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# **Human Trafficking and Prostitution: Models and Policies**

## **National and International Perspectives**

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## **List of Acronyms**

UN United Nations

EU European Union

US United States of America

## **Introduction**

Human trafficking, or modern day slavery, as it is sometimes referred to in the media and some academic papers, is a global problem. Although statistics with regards to this are known to be incomplete or inaccurate, the UN estimates that more than 4 million people are trafficked every year (Jakobsson and Kotsadam 2010, p. 2). Of these 87% percent are girls and women who, once trafficked, are sexually exploited and forced to work in the sex industry (Jakobsson and Kotsadam 2010, p. 2), being physically, psychologically and sexually abused, and having their basic human rights violated.

Although there is international consensus that this represents a major problem for the international community, approaches to solving the problem differ greatly from region to region and state to state. Looking at some examples, there is a lack of consensus on the magnitude of the problem, its causes and how it works and affects the international community as a whole.

As will be shown, human trafficking affects states differently, depending on the particular state and its placement in the chain of traffic (destination, transit or source/origin). The most important response by far can be seen from destination states that have identified prostitution as the main means of victim exploitation. Thus, they have taken adequate measures to control prostitution and have attempted to eradicate human trafficking. However, even amongst these states there is no consensus on what is the most efficient method to tackle human trafficking and thus multiple models and policies have been developed to help contain the phenomenon.

These models range from the liberal model of legalized and highly regulated prostitution promoted by The Netherlands to the fully abolitionist system of the United States, where both prostitution and solicitation of prostitutes are illegal and punishable by prison time. However, regardless of which model, human trafficking still exists and although some models advertise more success than others, the fact is clear that the problem is far from having a permanent solution.

As a consequence this thesis aims to find out *whether controlling prostitution can be translated as controlling human trafficking?* If the theories presented so far regarding human trafficking are substantiated, a strict control on prostitution should separate it from human trafficking.

To achieve this aim, the thesis will have three chapters. The chapter part will look to establish what is human trafficking and prostitution, and how the terms have been codified by national and international policy makers and how they are understood in the relevant literature.

The second chapter will be comprised of two case studies: The Netherlands and Sweden. Both states have identified themselves correctly as destination countries and have put in place measures to control exploitation of sex workers and to fight human trafficking. The policy of those states places them at opposite ends of the debate on human trafficking and prostitution (regulations vs. abolitionism). As a consequence, looking at the models side by side will allow for a better understanding of how the debate shaped state policy and what are the strength and weaknesses of these approaches on controlling the problem.

Finally, the last chapter will look at the causes of human trafficking and focus on how the international community sees this phenomenon. Thus, this chapter serves as the control for the case studies, establishing if prostitution is the driving force behind human trafficking for sexual exploitation.

One methodological problem needs to be mentioned in connection with any study regarding human trafficking. As human trafficking is an illegal activity and most of it is aimed to happen outside the public eye, it should come as no surprise that data collection and the reliability of the information that exists may present a degree of bias. Tyldum (2010) identifies two main ways in which data can present bias.

First of all he looks at the statistics and numbers that are available on human trafficking and advises that people regard them as approximations. According to him “unless we wish to argue that all women in prostitution are victims of trafficking, even a high quality study of prostitution arenas can usually not give good enough estimates on the size and characteristics of the population of trafficking victims” (Tyldum 2010, p. 4).

Secondly, he states that even identifying a clear target group to study (e.g. trafficked women) may present an inherent bias depending on the criteria used to identify the said group (e.g. those allowed access to a shelter after being rescued, those deported after being identified/rescued, those receiving residence in the country in which they were identified, etc.) (Tyldum 2010, pp. 5-7).

A number of studies have focused on statistics and numbers as their primary source. Authors as Cho, Dreher & Neumayer (2013) and Jakobsson & Kotsadam (2010) use statistics and quantitative methodology to determine if the legalization of prostitution results in a rise in human trafficking. Almost all such studies seem to indicate that legalized prostitution increases human trafficking towards the said country.

Seeing such conclusions, it is not surprising that a number of authors argue for an abolitionist policy. Hughes (2000), looking at sex trafficking from Eastern Europe argues that a ban on prostitution would lead to a decrease of victims. On the other side of the debate are studies, such as by Kligman & Limoncelli (2005), which analyses the factors that make victims susceptible to human trafficking. Their study indicates that addressing the factors that push victims into slavery (such as inequality on the work market, lack of awareness about migration process and procedure, lack of understanding of globalization etc.) would greatly reduce the victim pool.

A different approach is presented by authors such as Outshoorn (2004), Crowhurst, Outshoorn and Skilbrei (2012), Nicola, Caudro, Lomdardi & Ruspini, (2009), Burke (2013), Guia (2015), Okubo & Shelley (2011), Bales & Soodalter (2009), Stoecker and Shelley (2005), Ebbe & Das (2008) and Shelley (2010), who all chose to stay outside the debate on legalizing or abolishing prostitution. Their studies focus on different aspects of human trafficking ranging from security (both national and personal), slavery, transnational crime, the business of human trafficking, the evolution of public discourse, to the analyses of the models to control prostitution, state and international policy, and a focus on the clientele of trafficked prostitutes.

This thesis chooses to stay away from the debate of which model is better in controlling prostitution and/or human trafficking. It will look at human trafficking and its causes, determining if tackling prostitution as a cause would have the desired effect. This approach is similar to the position of the Dutch government, which this year has contracted the Universiteit voor Humanistiek to assess the different models and debates regarding prostitution and human

trafficking and their effectiveness (Wetenschappelijk Onderzoek en Documentatiecentrum Ministerie van Veiligheid en Justitie 2016, 'Aan de grenzen vat het meetbare').

Human trafficking for the purpose of sexual exploitation has begun to attract more and more attention, furthermore proving the importance of this crime, not only as an illegal activity but also as a human rights violation.

## **Chapter 1: What is human trafficking? Defining and Understanding Key Concepts**

Researching human trafficking throws the individual conducting the research into a mine field of assumptions, suppositions, and moral and legal values, which are constantly analyzed and which fuel both side of the debate. Lately, human trafficking for the purpose of sexual exploitation has gain a lot of attention from policy makers, academics but also form the media.

This attention does not translate, however, into a general understanding of the problem. Debates still rage on topics such as what is human trafficking, what is its impact, how many people does it affect, what is its connection to prostitution and do policies to control prostitution have a significant impact on human trafficking.

The debates exist at all levels of policy making, from a local and national to a regional and international scale. Interestingly enough looking at each segment one can see a huge difference in focus and perspective. Thus, the wider the angle on human trafficking the more general the approaches to the problem are. For example, as it will be shown later in this chapter, the UN's approach tries to incorporate all elements that constitute human trafficking whereas the European Union focuses primarily on child and sexual exploitation.

This lack of clearly coordinated understanding serves as both inspiration for models and also for arguments in the debates for either one model or the other. Thus this chapter is designed with a dual purpose. On the one hand, it looks to define key concepts of this thesis such as human trafficking, prostitution and human smuggling. The second objective of this chapter is to introduce and explain the views of different national and international organizations, as they play a vital role in designing and implementing policies against human trafficking for sexual exploitation.

Thus, the chapter will focus on the definitions generated by different organizations as they serve both the purpose of being explanatory and condensing the views of some institutions.



### *1.1. Human trafficking*

Human trafficking is universally accepted as an international problem. Institutions and academics debating the subject have generated countless definitions of what human trafficking is and how it manifests itself. Although these definitions vary depending on the region and the area of application, some constants can be observed (defining the victim group, the method of victimization and the purpose of victimization). However, differences within these categories are essential in observing the perspectives which exist around human trafficking.

The 2000 United Nation Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (United Nations 2000, p. 2) states that:

'Trafficking in persons' shall mean the recruitment, transportation, transfer, harboring 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 shall include, at a minimum, the exploitation of 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.

Taking into account the importance of the UN as an institution and the fact that almost all states are represented in its framework, it comes as no surprise that it is the most debated and analyzed definition in studies that cover the subject.

On the basis of this definition Tyldum (2010, p. 3) argues that:

The population of trafficked victims is understood as women, men or children, who have been moved away from his or her place of residency with a purpose to exploit, and kept in a situation of exploitation through the use of force, manipulation, abuse of position of power or position of vulnerability or other forms of coercion.

What can be easily observed is that the UN definition tries to incorporate all instances of trafficking and all methods. Thus the population of trafficked victims according to Tyldum (2010) is quite diverse and includes any individual (regardless of gender, age or any other characteristic) who has been moved against their will and are kept in exploitation against their will.

Going one step further, Meshkoska, Siegel, Stutterheim & Bos (2015, p. 381) shift their focus from the victims to what exactly constitutes human trafficking. Thus, they identify three elements which need to coexist for human trafficking to occur, being:

(1) ACTION: recruitment, transportation, transfer, harboring or receipt of persons; (2) MEANS: 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 giving or receiving of payments or benefits to achieve the consent of a person having control over another person; and (3) PURPOSE: exploitation.

However, a shift in perspective completely changes our understanding of human trafficking. Looking at the European Union's definition one sees a more targeted understanding of the phenomenon. Thus, according to Mameli (2002, p.68 ), the EU defines it as:

'The traffic in human beings' means subjection of a person to the real and illegal sway of other persons by using violence or menaces or by abuse of authority or intrigue with a view to the exploitation of prostitution, forms of sexual exploitation and assault of minors or trade in abandoned children.

Compared to the UN definition, the EU focuses human trafficking by limiting down the form of exploitation and the victim age category. Although according to Meshkoska, Siegel, Stutterheim & Bos (2015), elements can still be identified within this framework, the population of trafficked victims is severely reduced to just children and victims of sexual exploitation. Seeing how arguments can be made that a clear and focused definition might be more efficient in identifying and tracking human trafficking, the EU's approach is not inherently negative.

The EU is not the only institution that underlines prostitution and sexual services into the definition of human trafficking. Emulating the UN's definition in scope and approach, the United States' President's Interagency Council on Women explicitly integrate prostitution and sexual services as forms of forced labor. According to the American definition cited by Mameli (2002, p. 68):

Trafficking is all acts involved in the recruitment, abduction, transport, harboring, transfer, sale or receipt of persons; within national or across international borders; through force, coercion, fraud or deception; to place persons in situation of slavery-like conditions, forced labor services, such as prostitution or sexual services, domestic servitude, bounded sweatshop labor or other debt bondage.

Moreover, another aspect introduced by the US' definition is the fact that trafficking can occur even within national borders, making this both a national and international problem.

Although the UN definition eludes to it, the American definition introduces a clear geographic element to human trafficking.

Comparing the definitions presented above, one can see both similarities and differences. The first thing to notice is that the European definition is much more restrictive as to what represents human trafficking. Whereas both the UN and to some extent the US have a more broad approach to human trafficking, the EU's definition focuses on sexual exploitation and the sexual exploitation of minors. However, what remains constant throughout all definitions is the fact that human trafficking implies a form of force or deception that takes away the agency of the victim (the possibility to consent). In other words, a victim is trafficked when they do not (or are unable to) consent to at least one of the three elements presented above.

However, what needs to be noted is that this definition of human trafficking is completely separate from human smuggling. Defined as: "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit from the illegal entry of a person into a state party of which the person is not a national or a permanent resident" (Meshkoska, Siegel, Stutterheim & Bos 2015, p. 382), smuggling represents an economic (although illegal) enterprise, where both sides have full knowledge and have consented to the transaction and the actions it implies. Although elements of smuggling are inherent in trafficking, the full consent that is present in smuggling makes both parties partners in the crime, whereas in the case of human trafficking the distinction between victim and perpetrator is clear.

Summing up, one can notice that human trafficking is primarily an international problem which has received attention from multiple institutions. However, differences in understanding of the problem still exist depending on the approach and the region.

## *1.2. Prostitution*

Seeing how human trafficking for sexual exploitation is generally understood as human trafficking by all definitions, defining human trafficking is only half of the problem. Prostitution is widely seen as the most widespread method to exploit victims. Interestingly enough, prostitution

is in stark contrast to human trafficking. Whereas human trafficking is seen as an international problem, prostitution is viewed exclusively as a national problem which falls primarily under state jurisdiction. Thus, debates among international organizations on prostitution are fairly limited.

Prostitution is defined by the Oxford dictionary as “the practice or occupation of engaging in sexual activity with someone for payment” (Oxford University Press 2016a, ‘Oxford Dictionary’). Looking at the definition out of context, one may argue that it is no more than an economic transaction, where one party is willingly supplying the service (said sexual activity) and the other party (the costumer) is buying the service provided. In this case the notion of consensual sex (on both sides) is vital for the ‘transaction’. In any other case one of the parties (usually the one buying sex) would be put in a position of force over another person, thus the definition of human trafficking being applicable.

However, Pheterson (1993) in his study takes the definition of prostitution and analyses it in a social context. According to his research, another definition for prostitution is the “sale of one’s honor for base gain or to put one’s ability to infamous use” (Pheterson 1993, p. 39). He continues in this vein, concluding that through this definition “[a] prostitute then becomes one who sells her honor by offering to hire her body for base gain or for an unworthy doing, specifically sexual intercourse” (Pheterson 1993, p. 39). This definition adds a different perspective to the term, making it morally and socially unacceptable. While according to Pheterson’s reasoning, presented above, prostitutes are seen as women without honor, for the clients “being caught with a whore is socially uncouth, if not actually humiliating” (Pheterson 1993, p. 47).

As can be seen, the two interpretations of prostitution are in stark contrast, one being just an economic enterprise void of any connotations and thus possibly acceptable and one tying sexual services with the value of honor and thus making it completely unacceptable for society. This dual nature of the term is confirmed by Tyldum (2010, p.7) who states that “fields such as prostitution, immigration and labor exploitation are marked by highly politicized debates of what they are, what policies should regulate them, and why they are a problem”.

The problem created here is that in contrast with human trafficking, where there is a clear consensus that the practice is unacceptable and the victims have no control, in the case of prostitution such a consensus is lacking. Moreover, taking a position that sex work is inherently unacceptable gives a whole new understanding to human trafficking for sexual exploitation.

According to O'Brien, Carpenter & Hayes (2013, p. 402) in "Australia and the United States [...] trafficking for sex is viewed as unique, and more harmful, than trafficking for other forms of labor". An argument can be made that such an approach is problematic for multiple reasons. First of all, without diminishing the trauma of being trafficked for sexual exploitation, such a view on this form of trafficking creates a rating systems among victims (not intended by the UN definition) where women trafficked for sex are in more need of protection then other trafficked victims. O'Brien, Carpenter & Hayes' (2013) study suggests that such a narrative risks focusing on women forced into prostitution while ignoring "women who chose to work in the sex industry (but are also exploited or trafficked) as well as both women and men who are trafficked for other forms of labor" (O'Brien, Carpenter & Hayes 2013, pp. 409-410).

This approach marks an interesting development. If O'Brien, Carpenter & Hayes' argument is true, it can be argued that in such a situation where human trafficking for sexual exploitation is 'worse' than human trafficking for other forms of force labor, than the focus of the problem is not on the human trafficking aspects but on the sexual exploitation. Following this argument one can see that the value given to prostitution will have an important impact on the model used to control prostitution and as a consequence, human trafficking for sexual exploitation.

All in all, one can see that prostitution is codified as bad by the society but not codified politically and internationally like human trafficking. Although an argument can be made that this adds fuel to the debate, when both phenomenon are seen as unacceptable the situations arises that victims of human trafficking from sexual exploitation are more 'worthy' of help. This in itself creates different views as how human trafficking should be approached as a problem and how the policies should be designed.

### *1.3. Conclusions*

Looking at the two main concepts involved in human trafficking for sexual exploitation one sees that the multitude of approaches has generated multiple points of view. The only point of consensus that exists is that human trafficking (and by extension human trafficking for sexual exploitation) is unacceptable. However, there is no consensus on a clear definition and

furthermore, there is no consensus of what impact prostitution has on the phenomenon. Thus, it is not surprising that multiple models have been developed to stem human trafficking.

The first approach is abolitionism which is “the position that prostitution should be banned by criminalizing third parties” (Jackobsson & Kotsadam 2010, p. 5). The second approach is to legalize and regulate prostitution, state intervention being present (Jackobsson & Kotsadam 2010, p. 5). In Europe, these approaches have been translated in the Dutch model (regulated prostitution) and the Swedish or Nordic Model (a neo-abolitionist system) where prostitution is legal but the purchase of sex constitutes a crime.

However, as it will be shown in the next chapter, both of them have their strengths but also limitations in what they can achieve. Thus it is not surprising that the current debate is an ongoing process.

## Chapter 2: Different Arguments, Different Approaches

As chapter 1 shows, the situation is far from a having a consensus among institutions, regions and even states regarding human trafficking and prostitution. Therefore it is not surprising that multiple models exist to control both phenomena. This chapter will look at the main directions, through the case studies of both the Dutch (legalization and regulation) and the Swedish or the so called ‘Nordic’ (neo abolitionism) models.

It is important to mention that, although the direction chosen by the states are different, they are both identified as destination countries, or in other words, states where victims are taken and exploited. Due to this fact, a comparison between the two models is not only viable but also meaningful.

### *2.1. Legal prostitution. Regulated prostitution. The Dutch approach*

In 1999 the Dutch government decided to lift the ban that had existed on brothels and sex clubs in the Netherlands (Outshoorn 2004, p. 185). With this action the government acknowledged as legal a practice that had long been tolerated within specific areas of big cities such as Amsterdam (Kilvington, Day & Ward 2001, p. 81). This lifting of restrictions meant not only that prostitutes could register themselves as sex workers, open bank accounts, open business, administer brothels and have access to health insurance and services; but that they were also obliged to pay taxes on the income resulting from their economic activities (Outshoorn 2004, p. 202).

Two main arguments stood behind the 1999 bill that lifted the bans on brothels. First of all, the Dutch government recognized that prostitution was a phenomenon impossible to fully eradicate (Nicola, Caudro, Lomdardi & Ruspini 2009, p. 82). Through this action the government hoped to gain control over prostitution, in an attempt to detach it from the criminal enterprises which are often associated with such activities.

Secondly, a consensus formed around the fact that legal, controlled and open prostitution would help in the identification of criminal elements associated with the profession (Nicola, Caudro, Lomdardi & Ruspini 2009, p. 86).

Another benefit of the law was said to be that prostitutes would have better control over their activities, setting their own hours and having the possibility to choose their clients. As Pheterson (1993, p.40) argues, this right is essential for prostitutes, as it allows them to practice their profession in a safe and controlled environment. He states that “lack of choice is not inherent to prostitution but [to] abuse, poverty, poor working conditions, inexperience, or despair” (Pheterson 1993, p. 40).

Furthermore, with the liberalization of prostitution the Dutch government took a very strong stance against forced prostitution and against minors (persons under the age of 18) entering the profession. Finally, although prostitutes can practice their profession freely, brothels and sex clubs can be established only in very specific areas and they require authorization from the municipality where the activities would take place (Outshoorn 2004, pp. 202-203).

Looking at the Dutch model, one can argue that it creates a fully regulated and safe environment for prostitutes to work in. Moreover, it aims to control human trafficking for sexual exploitation and to eliminate criminal organizations and illegal activities connected with prostitution.

However, the system developed to control prostitution and the criminal elements associated with the profession has been critiqued not only by academics and policy makers but also by sex workers themselves.

Those who favor abolitionist policies argue that such a model of legalized prostitution would have the exact opposite effect, actually encouraging human trafficking. Their claims seem to be confirmed by a number of quantitative studies. Both Cho, Dreher & Neumayer (2013) and Jakobsson & Kotsadam (2010) studies conclude that legalization of prostitution in a state generates the intake of trafficked victims (Cho, Dreher & Neumayer 2013, p. 25; Jakobsson & Kotsadam 2010, p. 16).

Another critic of the Dutch model states that an open and large ‘sex market’ generates demand which prompts human traffickers to increase their efforts to meet it. Moreover, some



authors argue that legalizing prostitution leads to an increase in organized crime. Hughes (2000, p. 12) argues that:

legalization of prostitution, pimping and brothels causes an increase in trafficking women to meet the demand created by a legalized sex industry. There is also evidence from Australia that legalized prostitution and brothels result in a 'significant rise in organized crime' and an increase in trafficking and enslavement of women.

Her arguments are based on a similar theoretical approach of Cho, Dreher & Neumayer (2013) and Jakobsson & Kotsadam (2010) where legalization of prostitution creates an automatic increase in the demand for sexual services. Moreover, Hughes (2000) argues that a legalized environment makes it hard for authorities to convict human traffickers, seeing how "when prostitution is legal the prosecution's case depends on proving that the woman did not consent" (Hughes 2000, p. 12).

These critics imply that this model creates an open market that regulates itself where demand meets supply through the market, and thus the only control over both is the market itself. However, looking at the model one can see the market is strictly regulated by the state. The municipality is tasked with licensing brothels and making sure that they comply with regulations (Outshone 2004, p. 202, also see Nicola, Caudro, Lomdardi & Ruspini 2009, p. 82). Thus that the critics mentioned above do not address the model itself, but only the context that legal prostitution generates.

However, one critique looks at the model itself and the inequality that it produces. As argued by Kilvington, Day & Ward (2001), although the model means making sex work a profession for those who wish to practice it and gives them good working conditions, the benefits do not apply to all sex workers equally. Due to the nature of the law, only prostitutes with working permits (in this case Dutch or from other EU states) have the right to register themselves and work as prostitutes. According to Kilvington, Day & Ward a significant number of the sex workers in the Netherlands do not meet this requirements, and thus are forced to work underground, making them susceptible to exploitation and human trafficking (Kilvington, Day & Ward 2001, p. 86; also see Outshoor 2004, p. 198). Although, illegal prostitutes find themselves in a similar situation to other illegal workers in the Netherlands (no health insurance, no control over work condition, etc.), the nature of their work makes them much more susceptible to organized crime. Moreover, an argument can be made that this context undermines the model itself, creating a dimension to the

sex industry that the government cannot control and thus cannot break from organized crime. As one Dutch police officer puts it “what you do not know, you cannot control” (Nicola, Caudro, Lomdardi & Ruspini 2009, p. 86).

This critique underlines the most important flaw of the Dutch model. Moreover, seeing how the Netherlands is a state that attracts migration it is possible to envision that a number of individuals are attracted under false promises and forced to work in the illegal sex industry. Seeing how less developed states create the context, especially for women, to migrate and to look for employment in Western states, it is not unreasonable to state that a number of these individuals fuel the illegal sex market (see chapter 3).

One final critique comes from sex workers themselves. Interestingly enough, liberalizing and regulating sex work, although bringing sex workers into the open with better working conditions and a control environment, also comes with some drawbacks. One of them is the inability of the sex worker to maintain his or her private identity. According to Pheterson (1993, p. 40), one Dutch prostitute argued that “yes, windows give you choice but they also take your anonymity”. Seeing how sex work is stigmatized, it is not surprising that prostitutes move from the open and arguably safer forms of prostitution to more covert and often more risky forms. Thus her statement continues by saying that: “[she has] always worked in clubs. No rights to refuse-no rights to use condoms-but at least [she has] got her privacy” (Pheterson 1993, p. 40). This would indicate that in some cases, the darker, less controlled market is preferred by prostitutes. The words of the Dutch prostitute are confirmed by a Dutch police officer stating that “if you control the escort sector in Rotterdam every week, this market will move to another area where there is less or no control on the escort sector” (Nicola, Caudro, Lomdardi & Ruspini 2009, p. 86).

A critical analysis of the Dutch model shows a clear rupture in the sex market. Thus, although prostitution is regulated and controlled, giving state authorities more tools to tackle human trafficking, a ‘Black Sex Market’ exists fueled by not only prostitutes who cannot work in the Netherlands legally, but also by prostitutes who do not want to be directly identified with sex work. It can be argued that, after the 2000 bill, the sex market basically transformed itself, part of it embraced the new law and came under state control, while the other part resisted this development and refused (or was unable) to conform to state regulation.

## *2.2. Prostitution as Violence against Women. The Swedish model*

On the other side of the debate, Sweden decided to take a different approach towards prostitution and human trafficking. Starting from the premise that “women have a right to dignity, integrity and equality” (Hughes 2000, p. 13), the Swedish government’s model attempts to focus on the demand aspect of the sex market. In 1998 the Minister of Gender Equality proposed the *Kvinnofrid* (Violence against Women Act) which “contained suggestions to counteract violence against women, sexual harassment in work and prostitution” (Outshoorn 2004, p. 239). The act which was passed in parliament and came into force in 1999, aims at stemming demand for sex by criminalizing the purchase of sex and the client, while prostitution itself is legal (Outshoorn 2004, p. 241).

Although not completely criminalized as in the United States, where both the sell and the purchase of sex is criminalized (O’Brien, Carpenter & Hayes 2013, p. 403), the Swedish model wishes to abolish prostitution as a phenomenon. This model has been well received and has already been implemented in multiple states such as Finland, Norway and Canada.

Statistics coming from Sweden show a decrease in street prostitution of from 50% to 30% (Jackobson & Kotsadam 2010, p. 14; also see Cho, Dreher & Nuemayer 2013, p. 23). Moreover, Jackobson & Kotsadam (2010, p. 14) argue that in 2001 no foreign women were identified as taking part in street prostitution. Finally, it is argued that the number of buyers has decreased by 75% to 80% (Jackobson & Kotsadam 2010, p. 14).

Although the statistics indicate that the Swedish policy has achieved its goals, limiting both prostitution and human trafficking, a number of critiques contradict these numbers (and the efficiency of the model itself) stating that the policy is both ineffective and not properly applied. In the comparative part of their study Cho, Dreher & Nuemayer (2013) compared the number of trafficked victims in both Sweden (after the new law) and Germany (after adopting a similar model to the Netherlands). Cho, Dreher & Nuemayer (2013, p. 25) conclusion was that:

the share of trafficked individuals among all prostitutes appears to be quite similar in both countries, corroborating the view that any compositional differences across prohibitionist and legalized prostitution regimes are likely to be small.

In other words, although the policy might reduce the number of prostitutes as a whole the percentage of trafficked women remains constant. Interestingly enough, although a lower number of prostitutes signifies a proportional decrease in trafficked victims, the fact that the percentage (at least in theory) remains the same indicates that the policy has more effect on prostitution, the reduction in human trafficking being just a welcome byproduct of the policy.

However, the second critique to the model argues that the number of prostitutes has not dropped but that sex workers have found a different way to sell their services. In her book review Niina Vuolajävi (2015, p. 146) argues that:

street prostitution has decreased, but [...] the effect of the law on overall levels of prostitution and trafficking for sexual purposes is ambiguous. This result supports earlier studies showing that there has been a partial switch from outdoor to indoor prostitution, partly due to the digitization of commercial sex.

Thus, prostitution is moving from the visible sector into the shadow, facilitated by the internet and the developments in technology. However, although this might give prostitutes the anonymity to exercise their activities, the same applies to the client (as the law forces them to keep their identity very closely guarded). In this case prostitutes have very little, or no, information about clients, limiting their safety. Moreover, as it is generally understood, pushing prostitution underground facilitates the connection between organized crime and the sex market.

Moreover, as Kilvington, Day & Ward (2001) have argued the demand and offer of sex does not disappear, but simply migrates to where this is possible to be obtained/sold legally. As Kilvington, Day & Ward (2001, p. 86) put it:

Swedish sex workers may move abroad, there could be an increase in 'sex tourism' where Swedish clients buy the services of sex workers in neighboring countries. The local [sex] industry becomes more dominated by migrants who seek to avoid contact with police, health and social workers".

In this case, it can be argued that Swedish sex workers are forced to migrate which may put them in danger of being trafficked. Moreover, seeing how the Netherlands is often criticized for fueling sex tourism, little or no research has focused on the 'johns' that travel to other countries where sex work is legal.

To sum up, the Swedish model attempts to control human trafficking by eradicating prostitution and the demand for paid sex. Although the model has been well received and

implemented in other states, critics of the model argue that its success is debatable and that it only forces prostitutes to move underground.

### *2.3. Different Models, Similar Problems. Comparative perspective*

Looking at both models, although fairly different in approach and philosophy, one can see similarities in the motivation and objectives. Both models wish to control prostitution and thus limit (or even eradicate human trafficking). However, as it has already been shown, the tactics and policies are at opposite ends of the spectrum. As Kilvington, Day & Ward (2001, p. 89) put it “in the Netherlands, reforms are intended to dissolve a flourishing black market, with exploited workers who lack rights, and wealthy managers whose revenue is invisible to the state” whereas in Sweden “the problem is seen to consist of a socially unacceptable behavior and the reforms aim to solve the problem by removing demand, thereby encouraging workers back into mainstream society” (Kilvington, Day & Ward 2001, p. 89).

Taking this into account. One can see that the critiques brought to both systems are similar in nature.

First of all, and one of the most glaring critiques is the fact that both systems create a ‘shadow market’, where sex workers are forced to apply their trade in an environment with suboptimal working conditions. Therefore this black market exists regardless of the model and regulations that exist. Although, as it has been shown, the motivation of sex workers differs according to the system (in the Netherlands they try to avoid state control and maintain some anonymity; in Sweden keeping below the radar is essential for them in order to maintain their activities) the existence of this ‘shadow market’ is not only a constant but also the link between prostitution, organized crime and human trafficking.

Secondly, and probably most importantly, is the fact that although both systems have a similar aim, they are severely limited in that they are national policies and thus have limited jurisdictions (debated further in chapter 3). Both the Netherlands and Sweden recognize the fact that they are destination countries for human traffickers. Thus their policy is aimed at controlling

prostitution in such a way that criminal activities are kept out of both the sex market and their states. In the case of the Netherlands, the aim of the government is to control prostitution and keep unwanted elements (organized crime, prostitutes that do not have a working permit, underage prostitution) out. Sweden's approach is much more radical, trying to eradicate prostitution as a whole and thus eliminating the medium by which these unwanted elements exercise their activities. However both policies are aimed at controlling and eliminating these elements when they are occurring on their national territory. Unfortunately, due to national borders, neither government has any control over other elements (which make human trafficking possible).

Summing up, the case studies prove to some extent that national policy against both prostitution and human trafficking is ineffective on its own. In other words, having a clear policy on prostitution may give a degree of control over the sex market as a whole, but it does not deter organized crime syndicates from developing networks and trafficking victims into the existing 'shadow market'. Thus, an argument can be made that these national policies must be integrated into an international organisation, primarily focused on controlling human trafficking and dismantling organized crime networks.

### **Chapter 3: What can be done? International Perspective on Human Trafficking for sexual Exploitation**

National policies against human trafficking and prostitution can only take us so far. Both Sweden and the Netherlands have identified their place in the human trafficking network (being destination countries) and have taken certain measures to correct the problem. Sadly, their measures as it can be seen just ameliorated the problem and only addressing the exploitation aspect of human trafficking (having no control on the recruitment and transport of victims to the sex markets).

Moreover, having a model to control prostitution does not necessarily tackle human trafficking. The critics of both models indicate that a national solution is not sufficient for targeting this phenomenon. As recognized by the international community (as seen chapter 1), human trafficking is an international problem and so the response should also be international.

This chapter aims to establish a general understanding of the international aspect of human trafficking, in order to suggest what the international community should do in response to this problem. As seen from the previous chapter, in the cases of both the Netherlands and Sweden, human trafficking is closely linked to prostitution. This is understandable as, due to the fact of them both being destination countries, the exploitation of victims taking place under their jurisdiction is usually through the form of prostitution.

However, as it will be shown shortly, an international perspective on human trafficking focuses away from prostitution and brings into discussion new elements such as gender inequality, globalization and migration of work force.

#### *3.1. Cause and Effect. What fuels human trafficking?*

As we saw earlier, there is a constant number of victims of human trafficking, regardless of the model employed to control prostitution and human trafficking. Moreover, it is generally understood (although not mandatory) that such victims are nationals of a state other than the one

they are exploited in. In the case of Europe the majority of these victims are identified as Eastern European women, who after the collapse of the communist regimes migrated west in search of jobs and better living conditions. In her study, Donna Hughes (2000, p. 12) argues that “33 percent of the 25,000 women in prostitution in the Netherlands are from Ukraine, and three percent are from Russia. Most of these women live and work in conditions of slavery”. Moreover, she continues stating that in the case of Germany, one quarter of women in prostitution are Eastern European nationals (Hughes 2000, p. 12). Seeing how more than a quarter of the supply on the western sex market comes from Eastern Europe, one may wonder what makes these women susceptible to being trafficked into prostitution and exploited in the West (where measures against prostitution and human trafficking are already in place).

One part of the answer comes from the models presented in Chapter 2. As has been shown, they are designed to control the internal sex market and identify (and remove) victims of human trafficking. However, one flaw in their design is represented by the fact that neither system focuses directly on keeping out unwanted elements, this task falling under the jurisdiction of law enforcement agencies and migration policies.

This answer is not quite satisfactory due to the fact that even if the system were designed to target trafficked victims and unwanted prostitutes, the numbers presented by Hughes would only show a large migration trend of sex workers from East to West. To answer the question properly one needs to look at the causes of this migration (either voluntarily or involuntary).

Identifying what draws victims into the traffickers trap would necessitate individual research, which would require a new paper dedicated to this subject alone. Moreover, according to all of the authors on the matter at hand, establishing a victim profile is hard as they come from all demographics, all ages, diverse ethnic backgrounds, and different education levels and social sectors (Tyldum 2010, p. 9). The only clearly established fact is that most of the victims of sex traffickers are women. Even methods used by traffickers to acquire their victims range from extremely violent kidnappings to deception to outright persuasion (Meshkoska, Siegel, Stutterheim & Bos 2015, pp. 388-389).

However, looking at the literature, there seems to be consensus regarding some causes that facilitate human trafficking. For the purpose of this thesis, three of them stand out as the most important.



Gender inequality on the labor market is identified as one of the most important reason why victims are susceptible to human trafficking. As Kligman & Limoncelli (2005, p. 129) state that:

gendered practices exclude women from some occupations, concentrate them in others, contribute to high poverty rates and unemployment for women, and leave them vulnerable to the enticements of traffickers who take advantage of their desires for better working and living conditions abroad.

Thus, limited options on the labor market at home may be a determining factor in women being susceptible to traffickers, who promise well paid work abroad. Moreover, as Stoecker and Shelley (2005, p. 99) show us “women-migrants are employed in the most discriminatory, unregulated, and corrupt sectors of migrant employment”. This leads to the understanding that women migrants are more vulnerable when it comes to work migration. Therefore, although migrating for work does not necessarily push women into forced prostitution, it poses the risk that they will be exploited or even trafficked.

This aspect coupled with a lack of awareness of rights and regulations, further increases the vulnerability of victims. Interviews with trafficked victims conducted by Mimi Chakarova in the making of her documentary *The Price of Sex* (2011), show that traffickers win the trust of victims by promising large (but realistic) sums of money, and once abroad they use the victims’ unawareness of local legislation and rights, and their debt bondage to enslave and exploit them (The Price of Sex, 2011). This factor may explain why the majority of trafficked victims are women, seeing how men are assumed to be able to find employment more easily in their countries of origins.

However, this migration must not be analyzed in a vacuum. One of the causes of human trafficking, which is underlined by literature, is globalization. Defined by the Oxford dictionary as “the process by which businesses or other organizations develop international influence or start operating on an international scale” (Oxford University Press 2016b, ‘Oxford Dictionary’), it facilitates migration of individuals and labor. However, globalization also affects (in a positive way) organized crime networks who can operate across borders more easily and can mask human trafficking as a migrant work force. Furthermore, due to the existing legal transfer of work forces, victims are much more susceptible to believing traffickers’ deception and promises. As Ebbe and Das (2008, p. 36) put it:

the idea of shared political policies, culture, trade, and regional treaties that eliminated the demands for visas at the borders [...] made traffickers of women and children across international borders very easy, especially among states that were parties to the treaty.

Shelley (2010) takes a different approach to the problem. Looking at the perspective where the desire to migrate exists but barriers are still preventing workers from legally passing borders Shelley (2010, p. 37) states that:

this is highly criminogenic because the limitations on labor clash with the demands of the global economy. Many seek illicit means to enter countries where there is a demand for labor.

Looking at both sides, which represent different situations in the globalization context, leads to an interesting observation. The fact that globalizations facilitates the movement of work forces creates a desire for migration for financial gain. On the other hand, the barriers between states (where they exist) makes it sometimes harder to act on those desire. In this situation the traffickers use this context to their advantage fulfilling this desire and providing smuggling solution after which the enslave and exploit their victims.

Finally, if we discuss human trafficking in the context of globalization, one must look at what makes migrants travel and assume the risks. As seen above, push factors, including gender inequality in the labor market, fuel human trafficking. At the other end of the spectrum are the pull factors. Within the literature on human trafficking, the most underlined and debated pull factor is represented by legalized sex markets (as discussed in the case of the Dutch model) which create demand for prostitutes which human traffickers supply. Hughes (2000, p. 1) argues that “countries with large sex industries create demand and are the receiving countries, while countries where traffickers easily recruit women are the sending countries”.

In the case of this approach the connection is clear and the debate is cut and dried that countries with legalized sex industries create the need for sex workers and thus the pull factors. However, looking at the push factors one sees that none of the women migrate to be exploited, but on the contrary, they are looking for meaningful employment and good working conditions. Moreover, looking again at the interviews conducted by Mimi Chakarova, none of the women have been lured by the traffickers with the promises of a job in the sex industry (The Price of Sex, 2011).

The pull factor, must be found in a place other than the existence of a well-developed sex industry. Perhaps the best explanation of how pull factors work can be found in *The Future of Power* by Joseph Nye (2011). There he describes the impact of soft power, not only on influencing other states through culture and normative power but also by attracting individuals, due to the effect that the state has as 'a castle on the hill' (Nye 2011, pp. 207-209). In this case the economic development and the states success in addressing inequality in the work market may be seen (however paradoxically) as pull factors. Seeing how human traffickers use the hope of a better job and a better life in a 'civilized' country to entice victims, strengthens the argument that the economic and social development of the state are the real pull factors.

In this way Hughes (2000) argument is completely valid but for different reasons. As the receiving countries are usually well developed and attract more than just sex slaves; and the sending countries, where women are easily recruited, tend to have less than perfect records concerning equality in the work place, economic and social development, and opportunities for individuals in general, this tends to create a symbiotic relationship that traffickers take full advantage of. Even more alarming is that the differences may not even be that great (although in the case of Europe they usually are), but just enough to offer the victims a reason to move and thus make them more susceptible to human traffickers.

Looking at what fuels human trafficking across borders one is moved far from the debate on prostitution and sex works. The inequality in the work market and the prospects of migrant work opportunities presented by globalizations allow women to hope at gaining meaningful employment in developed countries where such problems are less prominent. This hope is exploited by traffickers who use the lack of awareness of their victims to transport them and trick them into working into prostitution. Moreover, however surprisingly, taking into consideration the debate on prostitution and human trafficking, this phenomenon has less to do (from an international perspective) with sex markets and more to do with inequality in the labor market and the desire for better working conditions and meaningful work.

### *3.2. Lost in Translation. Cooperation against human trafficking for sexual exploitation*

Interestingly enough, the international dimension regarding the policy against human trafficking is probably the most difficult to find. This is a result of the fact that most studies look at particular policies that are usually connected in one way or another with a state's national policy. The studies which concentrate on this aspect of the problem, however, are critical of the international response against human trafficking.

As was shown in chapter 2, national policies against human trafficking and prostitution may vary tremendously, even within the same geographical region. Moreover, even in the case of a single state, the state policy may be executed differently in different places. Niina Vuolajärvi (2015, p. 145) observes that:

Sweden has three state-founded prostitution units, one in each of the larger cities: Stockholm, Gothenburg, and Malmö. The first two embrace radical feminist viewpoints on prostitution, and concentrate on psychodynamic therapeutic services and exit work [...] Malmö on the other hand embraces harm reduction and bases its work on low-threshold social work and counselling.

Thus, Vuolajärvi's remarks indicate that even within the same position and policy on prostitution and human trafficking multiple courses of action may emerge. On an international level, where multiple views, positions and definitions clash, it is therefore not surprising that these differences create rifts that hamper the action against human trafficking. To address the differences in opinion some compromises have had to be made, so that action against human trafficking could be taken. Tyldum (2010, p. 8) argues that:

the international consensus on the need to fight trafficking can be said to have happened at the cost of the possibilities to reach a joint understanding of what trafficking actually is.

This lack of understanding has multiple causes. Probably the most important one is generated by the fact that human trafficking cannot be approached from the same angle both from an international and a national perspective. While the focus of the international organizations is primarily on displacement and exploitation, looking at the case studies within a national framework, human trafficking is connected more to prostitution (regardless of the model chosen to address it). This results in a struggle to formulate policies against human trafficking. Crowhurst, Outshoorn and Skilbrei (2012, p. 190) argue that:

the way in which trafficking is brought onto national debates on prostitution policies is not only resulting from national concerns, but also from how national prostitution policies are made relevant in supranational force such as the European Union and the United Nations.

This indicates that supranational organizations pressure national governments to solve the problem and elaborate policies against human trafficking. The models that exist so far focus on the control of human trafficking by targeting prostitution. However, the case studies presented (and the countless other states that use similar models) can all be identified as destination countries.

Although, as a destination country, it might be legitimate to attempt control of human trafficking through policies on prostitution, push factors and globalization indicate that a similar approach might not be as effective in transit or source countries. In these cases it can be argued that different policies (to target inequality, or the trafficker's capacity to transport victims) might be better suited to addressing the problem.

Mameli (2002, p. 77) argues that:

we need a world police, and it cannot be only an American one, to control rogue states or, mainly, individuals who will be the pirates along the new routes of the future.

This in itself is correct. An international organization (or even a dedicated taskforce with both law enforcement and political elements) dedicated exclusively to this purpose would not only have a better view on the phenomenon, but also could help states coordinate the establishing of complementary policies, which one can argue are the key to stemming human traffic.

All in all, one can see that international consensus on human trafficking as a problem does not necessarily translate into a realistic understanding of the problem. Moreover, although policies against prostitution seem to have some impact and thus the discourse is pointing in that direction, a holistic approach to human trafficking indicates that the causes are much more diverse and thus the solution should be as adaptable. Although it can be speculated that complete consensus on the matter will help make fighting human trafficking much more efficient, until this point is reached, it remains just a hypostasis.

## Final Conclusions

As with all other studies on human trafficking, this thesis only scrapes the surface of this global problem that affects millions of individuals every year. Human trafficking as a phenomenon is so big and evolves so quickly that more and more attention should be directed to it. Unfortunately, as this thesis shows, this problem is linked to ongoing debates, lack of understanding and confusion that makes the problem both hard to comprehend and almost impossible to tackle efficiently.

Regarding the focus of the thesis, the link between prostitution and human trafficking for sexual exploitation, the answer is not as straightforward as one might believe. It is true that looking from the view point of the case studies, attempting to control prostitution (either by regulating it or completely eradicating it) has a positive impact, giving the state a tool to control and aid the victim population and to take action against criminal organizations that engage in such activities.

Unfortunately, the efforts of the states that have been presented in the case studies are not enough. As seen in both cases the ‘Sex Black Market’ still exists, defying existing regulations and creating the necessary environment for international criminal networks to exploit their victims. This situation is possible because both the Netherlands and Sweden have the possibility to tackle only half of the problem. As they identify (correctly) that they are destination countries for trafficked victims (victims are transported here to be exploited) their policy aims to attack the exploitation method itself. In both of these cases (regardless of the method used) addressing prostitution means addressing the exploitation of the victims of trafficking. Thus for them fighting human trafficking is synonymous with addressing the problem of prostitution (either regulating it or eradicating it).

However, as stated, this is only half of the problem. The other half lies outside these states’ jurisdiction. As seen, human trafficking requires three actions to take place (Action, Means and Exploitation). The only part that lies within these states’ jurisdiction is the exploitation dimension (and arguably part of the smuggling of victims into the countries). However, they have no way of stopping the recruitment process and once the victims are recruited traffickers need to transport and exploit the victims. Thus the Black Market owes its existence in part to this factor.

Interestingly enough, recruitment of victims has little to do with prostitution and sex work and more to do with social and gender inequality. Thus, victims are recruited from under developed or developing countries where chances of meaningful work opportunities are limited (or in some cases nonexistent). Moreover, studies show that the victims are almost never attracted to work in the sex industry (and even the limited number that agree to travel for sex work risk exploitation) but traffickers promise victims chances to work in regular jobs, with fair wages and good working conditions.

In this situation (the context of a source country), it can be argued that a policy to target and control prostitution would have little to no effect as it does not address the causes of trafficking. Moreover, in this case, an abolitionist policy would most probably do more harm than good as local criminal organizations involved in exploiting sex workers would aim to move their operation to an international level. As a consequence, in the context of a source country, policies against human trafficking should focus on abolishing social and gender inequality and creating opportunities for its citizens so that they are less susceptible to the offers of traffickers.

As a consequence, there is a need for international coordination of the policies that aim to eradicate human trafficking. Seeing how this is a global phenomenon, it is not surprising that it requires an international response. Moreover, as some states need to focus on prostitution while other should focus on addressing their endemic inequality problems, for an efficient approach against human trafficking their efforts have to be coordinated. The infrastructure for this coordination already exists through supranational institutions such as the EU, the UN, Interpol, etc. However, an argument can be made that they should change their approach from elaborating a ‘universal’ policy against human trafficking to coordinating different states’ efforts and supporting their policies. Thus, it can be argued that their policy should be much more fluid and adaptable and thus allow for better results.

To sum up, human trafficking is a global phenomenon and needs international attention. Moreover, different states are affected by different segments of the phenomenon. Whereas wealthy states are usually identified as destination (arguably exploitation) countries, poor states are the main providers of victims. Thus, in the case of human trafficking for sexual exploitation, prostitution is just the exploitation part and as a consequence it is clearly linked with the destination

countries. In the other cases (transit or origin countries) the link between human trafficking for sexual exploitation and prostitution is much less relevant in terms of policy.



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