



Does legalised prostitution generate more human trafficking?

There is growing concern about the effects of prostitution policy on the overall scale of human trafficking in the sense of sexual exploitation. However, it is not known how many women are forced to work in the prostitution sector in relation to the number who do so voluntarily. In Amsterdam alone, an estimated 8,000 prostitutes work in the sex industry.¹ According to the National Threat Assessment on Organised Crime, an estimated 20,000 people in the Netherlands were working in prostitution in 2012. While a similar estimate has been repeatedly cited,² it seems to come from a study carried out in 1999, before the abolition of the ban on brothels.³ At the moment, there are no reliable figures available for the total number of prostitutes in the Netherlands.⁴ Evidently, some prostitutes are exploited, but because of the hidden nature of both human trafficking and prostitution, it is difficult to say how large this proportion is. In that context, the National Threat Assessment said: ‘We do find that the figure of 800 victims in 2010⁵ is a minimum because of a limited⁶ willingness among victims to report offences.⁷ Victims are afraid that their family will be subjected to violence if they report to the police. It is not known how much higher the actual number of victims is, because of the

¹ Centre de Recherches Internationales et de Documentation sur l’Exploitation Sexuelle (CRIDES) de la Fondation Scelles 2012; see also Beke 2010, p. 32.

² In the evaluation of the lifting of the ban on brothels by the Ministry of Security and Justice’s Research and Documentation Centre (WODC) in 2007, this estimate was mentioned but with the proviso that the precise composition of the total population of prostitutes was not known, since part of the population of prostitutes is fairly invisible (WODC 2007, p. 32); Soa Aids also refers to 20,000 prostitutes in the Netherlands (‘Frequently asked questions’ Soa Aids n.d., www.prostitutie.nl/index.php?id=174#c250 (consulted on 21 June 2013)); see also Centre de Recherches Internationales et de Documentation sur l’Exploitation Sexuelle (CRIDES) de la Fondation Scelles 2012.

³ Mens & Van der Helm 1999.

⁴ Because of the hidden character of prostitution, like human trafficking, it is also difficult to estimate the total number of prostitutes.

⁵ This is a reference to the 749 persons who, according to CoMensha’s records, were sexually exploited in 2010; see also NRM 2012f, Table B3.1.14.

⁶ There probably is a significant dark number with respect to the number of victims. At the same time, there are possibly a number of false positives in CoMensha’s records, meaning that a case registered as human trafficking is in reality not, since possible victims are reported to CoMensha and there is no formal assessment; see also NRM 2012f, p. 20.

⁷ As already mentioned, the human trafficking that is registered also depends on a number of factors that are not necessarily related to the total scale of human trafficking; see NRM 2012f, pp. 51, 73, 165-166.

significant disparity in the views about the size of the dark number in relation to victims of human trafficking.⁸

The total scale of human trafficking

The total scale of human trafficking is the aggregate of what is visible and invisible.^{9, 10} The ideal situation would be for every instance of human trafficking to be known, in which case there would be no 'dark number' (the number of human trafficking situations that are not known to any agency: the 'invisible' human trafficking). However, because of the hidden nature of human trafficking, in reality there will always be a dark number, which can only be estimated. The problem, however, is not that there are no estimates but that the estimates that have been made are inaccurate or unreliable.¹¹ The report 'Trafficking in Human Beings. Visible and Invisible' contained a critical analysis of three estimates that have been made of the total number of victims,¹² with the aim of prompting further discussion of national and international estimates and promoting efforts to improve methods for making a reasonably reliable estimate on which consensus could be reached.^{13, 14}

Figures are used to reinforce viewpoints and can form the basis for intensive policy measures. However, positions are sometimes taken on the basis of unverifiable, unreliable or inaccurate data. For example, estimates are sometimes taken from earlier studies to demonstrate the alarming scale of prostitution or human trafficking without any enquiry into how the original researchers arrived at their estimates.¹⁵ But 'bad data are worse than no data'.¹⁶ As regards the use of statistics for the development of 'evidence-based policy making', it is essential to be certain of the reliability and validity of the data in order to avoid reaching 'evidence-thin' conclusions.¹⁷

⁸ Nationaal Dreigingsbeeld Georganiseerde Criminaliteit (National Threat Assessment on Organised Crime) 2012, pp. 65-66.

⁹ 'The total scale of human trafficking is equal to the human trafficking that is registered (the known human trafficking) minus the false positives (the human trafficking that is registered as such but in reality is not) plus the dark number (the unregistered/unknown human trafficking, including the false negatives (the human trafficking that is known /visible, but has not yet been recognised as such). In short, it is the aggregate of the 'visible human trafficking' and the 'invisible human trafficking'. (NRM 2012f, p. 26).

¹⁰ The visible component of human trafficking (the registered human trafficking) depends to a large extent on developments related to factors such as the attention devoted to human trafficking in society, the priorities that are set and the capacity that is made available within investigative agencies and the Public Prosecution Service (PPS) ('the more you look, the more you will find' principle), the method of registration by the relevant agencies and changes in legislation; see also NRM 2012f, pp. 51, 73, 165-166.

¹¹ For the specific reservations regarding the estimates, see NRM 2012f, §2.4.1; §2.4.2.

¹² A national estimate of victims of sexual exploitation in the Crime Projection Analysis (CBA), a national estimate of victims of other forms of exploitation by FairWork and an international estimate of forced labour by the ILO; see also NRM 2012f, Chapter 2.

¹³ The National Rapporteur has made the following recommendation for improvement: 'The government should endeavour to produce adequate estimates of the scale of human trafficking. In addition to complete and reliable data collection, this calls for statistical expertise.' (NRM 2012f, recommendation 1).

¹⁴ See NRM 2012f, §2.1.

¹⁵ See also Weitzer 2012, pp. 1344-1345.

¹⁶ Weitzer 2012, p. 1350.

¹⁷ See also Weitzer 2012.

Investigations of the effects of legalised prostitution

The effect of legalised prostitution in preventing cross-border human trafficking for the purpose of sexual exploitation has been investigated in a number of academic articles. Two recent examples are ‘Does legalised prostitution increase human trafficking?’ by Seo Young Cho, Axel Dreher and Eric Neumayer (2012)¹⁸ and ‘The law and economics of international sex slavery: prostitution laws and trafficking for sexual exploitation’ by Niklas Jakobsson and Andreas Kotsadam (2013).¹⁹ The authors of both articles reach the same conclusion: there are more human trafficking situations in countries where prostitution has been legalised. This section describes how such academic studies are still in their infancy because the data and the research methods are not (yet) complete and are insufficiently reliable to support the conclusions drawn or to provide a basis for policy.

First and foremost, the articles are based on cross-sectional quantitative research, which cannot be used to draw the conclusion that the legalisation of prostitution results in more human trafficking.²⁰ Cho, Dreher and Neumayer used the report ‘Global Patterns’ (2006) by the United Nations Office on Drugs and Crime (UNODC)²¹ to investigate the degree of correlation between prostitution legislation in a particular country and the reported stream of human trafficking to that country.²² To verify whether the authors’ conclusions also held true for other data sets, in addition to the data from the UNODC report, Jakobsson and Kotsadam also used data from ‘Globalization and the illicit market for human trafficking: an empirical analysis of supply and demand’, a report produced by the International Labour Organization (ILO).²³ That report referred to a data set that the ILO compiled for its first estimate in 2005, which was based on a large number of reports containing information about human trafficking in the period 1995-2004.²⁴ Because cross-sectional research provides no indication of the impact of changes in prostitution legislation in a particular period on the total scale of human trafficking, a second method was adopted. Cho, Dreher and Neumayer carried out three case studies on the situation in Sweden, Denmark and Germany, countries in which prostitution legislation was amended during the period covered by their study (1996-2003).²⁵ To assess the effect of changes in prostitution legislation, they used existing estimates of the total number of victims.²⁶ Jakobsson and Kotsadam also stated that there were no reliable longitudinal data for human trafficking. To support the argument that there is a causal relationship between prostitution legislation and

¹⁸ Cho, Dreher & Neumayer 2012.

¹⁹ Jakobsson & Kotsadam 2013.

²⁰ Cross-sectional research is research that looks at a single moment in time: in other words, a snapshot. The opposite is longitudinal research, where the study is conducted over a certain period in order to document the process. For longitudinal research, however, there must be a baseline measurement: how much human trafficking was there before the policy change? Such baseline measurements are not always feasible for policy changes that were introduced several years earlier.

²¹ UNODC 2006. There is now a more recent report on human trafficking by the UNODC, which takes into account some of the reservations discussed here; see also NRM9, §2.2.1.

²² The UNODC report provides information about the human trafficking reported to and in 161 countries (UNODC 2006). The analysis by Cho, Dreher and Neumayer encompassed 150 countries (Cho, Dreher & Neumayer 2012).

²³ Danailova-Trainor & Belser 2006.

²⁴ This information yielded an ILO database that was used for an earlier report by the ILO, which gave an estimate of the minimum scale of forced labour: ‘ILO minimum estimate of forced labour in the world’; see NRM 2012f, §2.4 for more information about the ILO’s estimates (in 2005 and in 2012).

²⁵ Cho, Dreher and Neumayer 2012, p. 22.

²⁶ The estimates are based on different sources for each case study, including an estimate mentioned by Ekberg 2004; Nicola et al. 2005.

human trafficking, they carried out two case studies for Sweden and Norway,²⁷ countries where buying sex was made a criminal offence in 1999 and 2009, respectively.

Although the authors of both articles employed a refined method for the cross-sectional study, there are a number of reservations to be expressed about their conclusions, relating mainly to the quantity and quality of the available data. The most important reservation is that there was very little analysis of the proportion of visible victims of human trafficking in relation to the proportion that is invisible. The authors relied on data concerning human trafficking situations that were known, using the datasets of the UNODC and ILO, which greatly depend on the human trafficking that has been registered in individual countries. What is visible can be influenced by factors such as the attention devoted to human trafficking in society, the priorities that are set and the capacity that is made available within, for example, the investigative services. Accordingly, the surveys in the UNODC report are based, among other things, on the number of times that a country is mentioned in various sources as the country of destination of victims.²⁸ The prominence given to a country in the report is to a large extent determined by the attention devoted to human trafficking in that country.^{29,30} It is also conceivable that legalisation of prostitution has an impact in making human trafficking visible. Invisible human trafficking can only be estimated, but, as already mentioned, at the moment there are no reliable estimates of the total scale of human trafficking.³¹ Jakobsson and Kotsadam do refer – but only briefly – to the distinction between visible and invisible prostitution. They reportedly found no evidence that hidden prostitution had increased in Sweden and Norway, but added that they could not rule out the possibility that it was so deeply hidden that it had not been identified by any agency at all, investigative or otherwise.³²

A second reservation relates to the case studies that the researchers conducted. Two and three case studies are too few to allow for judgements at an international level about the effect of specific prostitution policies. More reliable data are needed from a larger number of case studies. Furthermore, making accurate and reliable comparisons of the total number of victims before and after amendment of prostitution legislation in a particular country seems impossible in these countries because there is little or no information available about the human trafficking registered before the changes in the policy towards prostitution were made, never mind the total number of victims of human trafficking (registered and unregistered).

²⁷ For this the researchers used information from other published sources.

²⁸ UNODC 2006.

²⁹ See also GAO 2006; NRM5, pp. 9-10.

³⁰ In the Fifth Report, the National Rapporteur said the following about the UNODC report in 2006: ‘The overviews in the UNODC report are based on the number of times a particular country is mentioned as a country of origin, transit or destination for victims in a range of sources. This means that the part played by a country in the report is determined to a significant extent by the amount of attention paid to trafficking in human beings in that country. [...] Many countries voiced fierce criticism of a draft version of the report at the end of 2005. Apart from the points mentioned above, the National Rapporteur also pointed out the geographical bias (it is, for example, highly incredible that not a single African country is classified as ‘very high’ among destination countries) as well as problems of methodology, such as the absence of information concerning the validity and reliability of the base material (NRM5, pp. 9-10); see NRM9, §2.2.1 for more information about the more recent report by UNODC (2012).

³¹ See NRM 2012f, Chapter 2.

³² Jakobsson & Kotsadam 2013, p. 103.

Conclusion

It is not (yet) possible to give an answer, on the basis of statistics, to the question of the extent to which legalisation of prostitution leads to more human trafficking. The answer would require an analysis of the human trafficking that is visible compared with the invisible human trafficking and this calls for the collection of more reliable data – both quantitative and qualitative – concerning visible and invisible human trafficking.^{33,34} Research into the effect of the legalisation of prostitution is also complicated by the fact that the total scale of human trafficking in the sense of sexual exploitation is not solely dependent on policies towards prostitution. Such research would also have to encompass all other push-and-pull factors that could have an impact on the prevalence of human trafficking in a particular country, and which can differ greatly from one country to another. Nevertheless, one component of an effective approach to combating human trafficking is to make human trafficking visible.³⁵ First and foremost, that calls for a clearer picture of the nature and scale of the prostitution sector.

³³ The researchers themselves mention the limitations of their article: ‘The problem here lies in the clandestine nature of both the prostitution and trafficking markets, making it difficult, perhaps impossible, to find hard evidence establishing this relationship’ (Cho, Dreher & Neumayer, 2012, p. 76). ‘Although the data do not allow us to infer robust causal inference, the results suggest that criminalizing procuring, or going further and criminalizing buying and/or selling sex, may reduce the amount of trafficking to a country.’... ‘It should be noted once again that the data quality on international human trafficking is far from perfect and we strongly recommend more data collection.’ (Jakobsson & Kotsadam, 2013, abstract).

³⁴ The National Rapporteur has already made a recommendation on how to produce adequate estimates (NRM 2012f, recommendation 1).

³⁵ See NRM 2012f, Chapter 1 and Chapter 8: ‘To tackle human trafficking effectively, it must be made visible. Human trafficking that is hidden must be revealed – and once revealed, it must be better registered.’

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