

6 Returning home

According to respondents, the main problems women face on returning home, are in order of frequency:⁵

- lack of alternative employment;
- breakdown of family relationships;
- shame for coming home empty-handed;
- no housing;
- psychological and medical problems;
- lack of skills/deskilled.

A range of measures is proposed that would support women on returning home:

- economic measures, such as financial support, alternative means of survival, opportunities for (self) employment, alternative employment;
- education and training to develop new skills for alternative employment and self-sufficiency;
- information about support and educational services available before returning;
- publicity and awareness-raising to highlight human right aspects of the issue;
- social and political measures, such as providing health services, shelters and counselling for returnees and their families;
- support of NGOs in home countries;
- legislation to secure the right to return to the host country to work;
- free legal assistance and police co-operation to charge and prosecute traffickers and abusive employers;
- establishment of minimum standards of responsibility between sending and receiving countries, including guaranteed minimum wages.

*Trafficking in women:
Forced Labour and Slavery-like Practices in Marriage,
Domestic Labour and Prostitution, Utrecht, 1999,
Foundation against Traffic in Women*

5. Listed are the problems that are mentioned by respondents as occurring (very) frequently.

Chapter 6

Trafficking in women, forced labour and slavery-like practices in prostitution

1 Characteristics

In *The Globalization of Trafficking in Women*, Skrobanek documents a number of human rights violations that are characteristic for the international trafficking in women for prostitution. These violations relate to the recruitment processes as well as to the working and living conditions women are subjected to:

- women are denied the right to self-determination. They do not know the conditions of their employment before migration. They are sold and resold and forced to pay back debts fixed by their 'owners';
- women are forced to work in slave-like conditions as bonded labourers in order to pay back the debts incurred in getting them to the receiving countries. Because they are undocumented workers and in permanent fear of being arrested, they do not have the freedom to escape the enslaved situation;
- women are forced to work, while the income generated by their labour is appropriated by others. Many women work for years only to pay back their debts;
- women are denied the right to choose their clients as well as the right to protect themselves from sexually transmitted diseases;
- as bonded and undocumented workers, women are denied access to medical treatment and social assistance. HIV tests are forced upon women and the resulting information is withheld from them;
- in some of the receiving countries migrant women are the target of racial discrimination and prejudice. They are subject to many forms of physical and psychological violence;
- under immigration law, women are subject to arrest on charges of overstaying, illegal stay or work and consequently to deportation;
- because women are transported with false documents, they run the risk to become stateless people. They are subject to prosecution in both sending and receiving countries;
- when women seek assistance from authorities such as the police, they may

5 Barriers to report to the authorities

Not surprisingly, very few women report to the authorities. According to the respondents the main barriers are:

For national domestics:

- financial dependency of family (mentioned by 8 respondents as occurring (very) frequently);
- lack of knowledge of the law and their rights (6);
- lack of confidence in the legal system (5);
- lack of knowledge of and/or access to support mechanisms (4).

For migrant documented domestics:

- lack of confidence in the legal system; lack of knowledge of the law and their rights (6);
- fear of losing visa sponsorship; fear of deportation; fear of reprisals by the agents; fear that she herself will be punished/arrested; outstanding debts; financial dependence of family; lack of knowledge of and/or access to support mechanisms (5);
- language barrier (4).

For migrant undocumented domestic workers:

- fear of deportation; lack of knowledge of the law and their rights; lack of knowledge of and/or access to support mechanisms (4).

According to organizations of countries of origin, the main barriers to report for women of their country working overseas, are:

- fear of deportation (8);
- lack of confidence in the legal system; lack of knowledge of the law and their rights; lack of knowledge of and/or access to support mechanisms (7);
- fear that she herself will be punished or arrested (6);
- fear of losing visa sponsorship; outstanding debts; financial dependence of family; language barrier (5)
- attitude of law-enforcers (4).

In almost all countries there are no governmental provisions to facilitate or encourage women to report trafficking or slavery-like practices to the authorities, such as confidential counselling, safe shelters, free legal aid, legal residence during investigations or assistance in returning home.

If women nevertheless file a complaint, this virtually never leads to a serious investigation or a conviction. Almost one-third of the respondents say that women are not or rarely believed and that complaints are rarely or never taken seriously. According to half of the respondents, complaints are never or rarely investigated. According to more than half of the respondents complaints never result in a conviction of the offender.

Almost one-third of the respondents state that victims of trafficking or slavery-like practices risk ill-treatment by the authorities, such as harassment by the police, expulsion, harassment by immigration officers, arrest or detention for having false or no identity papers, refusal to give back identity papers or to issue new papers, and arrest for prostitution.

If support is available, it is exclusively provided by NGOs. Asked what services are provided by NGOs, almost half of the respondents mention legal and social assistance. Around two-thirds mention medical assistance, safe shelters and return programmes. Other services provided by NGOs include financial assistance and witness protection. NGO-services are most available for local domestic workers. Social assistance, safe shelters and legal assistance are the services most frequently provided by NGOs to migrant domestics. Undocumented migrant domestics benefit least from these services.

Respondents propose a range of measures that would help women to escape abusive conditions or improve their situation:

- legal protection under labour and immigrant laws, including the right to change employers and security about their stay and work;
- legal rights on escaping abuse, including the right to legal assistance;
- laws that regulate contracts for overseas domestic workers;
- information on prevailing laws, procedures, terms of contracts, labour and human rights as workers, including information on how and where to obtain help when necessary;
- education and training to enhance skills and increase chances for jobs;
- support services, such as counselling, shelters and legal assistance;
- support to organize, raising self-esteem and dignity;
- economic measures to improve the economic situation of women;
- opportunities for savings.

- encounter other forms of sexual violence, such as rape and sexual harassment;
- in court cases women usually are forced to testify in public and are therefore denied their right to privacy. To give evidence in public of very personal things, is very traumatic for the women concerned;
- in some receiving countries children born from migrant women are denied the right to have nationality (Skrobanek 1994, p. 6 appendix I).

Trafficking practices not only take place from South to North or from East to West, but also within continents and within countries, for example from rural to urban areas. In Colombia, for example, some trafficking networks concentrate on the internal trafficking of women, recruiting and distributing women for the local, regional and national markets. Other networks provide Colombian women to the markets in countries from the same continent, like Venezuela, Ecuador and Panama, whereas international networks provide for the markets in Europe, the US and the Asiatic continent, especially Japan (Polania Molina 1996).

Trafficking routes, sending countries and countries of destination may alter quite quickly due to political or economic changes. For example, since the fall of the Berlin Wall in 1989 and the resulting political and economic changes, there has been an alarming increase in the traffic in women from Central and Eastern European countries.

Similarly, forced labour and slavery-like practices are not limited to some countries or some groups of prostitutes. Many women – migrant or local, trafficked or entering prostitution independently – work as prostitutes under appalling conditions, either in Europe, Asia, Latin America or elsewhere.

2 Contributing factors

In addition to the general factors described in chapter 3, a number of factors that specifically contribute to the abuse faced by prostitutes can be pinpointed:

- the clandestine and/or illegal nature of the work;
- the illegal immigrant status of women working abroad;
- the marginalization, stigmatization and criminalization of women working in the sex industry;
- the extremely large profits that can be made, among others as a result of the above mentioned factors.

The social, political and legal stigmatization of women who work in prostitution puts them in an even more vulnerable position for abusive practices than women in other sec-

tors of female-designated labour. Once caught in an abusive situation, women are further trapped by the prevailing stigma. As stated by the Czech organization ProFem, the stigma on prostitution works to the benefit of traffickers and abusive employers and enlarges their power over the women involved:

The criminalization of all women who work in prostitution, including those who work independently and voluntarily, creates a perfect opportunity for traffickers to operate without being bothered by social control. The Czech policy towards prostitution is to hide it away from the official image of the city and to restrict it to certain areas. In Prague, a big public campaign was initiated by the authorities, according to which prostitution is moved to the city's periphery. As a result, the prostitutes are more and more brought under the control of pimps and traffickers. The public does not need to see what does not fit in their image of society. As Interpol in Prague reported, victims of trafficking are increasingly recruited in the sphere of prostitution, meaning that women who are working there form the most endangered group of getting trafficked (Profem 1996 p.41).

The same mechanism is described by GAATW in its report on Asia:

A woman who has been trafficked into prostitution is seen as 'in need of rehabilitation'. Her morals need to be corrected. Prostitutes are considered 'bad women' and as 'deviants' they are not accorded the same rights as 'good women' (GAATW 1996, p. 21).

The report continues to describe how in Bombay the police arrested 447 sex workers in raids on brothels. They were taken from the brothels without their belongings and, in some cases, without their children. Though prostitution in itself is not illegal in India, the women were kept in detention. They were forcibly tested for HIV and other sexual diseases, but were not given any medical treatment. Those who wanted to go back to work were not released:

If these women were in different occupations, there would have been considerable public outrage about this abuse and violation of rights (GAATW 1996, p. 22).

A report from Bangladesh states it like this:

In a patriarchal society, the women in an occupation which is polluting and is stigmatized and looked down upon by the society are easily vulnerable to all forms

of violence and abuses. Again, because of this very low status of their occupation, the women are left helpless to defend or assert themselves against indiscriminate exploitation and oppression which is a regular feature of their lives in the brothel (Khan 1992, p. 123).

While migrant prostitutes are especially vulnerable to abuse due to their status as (illegal) migrant, migrant and national prostitutes alike may suffer severely abusive conditions due to the clandestine, unprotected and stigmatized nature of their work.

3 Contemporary manifestations and trends

In order to analyse the contemporary forms of trafficking and forced labour/slavery-like practices in relation to specific groups of women working in prostitution, for the purpose of this report a distinction was made between the following categories:¹

- national prostitutes: women who work as prostitutes in their own country;
- migrant prostitutes: migrant women who work as prostitutes in a foreign country. Within this category a distinction was made between 'legal' migrant prostitutes, i.e. in possession of a valid staying permit and 'illegal' prostitutes, i.e. those without a valid staying permit.

Organizations in countries of origin were also asked for their knowledge about women from their country working as prostitutes in foreign countries (out-national prostitutes).

A total of 46 NGOs completed the specific section of the questionnaire on trafficking and forced labour/slavery-like practices in prostitution (section C). Of these NGOs, 17 came from Asia (Bangladesh, Nepal, India, Thailand, The Philippines, Japan, Hong Kong, Vietnam, Taiwan, China), 2 from Australia, 17 from Europe (Germany, Belgium, Denmark, Finland, The Netherlands, Italy, Spain, Switzerland, Slovenia, Bulgaria, Ukraine, Czech Republic, Poland, Turkey), 7 from Latin America and the Caribbean (Curaçao, Dominican Republic, Peru, Mexico, Ecuador), 3 from North America and Canada. No NGOs from Africa completed this section.

It must be kept in mind that the category 'legal migrant prostitutes' does not exist in many countries because prostitution and/or prostitution by migrants is by definition illegal. In general, respondents knew least about the situation of legal migrant prostitutes.

1. See the specific section on prostitution (section C) of the questionnaire for NGOs (annex I).

In relation to this group, a high percentage of respondents answered either 'not applicable' or 'don't know' to the various questions.

3.1 Prevalence of trafficking in women, forced labour and slavery-like practices

Forced labour and slavery-like practices, are reported to occur among all groups of prostitutes, national as well as migrant women: 41% of the respondents report forced labour and slavery-like practices to occur (very) frequently among national women, around 25% among legal migrant women and around 55% among illegal migrant women.

Table 6 shows the reported prevalence of forced labour and slavery-like practices among the distinctive groups of prostitutes. The percentages refer to the percentage of respondents that report these practices to occur (very) frequently.

TABLE 6 Forced labour & slavery-like practices occur (very) frequently with regard to:

	Europe (incl. the CEECs)	Asia	Latin America & the Caribbean
National prostitutes	18%	53%	72%
Legal migrant prostitutes	29%	12%	43%
Illegal migrant prostitutes	49%	41%	–
Out-national prostitutes	12%	53%	71%

Number of respondents Europe: 17

Number of respondents Asia: 17

Number of respondents Latin America & the Caribbean: 7

For the other regions the number of respondents is too low to draw any conclusion.

Around 12% of the respondents in Europe, mainly from the CEECs, report the occurrence of forced labour and slavery-like practices among women from their own country working abroad in prostitution, against 53% from Asia and 71% from Latin America and the Caribbean.

3.2 Recruiting agents and methods

Trafficking practices are reported to take place with respect to all groups of prostitutes. Around 35% of the respondents to the questionnaire say trafficking occurs frequently or very frequently in relation to national prostitutes, against 52% in relation to illegal migrant prostitutes, and 24% in relation to legal migrant prostitutes.

Table 7 shows the reported occurrence of trafficking in women in relation to the distinctive groups in the different continents:

TABLE 7 *Trafficking occurs (very) frequently in relation to:*

	<i>Europe (incl. the CEECs)</i>	<i>Asia</i>	<i>Latin America & the Caribbean</i>
National prostitutes	12%	47%	72%
Legal migrant prostitutes	29%	18%	43%
Illegal migrant prostitutes	65%	47%	29%
Out-national prostitutes	24%	59%	43%

Number of respondents Europe (incl. the CEECs): 17

Number of respondents Asia: 17

Number of respondents Latin America & the Caribbean: 7

For the other regions the number of respondents is too low to draw any conclusion.

Traffickers may use different methods. For all categories of women, deception with regard to the conditions of work scores highest: 61% of the respondents report this to happen (very) frequently in relation to illegal migrant prostitutes, against 52% for national prostitutes.

Other forms of coercion mentioned are (in order of frequency):²

For national prostitutes:

- violence or threat with violence;
- deception regarding the nature of the work;
- abuse of authority or dominant position.

2. Listed are the forms of coercion which respondents mention as occurring frequently or very frequently.

For legal migrant prostitutes:

- violence or threat with violence;
- abuse of authority or dominant position.

Evidently, illegal migrant prostitutes are the ones most vulnerable to coercion. Apart from deception regarding conditions of work (61%), almost 50% of the respondents report the (very) frequent use of:

- violence or threat with violence;
- deception regarding the nature of work;
- debt bondage;
- the use of false papers;
- abuse of authority.

Organizations in countries of origin mention deception regarding the conditions of work as the most frequent abusive recruitment practice to which their fellow country-women are subjected.

The fact that most cases of deception relate to the conditions of work rather than the nature of the work, indicates that a substantial number of women do know that they are recruited for prostitution and agree to the work as such. They are, however, consciously deceived about the conditions under which they will be forced to work. It might also indicate that sex workers belong to the group that is most vulnerable to trafficking practices. Other women are deceived about the nature of the work. They are recruited with promises of jobs as waitresses, cleaners, dancers, entertainers or domestic workers. Sometimes traffickers make use of false job contracts. Some women are promised marriage or false marriages are arranged.

As the most common recruiting agents respondents mention (in order of frequency):³

- acquaintances of family or friends;
- friends;
- strangers/accidental meetings;
- job agencies and impresarios/artist agencies).

Respondents in Europe (incl. the CEECs) mention as the most frequent recruiters:

- acquaintances of family or friends;
- impresarios/artist agencies;

3. Listed are the recruiting agents which respondents mention under the category frequently and very frequently.

- friends.

Respondents from Asia:

- job agencies;
- acquaintances of family or friends;
- strangers/accidental meetings;
- expected husbands.

Respondents from Latin America and the Caribbean:

- acquaintances of family or friends;
- impresarios/artist agencies;
- family members
- friends.

Respondents from Africa :

- acquaintances of family or friends.

In her report on trafficking in women in Latin America and the Caribbean, Azize-Vargas (1996) identifies several recruiting strategies:

- recruitment by procurers. Nationals who work in the country act as middlemen/intermediaries or 'travel organizers' to recruit women;
- recruitment by other sex workers or dancers. Frequently women already abroad are paid money for every woman they can attract to the business;
- recruitment by informal networks of relatives, friends, village and local community persons;
- recruitment through a real or false marriage;
- recruitment through artist or dancer contracts or under the guise of a folk dance company or to work as models.

According to a survey conducted by COIN in the Dominican Republic (COIN 1993), 29% of the women that travel abroad are helped by friends, 15% by relatives and 19% by 'travel organizers'. Such agencies offer women help with documents and passports, 'show money' to go through customs, travel arrangements, visas, birth certificates, transportation, and the like. The first contact is often made through friends (male or female) who 'know a woman who organizes trips' or a Dominican or foreign 'impresario' who is looking for women to create a dance troupe to go overseas. Both in cities and in beach resorts, there is a combination of local and foreign entrepreneurs. Once the girl establishes contact, she is engaged as a dancer or barmaid and has to pay a fee (usually US \$ 400-1.000) to cover ini-

tial expenditures of certificates, passport, visa, air ticket, and contract. Financial help usually comes in the form of loans to be paid back once the woman starts working (COIN 1993 and 1995; IOM 1996a).

False promises about the nature or conditions of work are also used to recruit women from the CEECs for Western Europe. As described in *One Year La Strada*:

Some women thought they would be waitresses, nannies or domestic servants. Others knew the job was to be in prostitution, with enormous profits to be made (up to D-Mark 3.000 a month). Little did they know about the real circumstances in which they had to work and that the profits would not go to them, but to their perpetrators (Kootstra 1996, p. 14).

Marriage as a recruiting method is regularly reported, especially in countries where traditional practices of servitude of women are still common.

In the case of trafficking to Pakistan, Bengal traffickers marry girls or force them to marry others of their network before bringing them to Pakistan to work in brothels in order to protect themselves from being prosecuted under Islamic Hudood laws. However, 2.500 Bangladeshi women and children are reported to be detained in jails in Pakistan under the same laws, charged with illegal entry and having 'illegitimate sex' (Human Rights Watch 1995).

In Nepal young men pay the 'bride price' for a young girl and then sell her to a brothel. Such traffickers go back to a village several times and 'marry' again and again. It is reported that 35% of the roughly 100.000-160.000 Nepalese girls working in different Indian brothels have been abducted to India under the pretext of marriage or good jobs (Poudel 1994).

According to Butegwa, trafficking in Kenya is mostly done under the guise of marriage, friendly invitations and jobs. Most girls are taken to Germany, probably because there are many German tourists who visit Kenya. They casually invite the girls to Europe for a visit or propose marriage. In Europe the girls end up in brothels or abused by their husbands, who force them to prostitution by confiscating their passport or simply by locking them up in the house (Butegwa 1996).

In Nigeria women are recruited by a special type of intermediary. This person, usually a woman called Madam (or Mama-Loa, meaning 'priestess') acts as a go-between for girls/women and the organization preparing their migration. Trafficked girls/women will keep contact with them, even after their migration. Money is sent to her in order to

pay back the debt to the organization or to pass to the girl's family. The following case illustrates how Nigerian women are recruited for prostitution in Italy:

My story is very similar to the ones of many women from my country [...] I was born 25 years ago in a small village in the country-side, near Kaduna, in northern Nigeria. My family is a very big one and my parents are peasants [...] I decided to go with a few girlfriends to Lagos. There I met some persons in a discotheque, and they suggested that I could go to Europe to work and study. I paid a lot of money to an agency which organizes trips to Italy. The money was not enough and so I signed a contract where I promised to work as a maid for a family in Naples, and I soon understood that my job was another one [...] I was threatened, and they said that I had to pay otherwise my family would have been threatened too (TOM 1996c, p. 19).

Some parents sell their daughters into prostitution for financial gain, as in India:

Bina was sold by her family to a brothel in India. She refused to co-operate and was beaten severely. She still refused and finally men from her village were brought to the brothel. Once they saw her she could not return home, as her village would have known she was in a brothel as prostitute (GAATW 1996, p. 9).

3.3 *Living and working conditions*

As the most common abusive living and working conditions, which in combination may lead to conditions of forced labour and slavery-like practices, respondents mention (in order of frequency):⁴

- psychological abuse (threats, name-calling, insults, humiliation etc.);
- physical abuse (bitting, kicking, beating, threatening with violence, etc.);
- constant fear of police arrest;
- illegal confinement (movements controlled/restricted, no permission to leave the working place or allowed only under supervision);
- no right to refuse customers or forced to have a certain number of customers per day;
- sexual assault or rape (incl. attempted or threatened);
- isolation (prohibited from normal social contacts, interception of letters and/or phone calls);
- not paid regularly or paid less than agreed;

4. Listed are the conditions which respondents mention as occurring frequently or very frequently.

- debt bondage;
- denial of time off/holidays;
- no right to refuse specific sexual acts;
- identity papers/passport confiscated;
- more than twelve hour working days;
- no access to medical/health care;
- threat of reprisals against family/other relatives;
- false identity papers;
- not paid at all;
- forced abortions/dangerous abortion practices;
- personal belongings taken away;
- not having a bedroom/forced to sleep in working place;
- no right/opportunity to use condoms;
- compulsory HIV/AIDS testing;
- no regular food;
- not having a bed or nothing to sleep on;
- forced to recruit sisters/girl friends into prostitution.

When the occurrence of these conditions is examined in relation to the specific groups of women working in prostitution, the following trends show:

According to respondents national prostitutes suffer most from:

- psychological abuse (mentioned by 48% of the respondents as occurring frequently or very frequently);
- constant fear of police arrest (39%);
- sexual assault or rape (37%);
- physical abuse (35%);
- illegal confinement; no right to refuse customers and/or forced to have a certain number of customers per day; not paid regularly and/or paid less than agreed (33%);
- debt bondage (31%).

Legal migrant prostitutes suffer most from:

- psychological abuse (mentioned by 28% of the respondents as occurring frequently or very frequently);
- physical abuse (26%);
- constant fear of police arrest; no right to refuse customers/forced to have a certain number of customers per day (22%);
- more than twelve hour working days; sexual assault or rape; illegal confinement (17%).

- no access to medical or health care;
- forced to sleep in working space;
- more than twelve hour working days;
- denial of time off;
- constant fear of police arrest;
- forced drug addiction.

In the European countries a striking difference in conditions seems to exist between national and migrant prostitutes: the reported occurrence of abusive conditions is four times higher for (illegal) migrant prostitutes than for national prostitutes. In the other continents, the conditions among the various groups seem to be much more similar.

Reports from NGOs all over the world extensively document abusive working and living conditions in prostitution, amounting to forced labour and slavery-like practices. Some examples are given below.

According to a report of Anti-Slavery International on slavery in Brazil in 1994, women and girls are systematically trafficked from one part of Brazil to other parts to work in brothels in towns near mining camps and large civil construction projects in a.o. Amazonia. Even if women knew beforehand that they would work as prostitutes they are still trapped in these remote areas and immobilized by debts chalked up against future earnings as soon as they arrive. The women and girls not only have to repay the transport costs into the area, but they also often have to pay off their own 'price' charged to the brothel owner by the intermediary who has effectively sold them on. As a twenty two-year old woman working in one of the mining camps in Itaituba tells:

The brothel debts (the transport costs) I paid off quickly, but now I have to pay off my own price. She (the brothel owner) paid the intermediary and now I have to pay her. Payment for sexual services is handed over directly to the brothel owners who hold the money against the women's debts (Sutton 1994, p. 6).

Another form of indebtedness comes with malaria:

Just when a girl thinks she is free of her debts, she unexpectedly contracts malaria, which leaves her cast down in bed, unable to work and without funds for treatment. She has to borrow again. Thus malaria contributes to exacerbate a situation of dependency (Ibid., p. 96).

With no access to the money they have earned and high transport costs out of the area,

their freedom to leave is severely curtailed. Even when they succeed in escaping the brothel they remain immobilized in the area. Moreover, if a woman flees, her debt is transferred to those left behind. Women report being physically coerced and confined, complain of ill-treatment, beatings and imprisonment, and say that those trying to flee were killed or tortured. They also claim that the local police connive in holding them in these conditions by arresting and ill-treating those trying to flee. One woman who tried to seek help, writes:

Here the owners beat us with electric wires folded over four times. When they don't beat us they send the police to beat us, and we're only released when they want it (Ibid., p. 97).

Another form of coercion, apart from physical violence, is to deny women food until they do what they are told.

These practices are in no way exceptional. Debt bondage or indentureship – in which the woman has to pay back the recruiter, brothel owner, or agency the sum for which she is purchased and/or an uncontrollable sum for travel, documents, food, housing and other services – is one of the most frequently used methods to bind women. NGO reports from all over the world document these practices.

In Thai brothels Cambodian women are locked up and guarded until they have paid back their purchasing price. They are not allowed to shop on their own. Instead, the brothel owners do all the shopping and charge them exorbitant prices. They are over-charged for everything they need, so the 'debt' increases instead of being paid. Earnings are also deducted for bribes. In the end women even lose their investment capital. The brothel owners keep their earnings for safe-keeping, so they never know how much they really earn (CWHR 1996).

Burmese girls are recruited for brothels in Thailand by agents who pay amounts up to A\$ 500 to the girl's family. The girls then must pay back this sum and any other expenses they incur while living in the brothel. They receive little or no payment. Commonly a girl serves six to eight clients a day, 25 days a month, earning for the owner between A\$ 600 and A\$ 2,500 per month, of which the girls are paid approximately A\$ 1 per day or A\$ 25 per month. The girls usually stay in the brothel network for at least two to three years. Conditions inside the brothels are appalling, including barbed wired and electric fences (Australia, Parliament 1995).

Women trafficked to Japan must repay the inflated debt before they can earn anything. They are also made to pay for any other expenses such as food, accommodation and medicines:

Pung came to Japan after signing a contract with a canning factory. At first she was suspicious but she felt reassured by the formal contract. She was taken to a snack bar in Yamanashi Prefecture, where her Taiwanese mamasan told her she owed 3.8 million yen (US \$ 38.000) and the only way to pay it back was to work as a prostitute. She was penalized 15.000 yen (US \$ 150) for working without make-up, 1.500 yen for a broken glass and 10.000 yen for every minute she was late returning from servicing a customer. All of these were added to her debt (GAATW 1996, p. 15).

In the Dominican Republic many women borrow money or mortgage the family home to pay recruiters to help them with (false) papers and travel arrangements. They are then bound by this debt to continue working until they have paid their debt back (IOM 1996a). These debts can run up to thousands of dollars: one Dominican woman had been required to pay US \$ 5.000 for tickets and visa to Austria. Another was charged on credit US \$ 2.900, for which she had to pay back US \$ 5.400. Many women had to pay for their transfer within Europe in addition to their plane ticket from the Caribbean. Upon arrival they were picked up by a Dominican man and woman who demanded exorbitant prices for transfer services for a train ticket to Austria and a room for one night (IOM 1996d).

Women from Uganda who come to Dubai and Europe are secured loans for visas, tickets and accommodation. They are unable to get out of the arrangement until they have paid their debts. Freedom of movement and personal choice are further curtailed by the fact that their passports are retained by the airline as security for their debt (Butegwa 1996). In Italy women from Latin America, Eastern Europe, Albania and Nigeria work the streets to pay back debts contracted with international agencies that organize their migration to Italy. Irrespective of their conscious or forced entry into prostitution they are subjected to the power of their traffickers/protectors by debts, based on agreements which have been made with the traffickers before their departure to Italy. These debts must be repaid with huge interests during the first month that the women spend in Italy (IOM 1996c).

Underpayment, extremely poor working conditions, physical abuse and constant fear of arrest are common problems for women from developing countries working in the sex industry abroad. In *Exotic, subservient and trapped: confronting prostitution and trafficking in Southeast Asia*, Skrobanek describes the following conditions:

- Underpayment: Third World women working in the sex business in Europe are usually paid 40 percent of their total earnings, the rest goes to the bar owners.⁷ The

7. According to a European sexworker this is true for the majority of sex-workers – migrant and non-migrant – in brothels in Europe.

women who work for pimps hardly earn anything at all. It is reported that in Japan, 38 percent of the women who have entered the country illegally to work as hostesses, striptease dancers or prostitutes receive no payment in return;

- Working conditions: women working as prostitutes in a foreign country are largely dependent on their employers since they are unable to communicate in the native language. Because of this, they are unable to protect their own interests and have little bargaining power. They may be shifted from one city to another. In Japan, some women are not allowed to telephone or to venture outside their workplace unaccompanied. They have to work 10-12 hours a day [...];
- Physical abuse: it is common for women to be physically abused by their agents or employers. Some are beaten or battered by pimps. Others are threatened when they refuse to pay protection fees to the local mafia. For example, a woman who rents her place to work not only pays double the average rent, but she is also coerced into paying protection money. If she refuses, then both her safety and her property are at risk. In Switzerland, mafia members may earn US \$ 200 to 500 a night in protection money;
- Arrest: women who are sent abroad through illegal means obviously run the risk of being arrested and deported. [...] Having entered a country illegally, and engaged in illegal employment, the women will not approach the police or other governmental agencies for fear of being arrested. In some cases, State officials themselves are the ones who take advantage of the women [...] (Skrobanek, 1992, p. 126 ff.).

Physical violence, rape and force to serve a certain number of customers per day or to earn a certain amount of money per day are frequently reported. NGOs in Nepal report violence against prostitutes to include physical assault, starvation, forced use of drugs and alcohol, burning with cigarettes, rape, isolation in dark rooms, beating with a hot iron, forced abortion and threats by thugs. Reports from Hong Kong state that women are drugged and forced to receive up to 38 clients a night (GAATW 1996). According to reports from India, women who become pregnant are forced to undergo an abortion, usually under illegal and dangerous conditions. Brothel owners reportedly sell babies from prostitutes for adoption (Poudel 1994).

In *One Year La Strada* (a joint Polish-Czech-Ukraine-Dutch programme on prevention of traffic in women in the CEEC's) the following forms of violence exercised on Eastern European women working in the Netherlands are described:

Rape seems to be a favourite among traffickers. As many as fourteen women reported to us that they were raped during their ordeal. Often the argument was

that the woman 'had to learn the tricks'. We suspect that even more women were forced to have sex with their perpetrators, but would not describe this as rape, since they did not physically fight him at the time. The withdrawal of passports and money is still popular too, although some traffickers gave their victims a small amount of money to control them even more. Among other violence and pressure used are debt binding, isolation, beatings, very poor living conditions (sharing a bed with three other women in the same room where during the day they worked) and the use of drugs [...]. Also, women were threatened to be sold to another trafficker, whereas eight clients indicated that they were actually resold (Kootstra 1996, p. 21).

Women often get nothing or just a fraction of their earnings and are kept isolated to prevent them from escaping, like this Kenyan woman:

On reaching Germany, she realized that this was not to be when the brothel owner took away her passport. She only got a pinch of her daily earnings. She had to live like a prisoner because the woman ensured her that all her movements were monitored to avoid escaping or 'making business' else where. The brothel owner would also intercept her letters. When her visa expired, she was told that it would only be renewed if she found another Kenyan woman to replace her (Butegwa 1996, p. 7).

According to Hummel (1991), the conditions of foreign prostitutes in Germany are characterized by the absence of legal protection, isolation and extreme financial exploitation. In most cases women work in brothels during the time their visa is valid. After that period they are substituted by other women, who already stay in Europe. Brothel keepers prefer foreign women because they have less legal protection and therefore can be better controlled.

Extortion is not the privilege of the agents, intermediaries, protectors and keepers of brothels, also the police may make itself guilty of these practices. Reports from Bangladesh document various forms of police repression. Police officers force women to give free sexual services or act as babu (regular customer/protector) of 'wealthy' prostitutes from whom they extract large amounts of money. Apart from this, policemen are found to forcefully and violently extract the earnings of women whom they find to have many clients:

Often the police rounds up women with their clients from the brothel on some

pretext for extorting money from them. In such cases they also beat up women and manhandle their clients. Protesting prostitutes are taken to the police station where the physical abuse increases and the rates of fines go up (Khan 1992, p. 125).

An investigation of the Chamber of Commerce in Bogota, Colombia reveals that more than 10 percent of the prostitutes interviewed report abuse by the police as their main problem. Extortion and abuse by the police is mentioned by 50 percent of the girls aged eleven to fourteen, and by about 25 percent of the women aged fifteen to forty. Only 1.5 percent report abusive exploitation by the brothel managers (Cámara de Comercio de Bogotá 1992).

Various reports document a range of human rights violations and other abuses of Latin American and Caribbean women working abroad as prostitutes (COIN 1995; Azize-Vargas 1996; IOM 1996a). Abuses mentioned are:

- no freedom of movement. Passports are withheld. Women are locked up in their work place. Sometimes women are threatened if they talk to somebody;
- irregularities in the payment of women's salaries. Women are frequently obliged to work for a certain period without payment before they start to get some pay;
- no right to refuse clients;
- obligatory consumption of alcohol. Women are obliged to maximize the profits of club-owners by encouraging the client to consume large quantities of expensive drinks and by drinking together with the client. Under the pressures of this consumption pattern women invariably become alcoholics;
- sexual violence;
- sometimes the owners of clubs deliberately report women to the police so they don't have to pay them and they will be deported;
- sometimes women are actually sold.

According to reports of the IOM, women trafficked to Greece tell they had to work as dancers/prostitutes without being paid for the first three months, which meant that during this period they incurred debts for accommodation, food, clothes, and the like. The following three months they were allowed to keep 25-30 percent of their earnings from which their debts had to be settled. They were rotated every week to different cabarets and had one day off per week. All of them suffered physical violence and had no right to refuse clients (IOM 1996a).

In *Purchased Unhappiness* Karin Spring describes the working and living conditions of women from South East Asia, Latin America, Africa and the former Eastern bloc countries, who came to Switzerland for work:

With a suitcase and the hope of a better life, women from the Third World arrive daily in Switzerland, either at the airport or at the border. Most of them are heavily in debt, due to their inability to pay cash for the employment agency fees, the necessary formalities and the journey. And – apart from very few exceptions – many of them do not know that our country only provides one opportunity for work – as striptease dancers in bars. Border-crossing presents no problem, particularly when experienced organizations are behind them, because they know exactly which stipulations have to be complied with. Women who attempt to enter the country under their own steam are frequently refused entry. They are at the mercy of these organizations [...] Dependent on the club, a striptease dancer must perform three to four times and ten to twelve times a night. Between performances she has to 'entertain' the guests, including encouraging them to drink champagne [...] If the owner of a night-club does not like the woman or her striptease routine, or if she does not sell enough champagne, her contract can be canceled within the first three days without further ado [...] A work permit for a striptease dancer in a night-club is limited to eight months. The women are transferred by 'their' agency to a different club each month. After eight months they have to leave Switzerland [...] Because of the limited duration of their residential and work permits, the women are highly dependent on night-clubs and agencies. They have no opportunity to defend themselves against poor working conditions, fraudulent settlements of accounts, humiliating treatment or violence, if they want to continue working as dancers. Most of the women working in night-clubs earn extra money from prostitution [...] Wherever possible, they are financially exploited: by the artist agency, by night-clubs, by real estate agents, by pimps and customers. 'The attitude towards us is always the same', said a dancer from Brazil 'we should be pleased that we're even here. Here, we're better off than at home. This is why we can be used and exploited as they want. And if we stand up to them, they threaten us with expulsion' (Spring 1992, p. 2-3).

Sometimes women are forced to marry a national, like this Thai woman:

Because the Thai woman was living illegally in Switzerland, she was forced into a marriage on paper with a man she did not know. For this legalization of her stay, 20.000 Swiss francs was demanded of her (Spring 1992, p. 3).

4 Constraints to escape

Once trapped, many factors prevent women from escaping or changing their situation. Although there are similarities between the different groups, illegal migrant prostitutes are evidently in a particularly difficult position to change their situation.

The main constraints for illegal migrant prostitutes to escape or change their situation – mentioned by 45-55% of the respondents as occurring (very) frequently – are:

- fear of reprisals or arrest by the authorities;
- fear of deportation;
- lack of alternative employment;
- their movements are controlled by the criminal network;
- no money;
- their family is dependent on her income;
- no or false identity papers;
- violence by the criminal network;
- not wanting to return home empty-handed;
- fear of reprisals;
- debt bondage/fear of retribution against her relatives for defaulting her debt.

Other barriers, mentioned by about 35% the respondents, are:

- involvement of own government/officials;
- fear of rejection by their family;
- rejection or moral condemnation by society.

The main barriers for legal migrant prostitutes – mentioned by 20-25% of the respondents as occurring (very) frequently – are:

- lack of alternative employment;
- not wanting to return home empty-handed;
- no money.

The main barriers for national prostitutes – mentioned by 35-50% of the respondents – are:

- family is dependent on their income;
- lack of alternative employment;
- no money;
- movements are controlled by the criminal network;
- not wanting to return empty-handed;

- violence by the criminal network;
- fear of rejection or moral condemnation by society.

The best chances for women seem to lie in trying to gain more independence through their own efforts, as the IOM report on trafficking to Italy notes:

The interviews conducted revealed some significant differences between nationalities concerning the degree of exploitation suffered and the degree of freedom allowed to the women. With time, women from some national groups, who were initially deceived, managed to regain some decision-making ability [...] particularly women from Latin America (Colombia, Brazil, Peru and Argentina) and Eastern European countries. This is mainly due to the fact that these women are on an average older than those of other national groups, and are thus capable of negotiating with the protector/trafficker more successfully. This capacity is strengthened with time, leading, in some cases, to a definitive detachment from the protector or at least to the transformation of a subordinate relationship into a more equal one (IOM 1996c, p. 17).

5 Barriers to report to the authorities

Traffic in women mostly takes place in a network-like structure and is based on violence. This has many consequences. Even if existing policies allow women to report to the authorities, only few women will do so for various reasons.⁸

The main barriers to report to the authorities are according to the respondents:

For national prostitutes:

- lack of confidence in the legal system (mentioned by 46% of the respondents as applying (very) frequently);
- lack of knowledge of their rights/the legal system of the country (39%);
- need to financially support their family (37%);
- fear that they themselves will be punished or arrested; fear of moral condemnation; need to financially support their family (35%);
- attitudes of law-enforcers (33%);

8. See chapter 8 for a review of the risks for women attached to the choice for a penal approach.

- no access to legal assistance; fear that their situation will become known to their family/community; shame (30%).

For legal migrant prostitutes:

- need to financially support their family (mentioned by 30% of the respondents as applying (very) frequently);
- lack of knowledge of their rights/the legal system of the country; lack of confidence in the legal system (26%);
- fear of reprisals by the criminal network (24%);
- outstanding debts (22%).

For illegal migrant prostitutes:

- fear of deportation; fear of reprisals of the criminal network; fear that they themselves will be punished or arrested (mentioned by 54% of the respondents as applying (very) frequently);
- lack of knowledge of their rights/the legal system of the country (52%);
- language barrier (48%);
- need to financially support their family (44%);
- no access to legal assistance (43%);
- lack of confidence in the legal system (42%);
- attitudes of law enforcers (39%);
- outstanding debts (37%);
- fear for moral condemnation; shame (31%);
- fear that their situation will become known to their family/community (30%).

In general women have no reason at all to have confidence in the police or other authorities. In most countries prostitutes continually risk imprisonment, harassment or abuse by the police.⁹ Migrant illegal women not only risk arrest for being a prostitute, but also for being an illegal foreigner. Every contact with authorities puts them directly at risk of deportation. For many migrant women deportation is an even worse perspective than to stay in the situation in which they find themselves. They prefer to try to survive in the hope that at some point they will succeed in realizing their original aims for migration. Moreover, if women report to the police – of their own accord or because they are arrested – they seriously risk reprisals without being offered any official protection or support. Apart from a few exceptions, governments hardly provide any services to encourage or

9. See chapter 7 for an extensive review of national laws on prostitution and the opportunities they allow women to take legal action in case of violence and abuse.

facilitate women to report trafficking or slavery-like practices to the police, such as confidential counselling, safe shelters, witness protection, free legal aid, specially trained police-officers, compensation for damages, provisions against deportation, legal residence during investigations, assistance in returning home, support programmes for returnees and legalization of residence status if victims can't return home. An exception is the situation in the Netherlands and Belgium, where women who file charges are entitled to a temporary staying permit, legal aid and social, medical and financial assistance during criminal proceedings.

If women nevertheless file a complaint, this almost never leads to a conviction. Around 30% of the respondents say that women are (very) frequently believed and that complaints are taken seriously and are investigated. According to about 20% of the respondents, complaints result (very) frequently in prosecution; 30% answer that complaints rarely or never result in prosecution. Only 10% of the respondents say that prosecution results (very) frequently in a conviction; 40% say that prosecution never or rarely results in a conviction.

Almost 65% of the respondents say that victims of trafficking and forced labour/slavery-like practices suffer ill-treatment by the authorities. National prostitutes suffer most from harassment by the police and arrest or detention as prostitutes (mentioned by about 35% of the respondents as occurring (very) frequently). Illegal migrant prostitutes suffer most from expulsion, arrest and detention as illegal foreigners, harassment by the police, and arrest or detention for having false or no identity papers (mentioned by 33-40% of the respondents as occurring (very) frequently). In addition, about a quarter of the respondents mention arrest or detention as prostitutes and harassment by immigration officers to occur (very) frequently.

Other forms of ill-treatment that are mentioned are compulsory admission in rehabilitation centres or reform camps, refusal to return identity papers or issue new documents and compulsory testing on HIV/AIDS. In some cases women are sent or sold back to their captors or brothel keepers if they turn to the police. This is reported in India and Pakistan. If support is available, this is provided by NGOs. When respondents are asked about what support services are provided by NGOs, 74% mention counselling, almost 60% legal and medical assistance, 51% safe shelters, 38% financial assistance, 34% return programmes and 21% witness protection. The majority of these services are available to national prostitutes; legal migrant prostitutes benefit least from these services.

A range of measures which would help women escape abusive conditions or change their situation is mentioned by respondents. The most important are:

- access to alternative employment opportunities, education and training;

- decriminalization of (migrant) prostitutes, access to legitimate and independent working permits/visas for work in prostitution;
- possibilities for women to bring charges without fear for deportation or arrest, honest police officers, active prosecution of the offenders, better police co-operation and better co-operation between sending and receiving countries;
- access to support systems such as safe shelters, legal assistance, social services.

6 Returning home

All migrant women who have become victim of trafficking and/or forced labour and slavery-like practices face severe problems when they return home, yet illegal migrant prostitutes are in the worst position. The main problems for illegal migrant prostitutes mentioned by respondents are:

- no earning/employment possibilities (mentioned by 48% of the respondents as applying (very) frequently);
- psychological problems (46%);
- medical/health problems (39%);
- debts that cannot be paid off (35%);
- stigmatization/rejection by society (33%);
- rejection by their family; reprisals by the criminal network against herself or her family/relatives; no medical care; left to prostitution because of no other possibilities; caught again by traffickers; no housing (28%).

The main problems for legal migrant prostitutes mentioned by respondents are:

- psychological problems; no earning/employment possibilities (mentioned by 28% of the respondents as applying (very) frequently);
- debts that cannot be paid off (26%);
- no medical care; left to prostitution because of no other possibilities; reprisals by the criminal network against herself or family/relatives (20%);
- medical and health problems (19%);
- stigmatization/rejection by society (18%).

The following story of this 22 years old Nepalese woman may serve as an illustration:

When I came back to my own country it was very difficult for me because the Indian police had handed me over to the Nepalese police and the Nepalese police kept me in custody and summoned my family. I only have one older brother and sister.

Both my parents have died. After four months the police officer called my brother and wanted to hand me over to him, but he didn't accept me. When I said I needed his help, he said you are a prostitute, so I don't want to take you home. Even he didn't inform my sister about me. In this way I spent two years in custody. I wanted to die because I was rejected by my family and I was totally helpless (Poudel 1994).

The most important measures that would support women on returning home are according to respondents:

- educational and training opportunities;
- job opportunities;
- shelters and confidential social, psychological, medical and health care;
- legal and police support to prosecute the offenders;
- protection against reprisals;
- financial support;
- no criminalization in their home countries when deported.

Chapter 7

National legal contexts

Introduction

As discussed in chapter 2, the debate on trafficking in women is characterized by a persistent confusion about definitions. Old and new definitions show inconsistencies, contradictions, conflicting interests, failure to pinpoint violence and abuse, and a tendency to deny female self-determination. National legislation reflects these trends.

A review of national laws on trafficking in women, forced labour and slavery-like practices in domestic labour, prostitution and marriage reveals that those laws are only part of the legal apparatus that affects women in these situations. Laws that determine whether a woman will be 'protected' or penalized, sent home or sent to prison, allowed or prohibited to work, etc., have everything to do with the contexts of prostitution, domestic labour and marriage. For this reason it is necessary to look at both the specific laws on trafficking in women, forced labour and slavery-like practices (insofar as they exist in a particular country) and the general legal framework governing prostitution, domestic labour and marriage. Significantly those laws are attached to very different social frameworks. Marriage laws come under civil codes, which are invariably enmeshed in gender discriminatory traditions and institutions. Laws on domestic work come under civil and labour codes, whereas laws on prostitution are under State control, often the criminal justice or public health departments.

A considerable amount of research and action has been undertaken in the realm of trafficking in women, forced labour and slavery-like practices related to prostitution. However, much less has been done regarding domestic work, and very little regarding the most normative context of such abuse, namely marriage. This chapter reflects that imbalance. Although some research has been carried out on laws regarding trafficking, forced labour and slavery-like practices in the contexts of marriage and domestic labour, it has not been possible to review the various national legal systems and their impact in relation to these two areas of our concern. Therefore, although the report aims to challenge this perceived imbalance, this chapter will be restricted to the realm of prostitution.

The existing legal systems on prostitution will be analysed in terms of prohibitions and

regulations, aimed at the distinctive parties and activities involved. Those prohibitions vary from an absolute prohibition of prostitution as such, criminalizing all activities and all parties involved, to prohibitions which criminalize only certain activities or certain parties. Some prohibitions come under special laws on 'trafficking'. However, what is defined as 'trafficking' in national laws varies widely, and in different countries the same type of prohibitions may come under very different names. Since what is called 'trafficking' in one country may be called recruitment, pimping, procuring or 'exploitation' in another country, all prohibitions attached to prostitution will be examined, irrespective of the name under which a specific prohibition comes.

In section 1 the general prohibition of prostitution as such will be discussed. In section 2 the prohibitions and regulations that specifically deal with prostitutes will be looked into, followed in section 3 by an analysis of the prohibitions regarding 'third-parties'. In section 3.1 'recruitment' prohibitions will be discussed and in section 3.2 the various prohibitions attached to managing, organizing or profiting from prostitution, traditionally referred to as 'exploitation of prostitution'. A review of prohibitions with regard to migrant women is given in section 4. In section 5 the current legal definitions of 'traffic in women' are summarized. This is followed in section 6 by a critical assessment of the impact of prostitution and 'trafficking' laws on the working and living conditions of women engaged in prostitution.

The leading question throughout the chapter is to what extent existing legislation is in the interest of women: what protection does the law offer women against violence and abuse and does the law enable women to take legal action, formally and factual, both in relation to abusive recruitment practices and in relation to abusive or coercive working and living conditions.

No attention will be paid to prohibitions and regulations concerning clients. Very few countries have laws that penalize clients and if such laws exist they are seldom enforced. Prohibitions related to minors in prostitution will not be discussed either. In (almost) all countries any act involving minors in prostitution is against the law. In some cases the law contains specific prohibitions relating to minors, in other cases the minority of the victim acts as an aggravating circumstance. Within the context of this report, however, we will not review this type of prohibitions, as child prostitution requires a separate approach.

1 Prohibition of prostitution as such

In a prohibitionist legal system prostitution as such is a criminal offence.¹ All activities related to prostitution are legally prohibited and all parties involved are criminalized, including the prostitute. Yet, most countries, with some exceptions, ignore the clients. In Slovenia, for example, prostitution is covered by the *Law on Offences against Public Order and Peace*, which penalizes any person who is engaged or assists in prostitution, allows or supports prostitution, or organizes, prepares or supports practices of 'sexual immorality', with the exclusion of clients.

In Malta, prostitutes can be prosecuted under the 1930 *Order for the Suppression of the White Slave Traffic*. The same Order prohibits to prostitute another for financial advantage or to manage an establishment for prostitution. In Sri Lanka, prostitutes are prosecuted under the *Vagrants Ordinance* and the *Brothel Ordinance* (De Silva 1996). In Uganda 'any person who practices or engages in prostitution' may be sentenced to up to seven years imprisonment. In Japan, the *Prostitution Prevention Law* prohibits anyone to commit prostitution or to be a client of a prostitute (Rayanakorn 1995). Prostitutes may be sentenced to fines, imprisonment, forced rehabilitation or even, as in Iran, the death penalty (van der Vleuten 1991). A revealing example of the exploitation of sanctions against prostitutes is the following:

In the Haman Island [...] when the provincial government launched its infrastructural construction, it lacked capital for building a highway. So the government decided to conduct a clean-up campaign. Women who were caught faced a penalty of Rmb. 2.000 and six months labour reform. During the period of reform labour they were sent to build a highway (Lin 1996, p. 4).

Although this type of prohibitionist legislation purports to eliminate prostitution, there is no evidence that countries where prostitution is outlawed have been even remotely successful in achieving this aim. This may be illustrated by the 1994 report of the Slovenian government to the Council of Europe, in which it is noted that the prohibition of prosti-

1. Countries which qualify as prohibitionist are: USA (except Nevada), Philippines, Japan, Burma, Sri Lanka, Vietnam, Nepal, Uganda, Namibia, Tanzania, Mali, Iceland, Malta, Slovenia, China, Romania. This list is based on the answers of respondents to the questionnaire as well as a variety of other documents. Almost 40% of the respondents define the legal system of their country as prohibitionist, defined in the questionnaire as 'all prostitution is legally prohibited and all involved parties, incl. prostitutes, are criminalized'. Due to, among other things, inconsistencies and ambiguities in the law and its application, in some cases respondents from the same country give different responses to questions regarding the legal system in their country. For example: some respondents define the legal system in Thailand as prohibitionist, others do not. An explanation might be that officially prostitution as such is not an offence in Thailand, but in practice virtually everything related to prostitution is criminalized, amounting to a system of absolute prohibition.

tution does not implicate that brothels do not exist; it rather means that brothels 'are illegal and operate under alternative names, mainly as massage parlours' (Council of Europe 1994a). The same mechanism was seen in Aruba, where during the fifties the government tried to outlaw prostitution. The result was an increase in illicit prostitution activities, which led to the reintroduction of permits for sex workers in 1957 (Kempadoo 1995).

With respect to the position of prostitutes it makes no decisive difference to what extent the law is actively enforced. It is sufficient that the law exists and can be used against them at any arbitrary moment for any arbitrary reason. The illegality of prostitution as such renders prostitutes fully dependent upon third parties. Since they have no legal protection at all – for they themselves are liable to arrest and prosecution – they find themselves in the power of brothel owners and middlemen on the one hand, and police officers and court officials who are willing to turn a blind eye in exchange for money or free sexual services on the other hand. This is prone to make prostitution a very lucrative source of revenue for all involved parties, including the police, though with the exception of the prostitutes themselves. In case of violence, coercion or abuse – be it from the side of traffickers, brothel owners, police officers, other law-enforcement officials or clients – there is no authority, not even hypothetically, women can turn to. Any contact with law-enforcers will expose them as prostitutes and put them at risk of being arrested and jailed. As stated by Butegwa, commenting on the legal situation in Uganda:

Since prostitution is outlawed and not regarded as legitimate employment, pimps and traffickers would be able to victimize prostitutes. The latter would not be able to report their grievances to the police since they would be doing something illegal. Therefore it would appear that the traffickers can even use the law to keep the women enslaved and in slave-like conditions by threatening them with exposure. The women would then have no choice but to give in to all the demands and conditions set by traffickers [...] In such a situation even women who were not originally trafficked find themselves in situations where they have little or no say at all regarding their work and what is expected from them. The people who use their services also know that these women are not protected by the law and therefore they can treat them carelessly (Butegwa 1996, p. 11).

Migrant women are in an even more vulnerable position. They are not only liable to arrest as prostitutes, but also to arrest and deportation as illegal foreigners.

It may be concluded that, rather than protecting women or being in the interest of women, the prohibition of prostitution generates considerable profits for anyone but the

prostitute. It facilitates and sanctions control and abuse by third parties, but leaves the women concerned with no legal means whatsoever to defend themselves against violence, coercion or abuse.

2 Prohibitions and regulations aimed at prostitutes

2.1 Introduction

In the majority of countries, prostitution in itself is not an offence.² Yet, this does not necessarily mean that prostitutes are not liable to punishment. In Denmark, for example, it is not illegal to provide sexual services for money and goods, but only as long as sex work is not the main source of income for the prostitute. Otherwise the police might arrest her on charges of vagrancy (Pheterson 1995). In Hungary, prostitution per se is not longer a crime since the modification of the criminal code in 1993. However, parasitical offences (i.e. no proof of legitimate employment) connected with prostitution, are much more seriously prosecuted and punished than before (Fehér 1995). In Thailand, anyone found in a brothel for the purpose of prostitution is liable to punishment. In practice, this is only enforced on prostitutes but not on the clients (Rayanakorn 1995).

In all countries the practice of prostitution is controlled and regulated through an extensive range of prohibitions, restrictions and regulations. Many of these legal prohibitions and regulations are aimed at the prostitutes themselves. If women breach these prohibitions or fail to comply to the regulations they may be sentenced to imprisonment, fines or forced 'rehabilitation'. Female offenders in India, for instance, can be sentenced to detention in a corrective institution for a minimum of two and a maximum of five years. Release after six months is possible 'if there is a reasonable probability that the offender will lead a useful and industrious life' (*Immoral Traffic (Prevention) Act*). In Bangladesh arrested prostitutes can be sent to rehabilitation centres. These not only prove to be in-

2. Almost 40% of the respondents define the legal system of their country as abolitionist, defined as 'prostitution is not an offence in itself, but any involvement of third parties/any exploitation of the prostitution of others is prohibited'. Another 15% of the respondents define the legal system of their country as regulationist, defined as 'prostitution is officially recognized and regulated through different forms of registration and other forms of control in the interest of public order and public health'. The following countries qualify as predominantly abolitionist, according to information from the questionnaire and other documents: Thailand, Bangladesh, Hong Kong, India, Ukraine, Poland, Czech Republic, Lithuania, Bulgaria, Finland, Denmark, Italy, Spain, Portugal, France, Belgium, UK, Ireland, Canada, Nigeria, Mali, Cameroon, Dominican Republic, Colombia. Countries which qualify predominantly as regulationist are, according to the questionnaire and other documents: Turkey, Peru, Ecuador, Curaçao, Greece, Switzerland, Australia, Germany, Austria and the Netherlands.