



HUMAN TRAFFICKING AND THE DECRIMINALIZATION OF SEX WORK: MYTHS, MISCONCEPTIONS, AND WHAT THE DATA ACTUALLY TELLS US – KEY POINTS



The information presented in this factsheet is not intended to advocate for or against the decriminalization of sex work; instead, it seeks to summarize recent research and provide accurate global data on various legal approaches to regulation of sex work and their impact on human trafficking.

Legal Approaches for Regulating the Sex Trade:

Full Criminalization – All aspects of the sex trade are criminalized: sellers, buyers, peers, and managers all face criminal penalties. With the exception of certain counties in Nevada, this is the approach taken in the United States.

Asymmetrical Criminalization (also known as the “End Demand” and/or “Equality” models) – Those who are selling sex are not criminalized, but everyone else remains criminalized (e.g. Canada, Norway, city of Chicago).

Decriminalization – None of the participants in the sex industry face criminal penalties. Human trafficking, violence toward sellers, and patronizing minors remains criminalized (e.g. New Zealand).

Legalization – An approach that usually includes significant amount of government regulation, often with complex requirements narrowing who, where, and how people can participate in the sex industry. There are criminal penalties if regulations are not followed, which are often rigorously enforced (e.g. Germany, state of Nevada).

Most regulation has occurred in the last 25 years and jurisdictions have modified or shifted approaches during this time. Data is impacted by conditions in the countries implementing these various approaches – for example, New Zealand, where sex work is decriminalized, has a strong social safety net, including universal healthcare, which provides additional protections for people who trade sex.

Notable Findings on the Different Legal Approaches for Regulation of the Sex Trade:

- **Size of the Sex Trade** - Asymmetrical criminalization did not significantly change the size of the sex trade, with the exception of Norway, where a ten percent decrease occurred due to policing strategy of forced evictions targeting immigrants/non-citizens. Decriminalization in New Zealand led to a slight decrease in size of the sex industry.
- **Criminalization of People Who Trade Sex** - Asymmetrical criminalization continued to criminalize those who sell sex – for example, in Chicago, 80% of arrests after implementation of an end-demand model were of those who were selling sex, not those who were buying it (arrests were not for selling sex but other types of charges). In New Zealand, migrant sex workers continued to be criminalized despite the overall decriminalization of sex work in that county.
- **Impact on Working Conditions** – Asymmetrical criminalization in Canada led to 72% of people who trade sex reporting no change in their working conditions, with 26% reporting a deterioration – buyers’ fears of increased policing led to challenges for sellers who were less able to screen clients and who faced both more competition and increased isolation. Decriminalization led to 64% of respondents reporting increased ability to refuse a client, and an ability to access workplace protections against sexual and online harassment.

- **Access to Health Services Providers** – Certain countries with asymmetrical criminalization models saw an overall decrease in access to health services, including funding cuts for harm reduction services and outreach units. Decriminalization had no impact on access in New Zealand, but that country already had socialized medicine, easing access to health care.
- **Relationship to Law Enforcement** – In countries with asymmetrical criminalization, people who trade sex reported continued or increased surveillance/harassment by police, with no improvement reported in any country. In New Zealand, decriminalization was implemented after a decade-long campaign by unionized sex workers who built relationships with law enforcement as part of their process. However, these individuals continued to prefer to disclose victimization to peers rather than to law enforcement.
- **Impact on Client Violence** – With asymmetrical criminalization, countries overall saw an increase in victimization. For example, in Northern Ireland, the number of assaults quadrupled between 2016-2018, while in France, sellers reported increases in either frequency or severity of violence. In New Zealand under decriminalization, no changes in rates of violence were reported but sellers said they felt more able to refuse potentially unsafe clients. New Zealand also had lower rates of violence toward sellers reported in general, both before and after decriminalization.
- **Impact on Human Trafficking into the Sex Trade** – No country with asymmetrical criminalization reported an increase or decrease in rates of trafficking. In New Zealand, under a decriminalization model, has also not reported any changes in rates of human trafficking. There are also significant research challenges to finding accurate data on the rates of human trafficking under all regulation approaches due to the ability of researchers to access people who trade sex, the varying levels of organization of sex workers and trafficking survivors within different countries, differing definitions of human trafficking, etc. However, thus far, the data shows no impact on rates of human trafficking under asymmetrical criminalization or decriminalization of sex work.
- **Other Factors Impacting Safety and Risk** – Regulatory policies addressing sex work often do not address root causes of vulnerability, including access to living wage jobs, health care, and education, and often fail to provide any expansion of services for people who trade sex – particularly of harm reduction programs. Policies often fail to provide avenues for criminal record relief for both trafficking survivors and consensual sex workers, making it difficult for people to leave the industry. Additionally, varying regulatory approaches do little to change the methods and culture of policing, leaving issues of police harassment, surveillance, and violence unchanged. It is also critical to consider the impact of the various legal frameworks not just on trafficking survivors, but on people who trade sex as a whole, particularly those who exist at the intersection of multiple types of oppression like street-based sex workers, people who use drugs, and trans people.

This tip sheet was created as part of the **Human Trafficking Prevention Project (HTPP)**, a collaboration between the University of Baltimore School of Law and Maryland Volunteer Lawyers Service (MVLS).

Recommendations on this tip sheet are adapted from the HTPP webinar:

“Human Trafficking and the Decriminalization of Sex Work: Myths, Misconceptions, and What the Data Actually Tells Us,” featuring guest presenter Kate D’Adama, sex worker advocate and consultant with Reframe Health and Justice. This webinar is available for viewing at: www.mvlslaw.org/ht

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