

LEGISLATIVE MODELS REGARDING PROSTITUTION, PIMPING, AND HUMAN TRAFFICKING: INTERNATIONAL HUMAN RIGHTS LAW AND STATE OBLIGATIONS

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Abstract: Prostitution, pimping, and human trafficking are global phenomena with profound social, economic, and legal implications. These issues are recognized as violations of human dignity and human rights within the international legal framework, which imposes binding obligations on states to combat exploitation and protect victims (CAP International, n.d.). This paper examines the international legal framework governing these phenomena, analyzes the main legislative models, and discusses the impacts and risks associated with legalization and decriminalization of prostitution.

Keywords: prostitution, pimping, human trafficking, social, economic, legal, implications.

Introduction

International Legal Framework

International human rights law (HRL) clearly recognizes prostitution as a violation of human rights and specifically prohibits the exploitation of the prostitution of others, including pimping, procuring, and the operation of brothels. States and United Nations (UN) agencies are bound by direct obligations to oppose the trivialization of prostitution and to work towards the elimination of its exploitation (CAP International, n.d., p. 10).

The foundation for this approach was laid by the United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), which states that prostitution is “incompatible with the dignity and worth of the human person” (United Nations, 1949, preamble). The convention obliges states to combat pimping in all its forms and to provide assistance to victims of exploitation.

In the early 2000s, the UN supplemented existing instruments with the Palermo Protocol (2000), which includes “the exploitation of the prostitution of others or other forms of sexual exploitation” within the definition of human trafficking (United Nations, 2000). Additionally, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979) reinforces the obligation to eliminate sexual exploitation and discrimination (United Nations, 1979).

CAP International, a coalition of NGOs supporting victims of prostitution and trafficking, emphasizes that the only way for states to fulfill their obligations is through the implementation of abolitionist policies (CAP International, n.d., p. 6).

These policies include the elimination of exploitation, protection of victims, and prohibition of the purchase of sexual acts, which is considered a form of sexual abuse (CAP International, n.d., p. 16).

Legislative Models

Globally, three main legislative models have been adopted in response to prostitution:

Legalization: In countries such as the Netherlands and Germany, prostitution, pimping, and brothels are legal and regulated. The state collects taxes (which makes it the biggest pimp), and imposes health and safety regulations.

However, research shows that legalization has not eliminated violence or exploitation and has contributed to increased trafficking and organized crime (CAP International, n.d.). Prostitution and trafficking are interlinked, where there is legalized prostitution, human trafficking can hide in plain sight as traffickers operate as business owners.

The idea that legalizing prostitution would improve conditions by enabling sex workers to pay taxes, access health insurance, and receive social benefits overlooks the reality in countries where prostitution is already legal. In Germany, where prostitution was legalized in 2001, a study conducted five years later found that only 1% of prostituted women had an official employment contract as 'sex workers.' When asked why, most explained that prostitution was a temporary escape from an impossible situation they didn't know how to leave — and that they wanted out.

Having a formal contract would restrict their ability to make personal choices, such as refusing certain clients and their demands. (Ekberg, G., & Jakobsson, P., 2013 pg 17)

Decriminalization: In New Zealand, prostitution is decriminalized, meaning there are no criminal penalties for prostituted persons or clients. However, violence and coercion persist, and the law has done little to protect those in the industry (CAP International, n.d.).

Romania's legislative approach to prostitution is characterized by decriminalization of the act itself, while maintaining stringent penalties for related activities such as procuring and solicitation.

Romania's Legal Framework on Prostitution Aspect

Legal Status

Selling Sex (Prostitution)	Decriminalized as of 2014; no longer a criminal offense under the Penal Code
Solicitation	Classified as a contravention (administrative offense); punishable by fines ranging from 500 to 1,500 lei
Buying Sex	Not criminalized
Pimping / Procuring	Criminal offense; punishable by 2 to 7 years imprisonment and a ban on certain rights
Trafficking & Exploitation	Strictly prohibited; penalties range from 3 to 10 years imprisonment

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Abolitionist/Nordic Model: criminalizes the purchase of sexual acts while decriminalizing those who are prostituted. This approach has led to a significant reduction in street prostitution and trafficking, with no evidence that prostitution has simply moved indoors (CAP International, n.d.).

Countries that have adopted the Nordic Model: Sweden, Norway, Iceland, Canada, Northern Ireland, part of UK, France, Israel, South Korea.

The intimate relationship between prostitution and trafficking is highlighted when buyers are criminalized. Sweden now has the fewest trafficked women in the EU. (Farley, M, 2010).

The following comparison table showing the key differences between **Decriminalization, Legalization, and the Nordic Model** regarding prostitution laws:

Feature	Decriminalization	Legalization	Nordic Model
Selling sex (by sex workers)	Legal	Legal (under regulated conditions)	Legal Illegal Illegal
Buying sex (by clients)	Legal	Legal (under regulated conditions)	(often)
Third-party involvement	Legal if consensual (e.g., managers, brothel owners)	Legal with license or criminalized as regulation	pimping or exploitation)
Brothels	Legal if consensual and safe	Legal but heavily regulated (e.g., zoning, health checks)	Often illegal Illegal for clients ,
Street-based sex work	Legal	Legal if within often designated zones or indirectly with permits	often criminalized
Worker rights & labor protections	Full access (treated like any other job)	Limited or conditional access	Limited; seen more as victims needing exit support
Criminal record for sex work	No	Possibly, if outside the regulated system	No for workers; yes
Main goal for buyers		Reduce demand and treat sex workers as victims	
		Sweden, Norway, France, Ireland, Canada (partial)	
Examples of countries		Regulate and control the industry	
		Netherlands, Germany, Switzerland, parts of Australia	
		Protect workers' rights and safety	

Negative Effects of Legalization and Decriminalization

Contrary to arguments that legalization or decriminalization protects sex workers, empirical evidence demonstrates that these models fail to address the inherent violence and exploitation of prostitution. Studies show that in countries where prostitution is legal, approximately 60% of women have been physically assaulted, 40% have suffered sexual violence, and 40% were coerced into the commercial sex trade. Women involved in street prostitution are 60 to 100 times more likely to be murdered than non-prostituted women (Farley, 2004, as cited in CAP International, n.d.).

In countries where prostitution is legalized, the sex industry has expanded significantly—often with large parts operating underground. Human trafficking has also increased. Pimps tend to profit more from illegal activities in these environments. In contrast, in countries where all forms of buying sex are prohibited, it becomes more difficult, costly, and risky for traffickers to operate. (Ekberg, G., & Jakobsson, P., 2013)

Legalization and decriminalization have not eliminated stigmatization or improved the social integration of those in prostitution. Instead, they have normalized the industry and perpetuated the perception of pimps and clients as “business people,” while women remain marginalized (CAP International, n.d.). In the Netherlands, for example, up to 80% of women in prostitution have been trafficked, and the industry has become a magnet for organized crime (CAP International, n.d.).

Conclusions from legalizing prostitution (Ekberg, G., & Jakobsson, P., 2013): when prostitution is seen as “work” it is harder to get out of it. The buyers/ men are the basis for the existence of prostitution. Prostitution increases when it is accepted

The following table summarizes the countries with the highest number of registered victims of human trafficking in 2022, based on the latest available data from Eurostat and the United Nations Office on Drugs and Crime (UNODC):

Country	Number of Registered Victims
Netherlands	1,200+
United Kingdom	757
Romania	710
Germany	583
Bulgaria	401
Italy	426
Poland	355
Hungary	283
Portugal	161
France	Not specified

Note: The numbers represent the total number of registered victims of human trafficking in each country for the year 2022

Push-Pull Factors and the Economic Theory of Trafficking

The dynamics of human trafficking are shaped by both push and pull factors. Push factors—such as war, natural disasters, poverty, homelessness, and unemployment—compel individuals to migrate and accept risky situations, increasing their vulnerability to exploitation. Conversely, pull factors—including demand for cheap labor, the allure of a better quality of life, and legal environments that permit prostitution—attract individuals to destination countries. Traffickers exploit these vulnerabilities by luring victims with false promises and isolating them from support networks (Busch-Armendariz et al., 2018b, p. 26).

From an economic perspective, human trafficking is driven by the interplay of supply and demand, with traffickers weighing the potential profits against the risks of detection and punishment. The low start-up costs, high profits, and strong demand make trafficking an attractive enterprise for organized crime. Interventions aimed at increasing the risks and reducing the profitability for traffickers are essential for effective anti-trafficking strategies (Shelley, 2010, p. 3).

Kellison & Kammer-Kerwick (2018, p. 29) highlight the importance of developing anti-trafficking interventions based on understanding traffickers' cost- benefit thinking—measures intended to increase risks for traffickers and reduce their profitable.

Social and Psychological Impact

The majority of individuals in prostitution come from backgrounds marked by poverty, childhood trauma, domestic violence and sexual abuse (CAP International, n.d.).

Several international studies have shown that most of women working in prostitution have been victims of sexual abuse as children. A Swedish study among teenagers has shown that those who had experienced having “sex with recompense” 89% had suffered other kinds of sexual abuse before prostitution. (Ekberg, G., & Jakobsson, P., 2013)

Entry into prostitution often occurs before the age of cognitive and emotional maturity, with “maturation” occurring in circumstances that affect their concepts of life (relationships, intimacy, money, love, family, etc.) and make socio-economic reintegration difficult (for example, it is difficult for a person who ‘earned’ a lot of money in one night to work for a month for a normal salary).

“Women who prostitute have described it as "paid rape" and "voluntary slavery". Prostitution is sexual harassment, sexual exploitation, often worse. His payment does not erase what we know about sexual violence, domestic violence and rape.” (Farley, 2010).

High rates of post-traumatic stress disorder (PTSD) are reported among those in prostitution, with prevalence rates comparable to those of survivors of torture or domestic violence (Farley et al., 2003, as cited in CAP International, n.d.).

Solutions for regaining freedom

According to data provided by Eurostat, over 124 million people in the European Union, almost a quarter of EU citizens, are at risk of poverty or social exclusion. This precarious socio-economic context increases the vulnerability of individuals to abuse, exploitation and violence. Statistics show that, under these conditions, the phenomenon of modern slavery is experiencing an alarming increase on the European continent. The number of identified victims of various forms of human trafficking, from labour exploitation to sexual

exploitation, is constantly expanding. Immigrant workers are particularly exposed to this type of exploitation, especially in the context of a growing trend of recruitment via the internet and social networks. At the same time, the persistence of specific forms of trafficking in minors is observed, such as the exploitation of children through begging, their involvement in petty thefts such as "pick-pocketing" and sexual exploitation.

According to a 2023 Global Slavery Index report, over two million people are estimated to be exploited across Europe, with the continent simultaneously serving as a source, transit and destination for vulnerable victims of human trafficking, either for sexual exploitation or forced labour (Global Slavery Index, 2023). Romania consistently ranks among the top three European countries with the highest number of victims identified annually (Eurostat, US TIP Report, UNHCR). Worryingly, between 2016 and 2018 alone, the number of victims of human trafficking in Europe increased by over 45% (Global Slavery Index, Eurostat). Almost 150,000 of these victims come from Romania (Global Slavery Index, 2023), underscoring the country's role as a major source for human trafficking, both for sexual exploitation and for labour exploitation (US TIP Report, 2023). However, less than 40% of identified victims benefit from assistance services provided by the Romanian state (US TIP Report, 2023).

Romania is among the Member States with the highest levels of poverty in the European Union. Rural populations are significantly more exposed to the risk of poverty and social exclusion compared to urban populations, representing two thirds of all people in poverty at national level. In addition, certain social groups face much more severe conditions, such as marginalized Roma communities. The majority of Roma in

Romania, faced with persistent societal stigma, avoids assuming and expressing its ethnic identity. According to the Global Slavery Index, approximately 86,000 people are victims of human trafficking in Romania, with experts reporting a significant over-representation of Roma children among victims of trafficking for begging and petty theft.

The gaps identified in combating human trafficking highlight the need for strategic and innovative interventions. First, current mechanisms for early identification of victims are insufficient, especially in the informal or hidden sectors, leading to the invisibility of those affected. Second, there is an acute lack of specialized services, adapted to the age and gender of victims, such as safe shelters, psychosocial support and legal assistance, which limits real chances of recovery and reintegration.

Another challenge is the weak transnational coordination, manifested in inconsistent referral systems and insufficient collaboration between countries, which affects the support provided to victims and their reintegration. Also, the low level of awareness among third-country nationals about the risks of trafficking, as well as the absence of effective measures to address the online dimension of trafficking, amplifies vulnerabilities. However, the legislative and policy framework of the European Union offers opportunities to strengthen the response. By building on partnerships with civil society, local authorities and international organisations, this project aligns with the European call for comprehensive, victim-centred and human rights-based interventions.

Bucharest has consolidated in recent years as a key transit hub and temporary destination for young Romanian women who, often under the illusion of a job, later end up being captured in exploitation circuits in Western capitals, especially in the Netherlands. This

phenomenon has been exacerbated by recent economic crises and the effects of the COVID-19 pandemic, which have intensified the vulnerabilities of young women from rural areas, most of whom face a lack of economic and social prospects. On the streets of Bucharest and in peripheral areas, the number of young women at risk of sexual exploitation has increased, many of whom are manipulated and forced to accept degrading situations in order to ensure their survival.

Therefore, raising public awareness about human trafficking and sexual exploitation is essential to prevent these tragedies. It is also essential to educate the population about risky situations, especially when it comes to migration or seemingly advantageous job offers abroad.

Trafficking in human beings constitutes one of the most serious violations of fundamental human rights, deeply rooted in the complexity of contemporary migratory flows. Within the European Union, this scourge disproportionately affects vulnerable groups, in particular people from marginalized social groups and third-country nationals, who often become targets of exploitation in high-risk sectors such as agriculture, domestic work, construction and the sex industry. From a theological perspective, the recognition of the image of God in every human being imposes a prophetic and pastoral responsibility on the Church to denounce and combat all forms of modern slavery, advocating for the restoration of the dignity and freedom of the oppressed.

The revision of the Anti-Trafficking Directive and the EU Strategy on Combating Trafficking in Human Beings for the period 2021-2025 underline the need for complex transnational cooperation, involving a multitude of institutional and non-governmental actors, to effectively address this cross-border crime. However, these efforts face significant obstacles, which perpetuate the vulnerability of victims. Among the most pressing challenges are insufficient mechanisms for identifying and referring victims, which leads to the invisibility of many of those affected and the perpetuation of trauma without adequate intervention. Also, the limited capacity of law enforcement authorities and labour inspectors to detect cases, in particular those of labour exploitation, undermines efforts to prevent and punish offenders.

Conclusions and Recommendations

International human rights law requires states to adopt policies that eliminate the exploitation of prostitution and protect victims. Legalization and decriminalization have proven ineffective in achieving these goals, as they do not address the root causes of exploitation and often exacerbate trafficking and violence. The Nordic model, which criminalizes buyers and supports victims, has demonstrated greater success in reducing prostitution and trafficking.

States should implement abolitionist policies that prioritize the protection of victims, provide exit options, and prohibit the purchase of sexual acts. Addressing the underlying factors of poverty, discrimination, and gender inequality is essential for preventing exploitation and promoting human dignity. A solution to the problem of trafficking arising out of this consensus would be to implement programs that promote sex, race, and economic equality, offering women alternatives to prostitution.

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