel, 2005; Matte, 2005). It is also about stopping the drug market and the use of drugs by prostitutes. Increased penalties, increased law enforcement, and increased police patrols are seen as the main tools to control and remove prostitution from the public eye (Real Women of Canada, 2005).

Negative effects

- Even though the avowed aim of laws and policies was to criminalize profiteers, agents and managers on the model of those profiting from slavery, it was and is often the workers, and particularly women, who suffer (Kilvington, Day, Ward, 2001:79)

Arguments to maintain the status quo are about moral issues whereas arguments to support legalization are often in reaction against the status quo and are based on health and safety issues for the workers as will be discussed.

Legalization and Decriminalization of Prostitution

Definition

Legalization and decriminalization means removing prostitution related activities as crimes from the criminal law. The aim of the legislative action is to make sure that prostitution activities do not interfere with or disrupt public life while attention is being paid to public health concerns and the safety of sex workers. Prostitution becomes a legitimate independent business for legal age and consenting sex workers who operate freely as entrepreneurs if they respect the rules.

Legalized, controlled prostitution is synonymous for regulation. It may take place in restricted areas regulated by licensing municipal by-laws (red light district) (ex. Amsterdam, Victoria (Australia), Nevada (USA), Holland, Denmark, Brussels and Antwerp (Belgium)). In a

decriminalized environment prostitution offences are removed from the criminal law. The criminal laws will respond to all types of violence, of exploitation, of abuse of minors. Involuntary prostitution through violence and coercion are always forbidden and penalized (Anonymous, 2005a; Bindel, Kelly, 2003; Maxim Institute, 2003; New Zealand, 2005; 2003a, 2003b).

- Sex establishments and/or sex workers register to obtain a license. However, in some jurisdictions, individual workers do not require licences (e.g. South Whales, Australia, the Netherlands). In New Zealand, street prostitution is decriminalized.
- Conditions of licenses⁸ specify:
 - the cost of obtaining a licence
 - permitted age for sex workers
 - hours and locations
 - minimum wage and requirements for local residence
 - public health requirements such as mandatory visits to a medical doctor, mandatory use of condoms,
 - registration of sex workers for tax purposes only
 - the requirement to rent premises to carry on business
- Sex workers are covered for health and safety, medical and rehabilitation costs (New Zealand, Denmark) or accident compensation (New Zealand), have access to unemployment benefits (Denmark, the Netherlands) and pay income tax (Denmark, Nevada, Germany, the Netherlands). In Germany, health check-ups are required but workers have no access to health insurance (New Internationalist, 1994).
- Even though they are described as workers, in some jurisdictions they are not allowed

⁸ Not all conditions apply in all jurisdictions.

health insurance or unemployment benefits or retirement benefits (Nevada) or are not covered by insurance if they become pregnant in the course of employment (New Zealand).

Positive Effects

- This approach helps protect the health of vulnerable women and men (Kilvington, Day, Ward, 2001).
- They have access to health services for checks for sexually transmitted diseases, information on the mandatory use of condoms, and on HIV
- They have access to occupational safety programs. The health and safety of sex workers has improved through access to these services.
- It prevents sexual procurement of under age workers
- It stops male sexual exploitation
- They pay taxes
- By allowing prostitution in certain designated areas it provides a clean and safe working environment⁹. They can receive peer support and on-the-job training, sex practices are easier to monitor, panic buttons are provided in rooms, they can expect protection from physical attack, and law enforcement back-up in case of trouble)
- There is no evidence of pimps involved in the brothel industry (Brents, Hausbeck, 2005; Carvel, 2005; Farley, Kelly, 2000; Todd, 1997).
- To treat sex workers as any self-employed trade person is in itself seen as a major change in their social status. It removes the negative stigma attached to sex work (Norway,

⁹ Legalized brothels have been established in Victoria. In Nevada 28 legal brothels do not operate in towns' streets or even in towns. Most are on major truck routes or at the end of dirt roads (Anonymous, 2005a, 2005b). Germany has Eros Centers, a closed area serving as a kind of supermarket for pornographic items, where workers and clients meet (Brisbane Institute, 2002; Sommer 2000; New Internationalist, 1994). Amsterdam has made the red light district part of its official tourist attractions.

2004).

- The legislation enables the normalization of some forms of sex work (Kilvington, Day, Ward, 2001).

Negative Effects

As said by some advocates of the anti-legalization perspective, the negative effects of prostitution are not eliminated. It is rather difficult to see whether their information is based on studies or on any other literature. They say:

- All forms of prostitution boomed in Victoria, New South Wales and Sweden (30 years ago) (Real Women of Canada, 2001, 2005). Unregulated prostitution is increasing faster than legalized prostitution. In Victoria, it is estimated that there are four times as many illegal brothels as legal ones (Jeffreys, 2005:7). In New Zealand, a year after the new act came into force, 2003), there were still many street prostitutes who could not be restricted under the act (Decriminalize Prostitution Now Coalition, 2000-2005).
- Sex workers do not stay in identified zones;
- Some sex workers do not wish to register because they are not eligible (they are under age, use drugs, or are illegal immigrants) (Kilvington, Day, Ward, 2001);
- Police made few checks on brothels;
- Organized crime controls the entire industry and the drug market has increased;
- Outside the brothel, sex workers are treated like cattle;
- Medical check-ups are not effective;
- Red light districts increase the usage of prostitution;
- Pimps continue to operate;
- The legalization of prostitution fails to alleviate the harm of prostitution to workers. It creates a culture of prostitution (Jeffreys, 2005).

Discussion of Prostitution-Related Issues

Decriminalization and legalization and criminalization and status quo have fundamentally different objectives, different approaches and produce different results.

Decriminalization and legalization seeks to improve the quality of life for sex workers through control of the work environment and practices. From this perspective, prostitution is part of society and will never disappear.

Legalization implies regulation of prostitution through establishment of official brothels and/or tolerance zones for sex workers. It may impose registration on legal sex workers as self-employed entrepreneurs. However, this option will not eliminate illegal prostitution or street prostitution, even when this is forbidden. Decriminalization removes all references to prostitution in the criminal code. The control of violence, threat, underage sex workers is left to the criminal laws.

Prostitution is defined as work. Legalizing prostitution proposes to protect women from violence and unsafe working environments by:

- protecting sex workers from pimps
- protecting neighbourhoods from nuisance caused by street prostitution
- preventing sexual procurement of under age workers
- establishing profitable self-employment
- providing regular working conditions

Criminalization and status quo seeks to eradicate prostitution and abusive power relationships by prohibiting sex work. It depends on the traditional police activities of detection, protection and prevention. Morality or vice squad units use such enforcement strategies as sweeps, blitzes, stings and use of decoys.

Law enforcement focuses on street prostitution to decrease the frequency and visibility of prostitution. However, it is estimated that only 20 per cent of prostitution in Canada happens in the street; most is behind closed doors. As reflected in the low rate of arrests (0.21% of total criminal code offences including traffic reported to police in 2005), these methods are either ineffective or merely reactive. Many more prostitutes are charged than are customers; doing so is less time consuming and labour intensive.

Five out of six Canadian and British studies of street prostitution showed that traditional law enforcement does not deter or decrease street solicitation. At most, police efforts displace prostitutes from their usual working areas to unknown zones, which may increase their isolation and vulnerability. Studies also demonstrate that providing social services to help prostitutes leave sex work or reduce the harms associated with prostitution work better than traditional police action.

Generally, there is an informal dividing line between street and off-street prostitution in debates surrounding prostitution. Street work is associated with noise, public disturbance and unsafe neighbourhoods. Off-street prostitution, including nude dancers, massage parlours and escort agencies controlled by state or municipal by-laws, attracts much less law enforcement attention. Solutions are either to prohibit street solicitation (as in Canada and the UK), prohibit buying prostitutes' services (Sweden) or to regulate it (as in Denmark and New Zealand).

The Impact of the Options on the Police Role

Much is known about prostitution and street prostitution but less about the impact the models have on the police, on the work, strategies and practice of the police, because it has not been evaluated in Canada. There have been very few studies from countries where it has been legalized as shown previously.

The role of the police is described as detection, protection, and prevention, which are traditional

activities. But it also includes revising traditional law enforcement strategies and adapting to the new reality introduced by the legislation. In fact where prostitution is legalized, the police have to adapt to the new situation in terms of law enforcement activity, new roles, new funds and new structure. This will now be discussed.

Criminalization and Status quo

A common way of handling prostitution by the police is mainly reactive and is directed at removing prostitutes from view in cities. Prostitution is operationally under the responsibility of morality or vice squad units. They use different enforcement strategies to deal with street prostitution, such as sweeps, blitzes, stings, or decoys.

In general, enforcement in Sweden is made difficult because:

- local industry has become more dominated by migrants who avoid contact with police, health and social workers (Kilvington, Day, Ward, 2001).
- the focus is on street prostitution (Norway, 2004: 50) but it is complicated by unclear wording of legal texts
- there is very limited effect on the indoor market (two-thirds of prostitution takes place indoors)
- police cannot prove that there has been a statistical reduction in other crimes associated with prostitution (Norway, 2004: 22)

The number of prostitution offences in Canada is relatively low. Police statistics provide the only official documentation on prostitution available in Canada. As shown previously, in 2005, prostitution represented 0.21% of total criminal code offences reported to police (Canadian Centre for Justice Statistics, 2005). Reactive policing seems to be inefficient in curbing street prostitution (Skilbrei, 2004), which accounts for approximately 20% of prostitution activities (Canadian HIV/AIDS Legal Network (2005b).

Laws against prostitution are rarely enforced as long as it is off the street (Lowman, 2005). The second “tier” of the prostitution trade, as Lowman described it (2005:13), is the licensed off-street trade, where owners of the sex industry (massage parlours, escort agencies, nude dancers, etc.) pay municipalities licence fees to conduct business.

The police rely upon Criminal Code provisions and on provincial and municipal laws to control prostitution. Off-street prostitution can be regulated by implementing municipal by-laws (Canadian HIV/AIDS Legal Network, 2005c). Prostitutes are disproportionately charged with offences because charging customers is deemed more time consuming and labour-intensive (McElroy, 2005). A Canadian HIV/AIDS Legal Network (2005a:12) study of 30 years of police information gathered by Statistics Canada shows that women are disproportionately punished by law enforcement practices:

- they get sentenced to prison more often
- they get longer prison sentences than men
- they do not get probation as often as men
- if they do get probation, it is usually twice as long
- they are not offered diversion programs such as “john school” nearly as often as men

New Roles

Whether in Sweden, in the Netherlands and even Victoria change has been slow in coming and hard won (Attorney-General’s Street Prostitution Advisory Group, Victoria, 2002). In Sweden, in the first couple of years, nothing much has happened because “law enforcement wasn’t doing its part”. The police needed in-depth training and orientation to what the Swedish public and legislature already understood (De Santis, 2005:2).

New funds

New funds were required to develop training to sensitize the police and prosecutors to the new

philosophy engendered by the legislation in Sweden.

New structure

One of Sweden's priorities is to target the demand rather than the offer. However this does not appear to have affected any existing structures.

Legalization and Decriminalization

Where prostitution is legalized, illegal activities still exist. Therefore the police must maintain their traditional law enforcement activity and also take on new tasks related to regulation and risk reduction (for a detailed case study see LeBeuf, 2006). What is not clear is how important this activity is and how many police officers or units are really involved. In Queensland for example, despite state legislation permitting brothels to operate since 2000, "it is no state secret that illegal commercial sex is thriving," (Brisbane Institute, 2002:1). In Victoria, estimates from the police and the legal brothel industry put the number of illegal brothels at 400, four times more the legal ones..."(Jeffreys, 2005).

Where prostitution was previously regulated and is completely decriminalized, as in New Zealand, a possible consequence is the loss of data accumulated under old legislation, should records of registered sex workers be destroyed (Anonymous, 2004).

New roles for the police

- The police are still involved in fighting illegal prostitution. This requires revising traditional law enforcement strategies to adapt to the new reality set up by the legislation
- The police are now involved in planning and regulating administration of legal sex work. They may be asked where brothels should be established, what opening hours should be, etc. This includes working with owners and employees. They are expected to provide

advice and guidance to brothel owners and employees during their checks. It requires funding for training and monitoring.

- Police must work in partnership with health and social agencies, sex workers' representatives, activist groups, labour inspectors and municipalities within the new legalized environment to minimize the harm attached to illegal prostitution. This work is new and complex for police; it takes time to prove its impact and efficiency.

The Netherlands experience demonstrates that

- greater openness and dialogue has been created between the parties
- legislation has made it easier for the police to obtain information and to establish contacts within the prostitution business
- the police have established confidence with sex workers, clients, brothels owners and other authorities
- it is still difficult to collect information from the illegal part of prostitution business (Norway, 2004:39).

New Funds

New responsibilities require new training. Funds are required to prepare police to work within the new framework and also to develop effective strategies for addressing continued illegal/forced prostitution, trafficking of human beings, etc.

New Structure

Some countries that legalized prostitution establish a regulatory body, such as the licensing authority in Queensland; in which police are an active partner.

Summary

Legalization of prostitution involved at the same time to maintain traditional law enforcement capacity against illegal prostitution and registered prostitution (through vice crime units or general duty work), to develop new roles regarding planning and regulation of legal prostitution and require funding to face the new legislative reality by developing training and monitoring.

Studies showed that in a **criminalized environment** traditional strategies do not seem to attain their goal. The Swedish experience teaches us that training and orientation in new approaches required by the legislation must be developed for police and prosecutors. This required additional funding. The effectiveness of the legislation was also inhibited by the lack of a new law enforcement capacity to target demand, not just supply.

In a **legalized environment**, the police may develop new roles, depending on the degree of regulation and support for prostitutes. Funds are required to train police officers to work effectively on both legal prostitution and illegal/forced prostitution, trafficking, etc.

As we notice, the work is complex, rather new for the police and requires time to show its impact and its efficiency. Police learn to work in partnership with social agencies, sex workers group of activist, etc. It remains to see in the future how these partnership will impact on police since there is no document available yet on this subject.

Whatever path is chosen, there remains the challenge of illegal activities such as pimping or procuring, recruiting for the purposes of prostitution, forced prostitution, underage prostitution and prostitution of foreigners.

Impact on the Police

Legalized/Decriminalized Prostitution

- Law enforcement: detection, protection, prevention of on street prostitution, and /or zones of tolerance, brothels
- illegal prostitution continues
- new role:
 - giving opinions (where to establish brothel, business hours)
 - providing guidance and advice to brothel owners and employees
 - working with social agencies, labor inspectors, municipalities
- Active participation in regulatory bodies

Prohibited Prostitution

- Law enforcement: detection/reaction (sweeps, stings, etc) mostly on street prostitution; focus mostly on women
- new role:
 - Sweden: focus switches to purchasers; training is needed

Conclusion

Studies document that it is difficult to measure the effectiveness of legislated change because there are so many variables at play (law enforcement capacity, priorities, location, funding, etc). Criminalizing and decriminalizing prostitution each have advantages and disadvantages.

The legalization/decriminalization perspective: Prostitution will never disappear. It is better to exercise control over it through what appear to be the most effective means possible.

Proponents of this option focus on the advantages for sex workers working within legal standards. Tolerance zones and brothels create a safe known environment for sex workers. The community and the police know where prostitution takes place.

The impact of a legalized environment for sex workers

- access to a safe location
- protection and monitoring by police
- legally equivalent to any other worker
- decreased social stigma attached to prostitution
- acknowledgement that illegal forms of prostitution and related activities should be reported to the police

When prostitution is legalized, police participate with other agencies in the administrative structure developed to regulate the occupation. They develop strategies to enforce the regulations and work in collaboration with sex workers and social agencies, while at the same time improving traditional law enforcement of illegal prostitution. It is acknowledged that legalization of prostitution does not eliminate illegal prostitution. There will always be those who do not want

to follow the rules.

From a criminalization perspective: Prostitution should be obliterated. Its negative effects on prostitutes and communities are best addressed by targeting either or both of supply or demand. When prostitution is criminalized, vice squads and police forces focus mainly on visible sex workers (street prostitution). There is usually no reference to how many officers are working on these units. To be effective, police need a sufficient number of officers in specialized vice crime or sex crime units to be able to work prostitution either from a legal perspective or to fight illegal crimes linked to the prostitution industry.

Few studies, if any, looked at the cost of enforcing laws against illegal prostitution. However, it has been shown that where police action is the only strategy, disorder is not reduced or reduction is only temporary. Most often, such action displaces sex workers to new areas. Forcing prostitution from public view can increase the risk of violence and abuse of sex workers and makes them less accessible to both police and social agencies. Overall, social agencies seem better equipped to help and work with sex workers.

Even in cases such as Sweden, where those selling sex are not subject to the criminal law, police are still involved with investigating and apprehending the clients of prostitution. They must do so not only in the street but anywhere clients can buy sex. Criminalization on the Swedish model demands that police adapt a new perspective and that they understand the context in which workers are offering their services. It is not clear if Swedish police have developed effective strategies for working with non governmental organizations and social agencies.

However the debate concludes, police need funds when a new legislation is adopted to sensitize and train officers to the new reality, either to work in a legalized set-up or to focus on enforcing the law against the demand.

- Finally, few notes of caution:
 - The described foreign experiences may not transpose into our Canadian and North American context. For example, in Canada, as the report from the Standing Committee on Justice and Human Rights said, “in most large Canadian cities, a disproportionately large number of Aboriginal women are involved in street prostitution” (2006:6 chap. Two). Some Aboriginal women may be at a very high risk of violence, may not have an easy access to health care services, or to any support systems in their home communities or in urban centres where they migrate to survive. The sex trade industry may have become their only way to survive despite its threats, risk and isolation. This is certainly an issue to explore and to evaluate.
 - From a more global perspective, it would be interesting to gather information on sex workers actually practising in the sex industry in Canada, or at least at the street level, to really identify what issues are at stake from their perspective.
 - Reports and studies address the organized crime involvement with the sex industry, legalized or not, with human trafficking, and more globally with crimes such as the drug trade, stealing, pimping, etc. There are few official figures or police statistics to back up the strong connection between prostitution and these crimes. This is an issue that needs to be seriously explored now.

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Appendix A

Compendium of Legislation on Prostitution

Countries	Legislation	Law Enforcement
New Zealand	2003, decriminalize prostitution -can work in brothels - operator must hold a certificate - no longer illegal to solicit for sex in public place -licenses for brothel operators - no foreigners allow as sex workers -soliciting not an offence -no people under 18 as sex workers -all adult prostitution and brothels a legal occupation - local councils to decide where brothels can operate - prostitutes cover for health and safety, medical and rehabilitation cost - legal to live off prostitution -clients who refuse to pay could be taken to court -decriminalize street prostitutes	Before, Wellington police collected information about prostitutes but with legislation data....would be stopped and destroyed
Denmark	- prostitution is not illegal -since 1998 whole income can be based on prostitution	-illegal brothels still exist -in 2003 new powers to the police to apply

Countries	Legislation	Law Enforcement
	<ul style="list-style-type: none"> - prostitutes are self-employed; can register as independent workers -not obliged to undergo regular health checks - brothels are illegal - no restrictions on where to work on the streets; - not legal to employ prostitutes or other sex workers -illegal: workers under 18 -prostitutes have to register for tax purposes only -is legal to work in an apartment and legal to rent an apartment to a prostitute - pimping is extremely rare - enjoy the same welfare rights as other residents; -have access to unemployment benefits, education, health care as long as it is not connected to sex work - most of the prostitution is in massage parlors or escort 	<p>wire and photo, room tapping , use electronic devices for investigations</p> <ul style="list-style-type: none"> - no police raids for indoor workers
Sweden	<p>1999: criminalized the purchase of sexual services on the streets, in brothels, massage parlors, escort services, etc) ,</p> <ul style="list-style-type: none"> -decriminalized the selling of sex - pimping, brothels and sex shows are illegal -ample and comprehensive social service funds are provided to help prostitutes to leave the sex trade - additional funds to educate the public - special training funds for prosecutors and the police - in 5 years dramatic reduction of prostitutes - street prostitution reduced by 2/3 	<ul style="list-style-type: none"> - first couple of years law enforcement wasn't doing its part- the police needed in-depth training and orientation - the legislation means increased cost for police enforcement (1 million first year and 3 years later 4,1 million to combat prostitution and trafficking) - police must have a focus on violence against women and on trafficking of women - need to educate the enforcers on the situation

Countries	Legislation	Law Enforcement
	<ul style="list-style-type: none"> -clients reduced by 80% - number of foreign women being trafficked is nil -total number of sex workers is very low: 2500 for the country 	of women`
Nevada	<p>1971: legislation</p> <ul style="list-style-type: none"> -prostitution is legal in licenced brothels only in counties with a population of less than 400,000 - street solicitation is illegal -licensed prostitutes must be at least 21 years old (except in 2 counties, 18 years old) - illegal outside brothels; - illegal to encourage a person to become prostitute -illegal to live off the proceeds of - brothels are not allowed to advertise - in June 2004, 11 counties permit licensed brothels in specified areas or cities -weekly checks for sexually transmitted diseases and monthly for HIV - condoms mandatory for oral sex and sexual intercourse - prostitutes are private (not independent) contractors - they pay taxes - brothels do not operate in towns streets or even in towns. Most are on major truck routes or at the end of dirt roads -sex workers pay rent to the brothel owner 	<ul style="list-style-type: none"> - sex workers are not allowed to receive unemployment, retirement benefits, health benefits - illegal prostitution operates outside of any regulatory or health protection agency
Australia	-1995, brothels and living off proceeds legalized	

Countries	Legislation	Law Enforcement
	-brothels a commercial business with local council	
Queensland	<ul style="list-style-type: none"> -1999 legalized brothels and prostitution -have Licensing Authority- -2 types of sex work: private work, no solicitation and sex work in a licensed brothel -illegal: <ul style="list-style-type: none"> outcall and escort services, unlicensed brothels, street workers, 2 sex workers sharing one premise, - out-calls must apply for a brothel license -licensed brothels confine to industrial areas 	in the 16 months brothels could operate locally, police have closed 63 illegal brothels and charged 202 people with prostitution related offences
Victoria	<ul style="list-style-type: none"> 1994 legalized 6 room brothels -small brothel owner exempt from licensing -private escort must register -escort from brothels not permitted -street work is illegal 	<ul style="list-style-type: none"> -estimates are 400 illegal brothels, four times more than the legal ones - street prostitution: 80% drug users, 85, 90% homeless

Countries	Legislation	Law Enforcement
New South Wales	<ul style="list-style-type: none"> - 1988 decriminalized prostitution illegal: -living off prostitution, -causing prostitution -using premises for prostitution -advertising -soliciting -local authorities handle the location of brothels -Half of the local councils have prepared Local Environment Plans to identify locations where brothels can operate -a brothel task force was established - positive impact on access for workers to health services and occupational health and safety programs 	<ul style="list-style-type: none"> - -street prostitution is still a problem - brothels have more than tripled to more than 500 - estimate 0 000 prostitutes (doubled because fear of prosecution was removed) - under age prostitution has not decreased - more sexual disease noted - location of brothels caused prostitutes to go back downtown
Australian Capital territory	<ul style="list-style-type: none"> - 1992 brothels and escort agencies to register - sole operator can operate and register -no limit on the number of rooms for brothels -street work is illegal 	
Northern Territory	<ul style="list-style-type: none"> -escort agency businesses need license to operate -brothels and street work illegal -sole operators can operate legally but are unregulated 	
Germany	<ul style="list-style-type: none"> -prostitution is legal -municipalities have right to zone off certain areas where prostitution is not allowed - 2002 prostitutes allowed to have social insurance, be on 	regular street prostitution is often quite well organized and controlled by pimps

Countries	Legislation	Law Enforcement
	<p>paid sick leave, receive a pension if hired by brothel or own a company</p> <ul style="list-style-type: none"> - the law does not cover foreigners -employment agencies can advertise and recruit -eros center: women can rent apartments - illegal: <ul style="list-style-type: none"> pimping persons under 18 in brothels, persons under 21 taking up prostitution -street prostitution handled by cities (forbidden in Munich, allowed in Berlin) - monthly prostitution tax for brothel owner -income from prostitution is taxed at a higher rate than other occupation -prostitutes have to charge taxes for their services 	
England and Wales	<ul style="list-style-type: none"> -prostitution is not illegal if workers operate independently without disturbing public order -no public solicitation -no brothels -an offence to loiter or to solicit in street or public places, to advertise prostitution, to run a brothel to recruit persons for prostitution 	<ul style="list-style-type: none"> - traditional strategies to stop street prostitution are not effective
The Netherlands	<ul style="list-style-type: none"> - 2000 lifted of ban on brothels -2001 prostitution is considered a profession - sex workers: be at least 18; clients 16 	<ul style="list-style-type: none"> -some of the working women are still illegal immigrants - street prostitution increased

Countries	Legislation	Law Enforcement
	<ul style="list-style-type: none">-prostitutes are considered bona fide entrepreneurs pay income taxthey are self-employed and rent rooms-advertising is tolerated-women not required to undergo regular health checks- brothels regulated by municipal authorities : numbers, locations and working conditions, security at the workplace- illegal: minor in prostitution or forcing to engage in prostitution and procurement-tolerance zones in majors cities-not compelled to health/HIV test-Condoms are used for all sexual contact-they pay taxes- they are treated like any other self-employed trade personhours of business: on shifts	

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