

【Research Note】

**Improving the Conditions of Sex Workers in Mongolia:
A Comparative Study of Legalized Prostitution**

By Ranson Paul Lege* and Munkhnaran Munkhtuvshin**

Abstract

At present, Mongolia criminalizes the sex industry. Social outcasts and unprotected by law, workers in this sector suffer from multiple health issues, violence, and poverty. Using the functional approach to comparative law, this article describes the extent of the problem in Mongolia, compares the main legal approaches to controlling the sex industry, and suggests that a modified version of the Nevada Model might assist Mongolia to respond to the present failures. While some research on prostitution in Mongolia was conducted between 2010 and 2015, much of this was the result of the mining industry's concerns over sexually transmitted diseases. As a result, some legislative action was taken to curtail the health crisis and problems associated with human trafficking while maintaining the idea that the law could abolish the trade. Since then, there has been a paucity of attention on the subject though enough evidence exists that shows individuals forced into this trade are suffering from many health issues, violence, and poverty. This paper will establish that there is a need to shift the approach away from the idea of complete prohibition to some form of regulatory control to improve the conditions of those who work in this trade. A modified form of the Nevada Model provides a solution in that it is suited to the mining tradition, allows for public scrutiny of the industry, and affords the sex worker a violent-free environment and a chance to escape poverty.

Contents

- I. Introduction**
- II. Criminalization of prostitution and violence against sex workers in Mongolia**
- III. Approaches to Prostitution**
 - a. Abolitionist approach**
 - b. Regulatory approach**
 - c. Nordic Model**

* Paul Lege, PhD: ASCI, Graduate School of Law, Nagoya University xrplege@law.nagoya-u.ac.jp

** Munkhnaran Munkhtuvshin: Doctoral Candidate, Graduate School of Law, Nagoya University; Adjunct Professor at the University of Finance and Economics (Mongolia) munkhnaran.m@ufe.edu.mn

d. Nevada Model

IV. International law and rationale for introducing the Nevada Model to Mongolia

V. Conclusion

I. Introduction

Due to the complex nature of commercial sex, many nations have taken on different approaches to regulating or prohibiting sex work. However, over the last fifty years, many nations have changed their viewpoint on sex from attempting to control or abolish it to a more flexible, legalizing approach or even complete decriminalization. The terms legalization or decriminalization of prostitution can be confusing. Legal scholar Donna Hughes (who opposed decriminalization) explained that legalization of prostitution referred to any regulations that allow the sex trade to operate but under various restrictions (where, when, and how). In contrast, decriminalization eliminated all laws against such trade and prohibited the government from intervening in any such activities.¹

Comparatively speaking, regardless of legal system (Continental Law, Common Law, *etc.*), legalization and decriminalization represent an advancement over attempts to completely abolish or prohibit such human interaction as has been the case in Mongolia. Since 1998, Mongolia criminalized and prohibited all forms of sex work by its Law on Combating Licentiousness (Prostitution and Pornography). As of 2016, 127 countries had criminalized this activity (including the United States and Mongolia), 86 countries had legalized it to some degree (Argentina to Sweden), while only two had decriminalized the industry (New Zealand and parts of Australia).² The movement to either legalize or decriminalize this industry has gained momentum, but many countries in Asia and the Pacific region have lagged in their approach to such commercial activity, especially in Mongolia. One of the key rationalizations for taking a more progressive approach to this industry has been that legalization or decriminalization helps to reduce the violence associated with the activity and can improve the health and economic conditions of the sex worker.

In 2012, the United Nations released a detailed and lengthy report that recommended the decriminalization of sex work as a way to reduce the violence, abuse, and exploitation of people whose basic human rights were violated in such an industry in Asia and the Pacific region.³ This report led to further investigation and study into the extent to which violence was perpetrated against individuals, particularly women, who participated in the sex industry. For example, in 2014, Deering *et al* conducted a systematic review of over 1500 articles that found a strong relationship between various forms of violence and sex work.⁴ Furthermore, the sex worker could expect violence not only from a pimp, client, but also from the

¹ Donna M. Hughes, "Women's Wrongs," *National Review*, (October, 2004), <https://www.nationalreview.com/2004/10/womens-wrongs-donna-m-hughes/>

² ChartsBin.com, "The Status of Sex Work Laws by Country 2016," (n.d.), <http://chartsbin.com/view/43108>

³ John Godwin, "Sex Work and the Law in Asia and the Pacific: Laws, HIV and human rights in the context of sex work," *United Nations Development Programme (UNDP) Report*, (Oct. 2012): 21-40. <https://www.undp.org/sites/g/files/zskgke326/files/publications/HIV-2012-SexWorkAndLaw.pdf>

⁴ Kathleen N. Deering, et al. (2014) "A Systematic Review of the Correlates of Violence Against Sex Workers," *American Journal of Public Health*, 104 (5): e42-54. <https://doi.org/10.2105/AJPH.2014.301909>

police or an intimate partner. Likewise, in Mongolia, attempts to abolish prostitution have not only resulted in a rise in the activity but the amount of direct and indirect violence aimed at the sex worker and client has also increased.⁵ In the case of Mongolia, the government maintained the old Soviet view of strict control over the sex trade with the aim of abashing it, but since independence and the opening of the marketplace, both prostitution and violence against such workers as seen a rise.⁶

Though the Mongolian government convened several times between 2010 and 2015 to assess some of the health issues associated with sex work, legislators have remained firm that the nature of such an industry should be illegal. The Mongolian government has done little to improve the conditions of those who not only suffer such violence but may face discrimination when seeking treatment for their injuries or for dealing with sexually transmitted diseases.⁷ This article aims to describe the problems for those who work in the sex industry in Mongolia, evaluate the current legislative approach to sex industry in the country, and provide a legal solution via a comparative analysis with the Nevada Model that has legalized this activity. The method of the research is to review relevant literature on different legal approaches to sex industry, and examine the effect of current Mongolian legislation. (The methods include an archival search of the data, literature, and legal documents available in English and Mongolian, and Turkish as part of an exploratory search into ways to improve the working conditions of sex workers in Mongolia.)

II. Criminalization of prostitution and violence against sex workers in Mongolia

In Mongolia, numerous laws are on the books that criminalize the sex industry. In fact, concerning this issue, the UN considers Mongolia an “abolitionist” state. In 1998, the government passed a stringent bill entitled *The Law on Combating Licentiousness* (Prostitution and Pornography) which prohibited all forms of sex work, soliciting, and brothels as well as the making and distribution of pornography. In addition, Article 12.6 of the Criminal Law of Mongolia (2015) and Article 6.18 of the Infringement Law (2017) sought to criminalize the organization of sexual services and pimping.

The *Criminal* and *Infringement* laws also provide penalties for engaging in the sex trade. Article 12.6 of the *Criminal Law* provides penalties that restrict travel and 6 months to 3 years of imprisonment for pimping, persuading, or encouraging someone into prostitution (to sell sex) and punishment or 5 years of restrictive travel or 1-5 years confinement for any form of accommodation (hosting, financial support or establishing a brothel) for such a trade.⁸ Meanwhile, Article 6.18, paragraph 4 of the *Infringement Law*

⁵ Meghan Davidson Ladly, “Mongolia's prostitution zones, where women trade sex for fuel in sub-zero temperatures,” (February 19, 2019) <https://www.telegraph.co.uk/global-health/women-and-girls/mongolias-prostitution-zones-women-trade-sex-fuel-sub-zero-temperatures/>

⁶ See Enkhnasan J., Usukh Kh., and Amarjargal G., “Report on Enforcement on Anti-prostitution Law and improving its regulations” Published by National Legal Institute of Mongolia, Ulaanbaatar, 2011, at p. 10. (Ж.Энхнасан, Х.Өсөх, Г.Амаржаргал, “Садар самуун явдалтай тэмцэх тухай хуулийн хэрэгжилт, эрх зүйн зохицуулалтыг сайжруулах тухай тайлан”, ХЗҮХ, УБ. 2011 он, 10 дахь тал.); and Bulgamaa B. (2009) Report: Mongolian Sex Workers Becoming Younger, Worse off, UB Post, 15 January 2009, which reports that the National Network of Mongolian Women’s Organizations prepared the Country Gender Assessment 2008, as cited in Godwin, “Sex Work,” (2012), 107.

⁷ Angela M. Parcesepe, et al. “Physical and sexual violence, childhood sexual abuse and HIV/STI risk behaviour among alcohol-using women engaged in sex work in Mongolia,” *Global Public Health* 10 (2015): 88–102. <http://doi:10.1080/17441692.2014.976240>; National Committee on HIV/AIDS, Mongolia, *Mongolian National Strategic Plan on HIV, AIDS and STIs 2010-2015*, (February 2015). https://extranet.who.int/countryplanningcycles/sites/default/files/planning_cycle_repository/mongolia/hiv_plan_mongolia.pdf

⁸ Article 12.6, *Criminal Law of Mongolia*, (2015) see the law from the Unified Legal Information System of Mongolia, (June 26, 2022) <https://legalinfo.mn/mn/detail/11634>

affirms that: “If someone engaged in prostitution (sold sex service to others or buys sex service from others), the illegal income gained from the illegal activity of prostitution will be taken by the state and the person will be punished by a fine of 100,000 Mongolian Tugrug [4,350 yen].”⁹

Together, these three laws equip the state with a set of eradication tools that has been failing. While data on the sex trade in Mongolia remains sparse, the Global AIDS Response Progress Reporting (GARPR) estimated that the number of individuals engaging in such work was around 19,000 in 2012.¹⁰ This number was significant given that the population of Mongolia at the time was 2.7 million which meant that about 1 in every 70 females may have engaged in the trade along with the expansion of the mining industry.¹¹ The main reason for the UN studies at this time resulted from concerns of the mining executives over the rise of sexually transmitted infections or diseases (STI/STDs) among their workers. Though the government has responded to some of these health concerns, the sex trade continued to increase alongside mining development and may have spiked during Covid.¹² The relationship between the mining industry and prostitution is well documented.¹³ While no updated data is available, the present number working in the sex trade could be estimated using demographic data for 2020 showing a possibility that over 23,100 women engaged in such work.¹⁴

Meanwhile, violence perpetrated against women as a whole and those who work in the sex trade has risen proportionally. According to Duin, Mongolia continues to have some of the worst rates of sexual violence among all Asian countries where nearly 1 in 3 women have reported being assaulted by a male.¹⁵ Furthermore, evidence indicates that sex workers often suffer from a multitude of crimes from clientele, police, and intimate partners while expecting less access to justice system. Carlson *et al* found that the percentage of such workers who suffered violence from paying customers could have been as high as 84% and from intimate partners at 59%.¹⁶ In 2010, the government surveyed 4680 sex workers (40 were male) in the capital city of Ulaanbaatar and found that 63.4% stated that they had been assaulted by the clientele and 52.7% were reluctant to report such violence due to a lack of faith in the legal system or out of fear of further retribution.¹⁷ Such violence includes various forms of coercion and intimidation, harassment and abuse, physical assault, forced confinement, violence with a weapon, and rape.

⁹ Article 6.18, paragraph 4, *Infringement Law of Mongolia*, (2017), see the law from the Unified Legal Information System of Mongolia, (June 26, 2022) <https://legalinfo.mn/mn/detail/12695>

¹⁰ UN AIDS Data, “Sex workers, population size estimate,” *Joint United Nations Programme on HIV/AIDS* (2013). <https://data.un.org/Data.aspx?d=UNAIDS&f=inID%3A111>

¹¹ Arab Today “Mongolia mining success brings booming sex trade,” (July 11, 2011). <https://www.arabtoday.net/en/337/mongolia-mining-success-brings-booming-sex-trade>

¹² Lady, “Mongolia’s prostitution zones,” *The Telegraph* (2019).

¹³ Julia Ann Laite, “Historical Perspectives on Industrial Development, Mining, and Prostitution.” *The Historical Journal*, 52 (3), (2009): 739-761.

¹⁴ This number is calculated by combining the data of 2020 demographics for Mongolia, see: Central Intelligence Agency, “Mongolia Age Structure”, *CIA Worldfact Book* (2021). <https://www.cia.gov/the-world-factbook/countries/mongolia/> with the formula used by Jan Vandepitte, Lyerla, R., Dallabetta, G., Crabbé, F., Alary, M., and Buvé, A., “Estimates of the number of female sex workers in different regions of the world.” *Sexually transmitted infections*, 82 (3), (2006) iii18–iii25. <https://doi.org/10.1136/sti.2006.020081>

¹⁵ Julia Duin, “Living While Female in Mongolia,” *Foreign Policy*, (February 14, 2022). <https://foreignpolicy.com/2020/02/14/living-while-female-in-mongolia/>

¹⁶ Catherine Carlson, Chen J, Chang M, Batsukh A, Toivgoos A, Riedel M, and Witte SS, “Reducing intimate and paying partner violence against women who exchange sex in Mongolia: results from a randomized clinical trial.” *Journal of Interpersonal Violence*, 27(10) (2012):1911-1931. DOI: 10.1177/0886260511431439.

¹⁷ International Labor Organization and the National Statistics Office of Mongolia, “Research on Sex workers and molested children,” Ulaanbaatar, 2010, at 49-50. (Монгол Улсын Үндэсний Статистикийн Хороо, Олон Улсын Хөдөлмөрийн байгууллага, “Биеэ Үнэлэгч Болон Бэлгийн Мөлжлөгт Өртсөн Хүүхдийн Судалгаа”, УБ. 2010 он, 49-50 дахь тал.)

Moreover, the violence against sex workers does not end with the clientele's brutality or from an intimate partner. Public stigma, the justice system, and police officers also add to the violence. For example, news agencies sometimes publicly berate and humiliate both the worker and client who have been caught, and nationalist groups often shorn the hair of women caught having sex with foreign men.¹⁸ Frequently, police officers beat sex workers, extort money, or force them into unwanted sexual activity.¹⁹ Some Mongolian legal scholars have emphasized that such social and judicial violence increases the vulnerability of sex workers and decreases their faith in the legal system so that those in this profession may continue to tolerate the violence against them by clients and others.²⁰

In total, then, Mongolia's attempt to abolish the sex trade is having a deleterious effect on human rights not just of the sex worker but the client as well. For example, criminalizing this activity through law and social intimidation has led to violations of the clients' privacy issues. In some incidents, reporters and police officers force the clients to give public interviews explaining why they choose to engage in sex services. These interviews are broadcast nationally without a change of voice or a covering of the face. While the person is assaulted with personal questions, there is little concern for their rights. Such forced interviews infringe on the clients' privacy as well as the sex workers who both suffer from continuous humiliation and ridicule after they are posted on social media platforms. As a result of the increasing violence against sex workers and the infringements on the privacy of the clients in Mongolia, the government should consider a new approach to tackling how to regulate this trade.

III. Approaches to Prostitution

As mentioned above, in the legal world, three general paths exist in which a society may approach prostitution: criminalization, legalization, and decriminalization. Within such classifications, numerous models have risen depending on tradition as well as socio-economic factors in each country. The four briefly described here include the abolitionist, regulatory, Nordic, and Nevada models and their relation to violence. Succinctly, the abolitionist approach seeks to prohibit and criminalize all sex work; the regulatory approach legalizes both private and brothel sex services; the Nordic model focuses on punishing those who seek out paid sex, and the Nevada model allows sex work only in state-licensed brothels.

¹⁸ Frank Bille, "Nationalism, sexuality and dissidence in Mongolia," in *Routledge Handbook of Sexuality Studies in East Asia*, Mark McLelland, Vera Mackie eds (London: Routledge, 2015), pp.162-173.

¹⁹ See Bulgamaa B. (2009) Report: Mongolian Sex Workers Becoming Younger, Worse off, UB Post, 15 January 2009, which reports that the National Network of Mongolian Women's Organizations prepared the Country Gender Assessment 2008, as cited in Godwin, "Sex Work," (2012), 107.

²⁰ Enkhnasan Jamsran, Usukh Kh., and Amarjargal G., "Report on Enforcement on Anti-prostitution Law and improving its regulations" Published by National Legal Institute of Mongolia, Ulaanbaatar, 2011, at p. 10. (Ж.Энхнасан, Х.Өсөх, Г.Амаржаргал, "Садар самуун явдалтай тэмцэх тухай хуулийн хэрэгжилт, эрх зүйн зохицуулалтыг сайжруулах тухай тайлан", ХЗҮХ, УБ. 2011 он, 10 дахь тал.)

a. Abolitionist approach

This approach seeks to either eliminate the practice of the sex trade or constrain it through criminalization. As a result, the impact on the people who engage in the activity can be severe via indirect or direct legal and social violence, as shown in Mongolia. Other Asian countries, such as Afghanistan, Bhutan, China, Cambodia, Iran, Iraq, and Pakistan take an abolitionist approach and report having similar health concerns and issues of violence against sex workers.²¹ Moreover, while some of these countries show signs of reducing human trafficking, this comes at a high social cost.²² For example, in some of these Asian countries, acts of violence against minority sex workers including homosexual and transgender individuals can be even more severe depending upon a nation's particular traditional and religious approach to law.²³

b. Regulatory approach

Several countries have taken a regulatory approach which could include partial legalization to complete decriminalization. Such an approach accepts that the sex trade will not simply disappear and that heavy-handed law only compounds the social problem by driving it underground where health issues and violence become a plague on society. While such countries have been successful in reducing violence against sex workers and improving their health conditions, they have also become magnets for human traffickers.²⁴ Countries such as Argentina, Canada, France, the Netherlands, and New Zealand have experimented with various forms of this regulatory approach. In 2003, New Zealand adopted the *Prostitution Reform Act* which decriminalized prostitution and declared that it is a legitimate commercial service. While controversial, the purpose of this act was not to endorse or morally sanction prostitution but to create a framework that secures the human rights of sex workers, promotes their health and safety, is conducive to public health, and prohibits the exploitation of children.²⁵

c. Nordic Model

The Nordic Model legalizes the selling of sexual services but criminalizes the buyers of such services. The approach consists of four elements: 1) the decriminalization of sex workers; 2) it provides support for those leaving the trade; 3) education and prevention; and 4) criminalizing those who buy and profit in the trade. While this model has become popular in Europe, international human rights organizations have criticized the approach. For example, Amnesty International warned that the Nordic Model might be increasing forced prostitution and human trafficking.²⁶ Scholars such as Fox opined that governments using the Nordic Model do not offer evidence that the change in the number of exploited sex workers or the victims

²¹ Henrik Karlsson, "Sex Work Policy Worldwide: A Scoping Review. *Sexuality & Culture*" (2022). <https://doi.org/10.1007/s12119-022-09983-5>

²² Seo-Young Cho, Axel Dreher, and Eric Neumayer, "Does Legalized Prostitution Increase Human Trafficking?" *World Development*, 41 (1), 2013: pp. 67-82, <http://dx.doi.org/10.2139/ssrn.1986065>

²³ John Godwin, "Sex Work and the Law in Asia and the Pacific Laws, HIV and Human Rights in the Context of Sex Work." (October 2012), 82.

²⁴ "Does Legalized Prostitution Increase Human Trafficking?" *Harvard Law and International Development Society*, (June 12, 2014), <https://orgs.law.harvard.edu/lids/2014/06/12/does-legalized-prostitution-increase-human-trafficking/>

²⁵ New Zealand Parliament, Prostitution Reform Act, (2003), see <https://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197815.html>

²⁶ Amnesty International, Report, "The Human Cost of 'Crushing' The Market, Criminalization of Sex Work in Norway", 2016, (June 15, 2022) https://www.amnestyusa.org/files/norway_report_-_sex_workers_rights_-_embargoed_-_final.pdf

of sex trafficking.²⁷ Meanwhile, Kraus dispelled many of these criticisms by showing that the number seeking such sex services has decreased by 70% over the last few decades in the Nordic Model countries.²⁸

d. Nevada Model

While the US generally criminalizes commercial sex, the Nevada Model arose out of the unique mining culture that emerged in this state.²⁹ At present, 10 of 16 counties in Nevada allow for the legal operation of the sex trade, but this only represents about 10% of the actual amount in the state. Nevertheless, licensed brothels operate legally and the state considers anything outside this framework as illegal. Some scholars view this as a good model that promotes human rights as guaranteed by international law.³⁰ However, Bingham has argued that such operations result in state-controlled exploitation because of all the overhead costs, taxes, and percent they must pay the owners so the workers barely earn a living.³¹

Indeed in some countries that use this approach, the brothel sex workers earn significantly less income than those in any other area. For example, in Turkey, commercial sex services operate as state brothels called *Genel Ev* (meaning home for anyone in Turkish). Similar to the Nevada approach, *The State Brothel Law of Turkey* (1961) requires sex workers to pay a large amount in taxes, remuneration, and accommodation fees to the state and brothel owners, in addition to the payments for their regular medical check-ups.³² As a result, the *Genel Ev* sex workers receive significantly less income. Ayse, a former worker in *Genel Ev*, explained that workers in this trade receive only about 27% of what the clients actually paid.³³

IV. International law and rationale for introducing the Nevada Model to Mongolia

Article 6 of the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) urges state parties to “take all appropriate measures ... to suppress all forms of traffic in women and exploitation of the prostitution of women.”³⁴ Passed in 1979, this convention has come under criticism for taking an abolitionist approach without considering all aspects of human rights connected with such activity. International human rights organizations and advocates of sex workers have pointed out that this narrow view only enhanced the public stigma that sex workers experience due to the view that such a trade was illegitimate and increased the violence against sex workers, who were often among the most vulnerable.

²⁷ Joshua A. Fox, “International Law After Dark: How Legalized Sex Work Can Comport with International and Human Rights Law,” *Chicago Journal of International Law*, Volume 22, No.1, (June 2021): 204.

²⁸ Ingeborg Kraus, “The Nordic Model of Prostitution: A change in perspective in protection of human dignity,” *Trauma and Prostitution: Scientists for a World without Prostitution*, (September 18, 2021). <https://nordicmodelnow.org/wp-content/uploads/2021/09/the-nordic-model-on-prostitution-englisch-pdf.pdf>

²⁹ Robert D. McCracken, *A History of Prostitution in Nye County, Nevada*, (Reno: McCracken: 2019), 5-10.

³⁰ Joshua A. Fox, “International Law After Dark: How Legalized Sex Work Can Comport with International and Human Rights Law,” *Chicago Journal of International Law*, Volume 22, No.1, (June 2021): 204

³¹ Nicole Bingham, “Nevada Sex Trade: A Gamble for the Workers,” *Yale Journal of Law and Feminism*, 10(1) (1998): 96.

³² *The State Brothel Law of Turkey* (1961), (Genel Kadınlar Ve Genelevlerin Tabi Olacakları Hükümler Ve Fuhuş Yüzünden Bulaşan Zührevi Hastalıklarla Mücadele Tüzüğü, Bakanlar Kurulu Kararının Tarihi): 30.3.1961, No: 5/984, Dayandığı Kanunun Tarihi : 24.4.1930, No: 1593, Yayımlandığı R. Gazetinin Tarihi : 19.4.1961.

³³ Alper Uyus, *Hayatsız Kadın Ayşe Bir Kadının Genelev Yaşamı*, (2008); Interview of Ayse Tukrukcu in the Katarsis X-TRA Show, Turkey (2019), see the interview (in Turkish) (June 15, 2022) <https://www.youtube.com/watch?v=HNtLG6M7HNU>

³⁴ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, December 18, 1979, United Nations, Treaty Series, vol. 1249, 13.

Due to the complexity of the problem, the United Nations has avoided taking an overt side of connecting sex work and human rights.³⁵ As a result, few internationally recognized acts on protecting sex workers exist, making it difficult for countries such as Mongolia to consider the human rights of people in this profession.

Compared to Asia, however, the European Union has a more supportive approach to protecting the human rights of those engaged in commercial sex. In 2005, the International Committee on the Rights of Sex Workers in Europe (ICRSE) adopted the *Declaration on the Rights of Sex Workers in Europe*. While non-binding, this act recognizes that sex workers experience many violations due to the nature of their work and urges more progressive legalization that would offer a safer working environment. Avoiding the issue exposes women in this environment to both physical and mental abuse which can have dire consequences including increased exposure to sexually transmitted diseases, drug and alcohol addiction, unwanted pregnancy, and other physical injuries as well as anxiety, depression, post-traumatic disorders, and suicide.³⁶ Unfortunately, many countries like Mongolia fail to assess such an environment until it is too late.

As noted above, the mining industry in Mongolia began to put some pressure on the government in 2009 after their workers were showing increased signs of being HIV positive and suffering from various sexual diseases after paying for sex.³⁷ The government did make some effort to address the health issues, and with the help of international grants, experimented with micro-financing interventions to possibly improve the economic condition of women in this industry. Basically, the idea was that an organization (private or public) would match 1:1 whatever a sex worker put into a particular savings account protected by the state.³⁸ The results from such a social experiment were mixed, and while there may have been some improvement in the health conditions, little improved in terms of the violence aimed at sex workers.³⁹ This research argues that Mongolia may need to move away from the idea of abolishment to a more legalized form of the sex industry for humane reasons.

Ideally, decriminalization would be preferable but several critical aspects of this issue would prevent its realization in Mongolia. First, while international law appears to be moving in the direction of decriminalization, most countries still prefer some form of regulatory control.⁴⁰ Second, the countries that have advanced or more progressive legal controls now face issues with increased human trafficking (though with improved conditions for the sex workers).⁴¹ Up to now, Mongolia has done a decent job in controlling human trafficking and cannot afford to simply open the gates to such trafficking, even if for good reasons.⁴²

³⁵ Barbara Crossette, "UN Women Is Criticized for Appearing to Take Sides on Decriminalizing 'Sex Work'," (October, 2019), <https://www.passblue.com/2019/10/17/un-women-is-criticized-for-appearing-to-take-sides-on-decriminalizing-sex-work/>

³⁶ Laura Cordisco Tsai, Catherine E Carlson, Toivgo Aira and Susan S Witte, "Risks and resiliency of women engaged in sex work in Mongolia," in *Routledge Handbook of Sexuality Studies in East Asia*, edited by Mark McLelland, and Vera Mackie (London: Routledge, 2014), 305-315.

³⁷ G. Nergui, "As mining booms in Mongolia, so does sex trade," *News.mn*, (July 18, 2011). <https://news.mn/en/74534/>

³⁸ Laura Cordisco Tsai, Catherine E Carlson, Toivgo Aira, Andrea Norcini Pala, Marion Riedel, Susan S Witte, "The impact of a microsavings intervention on reducing violence against women engaged in sex work: a randomized controlled study," *BMC International Health and Human Rights*, 16(1) (2016): 27 <https://pubmed.ncbi.nlm.nih.gov/27793147/>

³⁹ *Ibid*

⁴⁰ Seo-Young Cho and Dreher, Axel and Neumayer, Eric, "Does Legalized Prostitution Increase Human Trafficking?" *World Development*, 41 (1), (2013): 67-82. <http://dx.doi.org/10.2139/ssrn.1986065>

⁴¹ Eva Cukier, "Sex workers defend UN recommendations," *Red Umbrella Fund* (October 2017). <https://www.redumbrellafund.org/sex-workers-defend-un-recommendations/>

⁴² US Department of State, "2017 Trafficking in Persons Report: Mongolia Tier 2," *Office To Monitor and Combat Trafficking in Persons*, (June 28, 2017). <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271245.htm>

Third, the Nordic Model would never work because of the mining culture and its strong associative demand for commercial sex operations.⁴³ Even today, the government cannot afford to ignore the mining interests and companies as this sector represents over 20% of the GDP and brings in 22.5% of the revenue for the state.⁴⁴ Fourth, Mongolia remains rather conservative concerning women's role in society and domestic violence continues to be a prevalent problem.⁴⁵ In sum, a modified form of the Nevada approach might be a more practical solution compared to more progressive legalization or decriminalization.

This paper suggests that a modified form of the Nevada Model would be a practical step forward in the legalization of sex work in Mongolia. The point of suggesting this model is not to promote prostitution but to reduce the violence against such workers, improve the working environment, and increase their share of the exchange. Such a model is well-suited to acceptability in traditional rural cultures and can be maintained by local ordinances.⁴⁶ This model serves as a controlling mechanism that requires public scrutiny so that both the spread of STI/STD's and violence against the sex worker can be mitigated and reduced. While not perfect, the Nevada approach has succeeded in these two areas.⁴⁷ In addition, the government should limit taxation and overhead charges and encourage the mining industry to play a role in the micro-financing concept so that such workers can rise out of poverty. Without such modifications, the approach could merely regress into state-controlled exploitation as in Turkey. In sum, by adopting this model, Mongolia would move a step closer to legalization while promoting the protection of human rights for vulnerable women in such a trade.

V. Conclusion

At present, the commercial sale of sex remains illegal in Mongolia. The government was forced to consider reviewing this approach mainly due to health concerns in the mining sector in 2010. Since then, not much has been done to improve the human rights of those in the sex trade. Mongolia remains frozen in a sub-arctic stupor in which a misguided abolishment policy only drives sex workers further into despair. Health issues, violence, and poverty follow in the wake of not confronting this reality. Though some government officials recognize the need for change in light of the international trend toward decriminalization, tradition and culture still play a role in stigmatizing this trade. In addition, because Mongolia has been successful in restricting human trafficking there has been some concern that legalization

⁴³ Julia Ann Laité, "Historical Perspectives on Industrial Development, Mining, and Prostitution." *The Historical Journal* 52(3) (2009): 739–61. <http://www.jstor.org/stable/40264198>

⁴⁴ Ministry of Mining and Heavy Industry of Mongolia, *Mining Sector Statistics 2022 I-V*, (June 22, 2022), 2, <https://mmhi.gov.mn/2022/05/31/эрдэс-баялгийн-салбарын-статистик-мэ-4/>

⁴⁵ A survey conducted in Mongolia in 2017 found that 1 in 4 women, regardless of socio-economic status, felt that a husband has a right to beat his wife. National Statistics Office and the UN Population Fund, 2017 *National Study on Gender-based Violence in Mongolia: Breaking the Silence for Equality*, (UNFP Mongolia, June 2018), 14-15.

⁴⁶ Bingham, "Nevada Sex Trade," (1998): 85; Daria Snadowsky, "The best little whorehouse is not in Texas: How Nevada's prostitution laws serve public policy, and how those laws may be improved." *Nevada Law Journal*, 6(1) (2005): 217-247.

⁴⁷ Barbara G. Brent and Kathryn Hausbeck, "Violence and Legalized Brothel Prostitution in Nevada: Examining Safety, Risk, and Prostitution Policy," *Journal of Interpersonal Violence*, 20(3) (2005): 263-269 <https://doi.org/10.1177/0886260504270333>

could lead to a flood of such illegal activity which could overwhelm the enforcement system. Solutions to this problem are needed.

This paper describes the problem, compares various options to the present abolishment approach, and provides a potential solution. With the proper modifications, the Nevada Model offers a potential win/win solution because it is suited to the mining culture that is so dominant in Mongolia today. This modified form of regulatory control would oversee the health conditions of the industry, reduce violence, and ensure that workers earn more. At the minimum, such an approach aims to assure that the sex worker need not work in fear of their life. In turn, this approach might thaw the hardened view that many people have about gender-based violence in Mongolia, which should be the ultimate aim of the rule of law.