

The Equality Approach to Addressing Sex Trafficking

Millions of women and girls around the world are exploited in the commercial sex industry, mainly in prostitution, which is often the end destination of sex trafficking. While most activists, lawmakers and international and regional organizations agree that the trafficking of women and girls for prostitution is a serious problem and human rights violation, there is disagreement as to the best way to prevent sex trafficking and exploitation in prostitution.

An effective way to prevent trafficking and exploitation is to take a human rights and gender equality-based approach. Based on an approach first adopted in Sweden in 1999, followed by similar versions in Norway, Iceland, Canada, Northern Ireland, France, and the Republic of Ireland, such a set of laws and policies has three main goals:

1. Promote equality between men and women.
2. Address sex trafficking in laws which hold every actor in the exploitation chain accountable (buyers, pimps, traffickers, etc.)
3. Recognize the vulnerability of those in prostitution & provide them with support, including to exit the trade.

PROMOTING GENDER EQUALITY

Women and girls who are trafficked to satisfy the demand for commercial sex are treated as commodities to be bought, sold, exploited, and raped. **An estimated 96% of sex trafficking victims are women and girls' and the vast majority of commercial sex "buyers" are men.** Buyers often have specific preferences regarding the women and girls they buy - including "young" or "fresh" girls, specific races/ethnicities, and body shapes and sizes – but most importantly, they want on-demand sexual access to a diverse supply of women and girls.

Exploitation in the commercial sex industry is both a cause and consequence of gender and other inequalities. It entails various human rights violations, including the right to equality and non-discrimination, dignity, health and to be free from violence, torture, inhuman and degrading treatment. It perpetuates the idea that it's acceptable to buy women's and girls' bodies to satisfy male desires. A legal approach which decriminalizes individuals in prostitution and mandates the provision of support services, while penalizing the demand for commercial sex and holding exploiters accountable challenges this construct and tries to redress these inequalities by promoting women's and girls' right to safety, health and non-discrimination, and by challenging men's perceived right to buy women's bodies for sex. **Unsurprisingly, 3 of the top 4 countries with the highest level of gender equality have adopted this legal approach as the most effective way to combat sex trafficking and sexual exploitation.**²

HOLDING EVERY ACTOR IN THE EXPLOITATION CHAIN ACCOUNTABLE

Sex trafficking is a criminal industry that operates on the market principles of supply and demand: demand is created by the men who pay for commercial sex. Traffickers, pimps, brothel owners and other facilitators profit from this demand by supplying the women and girls who are exploited every day in the commercial sex industry. Sex trafficking does not just exist because its victims are vulnerable - it exists because there is a demand for

commercial sex that traffickers can exploit and profit from. Thus, addressing the demand for commercial sex is a key component of any plan to prevent sex trafficking and sexual exploitation.

Men who buy sex and provide the demand that fuels trafficking have stated that greater criminal penalties, having to spend time in jail and having a letter sent home stating that they were arrested for buying sex would deter them from buying sex³. The UN Trafficking Protocol,⁴ the UN Committee on the Elimination of all Forms of Discrimination against Women⁵, and the head of UN Women⁶ have all called for countries to combat the demand for commercial sex in order to prevent sex trafficking and promote gender equality.

SUPPORT AND DECRIMINALIZE PEOPLE IN PROSTITUTION

The evidence is clear that the majority of women end up in prostitution in relation to issues such as poverty, childhood sexual abuse, or trafficking and other forms of coercion, among other issues⁷. Criminalization of women and girls in the sex trade leaves them more vulnerable, while the possession of a criminal record can make it even harder to exit the trade⁸. An equality-based approach must recognize the vulnerability of prostituted persons by decriminalizing the selling of sex and expunging related criminal records. Because exiting prostitution and recovering from its effects can be a long and difficult process, funding for holistic exiting services should be ring-fenced and mandated under law. This is compatible with states obligations under international law:

- Article 3 of the **Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol)** stipulates that “Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons [...] in particular, the provision of: (a) Appropriate housing; (b) Counseling and information [...]; (c) Medical, psychological and material assistance; and (d) Employment, educational and training opportunities.”
- **Convention on the Elimination of Discrimination against Women (CEDAW)** obligates governments to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of the prostitution of women.”
- **The UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949 Convention)** characterizes prostitution as “incompatible with the dignity and worth of the human person” and obligates governments to punish any person who “exploits the prostitution of another person, even with the consent of that person.”

SWEDEN – PIONEERING A NEW APPROACH

In 1999, as part of a Violence Against Women bill, **Sweden passed a law that criminalized buyers of sex while keeping the person who sold or was sold for sex decriminalized**⁹. Sweden understood that gender inequality and sexual exploitation could not be fought effectively by assuming a gender symmetry that does not exist and allowing the purchase of access to another – often more vulnerable and disadvantaged – person’s body.

Alongside this law, the Swedish government made a significant investment in exit programs for those who wish to leave prostitution to provide comprehensive social services for victims of exploitation, which is essential for a victim-centered, human rights-based approach to combating trafficking.

Since the introduction of the law, street prostitution has halved (while increasing dramatically in Sweden’s neighbors¹⁰) and Sweden has become an undesirable destination for sex traffickers¹¹. In addition, the new law has

influenced attitudes regarding the purchase of sex: from 1996 (before the law) until 2008, the number of male sex buyers decreased from 13.6% to 7.9%¹².

A GROWING MOVEMENT

Several countries have followed Sweden's example, and many more are considering this approach:

- Due to concerns regarding sex trafficking and exploitation after legalizing prostitution in 2007, **Iceland** passed a law in 2009 criminalizing the purchase of sex to better promote gender equality and fight exploitation¹³.
- In 2014, **the parliament of the European Union** adopted nonbinding resolutions recommending member states to consider reducing the demand for prostitution by “punishing the clients, not the prostitutes”, while that of the **Council of Europe** similarly “pinpointed legislation and policies on prostitution as indispensable anti-trafficking tools, given the obvious close link between trafficking in human beings and prostitution”.¹⁴
- In 2016 **France** voted to criminalize the purchase of sex while decriminalizing the selling of sex and offering support services to those in prostitution, as did the **Republic of Ireland** in 2017.

An increasing number of activists and organizations across the globe, many of which are survivor-led¹⁵ – including in countries such as South Africa, India, Lebanon, Germany, Denmark, Austria, New Zealand, and the US – are calling for lawmakers to enact legislation which recognize the realities of prostitution. This is in line with countries' international legal obligations to address demand. Equality Now supports and advocates for laws which combat trafficking and exploitation and promote gender equality. **Learn more at www.equalitynow.org.**

¹United Nations Office on Drugs and Crime, Global Report on Trafficking in Persons 2016, p. 27, available at: - https://www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf.

² Iceland is 1, Norway is 3 and Sweden is 4. World Economic Forum, *The Global Gender Gap Report 2016*, available at: <http://reports.weforum.org/global-gender-gap-report-2016/rankings/>.

³ *Breaking Down the Barriers: A study of how women exit prostitution*, 2012, available at: <http://i4.cmsfiles.com/leaves/2012/11/Breaking-down-the-barriers-a37d80.pdf>; *Prostitution and Trafficking in Nine Countries: An Update on Violence and Post-Traumatic Stress Disorder*, Farley et al., 2008, available at: <http://www.prostitutionresearch.com/pdf/Prostitutionin9Countries.pdf>; *South African Law Reform Commission: Sexual Offences: Adult Prostitution, South Africa*, 2009, available at: <http://www.prostitutionresearch.com/Madonsela%20Albertyn%20Sexual%20Offences%20Adult%20Prostitution.pdf>.

⁴ *I'm no Criminal: Examining the impact of prostitution-specific records on women seeking to exit prostitution*, 2017, available at: <http://www.niaendingviolence.org.uk/perch/resources/im-no-criminal-final-report.pdf>.

⁵ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Article 9(5).

⁶ See e.g., CEDAW Committee, *Concluding Observations: Republic of Korea*, para. 23(f), U.N. Doc. CEDAW/C/KOR/CO/7 (2011) (calling on the Republic of Korea to “[t]ake appropriate measures to suppress the exploitation of prostitution of women, including by discouraging the demand for prostitution”); CEDAW Committee, *Concluding Observations: Botswana*, para. 28, U.N. Doc. CEDAW/C/BOT/CO/3 (2010) (calling on Botswana to take actions to discourage the demand for prostitution).

⁷ Michelle Bachelet, “Fighting Human Trafficking: Partnership and Innovation to End Violence Against Women and Children”, United Nations General Assembly Interactive Dialogue, 3 April 2012, available at: <http://www.unwomen.org/2012/04/remarks-of-michellebachelet-fighting-human-trafficking-partnership-and-innovation-to-end-violence-against-women/>.

⁸ In a survey of 113 men who had paid for sex in the Chicago area, 83% said that jail time would deter them from buying sex and 75% said greater criminal penalties in general would do so. CAASE, *Deconstructing the Demand for Prostitution: Preliminary Insights from Interviews with Men who Buy Sex*, May 2008, available at: http://g.virbcdn.com/_f/files/40/FileItem-149406-DeconstructingtheDemandForProstitution.pdf. A similar survey in Scotland found that 79% of men said that having to spend time in jail would deter them from buying sex, and 72% said that greater criminal penalties would do so. Jan Macleod, Melissa Farley, Lynn Anderson, and Jacqueline Golding, *Challenging Men's Demand for Prostitution in Scotland*, 2008, available at: <http://www.prostitutionresearch.com/pdfs/ChallengingDemandScotland.pdf>.

⁹ An individual who engages in a casual sexual relation for compensation shall be convicted of buying sexual services and fined or sent to prison for a maximum of six months. This law took effect on 1 January 1999; however, it was rescinded in connection with the 2005 sex crime reforms and replaced by a new penal provision – the purchase of sexual services (Chapter 6 Section 11 of the Penal Code).

¹⁰ As Norway recently adopted the Nordic model, we believe street prostitution will decrease in Norway as well.

¹¹ Swedish Ministry of Justice, *English summary of the Evaluation of the ban on purchase of sexual services* (1999-2008), 2 July 2010. The report acknowledges the limitations in trying to determine the prevalence of illegal activities (such as trafficking and the purchase of sexual services), but even with these limitations, it is confident in the statements listed above.

¹² Kajsa Claude, *Targeting the sex buyer*, the Swedish Institute (2010), available at:

<http://www.si.se/upload/Human%20Trafficking/Targeting%20the%20sex%20buyer.pdf>.

¹³ Icelandic Law No. 54 of 2009, which amended the General Penal Code

¹⁴ European Parliament resolution: <http://www.europarl.europa.eu/news/en/press-room/20140221IPR36644/punish-the-client-not-the-prostitute>; Council of Europe resolution: <http://assembly.coe.int/nw/xml/News/News-View-FN.asp?newsid=4964&cat=8>.

¹⁵ See e.g. <http://sextraffickingsurvivorsunited.org/>, <http://spaceintl.org/>.