



## The effects of different legislative approaches to prostitution on trafficking for sexual exploitation

### *Trafficking in women is a gendered phenomenon*

Trafficking in women for sexual exploitation in the sex industry remains the most dominant form of trafficking in Europe today. While women are also trafficked for labour exploitation, in particular for exploitation in domestic work, the most prevailing form of trafficking in women and girls remains for the purpose of sexual exploitation. According to a 2009 UNODC report, globally, women are reported to be victims in approximately 79% of trafficking cases (this includes all types of trafficking).<sup>1</sup> Furthermore, UNODC data shows that in 85% of cases where women were reported to be the victims of trafficking, they were trafficked for sexual exploitation and in 2% of the incidents for forced labour, while 13% of cases included both types of exploitation.<sup>2</sup>

It is important therefore to recognise that trafficking in human beings is a highly gendered phenomenon, and that women and men are being trafficked into different situations. The 'push' and 'pull' factors for trafficking in women into the sex-industry are different from the push and pull factors that fuel trafficking for labour exploitation in, for example, construction work and in the agricultural sector. Among the *push factors* making women vulnerable to trafficking and exploitation are poverty, gender inequalities and violence against women. Among the *pull factors*, there is the demand for trafficked women in the destination countries through the expansion of the sex-industry, mainly prostitution markets and the porn industry.

Both the European Union Directive on trafficking<sup>3</sup> as well as the Council of Europe Convention on Action against Trafficking in Human Beings<sup>4</sup> recognise that demand reduction, albeit in more general terms, should be part of an integrated strategy against trafficking. In terms of trafficking for sexual exploitation, many actors are reluctant to recognise that there is a link to the demand for women in 'prostitution markets' in the destination countries. Without the demand for women in the sex-industry, there would be no business for pimps, and as a result no need for a 'supply' chain. No demand, no supply, no trafficking.

### *The links between trafficking in human beings and prostitution*

According to the Palermo Protocol, trafficking in human beings always involves the recruitment or the transport of a person across continents, countries, regions or cities, with the aim of exploiting her/him or profiting from her/him or her/his 'services' (sexual, labour, slavery, begging, organ, etc.).<sup>5</sup> Therefore, the very

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<sup>1</sup> UNODC, *Global Report on Trafficking in Persons* (2009), p. 11.

<sup>2</sup> Kristiina Kangaspunta, *Mapping the inhuman trade: preliminary findings of the database on trafficking in human beings*, Forum on Crime and Society, vol. 3, Nos. 1 and 2, December 2003.

<sup>3</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

<sup>4</sup> Council of Europe, Convention on preventing and combating violence against women and domestic violence.

<sup>5</sup> United Nations Protocol to Prevent, Suppress and Punish trafficking in Persons, especially Women and Children (2000)



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existence of trafficking is based on the existence of exploitation systems. Without such exploitation system, the offence of trafficking would not be addressed because trafficking would not exist.

Indeed, trafficking exists because exploitation is profitable. According to a 2007 Europol report,<sup>6</sup> the global profits from trafficking were 31,6 billion US dollars, while profits made from victims of sexual exploitation were 27,8 billion US dollars. Trafficking and the exploitation of human beings require minimal financial or other investment and produce a big profit. Victims are recruited through outright violence, but also deceit, emotional/psychological coercion and debt bondage, methods which are low cost or cost-free in terms of money, but also in terms of time. It doesn't take long to recruit women and girls into prostitution, especially those who are young, have a weak social support network, lower levels of education, few employment perspectives, little to no alternatives for survival,<sup>7</sup> a background of physical and/or sexual abuse and/or neglect,<sup>8</sup> and in general belong to marginalised groups in society, e.g. ethnic minority and migrant women.

When addressing trafficking, one must address the root causes of trafficking in order to stop it: sexual exploitation and prostitution, labour exploitation, etc. Trafficking in human beings is a phenomenon which feeds the systems of exploitation; it is the symptom of our tolerance for systems of exploitation, including prostitution, and it exists because exploitation is profitable. Trafficking in women exists due to the tolerance for systems of prostitution all over Europe. This argument can easily be proved through a comparison of the situation in countries which are tackling the systems of prostitution in opposite ways.

### ***Decriminalisation of procuring and increase of trafficking in women: an obvious relationship***

Increasingly, evaluation reports on the models that regulate prostitution show that in those countries where the focus is to curb the demand, trafficking in women for sexual exploitation is less prevalent than in countries that have legalised/institutionalised prostitution as a form of work. There are different strategies to curb the demand in the sex industry, which include targeting the pimps and brothel-owners, raising awareness and changing of attitudes, as well as establishing administrative penalties for buyers or criminalising the purchase of sexual services.

For example, in 1999 Sweden became the first country to criminalise the purchase (and attempted purchase) of sexual services. A 2010 government evaluation of the effects of the law found that the scale of trafficking in Sweden is 'in considered to be substantially smaller in scale than in other comparable countries. According to

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<sup>6</sup> Europol, *Trafficking Human Beings in the European Union: a Europol Perspective* (2007), p. 4

<sup>7</sup> In a 2003, 9-country study, 9 out of 10 women in prostitution interviewed wanted to exit the system of prostitution but felt unable to do so because they have no other options for survival (Farley, M. et al (2003). Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder. *Journal of Trauma Practice*, Vol. 2, No. 3/4, 2003, pp. 33-74.

<sup>8</sup> Large numbers of women in prostitution report having been victims of violence prior to entering prostitution, including sexual, physical and verbal abuse by family members, acquaintances and partners. One study on childhood sexual abuse in adult life showed that people who reported childhood rape compared with people who did not were four times more likely to be working as prostitutes (Ziegler S, et al., (1991). Adult survivors of childhood sexual abuse and subsequent risk of HIV infection. *American Journal of Public Health*, 81(5)).



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the National Criminal Police, it is clear that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers considering establishing themselves in Sweden.<sup>9</sup>

At the same time, government and NGO reports show that in countries where prostitution is regulated (e.g. pimping, brothels are legalized), such as in the Netherlands and Germany, this approach hasn't proved to reduce trafficking and organised crime surrounding the sex industries. According to a 2009 report by the German Federal Police,<sup>10</sup> investigations into cases of sex trafficking have increased by 70% over a 5 year period (2005-2009), therefore demonstrating that the phenomenon is still real and present. Another review found that the majority of the money prostitutes in Germany earn goes to pimps and 'managers'.<sup>11</sup> A federal government evaluation found that the German Prostitution Act has failed 'to reduce crime in the world of prostitution'.<sup>12</sup> In 2008, the National Dutch Police carried out a study<sup>13</sup> on human trafficking in the legalized prostitution sector. The researchers estimated that 50 to 90 percent of women in legalized brothels were 'working involuntarily.' Based on these estimates, the Amsterdam legal brothel sector alone would 'employ' 4,000 victims of human trafficking annually. The report also stated that 'The idea that a clean, normal business sector has emerged is an illusion...'

This analysis demonstrates that the tolerance of the EU and its Member States for the system of prostitution allows for men's use of and control over women's bodies and sexuality, and fuels trafficking in women for sexual exploitation. Considering prostitution as a form of violence against women implies setting a standard of human dignity for all women and girls around the world, and will help to stop trafficking in women for sexual exploitation.

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<sup>9</sup> En utvärdering. Förbud mot köp av sexuell tjänst (SOU 2010:49) (1999-2008). Summary in English: Government Offices of Sweden. Evaluation of the ban on purchase of sexual services (2010), p. 37.

<sup>10</sup> Bundeskriminalamt: Bundeslagebild Menschenhandel 2009.

<sup>11</sup> Emilija Mitrovic, *Working in the sex industry: Report on the findings of a field research "Social change in dealing with prostitution since the new legislation's entry into force on 1.1.2002"*, 2004, p. 3.

<sup>12</sup> Janice Raymond, 'Trafficking, Prostitution and the Sex Industry: The Nordic Legal Model', 21 July 2010.

<sup>13</sup> Korps landelijke politiediensten, *Schone Schijn: De signalering van mensenhandel in de vergunde prostitutiesector* [Keeping Up Appearances: The Signs of Human Trafficking in the Legalized Prostitution Sector], KLPD, Driebergen, 2008, cited in Gunilla S. Ekberg, Kasja Wahlberg, 'The Swedish Approach: A European Union Country Fights Sex Trafficking', *Solutions Journal*, Volume 2: Issue 2: Mar 02, 2011.