

Rethinking Red Lights

The Economics of Prostitution Policy

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Abstract

Through the course of this article, we will delve into the intricacies of the sex trade and use basic economic theories to analyse the potential effects of legalization, and other policy approaches on the size of the market for sex work. Using a supply-demand analysis, the impact of legislation on sex trafficking will be theorized. The article will culminate with an in-depth examination of the Swedish Sex Purchase Act. This paper lays emphasis on the need to break away from cultural apprehensions and look at legislation from an objective viewpoint so that optimal policies can be designed to reduce the harms and overall social costs associated with prostitution.



Figure 1: Credits: “The Economics of Prostitution,” Forbes India

Sex work might be the oldest profession in the world, but it continues to be largely treated as a criminal activity across the globe. Some common arguments put forth by individuals looking to criminalise sex work include combatting exploitation that sex workers (who overwhelmingly tend to be women) often face.

The Case Against Criminalisation of Sex Work

However, like many other policy decisions, there exist a large number of consequences-often unforeseen by policymakers- of the criminalisation of sex work. Ronald Weitzer’s “Legalising Prostitution: From Illicit Vice to Lawful Business” (2011) outlines them clearly. Firstly, the primary consequence of criminalisation of sex work-arrests, tends to have a minor impact as a deterrent towards sex work. This can

be attributed to the fact that escape from prostitution is virtually impossible without a strong social system, something that is made even harder with the stigmatisation of sex work, a direct consequence of criminalisation. Sex workers tend to go back to selling sex, even after arrests. The only difference that comes in here is the possibility of a police record, which makes it even more difficult for sex workers to find work beyond the sex industry. Secondly, criminalisation of sex work places an immense burden on the judicial system of a country. Third, criminalisation often leaves sex workers without the support of the police system, for they fear that their complaints will not be taken seriously or that policemen might use criminalisation laws to blackmail or extort them.

However, one of the most fundamental arguments that the proponents of decriminalisation of sex work put forth is about the nature of the trade. Sex work presents as a victimless activity, a trade like any other mutually beneficial exchange between a buyer and a seller. Sex work, when practiced privately, in a voluntary and consensual framework, does not pose any significant harm to the public. In purely economic terms, if demand and supply exist for something that is not inherently dangerous, there is no basis for a government to prohibit the existence of a market for the same.

The second argument against the criminalisation of sex work is an economic one: criminalisation of an activity doesn't bring an end to the market. It simply pushes the market underground, and into the black economy, where all parties involved in the trade, especially sex workers have no protection from exploitation.

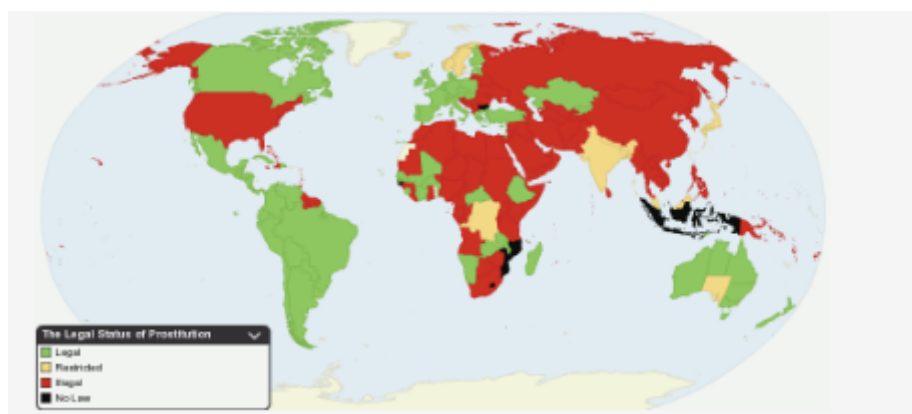


Figure 2: Credits: ChartsBin.com

Consequences of Criminalisation of Sex Work

As the market for sex work and sexual slavery are closely connected, it is important to examine the workings of the market for sexual slavery before examining the impact criminalisation or decriminalisation of sex work will have on human trafficking.

The supply for sex slaves tends to be high as a result of the fact that there exist many people around the world who are poverty-stricken and desperate to make their lives better, making them vulnerable to exploitation at the hands of traffickers. It has also

become easier to move individuals from one country to the other. Globalisation has led to a steady decrease in the cost of transportation, however, this fall appears to have been stagnated in recent years. In many regions, women are treated poorly, denied basic rights and viewed only through whatever value they might hold for men- as child rearers, objects of sexual pleasure etc. These factors make it easier for human traffickers to exploit people and women in particular.

The demand for sex slaves can be split into two different categories- demand by third parties, such as brothel owners and demand by customers.

The demand for sex slaves tends to be high from customers because of the high price elasticity of demand for sex work.

This can be demonstrated by examining the market for sex work during times of recession. During such times, there is a sharp decrease in the demand for sex work, due to high income elasticity of demand for sex work. However, there is also an increase in supply as workers at the fringes of the industry often decide to join in during times where there is an economic downturn. This increase in supply and decrease in demand decreases the prevailing wage rate for sex workers and helps in receiving demand to some extent.

Sex slaves tend to have high demand from third parties because “sex slavery is the profit maximising version of prostitution”. As sex slaves constitute involuntary labour, brothel owners don’t need to pay them wages; thereby reducing their costs and increasing their profits. Slavery has only gotten more profitable- in the 1850s one had to pay what is the equivalent of US\$9,500 to US\$11,000 for a slave that would generate around a 15% to 20% annual return on investment. However, now, a slave can be brought for only \$420 and generate a return of around 300% to 500% annually.

However, economists do not hold similar views on the subject- there is doubt about whether or not there is actual economic profit in slavery. In *Human Action*, Mises says that it is the human trafficker and not the owner who profits from slavery. Slavery is not profitable in the long run because slaves tend to have lower productivity and produce low-quality output when compared to voluntary labour. However, this analysis may no longer hold true.

Another reason for the high demand for sex slaves is that on studying conviction rates, human trafficking appears to be less risky than trafficking drugs or arms.

Now that the factors impacting the supply and demand of sex slaves have been studied in relation with the market for sex work, we can stipulate- to a certain degree- the impact that legalisation of sex work will have on the market for sex work, and the subsequent impact it will have on the market for sex slaves.

Legalisation of Sex Work

The impact that legalisation of sex work has on the market for sex work depends on socio-cultural factors that often tend to be region specific. Legalisation of sex work will invariably increase the size of the market for prostitution. More workers will voluntarily

enter the market, and assuming that sex work is legal in some regions, but a criminal activity in others, it is possible that sex workers from other regions will move to areas where sex work has been legalised. Hence, the supply of sex workers will increase.

Since legalisation of sex work will decrease the chances of arrest for solicitation of sex, the demand for sex workers will.

Hence, there is an increase in both, the demand and supply of sex workers after legalisation of sex work. However, the impact that this has on the market for sex slaves is ambiguous and depends on the legal measures that are in place. Here, it is also important to distinguish between decriminalisation and legalisation of sex work.

Decriminalisation of sex work - of both buying as well and selling sex- means that sex workers and those who solicit them will no longer be faced with criminal penalties or a jail sentence. It is possible that they could be made to face civil penalties i.e., attending workshops or classes. However, legalisation of sex work would mean that sex workers and their customers would face no penalties at all. In addition to facing no penalties, it is possible for legalisation to mean that the government will regulate the demand and supply of sex workers.

If certain provisions regulating the supply of sex workers are implemented, then it is possible that legalisation of sex work will allow some involuntary sex workers to escape, thereby reducing the number of individuals who have been forced into sex work. However, since legalisation of sex work will increase both demand and supply of sex workers, it is possible that if the increase in demand is greater than the increase in supply, human trafficking could increase.

The impact that the legalisation of sex work will have on human trafficking can sometimes be ambiguous because it depends to some extent on the laws that are present in the region regarding sex work and their implementation, as well as the change that legalisation of sex work might bring in socio-cultural attitudes.

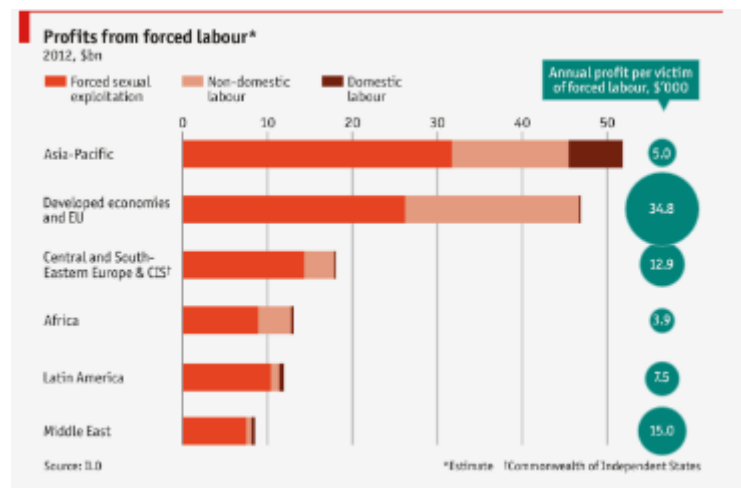


Figure 3: Credits: “Modern Slavery,” The Economist

Certain studies suggest that there is an increase in human trafficking in regions where sex work is legalised. This happens when the expansion of the market for sex overpowers all other factors at play, and the supply of voluntary labour is unable to fill the gap between demand and supply of sex workers. It is also possible that certain customers will be unable or unwilling to distinguish between voluntary and involuntary labour, so the demand side of the sex market may not have any impact on whether more or less trafficked individuals are employed in the sex industry. There are, however, suggestions that legalization of sex work can reduce human trafficking because it may lead to recognition of the human rights of sex workers, an important factor in decreasing human trafficking. However, empirical evidence tends to support the view that an increase in human trafficking often corresponds to legalization of sex work.

The Swedish Sex Purchase Act- Where Does it Stand?

Among the wide range of policy approaches toward sex work, the ‘Swedish Model’ has often been presented as a success in bringing down the number of women engaged in visible prostitution and in promoting a feminist perspective that defines sex work as ‘a form of male violence against women’. In its proposal to prohibit the purchase of sexual services, the Swedish government states,

“By prohibiting the purchase of sexual services, prostitution and its damaging effects can be counteracted more effectively than hitherto. [...] The government considers, however, that it is not reasonable to punish the person who sells a sexual service. In the majority of cases at least, this person is a weaker party who is exploited by those who want only to satisfy their sexual drives.” (Ministry of Labour, 1998, p. 55)

After several years of public debate initiated by the Swedish women’s’ movement, the Law that Prohibits the Purchase of Sexual Services came into existence on January 1, 1999. The law attempts to target the root cause of prostitution and trafficking of sex slaves- the demand. That is, the ‘men who assume the right to purchase persons for the

purpose of sex'. The logic of this 'No Buyer Law' is as follows: When buyers risk punishment, the number of men who purchase prostitution services decreases and the local prostitution markets consequently become less lucrative. Sex traffickers will then choose other, more profitable destinations. The size of the Swedish prostitution market and the number of sex slaves will hence, invariably decrease.

In the analysis of the success of this law, we must look at some integral questions: Firstly, has the size of the prostitution market decreased after the introduction of the law? Secondly, have the norms pertaining to prostitution changed due to the act? Thirdly, has the act limited the extent of trafficking for sexual purposes? And lastly, has the act created unintended consequences for those who sell sex?

Numerous studies have investigated the size of the prostitution and trafficking industry in Sweden to determine whether the law has had its intended effect of reducing both. While some studies survey how many people report having sold or bought sex, others focus on certain groups and areas collecting data, both street as well as online, on young and LGBT people. In Kuosmanen's study (2008), 8% of male respondents reported having purchased sex. In Mansson's survey (1996), this figure was 13%. While the numbers hint at a definite fall in the purchase of sexual services, Kuosmanen is cautious about drawing these conclusions due to the possibility of underreporting in 2008, when buying sex was a criminal offense. However, Waltman argues that the figures were more or less true because respondents were given anonymity and protection from prosecution. A study by Kotsadam and Jakobsson also concludes that 'buying sex seems to be most prevalent where it is legal and least prevalent where it is illegal'. Hence, the evaluators of the Sex Purchase Act conclude that 'this reduction should be considered a direct consequence of the criminalization of purchasing sex'. However, critics have pointed out to a major empirical shortfall-only visible sex work i.e. street prostitution is accounted for. According to a study conducted by the Country Administrative Board of Stockholm, there was a sharp jump in the number of online ads for sexual services from 304 to 6,965 ads in the period 2006-2014. Hence, there is a belief that prostitution, instead of decreasing, may have simply shifted indoors or online.

The Swedish National Police Board states that the Sex Purchase Act has helped prevent trafficking of sex slaves. This conclusion is supported by various international studies that examine the link between prostitution legislation and trafficking for sex. Kotsdam and Jakobsson (2013) too conclude that sex trafficking is less prevalent in countries where prostitution is criminalized and more in countries where it is legal. Using data on 46 European countries from UNODC and the International Labour Organisation (ILO), they draw a positive correlation between prostitution legislation and rates of trafficking, with restrictive legislation associated with lower rates of human trafficking. The overall picture appears to be one of continued, but decreased demand for prostitution in countries where the purchase of sexual services has been criminalized.

Throughout this paper, and more generally in the literature on prostitution, there has been much emphasis laid on the difficulty in assessing how prohibition has affected the size of the prostitution market. Is it possible to draw wide-ranging conclusions based solely on the information collected from the street or internet? This problem of 'how much information is sufficient' is much more than a methodological issue, it stems from

varying definitions of what counts as prostitution. Tiby and Petterson find that the police and social services in Sweden have a narrower definition of prostitution than that of NGOs and health care agencies.

Even though the Sex Purchase Act does not criminalise sale of sex, women involved in the profession report experiencing discrimination and stigma to the extent that it limits access to the support and security nets that they are entitled to. Legal norms are much more than a practical instrument to police a population. The wish to combat prostitution has to be weighed against the needs of this vulnerable group for protection, and more generally, the ideals of the law.

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