

# Does Legalized Prostitution Increase Human Trafficking?

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**Summary.** — This paper investigates the impact of legalized prostitution on human trafficking inflows. According to economic theory, there are two opposing effects of unknown magnitude. The scale effect of legalized prostitution leads to an expansion of the prostitution market, increasing human trafficking, while the substitution effect reduces demand for trafficked women as legal prostitutes are favored over trafficked ones. Our empirical analysis for a cross-section of up to 150 countries shows that the scale effect dominates the substitution effect. On average, countries where prostitution is legal experience larger reported human trafficking inflows.  
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**Key words** — human trafficking, prostitution, crime, scale effect, substitution effect, global

## 1. INTRODUCTION

Much recent scholarly attention has focused on the effect of globalization on human rights (Bjørnskov, 2008; de Soysa & Vadlamannati, 2011) and women's rights in particular (Cho, in press; Potrafke & Ursprung, 2012). Yet, one important, and largely neglected, aspect of globalization with direct human rights implications is the increased trafficking of human beings (Cho & Vadlamannati, 2012; Potrafke, 2011), one of the dark sides of globalization. Similarly, globalization scholars with their emphasis on the apparent loss of national sovereignty often neglect the impact that domestic policies crafted at the country level can still exert on aspects of globalization. This article analyzes how one important domestic policy choice—the legal status of prostitution—affects the incidence of human trafficking inflows to countries.

Most victims of international human trafficking are women and girls. The vast majority end up being sexually exploited through prostitution (United Nations Office of Drugs and Crime (UNODC), 2006). Many authors therefore believe that trafficking is caused by prostitution and combating prostitution with the force of the law would reduce trafficking (Outshoorn, 2005). For example, Hughes (2000) maintains that “evidence seems to show that legalized sex industries actually result in increased trafficking to meet the demand for women to be used in the legal sex industries” (p. 651). Farley (2009) suggests that “wherever prostitution is legalized, trafficking to sex industry marketplaces in that region increases” (p. 313).<sup>1</sup> In its *Trafficking in Persons* report, the US State Department (2007) states as the official US Government position “that prostitution is inherently harmful and

dehumanizing and fuels trafficking in persons” (p. 27). The idea that combating human trafficking requires combating prostitution is, in fact, anything but new. As Outshoorn (2005, p. 142) points out, the UN International Convention for the Suppression of the Traffic in Persons from 1949 had already called on all states to suppress prostitution.<sup>2</sup> See Limoncelli (2010) for a comprehensive historical overview.

Others disagree. They argue that the legalization of prostitution will improve working and safety conditions for sex workers, allowing sex businesses to recruit among domestic women who choose prostitution as their free choice of occupation. This, in turn, makes resorting to trafficked women less attractive (Bureau of the Dutch National Rapporteur on Trafficking in Human Beings, 2005; Segrave, 2009). While those who call for combating prostitution with the force of the law typically subscribe to the belief that prostitution is almost always forced and rarely truly voluntary (Farley, 2009), the view that the legalization of prostitution may reduce trafficking is typically held by those who believe that the choice to sell one's sexual services for money need not always be forced, but can be a

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voluntary occupational choice. See [Limoncelli \(2009\)](#) who discusses both sides of this debate.

In this article, we argue that theoretically the legalization of prostitution has two contradictory effects on the incidence of trafficking, a substitution effect away from trafficking and a scale effect increasing trafficking. Which of these effects dominate in reality, and whether legalization is therefore likely to increase or decrease trafficking, is an empirical question. The extant qualitative literature contains many strongly held views and beliefs, sometimes based on anecdotal evidence, but little in terms of systematic and rigorous research. We know of only two quantitative studies which have tried to answer this empirical question.<sup>3</sup> In their main estimations, [Akee, Bedi, Basu, and Chau \(2010\)](#) find that prostitution laws have no effect on whether there is any reported incidence of trafficking between two country pairs in a global cross-sectional dyad country sample. They do find a negative effect of legalized prostitution on human trafficking in two of their three sets of instrumental variable estimations (prostitution law is *not* the variable instrumented for), but this result is due to sample selection effects since the inclusion of settler mortality rates as an instrument leads to the loss of almost half of their observations, most likely in a non-random way. [Jakobsson and Kotsadam \(in press\)](#), on the other hand, find a positive effect of legalized prostitution on human trafficking in a cross-sectional monadic dataset of 31 European countries.

Our empirical analysis differs from these existing studies. [Jakobsson and Kotsadam's \(in press\)](#) study is similar to ours in that we also analyze human trafficking at the monadic country level. However, in contrast to their study, we use a global sample consisting of up to 150 countries. European countries are only a sub-sample of relevant destination countries for human trafficking. Not only are there other developed target countries such as the United States, Canada, Japan, Australia, and New Zealand, but also several non-OECD countries such as China, Pakistan, Turkey, Thailand, and some Arab countries, all of which are important destination countries as well. This begs the question whether [Jakobsson and Kotsadam's \(in press\)](#) finding can be generalized or is confined to Europe.

Despite our sample being global like [Akee, Bedi, et al.'s \(2010\)](#) study, we do not attempt to estimate the incidence of trafficking at the bilateral (dyadic) country level like they do. Dyadic studies only outperform monadic studies such as ours if the data quality at the dyadic level is sufficiently high. We contend that this does not hold for human trafficking. As will be explained further below, even at the monadic level the quality of data is relatively low. It is much worse at the bilateral level. With this in mind, one price that [Akee, Bedi, et al. \(2010\)](#) pay for moving to the dyadic level is the loss of all information on the intensity of trafficking—their dependent variable is a dichotomous one, i.e., whether trafficking between a country pair exists or not. This loss of information may well represent one reason why [Akee, Bedi, et al. \(2010\)](#) find no effect of prostitution laws on human trafficking in their main estimations.

The remainder of this article is structured as follows. In Section 2, we discuss what economic theory can tell us about the effects of legalizing prostitution on the incidence of human trafficking. Contrary to [Jakobsson and Kotsadam \(in press\)](#), who suggest an unambiguously positive effect, we show that the effect is theoretically indeterminate because the substitution effect and the scale effect work in opposite directions. Therefore, being an essentially empirical question, we are keen to construct a global dataset. We exploit a measure of the reported intensity of human trafficking flows into the country

under observation on a scale of 0–5. This measure and our research design are described in Section 3, while Section 4 presents the results. We find that countries with legalized prostitution have a statistically significantly larger reported incidence of human trafficking inflows. This holds true regardless of the model we use to estimate the equations and the variables we control for in the analysis. Also, the main finding is not dominated by trafficking to a particular region of the world.

## 2. THEORY

In this section, we discuss what economic theory suggests regarding the effect of the legalization of prostitution on trafficking. [Akee, Bedi, et al. \(2010\)](#) provide an excellent game-theoretic analysis on the effects of anti-trafficking law enforcement in source and destination countries between such country pairs. However, their analysis tells us nothing about the effect of the legalization of prostitution in itself. This is because contrary to [Akee, Bedi, et al.'s \(2010\)](#) implicit underlying assumption, the legalization of prostitution is not equal to laxer enforcement of anti-trafficking laws and, conversely, the fact that prostitution is illegal does not imply stricter anti-trafficking enforcement. Human trafficking always remains illegal even if prostitution becomes legal. Moreover, by erroneously equating the legal status of prostitution with different levels of law enforcement with respect to human trafficking, [Akee, Bedi, et al. \(2010\)](#) overlook other demand and supply effects that the legalization of prostitution may have on human trafficking. [Jakobsson and Kotsadam's \(in press\)](#) paper is closer to our theoretical analysis in this regard as they directly focus on the supply and demand effects of legalizing prostitution. However, they only take into account the scale effect, i.e., the expansion of prostitution markets after legalization. As we will show below, there is an opposing substitution effect replacing illegal, forced prostitution with voluntary, legal prostitution, making the overall effect indeterminate.

Our discussion is gender-neutral, referring to individuals, persons and prostitutes in general, rather than female prostitutes. This is because the theoretical arguments, in principle, equally apply to boys and, possibly, men, also trafficked into the sex industry. We are, of course, under no illusion that the overwhelming majority of individuals affected by trafficking are in fact girls and women.

A theoretical analysis of the effect of the legality of prostitution on international human trafficking is rendered complicated by the fact that, as [Edlund and Korn \(2002\)](#) point out, not all prostitution is the same. Street prostitution differs from prostitution in brothels, bars and clubs, which also differs from prostitution offered by call girls (and boys) and escort agencies. Differences include, but are not limited to, the types of services rendered, numbers of clients served, types of clients served, sizes of payments, and also the share of illegally trafficked prostitutes working in each market segment. For simplicity, we will avoid such complications by assuming that there is one single market for prostitution.

Let us assume a situation in which prostitution is entirely illegal in a country and those engaging in prostitution—i.e., sex workers, their pimps, and clients—are prosecuted, if caught. As with other illegal markets, e.g., the market for classified drugs or endangered species, illegality does not eradicate the market, given that there is strong demand from clients on the one hand, and the willingness to supply prostitution services on the other hand.<sup>4</sup> The equilibrium quantity of prostitution will be a function of supply and demand, just as in any

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