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Decriminalization of Prostitution in the United States: A look at whether legalizing prostitution across the United States will actually help lower violence and bring control to the act.

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Abstract

This paper is about prostitution and whether to decriminalize, legalize, or keep it the same as it is today. It looks at the act itself, the violence both physical and verbal that is involved with the act, and possible solutions to prostitution. The goal of this paper is to inform the reader so they can make the best choice.

The idea of decriminalization of prostitution as a possible solution to the prostitution problem in the United States is one of several other solutions. Other solutions including decriminalization, legalization, and keeping it illegal and punishing all those involved in the practice. This paper will describe some of the facts about prostitution and talk about different solutions to the problems of prostitution.

Many people feel that even illegal prostitution does not solve the prostitution problem; it may make it worse, and defiantly does not protect the prostitutions from violence. Many of the people that do not support legalized prostitution find that the legalized industry would just replace today's illegal pimps with tomorrow's legalized pimps. Those that support legalization bring up the fact the legalizing it would bring public scrutiny and regulation to the industry and that would lessen the risk of violence (Bretners, 2005). The definition of prostitution can be different depending on the purpose but the overall general definition is the performance of sexual acts by one or several people to one or several other people in exchange for money or other tangible items (Ferguson, 2004). Some prostitutes in need of drugs or other items may perform their sexual acts for those needed items.

Prostitution can be broken down into two forms. The first form is street prostitution, which generally is under higher public scrutiny. The second form is indoor prostitution, locations like massage parlors, strip joints, or independent prostitutes working discreetly out of their homes are examples. Indoor prostitution is generally more favored by the public than street prostitution because it's not as open and not so in your face or troublesome as street prostitution. A task force in Atlanta recommended that more law enforcement practices be pushed towards street prostitution and allow off street

prostitution to continue unless complaints are received. A Canadian commission found similarly with the Atlanta task force as it suggested going after street prostitution and allowing one or two individual prostitutes to operate out of their homes, and the government should legalize them to place controls on them (Weitzer, 1999).

Many cities already have policies in place that focus more on street prostitution and allow indoor prostitution to occur without much involvement. At the same time however several cities in the United States including Baltimore, Cleveland, and Milwaukee have a quarter to a third of all the arrests from indoor prostitution. Philadelphia has actually changed there system around and instead of focusing on street prostitution they focus on indoor prostitution (Weitzer, 1999). Indoor prostitution investigations or stings take a long time to develop and cost a lot of money to perform. In some cases crackdowns of indoor prostitution cause the number of street walkers to rise as they are forced out of their private locations.

A study of 13 Nevada brothels over 8 years looked at the forms of violence and the ideas of risks, safety, and violence. It lists three types of violence interpersonal violence against sex workers, violence against community order, and a disease or diseases as violence. The Nevada system provides protection from many of these since they restrict locations to smaller counties (Brents, 2005). Prostitutes would feel more protected since they are located indoors and they would be able to contact the police for protection. Finally, prostitutes are protected from diseases by mandatory condom laws and weekly testing for STDs and monthly blood work for HIV.

Peoples that support legalizing or decriminalizing prostitution feel that making it a legitimate profession would help provide more adequate protection to those that are

employed by it. The organization COYOTE, Call Off Your Old and Tired Ethics, has come out in protest of keeping prostitution illegal as a violation of a women's civil rights and their right to choose how to use their body and earn money (Farley, 2004). The primary harm of prostitution is the stigma that is associated with it. Some believe that legalization would legitimize those that work and help some women escape the stigma of the work. Finally it would allow women to seek health care, file a complaint against customers, and allow increased safety and security for all those involved.

Those that do not support legalizing or decriminalizing prostitution feel that allowing prostitution would not make any difference to the vast majority of those that are practicing. Most women that participate in prostitution do not want to be found and many believe they will not go through the legitimate steps to become legalized. Many non-supporters talk about the attempted organization of Germany's \$16.5 billion legal sex industry (Farley, 2004). When several prostitution organizations attempted to unionize those involved many hide away not wanted to participate and become fully legalized prostitutes.

There are four main ideas for possible prostitution policies. The first is legalization or the licensing and regulation of the trade. Second is the abolitionist approach or ideals that punish third parties, the johns and the pimps, not the prostitutes. Third criminalization is similar to what we have today these would be laws against solicitation and punishment for all those involved like prostitutes, johns, and pimps or property owners. The forth and final is decriminalization which makes prostitutes independent business and applies little if any regulation against them (Brents, 2005).

None of these solutions will completely solve the illegal prostitution problem but may help by offering policies of safety or security for prostitutes.

Legalization there would be regulation by the means of licensing, registration, restrictions, medical examinations, and taxation. Unlike decriminalization, legalization has better support at up to 50 percent of the population (Weitzer, 1999). The problem facing legalization is that most people consider it out of their normal range of needs, wants or personal interest, so little or no push is occurring for it. Since Nevada legalized brothels in 1971 no other state has made a major push towards legalization of prostitution in the United States. Another issue that legalization would face is actually getting the prostitutes to comply with new rules and regulations, as many of them would see it as cumbersome and government just trying to get their earnings. Finally the last issue is local officials may not be able to handle controlling yet another service to regulate and keep compliance.

Decriminalization of sex acts and prostitutes that work and customers receive the service with little or no regulation. A group called COYOTE defends decriminalizing prostitution because they define the act as work, not an illegal trade and the prostitutes should be allowed to use their body the way they wish. The major problem facing decriminalization is that in a 1983 survey only 7 percent of the entire population felt that decriminalization would be ok (Weitzer, 1999). Decriminalization also hits issues with that it would allow prostitutes and their customers to engage in sex activities without any real regulations except those that prohibit public nudity and sex. A Commission in San Francisco made of public officials and those representing prostitution looked at the prostitution problem and was to report to the city council on ideas and solutions for the

problem. After months of infighting nothing official was ever reported by the commission.

The major supporters for prostitution also speak of safety. Legalizing sex acts would allow prostitutes to provide safer services and be safer themselves. Some brothels for protection use monitoring equipment to listen in on the price negotiations of the act. Once the price is agreed upon the employee takes the money out to the center desk to separate the money from them. Inside many brothel rooms there are call buttons that can advise that a prostitute needs help. Since the practices are legal a good relationship with local police allows for more protection as they can report any customer that gets out of control. Brothels themselves provide protection by grouping prostitutes together, by brining together new and experienced prostitutes it allows for training to happen and better protection practices to be learned. Many brothels restrict leaving while on duty and to provide services outside a building do to lack of protection. Also even when the employee is off duty there movements are generally restricted and many times brothels have people to go into the community and get the employees the items they would like. Many people fear the prostitutes are being locked into the facility but the majority it was found felt that they can leave at any time (Brents, 2005).

Several organizations have come out especially in the last 20 to 30 years in defense of legalized prostitution. The World Health Organization or WHO defines prostitution “as a dynamic and adaptive process that involves a transaction between seller and buyer of a sexual service” (1089). In 1973 COYOTE spoke out in support for prostitution, agreeing that it is legitimate work. Also in New Zealand an organization called the New Zealand Prostitutes’ Collective (NZPC) has formed a union like

organization for all those peoples involved in sex work. Even political parties have come out in support of legalizing prostitution. The Green Party has supported those in prostitution and sees it as work and labor that is in need of political support (Farley 2004). The list of supporting organizations around the world continues to grow as more and more people begin to think allowing decriminalization or legalization of sex acts as ok. These organizations include Sex Workers Action Coalition, Global Alliance Against Trafficking in Women, Dutch Foundation for Women, CARE International, North American Task Force on Prostitution, Amnesty International and several International Labor Organizations. Though some of these organizations support legalizing prostitution several also support helping those women that want to move past prostitution take the first big step.

A study of prostitutes found that the average age for street prostitutes is about 27 years old. Also about 40 percent of prostitutes studied where in some form of a emotional relationship. Of these women in relationships about 38 percent of their significant others didn't know the women's job. Of those that did many of them wanted them to work more to gain the benefits of more money. They found that around 60 percent of prostitutes have had at least one child. Variations in the number of prostitutes that use or have drug problems ranging from 20 percent all the way to 74 percent have also been found (Ferguson, 2004).

The life and health of women that are participating in prostitution is generally worse than a normal person. Studies have found higher rates of depression, shorter life expectancy, despair, sexually transmitted diseases, eating disorders, back problems, viral illness and infections. The longer the prostitute continues in the profession the worse the

problem can develop. Cervical cancer also shows higher rates in prostitutes, especially when the first sexual contact was at a younger age and the large amount of different partners. Traumatic brain injury occurs often in prostitutes and causes pain and numbness in the body, dizziness, vision problems, memory problems, and may also affect or lead to post traumatic stress disorder (Farley, 2004).

Another question posed is will legalization or decriminalization has any effect on health and safety from prostitutes that practice on the streets, in brothels or in strip clubs. Studies across the world have found that women from all three have been sexually assaulted or have complained or wanted to complain about customers. Many of those that are in strip clubs are discouraged from complaining especially if prostitution is not legal for those at that location. Women do generally report feeling safer in brothels and other more private locations that they control, as opposed to on the street and escort services where the prostitute is generally placed into an unfamiliar location and may have no protection (Farley, 2004).

Working habits vary depending on the needs of the prostitutes and can be affected by if the prostitute has a pimp or a significant other which lives off the money. It is found that the majority of women trying to support a significant other or a drug problem will have more risky working habits than those that do not. These riskier working habits also leave them vulnerable for robbery because they generally hold their entire earnings from the night. The safety aspect of prostituting also affects women as some will take them back to their own homes or apartments if they can for more protection. It was found that 85 percent of prostitutes surveyed said they do not undress for clients, but over 40 percent

will occasionally for clients they know. Most prostitutes average about 6 hours a shift with between 3 to 7 clients (Ferguson, 2004).

Clients are found to be generally middle aged, middle class men, and have a significant other. Generally they found that about a quarter of the men that were soliciting prostitution had past convictions for non violent offenses while around 10 percent had some kind of criminal record or had a sexual offense (Ferguson, 2004). As most people would assume prostitutes would prefer to have a customer they know, but generally they are strangers. Clients found to be violent tended to be high or drunk or the prostitute tended to be high or drunk. Generally the disagreement stems from the customer wanting is money back because of disputed services whether it be the quality or length of the service in question.

Prostitution is an inherently dangerous position similar to other jobs like police officers, fire fighters, or paramedics. The act that they are performing and the way in which they perform it allows for them to be easily taken advantage of. Their willingness to perform acts in dark secluded alleys, or deserted areas makes it hard to be discovered or hear if pleas for help or assistance are needed. Of course once the act is over if the women survive it is hard to report as they are afraid of police and afraid that police won't care since they are just prostitutes and performing illegal acts. It has been shown by actual examples that some serial killers look for prostitutes specifically including ones in the California and New York (Ferguson, 2004).

When looking at the three types of violence the interpersonal violence against prostitute women was identified by early reformers including feminist as male lust that lures innocent women. The policy idea here is that prostitutes are helpless victims but

critics feel it is disempowering to women. Violence against community order goes on the ideas the prostitution in the community affects its image and contributes to the social decay of the community. Violence of disease is the last idea and focuses on the dangers, risks, and fears that develop from having sex with the chance of transmitting or receiving a disease from a customer (Brents, 2005). A study in San Francisco found that out of 200 prostitutes that were surveyed over 65 percent had been victimized by a customer and 70 percent had been raped at some time by a customer (Weitzer, 1999).

Not only are physical abuses causing harm to prostitutes but verbal abuses cause harm that will outlast the physical abuse. Many prostitutes feel that verbal abuses are common and no matter what will not be stopped. These verbal comments may and can lead to short term or long term psychological problems including post traumatic stress disorder. Similar to those that experience from rapes, assaults, or war events that they lived through, anything could possibly set off disorder. An example is given by Melissa Farley when an Okinawan women that prostituted during the Vietnam war has flash backs on the 15th and 30th of every month since that was the pay day for American soldiers during the war (Farley, 2004). Other psychological disorders do arise from prostitution including depression, mood disorders, eating disorders, and issues with intimate relationships with significant others.

Once major question about prostitution is will doing anything ever drop the violence level down to non-existing? Interviews with 40 prostitutes in both urban and rural brothels found that the majority felt safe while practicing in a brothel (Brents, 2005). Though they still admit that they must think like a victim and there will always be a risk whether the act is legal everywhere, in just some locations, or illegal. Many

prostitutes feel that brothels are safer and most customers do not want violence so they come to brothels so they will not encounter violence from other customers or pimps. Safety is normally number one for all prostitutes and brothel owners, because a safe location is better for business.

Violence in legal or illegal prostitution is considered by many to be the same. In the Netherlands, where prostitution is legal, 60 percent of those involved in sex work have been physically assaulted, 70 percent experienced some form of physical threat, 40 percent actually were sexually assaulted. Silbert and Pines reported that 70 percent of women suffered rape and 65 percent have been physically assaulted by a customer. (1095). A study looked at nine countries including Canada, South Africa, and Germany found that 62 percent has experienced rape and 89 percent of those in prostitution wanted to leave the profession but could not due to economic survival. Several countries even have laws that protect customers that become violent. In some South American countries a person convicted of rape receives 1/5 less the sentence if the woman was a prostitute. Women in Germany that practice prostitution do not feel any safer even though the act is legalized. Canadian researchers have found that assaults on prostitutes are generally more violent and involve weapons more than assaults on normal women (Farley, 2004).

Punishments for prostitution generally fall under the attempted act of soliciting but many problems arise from this as the prostitutes get punished more severely than the customers do. Out of the estimated 90,000 arrests made every year for the crime of prostitution only 10 percent of those arrested are male customers. Conviction rates are even lower, 1993 63 percent of all prostitutes charged were convicted whereas only 9 percent of customers that were charged were found guilty of the crime (Brents, 2005).

Also generally prostitutes receive harsher fines and jail sentences than those of what customers receive. The major problem is that prostitutes need this money to survive so sanctions generally do not effect their involvement in the trade, but many customers that are charged do not re-offend due to the stigma and embarrassment. A solution that is beginning to gain support in several United States cities revolves around teaching the johns all the problems that may come from prostitution. This includes the possibility of disease, the pain that prostitutes generally go through and the problems that arise from the practice. Finally the last new and growing punishment is a punishment that takes a vehicle from the john if he is discovered with a prostitute in it. Many cities have begun to do this and then resale the items at government surplus to help offset the costs of other operations and programs (Brents, 2005).

Many people in the world today term prostitution or any sex work as an economic crime. This is true when you look at the porn industry as being one of the largest industries in some areas. Several countries throughout the world actually list prostitution under their national economic activity. For example the Netherlands is one of those nations and the sex industry including prostitution contributes to about 5 percent of that countries economic activity (Farley, 2004). Many countries allow this because many social scientists actually see prostitution as something that no one is ever going to stop.

Sexually transmitted diseases and pregnancy are also concerns for prostitutes as they practice their trade. It was found that many women that enter prostitution do not have a good understanding of pregnancy and how STDs and HIV are transmitted. This causes major problems as if women that are participating in sex work do not understand how it is spread they cannot protect themselves from catching and then spreading the

disease to other persons (Farley, 2004). A major issue that prostitutes encounter is condom use; many customers don't want to not wear them and will pay very high to not have to wear one. Since most women in prostitution are in need to money they will take the large sum of money and assume the gigantic risk to make a few extra dollars. Several organizations have attempted to educate not only prostitutes but the customers that use them to better make them aware of what could and does happen in prostitutes do not use proper protection.

A woman leaving prostitution and the sex act business is not a new idea or process but what is new or at least different is the basis of the system to help assist them out. The problems facing many solutions are they may dismiss the complexities that are involved with sexual and social inequalities and exclusions affecting sex workers. The problem falls with looking at only or focusing mainly on the street sex worker and not looking at the indoor worker. A study looked at 25 women leaving the profession, it found that those that were only involved for a short time tended to be able to leave easier, those that were involved for a long period (O'Neill, 2007).

Homicides involving prostitutes are extremely hard to solve for many reasons, these include DNA evidence which is generally hard to show since they are involved with so many men in one night or in several hours. Low opinion of the victim, credibility of witnesses and unwillingness of prostitutes and police alike to participate in the investigation also affect homicide investigation. Women that are prostituting may be seen more as objects then as people since they are selling their body and their body is seen more a product then a person. Also the high arousal state that most people are in before or

after they are with prostitution may cause emotional behavior that they cannot fully control or understand to act instead of what a normal person would do (Ferguson, 2004).

A study of prostitute homicide victims found that about 67 percent of the time the prostitute had a child or was pregnant at the time of death also 67 percent of the time they were in a relationship. It is believed that many of the women that had to support a child or where in a relationship would take higher risks to make money for their children or were pushed into working longer by there significant other. It was also found that 31 percent of all those that were murdered took the customer home with them and about 94 percent of prostitutes were involved in some form of drug or alcohol abuse. Finally it was found that 22 percent of the women murdered had only worked in the area they were killed for less then 12 months and 26 percent of women that were murdered were under control or direction of a pimp. Offenders that killed were found to be between 19 and 54 years old (Ferguson, 2004). Offenders tend to be more aggressive and violent because the majority of the time they have a prior conviction and they tended to be a stranger to the prostitute.

Prostitutes there were killed had about a 52 percent chance of having property stolen, 42 percent chance of being found naked, 14 percent chance of being assaulted with a weapon, and a 4 percent chance to be set on fire. Compared to other nonsexual homicides they have higher rates of all the above, almost double, that of a normal homicide (Ferguson, 2004). Prostitutes were more likely to be killed manually, which is described in an article by Ferguson (2004) as an unplanned killing that has no weapon brought to the scene but used what was available at the scene to perform the murder.

Prostitutes had higher rates than other murders for having multiple wounds at 75 percent, being killed manually by 68 percent and being suffocated at 7 percent.

The vast chance of both physical and verbal violence that is involved with prostitution is a never ending event. No matter what policies are adopted by a location violence will occur as it occurs in all aspects of life. People are at the basis animals and may not always be able to control their instincts or emotions as they act and react to event. Locations that have legalized have had some success in protecting those that are involved in the trade. The cost associated with controlling prostitution is high; in 1985 \$120 million was spent in 16 United States cities to enforce prostitution violations, which totaled around 90,000 arrests in the entire United States (Weitzer, 1999).

Nevada policy grew on the legacy of others and was designed to regulate prostitution in counties below 400,000 people in population and away from what they deemed at respectable areas of a community. The law also looks at and regulates pimping, advertising and transmission of sexual diseases. The law looked at and made it illegal to live off the earnings of a prostitute, which address pimping. The law then developed a testing schedule; before you can be allowed to start you must pass a test that shows that you do not have HIV, syphilis, gonorrhea, or chlamydia. Once you have started once a week you must be tested for gonorrhea and chlamydia and perform monthly blood tests for HIV and syphilis. Finally in 1987 a law made it a felony for any prostitute to practice that has tested positive for HIV, the punishment is a 2 to 10 year prison sentence and up to a \$10,000.00 fine (Brents, 2005).

The United Kingdom in trying to move women from prostitution to more respectable forms of work is trying to use welfare inspired exit ideals. These ideals assist

exiting prostitutes to get on their feet so that they do not fail again, while the government still enforces criminal sanctions on those who continue to perform sex acts. One preventative solution is to help young persons that are falling into poverty or social exclusion before they resort to prostitution. They begin to define prostitution as no longer a victimless crime but as a crime that threatens to destroy not only individuals but families and whole communities (O'Neill, 2007).

In May of 2003 the country of New Zealand's parliament voted, with a 1 vote majority, to legalize prostitution citing 5 major reasons. The 1st reason is to protect the human rights of those people employed in sex work, 2nd is to protect them from exploitation, 3rd promotion of welfare and occupational safety, 4th they wanted to create an environment that affects public health positively, and finally they wanted to keep children away from the sex acts and the effects that it may have on the community (Farley, 2004).

This paper was intended to inform you of facts beyond the arguments of making prostitution legal or keeping it illegal. The idea behind this paper was to educate on the many ideas, problems, and threats that are involved with the practice of prostitution. While no one solution will satisfy all parties involved, one will need to be kept to control prostitution. My personal opinion revolves around the idea of women should have the right to do what they want to do with their body. I cannot tell someone they cannot do a job to support themselves or their family. Legalization of prostitution is the best solution to the problem at hand; decriminalization would bring prostitution but would not regulate it which would just cause more problems.

References

- Brents, B. G., & Hausbeck, K. (2005). Violence and Legalized Brothel Prostitution in Nevada. *Journal of Interpersonal Violence*, 20(3), 270-295.
- This article discusses prostitution and the practices specifically in the state of Nevada. Through extensive work they interviews both prostitutes and brothel managers to get the best understanding in relation to violence and the effects on the prostitutes. In the article they discuss ways they use to protect themselves and interaction with the local police to deal with customers. Overall this article is designed to help educate people to the way brothels are run in the state of Nevada and how they are controlled and monitored by the state and the managers.
- Farley, M. (2004). "Bad for the Body, Bad for the Heart": Prostitution Harms Women Even if Legalized or Decriminalized. *Violence Against Women*, 10(10), 1087-1125.
- This journal article discusses prostitution in the sense of it being wrong. It takes a look at the effects that prostitution has on the prostitute in the long term. These include emotional distress, diseases, and even post traumatic stress disorder. The goal of this article was to show the people what they prostitutes truly experience weather it is a legal or illegal act. Even when it is an legal act women are still subject to major harassment and have the same emotional effects as ones the perform the job illegally.
- Ferguson, L., James, A. R., & Salfati, C. G. (2004). Prostitute Homocides: A Descriptive Study. *Journal of Interpersonal Violence*, 23(4), 505-543.

This Journal looks at prostitution homicides in relation to regular homicides in the United Kingdom. It also begins to discuss the risk factors of violence that prostitutes run into performing the job that they do. They go through characteristics of the killers and trends of violence and murder in the practice of prostitutes and their jobs.

O'Neill, M., & Scoular, J. (2007). Regulating Prostitution: Social Inclusion, Responsibilization and the Politics of Prostitution Reform. *BRIT. J. CRIMINOL.*, 47, 764-778.

This journal takes a look at new regulations in regulation and practice of prostitution in the United Kingdom. It talks about the continued problems with prostitution and the on going changes. Finally they begin to look at the effects of the new regulations not only on the prostitutes but also on the public and society.

Weitzer, R. (1999). Prostitution Control in America: Rethink Public Policy. *Crime, Law and Social Change*, 32(1), 83-102.

This journal is looking at the continued problems of prostitution in the United States. It looks at the last two centuries of studies and attempts to inform on what may be the best direction for the United States and policies for the criminal justice officials that are trying to work out the problem. They explain several solutions including decriminalization of the laws regarding prostitution. They also look at different ways that we could enforce the current policy and make it work better. Finally they try to meet in the middle and do both with what they believe would be the most effective approach.