

Prostitution Should Be Legalized

Economist

In the following article the editors of the Economist, a British newsmagazine, discuss how attitudes have changed about prostitution. The editors note that in the past, many governments tolerated prostitution, but due to the globalization of sex trafficking (that is, foreign prostitutes in local red-light districts), puritans have convinced policy makers that any form of prostitution is intolerable. Instead of cracking down on prostitution, as the puritans demand, the Economist argues that legalization is the best way to control it. Legalization would give prostitutes access to health care, brothels would develop reputations they would take pains to protect, and sex trafficking and other abuses could be more easily tackled. The editors conclude that sex between strangers harms no one and the government should stay out of the transaction.

Two adults enter a room, agree [on] a price, and have sex. Has either committed a crime? Common sense suggests not: sex is not illegal in itself, and the fact that money has changed hands does not turn a private act into a social menace. If both parties consent, it is hard to see how either is a victim. But prostitution has rarely been treated as just another transaction, or even as a run-of-the-mill crime: the oldest profession is also the oldest pretext for outraged moralising and unrealistic lawmaking devised by man.

In recent years, governments have tended to bother with prostitution only when it threatened public order. Most countries (including Britain and America) have well-worn laws

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against touting on street corners, against the more brazen type of brothel and against pimping. This has never been ideal, partly because sellers of sex feel the force of law more strongly than do buyers, and partly because anti-soliciting statutes create perverse incentives. On some occasions, magistrates who have fined streetwalkers have been asked to wait a few days so that the necessary money can be earned.

So there is perennial discussion of reforming prostitution laws. During the 1990s, the talk was all of liberalisation. Now the wind is blowing the other way. In 1999, Sweden criminalised the buying of sex. France then cracked down on soliciting and outlawed commercial sex with vulnerable women—a category that includes pregnant women. Britain began to enforce new laws against kerb-crawling earlier this year [2004], and is now considering more restrictive legislation. Outside a few pragmatic enclaves, attitudes are hardening. Whereas, ten years ago, the discussion was mostly about how to manage prostitution and make it less harmful, the aim now is to find ways to stamp it out.

The puritans have the whip hand not because they can prove that tough laws will make life better for women, but because they have convinced governments that prostitution is intolerable by its very nature. What has tipped the balance is the globalisation of the sex business.

The White Slave Trade

It is not surprising that many of the rich world's prostitutes are foreigners. Immigrants have a particularly hard time finding jobs that pay well; local language skills are not prized in the sex trade; prostitutes often prefer to work outside their home town. But the free movement of labour is as controversial in the sex trade as in any other business. Wherever they work, foreign prostitutes are accused of driving down prices, touting “extra” services and consorting with organised criminal pimps who are often foreigners, too. The fact that a very

small proportion of women are trafficked—forced into prostitution against their will—has been used to discredit all foreigners in the trade, and by extension (since many sellers of sex are indeed foreign) all prostitutes.

Abolitionists make three arguments. From the right comes the argument that the sex trade is plain wrong, and that, by condoning it, society demeans itself. Liberals (such as this newspaper) who believe that what consenting adults do in private is their own business reject that line.

From the left comes the argument that all prostitutes are victims. Its proponents cite studies that show high rates of sexual abuse and drug taking among employees. To which there are two answers. First, those studies are biased: they tend to be carried out by staff at drop-in centres and by the police, who tend to see the most troubled streetwalkers. Taking their clients as representative of all prostitutes is like assessing the state of marriage by sampling shelters for battered women. Second, the association between prostitution and drug addiction does not mean that one causes the other: drug addicts, like others, may go into prostitution just because it's a good way of making a decent living if you can't think too clearly.

A third, more plausible, argument focuses on the association between prostitution and all sorts of other nastinesses, such as drug addiction, organised crime, trafficking and underage sex. To encourage prostitution, goes the line, is to encourage those other undesirables; to crack down on prostitution is to discourage them.

Brothels with Brands

Plausible, but wrong. Criminalisation forces prostitution into the underworld. Legalisation would bring it into the open, where abuses such as trafficking and underage prostitution can be more easily tackled. Brothels would develop reputations worth protecting. Access to health care would improve—an urgent need, given that so many prostitutes come

from diseased parts of the world. Abuses such as child or forced prostitution should be treated as the crimes they are, and not discussed as though they were simply extreme forms of the sex trade, which is how opponents of prostitution and, recently, the governments of Britain and America have described them.

Puritans argue that where laws have been liberalised—in, for instance, the Netherlands, Germany and Australia—the new regimes have not lived up to claims that they would wipe out pimping and sever the links between prostitution and organised crime. Certainly, those links persist; but that's because, thanks to concessions to the opponents of liberalisation, the changes did not go far enough. Prostitutes were made to register, which many understandably didn't want to do. Not surprisingly, illicit brothels continued to thrive.

If those quasi-liberal experiments have not lived up to their proponents' expectations, they have also failed to fulfil their detractors' greatest fears. They do not seem to have led to outbreaks of disease or under-age sex, nor to a proliferation of street prostitution, nor to a wider collapse in local morals.

Which brings us back to that discreet transaction between two people in private. If there's no evidence that it harms others, then the state should let them get on with it. People should be allowed to buy and sell whatever they like, including their own bodies. Prostitution may be a grubby business, but it's not the government's.