

SWAN view on criminalisation of clients

Sex Workers' Rights Advocacy Network (SWAN) is a network of sex worker groups and non-governmental organizations providing health services and social and legal assistance to sex workers in 16 countries of Eastern and Central Europe and Central Asia (Albania, Bulgaria, Czech Republic, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Macedonia, Montenegro, Poland, Romania, Russia, Serbia, Slovakia, Ukraine). The Network aims at empowering sex workers and supporting them in advocacy for their own rights and health, since nobody knows the problems sex workers face better than sex workers themselves.

Council of Europe Resolution 1579 "Prostitution – Which stance to take?" recommends "respecting the rights of prostitutes who freely choose to work as prostitutes to have say in any policies at national, regional and local levels concerning them"¹.

With the help of local NGOs we strive to create an environment where sex workers will be free from discrimination and abuse, and where they will be in charge of their own health, rights, labor and family. To achieve this, we encourage member-NGOs to engage sex workers to collaborate with them in providing services, participating in conferences and meetings, and developing strategies and projects which target the sex worker community, government, society, media and law enforcement bodies. The ideal result would be development of organized, vibrant networks among sex workers and local NGOs in each SWAN-country.

As agreed in SWAN's basic principles, **we understand sex work as the unforced sale of sexual services for money or goods between consenting adults.**

SWAN network does not approve of any attempt to criminalize sex work. We see sex work as work and as means of survival. Sex workers should provide sexual services at their own will and should have a final decision on the choice of their client and terms of their service.

Following the on-going discussion among sex workers and NGO networks globally and various independent research done by departments of sociology, gender, politics and sexology of universities in different parts of the world, I hereby present a summary list of consequences that can result from the "end demand approach":

Negative consequences of criminalizing clients. More women in worse danger.

Increase in violence:

1. Criminalization of clients will take clients off the streets and send them underground. The market for sex work will follow clients - deeper underground, which means sex workers (most of whom are women) will be in worse position and unable to control their own income and choice of clients. Women will risk their safety and health and might end up in the hands of criminal groups.
2. Rapists, robbers, exploiters already abuse and take advantage of sex workers' vulnerability under the law – they will not be affected by new legislation. They are already break the existing laws.
3. Evidence shows that the majority of robbery, abuse, harassment and physical or sexual violence experienced by sex workers in the course of their work comes from those who *do not pay for sex*. Others may approach as *if* they were clients, but then refuse to pay, commit assaults and robberies, or violently force return of payment after having had sex. Criminalizing clients will have no impact upon these perpetrators of abuse and violence who are already committing criminal acts against sex workers.
4. The most vulnerable people in the sex industry, migrants and victims of trafficking will be hit first and harder as soon as the situation on sex work market gets worse.
5. If the law is successful in terms of reducing demand, providers of sexual services will face reduced opportunities to generate income. *Everyone*, Hungarian national or migrant, will face financial pressures to offer a wider range of services and/or lower prices and/or to accept clients they would prefer to refuse. This

¹ Council of Europe Resolution 1579 "Prostitution – Which stance to take?" in handouts and available at <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta07/ERES1579.htm#1>

may include providing services which are physically less pleasant or more dangerous – for example, decreased condom use. According to the research done by New York University, "social workers and street prostitutes say that the quality of clients has declined, and a report commissioned by the National Board of Police has concluded that that women are now forced to accept not only more clients (since prices have dropped), but also more unstable and dangerous clients than they would have accepted before the law, when there were more clients and, hence, more choice"².

6. Sex workers would have to seek help and be more dependent on pimps, because it would be more difficult to find clients. This will result in poorer working conditions and reduced income for sex workers and pressure on them to reduce prices and see clients or perform acts they would otherwise refuse.
7. Sex workers would have less time to negotiate price and services with clients and would not be able to see if the client is nervous because he is afraid to be caught by police or because he is a violent type of person in general³. Such situations will increase chances of female sex workers to be a victim of physical violence.
8. With limited opportunities, sex workers will end up in premises run by people more brave about breaking the law, more likely to be criminals prepared to exploit and abuse, and less likely to report suspicions of trafficking.
9. Swedish experience shows that in cases of a client's arrest, sex workers are searched for evidence. In such cases condoms were used as an evidence against the suspected client. Such complications might lead to a situation when a client would insist on not using a condom⁴. Hence, the sex worker will be exposed to infection.

Difficulties in reaching Sex Workers:

1. Together with clients, sex workers will move out of the preview of the police: off of the streets, deeper underground, abroad and to the Internet.
2. Social workers and medical specialists will have very limited number of contacts, if sex work is driven underground⁵.
3. It will be more difficult for the police to find those women who were really forced into prostitution.
4. "End demand" legislation will alienate clients. They will not be willing to report on suspected cases of trafficking, because under such legislation they themselves will be treated as criminals⁶.

Few facts to take into consideration:

1. In current economic situation we can expect growth in number of sex workers worldwide, because businesses close and people cannot find jobs. Women will be the first to receive the blow. Legal sex work could provide their families survival money, while criminalizing legislation will push them into unsafe and dangerous conditions.
2. According to the 2008 Country Reports on Human Rights Practices in Sweden⁷, with the overall population of some 9.2 million people only "33 reported cases of individuals buying sexual services during the whole year". We can assume that either the clients moved underground and became "smarter" or the police is not fulfilling its duties.
3. According to the same Report, "law enforcement officials and analysts estimated the number of trafficked

2 Don Kulick, Professor of Anthropology New York University. «Talk delivered at Beijing Plus Ten meetings on the "Swedish model", Published in www.globalrights.org/trafficking (see handouts)

3 Ibid.

4 Ibid.

5 Ibid.

6 Ibid.

7 Section 5: Discrimination, Societal Abuses, and Trafficking in Persons, 2008 Country Reports on Human Rights Practices, published February 25, 2009 – see Sweden report at <http://www.state.gov/g/drl/rls/hrrpt/2008/eur/119107.htm> (see handouts)

- women at 500 per year, cautioning, however, that it was not possible to obtain precise numbers"⁸, but the police reported only "10 cases of trafficking for sexual purposes"⁹, which might show that the existing criminalization of clients does not necessarily have any connection to finding more victims of trafficking in Sweden.
4. The effort to address trafficking for sexual purposes in Sweden is not balanced with the effort to address other types of trafficking (e.g. into agriculture, domestic work, industry, swetshops, etc). Over 20008 "the Government of Sweden sustained strong law enforcement efforts to fight sex trafficking, but made limited efforts to address labor trafficking"¹⁰ and "authorities reported 34 cases of labor trafficking in 2007, though the government failed to prosecute or convict any labor traffickers"¹¹.
 5. A dialogue started between anti-trafficking NGOs and sex worker activist groups. In brief: "The first of these meetings, called 'Donor Dialogue on Sex Work and Trafficking', was sponsored by the Open Society Institute (OSI), based in New York, and Global Rights, based in Washington, D.C., with participation from CREA (Creating Resources for Empowerment and Action) and the Network of Sex Work Projects. It brought a dozen experts on trafficking and sex work together for a briefing with Joy Ezeilo, the newly appointed UN Special Rapporteur On Trafficking. The second of these meetings, entitled 'Sex Work and Trafficking: A Donor/ Activist Dialogue on Rights and Funding', consisted of a series of panel presentations and small group discussions with a decidedly larger number of participants. The meeting was also sponsored by CREA, the Network of Sex Work Projects and OSI's Sexual Health and Rights Project (SHARP). The purpose of this meeting was to bring experts on human trafficking and prostitution together with representatives of foundations who work in these areas in order to promote information exchanges, and to help elucidate areas of interest and concern for donors seeking to promote effective interventions in these areas."¹²
 6. A grown-up person is free to decide about his/her own sexuality, number and gender of partners.
 7. A person has the right to work, to free choice of employment and to just and favourable conditions of work and protection against unemployment

SWAN suggestions:

1. Include sex work organizations into shaping legislation in Hungary. "[R]espect[ing] the rights of prostitutes who freely choose to work as prostitutes to have say in any policies at national, regional and local levels concerning them"¹³. More than 10 000 of sex workers are currently providing sex services in Hungary and they are in contact with MPEE¹⁴. They are not victims of trafficking. They could be partners in pointing out possible traffickers or report a case if they come across a victim of trafficking who needs help.
2. Include human rights organizations into addressing trafficking issues.
3. Educate potential clients and whole society on how to help a trafficked person and where to turn for help.
4. Criminalize trafficking, not sex workers or clients.

8 Ibid.

9 Ibid.

10 Country Narratives/ Trafficking in Persons Report 2008, see <http://www.state.gov/g/tip/rls/tiprpt/2008/105389.htm>

11 Ibid.

12 Svati Shah. A Briefing of Two Meetings on Human Trafficking. 4 March 2009 at <http://sxpolitics.org/?p=931&print=1> and http://www.soros.org/initiatives/health/focus/sharp/news/donordialogues_20081211

13 Council of Europe Resolution 1579 "Prostitution – Which stance to take?" in handouts and available at <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta07/ERES1579.htm#1>

14 Contact MPEE at www.prostituutak.hu, also read MPEE statement in the handouts