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Sex Workers Need Safety, Not Prosecutors

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The author's advocacy group argues that Eliot Spitzer's downfall should spur better laws on prostitution and trafficking, not just arrests.

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Editor's Note: *The following is a commentary. The opinions expressed are those of the author and not necessarily the views of Women's eNews.*



Juhu Thukral

(WOMENSENEWS)--The spotlight that has been trained on Eliot Spitzer's sex life this past week should also help illuminate our whole ramshackle structure of laws and policies that surround prostitution and human trafficking.

We do not yet know what the New York governor did or did not do in his personal life, but we do know something about his policies in this area, because we helped write them.

As lawyers and advocates who seek to protect the rights of sex workers, we and our partners worked with Spitzer's office on the anti-trafficking law that the state of New York passed in 2007, one of the toughest such laws in the country.

Prostitution and promoting and patronizing prostitution are already criminalized in New York state. This law clarified the types of coercive conduct that constitute human trafficking and set higher penalties and also created a crime of human trafficking for all other sectors where trafficking occurs, like domestic work and agricultural work.

Before the law was passed, we argued over what we saw as the legislation's--and the governor's office's--excessive focus on attacking prostitution rather than trafficking, which is coercion or trickery into forced labor of any kind including farm, domestic or factory work, as well as sex work.

Different Solutions

Prostitution is the provision of sexual services for money and, whatever your feelings about that, it is different from trafficking. Trafficking and prostitution are both complex issues, but they require different solutions.

Human trafficking is appropriately punished through the criminal justice system, although law enforcement should not be the sole focus for a solution. However, sex workers need to have their human rights protected. They need services and realistic economic opportunities if they are trying to leave sex work. Arresting people

does not help them. Often it makes it more difficult to find other work and puts them at risk for removal from the country if they are immigrants, or even eviction from their homes.

Ironically, Spitzer was very focused on beefing up penalties against the clients of sex workers, on grounds this would be a deterrent to prostitution. We lost this fight, and the penalty was raised from a B misdemeanor to an A misdemeanor.

We and other advocates for sex workers opposed this approach, because our daily experience shows that no deterrent has yet stopped sexual desire and also because criminalization just drives everyone involved in the sex trade, including our clients who need services and safety, further underground.

Abuse and trickery of sex workers does occur and must be punished. For instance, when a client or trafficker assaults a woman or implies that her family will be harmed so that she will be too traumatized and afraid to leave, he or she should be arrested and punished.

Hurting, Not Helping

But pushing people into the shadows--by making what they do illegal and increasing penalties against their customers--keeps them from even calling for help, much less getting it.

New York's law rightly makes coerced prostitution and human trafficking for all job sectors felony offenses.

In critical provisions the law also expands social services such as case management and shelter for trafficking victims.

In New York state, prostitution is addressed through the criminal as well as various civil codes. There are also numerous federal laws that implicate prostitution activities. This kind of overlap is confusing and frightening to sex workers, who often call us to ask if what they are doing is illegal or not.

There is talk now that Spitzer, who could face a variety of charges, might be charged with violating the federal Mann Act, which bars the transporting of people across state lines for illegal sexual purposes. It is alleged that the young woman in this case traveled from New York to Washington for the encounter that was caught on wiretap.

Congress has been considering an expansion of the Mann Act to cover transportation within states, but this is a terrible idea.

No More Mann Act

For one thing, any new expansion of the Mann Act would again conflate trafficking and prostitution, bringing police more and more wrongly into the bedrooms of consenting adults.

The thrust of this argument is that to end trafficking, you have to end prostitution, which muddles the two issues. Again, trafficking and prostitution are separate issues.

When sex workers or children are abused, coerced or tricked, they need help, not jail.

Their human rights should be protected, not only from violence but also from the police who routinely abuse them.

There is no indication yet that any sex worker was abused in the Spitzer case, if indeed there is any case here at all. Shaming him is not going to stop prostitution and it will do nothing to halt trafficking into sex work.

His case in fact shows once again that arresting people just for having sex, whether they are sex workers or clients, only makes the situation worse.

Until we think about and treat sex workers as human beings rather than objects, as people with economic and social needs just like their clients, we are not going to deal successfully with any of the larger social and moral questions that arise from the durability of the world's oldest profession. Eliot Spitzer's sad situation is proof of that.

Juhu Thukral, Esq., is the director of the Sex Workers Project at the Urban Justice Center in New York City. She has been an advocate for the rights of immigrant women in the areas of health, work and sexuality for over 15 years.

Women's eNews welcomes your comments. E-mail us at editors@womensenews.org.