

“Politically Speaking”

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PROSTITUTION - LEGAL OR NOT, WE MUST HELP THOSE WHO NEED IT.

The debate about legalizing the selling of sex is back in the news.

Prostitution itself is legal, but incompatibly (some say hypocritically), many of the public activities associated with it are still illegal – communication for prostitution, brothels, and “living off the avails” of prostitution. The Ontario Court of Appeal ruled that the ban on brothels was unconstitutional, amended the ban on “living off the avails” to be banned only “in circumstances of exploitation”, but upheld the ban on communication for the purposes of prostitution. As I write this column, the Supreme Court of Canada is reviewing all three.

The sex trade has been a part of human society as long as human society has existed. There is reason why prostitution is known as the world's oldest profession. There have always been people who want to buy sex, and there have always been people willing to sell it. This has been true throughout human history, the world over, regardless of all sorts of efforts – criminal, religious, societal – to stop it. By now it should be clear that whatever we do, it isn't going away.

But the sex trade, certainly as it is carried on now, is a sordid business. Yes, there are some who sell sex services of their own free will, and who control how and to whom they do so. Unfortunately, there are far, far too many women, young girls (and increasingly men and young boys) who are forced by others to sell sexual services, to live and work in awful conditions, and/or who are otherwise controlled and abused, emotionally, physically and financially. Particularly when society, either through criminal or societal sanctions, forces the activity underground, behind closed doors and away from any potential protective

authority, abuse and control, human trafficking, organized crime and drugs run rampant.

Nobody wants this to continue, so what's the answer?

There are three major groups weighing in on the debate. Let's call them the "Moralists", the "Protectors" and the "Pragmatists".

Moralists believe for religious or other personal reasons that the selling and buying of sex is morally "wrong", and "immoral" behaviour simply should not be allowed. The Moralists don't subscribe to the idea that what consenting adults do with each other shouldn't be anyone else's business.

The Protectors, on the other hand, avoid moralistic lecturing, avoid the "right" vs "wrong" argument, but want to help and protect those selling sex who can't protect themselves. They believe that simply stopping the sex trade is the answer.

The Moralists and the Protectors have different motivations, but both groups still believe that more and tougher criminal sanctions will reduce the buying and selling of sex. Unfortunately, they have not learned from the overwhelming evidence of history. Criminal sanctions have not stopped, nor have even reduced in any meaningful way, the selling and buying of sex. Instead, most evidence, from around the world, shows that where sex trade activities are illegal, both the trade and its workers simply operate underground – where the very people most abused and in need of help are far worse off because they cannot go to the police or other authorities for help. Also, in such an "illegal" environment, the people doing the work cannot benefit from the many hard-fought-for labour protections that every other 'legal' worker in Canada benefits from – minimum wages, workplace conditions, health and safety rules, pension rights, freedom from harassment and discrimination.

The third group, the Pragmatists, understand this. And they care, first and foremost, for the well being of those involved – those who are unable to adequately protect themselves. They recognize that selling sex is going to happen regardless, so they encourage legalization – the only way to take the activity from being hidden underground – and imposing proper regulation to make it as safe as possible.

But even the Pragmatists must recognize that full legalization on its own won't necessarily protect and help those who need it. We have seen in other jurisdictions such as the Netherlands, where sex work is legal, that there remain abuses. The Criminal Code is not the right approach, but simply legalizing the selling of sex isn't the answer either. It has to be done well. Regulating what would then be a fully legal activity will still only be as effective as the regulations that are developed, the protections imposed, and insistence that they be enforced. We will also need to encourage and empower those who have been abused and taken advantage of, to exert their rights. They will need protection, help and encouragement to come out from the shadows – only then will they benefit from all the labour, financial, and health and safety protections that it has taken so long to implement for all other Canadian workers.

If you have any questions or comments on this, or any other issue, please write to me at info@marthahallfindlay.ca, or to PO Box 69522, 5845 Yonge St., Willowdale, ON, M2M 4K3.

All best,



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