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Legalization of Prostitution in Thailand: A Challenge to Feminism and Societal Conscience

Virada Somswasdi¹

The Backdrop

Apparent attempts to legitimize underground economic activities such as gambling, illicit lotteries and prostitution were not made until this incumbent government began laundering the underground lotteries through its own mechanism in 2003. Another move was to expand legalized gambling. Then there was a public outcry in various mass media on the problem of police corruption and prostitution from the most notorious and outspoken man whose business in massage parlors has outgrown others in the same sector.

It is becoming apparent that the Thai government's ulterior motive in legalizing prostitution is to snatch the economic benefits reaped by the underground economy of an estimated \$4.3 billion per year, or 3% of Thailand's economy. The usual question that people ask is about the number of women and girls in prostitution. The answer from the state agencies is between 100,000 – 200,000. Yet, the estimates of the NGOs are 1,000,000 - 2,000,000. However, the concern should be about the lowering age and who they are.

Many feminists and rights advocates are questioning the conspiracy of the king of massage parlors, Chuwit Kamolwisit, and the government.

There is a government scheme to set up entertainment complex (es) where visitors can enjoy services that are normally seen as social indulgences and vices. Along with this, the Ministry of Justice organized a huge forum, featuring the king of massage parlors as the star speaker and a hefty majority of additional speakers as proponents of legalization of prostitution.

Since then, the issue of legalizing prostitution has stirred up a variety of responses from civil society, including groups and individuals with differing ideas and confusion.

Thai society and the feminist movement have been bombarded with the (ir) rationality of economic greed, social ignorance and a patriarchal frame of thinking on the legalization of prostitution. Feminist ideology and societal conscience are hence being tested all over again. The issue of prostitution has been reduced to an issue of taxation for state income generation.

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The Context

Basically, the issue of legalizing prostitution is twofold, i.e., the decriminalization of prostituted women and the legalization of prostitution or decriminalization of the sex industry. Nonetheless, most people tend not to deliberate on the difference between these two points. The confusion surrounding the issue revolves around the decriminalization of prostitution and the decriminalization of prostituted women. The first is about an acceptance of prostitution as work and the latter perceives that the prostituted women are victimized, exploited and violated, and thus should not be punished.

References to the historical path of the 1908 Contagious Disease Prevention Act as a claim to revisit registration of brothels has no justification because in 1928, the Trafficking of Women and Children Act revoked it to derail the procurement of women and children for purposes of prostitution. Later laws against prostitution include the Suppression of Prostitution Act of 1960 and the current 1996 Prevention and Suppression of Prostitution Act.

If one cannot completely rid oneself of the voracity for cash one will not see that prostitution, although legalized, can never be a legitimate business because it will always be associated with crime, corruption, class, mass sexual exploitation and human trafficking.

The implicit assumption of free choice in wording such as "the private affairs of individuals", "personal freedom", "right to privacy" and "the consent of two adults" are nothing but the formation of an illusion perpetuating lack of social awareness of sexual slavery.

Dominated by the patriarchal social structure, male and female members of society fail to understand that prostitution is about the flesh trade, and involves a high risk of exposure to violence characterized by bodily harm, health hazards and mental trauma. It is about the violation of women's human rights.

To me and many feminists, prostitution is not about women's choice and agency nor women enjoying rights over their own bodies; on the contrary, it is an expression of men's control over women's sexuality. It is the hiring out of one's body for the purposes of sexual intercourse, abuse and manifestations of undifferentiated male lust. It is about gendered, ethnic, age, racial and class power relations. It is about the subjugation of women and girls. By no means is it the "consent of two adults", when one party is the

buyer and the other the seller, especially when the buying party happens to be socially constructed as "the better sex", "the better class", "the more matured", "the power- that- be", "the more culturally polished" or as possessing "fairer skin," etc.

Prostitution is against the dignity and worth of the human person as stated in the 1949 Anti Prostitution Convention (the Convention Against Trafficking in Persons and the Exploitation of the Prostitution of Others).

Prostituted Women

If prostitution were to be legalized, women in prostitution would be classified as members of a sexual service class and kept out of the mainstream economy. Their only crime is "voluntarily" entering into prostitution.

Yet, it is necessary to take into consideration the entire life paths of prostituted women, from the past to the present to what may lie ahead, in relation to the social structure, not relying on such simple terms as "consent" or the "voluntary acts" of women who enter prostitution. One must consider the context and deeper meaning of such terms, be they economic, social cultural or political. Gender power relations, economic and social classes, misinformation, subjugation of women and girls, family obligations, consumerism, legal loopholes and law (un) enforcement all contribute to the growth of prostitution and nothing less. The so-called "choices" prostituted women make are rather survival strategies.

Prostitution demonstrates that under patriarchal capitalism, market values can intrude into even the most private aspects of human existence.

The usual argument is that prostitution is the oldest profession in the world and is consequently impossible to eliminate, and that it was once legal in Thailand, so why not acknowledge and legalize prostitution "to enable more effective policing and to eliminate exploitation of women." It is a necessary evil.

This kind of approach simply ignores the dehumanizing and exploitative aspects of prostitution, and fails to address the problem at its roots by cleaning up the dirty police force and working towards gender equality and respect for women's human rights! Also, one can argue that this problem has been in existence far too long, a solution is long overdue, and it is to be dealt with utmost urgency.

In addressing women's sexual vulnerability and their vulnerability to sexual conditioning and economic discrimination, the feminist thinking and societal conscience are branded as "the conservative lobby". Feminist thinking points

out that legalization of prostitution is economic anointing or laundering. Moreover, the problem of prostitution is rooted in diverse aspects of economic, political, socio-cultural values and sexuality, which are closely linked to the patriarchal social structure.

It is therefore not surprising that so-called more "liberal groups" cannot understand that prostitution is a paradigm of the economic reductionism of gender issues and in the words of Andrea Dworkin is "one of the most pernicious forms of androcentric thinking". The so-called "liberal groups" are inclined only to see an opportunity for state taxation from prostitution, while closing their eyes to the commodification and objectification of women for men's sexual desires and promiscuity.

One has to accept the fact that prostituted women are used, abused and violated of human dignity in one form or the other. Their role relieves men of responsibility for their sexual behavior. They are lured, forced and, under male hegemony, are misinformed and thus trafficked into prostitution. They are not criminals but those who lead them into the vicious circle are. It is hence out of the question that prostituted women should be stigmatized, registered and categorized as "legal prostitutes" or by the mischievous term of "employees" of brothels or establishments under dubious names.

It is almost impossible to draw a line between prostitution and trafficking in women when misinformation plays a critical factor.

The efforts of all concerned should instead be to urgently focus on how to suppress prostitution, embrace gender equality, defend women's human rights and support prostituted women to enable them to leave prostitution and to be provided with dignified and sustainable work, definitely NOT the other way round.

These recommendations are certainly not for sweeping the problem under the carpet.

Rather than legitimize illegal businesses, Thais should be thinking more about rehabilitation and human dignity.

In Conclusion

Janice Raymond of the Coalition Against Trafficking in Women International has presented arguments against the legalization of prostitution in the form of ten points:

1. **Legalization/ decriminalization of prostitution is a gift to pimps, traffickers and the sex industry.**

Pimps are turned into entrepreneurs or third party businessmen. Men who buy women for sexual activity are legitimate consumers. I'd like to make a note here that traffickers are suppliers of goods.

2. Legalization/decriminalization of prostitution and the sex industry promotes sex trafficking.

After the legalization of prostitution, 80% of women in the brothels in the Netherlands are trafficked from other countries, with 70% from Central and Eastern European countries. 75% of the prostituted women in Germany are from Latin American countries, and others are from Eastern Europe and former Soviet countries. In Australia, trafficking in East Asian women for the sex trade is a growing problem. My observation will be that a great number of them are from Thailand.

3. Legalization/decriminalization of prostitution does not control the sex industry. It expands it.

Since legalization, the sex industry has expanded by 25%, and now accounts for 5% of the Netherlands economy. The number of brothels has increased in Australia and Switzerland, and brothels are encroaching into residential areas.

4. Legalization/ decriminalization of prostitution increases clandestine, hidden illegal and street prostitution.

This has happened in the Netherlands and Australia, both in the size and number of brothels.

5. Legalization/decriminalization of prostitution and the sex industry increases child prostitution.

Child prostitution in the Netherlands has increased dramatically and a great number of children are trafficked from Africa. I'd like to underline that it is not pessimistic to project that more children from Laos, Burma, Cambodia and China will be trafficked to Thailand and within the country from the rural areas to big cities.

6. Legalization/decriminalization of prostitution does not protect the women in prostitution.

Studies by CATW indicate that prostitution establishments do little to protect prostituted women; they only protect the customers. Behind closed doors anything can happen- there is no one to "protect" the women.

7. Legalization/decriminalization of prostitution increases the demand for prostitution. It boosts the motivation of men to buy women for sex in a much wider and more permissible range of socially acceptable settings.

"When the legal barriers disappear, so too do the social and ethical barriers to treating women as sexual commodities". Legalization of prostitution sends the wrong message to men and boys that women are sexual commodities and that prostitution is harmless fun.

8. Legalization/decriminalization of prostitution does not promote women's health.

The mandated health checks and certification are required only for women and not for clients. Women are not protected from HIV/AIDS or STDs. My note is that a survey of young Thai HIV-positive males

showed that condoms were not used at all during their sexual activities.

9. Legalization/decriminalization of prostitution does not enhance women's choices.

The CATW studies showed that most the women perceived that choice in entering the sex industry could only be discussed in the context of the lack of other options. Making a distinction between forced and voluntary prostitution serves as promotion of the sex industry, providing the industry with security and legal stability within the context of legalizing prostitution, pimping and brothels. A number of survivors of prostitution say that it took them a long time to acknowledge that prostitution was not a free choice because to deny their own capacity to choose was to deny themselves.

10. The majority of women in systems of prostitution do not want the sex industry legalized or decriminalized.

The studies made in 5 countries by the CATW found that most of the women interviewed strongly indicated that they were against legalization and could not accept prostitution as legitimate work. They saw that it would create more risks and harm for women from already violent customers and pimps. In their words, "No way. It's not a profession. It is humiliation and violence from the men's side. Prostitution stripped me of my life, my health, everything."
