

The eReview provides analysis on public policy relating to Canadian families and marriage.



Prostitution: Learning from the New Zealand decriminalization experience

(A shorter version of this piece first appeared in the *Toronto Sun* on Thursday, November 13, 2008)

By Andrea Mrozek, manager of research and communications, Institute of Marriage and Family Canada

Success is such a slippery term. Particularly, it would seem, when it comes to prostitution. Does success mean getting government job training? Or does it mean getting out of the business altogether?

Judging by the New Zealand decriminalization experience, success means more of the former. And some Canadian activists have gone there to learn, possibly with the intent of importing such measures here. [1]

Those with the time, tenacity and possibly insomnia required to read the 2008 New Zealand government report may come away feeling something other than unvarnished enthusiasm for the legalization of prostitution.

It contains a guarded optimism about the reforms but is entirely inconclusive about any outright success. [2]

Rewind to the turn of the millennium. After much debate, New Zealand's parliament passed the Prostitution Reform Act by a hair—60 to 59—with one abstention. The Act's intent is to ensure safety for prostitutes—concretely stating it will “create a framework to safeguard the human rights of sex workers and protect them from exploitation; promote the welfare and occupational health and safety of sex workers; contribute to public health; and prohibit the use in prostitution of persons under 18 years of age.” [3]

As a result, the government identified different sectors of supply in the sex market they'd like to control: private indoor workers, managed workers and street sex workers. The Department of Labour kicked in with a 100-page tome for sex workers called “A guide to occupational health and safety in the New Zealand Sex Industry.” (Rare is the government document for which a “sexually explicit” warning pops up before download, as is the case here.) [4]

The guide outlines such areas as “the roles and responsibilities of sex workers and clients,” and “smoking in the workplace,” among others. (“Exposure to second-hand smoke causes an estimated 388 deaths a year in New Zealand — almost the same as the national road death toll —and it is a significant health risk in the workplace.”) [5]

Controlling this would require diligent monitoring, but the report indicates that’s not happening. “Decriminalization on its own did not provide enough protection for sex workers,” they write. The “Brothel Operator Certification System” has been found to be wanting— they need “the addition of a criterion that a certificate holder must be willing to facilitate inspections.” [6] One client has been charged since January 2008 under section 9 (safer sex practices) and was fined \$400. [7] Is this what human rights for prostitutes means?

A New Zealand-based research group, The Maxim Institute fails to see how the reform has been successful, when it does not recognize that prostitution possesses inherent risk. [8]

Summer Gill, policy analyst at Maxim highlights that the most egregious areas of failure are amongst underage and street prostitutes. No one, she says, can enforce restrictions on age, as kids don’t carry ID. Neither do they magically cease to be exploited upon turning 18. “The law makes it extremely difficult for these purchasers [of under age sex] to be prosecuted,” she says. “They almost need to be caught in the act for the police to prove that they have done anything wrong.” And exit strategies for underage prostitutes are weak too, she adds. [9]

There, the lengthy government report agrees. “There is currently little dedicated support available for those wishing to exit the sex industry,” they write. [10]

The lengthy government report reads as a very cautious statement of “success.” The government can’t accurately gauge whether prostitutes are less victimized than before decriminalization because monitoring of newly state-sanctioned brothels is poor.

So now government committees can write about prostitution -- including overblown pretensions to help sex workers, but it’s not clear that the lot of prostitutes on the ground has actually changed since 2003.

Rebranding prostitution as “sex work,” complete with on-the-job safety tips, doesn’t change the job itself. If success is defined as improving the rights and conditions of prostitutes, then New Zealand’s decriminalization experience is far from encouraging.

Endnotes

- [1] Paterson, J. (2008, August 8). Legal brothels show the way for Canada. *Times Colonist*, pg. A12.
- [2] Prostitution Law Review Committee. (May 2008). Report of the prostitution law review committee on the operation of the prostitution reform act 2003. Wellington: Ministry of Justice, New Zealand Government. Retrieved November 15, 2008 from <http://www.justice.govt.nz/prostitution-law-review-committee/publications/plrc-report/index.html>
- [3] Ibid, pg. 13.
- [4] A guide to occupational health and safety in the New Zealand sex industry. (2004, June). Wellington: Occupational Safety and Health Service, Department of Labour, New Zealand Government. Retrieved online November 17, 2008 from <http://www.osh.dol.govt.nz/order/catalogue/235.shtml>
- [5] A guide to occupational health and safety in the New Zealand sex industry, pg. 56.
- [6] Report of the Prostitution Law Review Committee, pg. 15.
- [7] Ibid, pg. 23
- [8] Penk, A. (2007, July 9). A submission to the prostitution law review committee. Wellington: The Maxim Institute. Retrieved online from http://www.maxim.org.nz/index.cfm/policy_research/article?id=1126
- [9] S. Gill, personal communication, October 30, 2008.
- [10] Report of the prostitution law review committee, pg. 15.