

The Missing Factor

Clients of Trafficked Women in Israel's Sex Industry

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CONTENTS

INTRODUCTION	5
1. TRAFFICKING IN WOMEN WORLDWIDE AND IN ISRAEL	7
BETWEEN PROSTITUTION AND TRAFFICKING– SOME GENERAL REMARKS	8
THE IMPORTANCE OF TRAFFICKERS IN THE SEX TRADE	8
TRAFFICKING IN WOMEN IN ISRAEL – MYTH AND REALITY	9
2. THE CLIENTS	13
RESEARCH ON THE DEMAND FOR PAID SEX AND ESTIMATES OF ITS SCALE	14
WHO ARE THE CLIENTS?.....	15
THE ISRAELI CLIENTS.....	17
THE "NEED" FOR PAID SEX	17
<i>The Biological Theory</i>	18
<i>Psychological-Personality Theories</i>	18
<i>Social Theories</i>	21
ARE CLIENTS ATTRACTED TO, OR REPELLED BY, TRAFFICKED WOMEN?	24
3. THE LEGAL STATUS OF CLIENTS INTERNATIONALLY	26
CRIMINALIZATION AND DECRIMINALIZATION.....	26
REGULATION	27
ABOLITIONISM (CRIMINALIZATION COMBINED WITH PROTECTION).....	27
IMPLEMENTING THE APPROACHES – A COMPARATIVE ANALYSIS	28
<i>The U.S. – A Prohibitive/Incriminator Approach</i>	28
<i>Sweden – A Pure Abolitionist Approach</i>	30
<i>The Netherlands – A Regulatory Approach</i>	30
<i>Israel - An Abolitionist Approach?</i>	31
4. ISRAELI LAW – THEORY AND PRACTICE	33
SUMMARY AND RECOMMENDATIONS	38
BIBLIOGRAPHY	42

About the Hotline for Migrant Workers

The Hotline for Migrant Workers is a non-profit, non-partisan organization whose goal is to protect the rights of migrant workers and end trafficking in women in Israel, and whose larger aim is to build a more just, egalitarian, and democratic society that promotes tolerance and protection of the weak. Its activities, performed largely by volunteers, focus on providing information about rights, counseling, and legal representation. In the public sphere, the organization seeks to raise public awareness impact government policy that will help to eradicate modern forms of slavery in Israel. The activities of the Hotline for Migrant Workers are made possible thanks to the support of private contributors and foundations, most prominently the New Israel Fund.

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About the Legal Clinic for Combating Trafficking in Women, Hebrew University

Based on its belief that law is a tool for social change, the Hebrew University School of Law established the Center for Clinical Legal Education for Human Rights and Social Responsibility. The Center's goal is to provide quality legal assistance to weak individuals and groups and develop legal tools for working with marginalized populations, as well as to shape the future of legal education to include social responsibility as an integral part of the legal profession. The Center operates eleven legal clinics, among them the Legal clinic for Combating Trafficking in Women.

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Introduction

In the movie “Pretty Woman,” Richard Gere, who plays a successful businessman, buys the services of Julia Roberts, who plays a prostitute. A typical Hollywood legend, the movie romanticizes prostitution with favorable portrayals of both the women and their clients. The movie has also led some victims of trafficking in women to believe they would meet a handsome, rich man by working as prostitutes in an affluent country.¹ The reality, of course, is completely different. Trafficking victims can expect a life of slavery and daily humiliation, and the clients are far from the radiant yet benign figure portrayed by Richard Gere, who meets a prostitute by chance, not by visiting a brothel.

Trafficking in women thrives on the support of political, social, and economic institutions and processes. It cannot be understood in isolation. There are many partners in the trafficking industry: recruiters, smugglers, document forgers, police officers, and others. The key participants, however, are the woman (the trafficking victim), the pimp or trafficker, and the client.² The public debate sparked by the issue in Israel in recent years, the response of the authorities, and media coverage, have focused on the traffickers and their victims. They have completely ignored the client, even though there would be no trafficking in women without him. Apparently, the women and the traffickers are perceived as “deviants,” while the client is seen as a fixed variable whose role is taken for granted and not worthy of attention. It is surprising that the clients have been ignored for so long, given the enormous demand for sex with trafficked women. In Israel, there are approximately one million “visits” to brothels per month.³ Even if we assume that some of these are repeat visits, thus lowering the actual number of clients, we are speaking of a very large-scale phenomenon. Thus, to understand the mechanism that drives the sex trafficking industry in Israel, the question, “Why do men require paid sex?” must be a key issue, rather than a mere curiosity. No attempt to combat trafficking in women will succeed without serious consideration of this question.

Now is also the time to examine what the scale of the phenomenon tells us about a society that permits, and at times encourages clients to buy sex from trafficking victims. To date, no government authority in Israel has expressed interest in the increased demand for trafficked women over the last decade. No one has questioned what it is about society’s structure and

¹ Hughes, D. “The ‘Natasha’ Trade: The Transnational Shadow Market of Trafficking in Women,” *Journal of International Affairs*, Spring 2000, p. 625.

² The singular form is used in this report to humanize a large group of faceless men and women and is not an attempt to blur individual differences or ignore the complexity of the issue.

³ According to police estimates, 3,000 women are victims of trafficking in Israel at any given moment. They work 30 days per month and have at least ten clients per day. (Levenkron, N. & Dahan, Y., *Women as Commodities: Trafficking in Women in Israel*, 2003, p. 5).

policies that legitimizes the desire for paid sex. And no one, apparently, has thought to examine the societal and legal impact of conducting sexual relations with women who are unable to voice their objection. This report is an attempt to provide what is missing – to highlight the client in the public debate on the trafficking of women. It places the client in the operational chain of the industry, begins the complicated task of analyzing his character and motivations, and examines how the authorities relate to him. While it does not purport to be an exhaustive analysis of the subject, it is, notably, the first report in Israel to focus specifically on the clients of trafficked women. The subject does not easily lend itself to research, particularly in Israel. However, since the demand for paid sex is a major cause of trafficking, and understanding it is essential to fighting the phenomenon, we hope this report will pave the way for empirical research on the same topic.

1. Trafficking in Women Worldwide and in Israel

“Regarding the law: I have misgivings – lest it be said I have no misgivings – if the terms ‘sell’ and ‘buy’ as prescribed in Article 203A of the Penal Code are to be interpreted according to the meaning of the civil sale act in Israel...I lower my head in shame, since the sale and purchase of a person – and likewise the renting and hiring of a person for engagement in prostitution – is, from one point of view, prostitution of the language. And yet what can one do as we have run out of words in the language to describe acts so sordid such as those described in the indictment. Our understanding, therefore, will be that the terms ‘sell’ and ‘buy’ as prescribed in Article 203A of the Penal Code are none other than terms borrowed from another world; and coming from different frameworks and spheres of life, their meanings change, and they should not be understood as anything but metaphors for describing ugly aspects of life, aspects of life that the language is too meager to portray accurately.”⁴

Trafficking in human beings is on the rise worldwide. The U.S. State Department estimates that approximately one million persons, a large percentage of them women, are bought and sold each year.⁵ The enormous increase in trafficking in persons is linked with both global and local processes and, like any form of trade, to trends in supply and demand. The women are in plentiful supply because of a dire struggle for survival in their countries of origin, the clients create the demand for “female merchandise,” and the pimps and traffickers are the link between the two. In “free market economy” terms, the pimps and traffickers may be viewed as “entrepreneurs” taking advantage of a “market segment” of an “industry”: The returns are enormous; The punishments are light and the “goods” are non-expendable and lend themselves to “recycling”. An estimated 1,000 to 3,000 women are brought to Israel annually to work in the sex industry.⁶ Most come from FSU (Former Soviet Union) countries, which are characterized by widespread poverty and unemployment, as well as a collapsing social welfare system, insecure job market, and rampant crime. Emigrating with the purpose of working as a prostitute is seen by many women as their sole chance of surviving.

Globalization and the creation of international markets for sex have also increased the demand for trafficked women. These processes encouraged the development of the sex trade and the growth of accessible sex markets in which foreign women are in high demand. Economic globalization is also an indicator and a creator of social change. A stronger sense of individualism and hedonism and adoption of a consumer culture in which “The customer is always right” have made the client’s sexual pleasure paramount – regardless of the price in suffering paid by the trafficked women.⁷

⁴ Justice Mishael Cheshin, Miscellaneous Criminal Applications 7542/00 *Hanuchov vs. State of Israel* Supreme Court Reports 2000(3), 1992, p. 1993.

⁵ U.S. Department of State: *Trafficking in Persons Report, 2004*. This figure does not include domestic trafficking. NGOs estimate that the number of victims is much higher.

⁶ Levenkron & Dahan, p. 19.

⁷ Marttila, A. “Consuming Sex – Finnish Male Clients and Russian and Baltic Prostitution,” Presented at the 5th Feminist Research Conference, 2003, Lund University, Sweden.

http://www.5thfeminist.iu.se/filer/paper_111.pdf

Between Prostitution and Trafficking– Some general remarks

Trafficking in women does not always involve prostitution, just as prostitution is not always a product of trafficking. While most trafficked women are channeled into prostitution, others may provide organs for illegal transplants, serve as surrogate mothers and so on. The dividing line between prostitution and trafficking is a matter of dispute. Some prefer to distinguish between women trafficked for the purpose of prostitution and women who freely choose to become prostitutes. While trafficking, they claim, must be condemned as the sale, purchase, and exploitation of women as slave labor, prostitution-by-choice must be respected as a woman's right to maintain control over her own body. Others hold that there is no "choice" in prostitution, certainly not "free choice," since coercion and lack of free will are prominent features of both trafficking and prostitution. The distinction between the two, from this point of view, is artificial and misleading. This report focuses on the consequences of sex purchased from victims of trafficking, rather than from women who generally engage in prostitution. It does not address the question of whether non-trafficked women working as prostitutes "chose" their profession; nor does it rule out the possibility that coercion is an essential element of prostitution-by-choice. However, despite this distinction, the similarities between prostitution and trafficking in women allowed us to examine research literature on the general aspects of purchased sex and discover findings that shed light on the specific area of women's trafficking.

The Importance of Traffickers in the Sex Trade

Traffickers "recruit" the women in their countries of origin, bring them to the targeted countries, and sell them. Though the traffickers are partners to creating demand, the "actual users" of the women are the clients who pay to have sex with them. The clients, therefore, are a more precise indicator of demand, and the traffickers can be seen as "suppliers."⁸ The extent to which traffickers fuel the engine of the sex trade is a matter of dispute among researchers. Some attribute a key role to traffickers, and claim that women, generally, do not willingly elect to work in the sex industry. Research conducted by the International Organization for Migration with Ukrainian women looking for jobs abroad supports this claim; all of the women in the research refused to work in the commercial sex industry. Even when the job offer was camouflaged by the label "hostess" or "dancer," only the younger (and, presumably, more naïve) women studied agreed to accept it.⁹ The results of this and other studies have led researchers to see traffickers of women as a critical factor in the sex trade. In their view, if prostitution were a rewarding and desirable profession, traffickers would not have to rely on

⁸ Hughes, M., "Men Create the Demand: Woman Are the Supply,"

<http://www.uri.edu/artsci/wms/hughes/demand>

⁹ cited in Hughes, 2000, p. 625.

fraud and coercion to attract women to work as prostitutes. Other researchers reached different conclusions. Today, in fact, it is certain that most of the women brought to Israel came with the knowledge that they would be working as prostitutes.¹⁰ However, this explanation is only part of the story, since their “willingness” to work as prostitutes would be irrelevant and devoid of economic value if there were no demand. No matter how central the role of the traffickers or how great the distress of the women, trafficking in women could not exist without the clients.

Trafficking in Women in Israel – Myth and Reality

Research on Israeli society’s view of trafficking in women reveals a number of prevalent myths and prejudices among Israelis.¹¹ These myths cloud a clear view of trafficking in women and hamper efforts to eradicate it. In order to eliminate the demand for trafficked women, we must first examine who is served by these myths, how do they legitimate the partners in the sex industry on one hand, and condemn the victims on the other. By answering these questions, we can better understand the role of these myths in the continued existence and growth of trafficking in women.

Myths about the parties involved: One widespread myth is that the figures involved in trafficking in women lie outside the bounds of normative society. The perception is that most clients are foreigners, while in reality the majority are Israelis; pimps and traffickers are portrayed as serious criminals with ties to the “Russian Mafia,” though in many cases they are “regular citizens” with clean records; the women, it is largely perceived, choose freely to engage in prostitution, yet few people question why women who “choose” prostitution are the most destitute and have so few options from which to choose. Many, particularly the clients, view purchased sex as a form of bartering between two consenting adults. In reality, however, the women involved are truly destitute and become prostitutes under slave-like conditions as the only means of staving off utter poverty.

Myths about “real” trafficking in women: As generally perceived, trafficking in women adheres to a “classic” model. In this scenario, an “innocent” young woman is enticed by the false promises of a gang of criminals. Expecting a “decent” job with good pay, the woman discovers she is trapped, violated, and humiliated. It follows that foreign women coming to Israel with the knowledge that they will work as prostitutes are not perceived as “classic”

¹⁰ Levenkron & Dahan, p. 19.

¹¹ Heller, A. “Findings of a Public Opinion Survey on the Trafficking of Women in Israel – Public Awareness and Opinion about the Phenomenon, and Perceptions of the Link between Trafficking in Women and Infringement of Human Rights,” The Knesset Center for Research and Information, 2003. The findings support information gleaned by grass roots organizations working in this area.

victims, or as victims at all.¹² They are seen as “professional” prostitutes who know what they are getting into and therefore have no grounds for complaint. An inter-ministerial task force report noted a “perceptual turnabout” in Israel in recent years regarding trafficking and its victims: “Society’s ambivalent view of prostitution generally was replaced by a definitively negative view of trafficking in women.”¹³ This change in perception, however, does not seem to be overwhelming. While it seems that Israelis indeed hold sterner views, they are only of the “classic” form of trafficking in women. The usual comment about women who do not appear to fit this model is, “Don’t tell me she didn’t know what she was coming here for.” In other words, “prior knowledge” relieves society of all responsibility towards the victim.

Myths about “real” rape and “date” rape: Myths are not only the province of the general public. Feminist critique of legal judgments has shown how the legal system makes a latent distinction between “real/genuine” rape and “date/ordinary” rape.¹⁴ Rape is considered “genuine” when the rapist is an “Other” (of a different ethnic group, social status, etc.), when the victim is a “normative” woman, and the act is accompanied by physical violence on the part of both the rapist and the victim. “Ordinary” rape involves two people who were previously acquainted, a perpetrator who uses “only” threats, and a woman with “a sexually active history.” “Real” rapes have higher conviction rates and stiffer punishments than “ordinary” rapes.¹⁵ Bogoch and Don Yehia noted that “The court bases its judgments on a stereotypical model... ‘Classic’ rape deserving of severe punishment is still considered that which is performed by a strange man jumping out of the bushes [to attack] an innocent young woman... If the court does not see most instances of rape as particularly serious because it equates them with a theoretical rape that almost never occurs in reality, then it is no wonder that punishments are mild.”¹⁶

Recognizing that latent distinctions are made between “types” of rape, we can better understand why enforcement, prosecuting, and court authorities do not view the rape of trafficking victims as a serious crime. Trafficking victims are the epitome of “Otherness” – in terms of gender, they are women; in economics terms, they are poor; socially, they are foreign; by law, they are “illegal residents,” and, most importantly, morally, they are seen as “whores”. The rapists, on

¹² In research by A. Heller, 57% of survey respondents perceived the women as victims, but about 40% saw them as “participants” or even “criminals.”

¹³ Report by the Inter-Ministerial Task Force (Ministry of the Interior, Foreign Ministry, Ministry of Labor, Israel Police, State Prosecutor), 2002.

¹⁴ Estrich, S., *Real Rape*, 1987.

¹⁵ Tirosh, Y., “A Story of Rape, Nothing More – On the Politics of Textual Representation” (Hebrew) *Mishpatim*, 31, 2001, pp. 596-597.

¹⁶ Bogoch, R., Don Yehia, R., *Gender and Law – Discrimination of Women in Israel’s Courts* (Hebrew), 1999, p. 260.

the other hand (especially if they are clients), can be considered “normative” – having a “natural” desire for casual, commitment-less sex. Moreover, the rape of trafficked women does not usually involve physical coercion or violent resistance. It is interesting to note that many of the trafficked women themselves think that if they do not resist, scream, or run away – all of which they consider useless – they cannot justifiably refer to the act as rape. Most have internalized the view of the traffickers and pimps, who see themselves as entitled to have sex with the women at any time since they “own” them.¹⁷

These perceived differences in the crime of rape are given concrete expression in every stage of the investigation, prosecution, and trial: police officers do not tend to investigate trafficked women about cases of alleged rape, and prosecutors are reluctant to add rape charges to indictments against traffickers, even when there is clear evidence to justify doing so.¹⁸ Even the courts appear to be ambivalent. While a number of judgments have recognized the right of women engaging in prostitution to refuse to have sex, the judges’ rhetoric seem, at times, to make a moralistic distinction between “decent” women and “promiscuous” women,¹⁹ and the courts are reluctant to use their authority to amend indictments, even when the facts they contain clearly point to a case of rape. The following position, expressed by Justice Shapira, is one worthy of adoption by all enforcement authorities: “From many points of view, what was done to these women can be seen as a product of the crime of rape for the purposes of determining the severity of punishment. A woman engaging in prostitution is also entitled to decide with whom, when, and under what conditions sexual contact will take place. If this freedom is denied and she does so out of coercion, this is a type of rape in which the ‘employer’ is responsible for

¹⁷ Tel Aviv Police Superintendent Pini Aviram described the situation as follows: “The girl says to me: ‘It’s not rape. I’m like his car. What does that mean? He bought me now, and he’s doing what he wants. Puts in the key and drives. It’s the same thing.’” Minutes of the session of the Parliamentary Inquiry Committee held on June 19, 2002: “Police account of recent arrests of traffickers” (Protocol No. 29).

¹⁸ In Serious Criminal Case (Tel Aviv-Jaffa) 1087/01 *State of Israel vs. Guntov* (Unpublished), A woman told of starvation and forced sex. The indictment did not include the crime of rape, merely stating that the accused had sexual relations with the complainant “without paying.” In another instance, a woman was forced to have sex with a stranger at the time of sale, “in order to check out her abilities.” The State’s Attorney noted that this amounted to giving her “an entrance exam;” Serious Criminal Case 910/02 *State of Israel vs. Semion Dushker*; In Criminal Case 3748/96 *State of Israel vs. Shumker* (Unpublished) The indictment noted that the accused extorted sex through threats and violence, yet the defendants were charged with pimping and extortion through threats only.

¹⁹ In the matter of Criminal Appeal 8523/99 *Durov vs. State of Israel* 54 (4) P.D. 840 Justice Strasberg Cohen noted that “the body of a prostitute is not ownerless. She also has a right, as a person, not to have sexual use made of it against her will” (p. 843). In the matter of Criminal Appeal 5612/92 *State of Israel vs. Be’eri* 48 (1) P.D. 302, “Supreme Court President Shamgar noted that “a woman is also entitled to refuse to engage in intercourse with her husband...and even she who sells her body in exchange for money is entitled to refuse to engage in intercourse with people she does not want to engage in intercourse with” (p. 354). These judges are attempting to deliver a liberal message that offers protection to every woman. At the same time, however, they are making a value judgment that distinguishes between “decent” and “promiscuous” women. In this way, ironically, they strengthen moralistic judgments regarding women’s behavior.

creating the conditions that constitute a type of rape, in the sense of exploitation and compulsion through others.”²⁰

The above-mentioned myths do not exist in a vacuum, and they serve a number of purposes. The myth of prior knowledge and choice allows us to assume that hundreds of brothels and strip clubs in Israel are filled with women who fully consent to what is being done to them, and exempts us from suffering pangs of conscience about violations of their human rights. Through these myths, we bridge the gap between our idealized individual and societal image (democratic and protective of human rights) and the true portrait of an apathetic and alienated society whose behavior expresses silent approval of the trafficking and rape of women. The myths create a dividing line between ourselves, law-abiding citizens, and the victims of trafficking as we perceive them: "promiscuous" women who come to Israel illegally knowing that they will be engaging in prostitution. The time has come to clear the smokescreen that surrounds trafficking in women, take a good look at the phenomenon, and recommend solutions based on reality and not on pacifying myths. That is our aim as we take a closer look at the clients in the Israeli trafficking industry.

²⁰ Criminal Case 133/01 *State of Israel vs. Saban* District Court Reports 2001 (2) 4256, 4261.

2. The Clients

Men who pay money for sex – clients – have existed since the beginning of time, since prostitution could not exist without people who are willing to pay for sex. It is the clients who finance the sex industry worldwide, which generates an estimated \$5-7 billion annually.²¹ Given these proportions, the lack of wide-scale public and academic debate on the subject is surprising. While much has been written over hundreds of years about women who engage in prostitution, the subject of clients was first addressed, and then only fleetingly, in the 20th century. The desire for secrecy is one explanation; most clients prefer to act discreetly and do not take kindly to being exposed. The jargon of the sex industry developed accordingly: Brothels are referred to as “discreet flats” or “escort,” “massage,” or “health” facilities and the women are “escorts” or “call girls.” Newspaper ads make claims of “full discretion” and “guaranteed secrecy.” What the sex industry offers clients, then, is not only sex, but clandestine sex. Confidentiality is further preserved by pushing the women employed in prostitution to the fringes of society.

The cloud of secrecy surrounding the sex industry and the hidden identity of its clients is one reason the issue is not high on the public agenda. Concern about discretion alone, however, does not prevent wide discussion about women who work as prostitutes. Their nationalities, habits, drug-dependence, health and emotional state, marital status, culture, and more have been thoroughly studied by researchers and amply portrayed in literature and film – despite the fact that the women, as well, are not overly willing to expose their identities and cooperate with researchers. Presumably, the client has not been studied until very recently because his actions are not perceived as morally reprehensible. A man who buys sex is viewed simply as a “man” doing “what men do” and therefore there is nothing unique or interesting enough about his behavior to justify research. There is no contradiction between legitimizing the client’s activities, and preserving the smokescreen around the paid sex industry, since sex and sexuality are considered “private” matters. And privacy is especially important in the case of purchased sex, a potential source of embarrassment; a visit to a prostitute may be construed as failure to obtain sex by consent or adultery. For this reason, paid sex is considered legitimate, even “natural,” but part of a private realm that is best left undiscussed.

Lack of interest in the client also stems from the view that he is not a central figure in the sex industry and is in no way responsible for its operation. Most of the people interviewed in a study conducted by the International Organization for Migration pin the blame for trafficking in

²¹ Kvinnoforum, *A Resource Book for Working against Trafficking in Women and Girls*, 2002, p. 9.

women on the women themselves and say it is the women and the traffickers, not the clients, who should be severely punished.²² Research on trafficking in Israel produced similar results. Attitudes toward clients, particularly among Jewish men, were strikingly lenient: 40% of those interviewed said the clients were “participants” in trafficking in women; only 20% viewed them as criminals. Further evidence of this lenient attitude is the general agreement that paid sex is “a part of life:” 43% of the respondents agreed that trafficking in women is “a natural occurrence that has always existed and will continue to exist.”²³ The image of the client as “normal” is also evident in the language. There are many words describing women who engage in prostitution (slut, whore, tramp, hooker), all of them perceived as derogatory and indicative of social inferiority. On the other hand, the words used for the purchaser of sex – “client” or “customer” – carry no negative connotations. They are neutral terms that refer to any consumer or service recipient and include no moral judgment. These linguistic idiosyncrasies contribute to the societal image of the women as “deviant” and the clients as “normative,” thus perpetuating the power gap between the two.²⁴

Research on the Demand for Paid Sex and Estimates of its Scale

The secretive nature of the sex industry poses an obstacle for researchers, and it is therefore difficult to reach a reliable estimate of the number of clients of paid sex. Nevertheless, researchers have been trying to arrive at a figure. The first comprehensive study, in 1948, found that 69% of men in the U.S. bought sex at least once in their lives.²⁵ While this and other findings in the Kinsey Report made a resounding public impact, the researchers were criticized, among other things, for using an unrepresentative sample that provided inaccurate results. More recent studies produced different results: 16% of men in the U.S. reported buying sex at least once in their lives, and half a percent reported doing so at least once a year.²⁶ Other studies have shown that the willingness of men to pay for sex varies according to country and culture.²⁷ In Finland, as in Russia, it was found that 10-13% of men had purchased sex at least once.²⁸ In Norway, the comparable figure is 11%, in Holland 14%, in Switzerland 19%, in London 7-10%,

²² International Organization for Migration, “Public Perceptions and Awareness of Trafficking in Women in the Baltic States,” 2002.

²³ Heller, pp. 4, 7.

²⁴ Keeler & Jyrkinen, “The Invisibility of Buyers in the Sex Trade,” *Who’s Buying? The Clients of Prostitution*, 1999.

²⁵ Kinsey, A., Wardell B., Pomeroy, C., Martin, E., *Sexual Behavior in the Human Male*, 1948.

²⁶ Michael, R., Gagnon, J., Laumann, E., Kolata, G., *Sex in America: A Definitive Survey*, 1994.

²⁷ Mansson, S., “Men’s Practices in Prostitution and Their Implications for Social Work,”

http://www.aretusa.net/download/centro%20documentazione03/contributi/c-05Men_practices.doc

²⁸ Haavio-Mannila, E., Rotkirch, A., “Gender liberalisation and polarisation: Comparing sexuality in St. Petersburg, Finland and Sweden,” *The Finish Review of East European Studies*, Vol. 7, No. 3-4, 2000.

and in Spain 39%.²⁹ Figures in the 70% range have been recorded for Cambodia and Thailand,³⁰ but these, too, appear to be imprecise estimates. It is important to note, that many men object to being defined as 'clients'. Research on male consumers of sex in countries well known for their sex industries (the Philippines, Thailand, and Brazil) found that most of the men interviewed objected to being labeled "sex tourists."³¹ In the absence of precise data, the only formula most researchers agree on is that the higher the degree of conservativeness, and the more rigid the social norms regarding the place of women, the higher the demand for paid sex and the thicker the veil of secrecy surrounding it.³²

As mentioned, the only existing estimate for Israel is one million "visits" to brothels per month. While many of these may be repeat visits by the same clients, the scale of demand is, nevertheless, enormous and the central role of the client in Israel's sex trafficking industry can no longer be repudiated. And, since the clients are the driving force of the industry, any attempt to fight trafficking in women must be based on an understanding of who these men are and what motivates them.

Who are the clients?

"The clients are men. Every single one. Anyone who has a penis between his legs is a client."³³

Is there a particular profile of sex industry clients? Are some men more likely than others to become clients? Apparently not. Researchers have discovered that the social and economic status of clients in the sex industry varies widely. The list includes wealthy businessmen and blue collar laborers, married and single men, civil servants, policemen, soldiers, taxi drivers, sailors, and migrant workers. Dudi, former owner of a brothel, speaking before a parliamentary inquiry committee on trafficking in women, described his clients: "I had a very famous mayor...I had a very famous rabbi...I had a movie actor...And, on the other hand, the clients are regular people...During the day, married people...At night, it's single people."³⁴ Some

²⁹ Leridon, H., Zesson, G., Hubert, M., "The Europeans and their Sexual Partners," in N. Bajos and T. Sandfort (eds.), *Sexual Behaviour and HIV/AIDS in Europe*, 1998. The low figure for Holland is attributed to omission of data relating to "sex tourists."

³⁰ Brown, L., *Sex Slaves –The Trafficking of Women in Asia*, (Hebrew), 2000, p. 124.

³¹ Günther, A., "Sex tourism without sex tourists!" in *Sex Tourism and Prostitution*, 1998.

³² Sion, A., *Prostitution and the Law*, 1977, p. 28. According to Brown, p. 122, Conservative family values and demand for paid sex are two sides of the same coin. Rigid social rules emphasize the distinction between "good" women who are suited for family life and "loose" women whose role is to satisfy sexual passions.

³³ Jackie Yizdi, the owner of the Tropicana brothel, from an interview with Oriah Shavit, "End of the Brothel," *Haaretz Supplement*, November 2, 2002.

³⁴ Parliamentary Inquiry Committee on Trafficking in Women (Protocol No. 5).

researchers have identified the key “demand groups” in the international sex industry.³⁵ There is wide consensus that local clients account for the greatest demand for paid sex, though their numbers vary with the cultural norms and political and economic situation in each country. The skyrocketing growth of the industry in Malaysia, Indonesia, and the Philippines in recent years, for instance, is attributed to the improved economic status of an expanding middle class. Paid sex in these countries is seen as one indicator of a rising standard of living.³⁶ The demand for trafficked women in these locations has become more selective. For example, many clients believe that the younger the woman, the lesser the chances of contracting a sexually transmitted disease, such as AIDS. As a result, a drop in the average age of trafficked women was detected.

One clear example of the cultural influence on the demand for paid sex is Thailand, where the practice is considered a social norm – behavior that is natural and acceptable. Young men are expected to have their first sexual encounter with a prostitute, from whom they will learn the “mysteries of sex.” Incoming college and university students in Thailand are taken on visits to brothels as part of their orientation.³⁷

Sex tourists – foreign residents who travel abroad for the purpose of conducting sexual relations with local women, men, or children – are also clients in the paid sex industry, but to a far lesser extent than local residents. They are a heterogeneous group. Most are heterosexual men, but there are also gay sex tourists and women sex tourists. Sex tourists range in age from adolescents to the elderly, and come from a variety of countries and socioeconomic backgrounds. Although sex tourists represent only a small portion of the demand for prostitution, the considerable increase in the number of women and children engaging in prostitution in poor countries, coupled with the considerable growth in foreign tourism in those same countries, indicates that the actual numbers of sex tourists are far from insignificant.³⁸ There are places in poor countries where sex tourists are the largest client group for paid sex. Other client groups include soldiers (both natives and foreign-based military personnel) and foreign workers (both businessmen and migrant laborers).³⁹

³⁵ O’Connell Davidson, J., *The Sex Exploiter*, 1996.

³⁶ Kvinnoforum, p. 10. On the other hand, there are poor nations, such as Cambodia, in which the demand for paid sex is particularly high. Brown, p. 124.

³⁷ Chutikul, S., “Who are the Clients – The Exploiters,” <http://www.cwa.tnet.co.th/Vol12-1&2/Saisuree.htm>

³⁸ Kvinnoforum, p. 10.

³⁹ O’Connell Davidson, 1996.

The Israeli Clients

“...There were religious people. I didn’t know they were religious then. I thought they just dressed strangely...They had a big black hat and under that a small black hat. They would take off the big hat and leave on the little one.”

“One of my clients was a policeman who came to me a few times...I didn’t know he was a policeman...He got a call on his walkie-talkie. I asked him if he worked for the police, and he said "yes, but you don’t have to tell anyone.”

“Drug addicts are the worst...He can lie there for ten hours totally out of it, and you’re not allowed to leave.”⁴⁰

“I’ve visited a lot of old and disabled people...Now I’m disabled just like them, but not physically – emotionally and psychologically.”⁴¹

There has been no research conducted in Israel on the clients of the sex industry. Interviews with trafficking victims, conducted by the Hotline for Migrant Workers between 2000 and 2003, revealed that the clients of Israeli brothels come from every sector of society, with the overwhelming majority being Israeli Jews – secular, religious, and ultra-Orthodox. Their dress often indicates their professions: businessmen, civil servants, soldiers, policemen, etc. The second largest client group was identified as Arab speakers, which may have included some Jews speaking with Arabic accents, as well as Palestinian citizens of Israel and Palestinians from the Palestinian Authority. This group is the majority in Jaffa and Acre only, which supports the conclusion that local clients account for the greatest demand for paid sex. Foreigners – migrant workers and tourists – were the third-largest group of clients. Very rarely, the clients were women. The interviews revealed that the clientele included minors, even 13-14 year olds who viewed the experience as a “test of maturity.”⁴² The involvement of minors points to the growing legitimization of the sex industry in Israel and raises questions about the link between the supply of women and the demand for their 'services'. It indicates, beyond a doubt, the need for research on the clients of the Israeli sex industry.

The "Need" for Paid Sex

There is no single, thorough explanation for men’s "need" for paid sex. Research from various fields offers a range of theories, which can be divided into three categories – biological, psychological-personality, and social-political.⁴³ A brief description of each follows.

⁴⁰ From interviews with trafficking victims, in Hammerman, I., *In Foreign Parts – Trafficking in Women in Israel* (Hebrew), 2004, pp. 105-107.

⁴¹ From an interview with D.Y. on November 2, 2004, conducted by volunteers for the Hotline for Migrant Workers.

⁴² Levenkron & Dahan, pp. 31-32.

⁴³ The categorical divisions were made for purposes of convenience. There is overlap between them, with psychological, and even biological, explanations drawing largely on social patterns and structures.

The Biological Theory

In most cultures, biology is the oldest and most widely accepted explanation for men's "need" for paid sex. The theory postulates that the male sexual impulse is an instinct as uncontrollable as the need for food or drink. It is strong, easily aroused, and must be satisfied. Women, on the other hand, have a weak sexual impulse. According to this theory, sex in exchange for payment answers the need of many men for a sexual outlet.⁴⁴ Prostitution fills the biological gap between the male and female levels of sexuality and offers a solution for men who have no sexual partners. The following colorful description of biological thinking was given by a brothel owner: "I look at this business like a restaurant. When a person is hungry, he goes to a restaurant. When a person feels he has to get it off, he comes to the parlor."⁴⁵ This is a widely held view. An attorney speaking before the Parliamentary Inquiry Committee on Trafficking in Women said, "[Prostitution] solves a lot of problems...Sex is a basic and essential commodity...Sex is like food."⁴⁶ Despite its popularity, the biological theory does not hold much scientific value today. Many researchers claim that the demand for prostitutes is socially constructed, and they note that the sexual impulse alone can be satisfied in a number of ways. Two studies, in Sweden and the U.S., found that often it is in fact men who have sexual relations with many different women (on a non commercial basis), that are also clients of women who work as prostitutes.⁴⁷ The foundation for the biological theory is tenuous, according to some researchers, since the male impulse for sex can be controlled. It is society that characterizes the male sexual impulse as a physical "need" that requires immediate gratification, and this message has become ingrained in social learning processes.⁴⁸

Psychological-Personality Theories

Researchers have recently begun to explain the motivations of clients in terms of personality characteristics and psychological – rather than biological – needs. All psychological theories view the client as a man with complicated emotional and sexual needs resulting, in part, from childhood trauma, education, and world views that developed over time regarding concepts such as sex, eroticism, and power.

The “dirty whore” fantasy: According to psychoanalysts, a common way adults deal with a childhood traumatic experience is to attempt to re-experience the event, but to reverse the roles.

⁴⁴ Sion, pp. 24-29.

⁴⁵ Shavit, p. 24.

⁴⁶ Attorney Yaakov Shaklar, speaking before the Parliamentary Inquiry Committee on Trafficking in Women. (Protocol No. 7) June 5, 2001.

⁴⁷ Mansson, S., "Commercial Sexuality" in B. Lewin (ed.), *Sex in Sweden*, 1998; Monto, p. 72.

⁴⁸ McIntosh, M., "Who Needs Prostitutes? The Ideology of Male Sexual Needs" in C. Smart and B. Smart (eds.), *Women, Sexuality and Social Control*, 1978, pp. 53-64.

In the presence of a prostitute, a client who was rejected or humiliated as a child becomes strong and controlling, and he channels his latent anger in her direction.⁴⁹ Many clients are sexually excited by the “dirty whore” image, which they perceive as a sexual object, stripped of autonomy and agency. By labeling a woman a “dirty whore”, men free themselves of any guilt of exploitation, at the same time confirming their sense of social superiority. The sexual excitement the dirty whore image arouses in clients derives from feelings of hostility and loathing mixed with “uncontrollable” lust, feeding in part on the notion that the prostitute is being used by countless other men. Clients aroused by the dirty whore image tend to view paid sex as an instrumental act and financial interchange, and they therefore expect the women to provide “fair compensation” for their money. Many prostitutes, however, report that during intercourse they just “lie there” without moving and simply wait for the client to finish. This seems to indicate that some clients find sexual pleasure in passivity, perhaps because the woman is participating – in exchange for money – in a sexual act that she clearly does not want to participate in. For other clients the dirty whore figure represents power rather than passivity. In these cases, the woman may be perceived as threatening, especially if she possesses the power to set limits on the sexual relationship.⁵⁰ This is rarely the case when the woman is a trafficking victim.

Demand for prostitution as a means of satisfying an obsessive impulse for absolute sexual control of weak and vulnerable individuals: For some clients, the image of a prostitute fulfills a need for a degraded sexual object devoid of human qualities. Men threatened by women who are capable of expressing their desires and independence often turn to prostitutes for self-assurance of their absolute control and for an opportunity to set “the rules of the game.” Men who are motivated for these reasons sometimes find pleasure in causing pain to the women they use. They purposely seek out extremely weak women and are sexually aroused by their vulnerability. This is how one trafficking victim described a “meeting” with a client: “He tore the area around my vagina. I was bleeding, but he didn’t care, and he continued. When I finished with him, I told the cashier I couldn’t work, that the client had torn my vagina...In the morning, the traffickers brought me condoms and gel to put inside the vagina. I went back to the room crying because of the terrible pain...”⁵¹ This also helps to understand why some clients, not necessarily pedophiles, derive erotic pleasure from using child prostitutes. Their extreme vulnerability and weakness is given erotic meaning. One client gave the following description of the pleasure he derived from the weakness of prostitutes in poor countries he visited: “The

⁴⁹ Stoller, R., “Sexual Excitement: Dynamics of Erotic Life,” 1979, cited in O’Connell Davidson, p. 138.

⁵⁰ O’Connell Davidson, p. 143.

⁵¹ From a letter by S.T., sent to a volunteer of the Hotline for Migrant Workers.

little girls... ten or twelve years old... they don't have the attitude of the older whores... You get a better service from them."⁵² Racist characteristics are also sometimes identified as weakness, which explains why some "white" clients seek out dark-skinned women.

Demand for prostitution as a means of achieving a sense of “real” manhood: Some researchers have focused on the socialization processes in which men learn that strength and control are equivalent to “manliness.” They theorize that men become clients in the sex industry in order to confirm and re-validate their manhood, which they were educated to equate with control of women. In the sex industry, control over women gives the client a sense that he is all-powerful – a sense that is encouraged by the industry. As a result, the man is able to break through moral and normative barriers that appear to be insurmountable in daily life. The client's perception of women as commodities to do with as he sees fit is achieved by dehumanizing women and turning them into objects. Many brothels in Thailand place women behind display windows, completely naked except for numbers attached to their bodies. The client chooses a “number,” and the woman to whom it is attached must then go with him.

Demand for prostitution as a means of experiencing “different” sex: Sexual fantasies of clients about prostitutes are filled with images of "experienced" women who are willing to perform “different” sex that is unobtainable with the clients' regular partners. Jackie Yizdi, a former brothel owner, described their motivation: “The married ones looked for deviant sex they couldn't have with their wives – all the things they were too shy to ask for, especially blow jobs. Everyone knows that Israeli women don't like to give blow jobs... Here, the men could also get s&m, bizarre, anal, orgies, all sort of things.”⁵³ Yizdi's message is echoed in empirical studies. U.S. researchers found that the sexual act most frequently requested by clients was oral sex, which they said their regular partners refused to perform.⁵⁴ Other clients, who described themselves as sexually "active" with their regular partners, preferred a passive role in their sexual relations with prostitutes, apparently, in order to enhance the sense of being “seduced” by a "loose" woman, and to minimize the commercial aspect of the transaction. Other clients prefer the humiliation and control of sadomasochistic sex. One psychological explanation is that these men seek to replace their restrictive societal roles, which demand self-control, with a role that permits them to lose control and allays fears about their sexual performance. Yet, the power relations of sadomasochistic paid sex are laden with contradictions. The client is the creator of a

⁵² O'Connell Davidson, p.147.

⁵³ Shavit, p. 24.

⁵⁴ Stein, M. *Lovers, Friends, Slaves – The 9 Male Sexual Types, Their Psycho-Sexual Transactions with Call Girls*, 1974; Monto, M., “Prostitution and Fellatio” *Journal of Sex Research*, 2001.

scene in which he is “controlled” by a “powerful” woman. It is merely play-acting, since, in the end, it is this same client who buys the woman.⁵⁵

The demand for “compassionate” prostitution: Clients who long for women in general, and not necessarily prostitutes, are often motivated by fantasies about the “kind-hearted prostitute” or the “sexual healer” who is perceived as providing human “compassion” more than sex. These clients are most often men who believe they suffer from difficulties in making contact with women. A U.S. study found that 42% of the clients surveyed reported suffering from shyness and embarrassment when attempting to make contact with women, 23% stated they experience difficulties attempting to make contact with women who are not strippers or prostitutes, and 23% said women are not attracted to them.⁵⁶

The demand for prostitution by men who prefer not to see themselves as “clients”: Some men pay money for sex but deny being “clients.” This is particularly true of men visiting foreign countries, who weave illusions about the true nature of their sexual relations with the local men, women and children. These illusions are easily created, since the types of prostitution in these countries are quite varied. Alongside the “established” sex industry is an “independent” sector of locals, who seek out their own clients. This sector offers a wide range of services very different from those common in Western countries. Persons engaging in this type of prostitution may offer free and full access to them for days and weeks on end, showing the types of intimacies that are conventional in Western cultures (kissing, shared apartments, etc.). Once the “service provider” confesses at some point in the “relationship” that she needs financial assistance, the client is then able to demonstrate his “generosity”, rather than make a payment for services rendered. This method allows him to define his contact with the women as mutual attraction and not a commercial business deal. Men purchasing this type of service never have to enter a brothel and are spared having to haggle over the price in advance. They can convince themselves that the person they are with is not “really” a prostitute and therefore they are not “really” clients.⁵⁷

Social Theories

These theories move the discussion from the individual to the social level: The mechanism of the sex industry, they hold, is not driven by independently acting individuals; it is both a product and a shaper of the surrounding social and cultural context.

⁵⁵ Mansson; O’Connell Davidson, pp. 148-150.

⁵⁶ Monto (p. 77). According to O’Connell Davidson, pp. 202-205, this explanation enables clients to deny their real motivations for turning to paid sex.

⁵⁷ O’Connell Davidson. This category also includes women clients, but to a much lesser extent.

Feminist theory: While the views of feminists regarding prostitution vary, they all focus on the power relationships between men and women. Mackinnon, a leading radical feminist theoretician, claims that the sex industry reflects patriarchal society, which ascribes erotic meaning to the subjugation and dependency of male-female relationships. Employing women as prostitutes under slave conditions and displaying them as easily accessible commodities, at the same time ignoring the fact that they are human beings with rights, contributes to the sexual pleasure of clients.⁵⁸ According to this theory, patriarchal society perpetuates the social structure of the sex industry in which men are human beings with power and financial means, and women are nothing more than merchandise available for sale. The radical feminist approach has been criticized for its generalities and for the paternalism it demonstrates toward women. Other critics – proponents of what is termed “sex worker feminism” – charge that a one-dimensional portrayal of prostitution claiming to represent all women is arrogant and wrong-headed. This feminist approach claims that for some women, prostitution is an empowering and educational experience that gives them the freedom to express and explore their sexuality.⁵⁹ Others claim that the sex industry challenges heterosexual hegemony and creates a joint struggle between women engaged in prostitution and the community of gay men and lesbians, whose sexuality is also perceived as abnormal in a patriarchal society.⁶⁰

The commodification of sex: Since notions about sexuality and gender are socially constructed, the way men conceptualize prostitution and the extent to which they partake in it depends on the societies in which they live. The mass media play a primary role in shaping ideas about sexuality and gender today. They interweave images of male and female sexuality with a consumer ideology holding that money can fulfill any whim or desire, and, accordingly, sex is perceived as one of the items that can be bought and sold. When sex is perceived more as a marketed commodity than an expression of intimate relations, conditions are ripe for a flourishing sex industry. While this perception is not new, it is interesting to see how the traditional patriarchal ideology, which viewed prostitution as a “natural” phenomenon, has morphed into a capitalist-consumer ideology. The popular label for this fusion of ideas is “McSex,” a play on the name of a classic symbol of consumer culture. The view of women as products sold in the free market is widely held in Israel. Attorney Yaakov Shaklar gave the following description of trafficking in women: “He [a trafficker represented by Shaklar] brings

⁵⁸ Mackinnon, C., *Toward a Feminist Theory of the State*, 1989, pp. 195-214.

⁵⁹ Funari, V., “Naked, Naughty, Nasty: Peep Show Reflections;” Sheiner, M., “Odyssey of a Feminist Pornographer” in *Whores and Other Feminists*, J. Nagel, ed., 1997, pp. 19-35, 36-43.

⁶⁰ Pendelton, E., “Love for Sale: Queering Heterosexuality” in *Whores and Other Feminists*, J. Nagel, ed., 1997, pp. 73-82.

beautiful girls from Moldova for the benefit of consumers...The word 'merchandise' [in relation to women] is very insulting, and it recalls slavery. But Chinese workers...are also, what can you do, merchandise. It's not nice to use that word for people, but they're bought and sold..."⁶¹ The concept of prostitution as a consumer activity is clearly evident on the Internet. One brothel Website boasts that it offers Israeli consumers the latest technology for "on-line orders for call girls right to your home, and all in Hebrew!"⁶² The site even offers potential clients a service agreement stating that they, like any client, will have the right to complain about the "services" rendered, since, after all, "The customer is always right." "Blazer," an Israeli magazine for men, was duly impressed: "What can I tell you? You've got to hand it to organized crime for really being organized. They learned from Domino's Pizza how to take orders. They asked me...with mushrooms? Without? I asked them...if it's not too hard, a natural blond, tall, with basic command of Hebrew."⁶³

Demand for prostitution as a means of male bonding: Clients in the sex industry sometimes come in groups. The practice is said to help establish a shared sense of male identity and to enhance the feeling of belongingness.⁶⁴ There are plentiful examples, including bachelor parties and company-organized "parties" for male employees. One example in Israel is the vacation organized by the employees' committee, including a hotel, car, and visit to a brothel. A teachers' organization in northern Israel hosted an evening for males only in which the featured entertainment was a stripper. There is also one known instance of a social evening for policemen that took place in a brothel, a place that by law should have been shut down by them and the owner arrested.⁶⁵ A trafficking victim told how "they sent me to apartments where there were men, and the driver who brought me would wait outside the door. But he wasn't there to protect me. He was there so I wouldn't run away. And I had to do everything they wanted. One woman who was with us at the parlor was sent to a client, but she discovered that instead of one client, 25 men were waiting for her in the apartment."⁶⁶

Purchasing sex as a means of returning to "the good old days": The struggle over the last century for the equal rights of men and women has upset the traditional male sense of superiority. Accordingly, the demand for prostitution, and particularly the demand for trafficked

⁶¹ Parliamentary Inquiry Committee on Trafficking in Women. (Protocol No. 7) June 5, 2001.

⁶² <http://www.050626216.com> Last visit to site: September 22, 2004.

⁶³ Buju, "I Paid for Sex," *Blazer*, February 2004, p. 110.

⁶⁴ O'Connell Davidson, pp. 165-168.

⁶⁵ Saban, A., "Police and Their Wives are Taken to a 'Social Evening' at an Escort Parlor" *Yedioth Aharonoth*, June 14, 2002; <http://www.ynet.co.il/articles/1,7340,L-2360734,00.htm>

⁶⁶ From an interview with Y.M. conducted by volunteers from the Hotline for Migrant Workers at a hospital in which she was being treated.

women, expresses the desire to return to the previous social order in which "white" males reigned supreme. Most trafficking victims are from "developing" countries in which this older social order is still in effect. These women are perceived as "genuine" women, for unlike their Western counterparts, they have taken on the "natural" role they were given – to please men.⁶⁷ Racial and ethnic stereotypes play a prominent role in the trafficking of women. Many white men request paid sex with foreign women because of particular qualities they associate with them: African women are "wild," Asian women mix "exotica" with "obedience", Latin American women are "hot," and so on. These colonialist-type stereotypes influence views about sex, particularly when the man comes from an affluent, "developed" country. The control over a woman, especially one of an "inferior" race, is a consolation prize, however small, for a man wishing to restore his superiority in the social order.⁶⁸

Are Clients Attracted to, or Repelled by, Trafficked Women?

"Sometimes I go to massage parlors to relieve myself ...My understanding is that the girls have sex with me willingly in exchange for money they get. I don't force myself on anyone...When I come to the parlor, I don't come to rape anyone. I think I act like any normal person would."⁶⁹

Since research has yet to be conducted on the sex industry in Israel, there is no information on how clients view the demand for paid sex with trafficked women. A pioneering study in six other countries reached interesting conclusions about the clients' relationships with foreign women engaged in prostitution. Nearly half of the clients interviewed believed that foreign women working as prostitutes offer more for the money and a wider range of sexual activities than their local counterparts. About a third of the clients thought they had more control over foreign women, and a similar percentage thought foreign women care more about their clients, derive greater pleasure from the sex, and are less expensive than local women. Most of the clients admitted they had heard of human trafficking for the purpose of prostitution. Some said they would treat trafficking victims the way they treat any woman engaged in prostitution. Few said they would give trafficking victims better tips. Many said they would offer to help the woman escape or report to the police. The same study found that clients can be divided into two categories: those who view paid sex with trafficked women in a positive light, and those who take a negative view of the phenomenon.⁷⁰

⁶⁷ O'Connell Davidson, J., "The Sex Tourist, The Expatriate, His Ex-Wife and Her 'Other': The Politics of Loss, Difference and Desire" *Sexualities*, Vol. 4, No. 1, 2001.

⁶⁸ Priour, A., Taskdal, A., "Clients of Prostitutes – Sick Deviants or Ordinary Men? A Discussion of the Male Role Concept and Cultural Changes in Masculinity," *NORA*, No. 2, 1993, pp. 105-114.

⁶⁹ Court testimony by a regular brothel client charged with raping a trafficking victim. In Hammerman, p. 104.

⁷⁰ Anderson, B. & O'Connell Davidson J., "The Demand Side of Trafficking – A Multi Country Pilot Study," 2002. The countries studied were Italy, Thailand, India, Sweden, Denmark, and Japan. The

Clients in the first category had no interest in the employment conditions of the women. The explanation given by the researchers is that these women are perceived by the clients as objects rather than human beings. One client, for example, described the role of the trafficking victim in this way: “I understand that the prostitute is there in the first place because she has no choice...I feel bad about this, especially if she is forced or sold. But the fact is that she is in the flesh market. The rules of the market apply to her as well as to one who has come out of her own choice... It may sound bad, but the fact is that she is a commodity offering a service, and she should accept that.”⁷¹ The pleasure that some clients get from paid sex with trafficked women is evident in a “Clients’ Manual” advertising services available to sex tourists in Thailand: “The hotel’s girls...14 and 15...are in effect 'owned' by the hotel, which means that you can treat them more or less any way you want... Hotels like this should be like paradise for those of us who are into S&M.”⁷² The second group of clients stated their opposition to the idea of paid sex with trafficking victims and said they would refrain from using these women. However, some men in this group admitted to having paid for sex with women that they knew were trafficked, because of their availability and cost, among other things. Their aversion to paid sex with trafficked women, therefore, is not based on moral principles. This study, which found significant differences by country in the way clients relate to trafficked women, is further evidence of the need for research on clients in Israel.

researchers caution against assuming that the clients who declared their intentions to assist the trafficked women actually did, or will, provide any assistance.

⁷¹ *Ibid.*, p. 22.

⁷² O’Connell Davidson, p. 35.

3. The Legal Status of Clients Internationally

There are a variety of legal means around the world for dealing with prostitution and the players it involves – including the clients. These approaches can be divided into three categories. We will present the advantages and disadvantages of each, in theory and practice, and will examine their relevance to trafficking in women and its clients.

Criminalization and Decriminalization

The criminalization approach outlaws prostitution of any kind and incriminates all who are partners to it. It is a policy employed in most states in the U.S. and in the Gulf States. It holds that prostitution is devoid of social value and can be eliminated by uncompromising enforcement of criminal law. Critics claim that the zero tolerance approach causes greater harm to women engaged in prostitution since it forces them into shady and isolated locations that pose a greater threat of violence. The criminalization approach requires that criminal files be opened for women engaging in prostitution, which results in lowering their self-image and making it difficult for them to leave prostitution. According to opponents of this approach, incrimination and conviction of clients will also contribute to forcing prostitutes to work underground, where they will be more vulnerable to harm and exploitation, and less likely to complain.⁷³

The opposite approach is the absolute decriminalization of prostitution. It advocates erasing all anti-prostitution laws from the books, including those banning pimping and the use of property for the purpose of prostitution. Proponents of this approach aim to erase the legal distinction between women engaged in prostitution and the rest of society and to protect them under regular criminal law. “Special treatment” of these women, it is claimed, could serve to reinforce their social inferiority and diminish their chances of abandoning prostitution.⁷⁴

The all-encompassing criminalization of the sex industry automatically outlaws paid sex with trafficked women, while the opposite approach requires that a strict distinction be made between trafficked women and other women engaging in prostitution. Since no country has adopted the decriminalization approach, the difficulties associated with this distinction have not yet been put to the test.

⁷³ Jones, N., “Guilty Until Proven Innocent,” *New Law Journal*, 1990, cited in S. Shaffer and M. Davis, “Prostitution in Canada: The Invisible Menace or the Menace of Invisibility?” 1994 <http://www.walnet.org/csis/papers/sdavis.html>

⁷⁴ Pheterson, G., “Not Repeating History” in G. Pheterson ed., *A Vindication of the Rights of Whores*, 1989, pp. 10-17.

Regulation

Regulating prostitution places restrictions on it, such as limiting prostitution to specific areas, or requiring licensing for brothels. The guiding principle of the approach is that prostitution is a “necessary evil,” or, at least, a social necessity and should therefore not be viewed as a crime. Its purpose is not to end prostitution, but to supervise and control it. Proponents claim that since women have responsibility over their bodies and are free to engage in prostitution, they must be allowed suitable conditions for doing so. Regulating prostitution will make them less dependent on pimps and less objectionable in the eyes of society. Critics of this approach claim that it infringes on the rights of women who engage in prostitution and drives many women working as prostitutes underground, thus defeating the purpose of regulation.

Abolitionism (Criminalization Combined with Protection)

According to this approach, the only parties that should be incriminated are those who harm the women employed in prostitution – pimps, traffickers, and, occasionally, clients. The women are perceived as victims, not criminals. Attention is focused on the social mechanisms that allow prostitution to exist, and it is those who profit from the victimized women who are liable for prosecution. Abolitionists would like to eliminate prostitution entirely and help the women re-enter society. Opponents say that blanket incrimination sweeps away the women’s entire social environment, rather than eliminating only those who hurt and exploit them; the women are robbed of their only sources of support (family, friends, and partners). The approach is also criticized for patronizing women employed as prostitutes and indirectly contributing to their image as eternal victims unable to change their lives.⁷⁵ Trafficking victims, in the abolitionist view, should be defended the same as any women working in prostitution. Regarding clients, the approach can be applied in different ways. Criminal law in Sweden incriminates all clients, while in Macedonia and Kosovo only the clients of trafficked women are incriminated. The laws in Macedonia and Kosovo, which were drafted by the U.N., forbid men from purchasing sexual services from a victim of trafficking in persons.⁷⁶ This legislation is problematic since lawmakers did not specify the signs by which a client can identify a victim of trafficking. Assistance organizations working in this area note that it is sometimes difficult to identify women who are trafficking victims, since some enjoy relative freedom of movement and are not victims of violence. They are, nevertheless, in debt bondage, their “debt” to the traffickers being, as it were, the cost of their transport and purchase.

⁷⁵ Shaffer & Davis. The original meaning of the term “abolition” was the elimination of slavery.

⁷⁶ U.N. Interim Administration in Kosovo, Regulation No. 2001/4, 2001, on the Prohibition of Trafficking in Persons in Kosovo, Section 4; Criminal Code of the Republic of Macedonia, Article 418/a.

Implementing the Approaches – A Comparative Analysis

The U.S. – A Prohibitive/Incrimatory Approach

Most states in the U.S. prohibit any form of prostitution. While the wording and application of the laws differ by state, in most cases it is the woman who engages in prostitution and her client who are charged with criminal acts. At first glance, this is an egalitarian approach that incriminates both parties to the act of prostitution. In actuality, the law's application is far from even-handed, with higher levels of punishment being set for the women than for their clients.⁷⁷

In terms of enforcement, women working as prostitutes are arrested far more often than their clients. In addition, courts hand down harsher sentences to the women than to their male clients.⁷⁸ Recently, more vigorous legal efforts have been made with regard to clients, and authorities have been using a variety of methods to deter clients, including impoundment of vehicles or confiscation of driver's licenses,⁷⁹ and even drastic measures such as publishing the client's name and photograph in the newspaper.⁸⁰ One of the most interesting forms of punishment is to send offenders to "John School." The program was founded in 1995 by Norma Hotaling, a former homeless prostitute and drug addict who established SAGE (Standing Against Global Exploitation), an organization devoted to helping women leave prostitution. SAGE, in cooperation with the San Francisco District Attorney's Office, has replicated the program for clients.

Two alternatives are available to clients arrested for purchasing sex in San Francisco: regular criminal procedures which entail a risk of conviction, or a requirement to pay for and participate in an eight-hour educational workshop in exchange for dropping charges. The workshop, which has already been conducted in other cities, is designed to teach the client the law regarding prostitution, increase his awareness about victims in the sex industry, encourage him to take responsibility for his actions and be conscious of problems in his sexual behavior. The workshop aims to change the participants' views about prostitution and prevent them from further engaging in it. The lecturers include attorneys, police officers, and physicians, each of

⁷⁷ In Model Penal Code 251.2 (1980), the act of providing prostitution services is considered a petty misdemeanor, while the purchase of prostitution services is considered an infraction, and carries a lesser punishment. In the states of Colorado, Alaska, and Kansas as well, there are different degrees of punishment for women engaging in prostitution and their clients.

⁷⁸ According to F.B.I. statistics, about two-thirds of the prostitution-related arrests made in 1993 were of women. Department of Justice, F.B.I., *Crime in the United States, Uniform Crime Reports*, 283 (1994). In Boston, not a single client was arrested in 1990: Kandel, M., "Whores in Court: Judicial Processing of Prostitutes in the Boston Municipal Court in 1990," *Yale Law & Feminism*, January 4, 1992.

⁷⁹ Conn. Gen. Stat. 53a-83a (West 1997); Fla. Stat. Ann. 322.26 (West 1995); Cal. Penal Code 647 (West 1998).

⁸⁰ This method is employed mainly by communities. The only state to legalize the method is Pennsylvania. Other states rejected proposals to do so on the grounds that punishment through shaming is not consistent with constitutional values. Pa. Stat. Ann. 590(e) West Supp. 1996.

whom addresses the negative aspects of the sex industry, including the dangers it holds for clients. Other lecturers shatter the misconception that prostitution is “a victimless crime.” Women who themselves have worked as prostitutes tell of the enormous damage to their lives, deflating the popular “happy hooker” myth, according to which women working as prostitutes enjoy their sexual contacts with clients, and that prostitution is a fair and agreed-upon form of bartering between two consenting adults. Most of the women emphasize that they did not choose to engage in prostitution but were dragged into it as a result of the destitute conditions of their lives. Former clients occasionally take part in the workshops as lecturers who describe their experiences as obsessive consumers of prostitution. They speak of the damaging effects of their behavior on their families, their professional status, and their reputation.⁸¹

The workshop has been the target of much criticism. A study in Toronto indicated that a large proportion of the participants are of low education and/or immigrants, with more affluent clients underrepresented. The researchers concluded that the participants reflected the demography of neighborhoods profiled for heavy enforcement. The police concentrate their efforts in poor neighborhoods and tend to ignore the presence of prostitution in wealthier areas. The workshop is also criticized for infringing on the right to a fair legal procedure, since participants are required to admit their guilt before being admitted to the program and must waive all possibility of dropping the charges against them. The fee charged, \$400-500, has also come under attack for setting the dangerous precedent of “paying” for the services of the criminal system. While the program’s founders view the payment as a “participation fee,” critics say the more appropriate term is “fine,” and fines must be imposed under due process. They add that the practice of using the funds to help women leave prostitution could lead the authorities to cut their social budgets.

In the U.S., trafficking victims are viewed differently from local women working as prostitutes. The law protecting trafficking victims, passed in 2000, distinguishes between trafficking in persons and severe forms of trafficking in persons, granting victims of the latter all the rights and services granted to refugees.⁸² The law provides various opportunities for preventing trafficking and convicting traffickers. It has no particular relevance for clients, who can, alternatively, be prosecuted for the criminal act of engaging in prostitution.

⁸¹ Wortley, S., Fischer, B., Webster, C., “Vice Lessons: A Survey of Prostitution Offenders Enrolled in the Toronto John School Diversion Program,” *Canadian Journal of Criminology* (2002) Vol. 44.

⁸² Trafficking Victims Protection Act of 2000. According to Article 103(8), severe conditions are those involving fraud and coercion of trafficking victims, or trafficking of women under 18 years of age.

Sweden – A Pure Abolitionist Approach

Sweden is the only country in the world to impose criminal sanctions on the client but not on the woman engaged in prostitution. The 1999 Swedish legislation is grounded in the view that prostitution is an undesirable social phenomenon and an expression of male violence against women.⁸³ While aversion to prostitution also underlies U.S. legislation, prostitutes there are prosecuted for moral reasons and out of a desire to preserve the public order. In Sweden, on the other hand, prostitution is seen as a negative phenomenon because it harms women who engage in it. According to this approach, the women are victims who must be assisted, not punished, and the best way to prevent the damage of prostitution is through a ban on paid sex and other social means.⁸⁴ The legislation was preceded by widespread efforts to promote the status of women in general and to assist those who are involved in prostitution. Swedish authorities credit the legislation with a number of successes, including a reduction in street prostitution, an end to the “recruitment” of new women – particularly girls – for prostitution, and a drastic reduction (75-80%) in the number of clients. It was also claimed that the law had a substantial moderating and deterrent effect on the trafficking of women in Sweden, and that foreign women prostitutes disappeared from the streets. Critics note that it is still too early to judge the effects of the legislation. They attribute the visible decline in prostitution to better organization of the underground sex industry. Moreover, they say, Swedish men may have taken on a new identity – as sex tourists – raising the possibility that rather than diminishing in number, clients for paid sex are simply going abroad for it.⁸⁵

The Netherlands – A Regulatory Approach

Prostitution-related legislation in the Netherlands has evolved over time. In the early 20th century it was abolitionist in nature, but this approach was not effectively enforced, and the ban on managing and maintaining brothels was eventually removed. A 1999 law legalized “voluntary” prostitution and permitted the operation of brothels. The law was intended to remove the stigma attached to prostitution and to stiffen the punishment for trafficking. It is still too early to know whether these aims have been achieved. On the one hand, conditions for prostitutes have improved, particularly in regard to their safety, health, and other social rights. They work openly rather than clandestinely, which may help them integrate into society.⁸⁶ On

⁸³ Ekberg, G., “Best Practices for Prevention of Prostitution and Trafficking in Women: The Swedish Law that Prohibits the Purchase of Sexual Services,” 2003.

⁸⁴ Kilvington, K., Day, H., Ward, “Prostitution Policy in Europe: A Time for a Change?” *Feminist Review*, 67, 1999, p. 83.

⁸⁵ Pettersson, E., Sjorgen, T., “Country Report to the European Network for HIV/STD Prevention in Prostitution,” 2000, cited in Kilvington, Day, & Ward, p. 85. The Swedish law also permits prosecution of clients who travel abroad to purchase sex.

⁸⁶ Kilvington, Day, & Ward, pp. 81, 84.

the other hand, researchers have recorded a sharp rise in the number of women engaging in prostitution,⁸⁷ and they note that about half the 25,000 women annually working as prostitutes in the Netherlands either do not want to officially “register” themselves as sex workers or do not qualify as such (because they are too young, use drugs, or reside illegally in the country). Therefore, many of the women employed in prostitution in the Netherlands do not enjoy the advantages of the regulatory approach and are exposed to the hardships of working underground, where it is much harder to offer them assistance. The legislation in the Netherlands, it is said, has created two groups of women prostitutes: one that enjoys the rights and benefits granted by law, and the other that operates illegally and is deprived of any rights. The approach has also been criticized for decriminalizing the clients of prostitution, even where the women involved are victims of trafficking. It is also claimed that the regulation of prostitution has contributed to the legitimacy of paying for sex, and that it has made the Netherlands a prime destination for sex tourists.⁸⁸

Israel - An Abolitionist Approach?

Judging from its criminal law, Israel does not adhere strictly to any of the three approaches; rather, it appears to be an amalgam of all three. Most legislation on prostitution relates to what can be called the “agents” of the sex industry, as opposed to the parties directly involved – the woman employed as a prostitute and the client. It is a crime under Israeli law to pander sex, lead a person to an act of prostitution, lead a person to deal in prostitution, or maintain a location for the purpose of engaging in prostitution.⁸⁹ While these laws seem to indicate the criminalization approach, the fact that the woman and client involved in prostitution are not incriminated sets Israel apart from countries in which criminalization is fully adopted as a means of dealing with the phenomenon. To the extent that Israeli law focuses on the social mechanisms that allow for the existence of prostitution, it can be categorized in part as abolitionist in nature. In 2000, Israeli criminal law was amended to include trafficking in persons as a criminal act.⁹⁰ The amendment ratcheted up the level of punishment for traffickers but ignored the clients and the victims of trafficking in women. In essence, apart from these criminal laws, the only other law relating to trafficking victims is the Law of Entry into Israel, which defines them as “unlawful residents” who are candidates for deportation. Lately, there have been signs of positive change in the perception of these women as victims, such as a government-established shelter for

⁸⁷ IOM, “Trafficking of Women to the European Union: Characteristics, Trends and Policy Issues,” European Conference on Trafficking in Women, June 1996. This trend may be related to the general rise in human trafficking internationally.

⁸⁸ Mansson, S.. Another attempt to institute the regulatory approach, in the Australian State of Victoria, failed.

⁸⁹ Penal Code, 1977, § 199, 201, 202.

⁹⁰ Penal Code, 1977, § 203a.

women willing to serve as prosecution witnesses against their traffickers. The shelter provides the women with medical, social, and legal assistance, and some are given permission to reside and work in Israel for the duration of the legal proceedings. Nevertheless, all-encompassing, comprehensive legislation that addresses the rights of the women as victims of a crime is noticeably lacking. Such legislation has been proposed by Knesset member Zehava Gal-On.⁹¹

⁹¹ http://www.justice.gov.il/NR/rdonlyres/75C08471-29BF-430B-BFFA-9C223543A732/0/saha_bnei_adam.pdf

4. Israeli Law – Theory and Practice

Under Israeli law, the clients of women employed as prostitutes are not considered criminals and are rarely punished, even in instances of trafficking. There are several ways of relating to clients within the bounds of criminal law: one is to apply the existing law, another to adopt the approach of banning paid sex with trafficked women only, and a third way to adopt the Swedish method, which bans paid sex with any woman, trafficked or not. We will examine each of these options, highlighting their advantages and disadvantages, and will attempt to suit them to different types of clients. Based on hundreds of interviews with trafficked women conducted by the Hotline for Migrant Workers between 2000 and 2003, we can identify three general categories of Israeli clients, based on the way they relate to the women.⁹²

The “Kindhearted” Client

“Sometimes, I would come to a client and sit there and cry...One of them once asked me, ‘What, the owner isn’t good to you? Doesn’t pay you well?’ I told him it wasn’t a matter of money. I don’t want to do it, they make me. And he actually listened to me patiently and made me some tea and asked me how old I was. I told him 17, and he was shocked. He gave me the money and said, ‘Tell the owner we slept together, that’s all.’”⁹³

The “kindhearted” client genuinely believes that women who engage in prostitution do so of their own free will. He is shocked to find out that the woman whose services he paid for bursts into tears the moment the door is shut, and instead of satisfying his sexual urges, she relates a harrowing story of abuse. This type of client forgoes the money he paid the pimp and the sex he was due to receive, and he sometimes makes an effort to help the woman (by going to the police or assistance organizations, or by helping her run away). There are some court records of cases involving “kindhearted” clients.⁹⁴ The most this type of client can expect is public admiration, particularly if his assistance proves instrumental in indicting traffickers and pimps.

The “Cruel” Client

“She was twenty years old, perhaps...She was some peasant girl, doubtless, whom her parents had sold into slavery...I pulled her off the bed and threw her on to the floor. And then I fell upon her like a tiger! Ah, the joy, the incomparable rapture of that time! There, MESSIEURS ET DAMES, is what I would expound to you; VOILA L’AMOUR!...Again and again the girl tried to escape; she cried out for mercy anew, but I laughed at her. ‘Mercy!’ I said, ‘Do you suppose I have come here to show mercy? Do you suppose I have paid a thousand francs for that?’”⁹⁵

⁹² The division by type is not based on any sort of psychological diagnosis.

⁹³ A trafficking victim, quoted in Hammerman, p. 106. Few women dare to behave in this way for fear that the client is a “spy” sent by the owner.

⁹⁴ In *State of Israel vs. Hanuchov* (Miscellaneous Criminal Applications), for example, the client met a trafficking victim at a brothel. He helped her run away, contact the police, and serve a complaint.

⁹⁵ George Orwell, *Down and Out in Paris and London*, 1933.

This type of client rapes the woman despite her clear objection, beats her, or threatens her. Research on violence against women prostitutes indicates that this behavior is quite common.⁹⁶ One explanation is that the sex industry is a “twilight zone” in which men can violate norms that reject violence and coercion in sexual relations yet escape the sanctions imposed on those who commit these offenses. It can be assumed that at least some of these “cruel” clients search for opportunities to physically hurt and humiliate others with full knowledge that they will not be punished. Trafficked women are extremely easy targets. Court rulings have addressed several of these sorts of cases. In one, a client raped a woman violently and performed sodomy on her afterward. In another, a client dissatisfied with the “service” he received beat the woman so badly that she lost her eyesight.⁹⁷ While the penal code permits prosecution of a “cruel” client for offenses such as rape and assault, reality shows that this step is rarely taken.

The “Apathetic” Client

“...Afterward, she took up drinking...That helped her. She didn’t care anymore. It hurt her less now when they raped her. Yes, raped, that’s the word, because not one time Eden was with them – with those men – did one of them ask her if she wanted to or not.”⁹⁸

The largest group of clients is the indifferent ones, those who do not appear to care at all about whether the woman agrees to have sex with them. While the current penal code in Israel allows for prosecuting “cruel” clients, the “apathetic” types are the most problematic group in terms of its legal status. The apathetic client closes his eyes, and, supposedly, does not see or know a thing. When he visits a “health club,” he does not usually bother to ask for the woman’s consent. He may assume that the flashing neon lights outside, the sign “Escort” or “Health Club,” the presence of scantily dressed women, or the fact that he paid money to the prostitute or her pimp are sufficient proof of the woman’s agreement to have sexual relations with him. The reality, of course, is quite different. Many trafficked women object to having sex but are afraid to say so. The apathetic client does not know, or worse, knows but does not care, that the woman whose sexual services he has bought is a victim of trafficking, that her life consists of large doses of violence, threats, coercion, deceit, and exploitation, that she – like other trafficked women – is being held against her will, sometimes under prison conditions, with no medical treatment or rest, and is subject to a terrorist regime that imposes heavy sanctions for various “violations”, such as refusing to have sex with clients.

⁹⁶ Church, S. “Violence by Clients Towards Female Prostitutes in Different Work Settings: Questionnaire Survey” *British Medical Journal*, 2001

⁹⁷ Serious Criminal Case (Tel Aviv) 1210/01 *State of Israel vs. George*, District Court Reports 2003(1), 423, 438; Criminal Case 8037/00 *State of Israel vs. Genady Riabkin* District Court Reports 2001(2), 246

⁹⁸ Katia, a trafficking victim, writing about her experiences in the third person as “Eden.” In Hammerman, p. 184.

Theoretically, the act of paying to have sex with trafficking victims can be legally termed rape. § 345(a) of the Israeli Penal Code states as follows: “Sexual intercourse with a woman (1) without her willing consent; ... (4) while exploiting a situation in which the woman is unconscious, or another situation that prevents her from giving her willing consent... is rape, and its punishment is 16 years’ imprisonment.” It would be hard to argue with the claim that the “consent” of a trafficking victim, who is under the sole – and sometimes violent – control of traffickers and pimps, is not a “willing consent” (according to the language of § 345(a)1), and the fact that she is being forcibly held under threat undoubtedly fits the definition of “another situation that prevents her from giving her free consent” (according to the language of § 345(a)4). However, it also seems fair to assume that most men visiting brothels are not interested in rape, and some would probably not have sexual relations if they knew it were against the wishes of the woman. Nonetheless, most of the women are caught in a constant web of threats, and it is fear of the threats being carried out (against them or their families) that keeps them from openly refusing to have sex with their clients. As a result, they are forced to serve dozens of clients per day against their will.

Clients who are unaware that the women they are paying for sex are being forced to do so may appear to lack the criminal intent required for charging them with the crime of rape. The law is silent regarding the criminal intent required for prosecuting in the crime of rape. The first part of §19 and §20(a) of the Penal Code stipulates that the necessary condition for a rape charge is criminal intent in relation to both the behavior and the circumstances. Many clients, it can be assumed, lack the criminal intent required by the law. Nevertheless, there may be situations in which clients who “close their eyes” can be said to have a criminal intent. In recent years, the Israeli media is abound with horror stories about young women brought to the country fraudulently, held against their will, raped, beaten, and forced to work under appalling conditions. When a client enters the “parlor,” he might encounter a guard at the entrance, metal bars on the doors and windows, and foreign women who are being treated forcibly by the owners of the establishment. These and other signs could raise suspicions that the women are the victims of trafficking being held against their will. In cases where there are sufficient signs to make the client suspicious, and he chooses to ignore the suspicions and proceed to have sexual relations with the trafficking victim, he can be said to have closed his eyes. It is this type of client who can be rightfully charged with criminal responsibility.

A recent court decision made important progress in recognizing the connection between the crime of rape and crime of human trafficking. One of the defendants was charged, among other things, with trafficking and raping the women he trafficked. The judgment leads to the

conclusion that sexual intercourse with a victim of trafficking is, in itself, an example of shutting one's eyes. The judgment reads as follows:

“The emphasis in the crime of trafficking in women is on ‘the practice of ownership over another person and treating them with contempt and humiliation’... If proprietary practices include the practice of sexual intercourse, there is a greater suspicion that conditions might exist for ‘absence of willing consent.’ Of course, it is possible to commit the crime of trafficking in women without committing the crime of rape. However, having sexual intercourse with a trafficked woman without clarifying whether she agrees, based on the assumption that this is irrelevant, is a form of shutting one’s eyes...Defendant No. 2 comes into I.’s [the complainant’s] room and tells her that he didn’t come to talk, that she can already guess for herself why he has come. He does not need to explain anything or go into detail. The picture is clear since the circumstances speak for themselves. She is a victim of trafficking. He is aware of the situation when he enters the room. There is more than a suspicion of the possibility that she does not willingly consent to sexual relations ...When the prosecutor quoted I.’s words to the defendant to the effect that she was opposed to having oral sex, he replied, ‘I have never heard of a prostitute who doesn’t want to’... He has never heard of one and therefore didn't see one. He does not try to find out and does not look to see...From his point of view, what is the connection between her and free choice? What right does she have to refuse? She is an object in the eyes of the defendant... It has been proven that the sexual act was performed without her free consent and the criminal intent of Defendant No. 2 has been proven... It follows that Defendant No. 2 raped the complainant... This position is based on the circumstances, the legislative history of the crime of rape, and the intent and wording of the law.”⁹⁹

The logic of this important judgment extends beyond its reference to traffickers and pimps; it relates in equal measure to clients. The clients, like the traffickers, are not entitled to deduce that trafficking victims “implicitly agree” to having sex merely because they work as prostitutes. Like the traffickers, the clients are not entitled to ignore clear signs that the women are opposed to having sex with them, and they are not entitled to close their eyes when warning lights flash, indicating that the women with whom they are about to have sex are victims of trafficking.

Prohibition of Paid Sex with Victims of Trafficking Only: Another possible legal method for dealing with all types of clients is to make paid sex a criminal offense only when it involves

⁹⁹ Serious Criminal Case 904/03 *State of Israel vs. Zaletsky* (Not yet published) §13. The judgment was handed down on December 5, 2004.

trafficking victims, since the very existence of the prohibition might dissuade clients from buying sex from trafficking victims. The method raises several problems, however. First, the signs by which clients can identify trafficking victims are not always clear. Some trafficked women are held in “discreet apartments” or are sent to the client, and he has, supposedly, no way of knowing that they are under the control of traffickers even when to all appearances they seem to enjoy freedom of movement and are not exposed to physical violence. Second, if clients were indicted, the sex industry could move into the shadows, making it more difficult to locate and free women from the hands of traffickers.

Prohibition of Paid Sex with any Woman Engaged in Prostitution: Blanket indictment of all clients in the sex industry would represent a radical departure from current legal methods. The purchase of sex is permissible and legal today except where minors are involved. Proponents of this approach believe it is problematic and misleading to make a distinction between trafficking victims forced into prostitution and women who “freely choose” to work as prostitutes. In their view, prostitution is a product of “no choice” rather than free choice, due to severe hardship, a lack of alternatives for making a living, and emotional injury. Prohibiting paid sex with any woman, say proponents, is a means of challenging the social legitimacy of the practice and bringing to a halt the social mechanisms that encourage the sex industry and profit from exploiting the women it employs. On the other hand, this method could also lead to the sex industry going underground which would inhibit the ability to assist the women.

Civil Law: Another legal means of dealing with clients is civil suits. A number of states in the U.S. now recognize a unique form of damage in civil suits – forced employment in prostitution – which can be applied to traffickers and pimps as well as to clients. In Minnesota, for example, a client can be sued if he has any reasonable grounds for believing that the woman he is paying in exchange for sex is engaging in prostitution (or began doing so) as a result of coercion.¹⁰⁰

¹⁰⁰ Minn State Ann. 611A.81. (West 2000).

Summary and Recommendations

Few crimes are as malicious as trafficking in women. Recognizing this, Israeli courts have termed the crime “particularly serious,” among the most “contemptible and loathsome,” and “a modern slave trade.”¹⁰¹ Its perpetrators, however, are not only pimps and traffickers. It is the demand of clients that allows trafficking in women to exist. Clients are also partners to the daily terror that trafficking victims experience. The money they pay buys them full ownership over the women for a given time period. The women have no power to set limits on the clients and are denied the right to refuse to take part in any sexual act the client desires. Dissatisfied clients only intensify the terror in which the women are trapped; either the clients themselves release their anger on the women, or they complain to the traffickers, who later mete out punishment. Nevertheless, there is little recognition – either by the public or the law enforcement system – of the active role of clients in this slave trade. The client is exonerated on the grounds that he “doesn’t know” or “isn’t aware” of the slave conditions and flagrant human rights violations suffered by the women. Despite available legal methods for prosecuting clients in the sex industry, the overwhelming majority are not charged with any sort of crime, as evidenced by the very small number of clients who have been brought to court for offences of any kind committed against victims of trafficking. As a result, the enslavement of thousands of women in Israel, and the violence and terror they experience, remain hidden from most of us, and worse, are given silent approval.

The silence is an expression of social preference. By absolving clients from guilt, society gives higher priority to their “right” to constant, uninhibited access to paid sex (regardless of the price paid for this “right”) than to the basic right of trafficked women to human dignity, freedom, and bodily integrity. Criminal law is one tool society uses to denounce acts it considers harmful and undesirable. The fact that Israeli society makes no effort to suppress the demand for trafficked women indicates that paying for sex with women held under slave conditions is not perceived as behavior that needs to be specifically prohibited by criminal law. It would seem that the “otherness” of the women – the fact that they are foreign, poor, and “illegal residents” – combined with the prevailing Israeli stereotypes about “Russian women” are factors that allow the authorities to remain blind to the serious crimes committed against them. The words of Justice Cheshin are worth heeding: “These matters of human trafficking for the purpose of sex, quite naturally, involve individuals at different stages of the trafficking... It can be imagined as a chain of activities performed by different people, and the linking of one chain with another creates the trafficking from beginning to end... The courts are charged with doing their utmost

¹⁰¹ Miscellaneous Criminal Applications *Hanuchov*, p. 1993, Miscellaneous Criminal Applications 9274/01 *State of Israel vs. Yishai* Supreme Court Reports 2001 (4) 57).

to break this chain of evil wherever they see it, since breaking one link will cause the entire chain to fall apart.”¹⁰² The time has come to act on the implications these important words carry for the key link in the chain – the clients of trafficking victims.

Recommendations

This report is a first attempt to lay the groundwork for a discussion of the client’s role in the trafficking of women in Israel. An issue of such importance and complexity demands empirical research as well. Based on reliable findings, efforts to combat trafficking in women in the country will be more focused and effective. In the meantime, a number of other steps can and should be taken:

Conduct a widespread and ongoing public information campaign on the issue of human trafficking: A campaign to raise public awareness about human trafficking is a prerequisite for any change in the legal status of clients. The main goal of such a campaign is to erase ignorance and stereotypes about human trafficking in general, and trafficking in women in particular. It must clarify the meaning of human trafficking, illustrate the various forms it takes, and expose its damage to victims. Israel made a commitment to taking such steps when it signed the 2000 U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The Protocol calls on nations to “adopt or strengthen legislative or other measures, such as educational, cultural or social measures...to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that lead to trafficking.”¹⁰³ The informational campaign should be geared toward potential clients, explaining to them the meaning of conducting sexual relations with a woman who is a trafficking victim. Given the myths surrounding the phenomenon, many clients most likely believe (or prefer to believe) that the foreign woman coming to Israel “chooses” prostitution out of her own “free will.” This and other myths about trafficking in women feed the great demand. If clients were more aware of the realities of trafficking, demand might decrease. The campaign, apart from its direct advantage of reducing the demand for paid sex, would make it more difficult for clients to claim ignorance and easier for prosecutors to claim they simply closed their eyes.

Prosecute clients under existing criminal law: It is the large group of “apathetic” clients to whom existing legislation can be applied. These are clients who are aware of – but not bothered

¹⁰² Miscellaneous Criminal Applications 8077/01 *Shraper vs. State of Israel* Supreme Court Reports 2001 (3) 255.

¹⁰³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United National Convention against Transnational Organized Crime, 2000, Article 9(5).
http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng

by – the fact that they are paying for sex with women held against their will, or clients who merely suspect the women are trafficked but close their eyes and ignore their suspicions. These clients can be accused and convicted of rape under existing laws, with no need for new or amended legislation. The laws exist. The question is whether Israeli authorities are willing to enforce them.

Prosecute clients under a civil damages claim of forced employment in prostitution: Using the Minnesota model, civil damage laws should be amended to allow for prosecution of clients who buy sex from women being held against their will, as well as the traffickers and pimps who force them into prostitution. We recommend that this civil tort, like that of sexual harassment, will allow courts to grant compensation, even in the absence of proof of damage. Monetary sanctions will serve as a deterrent, and the compensation paid to women can be used to help rehabilitate their lives.

Amend the penal code to prohibit purchasing sex from trafficking victims: Criminal sanctions may serve to end the demand of some clients for paid sex. However, since this method departs so drastically from the current legal situation, we suggest that it not be implemented immediately. It should be preceded by the widespread and lengthy informational campaign we recommend on the subject of trafficking in women. Another possibility is to introduce legislation that prohibits the purchasing of sex from every person working in prostitution, as was done in Sweden. This may not be advisable in the near future, however, since the effects of such legislation have yet to be determined. Opponents of this method might be justified in claiming that the sex industry could be pushed “underground” as a result. Therefore, despite its encouraging signs, the blanket prohibition of paid sex must be examined to see if it does, indeed, reduce the demand for trafficking victims. In addition, banning paid sex with women who are not trafficking victims raises the question of whether criminal law – a tool designed to indicate society’s “tolerance level” – should ban contact between two presumably consenting adults. Indeed, individual autonomy is not an absolute value. However, the question if the balance between individual autonomy and the concern of damage caused to those engaging in prostitution needs to be cut in an absolute ban on the purchasing of paid sex, is not a rhetoric one. Whether there are other methods, such as providing information or education, for achieving the goal, is worthy of examining.

Increase enforcement measures: Israel’s enforcement authorities should be responding to the frequent occurrence of rape of trafficking victims – rape committed directly by clients, pimps, and traffickers, and rape resulting from conditions created by traffickers. Police must be required to question the women about the crime and explain its meaning under Israeli law. The

courts must pay careful attention to the testimony of trafficking victims and to add charges of rape to indictments when evidence of such is revealed in court. The State Attorney's Office must also relate very seriously to the crime of rape. If a charge of rape is not included in a criminal file for trafficking, especially in cases where threats or coercion are involved, further investigation must be ordered. The position of the General Prosecutor's Office regarding clients, as expressed in sessions of the Parliamentary Inquiry Committee on Trafficking in Women, is a long way from this goal.¹⁰⁴ Its representative on the committee claimed there is no practical way of enforcing the law in relation to clients, due to problems with evidence and a lack of resources. It is hard to imagine other severe crimes for which the General Prosecutor would so readily and completely cast off its legal responsibility for prosecuting perpetrators. It is also difficult to understand the legal basis for this decision, which creates a legal and social reality in which only certain women enjoy the right of autonomy, freedom, and bodily integrity. The practical significance of the decision to refrain from investigating and prosecuting clients of trafficked women on charges of rape, when there is evidence of such, is that thousands of women continue to be subject to repeated instances of rape, whilst the perpetrators are granted with "immunity" from prosecution. This must not be permitted.

A struggle that takes place on all levels – informational, educational, legislative, and enforcement – can help bring an end to trafficking in women, or at least contribute to reducing its scale. By implementing these recommendations, Israeli authorities can give real meaning to its declaration of an “all out war” on trafficking in women. Without concrete action, such declarations remain but hollow, empty words.

¹⁰⁴ Parliamentary Inquiry Committee on Trafficking in Women (Protocol No. 14).

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