

REGULATING AWAY SEX TRAFFICKING: AN ANALYSIS
OF THE IMPACT OF PREDOMINANT PROSTITUTION REGULATION
TECHNIQUES ON REDUCING SEX TRAFFICKING

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ABSTRACT

Currently there are multiple techniques used to regulate the profession of prostitution, and while they might not all share the same goals for prostitution, they all can be evaluated as trying to reduce the exploitation associated with prostitution and in many cases, sex trafficking. My research evaluates the predominant prostitution regulation techniques in Europe and America today—the Dutch, Swedish, and Criminalization models—to see how well they reduce sex trafficking in their regions. This comparison is done by looking at one country per model, the Netherlands, Sweden, and the United States of America, which are all known for having relatively good governmental reporting techniques, to see how sex trafficking has been effected throughout the 2000s. By doing this, I hope to have a better understanding of what impact regulation styles have on reducing exploitation and how some techniques may actually be counter-active to their intended goals.

Introduction

Prostitution and sex trafficking has become a topic of great public interest within the last thirty years. Prostitution is a profession regarded by many as one of the oldest in history, but for centuries the issues associated with it and the exploitation from sex trafficking to feed the increasing demand for prostitution has been strategically hidden from the public eye due to lack of governmental understanding or repression of the industry.¹ Though there are differing views about the best way to legally approach prostitution, recently nations have come together to try to reduce the exploitative characteristics of sex trafficking thought to feed the demand for the profession. The successes and failures of the many prostitution regulation techniques across the globe are most easily measured by how well they reduce the amount of exploitation associated with forced prostitution, such as the prostitution of children and trafficked individuals. Throughout this essay, three main styles of prostitution regulation are explored in depth to assess how well they accomplish the task of reducing exploitation, whether it is by legalizing the profession or finding new and improved ways to criminalize it with the hopes of eventual eradication from society.

First, complete legalization of prostitution, otherwise known as the Dutch model, is researched. The Dutch model of prostitution allows for prostitution to thrive in what the country considers a safe and regulated environment. It is hoped that by reducing laws against the profession, safer and healthier working conditions will come about.²

Prostitution in this case is accepted as a fact of society that cannot be removed, and as a

¹ Jo Doezeema, *Sex Slaves and Discourse Masters: The Construction of Trafficking* (2010: New York, NY: Zed Books Ltd), 140

² Maciotti, PG and Geymonat, Giulia, "Sex Workers Speak. Who Listens?" *Beyond Trafficking and Slavery*, (2016): 14

occupational choice that people make willingly and are not always forced into. The legalization model attempts to label prostitution as a profession rather than a morals crime or an inherently exploitive practice.

Second, the partial legalization of prostitution, known as the Swedish model, takes previous techniques of regulation and switches them around to try to rid society of vice and of the harmful gendered impact of criminalization. It does not make it a crime to sell sex, but makes it a crime to buy the services of a prostitute.³ This model came about as a way to reduce the penalization of people who may be forced into prostitution. The Swedish model is an abolitionist model which attacks the demand for prostitution rather than the supply.

The last model we will look into is complete criminalization of prostitution which was a technique used for many years under the basis of prostitution being a socially harmful practice that had to be rid from society. This model has been seen in many Protestant-based countries for the last century as part of a crusade against vice. In the complete criminalization model, people do not have the right to sell their bodies for sex and are frequently imagined as entering the profession of prostitution unwillingly. It takes a very traditionalist view on the purpose of sex solely for reproductive or marital purposes, which is rarely seen in developed societies currently. The government acts as a protector of the innocent and the policing agent of the immoral, inserting itself into the personal lives of its citizens. This model has faded away in Europe, but is still reigning in the United States of America to this day.

³ Maciotti and Geymonat, "Sex Workers Speak. Who Listens?", 13-14.

Literature Review

Over the years, many scholars have taken the time to examine prostitution for several different reasons. While some scholars see prostitution as an expression of one's power and control of one's body, others see it as the epitome of a misogynistic society in which women's worth is based upon their physical characteristics. Because of this, there are many criticisms of each model of prostitution depending on who is analyzing it, and these differences are not solely split between men and women. Multiple scholars who are women, such as Kathleen Barry, cannot view prostitution as a way of women asserting their power over men because of the inherent patriarchy which prostitution was created under and prevails in most societies to this day. The subject of prostitution and sex trafficking bring up issues that lead back all the way to the beginning of civilizations and the roles of men and women. Women were originally assumed to be subservient to men and not valued for their intelligence. By this thinking, the acceptance of prostitution as a valid profession by women would be the acceptance of their lesser role in society where worth is solely based upon their physical characteristics and pleasing men.

Of course, women are not the only ones who are involved in prostitution. Many men and children are involved in prostitution and are trafficked for these purposes sex trafficking. Women are usually referred to more heavily by authors because of the higher occurrences of women being exploited other than men. This is in part because of the assumption for many centuries that men could not be raped or sexually exploited by a woman. The fact that men are an increasing factor in the discussion on prostitution, as prostitutes rather than buyers, serves to show that prostitution may be an expression of one's sexuality, not of one gender being inherently subservient to another. The following

literary review will show differing perspectives on prostitution and its role/significance in society as well as the issues of sex trafficking to feed the prostitution market.

In the book, *Female Sexual Slavery*, Kathleen Barry explains the numerous issues tied to sexual slavery. Barry does this through analyzing the works of Josephine Butler and using her interviews of sex workers. Out of these methods it is important to note that one of the first points made by Barry, and one which highlights the exploitation of prostitution, focuses on how researching female sexual slavery cannot be done with normal methods of research such as interviews of current sex workers or trafficked individuals. This is because women who are enslaved are so limited in their abilities and difficult to track down that the only people who can be interviewed are women who have escaped or left prostitution somehow. Even these people are hard to find though because they are trying to move on and hide that part of their life from others⁴.

For Barry, there is no difference between street prostitution and trafficking, except that trafficking implies crossing international borders. From her research, Barry discovered that around 90 percent of street prostitutes are controlled by pimps.⁵ This takes away their power and control practically the same as if they were in the hands of traffickers. By these findings, there is practically no prostitute who has control of her body or earnings completely. For this reason, prostitution should not be a viable profession because over half of the participants in it are exploited with only a small minority having the chance of possible control over their lives.

Furthermore, Barry exposes many of the challenges posed to international cooperation against sex trafficking. For example, she documents the way that

⁴ Barry, Kathleen. 1984. *Female Sexual Slavery*. 5-6: New York : New York University Press, 1984, c1979., 1984. Print.

⁵ Barry, *Female Sexual Slavery*, 6.

INTERPOL covered up investigations into sex trafficking in 1965. Barry further explains the issues that the Federal Bureau of Investigation (FBI) faced following their investigations on sex trafficking. The issue of reported incidents versus non-reported as well as victims versus volunteers. Furthermore, international cooperation on the issue has been difficult with only 49 nations of the world ratifying the 1949 UN Convention on the “Suppression of the Traffic in Persons and of the Exploitation of the Prostitution and Others.”⁶ The USA did not even sign that agreement in 1949.

Taking a different approach on the analysis of prostitution regulation, *Policing Pleasure: Sex Work, Policy, and the State in the Global Perspective* by Susan Dewey and Patty Kelly focuses on an anthropologic analysis of prostitution and how it can be properly regulated to provide the best outcome for society. Their ethnographical spin to the idea of prostitution and the benefits that can come from understanding the cultural context of regulation shows how there is not one fix to the issue of exploitation and sex trafficking which results from prostitution; laws need to be molded to the society in which they operate. Dewey and Kelly bring up examples from Kenya, Mexico, and Baan Nva to show how one policy cannot address all of the dynamics of sex trafficking and prostitution worldwide. Additionally, the very basis of the capitalist system is put up for debate as it led to the commodification of almost everything in society. The boom of the service sector, which commodified one’s time and work is at its epitome with the commodification of one’s body as a sex worker⁷.

⁶ Barry, 50-51.

⁷ DEWEY, SUSAN, and PATTY KELLY. "Introduction: Sex Work and the Politics of Public Policy." In *Policing Pleasure: Sex Work, Policy, and the State in Global Perspective*, edited by Dewey Susan and Kelly Patty, 1-15. NYU Press, 2011.

Dewey and Kelly note that sex work can be placed on a continuum of behaviors involving the commodification of intimacy and the different ways that prostitution regulation impact people based upon race, class, ethnicity, citizenship, gender, and age.⁸ The two are approaching the idea of sex work from a perspective of how the current situation we are in, both internationally and nationally, has allowed the increase in sex work and commodification of one's body to such an extent as selling sex for money. Then, understanding that reality, strides can be made to try to approach each topic of regulation in a way that would make sense for the economic, political, and social environment. By these methods, it would be assumed that there is not one perfect cure for the exploitation in the prostitution industry, but that every country or culture could be helping in tremendously different ways.

Focusing more on the ways in which regulation is attempted by governments, the book *The Subject of Prostitution: Sex Work, Law, and Social Theory* by Jane Scoular aims at exploring the relationship between law and society in controlling something as elusive as prostitution and trafficking. Scoular examines how society's shifts—modernization, globalization, and loosening of traditional morals—has led to this market of sexual services known as the sex trade. She further brings up how the exaggerations and agendas of politicians who address the issue through inflated and inaccurate numbers to stir up the public and then focus their efforts on saving the prostitutes instead of stopping the demand for prostitution.⁹

⁸ Dewey, Susan, and Patty Kelly. *Policing Pleasure: Sex Work, Policy, and the State in Global Perspective*, 1-15.

⁹ Scoular, J. 2015. *The subject of prostitution: Sex work, law and social theory*. n.p.: Taylor and Francis Inc., 2015. *Scopus*®, EBSCOhost (accessed March 15, 2016).

Overall, there is no universally-acceptable way to handle prostitution and no way to extract law over things in society such as prostitution from politics. Hidden agendas and plans by politicians make for an unusually difficult mission when looking at either eradicating prostitution or helping it to function under the scope of the law.

The Swedish model of regulating prostitution is analyzed in detail throughout the book, *Criminalizing the Purchase of Sex: Lessons from Sweden* by Jay Levy. This book uses many personal accounts and interviews to show how sex workers and Swedish citizens view the law (*sexköpslagen*) which was passed in 1999. Levy starts off by explaining how the Swedish abolitionist legislation is designed, “to protect sex workers in many states from the legal repercussions they have been and are subject to in many states.”¹⁰ The law focuses its attention on the clients of sex workers who are viewed as the real issue in the realm of prostitution.

Levy explains the idea of the People’s Home in Sweden which helps to understand the reasoning behind abolitionist policies for Sweden. From as early as the 1800s, Sweden has been increasing control over its people through different programs including eugenics, mass sterilizations, and mandatory venereal disease tests. Levy explains this as a paternalistic view of society which Sweden possesses.¹¹ This paternalistic outlook is what gives the government the supposed task of bettering society for the common good. It is clear from looking at reactions to Swedish model regulation of prostitution that this paternalism, rather than a common desire of punishing buyers, was behind the institution of the law that caused many sex workers to take to the streets in protest.

¹⁰ Levy, Jay. *Criminalising the Purchase of Sex: Lessons from Sweden* (2015), 1.

¹¹ Levy, Jay. *Criminalising the Purchase of Sex: Lessons from Sweden*. 3-8.

In looking at the safety and security of prostitutes and allowing women to seek help or assistance when needed, there are still drawbacks in Swedish society that Levy points to. The “whore stigma” has created a hostile environment even in the realm of legalized selling of sexual services. This stigma prevents women from seeking medical attention or identifying in their profession as a whole. The overall violence in the profession is seen as inescapable by many officials while claims that violence has decreased or increased are noted irrelevant to the issue at hand. Levy sites multiple reports of interviews with police and politicians which further this notion.¹² One interview with the police flat out stated, “we haven’t seen an increase in violence against women in prostitution related to the Act. Because once again, it’s always a risk to face violence in prostitution.”¹³

It is obvious by sex worker accounts that there have been some issues with the criminalization of clients which stems from the types of men who will risk being caught to meet with a prostitute. The men who are going to the women are nervous and have an extreme fear of being caught. This creates more hasty negotiations but also it makes for a much smaller clientele which is to be split between the same, if not more, sex workers¹⁴.

The relationship with the police is a huge change whenever sex work is legalized versus criminalized. If a woman is being exploited or even trafficked and prostitution is illegal or even when it’s entirely legal, they may see themselves detained or even not believed by authorities. In the realm of the criminalization of buyers, the dynamic between sex workers and police has changed slightly. Of course, there are still issues with the police, but the good thing is that women can go to them and get help since it is the

¹² Levy, 175-183.

¹³ Levy, 182.

¹⁴ Levy, 183-187.

buyer who is in the wrong under the Swedish model. One sex worker who is the founder of Rosa Alliance explains, “It’s really like the lottery...Police, there are good and bad. There’ve been some excellent police officers¹⁵”.

Overall though, Levy concludes that the Swedish model has done little to nothing to help the Swedish sex worker’s safety or to lessen the amount of sex workers in Sweden. Levy notes that violence between sex workers and clients is still an issue. Sweden has also seen a migration of sex workers as a result since they will not get arrested for selling sex.¹⁶ It is clear that focusing on demand is necessary, but that method can only be helpful when the police and government officials also truly believe that the demand is the issue and not women with loose morals.

Chrisje Brants explains the implications of the Dutch model of prostitution, in her article published in the *Journal of Law and Society* labeled “The Fine Art of Regulated Tolerance: prostitution in Amsterdam.” In this article, Brants starts off by explaining how the regulation style of a nation depends upon their, “underlying ideology about the moral (un)acceptability of paid sex,” which can fall into four different categories. These include prohibitionist, abolitionist, regulationist, and legalization. Prohibitionists see prostitution as both immoral and criminal, abolitionists see a prostitute as a victim, regulationist see prostitution as a social fact that must be strictly regulated by law to protect non prostitutes, and legalization sees prostitution as regular labor. Brants explains the complexities that are associated with tolerating certain vices in society as the legalization of prostitution in the Dutch model. To many, regulation and legalization can be seen as closely tied but Brants tries to explain the differences by paralleling the running of a

¹⁵ Levy, 213.

¹⁶ Levy, 220-221.

restaurant and the running of a brothel as being legalization, whereas under regulationist policies, the existence of prostitution is accepted, and the government seeks to control the industry but they do not approve the profession or regard it as legitimate.¹⁷

The Netherlands have always had an odd dynamic in their society which created a view on prostitution which did not mold to either policy for a long time. By the time that the Netherlands moved to legalization, the distinctions between legalization and regulation had been slowly chipped away and may hurt independent prostitutes more than it helps them. The idea behind legalization is that, when protected by the law, prostitutes will no longer rely on pimps to keep them safe and thus the exploitation associated with that system will fade away. Brants points out that the exploitation may not be able to be fully eradicated though because the lowering of prices in legalized brothels which will push prostitutes to work illegally in order to survive.¹⁸ Brants finishes her article by emphasizing the ones who will be negatively affected by legalization such as illegal immigrants and those who are impoverished that will continue to be exploited in the wake of legalization.¹⁹

Another evaluation of Dutch policies of tolerance is done by Ybo Buruma in the article "Dutch Tolerance: On Drugs, Prostitution, and Euthanasia." This article looks into the toleration methods that have arisen in the Netherlands since the 1970s to see how effective they actually are in creating a safer environment by deferring negative reactions to things that may not be morally acceptable to Dutch policy.

¹⁷ Brants, Chrisje. "The Fine Art of Regulated Tolerance: Prostitution in Amsterdam." *Journal of Law and Society* 25, no. 4 (1998): 622-23.

¹⁸ Brants, "The Fine Art of Regulated Tolerance: Prostitution in Amsterdam," 633-34.

¹⁹ Brants, 634-35.

In the article, the legalization of prostitution in the Netherlands is explained as a way to allow for voluntary adult prostitution so that child, involuntary, and illegal foreign prostitution could be combatted more heavily.²⁰ This included the registration of prostitutes in a system as workers and sought to better their situation by allowing them to use banks, report violence to police, and have proper healthcare available. Even though it was no longer illegal for banks and insurance companies to cover prostitutes, the stigma of working with prostitutes stuck, deterring businesses from wanting to be associated with sex workers. Furthermore, the taxes that prostitutes must pay as legal workers has been assessed by estimated yearly salaries which are not accurate to the workers' income.²¹

The people that legalization is supposed to help, Buruma claims are worse off than ever as indicated by an increase in prosecutions. This increase can be seen as either an increase in occurrences or an increase in awareness due to the focus being shifted to all non-registered, trafficked, foreign, or child prostitutes. The main issue at hand seems to be that the brothel system hurts average prostitutes and pushes them into working at brothels rather than by themselves.²²

Debate about Definitions

Prostitution and sex trafficking were not always seen as linked until recently, with globalization and increased technology. Prostitution has been referred to for centuries in

²⁰ Buruma, Ybo. 2007. "Dutch Tolerance: On Drugs, Prostitution, and Euthanasia." 2007. 73. *JSTOR Journals*, EBSCOhost (accessed December 1, 2016)

²¹ Buruma, "Dutch Tolerance: On Drugs, Prostitution, and Euthanasia."

²² Buruma, "Dutch Tolerance: On Drugs, Prostitution, and Euthanasia."

biblical texts including the Code of Hammurabi.²³ Sex trafficking on the other hand did not come about as an official term until the turn of the 20th century.²⁴ From there on, debates ensued about whether or not prostitution should be used in conjunction with explaining sex trafficking due to beliefs that one feeds the other. In some views, the two are actually one in the same. In Kathleen Barry's 1984 book *Female Sexual Slavery*, Barry speaks out against the separation of street prostitution and trafficking by explaining that the only real difference is that one is local while the other is crossing international borders.²⁵ Both involve exploitation and lost sense of agency so why should they be viewed as different phenomenon? Barry, and her allies in the Coalition Against Trafficking in Women (CATW), argue that prostitution and trafficking constitute an essential threat to the freedom and dignity of all women because commercialized sex fundamentally objectifies one individual women at the expense of all women.

The definition of prostitution is a greatly debated topic. Older definitions and translations of prostitution place emphasis on women waiting outside storefronts for clients with connotations made towards prostitutes being low class, immoral beings. In many early interpretations, the person offering sexual services was well known and morally condemned for her actions. Conversely, the male clients of prostitutes have been viewed as simply exercising their sexuality, not as exploiting or being immoral by their actions as the woman was. Men both created the need for, and simultaneously shamed women for participation in prostitution because they were tainted women. In the simplest

²³ Horne, Charles F., C. H. W. Johns, and L. W. King. *The Code of Hammurabi*. Lexington, KY: Forgotten Books, 2009. <http://prostitution.procon.org/sourcefiles/Hammurabi.pdf>.

²⁴ GEORGE, ANNIE, U. VINDHYA, and SAWMYA RAY. "Sex Trafficking and Sex Work: Definitions, Debates and Dynamics — A Review of Literature." *Economic and Political Weekly* 45, no. 17 (2010): 64-73. <http://www.jstor.org.libproxy.txstate.edu/stable/25664387.Copy>

²⁵ Barry, Kathleen. "On Studying Sexual Slavery." *Female Sexual Slavery*. New York: New York UP, 1984. 4-7. Print.

terms, prostitution is the direct exchange of one's sexual services for money. Worldwide, there are differences in religion, personal liberties, and governmental powers which determine how prostitution is approached in various societies. In the European Union (EU), one of the largest integrated markets in the world, there are not any common provisions on the sex trade because it is such a contentious issue. Despite this, in 2001 the Court of Justice established a running definition that prostitution is the "economic activity of a self-employed person."²⁶ This definition placed pimp/brothel regulated prostitution in a different category and allowed for easier policies on prostitution if countries sought to pursue them.

In some analyses, attention is placed on the possible benefits to women involved in prostitution if they enter into it willingly. In the 19th and 20th century's prostitutes had an increased mobility and freedom than other women in society because they had a profession.²⁷ These potential positive results of prostitution in the 19th and 20th centuries of creating jobs and income for women who did not have many options, caused a shift in the perspective on prostitution and some of the goals of policy makers in regulating it. Since the mid-1970s, aided with the increase in media coverage, there have also been movements by sex workers to allow for the legitimization of their profession and having a voice in the regulation of their means of living. This right of labor movement which is passing through Europe include at least 273 groups in the Network of Sex Work Projects (NSWP) as well as individuals.²⁸ These groups have helped to point out flaws in government policies such as migration issues, right to one's body, failure of policies in

²⁶ Dana, Daniela. "Report on Prostitution Laws in the European Union." PhD diss., Università Degli Studi Di Milano, 2014. Accessed April 26, 2016. <http://lastradainternational.org/lisidocs/3048-EU-prostitution-laws.pdf>.

²⁷ Dana, Daniela. "Report on Prostitution Laws in the European Union."

²⁸ Maciotti and Geymonat, 11-12.

ensuring safety, and remaining stigma's which continue to hurt sex workers and trafficked women despite their altruistic undertones.

In the five-year review by the United Nation's *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, officials noted this perspective. In attempting to define human trafficking in terms of prostitution, they found that, "Some consider prostitution to be inherently coercive and thus forced..." while, "Others argue that sexual autonomy includes the freedom of an individual to decide to act as a prostitute and allow another person to profit from his or her earnings."²⁹ In this sense, the consideration of prostitution as illegal at all times would suggest that women mostly, but also men, do not have the autonomy to sell their own body even in the absence of outside coercion. The government would then have an indirect ownership to the bodies of their citizens.

Trafficking in Persons is not a phenomenon of the 21st century, but it has gained significant attention since the mid 1990s. Multiple factors brought trafficking to the forefront which include the rise of the women's rights movement, increases international labor migration from globalization, feminization of poverty, and the growing recognition of the role of organized crime in the movement of peoples.³⁰ The increasing number of men, women, and children being trafficked in the late 1990s leading into the 2000s spurred actions to stop the exploitation and undocumented movement of people around the world.

²⁹ Mattar, Mohamed Y. *The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children: Reflections After Five Years*.

³⁰ Chuang, Janie A. "Rescuing trafficking from ideological capture: prostitution reform and anti-trafficking law and policy." *University of Pennsylvania Law Review* 158, no. 6 (2010): 1660.

Sex trafficking is just one facet of human trafficking, but it is one of the largest portions of reported human trafficking. The United Nations Office on Drugs and Crime (UNDOC) estimates that sex trafficking constitutes 79% of all reported human trafficking cases.³¹ Reported is the key term in this report from Interpol because depending on the government and individuals involved in reports, many cases for all forms of human trafficking go unreported which skews numbers drastically. The problems of reliable data is interwoven throughout the advocacy, policy discussions and legislative attempts related to trafficking.³²

The United Nations definition of human trafficking contains three parts. First, the act is, “the recruitment, transportation, transfer, harboring or receipt of persons.” Second, the means by which trafficking is done include, “the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.” Lastly, the purpose of trafficking is for exploitation.³³ The exploitation faced may include but is not limited to, “the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”³⁴ By looking into the impact of regulation styles of prostitution, the main focus of this paper will be in the sexual exploitation aspect of human trafficking.

³¹ "Factsheet on Human Trafficking." United Nations Office on Drugs and Crime. Accessed August 15, 2016. https://www.unodc.org/documents/human-trafficking/UNVTF_fs_HT_EN.pdf.

³² Quirk, Joel, and Julia O'Connell Davidson. "Beyond Trafficking and Slavery Short Course Volume One: Popular and Political Representations." *Open Democracy: Beyond Trafficking and Slavery*. 2015. Accessed November 28, 2016. 10-14.

³³ "United Nations Office on Drugs and Crime." What Is Human Trafficking? Accessed April 27, 2016. <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>.

³⁴ "United Nations Office on Drugs and Crime." What Is Human Trafficking?

Interpol views sex trafficking as a pandemic issue since nearly every country is a source, transit, or destination. In other words, there is no perfect victim or criminal in the realm of sex trafficking. The institutions which perpetuate the exploitation and the multifaceted nature of sex trafficking mean that no country is free from the issue. Sex trafficking is for the most part women and children from developing countries, who are of low income, being tricked by promises of employment and better lives across the world. Victims are provided with false travel documentation which makes them more vulnerable and in need to the protection of their traffickers.³⁵ Often, once the realities of what have happened are unveiled, there is no way for the victims to seek help because they illegally entered the destination country and do not want to be deported or incarcerated. Thus, they are forced into sexual slavery to pay back travel debts and are conditioned to think that they have no way of receiving help.³⁶ This is a common trend behind sex trafficking and a reason behind why many women become stuck in the system of exploitation. Sex trafficking has become a system dependent on the naïve and poor who do not know their rights and therefore can be easily controlled.

Unlike prostitution, the debate surrounding sex trafficking today is not as much of a contentious issue in that sex trafficking is viewed as solely exploitive. Prostitution in many cases is an act that can be exploitive especially if entered into unwillingly, but arguments surrounding ownership to do what one please with their body have shifted viewpoints on prostitution over the years. Despite cases of forced prostitution which come about, there are individuals who decide to make a living as a prostitute willingly

³⁵ "Types of Human Trafficking." / Trafficking in Human Beings / Crime Areas / Internet / Home. Accessed April 27, 2016. <http://www.interpol.int/Crime-areas/Trafficking-in-human-beings/Types-of-human-trafficking>.

³⁶ Barry, 1-15.

and benefit from the work. Conversely, the system of sex trafficking implies a system in which the individual benefitting is not the person being trafficked, but rather, the traffickers. The rights to the person's body no longer belongs to themselves in this scenario, but to the trafficker or whoever buys them from the trafficker upon arrival at the destination. Prostitution can be differentiated from sex trafficking currently by focusing more on these aspects of consent where a prostitute is seen to have autonomy and a trafficked person is not.

This distinction made recently explains how countries have moved away from criminalizing prostitution to legalizing and regulating it. In making the act of prostituting oneself a conscious choice, then prostitution becomes nothing more than a profession and sex work a skill to be traded for money. The act of forcing someone into prostitution, and the exploitive nature of prostitution, is renamed sex trafficking as to not reduce the issues surrounding the sex industry, but to allow people the autonomy of their own bodies to do as they please.

In the late 1990's, Sweden took the lead in attempting progressive reforms as to how prostitution was viewed in the eyes of the law. The Swedish model took a controversial stance by criminalizing the purchase of sex. This was a significant change in viewpoint on the issue which came about partially from the 1970's Swedish debates on gender equality. It sought to take away the notion that women's bodies were objects which could be bought without any repercussions while hoping to reduce the demand for prostitutes overall. Some opposed this self-labeled feminist approach to the issue of the exploitation of women because it could create more dangerous working conditions and

still criminalized what some considered a viable profession.³⁷ Looking at this from a trafficking perspective though, placing the crime on the buyer meant that the person being exploited would not be at fault if caught in legal proceedings and could seek help from authorities without going to jail for illegal activity. The Swedish model was not looking to help prostitution to thrive as a profession. The goal of this approach is to reduce the amount of prostitution and overall exploitation that followed by targeting the demand, not the supply, as previous laws had done.

Just one year after the Swedish model was passed, the Netherlands took a different approach by lifting the ban on brothels in 2000. The lifted ban could be seen as counteractive to reducing the exploitation in prostitution, but by allowing brothels to function under the law, certain standards could be put in place to reduce exploitation. Licenses for prostitution allowed for brothels to still operate, but under certain working conditions that were meant to increase the quality of life for prostitutes. It was pertinent that legalization be handled delicately as to ensure a reoccurrence of the late 18th early 19th century France did not happen where women were forced into brothels and even accused of being prostitutes and subject to invasive medical examinations for simply walking around the street at night without a man.³⁸ This law did not change the nation from criminalization to legalization overnight; prostitution had already been legal in the Netherlands as long as it was voluntary and no minors were involved.³⁹ The 2000 law

³⁷ Svanström, Yvonne. 2006. "Prostitution in Sweden: Debates and Policies 1980-2004". In *International Approaches to Prostitution: Law and Policy in Europe and Asia*, edited by Geetanjali Gangoli and Nicole Westmarland, 67–90. Policy Press at the University of Bristol.

<http://www.jstor.org.libproxy.txstate.edu/stable/j.ctt9qgxs0.8>.

³⁸ Barry, 12-32.

³⁹"Dutch Policy on Prostitution." Dutch Ministry of Foreign Affairs.

addressed the problem of exploitation specifically in the brothel system by acknowledging the issue, and taking control of the situation as best they could.

Both of these models went against the commonly-used model for prostitution, the criminalization of the exchange of money for sex or, in other words, the criminalization of prostitution as a whole. This prohibitionist model mainly follows Judeo-Christian views that signifies that the society perceives prostitution as immoral, and as an issue that needs to be eradicated.⁴⁰ It can also be said that this model would follow along with the leanings of radical feminists, like Kathleen Barry, who see prostitution as a system of exploitation of women no matter how it is regulated by society. It is the commodification of the woman's body and the pinnacle of a patriarchal society.⁴¹

Issues in Accurate Information

The numbers commonly associated with trafficked persons/persons involved in prostitution that are provided by prominent institutions such as the International Labor Organization, the Trafficking in Persons annual report, United Nations, the European Union, and Interpol are predominantly based on reported incidents by individual countries that have different laws, views, religions, and societal norms. For that reason, it is hard to decipher just how extreme exploitation may be because reporting being trafficked or registering as a prostitute could encounter consequences based on where the person is located at the time. Questions about the validity of the numbers also arise from techniques used to acquire them, definitions, and overall international relations.

⁴⁰ Jean D'Cunha. 1992. "Prostitution Laws: Ideological Dimensions and Enforcement Practices". *Economic and Political Weekly* 27 (17). *Economic and Political Weekly*: WS34–WS44. <http://www.jstor.org.libproxy.txstate.edu/stable/4397796>.

⁴¹ Barry, Kathleen. "On Studying Sexual Slavery." *Female Sexual Slavery*. New York: New York UP, 1984. Print.

Furthermore, complete disclosure with the international community can vary from country to country. This results in a lack of complete understanding and collective cooperation. There is still no universally adopted definitions of what indicates trafficking, what is prostitution, and what is counted as exploitive situations. These several factors join together to make for numbers and records that can rarely, if ever, be completely trusted.

Focusing on historical data and government actions, it is difficult to decipher just how bad trafficking has become, relative to previous numbers, and how long it has been a problem, seeing as a UN agreement was not made about the issue of Human Trafficking until 2000 when the Palermo Protocol was ratified as a part of the UN Convention Against Transnational Organized Crime. The Palermo Protocol's goal was to prevent, suppress, and punish trafficking in persons, especially women and children. Previous movements against sex trafficking had been created such as the United States' 1st wave with Immigration and White Slavery Panic, the 2nd wave with the Sexual Revolution and Child Abuse Revolution, and the 3rd wave of Globalization.⁴² The Palermo Protocol was a result of this third wave of globalization which initiated an organized understanding of what constituted human trafficking and what measures countries should take when they were faced with a human trafficking issue. In terms of the Palermo Protocol, prostitution was labeled as an inherently exploitive act, putting it in line with trafficking in all cases. This is in line with the policies of the United States which criminalizes both the buying and selling of prostitution for its inherent exploitive nature. Since the early 1900s, general agreements of organized crime were created with focuses on trafficking of women and

⁴² Huiquan Zhou. "Towards a Comprehensive Response to Victims of Sex Trafficking."

children, earlier denoted to as combatting white slavery.⁴³ These agreements, specifically the most recent Palermo Protocol will be explained more in detail later on.

Issues other than the validity of data have plagued the issue of sex trafficking and prostitution over the years. The issue of what is considered morally right in regards to prostitution is a topic that is contested to this day and can skew discussions of what is trafficking, exploitation, or even prostitution. Institutions and activist groups around the world view the profession as exploitation and an evil in society while others claim that prostituting one's body is a basic human right and should be recognized as a job just like any other.⁴⁴ These clashes are seen mainly between church-minded groups and radical feminists against patriarchal society such as Barry on one side, and liberal groups which include sex worker groups that actively speak out against the criminalization of prostitution because it takes away the right to their own body, on the other side. Although women are not the only people trafficked or prostituted, they do constitute the majority worldwide.⁴⁵

Looking into the rights of women in general, as well as sex worker groups, in a country can be a great indicator of what policies may be implemented as women's rights seem to be lessened when there is a strong religious leaning nationally. Throughout history, sex workers themselves have had little to no say in the regulation of their professions. In the late twentieth century sex workers started establishing unions and non-governmental organizations to help shape lawmaking decisions. These groups of people

⁴³ United Nations General Assembly. "General Assembly 55/25 Protocol to Prevent, Suppress and Punish Trafficking in Persons." United Nations Human Rights Office of the High Commissioner. November 15, 2000. Accessed June 28, 2016.

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>.

⁴⁴ Maciotti and Geymonat, 12-17.

⁴⁵ "Forced Labour, Human Trafficking, and Slavery." International Labour Organization (ILO)

were never heard of before because prostitutes were seen as too fragile to speak out for themselves. In some cases, nations would say that it was wrong to ask prostitutes questions about their life because they suffered enough already. This issue of misrepresentation can be seen directly through the recent criminalization of purchasers in France. In this specific example, groups such as STRASS sex workers' union protested the adoption of the Swedish model of punishing clients. But lawmakers disregarded the opinions of the sex workers and implemented a law that sex workers viewed as an end to their safety.⁴⁶ Why the voices of those who are involved are ignored is something which should not be overlooked.

The analysis of the effectiveness of prostitution regulation policies in four countries will attempt to look past these issues in reporting and numbers to see how well policies are at reducing the instances of sex trafficking into and throughout their countries. Does criminalization reduce sex trafficking and prostitution by making it illegal, or increase it? Will legalization make safer working conditions or create a hub for traffickers to exploit under the radar where prostitution is normalized in society? Will criminalization of buyers make for a reduction of trafficking because of a lowered demand or lead to more violence and underground transactions? Despite whether policies are created with the intention of abolishing prostitution or qualifying it as a regular job with safer working conditions, is exploitation through trafficking being curtailed or being protected?

The overarching question is how can trafficking be properly reduced. What models are the most effective and why are they so effective? This will be different based

⁴⁶ "STRASS - Syndicat du Travail Sexuel ." STRASS - Syndicat du Travail Sexuel . <http://site.strass-syndicat.org/> (accessed April 27, 2016).

on location, society norms, religious influence, and overall cultural identity but this is why I am going to be focusing more on Europe and the United States as to minimize these differences as much as possible.

Palermo Protocol: The Beginning of Global Actions Against Human Trafficking

In November of 2000, the United Nations (UN) General Assembly considered, voted on, and ratified the Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children in Palermo, Italy as a way to update previous anti-trafficking laws. Out of these negotiations, the Palermo Protocol, was created as a supplement to the Convention against Transnational Organized Crime but did not officially come into force until 2004.⁴⁷ This Protocol attempted to set up a way in which member states could work together to form a system to reduce the amount of trafficking of women and children specifically. The agreement was seen as a significant step towards worldwide recognition of human trafficking because it set expectations for each member state when faced with trafficking and exploitation; a notion that had never been pushed in previous years.

Recognizing the lack of universal knowledge about trafficking in persons, the convention body created a joint definition of trafficking in persons which would be the basis of the resolution. The proposed definition was that:

- (a) The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation should include, at a minimum, the exploitation of the prostitution of others or

⁴⁷ GEORGE, ANNIE, U. VINDHYA, and SAWMYA RAY. "Sex Trafficking and Sex Work: Definitions, Debates and Dynamics — A Review of Literature." *Economic and Political Weekly*, 65.

other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

(b) The consent of a victim of trafficking in persons to the intended exploitation by means described in subsection (a) above (force, coercion, abduction, fraud or abuse/use of power) shall be irrelevant.

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article.

(d) Child shall mean any person less than 18 years of age.⁴⁸

This definition helped to give a well-rounded idea of what trafficking was so that nations could be cohesive in their strategies of deterrence. The Protocol's definition helps to identify exploitation as the key issue, allowing definitions of sexual exploitation and legality of prostitution up to each nations' discretion.⁴⁹

It is important to note some of the key players in the creation of the Palermo Protocol's definitions and policy goals. One of these key influences was the United States of America. The United States' views can be seen clearly through the adoption of the Clinton's "3 P's" to anti-trafficking policies. These focus on prosecution, protection of the victim, and prevention with an outlook that saw prostitution as inherently exploitive in most circumstances. These goals were pushed on other nations through the establishment of the power to the United States' President to impose sanctions on nations who they did not see combatting trafficking up to par with their standards under the guidelines of their domestic law, the Trafficking Victims Protection Act (TVPA).⁵⁰ Since this time, the Bush and Obama administrations have sought to eradicate prostitution as a whole and expand on the legal definitions and policies regarding trafficking. This attempt

⁴⁸ United Nations General Assembly. "General Assembly 55/25 Protocol to Prevent, Suppress and Punish Trafficking in Persons."

⁴⁹ GEORGE, ANNIE, U. VINDHYA, and SAWMYA RAY. "Sex Trafficking and Sex Work: Definitions, Debates and Dynamics — A Review of Literature.", 65.

⁵⁰ Chuang, Janie A. "EXPLOITATION CREEP AND THE UNMAKING OF HUMAN TRAFFICKING LAW." *The American Journal of International Law* 108, no. 4 (2014): 610.

to define trafficking has been labeled as the “exploitation creep” which focuses on two fundamental shifts. The first is that all forced labor is recast as trafficking despite a possible lack of change in location. The second shift is that trafficking is labeled as slavery.⁵¹ The exploitation creep is accomplished by expanding on previously set in stone definitions of trafficking and slavery which used to be attributed to only extreme forms of exploitation. This allows for the United States and other abolitionist nations to have a stronger power because slavery, for instance, has been prohibited by International Law for years. If all trafficking is slavery, then all trafficking breaks international law, and if all forced labor or prostitution is trafficking then prostitution cannot be legal in any country without breaking international law⁵². In this way, the United States has imposed a significant influence on the realm of prostitution and labor laws, all under the guise of anti-trafficking legislation.

While states and heads of state were intricately involved in the drafting of this protocol, other groups also held significant influence on the outcomes of the protocol and international trafficking legislation. The convention discussions on trafficking were highly influenced by transnational networks of feminist anti-trafficking Non-Governmental Organizations (NGOs) which were split into two different categories regarding trafficking of women; abolitionists and sex workers’ rights. The Coalition Against Trafficking in Women (CATW), leader of the abolitionist lobbyists, saw prostitution as a form of sexual violence which can never be consented. They see the local and global sex industries as violating, “human rights of all women and children whose bodies are reduced to sexual commodities in this brutal and dehumanizing

⁵¹ Chuang, "EXPLOITATION CREEP AND THE UNMAKING OF HUMAN TRAFFICKING LAW," 611.

⁵² Chuang, 611.

marketplace.”⁵³ These notions would create a precedence that anyone involved in the moving of a woman from one place to another with the purpose of engaging in sex work is a trafficker. Groups that focused more on sex workers’ rights saw this issue completely different. This lobbying group was led by the Human Rights Caucus (HRC) which consisted of the International Human Rights Law Group (IHRLG), the Global Alliance Against Trafficking in Women (GAATW), and the Asian Women’s Human Rights Council (AWHRC). These groups see the profession of prostitution as labor and therefore trafficking would only occur in the instances where force is used. Adults are attributed with the right to choose to work as they please which would include the choice to be a prostitute⁵⁴.

Most highly contested by the two sides in defining trafficking in persons was the notion of consent. CATW viewed prostitution and trafficking as a linked entity even when no force or deception was used on the victim. The mere fact that a third party helped the woman move meant it was trafficking. Conversely, the HRC refused to believe prostitution or trafficking was inherently exploitive when no force or deception was employed, further noting that trafficking occurs for labor as well.⁵⁵

The agreement further utilized the UN Declaration of Human Rights already established by the body in 1948 following World War II as a basis of how people should be treated at all times and how exploitation can be spotted. For example, articles 4 and 5 of the Declaration of Human Rights specifically state, “No one shall be held in slavery or servitude,” and, “No one shall be subjected to torture or to cruel, inhuman or degrading

⁵³ Doezeema, Jo. 2010. *Sex slaves and discourse masters: the construction of trafficking*. 27: London ; New York : Zed Books ; New York : Distributed in the USA exclusively by Palgrave Macmillan, 2010., 2010. Print.

⁵⁴ Doezeema, *Sex slaves and discourse masters*, 27-28.

⁵⁵ Doezeema, *Sex slaves and discourse masters*, 28-29.

treatment or punishment.”⁵⁶ Both of these articles, as well as many others throughout the declaration serve to back the actions outlined in the Palermo Protocol and serve as a purpose for why nations should be joining together to put an end to human trafficking.

There are numerous critics of the Protocol’s effectiveness, but despite this skepticism, it has been noted that since 2000, a consistent increase in cases reported and “interventions against sex trafficking and exploitation in prostitution”⁵⁷ by the United Nations Office on Drugs and Crime (UNDOC) has occurred. In Sweden, the Netherlands, and the United States there has been an increase in reporting of cases which has subsequently increased awareness of sex trafficking worldwide. The numbers found by the UNDOC will serve as part of the analysis of how well sex trafficking is being combatted in the respective countries which will be representing their regulation model for prostitution. This is a positive outcome of the Palermo Protocol which can be attributed to overall increase in awareness of human trafficking coupled with a universally accepted definition for all member states of the UN to follow.

The Palermo Protocol allowed for international agreements and laws to be drafted which address the issue instead of trying to handle human trafficking only through domestic laws. This cohesiveness is essential to the control and abolishment of trafficking since trafficking is defined as a multi-national issue; including persons and crossing borders of more than one nation at a time. For these reasons, it would be appropriate to say that trafficking can only be fixed by joint efforts. In this essay, the overall effectiveness of the Palermo Protocol will be evaluated as to see how well nations

⁵⁶ "Universal Declaration of Human Rights | United Nations." UN News Center.

⁵⁷ Maciotti and Geymonat, 10.

can come together to fix issues as serious as trafficking; an industry which violates multiple human rights agreements.

Despite the fact that the Protocol did herald in several compliments for working to solve an issue that requires transnational cooperation and cohesion, it is seen by many as having many setbacks since its implementation. These stem from multiple causes which include the lack of force in adoption of resolutions passed by the United Nations due to sovereignty, coupled with a lack of a universal oversight mechanism such as a police force to ensure member states comply, all of which is intensified by the elusiveness of this industry of human trafficking which has always had to function under the radar in most countries.

Initial issues include the fact that the Palermo Protocol was ratified in 2000, but did not have to be adopted by every nation at that time, as with every UN resolution. By 2009, only 117 out of the 133 member states in the UN had signed onto the Protocol in full compliance.⁵⁸ With some matters, it makes sense for every nation to not sign onto an agreement as it may be violating religious or cultural sensitivities in society. The creation of the Palermo Protocol understood the societal, religious, and cultural differences between all 133 member states in 2000. This is why the protocol focuses on human rights as a factor in why nations must work together to solve the issue of human trafficking.

Human rights were agreed upon in 1948 when most nations did not have too much in common except that they did not condone the actions against people in WWII. These Human Rights of 1948 have been referred to as one of, “the single most important reference point for cross-cultural discussion of human freedom and dignity in the world

⁵⁸ Brusca, Carol S. "Palermo Protocol: The First Ten Years after Adoption."

today.”⁵⁹ The rights outlined have not been enforced evenly, a flaw of the international community, but traditional political and civil liberties are the most commonly applied and followed throughout the world.⁶⁰ The Rights, sometimes referred to as a Bill of Rights, are nonetheless seen as a step towards betterment of society for all which is why the Human Rights can serve as a beneficial parent document⁶¹ which is why it is useful for backing the Palermo Protocol’s goals over fifty years later.

There have been many different laws, organizations, and movements created since the Palermo Protocol which seek to prevent trafficking through furthering the implementation of the Protocol’s goals and definitions. While these do stray away from specifically using the Palermo Protocol as the key document to combat trafficking, the foundation of these new mechanisms was laid out by the Protocol and can therefore be partially attributed to its existence.

One of these which have come into place following the Protocol occurred in the passage of the Trafficking Victims Protection Act (TVPA) by the United States in 2000. This took the spirit of the Protocol and actualized it by creating measures to combat trafficking and help protect victims. It worked by utilizing existing institutions to create a four-pronged approach to eradicating sex trafficking in the United States: child protection, criminal justice, victim assistance, and immigration control. The Act allowed for T- and U-Visas ensuring that victims could stay in the USA for up to three years if they helped law enforcement to catch, try, and stop their traffickers from hurting more

⁵⁹ Glendon, Mary Ann. "Knowing the Universal Declaration of Human Rights." *Notre Dame L. Rev.* 73 (1997): 1153.

⁶⁰ Glendon, "Knowing the Universal Declaration of Human Rights", 1153-54.

⁶¹ Glendon, 1155-56.

people.⁶² As a result of the TVPA and the Palermo Protocol, the USA has seen an increase in human trafficking cases throughout the 2000's as awareness has increased.⁶³

Along with this federal law, the United States took it upon itself to educate the rest of the world on human trafficking and the severity of not combatting it in compliance with the TVPA. In 2000, the United States created the annual Trafficking in Persons (TIP) Report to evaluate countries on a Tier Scale, with one being the best and three being the worst, in regards to compliance with the minimum standards to combatting human trafficking.

With all of these measures taken by member states following the Palermo Protocol, it is noted that 2006 saw some of the highest numbers worldwide in investigations and criminal proceedings for sexual exploitation specifically according to the Justice and Home Affairs Commission to Revise EU Action Against Human Trafficking. This increase in numbers is a good sign; it is a sign of progress away from an era where trafficking "doesn't exist" because there were no reports, towards one where trafficking is being tirelessly fought against and identified in society.

Country Analysis

The following sections of country analysis will be split up so that they cover the one country selected for each model. This will be done by looking at numbers from multiple sources including the United Nations Office on Drugs and Crime (UNDOC), the Trafficking in Persons Report (TIP), any INTERPOL data.

⁶² Huiquan Zhou. "Towards a Comprehensive Response to Victims of Sex Trafficking." In *Globalization: The Crucial Phase*, edited by Spooner Brian, 323-325. University of Pennsylvania Press, 2015. <http://www.jstor.org.libproxy.txstate.edu/stable/j.ctt13x1n5s.19>.

⁶³ "Case Law Database." Case Law Database.

Even though numbers for sex trafficking are not accurate in most cases, the amount of regulation on prostitution, specifically abolitionist regulation of prostitution, will generally result in higher numbers of accusations and cases on record by the country. This can be seen by the difference in total reported cases of human trafficking in the United States by the UNDOC which is 175, versus the total reported cases in the Netherlands by the UNDOC which is 8. This difference may seem like there is less of an issue in sex trafficking in the Netherlands where prostitution is legal and regulated, but in fact, this discrepancy in numbers can be attributed to multiple outlying factors including the normalization of the sex trade in the Netherlands, versus the criminalization in the United States of America as well as the differences in population. According to current numbers, the United States has roughly 324 million people whereas the Netherlands has 17 million.⁶⁴ Calculating the math, the Netherlands population is roughly nineteen times smaller than the United States' and the UNDOC cases are roughly twenty-one times larger in the United States than in the Netherlands. When looked at in that perspective, there is not much of a difference in cases reported country to country, just population size.

The Trafficking in Persons Report is also be used as a guide to seeing how severe human trafficking is in countries with differing levels of regulation surrounding sex trafficking. The TIP report is published by the United States of America Department of State and has been accused of providing inaccurate data year after year as a way to push the United States' geopolitical priorities. Reports specifically highlighting the efforts of

⁶⁴ "Countries in the World by Population (2016)." Population by Country (2016) - Worldometers. Accessed November 24, 2016. <http://www.worldometers.info/world-population/population-by-country/>. Netherlands, Sweden, and United States' Populations

the United States were not published until 2010. Nonetheless, the TIP report is accepted by all countries as a basis of how well countries are doing with controlling and monitoring human trafficking on the basis of the minimum requirements of compliance with international policies. The report rates nations in Tiers with Tier 1 being the highest rating and 3 being the worst. These show how well countries are complying with the policies put in place by the Trafficking Victim's Protection Act's (TVPA) minimum standards for eliminating trafficking. Tier one countries are recognized for meeting the minimum requirements set forth by the TVPA. All of the countries which will be analyzed for this paper are in the Tier 1 category which means that they are trying to eliminate trafficking despite the regulation style they may have in place for prostitution in their respective nation. The other categories include Tier 2 which are not meeting minimum requirements by TVPA but are making significant efforts to do so. Tier 2 Watch List is the next category to show that countries are not meeting the minimum requirements by the TVPA, are making significant efforts to do so, but have a significant amount of absolute victims, cannot show evidence of increasing efforts to combat severe forms of trafficking from the previous year, or the country's label of making significant efforts to meet the minimum requirements is dependent on additional efforts for the upcoming year. Tier 3 is the last category which would mean that the country is not meeting minimum requirements and is also not making significant effort to meet the minimum requirements in the near future. Tier 3 status can come with penalties such as reduced funding from the United States⁶⁵. The thing that is good about this though is that Tiers are re-evaluated every year and are in no way stagnant. The report explanation

⁶⁵ Trafficking in Persons Report, 2016, 39-40.

finishes up saying that every country can always do more to combat trafficking which is why the TIP report is released every year with new ratings and findings.

The Trafficking Victims Protection Act (TVPA) which is the basis of the TIP report tier's labels minimum requirements in general terms as:

- (1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.
- (2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.
- (3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.
- (4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.⁶⁶

Full compliance with these general requirements will ensure that a country is listed as a tier one nation be recognized as a combatant to the issue of human trafficking around the world.

While it may seem that nations that have less instances of trafficking overall would be Tier 1, the nations who report the most instances of trafficking and prosecute them are the nations that get recognized for complying with international policy on the TIP report.

The International Labor Organization (ILO) is another organization which has facts and figures in regards to the exploitation of individuals through sex trafficking. The ILO holds labor statistics for every country and has found that there are 21 million

⁶⁶ Trafficking in Persons Report, 2016, 46-47.

women and men in forced labor around the world with 4.5 million of these people being forced labor through sexual exploitation which would include trafficked persons.⁶⁷

Netherlands: Legalization

The Netherlands, who have had legalized prostitution since 2000 under the Dutch Model, have accepted prostitution as a job just like any other which requires proper working conditions and regulation by the government. This model is not necessarily a way to make prostitution fade away or to increase prostitution as a job for citizens, but rather, treats prostituting one's body as another job in the service industry. By this notion, prostitutes are just like any other worker who has the right to sell their skills and be an independent entrepreneur. In other words, they will not use the government's power to tell a citizen that they cannot sell what is there's to make a living. Legalization is a means to acquire accurate records of how many prostitutes are in the country and provide health care for them as well since they are in a high risk job.

Based upon the United Nations Office on Drugs and Crime, the Netherlands does not have many issues in regards to sex trafficking. There is a total of 8 cases which have been tried in the Netherlands by the UNDOC for human trafficking which are spread out from 2008 to 2013. Out of these cases, only two of them actually involved commercial sexual exploitation. The only nationality which was identified of the victims was Chinese in the 2008 case. The case was started because of the victim's complaint that the Netherlands was not complying with the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) when they did not grant her asylum despite being a pregnant minor without a home.

⁶⁷ "Forced Labour, Human Trafficking and Slavery"

The 2016 Trafficking in Persons Report rates the Netherlands as a Tier 1 nation because despite their legalization of prostitution, they are still combatants of human and sex trafficking. In the inaugural year of the TIP report (2001), which was just one year after the Dutch model of legalization was enacted, the Netherlands were listed as a Tier 1 country as well. Specific information at that time was sparse compared to today's, but the prevailing issue in the Netherlands seems to be sex trafficking more so than labor. In 2001, the Netherlands were receiving more women from Asia, Africa, and South America with an estimated total of 2000 to 3000 trafficked women in the Netherlands.

In the 2016 report, the Netherlands has reported victims of trafficking who range from their own Dutch girls being tricked by “loverboys,” to children seeking asylum, as well as vulnerable women and men from Eastern Europe, Africa, and Asia. The Netherlands has a conviction rate of 74 percent for those tried in cases of human trafficking. Out of prosecuted cases in 2015, about 80 percent of those were sex trafficking cases.⁶⁸ Furthermore, in an effort to protect victims, the Netherlands has a national victim registration in which 944 possible trafficking victims registered in the first 11 months of 2015, out of which 623 identified as sex trafficking victims. One hundred and forty six of the victims were referred to care facilities which was less than the previous year but reflects the drop in government funding and overall reporting of trafficking which was seen in 2015 versus 2014. The government has been raising awareness of trafficking through their national rapporteur reports which highlight human trafficking trends and government responses. This information was followed by several awareness campaigns as well. Furthermore, despite the legalization of brothels, Netherlands has conducted searches looking for signs of trafficking and has enacted laws

⁶⁸ Trafficking in Persons Report: Netherlands, 2016, 283-284

such as the 2015 Tackling Fake Firms Act which enables the government to prosecute firms who use their business front to traffic individuals. Their actions to combat commercial sex industries has also been prevalent in their campaigns against child sex tourism in which they attempt to screen possible sex tourists at the airports⁶⁹.

Sweden: No Buying

The Swedish model of regulating prostitution, otherwise known as the Nordic Model, came into effect in 1999. This model of regulating prostitution focuses on reducing the prevalence of prostitution by cutting the demand rather than trying to cut the supply which is provided for in many cases by sex trafficking. In enacting the Nordic model, Sweden was attempting to slowly phase out prostitution in society by putting the buyers in danger of ruining their lives and reputations if they are caught.

According to the United Nations Office on Drugs and Crime (UNDOC), Sweden has 30 cases which have been tried for human trafficking allegations. Of these 30 cases, 17 involved commercial sexual exploitation or prostitution. These cases were relatively spread out with an abnormally large amount in 2005 and 2012. The main nationalities listed for victims was Estonian, Nigerian, Romanian, Slovak, and Swedish. The traffickers were mainly immigrants with only 20% of the traffickers being Swedish⁷⁰.

The Trafficking in Person's (TIP) Report for 2001, two years after creating the Nordic model for prostitution, places Sweden as a Tier 2 country. Sweden was listed as a destination country for women from the Baltic states, Central and Eastern Europe, as well as Cuba and Colombia. Reports show a range of 200 to 500 women being trafficked into

⁶⁹ Trafficking in Persons Report: Netherlands, 2016, 284

⁷⁰ United Nations Office on Drugs and Crime: Case Law Database, Sweden

Sweden in 2000. The main reason for the Tier 2 rating is that Sweden did not yet have any specific laws against trafficking, but rather, used related laws in cases which required them. In 1998 the government tried seven cases which resulted in sentences of 1 to 6 years in prison. During these cases, victims did not receive temporary residence and were usually deported immediately but were never placed in jail. Local services were available as well to help victims, just no governmental support was present⁷¹.

In the 2016 report, Sweden is in a much better light as a Tier 1 nation. It appears that Sweden's main issue is forced prostitution but is seeing an increase in labor trafficking as well. There has been an influx of migrants from Afghanistan, Syria, Iraq, and East Africa as well as unaccompanied children who are vulnerable to trafficking in Sweden. In the report it specifically states that boys from Morocco are vulnerable to sex trafficking in Sweden. The Swedish population itself is reported to commit between 4000 and 5000 child sex tourism offenses abroad⁷² annually which is a concerning issue that may be prompted to the criminalization of purchasing sex in the country.

In regards to combatting trafficking, Sweden has a national mechanism for identifying and referring trafficking victims to care, but it has been noted that the migrant influx put increased pressure on the government reporting institutions which did not allow for sufficient screening of migrants who may have been trafficked to Sweden. According to the report, although Sweden increased investigations against both labor and sex trafficking in 2015, the cases resulted in very few prosecutions for trafficking violations in the end. In 2015, Sweden was unable to invest as much as it should have to combat trafficking as noted in the report. A total of two sex traffickers were convicted in

⁷¹ Trafficking in Persons Report: Sweden, 2001

⁷² Trafficking in Persons Report: Sweden, 2016

2015 out of 58 sex trafficking cases investigated which shows an increase from the one convicted out of 31 investigated in 2014, but the report eludes to these low numbers meaning that people are slipping through the cracks. Issues in law enforcement efforts to stop trafficking is partially attributed to a re-structuring of the police force and a lack of competence by the judges to try human trafficking cases.

The government seemed to be trying to implement the referral mechanism to get trafficked persons to the care they need which identified and helped 58 sex trafficking victims, an increase from 31 in 2014. Despite this, the increase is suspected to not be large enough to show effectiveness of the mechanisms in place due to the influx of migrants which included 195 suspected trafficking cases (66 of children) by the migration anti-trafficking coordinator. A large amount of discrepancy, as with most trafficking cases, is in the lack of knowledge of local law enforcement practices which would help victims if they reported being trafficked and sought help or offered to help the police while being in compliance with the Aliens Act. In compliance with the act, victims and witnesses would receive temporary residence permits. Throughout 2015, out of 195 suspected trafficking cases, only 12 victims and 29 witnesses received permits for helping.

Sweden is reported to be struggling a bit with full compliance and furthering their aid to victims of trafficking as a result of the migrant influx they have been faced with. The government has been providing annual reports on trafficking, but has yet to produce a national action plan to combat trafficking. The Swedish have been vigilant with attempting to reduce the demand for commercial sexual services with the Nordic model as well as their law which allows for prosecution on the grounds of child sex tourism for crimes committed abroad and in Sweden. This included an agreement with Cambodia

which is a destination for Swedish child sex traffickers to better identify victims. No Swedish citizens have been convicted for child sex trafficking since 2012. Furthermore, the Swedish are providing anti-trafficking and identifying sexual exploitation training to their international peacekeeping troops and diplomats before leaving⁷³.

United States of America: Criminalization

In the United States of America (USA), prostitution is completely criminalized, from the buying to the selling of sexual services. This regulation style is common in the USA for many vices over the years such as drugs and at a time alcohol, as the government sought to better the common man in accordance to the Protestant ideals which the country was founded upon. These ideals, though religion has lost hold in American society over the years, are still present in society through the USA's regulatory practices and remnants of patriarchal society.

Due to the atmosphere surrounding prostitution in the United States, it would be hoped that the presence of prostitution would be diminished over time, as that is the goal of abolitionist policies. This is rarely the case as prohibiting something in society has proven to only open up a black market for the goods in which risks and prices are higher.

Analyzing data provide by the United Nations Office on Drugs and Crime (UNODC), it is evident that there are much higher instances of sex trafficking reported and tried in the United States than in other nations. The total number of UNODC cases that are pulled up for human trafficking is 175 with 117 cases specifically related to commercial sexual exploitation. The bulk of these cases reached verdicts being between 2004 and 2012. The nationality of victims is mainly American or Mexican with a mixture

⁷³ Trafficking in Persons Report (2016): Sweden, 354-356.

of other nationalities as well such as Chinese, Ukrainian, and Nigerian. Most of the cases were tried by district courts with some courts of appeals⁷⁴.

The Trafficking in Person's (TIP) Report has listed the United States as a Tier 1 nation since it was first listed in 2010. Between the first publication which included the United States to now, there has been a few shifts from labor trafficking cases to mainly sex trafficking which can be attributed to an increase in awareness and reporting overall.⁷⁵ The United States' report in 2016 shows that while there are a wide variety of nationalities which are trafficked, the vast majority are from the USA, Mexico, or the Philippines. The populations that are most vulnerable include children in child welfare system, runaways, American Indians, Alaskan Natives, migrant workers, LGBTI, and drug addicts. Sex trafficking has been increasing over the years in relation to labor according to the report. The USA is recognized for working with NGOs to help victims but that there are still many cases where victims are detained and charged criminally instead of being helped. It is important to note that anyone found to be a prostitute can be considered a trafficked person in the United States as they define prostitution as inherently exploitive.

The report recommends further exploration of how to address demand for commercial sex. The USA has passed several bills through congress to address trafficking including the Justice for Victims of Trafficking Act (JVTA) which allows survivors of trafficking to have input to anti-trafficking laws and also increased liability for those who solicit trafficked persons for sex. They have also created passed the International Megan's Law to Prevent Child Exploitation and Other Sexual Crimes

⁷⁴ United Nations Office on Drugs and Crime: Case Law Database: United States of America.

⁷⁵ Trafficking in Persons Report 2010 and 2016.

Through Advanced Notification of Traveling Sex Offender which will alert countries when registered sex offenders are visiting.⁷⁶

The Department of Justice (DOJ) reported and prosecuted 257 human trafficking cases of which 248 were related to sex trafficking. This is an increase from the previous year's number of 208 prosecutions overall.⁷⁷ The penalties ranged from five years to life imprisonment. Furthermore, the government has increased victim services through Continued Presence. This program allots similar benefits as is given to refugees with the help of the Department of Health and Human Services (HHS). In 2015, \$3.2 million was allotted to help victim services for trafficked persons. This was an increase from the \$1.4 million in 2014 but was balanced out by an increase in open cases by the DOJ of 1,000 compared to the previous year. Of the 3,889 open client cases in 2015, 49% of victims were foreign and needed government assistance to survive.

The USA seems to be vigilant in attempting to combat trafficking but has issues with transparency between the multiple government agencies and NGOs which are involved to help locate and support victims. There is a plethora of agencies which provide money and support throughout the USA and keeping track of them along with the laws being passed to mitigate trafficking seems to be one of the more difficult issues at hand.

Conclusions

In analyzing the data by the Trafficking in Persons report and the United Nations Office on Drugs and Crime, it is difficult to come to a concise conclusion on the effects

⁷⁶ Trafficking in Persons Report 2016: United States of America, 388.

⁷⁷ Trafficking in Persons Report 2016: United States of America, 389.

of prostitution regulation and reducing sex trafficking. There are however benefits to each of the models in deterring trafficking which can be highlighted. These benefits can be split up into open communication, disillusion with the industry, and overall deterrence.

Open communication is what can be seen in nations which legalize or decriminalize prostitution in society. Decriminalization allows for a safer reporting environment where victims are not afraid of reporting being forced into prostitution because they cannot be criminally charged for being a prostitute despite the circumstances. This is the case for the Dutch and Swedish models. In nations where prostitution is still a criminal offense, victims of trafficking may be detained or charged criminally for reporting what they were forced to do in hopes of getting protection from the police. Therefore, women in areas where decriminalization and legalization are prevalent will be more inclined to reach out to law enforcement when they escape exploitation. Numbers of reported instances of trafficking can be better evaluated in these areas due to the lack of stigma in going to authorities.

Another benefit of the models can be disillusion with prostitution which results in a diminishing of sex trafficking industries because of a drop in demand. This can be a beneficial outcome of partial criminalization as with the Swedish model or even with criminalization. It is clear that the model of criminalizing the purchasing of sex work is attempting to lessen the instances of purchasing sex in Sweden and that criminalization in the USA is trying to stop prostitution as a whole. The idea behind disillusion is that when a criminal charge is associated with doing an action, less people are inclined to take the risk unless they have a way to ensure not being caught.

Lastly, the overall deterrence of prostitution is what is hoped for with models such as criminalization. In creating an environment of imminent criminal charges around prostitution, whether they are selling or buying sex, it is hoped that prostitution and therefore sex trafficking, to fuel the prostitution market, will be curtailed. This can be because of a want to end prostitution for exploitation purposes or because it is perceived as immoral. As explained earlier, this is not always the most effective since the market will continue to thrive under the radar, but this model does stop the average person from partaking in activities which would be tied to trafficking. The issues with overall deterrence is that it is even more impossible to know the full extent to which trafficking and prostitution occur because no one wants to report being forced into prostitution even if it could lead to the imprisonment of their trafficker.

There is no prostitution regulation model that will solve the issue of sex trafficking permanently without universal cooperation on what is considered exploitation and what is not. Looking at the research, it is clear that nations will probably never be cohesive on how to approach prostitution in society since it violates various cultural, religious, and moral traditions which nations around the globe were founded upon.

There are clear benefits and pitfalls of each regulation model which act as a double edged sword to trafficked persons. Where prostitution is legal, escaped women can report to police without fear of being incarcerated, but these areas are also hubs for trafficking because of the thriving industry. Where prostitution is partially decriminalized there is less danger of reporting to the police for prostitutes or trafficked persons, but the fear of their clients in regards to getting caught with prostitutes pushes the industry underground and lessens the safety of prostitutes with their clients. Criminalization leads

to an environment that will more readily spot prostitution and, in turn, sex trafficking can be combatted heavily since there is no acceptance of prostitution in society. The negative impact of this is that women who are in prostitution or trafficked can all face criminal charges if they are caught and are not perceived as being forced into prostitution.

In order to work towards eradicating sex trafficking, it is clear that the voices of people directly involved must be heard, the voices of sex workers. Hundreds of organizations have been made over the years to try just this, but still cries against the Swedish model, against criminalization, and against legalization fall on deaf ears in countries. If policy makers take the time to listen to those women and men involved, they will be able to better understand how to handle the intricacies of exploitive situations as well as the necessities to protect the safety of those who may choose to be sex workers all by themselves especially where it is legal or decriminalized. That is the key to solving sex trafficking because prostitutes are more likely to run into trafficked people than a police officer in many cases. Of course, in areas where prostitution is illegal, this may be a difficult task, but listening to more indirect sources such as sex workers' unions instead of prostitutes will allow for better understanding of prostitution market dynamics.

The simple answer to any questions about what regulation technique is the most effective is that there isn't one universally, but there may be one regionally or nationally. Laws are made for the people they protect and therefore must conform to the dynamics of society in order to be effective. It would be impossible to assume that an Arab nation would legalize and regulate prostitution or that a liberal nation like the Netherlands would criminalize it. This is why harmony in prostitution law cannot be a goal in the near future, but increase in techniques to identify and combat trafficking could possibly occur.

Already, there are mechanisms in place to try to universalize trafficking in persons' deterrence techniques. If nations can come together and actually work as the Palermo Protocol and trafficking laws outline and take into account more voices of sex workers, then the safety of individuals can be better ensured. The complete elimination of trafficking is a far-fetched idea at this time, but the lessening of exploitation by vigilantly trying to eradicate it is not. The time has come to stop ignoring the people who can help the most because of discriminatory views and pre-conceived notions. Thousands of children, women, and men are being trafficked to supply the sex industry; their safety is too important to put up to chance when working to fix a system that has been operating under the radar for centuries. In the future, if sex worker and sex worker organizations are not used to help in combatting sex trafficking, the world will continue to flounder at the task of stopping this extreme, systematic exploitation from flourishing in both the least and the most developed nations.

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