

Human Trafficking in Latin America: Possible measures to reduce the demand¹

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Abstract

This article focuses on human trafficking in Latin America, with attention paid to human trafficking for the purposes of sexual exploitation. The aim is to evaluate two possible measures to reduce the demand for human trafficking in the region: the so-called 'Swedish model' and the decriminalization of prostitution. The two measures are presented and evaluated determine if they are likely to reduce demand for human trafficking in the region, and which measure would be more likely to succeed if implemented in Latin America. Both measures have previously been implemented and exist in various states, so their evaluation in this study is built upon prior research of their implementation. The study concludes that both measures could be applicable for reducing the demand for human trafficking in Latin America, but that decriminalization of prostitution would be more likely to succeed if implemented, as it better suits the Latin American context. The main influential factors contributing to these conclusions are the economic situation of the states in question along with cultural factors such as inequality, unequal gender relations and corruption.

Keywords

human trafficking, sexual exploitation, Latin America, Swedish model, decriminalization of prostitution.

Introduction

Most human trafficking cases are conducted within a sub-region, often between countries with shared borders. Transregional trafficking only

¹ For more detailed information on the topic: Hjaltadóttir, F. D. (2017). *Human trafficking in Latin America: Two applicable measures to reduce the demand*. MA thesis in International Relations from the University of Iceland. Accessed February 1, 2021: <http://hdl.handle.net/1946/26926>

accounts for a quarter of all trafficking flows and the foreigners involved in trafficking are most commonly from neighboring countries. Traffickers are likely to traffic victims from their home country as there is clear statistical correlation between citizenship of the victims and their offenders, indicating that “ethnolinguistic affinities and specific local knowledge may be very useful for traffickers in recruiting their victims” (United Nations Office on Drugs and Crime, 2014, pp. 23-26). In this study, the focus is on a region defined by a shared language and a common historical legacy between its states. It is therefore logical to assume that the states in question would benefit from combining their forces and implementing coordinated standards in the fight against human trafficking. It is therefore important to examine how human trafficking is conducted in the region, and how and if the states have implemented regulations from the Palermo Protocol, and whether the states have established regional institutions or organizations to facilitate the fight against this complex criminal activity.² Seelke (2016) has highlighted factors and circumstances that contribute to human trafficking in Latin America and identified them as being; “poverty, unemployment, membership in an indigenous group, illiteracy, a history of physical or sexual abuse, homelessness, drug use, and gang membership” (Seelke, 2016, p. 4).

The concept of security

To fully analyze human trafficking in a Latin American context it is essential to begin by examining how the concept of “security” is presented and understood in the region. According to the Brazilian social scientist Bernardo Sorj (2005), the human rights NGOs and the academic community in Latin America have tended to be skeptical of the concept of human security,

² The *Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organized crime*, better known as the “Palermo Protocol” states: “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring 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 labour or services, slavery or practices similar to slavery, servitude or the removal of organs (UN General Assembly, 2000a).

particularly because of Latin America's recent history of military dictatorships that "used the all-inclusive doctrine of National Security to subsume various aspects of social life to the fight against communism and "national defense". Within this doctrine, public security forces including the police were under control of the armed forces" (Sorj, 2005, p. 43). The Latin American states are at present slowly moving away from the traditional definition of security as a threat *between* states towards a more multidimensional definition that includes the security of the individual, and society at large. The states are not facing the traditional security dilemma as intraregional disputes are relatively few compared to other continents, such as Asia and Africa, which allows for a moving away of this traditional concept of security against other states. Nevertheless, the states are faced with a new type of security dilemma as Gabriel Marcella points out:

"Insecure borders and open spaces are common refrain in Latin American history and a haunting theme in its rich literature, but drug trafficking has empowered criminal, non state actors to make a mockery of the Westphalian system. A new form of warfare is emerging: war without borders, waged by non state actors against society, the state and international order" (Marcella, 2013, p. 70).

Furthermore, Marcella explains that most Latin American states are composed of two states within their physical boundaries, i.e. the formal and the informal, and argues that neighborhoods such as *barriadas*, *villas miserias*, *callampas* and *favelas* to be the representation of the informal states. Marcella calls for coordinated action among the Latin American states and argues that consensus must be reached and that security arrangement and institutions must be modernized (Marcella, 2013, pp. 73-77). The historical conditions of security in Latin America are quite particular; the Latin American states, unlike those in Europe, did not face repeated interstate conflicts and did not need, therefore, "to mobilize their populations, enhance their capacity for resource extraction and taxation, develop a large and complex state apparatus, or engage in extensive social welfare"(Williams, 2016, p. 267). Therefore, Williams argues, Latin American states did not develop socially to the same extent and became thus subject to a combination of repression and weakness. He continues by arguing that due to military dictatorship and one-party rule in the history of Latin America, state weakness became more obvious;

“[...] low level of state legitimacy, high distrust of state fective laws and norms, rent-seeking politicians and corrupt officials, little economic or social provision for the citizenry, underdeveloped social control mechanism and unfair and antiquated criminal justice system. [These factors contributed to] lawlessness and criminality that have found perhaps the perfect expression in drug trafficking organizations” (Williams, 2016, p. 268).

According to Williams, illegal migration and human trafficking have intersected with the drug business in several ways, primarily due to a need to exploit state security in a similar respect. It is also argued that both human trafficking and the drug business grew from similar roots of “poverty and despair, combined with hope and aspirations by those being moved, and criminal opportunism on the part of those involved in the moving business” (Williams, 2016, pp. 267-268).

International cooperation and coordination

Addressing the concept of neoliberal institutionalism in regard to Latin American Security studies, Malamud and Schenoni (2016) argue that several international organizations have been established in Latin America, but that relatively few are security oriented. They identify two security-oriented organizations, the Organization of American States (OAS) and the Union of South American Nations (UNASUR) and according to the authors, the key difference between the two is the exclusion of the United States in the latter organization (Malamud & Schenoni, 2016, p. 46). All the states under examination in this research project are members of OAS (Organization of American States, 2017b), but only ten are members of UNASUR (UNASUR, 2017).³ As for regional coordination in security issues, Malamud and Schenoni stress that MERCOSUR (e. The Southern Common Market) “shows how organizations primarily intended to regulate the economic realm can lead, if not to defense cooperation, at least coordination of domestic and transnational security practices” (Malamud & Schenoni, 2016, p. 50). Moreover, they explain that although defense related issues are not frequently discussed, the nature of the coordination often leads them to spill over into issues related to drug and arms trafficking, amongst other

³ Central America does not form a part of UNASUR.

(Malamud & Schenoni, 2016, p. 51). Although there is no doubt that much needs to be done to reach a common agreement on security policies and coordination, it is safe to argue that the first steps have already been taken to establish cooperation among the states to battle non-traditional threats such as transnational organized crime and human trafficking.

All three of the previous mentioned organizations (OAS, UNASUR and MERCOSUR) have implemented strategies or measures directed at combatting human trafficking. In 2003, OAS adopted resolution 1948, “Fighting the Crime of Trafficking in Persons, especially Women, Adolescents, and Children”, that requests the Permanent Secretariat of the Inter-American Commission of Women (CIM); “To facilitate the exchange of information and best practices among member states that so request with a view to fighting the crime of trafficking in persons and expanding its research to include other member states...” (Organization of American States, 2003). This has proven an important step, as facilitating a better flow of information is a critical move towards making inter-state coordination more effective. The organization has also established an Anti-Trafficking in person section that; “provides the necessary logistic information for training seminars, technical assistance to governments, exchange of information, and proposals” (Organization of American States, 2017a). In addition, the section develops and publishes information and reports along with other documents related to human trafficking (Organization of American States, 2017a). OAS also promotes coordination among the states by hosting the Meetings of National Authorities on Trafficking in Person. At the most recent meeting, in Brazil in 2014, the government representatives agreed on two documents, firstly; “the Second Work Plan Against Trafficking in Person in the Western Hemisphere 2015-2018” and “Declaration of Brasilia”. OAS has pledged to follow up on the implementation of the work plan by (among other actions); “helping member states develop common indicators in the areas of prevention, prosecution, and punishment, and assistance for and protection of victims” (Seelke, 2016, p. 12).

Similarly, UNASUR's primary engagement with the matter of human trafficking was the holding of the South American Seminar on Human Trafficking Prevention & Struggle in the South, in August of 2016. The objective of the seminar was to promote “a common space for information exchange between high level human rights authorities of UNASUR, with the perspective of providing inputs for the establishment of a regional agenda to combat, prevent and assist victims of human trafficking in South

America” (UNASUR, 2016). MERCOSUR has contributed to the fight against human trafficking through publication; “Guía MERCOSUR de atención a mujeres en situación de trata con fines de explotación sexual” (2012) is a guide designed to harmonize the theoretical and methodological approach of the attention to victims of trafficking, and aiming to strengthen and unify the care responses in the region. Furthermore, this guide aims to promote cooperation and coordination and facilitate the articulation of action among the organizations that make up the MERCOSUR network (Reunión de Ministras y Altas Autoridades de la Mujer del Mercosur, 2012b, p. 17). Another document published by MERCOSUR is “Diagnóstico Regional en trata de mujeres con fines de explotación sexual” which contains profound analysis of the characteristics of sex trafficking in the region (Reunión de Ministras y Altas Autoridades de la Mujer del Mercosur, 2012a).

Further cooperation among the states in the region takes place in several NGOs and through awareness campaigns, such as the Blue Heart Campaign (Campaña Corazón Azul), a UN initiative, Brazil, Colombia, Mexico and Perú have signed up to (United Nations Office on Drugs and Crime, 2017). Although cooperation has clearly emerged amongst the states in question, the full extent of its effectiveness remains still to be seen.

Legislation and other actions against human trafficking in Latin America

To provide a full picture of the situation in Latin American context, it becomes important to examine the existing legal framework and the legal modifications executed to combat human trafficking. All the Latin American states have either ratified or accepted the Palermo Protocol, the latest being in Cuba in 2013. Five out of the twenty states have made reservation to article 15, paragraph 2.⁴ However, ratification does not signify full compliance with the protocol. The United States, in accordance with their “Trafficking Victims Protection Act” (TVPA), have developed a placement list where states are categorized according to the efforts they make to combat human trafficking (The Department of State, 2016, p. 35). The placement is published in a yearly report by The Department of State. The placement is

⁴ The list of countries that have signed the treaty can be found on the following webpage:

https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVII I-12-a&chapter=18&clang=_en (accessed:17.11.2019).

“based more on the extent of government action to combat trafficking than on the size of the country’s problem. The analyses are based on the extent of governments’ efforts measured against the TVPA’s minimum standards for the elimination of human trafficking” (The Department of State, 2016, p. 36).⁵ The standards of the TVPA are mostly consistent with the Palermo Protocol. The report places each country on a three-tier scale. Countries placed in Tier 1 are countries whose governments fully meet the TVPA’s minimum standards. Only 2 Latin American countries are currently placed in Tier 1, Chile and Colombia.⁶ In Tier 2 are countries whose governments do not fully meet the TVPA’s minimum standards but are making significant efforts to meet those standards. Most of the Latin American States (13/20) are placed in Tier 2, although Bolivia, Costa Rica and Cuba are placed a half-step behind, in the Tier 2 Watch List, meaning that one or more of the three following criteria applies:

- a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
- b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or
- c) The determination that a country is making significant efforts to meet the minimum standards was based on commitments by the country to take additional future steps over the next year (The Department of State, 2016, p. 44) .

The third placement, Tier 3, applies to countries whose governments do not fully meet the minimum standards and are not making significant efforts to do so. Haiti and Venezuela are both placed in Tier 3. It is important to point out that this placement index is based solely on research and findings of one state, being The United States, and does therefore not necessarily reflect the absolute reality of the situation of the states in question. This Tier scale is, however, the only accessible and internationally recognized measuring tool that provides comparable information on the

⁵ See the complete text of TVPA’s minimum standards:
<https://www.state.gov/j/tip/rls/tiprpt/2011/164236.htm>.

⁶ See list of tier categorization of the states in question on p. 24 and 25.

legal status of human trafficking in different Latin American states. In summary of these tiers, then, the Latin American situation is one that broadly does not meet the minimum standard of the TVPA, which is a guideline consistent with the Palermo Protocol that all the states have accepted or ratified.

The *Trafficking in Person report* (2016) describes existing legislation and government action that has been enacted to combat human trafficking. According to the report, most of the states in question did have some form of national action plan for human trafficking but lacked funding to carry out these plans. According to Seelke (2016), the problem with international commitments regarding legal reforms and other initiatives that have emerged is a general lack of resources. She explains that in many states in the region poverty is already a glaring issue, exemplifying a lack of available resources, but there is also a lack of political will to fund anti-trafficking programs, and political instability can be a contributor as well. Despite legislation against human trafficking and anti-trafficking countermeasures such as anti-trafficking training and awareness campaigns, the report also points out a frequent lack of data and research by the states in question. Due to this lack of statistics, it becomes impossible to estimate the effects these countermeasures have on human trafficking in the region, and thus it is increasingly difficult to suggest alternative measures.

An important feature of human trafficking for sexual exploitation is its correlation with prostitution although differing views exist on regulations about prostitution and the effect such regulations can have on human trafficking. All Latin American states have passed laws regarding prostitution, and as a result it is legal in 18 of the 20 states, while it is illegal in both Haiti and Cuba. Pimping, however, is illegal in 19 states and brothel ownership is illegal in 11.⁷

Case 1: The Swedish model

As observed by Batsyukova (2007), there exists a confirmed connection between prostitution and human trafficking. She argues that: “Ways in which the market of prostitution operates can create opportunities for human trafficking” (Batsyukova, 2007, p. 47). In 1999, Sweden became the first country to introduce legislation that was designed to criminalize the

⁷ For further information see p. 25.

purchase, but not the sale, of sexual services (The Swedish Institute, 2010, p. 4). The purpose of the legislation was “to protect sex workers from legal repercussion to which they have been and are subject in many states, while focusing the punitive gaze of the state of clients of the sex workers” (Levy, 2015, p. 1). With this legislation, Sweden sent a clear message to other countries, implying that; “prostitution results in serious harm to both individuals and to society, and that in a gender equal society it is unacceptable that men obtained sexual relations in exchange for money” (The Swedish Institute, 2010, p. 4). Sweden has made a concerted effort to export this legislation and influence international law and political debate on the subject (Levy, 2015, p. 1). Similar types of legislation have since been adopted by some other European states, such as Norway, Iceland, Northern Ireland and France, and has been referred to as the *Swedish model* or the *Nordic model*, taking denotation from its origin. In the United Kingdom, this model has been referred to as the *Sex Buyer Law* (Jones, 2016). This measure, unlike previous measures introduced to fight prostitution, aims to target the demand for sexual services directly (the buyers and prospective buyers of sex) (The Swedish Institute, 2010, p. 4). The Swedish model addresses “broader themes of social and spatial exclusion, displacement, segregation and the policing and moralizing of public space, as well as processes of social (re)construction of deviant and normative identity” (Levy, 2015, p. 1). The main principle of the Swedish approach is the focus on the root cause, as it recognizes “that without the men’s demand for and use of women and girls for sexual exploitation, the global prostitution industry would not be able to flourish and expand” (Ekberg, 2004, p. 1189). The model is frequently thought of as an effective measure to combat human trafficking although that was not originally its direct intent. J. A. Levy explains that the end of the Cold War and the collapse of the Soviet Union were followed by an increase in migration from Eastern Europe to the wealthier European states. Furthermore, these mass migration flows only increased with the expansion of the European Union and the principle of freedom of movement. Directly in tow with this development was a moral panic about human trafficking, which began to emerge during the 1990s. Even though the legal debate of the *sexköpslagen*⁸ did not involve much discussion about human trafficking, the “white slavery- esque panic-mirroring a revivification of this moral panic by some radical feminist writers – supported calls for new prostitution

⁸ The Swedish term for the legislation; “Law on the purchase of sex”.

legislation, and the law has since been marketed as a measure against trafficking” (Levy, 2015, p. 33). Similarly, it has been pointed out that: “In Sweden, prostitution, and trafficking in human beings for sexual purposes are seen as issues that cannot, and should not, be separated; both are harmful practices and intrinsically linked”(Ekberg, 2004, p. 1189).

From the early days of the implementation process of the *Sexköpslagen*, opposition voices emerged. J. A. Levy explains that prior to the establishment of the legislation, several government commissions investigating prostitution were conducted. The investigations' conclusions advised against criminalization “with concerns voiced as to prospective difficulties gathering evidence, increased stigma and criminalization driving prostitution underground” (Levy, 2015, p. 35). Since its implementation, contrasting views have continued to be expressed. In a report issued by the Swedish government, the opposing views on prostitution and the Swedish model are thoroughly explained:

Those who defend prostitution argue that it is possible to differentiate between voluntary and non-voluntary prostitution, that adults should have the right to freely sell and freely purchase sex, and that the ban on the purchase of sexual services represents an outdated position based on sexual morality. However, from a gender equality and human rights perspective and a shift in focus from what is being offered—those who are exploited in prostitution—to demand, that is, traffickers, procurers and sex buyers, the distinction between voluntary and non-voluntary prostitution is not relevant (The Swedish Institute, 2010, p. 5).

As stated, the principal focus of the model is on gender equality, the oppression of women, and gender-based violence. At the same time as it promotes increased gender equality, however, the model fails to address the situation of male and transgender sex workers; the current Swedish feminist construction of prostitution is of violence against cisgender women (J. A. Levy, 2015, p. 104). In this sense it is therefore safe to argue that the Swedish model, similar to other policies on human trafficking, is based on heteronormative ideas about sexual relations where commercial sex is presumed to be heterosexual and girls and women are the sellers and the buyers male (Robertson & Sgoutas, 2012). It should be pointed out, however, that the law is gender neutral, and distinction between male and female sex workers is avoided (Levy, 2015, p. 79). In its report from 2010 the Swedish government recognizes this as it states that:

Overall, “prostitution” has traditionally referred to heterosexual prostitution, with women providing the sexual service and men purchasing it. The measures that are implemented and the knowledge available are also largely based on this customary view. Accordingly, we do not know very much about men who provide sexual services and about young people who are exploited in prostitution. Buyers of sexual services are still fairly invisible despite the political will to shift the focus (The Swedish Institute, 2010, p. 7).

According to the report issued by the Swedish government in 2010, the Swedish Model has shown indications of success: “Since the introduction of the ban on the purchase of sexual services, street prostitution in Sweden has been reduced by half” (The Swedish Institute, 2010, p. 7). Furthermore the report states that the Swedish model has also had positive effects regarding transnational organized crime and human trafficking: “According to the Swedish Police, it is clear that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers who are considering establishing themselves in Sweden” (The Swedish Institute, 2010, p. 9). It is however important to point out that the surveys carried out in the report were in some cases of limited scope and the procedures and methods used varied, complicating the drawing of conclusions. The report states that due to these factors caution must be used while interpreting the result (The Swedish Institute, 2010, p. 7). It is entirely possible, however, that the reason that street prostitution has ostensibly reduced is because the industry has been driven underground and is therefore less visible. Ekberg (2004), however, argues that there is no evidence of prostitution moving to, for example, the internet as she states that:

The *Net Sex Project* at the University of Gothenburg, a research project that studies the use of the Internet for sexual purposes, concludes in its report that the number of Swedish women who are prostituted via the Internet remains stable at around 80 to 100 women, with the same women advertised on many different Web sites (Ekberg, 2004, p. 1194).

It can therefore be assumed that while there is some indication of a decreasing of demand for prostitution and human trafficking, there is no clear empirical evidence, because of the hidden nature of the phenomenon, and thus no bold conclusions may be made from the introduction of the *sexköpslagen*. Levy corroborates this view, stating that “there is no convincing evidence demonstrating that overall levels of prostitution in Sweden have declined since the *sexköpslagen* was introduced in 1999” (Levy, 2015, p. 225). Waltman (2011) points out, however, that when comparing the statistics on prostitution in Sweden after the implementation of the legislation to

numbers on prostitution in neighboring countries, such as Denmark, where sex purchase is legal, the statistics do suggest that Sweden has been more successful in reducing prostitution and consequently trafficking (Waltman, 2011, p. 146 & 157). It is difficult to fully dismiss these statistics, even if there is reason to believe that the introduction of this law might not have been as effective as some proponents claim.

Table 1: The Swedish model: possible positive and negative outcomes for the society

	Positive	Negative
Case 1	<ul style="list-style-type: none"> • Aims to promote gender equality • Designated to address the demand for sexual services. • Focuses on male oppression and violence against women. • Possible victims of human trafficking do not get punished for forced prostitution. • Some indication of decreasing demand for prostitution and human trafficking, but no clear evidence. • Less prostitution when compared to neighboring countries where sex purchase is legal. 	<ul style="list-style-type: none"> • Brings the activity of commercial sex underground. • Indication of increased motivation for prostitution. • Does not directly address human trafficking, only demand for prostitution. • Generalization about sex buyers. • Based on hetero-normative ideas; assumes prostitutes are female and does not address male or LGBT prostitution. • Promotes discrimination and leads to increased danger for sex workers. • Clients prefer to stay anonymous, making them untraceable in case of any criminal conducts. • Expensive to implement due to increased law enforcement.

Question based evaluation

1. To what extent is the measure applicable for the Latin American context?

The criminalization of the sex buyer would require a major change in legislation in most of the Latin American states. It would be highly likely that the existing sex industry would be forced underground in order to survive, which would lead to a need for greater surveillance and control measures,

translating to increased governmental spending. Surveillance and control measures against human trafficking are already failing in Latin America, however, due to the previously discussed corruption among police officers and in politics. Due to the prevalence of *machismo* in Latin American society, it is likely that any efforts to change the perception of sex work by punishing the buyer would demand an implementation of other measures to raise awareness among the public. Changing the legislation alone is unlikely to be enough in changing the way the public perceives prostitution and the purchasing of sex. Furthermore, it is likely that the *machismo* practice would make it difficult to pass the legislation the state's congress, predominantly composed by men.⁹ In addition, given how rife poverty is throughout the underdeveloped states in Latin America, making prostitution more lucrative by forcing it underground might only encourage more women to begin prostitution. This same poverty, indicative of a general lack of wealth, also makes it more difficult for the states to fund the surveillance and control, which would become necessary under this measure.

2. *Is the measure likely to reduce the demand for human trafficking in the region?*

As there is no clear evidence for the reduction of the demand for prostitution or human trafficking where the Swedish model has been applied (only estimations that indicate a decrease), it is impossible to make an accurate assessment on its possible success when applied to Latin America. Further research would be required to conclude how likely the measure is to succeed in the region, and if it is applicable to a Latin American context. Sweden's experience does seem to have been promising, however, and if the measure can therefore be translated to this region the method would be highly likely to reduce the demand for human trafficking.

3. *Is the implementation likely to have long-term effect?*

The measure is highly likely to have a long-term effect as it addresses the demand for prostitution and human trafficking directly, by attempting to change the way the public views prostitution and the purchase of sex. The

⁹According to statistics provided by the World Bank, 29% of total seats in national parliaments in Latin America and the Caribbean were held by women in 2016 (The World Bank Group, 2016).

Swedish government themselves reports that the ban on the purchase of sexual services has acted as a barrier to human traffickers establishing themselves in Sweden. However, as there is no clear evidence available on the effect of the model due to a lack of data, it is not possible to assert the effect it might have in the long run. Nevertheless, if the model works as it was originally expected and as some of the statistics point towards, the intention is to change the way people view commercial sex and prostitution. It is arguable that if the public starts condemning the purchase of sex, it no longer becomes socially accepted, and purchasing sex becomes thought of as a violation of (these new) socially constructed norms of conduct. Conversely, other criminal activities, such as for example drug related crimes, have been criminalized for a long period in most parts of the world, and yet still continue, with the demand for drugs not seeming to decrease (Trocki, 2015, pp. 101-102); it is clearly not always enough to solely influence public opinion, or to reconstruct social norms.

4. How well does the measure comply with theoretical and legal framework?

The Swedish model emerged from ideas based on social construction. The method does not address the issue from the perspective of human security and transnational organized crime. The measure complies therefore only partly with the theoretical framework. It has been argued that because of the legislation, remuneration for sexual services is very high compared to other countries with less stringent policies. As traffickers seek to maximize their profit, it is therefore perhaps likely to increase the number of trafficked victims. The state becomes a feasible country of destination for sexual exploitation.

The measure complies fully to the legal framework as it complies with the Palermo Protocol and CEDAW. To criminalize the purchase of sex in the region would however require changes in domestic legislation in most of the states in question.

In summary

The implementation of the Swedish model would require thorough preparation throughout Latin America and would be expensive for the states in question as it would require changes in legislation and enhanced surveillance, as the industry would be forced further underground. By forcing the existing industry further underground it would be harder to

identify human trafficking cases and would increase the danger for sex workers in the region. However, as the measure is designed to change the perception of prostitution and discriminates the buyers, the measure would be likely to have a long-term effect, as it addresses the demand for sexual services. Although the Swedish model is a possible measure for Latin American states to implement in the fight against human trafficking, it would be an economical burden. As pointed out earlier trafficking of humans is a culturally based phenomenon, where language and culture are determining factors. Implementing the Swedish model would therefore require strict coordination among all the states in the region to produce a meaningful change in human trafficking. Evaluating the possible negative and positive outcomes of the Swedish model and the current situation (both cultural and legislative), it is safe to argue that the Swedish model would be a plausible measure, but would not be the most suitable option for Latin America to combat human trafficking in the region, as it would require strict coordination, increased surveillance and ultimately significant funding, which Latin American governments are unlikely to contribute to this issue where the majority are not even fully complying to existing human trafficking protocol. It is therefore not likely that the states would succeed by trying to implement this measure.

Case 2: The decriminalization of prostitution

The decriminalization, or the legalization¹⁰ of prostitution has been a polemic issue in debates regarding human trafficking for the past two decades. It became a contested debate after Amnesty International, in 2015, began advocating “for the decriminalization of all aspects of consensual adult sex - sex work that does not involve coercion, exploitation or abuse” (Murphy, 2015). Amnesty International’s decision attracted attention and created debates worldwide, with the organization being criticized for advocating “prostitution as a human right” (Murphy, 2015). The organization responded, stating that their policy;

“[...] does not argue that there is a human right to buy sex or a human right to financially benefit from the sale of sex by another person. Rather, it calls for sex workers to be protected from individuals who seek to exploit and harm them and it recognizes that the criminalization of adult consensual

¹⁰ These terms are often used as synonyms.

sex work interferes with the realization of the human rights of sex worker” (Amnesty International, 2016, p. 3).

According to Swanson’s (2016) findings, scholars are divided into two separate camps, expressing contrasting views on the decriminalization of prostitution. Scholars that articulate abolitionist views advocate for criminalization of prostitution, stating that prostitution is a form of violence against women. The other group of scholars place “prostitution or sex work as a legitimate profession that serves as an expression of women’s choice and agency” (Swanson, 2016, p. 593). The second view has been related to the idea of sexual liberalism (Swanson, 2016, p. 593). Policies that decriminalize and regulate prostitution have been implemented in more than one state, such as Denmark, New Zealand and Austria, but this research takes as its focus the experience reported from the Netherlands as one of the first countries to decriminalize prostitution, to assess the efficacy of this measure as a possible measure for Latin American states in the fight against human trafficking. In this context, it becomes important to clarify that the modern way of decriminalizing prostitution is not solely the act of legalizing the sale and purchase of sex, but rather involves actively regulating the industry and providing sex workers with social and labor rights.

The Netherlands was amongst the first countries to decriminalize and regulate prostitution, lifting the ban on brothels in 1999 in order to aid this regulation. The state aimed to eradicate the criminal elements of the sex industry by providing licenses to sex clubs. The legislation also prohibited forcing a person into prostitution. Religious political parties opposed the legislation as they saw it as an act for allowing immoral practices, but other parties considered it a realistic solution to a social problem. The application was delegated to the municipalities to oversee the providing of licenses (Outshoorn, 2014, pp. 173-174). Swanson explains that the legislation in the Netherlands is supported by the viewpoint of sexual liberation, that local cultural values and beliefs support the attitude towards prostitution but that there is a pressure from the global society to reconsider their policies as abolitionist belief that it entice traffickers to import victims from other countries to meet the open market’s demand for sexual services (Swanson, 2016, p. 613).

Although much has been argued on the possible negative outcomes of decriminalizing prostitution, both regarding the sex industry and human trafficking, empirical, statistic-based research is limited. Joyce Outshoorn, in her research of the nationalities of sex workers after the decriminalization

of prostitution in the Netherlands, identifies the creation of categories of sex workers. She observes four distinct groups of prostitutes that have formed after the decriminalization, categorized with reference to the rights they have according to their nationality, while simultaneously the emergence of two sectors of prostitution, the legal (licensed) prostitution and the illegal prostitution can be identified. She explains that when the new legislation was introduced to regulate the industry and decriminalize prostitution, some local councils did not allow new brothels and that several municipalities of an orthodox protestant majority did not issue new licenses. This created a double-faced industry of the legal and the illegal (Outshoorn, 2014, pp. 177-179). Another critical feature of decriminalization is the possibility of the normalization of prostitution, aiding a culture of sexual discrimination and male dominance. Ekberg argues, from a Swedish perspective, that every policy that decriminalizes different respects of prostitution (brothels, pimps, traffickers etc.) should be seen as a threat to gender equality, and that “the legalization of prostitution will inevitably normalize an extreme form of sexual discrimination and violence and strengthen male domination of all female human beings” (Ekberg, 2004, p. 1190).

One of the positive outcomes of the decriminalization of prostitution has been argued to be the increased transparency of the sex industry as it does not need to be practiced underground anymore. With the decriminalization and the recognition of sex work as a legitimate profession, taxation becomes possible and the states can profit from the supply of and demand for sex. The profit can later be used to fund surveillance and social services for sex workers, and in awareness campaigns.

Research on the effect decriminalization has on the demand for human trafficking is limited. Cho, Dreher and Neumayer conclude in their research that: “The scale effect of legalizing prostitution leads to an expansion of the prostitution market and thus an increase in human trafficking, while the substitution effect reduces demand for trafficked prostitutes by favoring prostitutes who have legal residence in a country” (Cho, Dreher, & Neumayer, 2013, p. 75). The authors clarify that their research is based on the most reliable existing data, but point out that more research is needed, and that although their findings might support the argument of those who favor prohibition of prostitution, this overlooks the potential benefits for the persons employed in prostitution (Cho et al., 2013, p. 76).

Table 2: Decriminalization of prostitution: possible positive and negative outcomes for the society.

	Positive	Negative
Case 2	<ul style="list-style-type: none"> • More transparency in the sex industry. • Supports sex worker’s fight for recognition of their human and labor rights. • Makes taxation on prostitution possible. • Substitution effect reduces demand for trafficked prostitutes. 	<ul style="list-style-type: none"> • Risk of normalization of the purchase of sex and gender-based violence. • Indications of increase in human trafficking inflow. • Possible categorization of prostitutes in accordance with migration status. • Creates two sectors of sex industry, legal vs. illegal, reducing the efficacy of the measure.

Question based evaluation

1. *To what extent is the measure applicable for the Latin American context?*

As previously discussed, prostitution is already legal in the majority of the Latin American States, and the ownership of brothels is legal in 10 of the states, meaning that the legal implementation of decriminalizing prostitution would not require abundant changes in legislation. The changes would rather focus on regulation with regards to license providing and control of the brothels' activities. Decriminalization of prostitution and regulations regarding sex workers would need to be coordinated among the states in the region to avoid a possible hierarchization of sex workers as in the case of the Netherlands, and to reduce the risk of increased migration of sex workers from one state to another. The cultural implications are

however quite complicated, even if prostitution has been a part of the Latin American society since colonization, and sex workers are currently openly fighting for their labor rights. In Latin America, a multinational group of prostitutes have gathered and formed an organization, established in 1997 called ReTraSex (Latin American and Caribbean Women Sex Workers' Network).¹¹ This network, that includes organizations in 15 states in Latin America, fights for human rights of female sex workers, particularly their labor rights (RedTraSex, 2006). According to the network's publication, Uruguay is the only state in Latin America that has passed laws that regulate sex work, but due to its focus on sanitary issues the organization states that the law is beneficiary for pimping and not for sex workers (RedTraSex). As for normalization, it is relevant to argue that prostitution is already a visible fact for the general public in the region. It is therefore safe to assume that the general public would not demonstrate dissatisfaction with general decriminalization and the establishment of regulations regarding the industry.

2. *Is the measure likely to reduce the demand for human trafficking in the region?*

As limited research is available on the effects of decriminalization on the demand for human trafficking it is difficult to make an accurate estimation. However, as Cho, Dreher and Neumayer conclude in their research, the cases of human trafficking might increase, although substitution effect would reduce demand for trafficked prostitutes, as the availability of legal sex workers would presumably fulfill the general demand. As prostitution is already legal in most parts of the region it is possible to assume that the inflow of victims of human trafficking would increase, but this substitution effect would be likely to countermeasure the inflow.

3. *Is the implementation likely to have long-term effect?*

Decriminalization of prostitution is a relatively recent notion and hence the research on long-term effects is limited. Although there is not enough evidence to argue that the measure would have a long-term effect on human trafficking, it is safe to assume that the attitude towards sex workers in the region would change considerably if sex workers were granted better social rights and not treated as criminals or second-class citizens. It is likely that the measure would be able to reduce the stigma prostitutes face, and consequently drive the industry to the surface. The long-term effects would

¹¹Spanish: Red de Mujeres Trabajadoras Sexuales de Latinoamérica y el Caribe

likely be notable for the sex workers themselves, as they would have the possibility to acquire social and labor rights.

4. *How well does the measure comply with theoretical and legal framework?*

The measure of decriminalizing prostitution complies fully with the legal framework, as the Palermo Protocol does not address directly the issue of prostitution, and as long as the member states comply with the protocol regarding human trafficking, the decriminalization of prostitution would not violate the provisions of the Protocol or other international agreements that protect victims of human trafficking. As for the theoretical framework, it is possible to argue that the decriminalization of prostitution would eventually change the way of thinking about prostitution and sex work in general, reducing stigma and discrimination. There is, as has been noted, however, a possibility of "normalizing" prostitution. Normalization can be construed as both positive and negative, but ultimately the social construction of prostitution would eventually change as sex work becomes a legally recognized profession. Although the demand for sexual services would perhaps remain unchanged, the demand for illegal prostitutes, potential victims of human trafficking, would be likely to decrease because of the substitution effect.

In summary

The establishment of ReTraSex, the union of Latin American sex workers, demonstrates how far regional sex workers have come in their fight for recognition of their human and labor rights. Decriminalization of prostitution is a possible measure for Latin American states to implement in their fight against human trafficking. Decriminalization would require great effort and resources from the states, however, to regulate the industry and provide sex workers with all necessary social and labor rights, such as health care and pension plans and the relevant institutions to support the measure. As prostitution is already legal in most states of Latin America, decriminalization and sufficient regulation procedures would be likely to have a positive substitution effect against the demand for illegal prostitutes and consequently victims of human trafficking. As the establishment of ReTraSex in the region shows, sex workers would be likely to accept the measure, facilitating possible implementation of regulations regarding prostitution, especially if their claims would be taken into consideration in the process of forming policies. As prostitution becomes legal and regulated,

there is more transparency as the industry is not forced underground. This makes taxation on the industry possible, allowing the state to benefit from the supply and demand of sex work.

Final conclusions

This study has drawn the attention to the issue of human trafficking, as defined by the Palermo Protocol. Most of the available existing researches on human trafficking have focused on trafficking to and from Europe and the United States, while this study however turned the attention to Latin America, focusing trafficking aimed for sexual exploitation. The most relevant legal document on human trafficking, the Palermo Protocol, has been used throughout, and comprises for the most part the legal framework applied.

After displaying the legal framework and the contextualization of human trafficking in Latin America, two measures to fight sex trafficking were presented and evaluated using an inductive case study method. These measures were analyzed through assessing their broader negative and positive outcomes for society, and through a question-based evaluation. The measures selected have been previously implemented in different European states, the Swedish model in states such as Sweden, Norway, Iceland, Northern Ireland and France and the decriminalization of prostitution in such as The Netherlands, Denmark, New Zealand and Austria. The aim was to determine whether these measures would be applicable, workable and functional for Latin American states in their fight against human trafficking. Furthermore, through a comparative analysis, which measure would be more likely to succeed if implemented in the region.

The principal aim has been to discuss and compare the two selected measures, to ultimately evaluate which one is more applicable for the Latin American states. Through this process, it has become evident that the measures differ, as they are based on two differing ideologies; on the one hand the Swedish model generated upon feminist views that prostitution is a violent, gender based phenomenon, while the decriminalization of prostitution emerged as a consequence of sexual liberalism.

One of the aspects to be evaluated and discussed is Latin America's all-encompassing poverty as one of the causal factors for Human Trafficking. Many of the Latin American states are still evaluated as underdeveloped and despite economic improvements over the last decades, inequality is still an influential factor in the region (Tsounta & Osueke, 2014, p. 20) and has

direct influence on peoples capacity to follow the life of their choosing (The World Bank, 2003, p. 1). As outlined in the 2016 Trafficking in Person report, the different states enjoy limited resources to organize and provide awareness campaigns and training of officials, while some have not even been able to fund existing anti-trafficking plans and policies (The Department of State, 2016). Changes in policies that require increased funding and establishment of institutions are therefore likely to become economically challenging for most of the countries in the region, and much less likely to succeed. It is safe to argue that both measures presented in the previous chapter would require increased funding from them as the measures call for the establishment of improved surveillance of the sex industry. If the measures are closely compared, however, it is possible to argue that the Swedish model would be more of an economic burden for the states as it requires more efforts from the surveillance mechanism and other authorities to investigate and prosecute buyers, along with the establishment of other necessary institutes. By implementing the measure of decriminalization, existing institutes, such as municipalities or ministries would serve to issue licenses to brothels and clubs. Similarly, it would be possible to engage the labor regulatory institutes in supervising and inspecting the field. Notwithstanding is the fact that corruption is present in most Latin American societies, both within the public and private sectors. In many of the states in the region, corruption is a part of common cultural practice and a part of everyday life of the citizens. Applying the Swedish model is likely to drive the sex industry further underground making it even more exposed to the risk of corruption (for example bribery of police officials or other actors with the purpose of covering up any criminal conducts). On the contrary decriminalizing prostitution, would drive the sex industry to the surface making it easier to control, and the risk of corruption might be likely to decrease, as it would become legal to sell and purchase sexual services.

Gender inequality is yet another influential factor and a documented reality in Latin American culture. It is possible therefore that the Swedish model would promote greater gender equality and an awareness of violence against women, but given the recognition and acceptance of *machismo* as a cultural practice in the Latin American reality, it is likely that changing the view of sex purchase by punishing the buyer would require more efforts than the sole change of legislation to raise awareness among the public, with the hope to eventually change the perception of the general population. It is safe to assume that the sex industry would be opposed to the Swedish model

as it includes the criminalization of their source of income (the clients), making implementation harder to accomplish. However, as the Swedish model has only been implemented in wealthier states where corruption is not considered to be an influential factor, it is doubtful to draw conclusions based on that argument.

In summary, the findings of this research demonstrate that both measures would be applicable and workable for Latin American states to reduce the demand for human trafficking. Experience with the Swedish model shows a reduction in numbers of street prostitutes, and that criminalization on the purchase of sex has also functioned as a barrier for human traffickers to establish themselves in Sweden. The second measure, the decriminalization of prostitution, has proven to increase inflow of human trafficking. It has however been argued that because of the substitution effect, the demand for illegal prostitutes and possible victims of human trafficking would be likely to decrease in the long-term. And, as already emphasized, implementing the Swedish model would be not at all suitable for Latin America as it would enhance an economical burden for the states, requiring more surveillance and increased police involvement. The industry would be forced underground, endangering prostitutes, and if implemented, all the states in question would be required to make notable changes in their legislation and to considerable increase funding to fight human trafficking, which this study has deemed unlikely to occur.

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APPENDIX A

Table 3: Signatures and reservations to the Palermo Protocol by state.

State	Year ratified/accepted	Reservations
Argentina	2002	None
Bolivia	2006	Not bound by paragraph 2, article 15
Brazil	2004	None
Chile	2004	None
Colombia	2004	Not bound by paragraph 2, article 15
Costa Rica	2003	None
Cuba	2013	Not bound by paragraph 2, article 15
Dominican Republic	2008	None
Ecuador	2002	Not bound by paragraph 2, article 15
El Salvador	2004	Not bound by paragraph 2, article 15
Guatemala	2004	None
Haití	2011	None
Honduras	2008	None
México	2003	None
Nicaragua	2004	None
Panamá	2004	None
Paraguay	2004	None
Perú	2002	None
Uruguay	2005	None
Venezuela	2002	None

Source: United Nations, 2016.

APPENDIX B

Table 4: Legal status of prostitution of Latin American states.

State	Prostitution	Brothel ownership	Pimping
Argentina	Legal	Illegal	Illegal
Bolivia	Legal	Illegal	Illegal
Brazil	Legal	Illegal	Illegal
Chile	Legal	Illegal	Illegal
Colombia	Legal	Legal	Illegal
Costa Rica	Legal	Legal	Illegal
Cuba	Illegal	Illegal	Illegal
Dominican Republic	Legal	Illegal	Illegal
Ecuador	Legal	Legal	Illegal
El Salvador	Legal	Legal	Illegal
Guatemala	Legal	Legal	Illegal
Haití	Illegal	Illegal	Illegal
Honduras	Legal	Illegal	Illegal
México	Legal	Illegal	Illegal
Nicaragua	Legal	Legal	Legal
Panamá	Legal	Legal	Illegal
Paraguay	Legal	Illegal	Illegal
Perú	Legal	Legal	Illegal
Uruguay	Legal	Illegal	Illegal
Venezuela	Legal	Legal	Illegal

Source: ProCon.org, 2016

Received: September 2, 2019
Accepted: September 30, 2019