



Regulating prostitution: A health risk approach [☆]

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ABSTRACT

We build an equilibrium model of prostitution where clients and sex workers choose to demand and supply sex under three legal regimes: prohibition, regulation and *laissez-faire*. The key feature is the endogenous evolution of the risk as a consequence of policy changes. We calibrate the model to empirical evidence from Italy and then compare the effect of different policies on the equilibrium quantity of prostitution and on the harm associated with it. A prohibition regime that makes it illegal to buy sex but not to sell it is more effective than the opposite regime in reducing quantity. Taxes are one inducement to go illegal and prevent some of the less risky individuals from joining the market, leaving it smaller but riskier. A licensing system that prevents some infected individuals from joining the legal market reduces the risk and is therefore associated with an increase in quantity. Prohibition is preferable to minimize quantity only if a high expected fine is feasible. Regulation is best to minimize harm.

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1. Introduction

Throughout history, prostitutes have been priestess, artists, role models, workers, sinners or outright criminals. There is perhaps no other human activity that engendered such a wide array of attitudes. Attitudes that translated and still translate into different legislations and policies.

In this paper we study the effects of different policies on the prostitution market. Our goal is to inform the debate on prostitution policy and to fill a gap in the economic literature.

We start with the observation that all policy approaches can be classified into one of three broad categories: prohibition, regulation and *laissez-faire* (LF). Under prohibition, prostitution is illegal and the government enforces the law by spot checks resulting in fine or imprisonment. The United States (except Nevada), Russia, China and Iran are

examples of this regime. Peculiar cases of prohibitionism are Sweden, Norway and Iceland, where it is illegal to buy but not to sell sex services. In a prohibition regime, the only policy instruments available to government are enforcement probability and sanctions. Under a regime of regulation, there is a legal market for prostitute services, but access is restricted by licensing. The sex workers who take part in the legal market normally have to pay taxes and comply with various health requirements. Some individuals, on both the demand and the supply side, will optimally choose not to comply with the regulation so an illegal market will typically coexist with the legal. This means that the government must repress the illegal market. This kind of regime is found in Germany, Austria, Turkey, Bolivia and Mexico, among others. It allows for a wider range of policy instruments: entry restrictions, taxes, enforcement against the illegal market and, in general, all sorts of behavioral restrictions on the individuals in the legal market. Under LF, prostitution is legal and unregulated and the government refrains from intervention. Italy, Denmark, Portugal, Israel, Costa Rica and Canada are examples of this policy approach.

To compare those different policy approaches, we set up an equilibrium model of prostitution where clients and sex workers simultaneously choose whether to demand and supply sex, given the government policies. They both differ along two dimensions: the first is the value of their residual life, which they put at risk when joining the prostitution market. The second is their infection status: some individuals are already infected with a Sexually Transmittable Infection (STI henceforth), others are not. We model two costs of demanding sex services for a customer:

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the expected loss in case of STI infection and the social stigma in case he is identified as a customer, which can result, for instance, in a divorce. Similarly, we model three costs of supplying sex in the market: the expected loss in case of STI infection, the social stigma associated with being a sex worker and the expected loss in case of violent behavior, either from the customers or from the pimps.

A distinctive feature of the model is the endogeneity of the health risks associated with prostitution. The probability of infection with an STI when entering the market is the product of the probability of matching with an STI-infected individual and the exogenous transmission probability of the STI. The former quantity, in turn, is equal to the ratio of the number of infected individuals to the total number of individuals in the market (infected plus non-infected). Any policy will change the type of clients and sex workers who decide to enter the market, both in terms of infection status and in terms of lifetime earnings. A different composition of infected and non-infected endogenously changes the risks of the market, further affecting demand and supply, hence types, and so on. In a regulation regime, the policies will affect not only the choice whether to enter the market but also the choice of which market. Suppose, for instance, the government imposes screening on those who want to participate to the market, in order to keep the STI-infected out. This means that some infected individuals will go into the illegal market, heightening the risk there. But, as becomes less risky the legal market, more individuals may join it and if they are non-infected, risk decreases still. In short, we take a rational-expectations approach, which accounts for some of the behavioral responses to prostitution policies documented in the epidemiological literature.

Despite its simple structure, the model cannot be solved in closed form. Nevertheless, we are able to find an important analytical result, namely that there will always be an illegal market for prostitution in case of a regulation regime. In particular, there is either an equilibrium where both a legal and an illegal market coexist or one where only an illegal market exists.

We proceed by calibrating the model on actual data on the Italian prostitution market, whose legislation forges a *LF* regime. We then use this benchmark to evaluate the effects of alternative policies. We choose Italy because we have more information and data, which helps us apply more discipline to the model. While we solve the model for one country, we nevertheless believe that most of the insights hold in general. We perform several robustness tests that confirm this intuition.

In assessing the impact of different policies, we focus on two social goals that are associated with distinct cultural approaches: quantity minimization and harm minimization. On the one hand, those who consider the exchange of sex for money to be intrinsically repugnant want to reduce the number of transactions, i.e. the total quantity.¹ But where this moral judgment of prostitution is absent, or milder, the policy objective is naturally the elimination of the side-effects, hence the reduction of the harm associated with the market. We do not take a position in this debate, so that, de facto, the sex workers are the only ones subject to sanctions. We find that the Swedish approach is more effective than the American approach in reducing quantity and harm. However, if the stigma of being a sex worker is high, or if there is a high probability to face violence, there is less scope for a prohibition policy, as the main cost of joining the market is not due to the sanctions.

First we compare prohibition with *LF*. Since prohibition regimes differ in choice of enforcement target, (clients, sex workers or both), we look separately at the different cases. This allows us to compare two opposite approaches to prohibition. One makes it illegal to purchase sex but not to sell it, as in Sweden. The second, of which the United States is the most notable example, is characterized by a slack enforcement on clients, so that, de facto, the sex workers are the only ones subject to sanctions. We find that the Swedish approach is more effective than the American approach in reducing quantity and harm. However, if the stigma of being a sex worker is high, or if there is a high probability to face violence, there is less scope for a prohibition policy, as the main cost of joining the market is not due to the sanctions.

We then compare *LF* with regulation. We posit three different policy instruments: a tax on legal prostitution, enforcement against the illegal market, and a licensing system to keep infected sex workers out of the legal market. We show that taxation can be an effective policy if the social goal is to reduce quantity, but they increase harm. Taxes create an incentive to go illegal and prevent some of the less risky individuals from entering the legal market, leaving it smaller but riskier. The higher the stigma or the probability to face violence for the sex workers, the lower is the reduction in total quantity. Stepping up enforcement against the illegal market displaces part of the demand/supply to the legal market, so the illegal quantity decreases and the legal quantity increases as more individuals find it advantageous. Overall the behavior of total quantity is dominated by that of legal quantity and is therefore increasing. A licensing system to keep some infected sex workers out of the legal market reduces the risk and is therefore associated with an increase in quantity. But the risk effect predominates, so overall harm is decreasing.

Lastly we compare regulation and prohibition, finding that prohibition is more effective in decreasing quantity only if a high expected sanction is feasible. Regulation is better to minimize harm.² Consistently with the previous findings, we also find that, the higher the stigma and the probability to face violence, the less advantageous is prohibition.

In their work on male participation in the market for female heterosexual prostitution services in the United Kingdom, [Cameron and Collins \(2003\)](#) find that the perception of a high risk of contracting HIV/AIDS has a strong negative impact on prostitute service usage. Their results show a strong support for the view of “the man who pays for sex as a rational economic actor.” In accordance with these findings, in this work we take a rather narrow approach to model participation in the prostitution market. We consider the choice of rational individuals who maximize their utility taking into account a narrow set of costs and benefits, in the Law and Economics tradition that followed the work by [Becker \(1968\)](#). We ignore sociological, religious and, more broadly, cultural factors, related, for instance, to the relationship between sexes, to the role of women in society or to the perception of the male sexual identity. We also abstract from other important phenomena such as human trafficking, slavery and women exploitation.

A methodological note: in this paper we use the words “prostitute” and “sex worker” as synonyms, and we use them to denote the individuals that exchange sexual services for money. We do so since our paper focuses on the market for these services, and we do not consider cultural and sociological aspect of the phenomenon, which might attach more specific and different meanings to the two words.

1.1. Related literature

There is a growing literature on the economics of prostitution but a lack of works that deal directly with policy analysis. The only three exceptions, to our knowledge, are [Della Giusta et al. \(2009a\)](#), [Gertler and Shah \(2011\)](#) and the present paper. The former describes the effects of different policy approaches on the social stigma associated with buying and selling sexual services and its effects on equilibrium prices and quantities. [Gertler and Shah \(2011\)](#) discusses the effects of the enforcement of licensing on prostitution in Ecuador, finding that stricter enforcement against street prostitution is associated with decreased diffusion of STI among sex workers, but stricter enforcement in the brothels is associated with higher infection rates.³ The present paper, instead, considers the effects of enforcement, prevention and taxation

² Unfortunately we are unable to study a single model that encompasses, as special cases, each regime, to then find the overall optimal policy. The reason is that we do not have suitable data to assess the cost of different policy instruments. For instance, we would need to know the exact cost of increasing the enforcement against the illegal prostitution market or the cost of performing the health checks.

³ The reason is that enforcement in brothels raises the cost of being an unlicensed sex worker in a brothel with respect to complying with the license and with respect to participating in the street sector, where unprotected sex is more common and STI among clients more frequent; empirically, the migration towards the riskier street sector prevails.

¹ On the role played by repugnance and its consequences for transactions, see [Roth \(2007\)](#).

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