



# The Tragedy of Human Trafficking: Competing Theories and European Evidence<sup>1</sup>

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This paper explores an issue that is both domestic and international: whether legalization of prostitution leads to an increase in human trafficking. For both theory and public policy, this is an important query to answer, with implications beyond the cases in question. The principal domains of investigation are Germany, Sweden, and the Netherlands. These states subscribe to UN, EU, Council of Europe and OSCE agreements and are located in the same geographic region, yet have adopted opposite approaches to prostitution. The Netherlands and Germany legalized prostitution in 2000 and 2002, respectively. Sweden outlawed it in 1999 and imposed criminal penalties for the purchase of illicit sex. The preceding characteristics make these states ideal for a comparative exercise in the context of competing perspectives on human trafficking and legalized prostitution. We find that legalization leads to an increase in trafficking. The dynamics of trafficking are also associated with numerous factors, among which the most critical are government efforts specifically targeting the activity in the field of law enforcement. Implications for theory and public policy are offered, along with ideas about future research.

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## Overview: The Tragedy of Human Trafficking

Human trafficking transcends state boundaries, constitutes a major challenge to the world community, and “encompasses many diverse forms of exploitation” (Shelley 2010:2). It is an issue with domestic and international components, resembling other criminal activities that warrant study from the field of foreign policy analysis, such as the global drug trade (Bartilow and Eom 2009).

A rapid increase in Europe since the end of the Cold War makes human trafficking a growing concern. As Shelley (2010:217) observes, “too limited resources have been allocated within Europe to research and analyze trafficking from a multidisciplinary and comprehensive perspective.” More open boundaries since the fall of the Soviet Union have resulted in the spread of free markets and an unparalleled level of interconnectedness and information exchange—that is the positive news at the outset of this story. However, the tale continues with mixed outcomes: both winners and losers occupy roles in this global process. One of the corollaries of globalization is the worsening of economic disparity in

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the global South and in so-called second world countries in transition. In this context, and against the background of the impunity frequently enjoyed by transnational criminal networks, human trafficking becomes the modern version of slavery.

Trafficking of persons is a worldwide crime. A report from the United Nations Office on Drugs and Crime (UNODC 2006) identifies 127 origin, 98 transit, and 137 destination countries. (States can be in one or in several categories.) The report stresses that efforts to counter trafficking are hampered by lack of data and the reluctance of many governments to admit its existence (Vital Voices Global Partnership 2006:5). In its strategy to combat forced migration in Southern Europe (IOM 2001), the IOM spelt out the rising trafficking of women in the Balkans. The IOM outlined a wide range of factors behind the increase: “unemployment, lack of opportunities and lack of realistic information in the country of origin; civil and ethnic violence, the absence of legal instruments protecting women, the existence of porous international borders, corruption and non-existent or insignificant punishment for traffickers.” The relatively low risk and huge profits expected from trafficking “have resulted in the domination of this illegal activity by criminal organizations” (IOM 2001:2). The State Department reported in 2004 that, in the years since 1989, the annual supply of women from Eastern, Central European, and CIS countries to the sex industry of Western Europe ranges from 120,000 to 175,000. Among women trafficked from these areas, 80% are for sexual exploitation (UNECE 2004).

Trafficking of human beings is the third largest illegal trade globally (Limanowska 2002:13) after drug and arms smuggling, with revenues estimated between US \$5 billion and \$9 billion (UNECE 2004). Trafficking is the second most profitable, behind drugs (Shelley 2010:7) The State Department estimated in 2001 that at least 700,000 persons, especially women and children, are trafficked each year across international borders. Some observers claim that the number may be significantly higher (State Department 2001:1).<sup>2</sup> The UN reports that 2.5 million people have been trafficked from 127 countries worldwide (UNGIFT 2008). The ILO estimates 12.3 million people have been victims of this crime (in Shelley 2010:5). The issue of human trafficking, as will become apparent, is even more serious than official statistics suggest and needs more attention from police in countries of destination (The Independent 2002).

In this paper, we focus on the following question: Does legalization of prostitution lead to an increase in trafficking? Specifically, this study pertains to trafficking of women for sexual exploitation.

Trafficking is a transnational crime that encompasses not only women, but also children and men. It includes not only sex trafficking, but also trafficking for the purposes of labor and organ transplants. These forms of trafficking are no less significant or appalling. Our rationale for focusing on women and sexual exploitation is twofold: First, the overwhelming majority of trafficking worldwide is for purposes of sexual exploitation, 79%, according to 2009 UN figures (UNODC 2009c) and second, women are the most vulnerable group. The UNODC (2009a,b:11) specifies that, for the 61 states worldwide where gender and age information is available, 66%, or two-thirds, of victims of trafficking globally are women (the others being 13% girls, 12% men, and 9% boys).

A definition of human trafficking and theoretical approaches to trafficking and prostitution are covered in the second part of this paper. The third through fifth parts explore whether legalization of prostitution leads to an increase in

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<sup>2</sup> According to Swedish NGO Kvinna Till Kvinna, an estimated 500,000 women are trafficked each year into Western Europe, a large proportion of them from the former Soviet states (Kvinnforum 1999:1 in Limanowska 2002:20).

trafficking, with Sweden, the Netherlands, and Germany as case studies.<sup>3</sup> The final part provides conclusions, finding that legalization does lead to increase in trafficking, but police enforcement can reverse that trend. The paper concludes with ideas about future research.

### **Human Trafficking: Concept Formation and Theoretical Approaches**

Earliest among important human rights documents regarding human trafficking is the UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949). The Convention's Preamble states that "prostitution and the accompanying evil of trafficking for the purposes of prostitution are incompatible with the dignity and worth of the human person" (UN 1949). The definition currently employed for trafficking is that of Article 3, Paragraph (A) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which supplements the UN Convention against Transnational Organized Crime:

"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 (UN 2006).<sup>4</sup>

The convention stipulates three elements necessary for a crime to be specified as trafficking (NCID 2002:5–6). The first covers recruitment in the home country, transport to the country of destination, reception and accommodation in the country of destination, and the handing over of human beings from recruiter to receiver. The second element is that trafficking must be by means of threat or use of force, or other forms of coercion, abduction, deceit, or fraud. People can, in some cases, be kidnapped. They also may be prepared to work in the country of destination, but deceived concerning the nature of employment. The victims may be led to believe that they will be doing domestic work—employed at a restaurant or in some other innocuous way. Some women even know that they are going to work as prostitutes in the country of destination, but are misled with regard to the conditions. The third element of trafficking is that it is for the purposes of exploitation. Trafficking of women for sexual services is generally for prostitution, but sometimes for other related actions, such as the production of pornographic materials.

Four approaches characterize theorizing about trafficking of women.<sup>5</sup> The first conceptualization is "migration" as identified and critiqued by Uçarer (1999). The migration approach treats trafficked women strictly as illegal migrants. It views trafficking without incorporating the gender dimension, as a crime involving predominantly women, and without accounting for the human rights aspects of trafficking (Uçarer 1999:231–232). Human trafficking in this view is a threat to state security and, to a certain extent, the migration approach can be equated with a state-centric, realist viewpoint. The empirically oriented migration perspective sidesteps the significance of individuals and their lack of consent in the

<sup>3</sup> The online Appendix discusses the generalizability of findings and examines Belgium, Greece, and Switzerland.

<sup>4</sup> Human trafficking is defined differently from human smuggling, the key difference being lack of consent, which characterizes trafficking.

<sup>5</sup> The following review reflects the symbiotic relationship between activism and scholarly writing.

process; it focuses solely on state security. In fact, under the migration approach, the victim in the process is the state, as illegal migrants in fact are seen as violating the laws of the country in which they reside (Lazaruk 2005). While valuable as a source of research material, the migration perspective falls short of the concept formation available from more critical strands of theory.

Two of the other three approaches, “radical feminist/prohibitionist” and “sex worker,” look at trafficking as a human rights issue (Sullivan 2003:68–70). Sullivan (2003) credits the feminist exposition of Barry (1979, 1995; see Shelley 2010:25–26; note 99, for extensive feminist references) with defining the radical approach to trafficking. Barry treats both sexual exploitation and prostitution as violations of a woman’s body and spirit and therefore as subjects of feminist concern. Barry (1979) proposes a convention outlawing anything that violates the rights of a woman, from female genital mutilation to prostitution and female infanticide. She advocates an international document outlawing trafficking, with the women involved not to be punished (thus recognizing their subjection and objectification) and the traffickers and their business partners in the developed world held responsible instead.

A number of the practices that Barry advocates are now in place, as combating violence against women developed as an issue on the international agenda in subsequent decades. The UN General Assembly passed The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979. It came into force in September 1981 (UN 2009a). Article 6 of CEDAW calls on states to suppress trafficking and prostitution (Uçarer 1999:240). By the 1990s, trafficking entered the broadening agenda of women’s rights (Uçarer 1999:240). In 1992, the Committee on the Elimination of Discrimination against Women made a General Recommendation (#19) that defined “violence against women,” under CEDAW, as a form of discrimination (UN 2009b). The UN Fourth World Conference (that is, The Beijing Conference) raised awareness and generated further discussion of trafficking in 1995, designating it as another form of violence against women. Strategic objective D3 of the Beijing platform deals with eliminating trafficking and assisting victims of prostitution and trafficking, along with implementation of the 1,949 anti-trafficking convention (Uçarer 1999:240).

Following in the footsteps of Barry’s prohibitionist/abolitionist line of reasoning is the work of Raymond (2002), chair of the international Coalition Against Trafficking in Women (CATW). Raymond treats prostitution and trafficking in the same way as Barry and rejects state-sanctioned prostitution—it cannot be regarded as legitimate employment. She asserts that the term “state-sponsored prostitution” signals that, in any of the legalized systems that recognize the sex industry as a legitimate enterprise, the state effectively becomes another “pimp,” living off the earnings of women in prostitution (Raymond 2002 in O’Connor and Healy 2006:16). In the Netherlands, for example, legalized prostitution generates approximately \$1 billion annually (UNECE 2004) and is a notable source of tax revenue for the Dutch state (Raymond 2002).

With regard to state practice, a distinction is drawn between prohibition and abolition. Prohibition means that prostitution is illegal and, when they are caught, generally prescribes a penalty for the prostitutes. Examples include Afghanistan, Albania, Angola, Antigua and Barbuda, the Bahamas, Cambodia, China, Croatia, Cuba, Dominica, Egypt, Jamaica, Haiti, Iran, Iraq, Jordan, Kenya, Liberia, Lithuania, Philippines, Romania, Rwanda, Slovenia, Saudi Arabia, South Korea, Suriname, Uganda, the UAE, and the United States (at the federal level) (Hughes 2005; ProCon.org 2010). A 2009 study among 100 countries found that 40% prohibited prostitution, in 50% prostitution was legal or tolerated, and the remaining 10% had limited legality (ProCon.org 2010). Some of the countries in the final 10% category are abolitionist regimes. Abolitionism, in contrast to prohibition, sees prostitution as an offense to women’s

dignity. Thus, the *purchase* of sex is illegal, but the penalty is on the *buyer*, not on the seller (Uçarer 1999:236–237; Hughes 2005). In recent years, Sweden (1999), Norway (2008), and Iceland (2009) have applied the abolitionist approach.

Presented by Bindman and Doezema (1997, in Sullivan 2003:71–73; see also Elias 2010), the sex worker or “laborist” approach treats the activity of trafficked women in prostitution in the same way as the voluntary labor of prostitutes and sees trafficked women as sex workers who deserve human rights protection. Researchers who favor the laborist approach, such as Gülçür and Ilkcaracan (2002), Butcher (2003), and Murray (2003), regard prostitutes not as victims of violence against women, but as individuals making a conscious choice. Laborists see the solution to trafficking in creating better working conditions in a legalized setting and consider that criminalization of prostitution (i) facilitates the efforts of such networks to coerce women and (ii) makes the climate less safe for women in that sector (Sörensen 2003 in BNRM 2005a:6).

Fundamental to the argument of these researchers is the issue of agency—they argue that placing prostitution outside the law has a detrimental effect on workers and increases discrimination. This occurs because such practices perpetuate a stereotype of prostitutes as passive, allowing clients to see them as victims unable to resist, and treating them with impunity. Laborists believe that portrayal of trafficked women as mistreated individuals who are trafficked for sex leaves them lacking agency entirely, thus creating a hierarchy of victims (Murray 2003; Lobasz 2009). Laborists are concerned that, in such a setting, women who have chosen to become sex workers do not garner the same kind of sympathy as trafficked women and those trafficked for non-sex-related labor easily become considered “illegal immigrants” (Lobasz 2009:23). Thus, laborists contend that, contrary to the prohibitionist view, women have *less* agency when prostitution is illegal. As state policy, the sex worker approach is labeled as “regulationist,” as prostitution is regarded as work, and the state regulates brothels (Hughes 2005).

Proponents of the final approach, known as “repressive” within the feminist literature, oppose legalized prostitution but do not envision a comprehensive international document, such as the one proposed by Barry, as a solution. The repressive approach is summed up by Aghatise: “the view that legalization of prostitution curbs the problem is deceptive” (2004:1149). Opponents of legalized prostitution, such as Agustín (2001), Haveman and Wijers (2001 in BNRM 2005a:5), and Hughes (2000, 2005), argue that it cannot be regarded as work. Legalization of prostitution is also criticized because becoming entrapped in prostitution involves a complex interaction among coercion, deception, dependence, and choice (Kelly and Regan 2000:19 in O’Connor and Healy 2006). Opponents of legalized prostitution favor the suppression of prostitution and hold that its legalization will encourage trafficking.

During the 1990s and especially after The Beijing Conference (1995), a push took place among feminist activists who tried to distinguish forced from voluntary sex work (Sullivan 2003:72). Activist organizations coalesced into the Global Alliance Against Trafficking of Women, which argues for more international legal regulation of traffickers and prostitutes. While Sullivan (2003) sees radical feminist approaches as “fundamentally flawed” and detects significant discursive and practical usefulness in advancing the position of both sex workers and trafficking victims in the sex work approach, the latter is not without limitations: It does not address the causes of human trafficking, but merely responds to it, exclusively in terms of international law. This laborist approach, moreover, is irrelevant to many trafficking victims, even if it is accepted hypothetically (which is generally not the case) that those individuals want to be in the sex industry,

since they are generally not allowed to work in the countries into which they are trafficked.<sup>6</sup>

Differences between the theoretical viewpoints on the link between prostitution and trafficking have been summarized in Jakobsson and Kotsadam (2010). Supporters of the laborist approach not only oppose criminalization of prostitution, but also condemn trafficking. These sex-work feminists consider that when prostitution is illegal, the result is exploitation, including trafficking. They see the solution in the regulation of prostitution, just like any other business enterprise (Jakobsson and Kotsadam 2010:5–6). On the other hand, prohibitionists and those favoring the repressive approach think prostitution should be illegal. They argue that measures against prostitution also target trafficking (Anderson and O’Connell Davidson 2002 in Jakobsson and Kotsadam 2010:6). This viewpoint is shared by the abolitionists, who consider prostitution and trafficking as inherently linked, and penalties on the buyers of sex as aimed at abolishing both.

### **Enforcement and the Migration Approach**

This paper also addresses the important role of police enforcement and its effect on trafficking of women. No developed body of literature exists on the role of enforcement in prostitution regimes in particular; in academic writing, enforcement has been critiqued from a human rights perspective. Human rights scholars emphasize that sometimes governments do not fully protect the rights of victims, holding them in detention centers or deporting them (Lansink 2004:26), and that an immigration strategy that relies on the criminalization of migrants ultimately undermines anti-trafficking objectives (Chacón 2010:1637).

Human rights advocates have gone further in criticizing stringent enforcement, arguing that states may use trafficking in an effort to put a human face to tough enforcement and justify immigration control (Chacón 2010:1642–1644). Some authors have held that the EU policy on trafficking is underpinned by a crime control approach and that the purpose of the *EU Council Framework Decision on Combating Trafficking in Human Beings*, while stating as its objective to protect the human rights of affected persons, has been utilized to limit irregular migration (Krieg 2009:790). These concerns about enforcement run counter to the migration approach (discussed in the previous section), which treats trafficked individuals merely as illegal migrants.

We seek to investigate the importance of *police* enforcement for exerting downward pressure on trafficking. Despite the overlap between police and immigration enforcement, as both originate within organs of the state, we distinguish between the two. The paper does not argue for tougher immigration enforcement and, as clarified in the case studies, emphasizes the importance of a government approach in line with human rights values, and one that includes residency permits, social services, and a supportive approach to victims. We are therefore examining enforcement as a factor in terms of effectiveness in anti-trafficking efforts, simultaneously not favoring the “migrant as criminal” approach.

Before embarking on the principal case studies, it is appropriate to pause briefly to discuss their selection. The three states are similar along many dimensions, such as geographic location, level of development, and international agreements signed regarding human trafficking. Their different policies on

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<sup>6</sup> For the linkage between gender and trafficking, see Jeffreys (2010) and Lobasz (2009). Multicountry historical overviews appear in Ditmore (2006). For the liberal political theory approach to prostitution, see Pateman (2006). For the radical political theory feminist approach, see Dworkin (1993) and MacKinnon (1993, 2005). For a feminist approach favoring legalization, see Chapkis (2003) and Kempadoo (2005). For the response to the latter opposing legalization, see Agustín (2006).

prostitution provide an opportunity for comparison in relation to outcomes regarding human trafficking. As will become apparent, the three states differ in the context of the four theoretical approaches just described.<sup>7</sup> Our empirical evidence utilizes information reported by the Swedish, German, and Dutch governments and State Department Reports as a supplement to government data. Our reliance on the State Department's annual report for a study focused on Europe is due to its breadth of coverage and role "as an influential monitoring... regime for international trafficking" (Chacón 2010:1621–1622).

### Sweden's Policies to Combat Prostitution and Trafficking<sup>8</sup>

Sweden has applied the abolitionist approach as policy since 1999, for which it is widely regarded as a success story by organizations such as the European Women's Lobby (EWL) and CATW. It is examined as a case illustrative of the relationship between the outlawing of the *purchase* of sex (targeting buyer demand) and trafficking of women. Covered in the description below are Sweden's relevant international agreements and foreign policies. Domestic efforts include legislation, setting governmental priorities and inter-agency implementation, enforcement against prostitution and trafficking, and awareness-raising.

Largely as a result of the women's movement and after almost three decades of prostitution being legal, Sweden outlawed the purchase of sex in 1999 (Ministry of Industry, Employment and Communications of Sweden 2004:1). In 1998, the Swedish legislature passed the Act that Prohibits the Purchase of Sexual Services, which took force on January 1, 1999. The law imposes a penalty on the consumer, and not on the woman, or potentially trafficked victim, as selling of sexual services is not punishable (Di Nicola, Lombardi, Cauduro, and Ruspini 2009). Purchase of sexual services, however, is interpreted as violence against women; the offender can be fined and sentenced to up to 6 months in jail (NBTF 2005:8).

This legislation is widely popular among Swedes: in a June 1999 survey, 76% of respondents favored it. By October 2002, this percentage had increased to 81% (Ministry of Industry, Employment and Communications of Sweden 2004:1). The success of Sweden in combating prostitution and human trafficking is based on both this public support and the law's effect in making the business unprofitable (Aghatise 2004:1152–1153). This finding would lend credence to the abolitionist claim that measures targeting prostitution also target trafficking.

Sweden features a comprehensive program to increase awareness and educate citizens about the effects of trafficking. Following the 1997 Hague Declaration, Sweden commissioned the National Criminal Investigation Department (NCID) of the National Police to survey and eradicate trafficking of women (OHCHR 2005:4). Later the mandate was expanded to human trafficking. Sweden implemented an across-the-board collaboration among government agencies and played a leading role in regional anti-trafficking initiatives, such as the Baltic Sea Task Force, which it chaired in 2000 and subsequent years (NCID 2001:8).

Swedish efforts are intensifying: in July 2008, Sweden adopted a novel national plan against prostitution and sex trafficking, which emphasizes greater protection for people at risk, preventive work, higher standards and efficiency in the justice system, increased awareness and national and international cooperation (SNCCP 2008). Altogether, up to 2010, the government has invested 213 million Kroner (30.3 million USD) in the effort (Ministry of Integration and Gender

<sup>7</sup> For a treatment of selection-related issues, see Marinova and James (2010).

<sup>8</sup> A discussion on the generalizability of findings, as well as a detailed treatment of secondary cases (Belgium, Switzerland, Greece, Norway, and Iceland), are contained in the online Appendix to this article.

Equality 2008:1, 2009:7). In 2011, a comprehensive follow-up to the plan will be undertaken and presented to the Riksdag.

Human trafficking obtained status as a priority crime in 2004 and is accorded considerable media attention (NCID 2004:4). In 2004–2006, the government allocated to police 30 million Kroner (3.9 million USD) for human trafficking. Government campaigning extends as far as travel agencies in Sweden, which are required to adhere to an anti-trafficking protocol (NBTF 2005:4). While no trafficking case has reached the Supreme Court, Sweden convicted two people of trafficking in 2003, eleven in 2006, and two in 2007 (SNCCP 2008:24).

Proposed by a parliamentary commission and effective October 2004, the *Smuggling of Human Beings*, a time-limited residence permit to injured parties and witnesses envisions that the victim, under a temporary permit, should (i) be given health-care benefits similar to those accorded asylum-seekers and (ii) have legal proceedings' costs met by the government (NCID 2004:10). Residence permits awarded to victims represent a significant step in implementing EU and Council of Europe provisions at the state level. Legal provisions in European countries do not all include a mechanism for victims to receive aid to be able to stay and testify in trafficker prosecutions. Victims may be deported, which would be an application of the migration approach to trafficking. In contrast, the Swedish policy allows for assistance, testifying in court and even a "period of deliberation" regardless of willingness to collaborate with the prosecution (NCID 2003:12).

Swedish anti-trafficking activity features diverse intra-governmental coordination (Ministry of Integration and Gender Equality 2009:13,16; NCID 2003:3–4, 12, 25, 27). As procurement is a crime with several dimensions, awareness of the prospective problem of a bureaucratic shuffle between immigration authorities and those investigating violent crimes is crucial (NCID 2002:36–37). NCID works with the Ministry of Industry, Employment and Communications' Equality Unit and the Swedish Institute (NCID 2003:28) to carry out campaigns, organize seminars (OHCHR 2005:8–9), and screen films. The numerous invitations to NCID confirm its success and include Migration Boards, police offices, community organizations, and university associations throughout Sweden, confederations of employees, the Left Party and the Baptist and Immanuel Churches in Stockholm (NCID 2004:7, NCID 2009:21).

Between 2005 and 2007, Sweden executed the Cooperation Against Trafficking Project, which involved the Police and Prosecution Authorities, the National Board of Health and Welfare, the Migration Board, county administrative boards and social and customs agencies (Ministry of Integration and Gender Equality 2009:19). Another example of inter-organizational cooperation is the April 2003 pilot project for combating trafficking, financed through the European Refugee Fund and coordinated by the Women's Foundation in Stockholm. With an emphasis on combating (i) sexual exploitation of women and children and (ii) forced labor and organ removal, Sweden's Ministry of Industry, Employment and Communications conducted a national anti-trafficking program (Ministry of Industry, Employment and Communications of Sweden 2005a). In 2003–2004, the Ministry of Justice reviewed Chapter 4 of the Penal Code and expanded the definition of human trafficking to include organ trade and exploited labor (NCID 2004:4).

Sweden is involved in numerous regional and international initiatives. The organization entrusted with combating trafficking, NCID, coordinates daily with Europol and Interpol (NCID 2001:26). Sweden sponsored the "Project against Prostitution and Trafficking in Human Beings in the Barents region" against trafficking of women and children for prostitution from Russia's Murmansk and Arkhangelsk regions into Finland, Sweden, and Norway (Ministry of Industry, Employment and Communications of Sweden 2005b). Sweden also leads



anti-trafficking efforts in the Baltic. The Nordic-Baltic campaign against Trafficking in Women took place in 2001–2002 (NBTF 2003). In 2002, the foreign ministers of the Nordic and Baltic countries appointed a Nordic Baltic Task Force against Trafficking in Human Beings (NBTF), at the initiative of former Swedish Foreign Minister Anna Lindh. NBTF, chaired by Sweden, includes Denmark, Estonia, Finland, Iceland, Latvia, Lithuania, Norway, and Sweden (NBTF 2003). It began in 2003 and since 2006 has operated within the Council of Baltic Sea States (NBTF 2006:5–6). In 2005–2008, NBTF's Nordic Baltic Pilot Project for the Support, Protection, Safe Return and Rehabilitation of Women Victims of Trafficking for Sexual Exploitation, coordinated by EWL, provided \$1 million Euro for victims (Turner and Kelly 2008:5).

During the 2006 soccer World Cup, Sweden cosponsored a program with IOM to increase human trafficking awareness and in 2007 funded programs in the former Yugoslavia, Romania, Albania and Bulgaria, and a UNODC project in Brazil (RFE/RL 2006, State Department 2008). During its EU presidency in 2009, Sweden hosted a 400-participant conference on trafficking, with ministers, officials, and organizations from EU states, the Vice President of the European Commission and representatives from Armenia, Brazil, Ghana, Norway, and Thailand (Ministry of Justice 2009). Sweden declared it sought to strengthen the EU legislative framework on trafficking. In December 2009, the Swedish Ministry of Justice (SNCCP 2008) announced that after intensive negotiations, EU justice ministers had reached consensus on new provisions to (i) broaden the concept of trafficking in human beings to cover more cases than at present; (ii) increase penalties at EU level; and (iii) give member states greater jurisdiction over offenses committed abroad.

Based on interviews with traffickers, the Swedish National Council on Crime Prevention reports that the law against purchasing sexual services has affected the market and is a barrier to trade (SNCCP 2008:124–125). According to an informant convicted of procuring, the police in Sweden are the only “problem” since sex buyers in Sweden are “nice and not angry.” In another case, the major deterrent was that criminals had observed the police following them everywhere, which made it impossible to continue running the business. Other procurers in recorded conversations mentioned possibly moving to Southern Europe, where travel is easier and visas not required to the extent they are in Scandinavia. Some interviewed procurers say that it is not the law that matters, but police methods (SNCCP 2008:124–125).

Interviews with police reveal similar findings: an increased knowledge about trafficking, especially compared to pre-1999 (Theocharidou and Guigou 2007:30). Other interviewees infer a dampening effect—that prostitution was more widespread before 1999, and the law discouraged would-be traffickers from starting a business. Police interviewees consider trafficking a phenomenon that existed before the law's implementation, but had not gained legislative priority (Theocharidou and Guigou 2007:30). Finally, the legislation is popular among Swedes, according to national polls and interviewees in the Prostitution Unit, and prostitution and trafficking are considered interconnected (Theocharidou and Guigou 2007:31), a view also espoused by supporters of the abolitionist approach. The interviews with law enforcement officials and traffickers underscore that the actions of the state have the greatest impact, whether in the form of legislation, police enforcement, or both.

What, then, do the numbers say about human trafficking in Sweden? Sweden is a medium-level destination country, according to UNODC.<sup>9</sup> However, as the government does not release data on number or characteristics of victims, it is

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<sup>9</sup> UNODC (2006) ranks destination countries in five categories (Very High, High, Medium, Low, and Very Low).

difficult to draw conclusions based on quantitative data. Additionally, data for the period prior to 1999 are unavailable. The data that can be assembled appear in Table 1. Data on convictions since 1999 show an increase up to 2005—and then a decrease. The data on trafficking investigations and number of prosecutions for a 4-year period show a slight decrease. Yet, altogether, the information in the table is limited and inconclusive. According to government statements, there are “no exact figures showing how many women and children are exposed to trafficking for sexual purposes in Sweden” (Ministry of Integration and Gender Equality 2009:5). In 2001, NCID reported a steady or increasing rate of trafficking (2001:29). In 2000–2002, it estimated trafficked victims in Sweden at 200–300 (NCID 2002, 2003), and in 2003, 400–600 women trafficked annually into Sweden for sexual exploitation. The police subsequently chose not to release an estimate (NCID 2003, 2004, 2005, 2006, 2009 in SNCCP 2008:24).

The NCID asserts that the number of trafficking victims discovered in Sweden depends largely on police resources used in crime detection. Police work varies considerably from one country and year to another, and thus their record of service cannot serve as a solid indicator of changes in trafficking (NCID 2009:5). The government’s analysis and the interview data with criminals and law enforcement officers all underline the importance of enforcement, a finding that we subsequently evaluate for the Netherlands and Germany. As discussed previously, enforcement refers not to stricter immigration enforcement, but to police efforts aimed at eliminating trafficking.

### The Dutch Experience with Legalization

The Netherlands, while a party to the same UN, EU, OSCE and Council of Europe conventions, has a contrasting approach to Sweden. The Netherlands legalized prostitution and continues to regulate it. This makes the Dutch case an excellent one for testing the predictions of the laborist (sex work) approach, which condemns trafficking and argues that legalization of prostitution is the best solution to countering trafficking, as legalization would best address the exploitative elements in prostitution, including trafficking. The account of the Dutch experience begins with the legalization of prostitution, continues with a review of anti-trafficking measures, and concludes with statistics on the link between the two.

TABLE 1. Trafficking Data: Sweden

<i>Year</i>	<i>Total combined convictions for trafficking (since 2002) and procuring and grave procuring (1999–2008)</i>	<i>Reports of Trafficking</i>	<i>Trafficking investigations</i>	<i>Trafficking prosecutions</i>
1999	2	n/a	n/a	n/a
2000	9	n/a	n/a	n/a
2001	1	n/a	n/a	n/a
2002 <sup>†</sup>	5	n/a	n/a	n/a
2003	15	n/a	n/a	50
2004	19	n/a	n/a	n/a
2005	25	44	44	15
2006	11	37	28	21
2007	13	34	15	13
2008	12	n/a	23	13

(Source. NCID 2004: Annex 2, 2006, 2009:5; State Department 2004, 2007, 2008, 2009; UNODC 2009a:284.

Notes. <sup>†</sup>Anti-trafficking legislation entered into force in 2002.)

Brothels became legal on October 1, 2000, with supervision by municipal governments (BNRM 2005a:16). Prostitutes are required to be at least 18 and authorized to work legally in the Netherlands. Coercion regarding sexual services was outlawed (BNRM 2005a:14). The Aliens Employment Act permits employment in the sex industry for citizens of (i) the 15 EU members before the May 2004 enlargement or (ii) Iceland, Liechtenstein, and Norway (BNRM 2005a:22). Most countries of origin for trafficking victims, nonetheless, with the exception of domestic trafficking within the Netherlands, fall outside these borders and include Bulgaria, China, the Czech Republic, Nigeria, Poland, Romania, the Russian Federation, and the Ukraine (Foundation against Trafficking, in BNRM 2005a:57, b: Appendix 5).

During its EU presidency, the Dutch government held a conference on trafficking of women, which produced the 1997 Hague Declaration calling for appointment of national rapporteurs. The Netherlands appointed as National Rapporteur Anna Korvinus in April 2000 and in 2006, Corinne Dettmeijer-Vermeulen. The rapporteur directs a small bureau, can access police records, and is intended to be an independent reporter on trafficking (NBTF 2004). Her seventh annual report was released in October 2009 (BNRM 2009).

The international agreements signed by the Netherlands include the UN Convention against Transnational Crime (2003) and the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, which came into effect in 2003. Ratified by the Netherlands, CEDAW's Article 6 requires members to take any suitable measures to "suppress traffic in women and exploitation of prostitution of women" (UN 1981). Human trafficking, as a crime against humanity, falls under the jurisdiction of the International Criminal Court (ICC), to which the Netherlands is party and host. In 2003, in keeping with ICC provisions, the Parliament passed the *International Criminal Offences Act* (BNRM 2005a:44, Nollkaemper 2008:16). Legislation in November 2003 placed the Netherlands in line with Article 1 of the *EU Framework Decision on Combating Trafficking in Human Beings* and Article 3 of the *UN Protocol*; under the definition of trafficking are sexual exploitation of another person, work comparable to slavery, commercial organization of such activities or those pertaining to organ removal, and profiting from any of the above-mentioned activities.

Consequently, the Criminal Code was revised in 2005 to include an article (273a) that treats as crimes all forms of human trafficking, not limited to the sex industry (BNRM 2005a:17–18). Previously, the fine was 45,000 Euros, with jail time up to 6 years (up to ten in case of a victim under 16 or with more than one person involved). The 2005 bill maintained fines but increased jail time to 12 years if bodily injury or life endangerment occurs, and up to 15 if the trafficking results in death (BNRM 2005a:17–18). In 2009, the maximum prison sentence for human trafficking without aggravating circumstances increased from 6 to 8 years, and for any aggravated form of human trafficking from 10 to 12 years (BNRM 2009 Summary 15:1). In December 2008, the Interior and Justice Ministers proposed draft regulations to combat sex trafficking in legalized prostitution (State Department 2009:220).

Victim treatment upon identification is significant for the handling of trafficking by the state. Sometimes, as after "street-clearing campaigns," the women are regarded merely as illegal aliens and deported immediately, which impedes trafficking prosecutions (BNRM 2005a,b:92–93) and is a policy that epitomizes the migration approach to trafficking. Section B-9 of the Aliens Act of 2000 allows for trafficking victims to remain in the Netherlands for 3 months and access legal and medical services if they cooperate with authorities. The 2005 legislation expanded the (B-9) residency permits to the additional categories. After repeated proposals from Dutch agencies to grant refugee status (B-9 permit) to victims of trafficking (who, in some cases, may have entered and remained

illegally in the country), legislation changed in November 2007. Trafficking victims who choose not to assist the prosecution are eligible for a residence permit if they might face retribution upon return to the homeland and are not to be incarcerated, fined, or penalized for unlawful acts as a result of trafficking (State Department 2007:157, 2008:191). Temporary residence also can be granted to victims who do not report a trafficking case, but cooperate in another way with investigators. If there is evidence that a detained alien is a trafficking victim, police must inform her of the possibility of aiding the investigation and eligibility for a reflection period, in which case grounds for detention are nullified and it must end. However, implementation is problematic, as the provision can be granted if both police and prosecution agree, for which there is no clear protocol as of 2008 (BNRM 2008:2). The 2003–2006 police *National Framework* defines strengthening supervision of illegal aliens as an institutional goal; success tends to be measured by their numbers in detention, which may include trafficking victims (BNRM 2005a,b:92–93). Therefore, handling illegal immigration and prosecution of trafficking sometimes appear to be contradictory. A policy sensitive to the human rights of victims, where they are not merely regarded as illegal aliens and deported (as a migration approach would envision), is important, both in its codification in law and in its implementation.

After being identified as trafficking victims—the alternative scenario—women are assigned to “reception centers” managed by the government and NGOs. Nonetheless, admission into a reception center did not follow 45% of applications in recent years, and there are long waiting lists (BNRM 2005a,b:67).

Overall, Dutch policy focuses on repatriation and on victims’ return to their home country. The problem that arises is that in many origin countries, the government provides little support or even prosecutes the victims under the governing anti-prostitution laws. In addition, traffickers are aware of victims’ deportation, await their return, and may endanger their families.

The 2005 Korvinus report emphasized that there is no understanding on the national level of the nature and extent of the trafficking problem in regulated brothels (BNRM 2005a:88). In 2007, the Ministry of Justice attempted to address this by carrying out an assessment of the legalized prostitution sector, including the extent of trafficking, within a report to Parliament (State Department 2007:157). In 2008, an anti-trafficking task force was chaired by the attorney general and the Social Ministry’s Labor Inspectorate began to screen brothels for signs of exploitation (State Department 2008:192).

Police projects target trafficking and concentrate on (i) increasing training for police members (BNRM 2005a:88–89); (ii) compliance with legislation regarding prostitution; and (iii) awareness among prostitutes about trafficking. In May 2007, Amsterdam opened a center to facilitate NGO–police communication and provide shelter (State Department 2008:192). It is important to emphasize that while the Dutch government has made efforts to tackle trafficking, the police eventually shelve approximately a quarter of viable cases for criminal investigation due to a shortage of staff, which hampers effective anti-trafficking enforcement. That makes for a staggering 80,000, of which at least a portion are trafficking cases (BNRM 2005a:97).

The 2000 law mandated periodic assessments of the brothel sector. In 2005, the Justice Ministry began the second assessment and distributed guidelines to civil servants, consulate and NGO staff to increase identification and support of trafficking victims (State Department 2006). In 2007, an agreement between the Justice Ministry and the newspapers’ association committed the latter, when publishing ads for escorts (which may involve trafficking), to require a business license or VAT number (State Department 2008:192).

The Netherlands funds awareness programs in the source countries and in 2004–2006 committed \$21.3 million to that goal; in 2007–2008, \$3.75 million;

and in 2009, \$2.5 million, primarily in Europe, the Caribbean, Asia, and Africa (State Department 2006, 2008:192, 2009:220). The Netherlands has appointed coordinating and local prosecutors to combat trafficking.

UNODC director Costa welcomed Dutch anti-trafficking efforts in 2006 in response to a campaign of *Meld Misdaad Anoneim* (UNIS 2006). Funded by the Justice Ministry in 2006–2009, it targets forced labor in prostitution and seeks to identify trafficking victims and encourage clients, residents, shopkeepers, and taxi-drivers to detect warning signs and contact authorities. It is a collaboration of police, the Office of the Rapporteur, the Expertise Center for Human Trade and Trafficking, the Foundation against Trafficking in Women, as well as organizations such as former victims' *Atlantas* and sex workers' *De Rode Draad* (State Department 2008:192, 2009:220). Actively involved in awareness and victim support efforts are NGOs such as *La Strada*, the *JOS Project*, Dutch Foundation of the Religious against Trafficking in Women, and “Bonded Labor in the Netherlands” (BNRM 2005a:74, 76, 78).

Another category of trafficked victims with dependency status are (i) married to men legally in the Netherlands and (ii) forced into such work by their partner. They are generally unwilling to come forward, which makes their identification difficult (BNRM 2005a:54).

Data for 2001 and 2002 reveal that most residence permits are given to women in the 18–25 (66%) and 26–30 (16%) age group. For 2005–2006, the trend is similar, with 8% and 18% underage, 48% and 47% aged 18–25, and 30% and 15%, respectively, in the 25–30 years category (BNRM 2007:50, 2008:13). The data clearly indicate the vulnerability to trafficking of younger individuals. This is corroborated by the age breakdown of trafficking victims in 2001–2005, with 47% under 24 (BNRM 2007:49).

Trafficking data from the Netherlands in Table 2 reveal an increase in victim numbers.

The victims in 1998 and 1999, before legalization, are 228 and 287, respectively. The following years reveal no number lower than 257, in 2003. Finally, for 2004, the number reaches 405. Data for 2006, 2007, and 2008 show a clear increase. The number of victims for 2008 is 3.6 times that in 1998. Additionally, for 2004–2008, the number of victims more than doubled, from 405 in 2004 to 826 in 2008. There is a twofold possible interpretation for this data: (1) there is an increase in the number of victims trafficked into the Netherlands or, alternatively (2) when brothels are legal, there is increased police enforcement, and therefore, the number of victims of trafficking discovered and registered is

TABLE 2. Trafficking Data: The Netherlands

Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Registered victims	228	287	341	284	343	257	405	424	579	716	826
Trafficking convictions	62*	62*	62* <sup>†</sup>	60	66	80	116	81	70	73	79 <sup>†</sup>
Completed investigations into trafficking (by police; sent to prosecutor):	14	16	25	48	55	42	60	135	201	(221) <sup>‡</sup>	n/a

(Notes. Dutch Foundation against Trafficking (BNRM 2002b:95, 2005a:9, 56, b:3, 9, Appendix 5); State Department (2006, 2007, 2008, 2009) (BNRM 2007:99, 2008, 2009:13). In discrepancies between the State Department and BNRM figures, we have utilized the latter.

\*The figure 62 is an average. Data released by the Dutch National Rapporteur (BNRM 2002: 95) gives a comprehensive figure for 1995–2000 (1st half of 2000). We divide it (343) by 5.5, which is 62 per year;

<sup>†</sup>Total convictions for trafficking based on authors' correspondence with BNRM (Office of the Dutch Rapporteur on Trafficking in Human Beings), January 31, 2010;

<sup>‡</sup>This number falls into a slightly different category: the completed investigations by the Prosecutor (not Police, as with the rest of the column), based on e-mail correspondence with BNRM. Data on completed police investigations was not collected for this time.)

higher (Daalder 2007). The information shows a rising number of investigations, which for 1998–2004 grew from 14 to 60. Nonetheless, investigations are not keeping pace with the growth in victim numbers, which contradicts the argument about effective police activity.

Causality is difficult to establish, so we turn to data on number of prosecutions and convictions from Table 2 as an indicator of enhanced law enforcement activity. The data do not bear out the argument that increased transparency in the prostitution sector, more registered victims, and thus more effective policing have resulted from a legalization of prostitution (BNRM 2005a:181–183; UNODC 2006:72; Daalder 2007:84), which would be an argument favored by the sex work/laborist approach. Prostitution became legal in 2000. The subsequent increase in investigations is slight; only from 2005 onwards does the number of investigations increase significantly. Growth in victims outpaces the increase in investigations. Thus, we cannot infer a clear increase in law enforcement activity because the number of trafficking convictions has remained relatively steady. In summary, the data suggest that legalization of prostitution leads to an increase in trafficking, as predicted by the prohibitionist and repressive theoretical approaches.

### **The German Experience with Legalization**

The German case is similar to the Dutch one in its regulation of prostitution. It is another instance in which to test the predictions of the sex work/laborist theory that would argue that legalization curbs the problem of trafficking, versus those of the repressive and prohibitionist approaches, which oppose legalization and consider it a factor that exacerbates trafficking. The Bundestag passed *The Act Regulating the Legal Situation of Prostitutes (Prostitution Act)* on December 20, 2001. It came into force on January 1, 2002. The Act legalized prostitution as a profession, gave prostitutes access to health and pension benefits, and designated the buying/selling of sexual services as a contract. The legislation sought, on paper, to improve the legal and social position of prostitutes, weakening criminal activities that accompany prostitution and assisting those wanting to leave the occupation (Kavemann, Rabe, and Fischer 2007:9–11). Prostitution, before the legislation, was not illegal per se, but a number of related offenses were in a gray semiprohibited area. Before the *Prostitution Act*, running a brothel was not a criminal offense. However, any business that kept prostitutes in personal or economic dependency, along with supporting actions related to prostitution that went beyond “merely providing housing,” was criminal. Prior to the legislation, anyone who promoted prostitution commercially by finding clients for sexual services (including prostitutes themselves) had committed a crime. These were considered “immoral acts” (Kavemann et al. 2007:4–5). However, according to a study released more than 4 years after the Act came into force, its implementation by state authorities could be classified as ambivalent due to the lack of a clear will to put its stated objectives into practice (Kavemann et al. 2007:34).

Germany prohibits all forms of human trafficking; trafficking for sexual exploitation and forced labor are criminalized in Sections 232 and 233 of the Penal Code. After February 2005 revisions, the German Penal Code stood in accordance with (i) UN and EU guidelines (State Department 2005, 2007, 2008); (ii) the 2000 UN Trafficking Protocol; and (iii) the EU Council Framework Decision of July 2002 on Combating Trafficking in Human Beings (BKA 2005:21). Penalties prescribed for trafficking for both sexual exploitation and forced labor range from 6 months to 10 years and are commensurate with penalties for other grave crimes, such as rape. Victims are not penalized for unlawful acts committed as a direct result of being trafficked (State Department 2007, 2008).

Various ministries have undertaken efforts to combat trafficking, including The Federal Ministry for Family, Seniors, Women, and Youth (Family Ministry)

heads the Interagency Working Group on Trafficking in Women (State Department 2001, 2003), the Ministry of Foreign Affairs coordinates international conferences on trafficking (State Department 2002), and the Ministry for Economic Development, which since 2003 has been funding anti-trafficking information campaigns in origin states in Eastern Europe (State Department 2004). The Office for Criminal Investigation trains police and the federal judiciary provides trafficking training for judges and prosecutors (State Department 2005).

Led by Merkel, the new German government in 2006 identified human trafficking as a high priority in its coalition agreement. The German Society for Technical Cooperation (GTZ) began implementation of a 3-year, federally funded, \$2.4 million program to counter human trafficking globally, which includes information campaigns in Eastern Europe (State Department 2006). Under EU's EQUAL program, funded by Germany and the European Union, eight German NGOs received over \$700,000 for re-integration programs for trafficking victims and assistance with job training and placement (State Department 2006).

During the 2006 World Soccer Cup in Germany, anti-trafficking efforts prevented a rise in victims as a result of the tournament (Loewenberg 2006; BKA 2007a). In January 2007, the German government enacted a law allowing trafficking victims 3 years to file civil claims for confiscated trafficking assets; previously, proceeds seized from traffickers had been returned to the perpetrators 3 months after conviction if no claim was filed. Authorities seized \$3.4 million in assets in 2006 (State Department 2008). In 2007, the German government enacted the Victims Compensation Act, granting trafficking victims access to psychological treatment, and codified the granting of a 30-day reflection period for foreign victims of trafficking who do not possess valid immigration status in Germany (State Department 2008). Victims who assist law enforcement with investigations and prosecutions are eligible to stay in Germany for the duration of the trial and the government may grant permanent residence permits to those who face retribution upon return home (State Department 2008). In October 2007, the Family Ministry published guidelines for police, prosecutors, judges, and counselors to improve identification responsive to victim needs (State Department 2008). This illustrates a policy approach sensitive to the human rights of victims, and not one that treats them merely as illegal aliens, as envisioned by the migration perspective.

Support for victims exists at both the state and federal levels. State governments fund NGOs that provide shelter and assistance to trafficking victims. In twelve of the 16 German states, there is a formal mechanism for referral when a victim is identified, and police are required to notify an NGO (State Department 2009). On the federal level, the Family Ministry provides complete funding for 36 NGOs and counseling centers that assist trafficking victims. The large majority of these NGOs focus on adult females (State Department 2009). In 2009, federal police published a guidance brochure for police, judges, prosecutors, and other officials on providing professional assistance for sex trafficking victims (State Department 2009). Germany actively participates in several regional law enforcement organizations that combat trafficking and has provided funding to the Task Force on Trafficking in Human Beings under the Stability Pact for Southeastern Europe and the trafficking unit of the OSCE Office for Democratic Institutions and Human Rights (State Department 2004). The federal government ensures that all peacekeepers receive trafficking awareness training prior to deployment (State Department 2008).

Data on Germany from Table 3 reveal several findings: the first is that the German police possess data about investigations as far back as 1995—a time when the European Union was only beginning to consider trafficking a serious policy issue (Locher 2007). Second, the number of investigations prior to 2002, while

TABLE 3. Trafficking Data: Germany<sup>†</sup>

<i>Year</i>	<i>Investigations concluded</i>	<i>Convictions</i>	<i>Victims</i>
1995	522	n/a	n/a
1996	382	n/a	n/a
1997	396	n/a	n/a
1998	318	n/a	n/a
1999	257	133	n/a
2000	321	n/a	n/a
2001	273	148	987
2002	289	159	811
2003	431	145	1235
2004	370	141	972
2005	317	136	642
2006	353	138	775
2007	454	n/a	689
2008	482	n/a	676

(Sources: State Department (2000–2009); (BKA 2003, 2005, 2007a,b, 2008).

Notes. <sup>†</sup>Data included in the report are from police investigations into suspected trafficking, sections 180b and 181 (trafficking and aggravated human trafficking) of the Penal Code (BKA 2003:2, 18).)

lower, is comparable in magnitude to that after 2002, which shows that the German government actively addressed the crime prior to legalization of prostitution. Third, the data since 2002 reveal a decrease in trafficking victims. Fourth, there is a striking increase in trafficking victims in 2003—65% over the preceding year. 2003 is the year after the official legalization of prostitution. A plausible explanation for the 2003 record number of victims for Germany (1235) is that legalization may have been interpreted as a “green light” by transnational criminal networks. If so, as legalization occurred, more trafficking victims may have been brought into the country. Yet that was a short-lived effect. Data for the period 2004–2008 reveal a general decrease in trafficking victims. Overall, for the period 2001–2008, the direction is downward, despite a major spike in 2003 and a minor one in 2006. In fact, if we use the highest number of victims registered as a point of reference, the record 1235 occurs in 2003; by 2008 that number had declined almost in half to 676.

Data for the number of investigations conducted may provide an explanation for the trend in victim numbers. It is worth mentioning that the magnitude of investigations in the case of Germany prior to and after 2002 is comparable, unlike the Netherlands. The second trend, based on 2001–2008 data (in order to be able to relate this to the information on victims for the same period), is an overall increase in the number of police investigations. The pattern is a growth in investigations, a decrease in victims, and a relatively steady number of convictions. An explanation for this combination of traits appears to be systematic law enforcement regarding trafficking, as evident in the number of police investigations, leading to a gradual decline in trafficking victims. While the legalization of prostitution resulted in more trafficking, as evident in 2003, German police action subsequently reversed that trend.

Law enforcement as the primary factor in the combating of trafficking also is corroborated by information about the 2006 World Cup, which took place 4 years after German legalization of prostitution. NGOs had estimated that up to 40,000 prostitutes and women trafficked for prostitution would enter Germany (Landler 2006; Loewenberg 2006). An increase in trafficking did not occur, as verified by reports from the British medical journal *The Lancet* and German government sources (Loewenberg 2006; BKA 2007a:3). While there had been an increase in prostitutes entering the country, the government reported that 33



investigations involving human trafficking occurred during the tournament, yet only five of those appeared to be connected to it. Law enforcement officials attributed the limited trafficking activity to a strong preventive presence, as well as information campaigns in the origin countries (BKE 2007a:3).

*Note:* A discussion on the generalizability of findings, as well as a detailed treatment of secondary cases (Belgium, Switzerland, Greece, Norway, and Iceland), is contained in the online Appendix to this article.

### Conclusions

What can be said of the preceding cases, individually and collectively? Swedish policy epitomizes an abolitionist approach in both domestic and foreign policy. While quantitative data are scarce, interview information with law enforcement officers and traffickers in Sweden points toward the importance of state action in the policy and law enforcement realm. Swedish police reports also underline that, in combating trafficking, the efforts and priority specifically accorded to the problem are crucial (NCID 2009:5). Research on the Netherlands and Germany finds that legalization of prostitution does lead to an increase in trafficking. Thus, based on the comparative country studies, the implications of the abolitionist and repressive theories for trafficking are confirmed. The data also challenge the laborist approach with regard to its argument that legalization results in increased transparency and discovery of more trafficking victims. It is concerted state action, in terms of adoption of an anti-trafficking legal framework, as well as active law enforcement, that prove most important for combating trafficking.

Overall, we conclude that legalization of prostitution does lead to an increase in trafficking. However, swift, effective, and consistent law enforcement, as in the case of Germany, can reverse that trend. Alternatively, when law enforcement efforts are insufficient, as in the Netherlands, the number of trafficking victims continues to increase after that legalization. More intensive measures on the part of the Dutch state have been seen in the past 2 or 3 years, yet strong law enforcement and consistency over time will be required to adequately curb this trafficking increase. The secondary cases of Belgium, Greece, and Switzerland (see online Appendix for these cases in addition to Norway and Iceland), all of which have legalized brothels, also indicate, based on the (limited) available data, that legality of prostitution means higher trafficking. The preliminary information on Norway (which, like Sweden, has an abolitionist regime) also appears to point out that outlawing the purchase of sex curbs trafficking. Our conclusions are in line with the findings of the UNODC, which regarding human trafficking worldwide, underscores that progress is determined by individual national initiative and that most of the trafficking convictions come from a few countries that undertake such initiatives (UNODC 2009a:9).

No expedient solution to the problem of trafficking of women for sexual exploitation comes out of the initial comparison of three European states. While legalization of prostitution leads to an increase in trafficking, neither legalization nor outlawing of prostitution causes its disappearance. As the cases indicate, however, in both scenarios, the existence of a requisite anti-trafficking legal framework and law enforcement efforts are critical in fighting trafficking. The main implication of the comparison is that governments should take steps to address both trafficking and its primarily socioeconomic causes. Through specific anti-trafficking policies and a trafficking-sensitive immigration legal system, governments can address the devaluation of trafficked women and their marginalization. In the context of the European Union, trafficking partially overlaps with the contentious issue of how member countries should approach the flow of legal and illegal immigrants within their borders. For countries of origin, the

most pressing issue is that of socioeconomic conditions underlying the existence of trafficking. The focus should be on creating economic opportunities that will not lead to people to seek labor abroad, and thus become potential victims.

Another aspect to be addressed is the combating of transnational crime, which uses the presence of widespread corruption to make possible the smuggling of thousands of people across international borders. The cautionary tale told by Bartilow and Eom (2009) provides a natural starting point here. Their study focuses on the US-led war on drugs in Latin America. A principal finding is that the conduct of the drug war produces significant “collateral damage” in the target countries. Thus, the point of caution becomes that international efforts to combat human trafficking are essential, but policy must be informed by local context as well as general intentions to eradicate criminal activity.

With regard to future research, it is obvious that an investigation of three states and an overview of four secondary cases cannot even begin to tell the whole story of human trafficking. Further in-depth case studies, both within Europe and beyond its borders, become a natural priority. A comprehensive agenda for anti-trafficking policy, with implications for research, is set by Shelley (2010:305): “a six-pronged approach to anti-trafficking that includes consumers, the corporate world, researchers and universities, civil society, national governments, and multilateral institutions.”

On methodological grounds much can be gained, moreover, from opening up a second front in this topic area: quantitative data analysis. The present study includes summary data, but more rigorous, multivariate investigation of human trafficking stands as a high priority. Significant data on a wide range of relevant variables now are available through the WomanStats Project (Caprioli, Hudson, McDermott, Emmett, and Baliff-Spanvill 2007; Caprioli, Hudson, McDermott, Baliff-Spanvill, Emmett, and Stearmer 2009). This project includes data on human trafficking in terms of compliance with regulations and solid enforcement.<sup>10</sup> WomanStats includes nine clusters of variables regarding the security of women—physical, economic, and other dimensions. This facilitates a research design in which human trafficking could occupy a place within a network of variables that are evaluated for their connections to each other.

In an ideal world, human rights that all individuals possess by virtue of natural law would be respected. However, in the real world, civil rights extend as far as governments are willing to bestow them. Imbalances of power and economic inequality determine to what extent those rights will affect the social and political standing of human beings. With regard to trafficking, this means that the best path is an increase in awareness and lobbying efforts worldwide toward governments to codify and enforce specific policies to combat trafficking.

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<sup>10</sup> For example, among the cases considered in the present study, the best point (full compliance, 0) on the five-point scale (0–4) contains Sweden and the penultimate point (1) includes Germany and the Netherlands. The choice of further cases should be guided by a wider range of variation on this variable, among other considerations.

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### **Supporting Information**

Additional Supporting Information may be found in the online version of this article:

**Appendix S1.** Secondary Cases of Belgium, Greece, Switzerland, Norway and Iceland.

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