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PROSTITUTION AND TRAFFICKING FOR SEXUAL EXPLOITATION:

A CASE STUDY OF THE REPUBLIC OF SOUTH AFRICA AND THE KINGDOM OF
THE NETHERLANDS

by

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ABSTRACT:

This thesis examines the issues of sex trafficking in South Africa and the Netherlands through an investigation of the relevant policies and laws on sex trafficking and prostitution in the context of existing international human rights instruments. It also addresses the evolution of human rights policy in the context of trafficking for sexual exploitation, analyzing the crime through a feminist exchange theory lens and Wallerstein's (2013) world system analysis. This research centers on the relationship between international law and national law, concentrating on the socio-political forces and the enforcement of those laws. Policy effectiveness is measured through quantitative data on sexual exploitation provided by the United Nations Office of Drugs and Crime (2018) and opinion data provided by the European Values Study (2019) and the World Values Survey (2014).

Keywords: Sex trafficking, Prostitution, Human trafficking

INTRODUCTION:

Sex trafficking is a global social problem, and a non-ethnocentric and multicultural discourse is necessary to provide a better understanding of the complexities involved in an international social problem, especially one that has human rights implications. Sex trafficking is referred to as “human trafficking for sexual exploitation” within international legal documents. Often within the larger discourse, the two terms are used interchangeably. However, for the sake of simplicity and ease of understanding, human trafficking for sexual exploitation will be referred to as *sex trafficking* within this thesis in order to clearly differentiate it from human trafficking for labor exploitation.

According to the Universal Declaration of Human Rights, signed by 48 nations in 1948:

Article 6.

Everyone has the right to recognition everywhere as a person before the law.

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. (p. 3).

This fundamental human rights document codifies the concept of equality in law, and therefore the justice system, regardless of migration status, sex, gender, race, ethnicity, or occupation. Sex trafficking has a particularly gendered nature within human rights discourse. For over a century, sex trafficking has been addressed internationally. National law and policies, however, still vary considerably on the subject of sex work, specifically prostitution. Sex work is defined by the World Health Organization as the “provision of sexual services for money or goods” (2002:2), which can mean anything from prostitution to pornography.

This study will explore the question of whether public opinion and sex work policy affect rates of sex trafficking.

There has been limited comprehensive research into the relationship between sex work policy and the rates of sex trafficking due to the nature of the “rescue industry.” There exist some neoconservative social workers who claim all those involved in prostitution are traffickers or are being trafficked (Breuil et al. 2011). The Dutch government has published reports compliant with the United Nations attempting to accurately measure the number of victims of human trafficking and provide their profiles. The Netherlands is one of the most famous countries to legalize sex work. As such, an investigation of the Netherlands’ legal prostitution policy provides a step towards a more comprehensive analysis of the policies that concern sex trafficking. South Africa will be examined and used as a comparison due to the uniqueness of its constitution. In 1994, the Republic of South Africa modeled a new constitution after human rights documents (Mutua 2002). This study uses existing data from the United Nations and the World Values Survey to analyze the efficacy of policy as it evolved in the Netherlands. Then, globalization theories and a global perspective are applied to further the analysis.

As a global social problem, sex trafficking is an important issue; however, research into this problem has not been sufficient. Lerum and Brents (2016) noted that as recently as 2016, there has been a discrepancy between empirical research and policy on sex work and human trafficking, specifically sex trafficking. Human trafficking is often considered a negative aspect of globalization (Limoncelli 2009). However, there appears to be a lack of national authority or capacity to implement international laws such as the Rome Statute,

which outlines crimes against humanity, or the Palermo Protocol, which is the primary United Nations document prohibiting sex trafficking (Breuil et. al 2011).

I will discuss how international policy informs national law, and how culture and history inform the interpretation of those laws and policies. I hope to contribute a clearer understanding of the ways in which national policy and human rights instruments can affect sex trafficking. This will be done through the comparison of two countries, South Africa and the Netherlands.

LITERATURE REVIEW:

International Human Rights Instruments

Since the 1980s, there has been an increased interest in human trafficking due to the fall of the Soviet Union and subsequent globalization as well as the growth of the sex industry (Coontz and Greibel, 2004:49). The concept of human trafficking, as it is discussed today, dates back to the beginning of the 20th century. The first international document on sex trafficking was published in 1904. The International Agreement for the Suppression of the White Slave Traffic was meant to protect white women from being trafficked for sexual exploitation, specifically within Europe (Breuil et. al 2011). After World War II and the Holocaust, the United Nations was formed as the successor to the League of Nations, and the Universal Declaration of Human Rights was ratified in 1948 when the world was still starkly divided between East and West. Even so, the world powers agreed that certain lines should not be crossed regarding human rights (United Nations). Two of those lines were human trafficking and sexual exploitation.

A series of international human rights instruments related to sex trafficking were introduced following the ratification of the Universal Declaration. For example, in 1949, the U.N. Convention for the Suppression of the Traffick in Persons and of the Exploitation of Prostitution of Others was passed, and completely disregarded the consent of the sex worker (Breuil et. al 2011). The exact language used in the convention is the phrase “even with the consent of that person,” when referencing the illegality of prostitution and definition of sex trafficking (U.N. 1949). Since the 1949 convention was passed, there have been several international human rights instruments concerning sex trafficking passed by the U.N. such as the 1993 Vienna Conference on Human Rights and the 1995 Beijing Platform. Then in 1998, the United Nations General Assembly passed the Rome Statute of the International Criminal Court. Part 2, article 7, paragraph 1 of the Statute defines crimes against humanity as, among other things, enslavement, “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity (p. 3-4).”

In 1999, the Optional Protocol to the Convention on the Elimination of Violence Against Women was implemented. A year later, the Palermo Protocol, more formally known as the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, was passed by the U.N. General Assembly in 2000. The Palermo Protocol not only positions sex trafficking as a significantly more heinous crime than labor trafficking, but also conflates sex trafficking with prostitution in the definition of sex trafficking (Moore and Goldberg, 2015). Additionally, the Palermo Protocol applies Western laws and ideals to the entire globe, spreading colonialist and sexist values that reinforce the white man as savior of a brown woman who has no agency narrative (Moore and Goldberg 2015, Mutua 2002). This type of policy focuses on the criminalization of those involved in sex trafficking rather than

individual human rights, such as the guarantee of life, liberty, and security (Article Three, UDHR) to those being exploited (Moore and Goldberg 2015).

Theory

The overall theoretical perspective will be a combination of globalization theory and feminist exchange theory. Wallerstein's (2013) world systems analysis is a globalization theory that organizes the world into three distinct categories; core, semi-periphery, and periphery. The world systems analysis is particularly useful because it divides the world into three categories, rather than "the west and the rest". This theory emphasizes that because the categories define one another, they are interdependent or mutually dependent. Therefore, no category, state, or unit can be considered more important than another (Wallerstein 2013). These categories of states can be best explained through the goods manufactured and exported, which is similar to the designations of country of origin, transit, and destination. Feminist exchange theory is an extension of Blau's exchange theory (1964) which attempts to extrapolate complex relationship structures from simpler interactions which address power imbalances; in this case, the difference between social and economic exchange, and even prostitution solicitation. The gender dynamics of prostitution and sex trafficking call for a feminist analysis, similar to Hoang (2015).

This theory of globalization is important to consider because when examining human trafficking (for labor or sexual exploitation) there are three categories of nation-states similar to the three categories of nation-states in Wallerstein's World Systems Analysis (2004). Through this perspective, one can view the countries of origin as the periphery, countries of transit as the semi-periphery, and countries of destination as core countries (Limoncelli

2009). In an economic analysis, trafficked persons' countries of origin can be compared to periphery countries where raw materials are taken. Transit countries are similar to semi-periphery countries since they are not quite where the finished "product" will end up, and destination countries are core countries because that is where consumers are located.

Due to common nomenclature of origin, transit, and destination nations when it comes to global trafficking, there is a benefit to adding a sociological globalization perspective to the analysis of sex work policy and how it relates to trafficking. In order to properly understand a singular area's response to sex trafficking through a policy on sex work, it needs to be understood within the global context (Limoncelli 2009). Emmanuel Wallerstein's world systems' analysis is particularly useful among the globalization theories because it divides the world into more categories and emphasizes that they define one another and therefore no category can be considered better than the others due to mutual dependence (Wallerstein 2013). This framework illustrates the interconnectivity of the global world system as well as the importance of economics within that system, which is an important factor when considering where it is most profitable to conduct sex trafficking (Cho, Dreher, and Neumayer 2013). Furthermore, as sex trafficking is a global problem, and this research is concerned with an international comparison of national policy and international human rights corpus, a globalization theory is required.

However, the world systems analysis theory of globalization is still lacking. Due to the gendered dynamic of sex trafficking, in order to best utilize any globalization theory, one must also employ feminist exchange theory. In tandem with the world systems analysis, feminist exchange theory illustrates how intertwined the social institutions are that craft human rights instruments and/or perpetuate sex trafficking.

The equivocation of sex work to sex trafficking in legal documents disregards the experiences of those who are workers as well as the victims of trafficking because it denies autonomy and masks the underlying cause(s) of people turning to sex work as well as what makes certain people more vulnerable to sex traffickers. Generalizing the entire sex industry as a vein of human trafficking is incredibly damaging to those who engage in sex work because it is a more profitable alternative to more socially acceptable work (Hoang 2015:17). A feminist approach to exchange theory shows that on one side of the sex work exchange are clients who gain status, dignity, and approval from someone who is socially attractive. On the other side, sex workers receive upward social mobility due to an increased economic status (Blau 1964, Hoang 2015). However, these exchanges still reproduce the institutions that facilitate inequity, stigma, and criminality for legitimate sex workers and survivors of sex trafficking.

Recent Policy Research

Raphael (2017) highlights the issues surrounding the current literature and public debate about sex trafficking, especially the lack of reputable data. Much of the literature also uses rather inflammatory rhetoric (Biljana, Seigel, Stutterheim, and Bos 2015). The lack of a universal definition of sex trafficking (Lerum and Brents 2016) complicates contributions to the academic literature (Jakobsson and Kotsadam 2013). Weitzer (2010) also notes the common bias in research that makes legalization of sex work a political issue when discussing the potential use of a polymorphous paradigm. The polymorphous paradigm recognizes that prostitution is a complicated issue, subject to power relations and structural conditions. This paradigm contributes more to understanding sex trafficking, however,

compared to the oppression paradigm, which assumes the sex industry is inherently and universally harmful, commonly promoted.

There is also a global disconnect between policies surrounding sex work and policies concerning human trafficking (Lerum and Brents 2016). While many places use the Palermo Protocol's definition for trafficking, there is no official international definition for human trafficking or sexual exploitation (Meshkovska et. al 2015). Though the difference between human trafficking and migrant smuggling is clear on paper due to the distinction between the Palermo Protocol and Protocol Against the Smuggling of Migrants by Land, Sea and Air, there remains much confusion about how they differ in reality (Meshkovska et. al 2015).

There are different approaches to understanding the issue of sex trafficking. This includes the legal, enforcement, and ethnographic narratives (Brueil et. al 2011). These narrative understandings focus on sex trafficking through the lens of legality and law enforcement of prostitution laws. Legally, sex trafficking is prohibited in most societies, but it is difficult to enforce due to the lack of resources necessary to locate and prosecute such concealed crimes. The complexities such as the power dynamics of sex trafficking become even more readily apparent when studies use an ethnographic approach to understand the reality that sex workers and trafficked people go through (ibid).

There are more narratives formulated by state actors such as security, migration, and human rights. Security narratives view human trafficking, specifically sex trafficking, as dangerous to the state. Migration narratives portray women migrants as people who are or will be trafficked for sexual exploitation, and the human rights narrative argues that the basic human rights are being violated by trafficking (Meshkovska et. al 2015). The type of

narrative a state chooses to utilize influences subsequent policy decisions. For example, the United States government published its U.S. Strategy on Women, Peace, and Security in 2018. The U.S. government views human trafficking of women and girls for sexual slavery as a human rights issue, and a threat to national security (2018). There are a multitude of ways to frame and understand the multifaceted issue of sex trafficking, and as such, this project strived to better understand the ways in which the policy is framed, and then the effectiveness of that policy.

Overview of Cases

The Republic of South Africa is being used as a comparison due to the reconstruction of the nation-state following the downfall of Apartheid in 1994. South Africa carefully crafted provisions on human rights in the new 1996 constitution signed by Nelson Mandela. This constitution adopted many principles from international human rights documents. Unfortunately, the governments of the African National Congress remained too dependent on human rights rhetoric. Accordingly, the government's inadequate policies on human rights protections lacked efficacy and led to the failure of an actual reconstruction of the patterns of power within South Africa. The practice of the rule of law is what is necessary for the respect of human rights to be effective within the state (Mutua, 2002). The unique cultural history of South Africa, its position as a regional powerhouse, and the gender dynamics within the laws of sex trafficking and prostitution make the nation an interesting case study, especially when compared to the Netherlands.

The Kingdom of the Netherlands is perhaps one of the most well-known countries where prostitution is legal. In 2000, the brothel ban was lifted. There was an assumption that

the businesses and behaviors would become more normalized, the sex work sector would be more regulated, and trafficking would be reduced or eliminated (Huisman and Kleemans 2014). However, there were mixed results. Legal sex work retained some characteristics of the illegitimate market due to the lingering stigma of paying for or being paid for sexual services. Additionally, pimping was a neglected aspect in the legalization policy. There remains a lack of enforcement due to few resources. So, legalization was not enough to provide transparency to sex work which would allow government agencies to easily locate and prosecute sex traffickers (Huisman and Kleemans 2014).

For more than a century, human trafficking has been a topic of discourse internationally, while prostitution has been a topic of debate within the domestic context. This study will contribute to the existing literature by providing a more in-depth analysis of the connection between prostitution and sex trafficking with attention paid to international human rights discourse. Due to the cross-national comparison, this study will provide a more accurate perspective on the ways in which policy and public opinion can affect rates of sex trafficking. The Netherlands and South Africa represent seemingly opposite positions and perspectives on the legalization of sex work. Also, my choice of South Africa flows from the Dutch (i.e. Afrikaans) influence before and after British colonization and the advent of the National Party and its Apartheid policy introduced in 1948.

METHODS

This study utilizes a policy analysis of the laws surrounding prostitution and sex trafficking in South Africa and the Netherlands and includes an analysis of secondary data

from international human rights instruments. I will compare sexual exploitation rates, public opinion on the *justifiability* of prostitution, and public policy on prostitution and sex trafficking through the lens of human rights.

This study employs secondary data from three international databases to collect information on South Africa and the Netherlands; 1) the United Nations' Office on Drugs and Crime database on sexual exploitation, 2) the European Values Study (EVS), and 3) the World Values Survey (WVS). Public opinion data about the justification of prostitution from the European Values Study will be used for the Netherlands, and the World Values Survey will be used for South Africa. These data sources will be used to determine whether public support and policies for the decriminalization of sex work may lead to lower rates of sex trafficking.

Measures

Rates of sexual exploitation for South Africa and the Netherlands were gathered from the United Nations Office on Drugs and Crime (UNODC), which includes the number of reported cases of criminal sexual exploitation from 2014 to 2017 (Harrendorf, Heiskanen, Malby:67). The UNODC statistics are provided by police, prosecutors, and court systems on a voluntary basis, and therefore are highly dependent on local police enforcement and compliance. Reporting by law enforcement about the perpetrators of sexual exploitation could be indicative of the extent to which a nation-state is willing to protect its citizens from this crime due to the desire of the nation-state to obtain certain Sustainable Development Goals set by the U.N. While there has been an increase in reporting sexual exploitation since 2014, there is no official reporting rate from the U.N. In 2014, 23 countries reported data on

sexual exploitation, and in 2017, 40 countries reported data. This increase in reporting illustrates the growing understanding about the serious nature of sex trafficking.

Established in 1997, the United Nations Office on Drugs and Crime has attempted to make the world safer from organized crime, drugs, terrorism, and corruption. One of the ways in which they try to do so is to raise awareness of the nature and extent of these crimes by publishing drug and crime statistics on the international level in addition to supporting member states' ability to do so. Data on sexual exploitation is from the United Nations Surveys on Crime Trends and the Operations of Criminal Justice Systems (UN-CTS), which is a questionnaire completed by member states and conducted annually. The classification of crimes can be found in the International Classification of Crime for Statistical Purposes (ICCS). The ICCS is the primary unit of classification of criminal offenses and is used as the international statistical standard.

Public opinion data about prostitution was gathered from the European Values Study and World Values Survey. The World Values Survey (WVS) has been measuring public opinion on whether prostitution is *justifiable* since 2006 in the Netherlands, when that country first participated in the survey. South Africa has been participating since the first wave in 1982. The European Values Study (EVS) also asked about public opinion on the justifiability of prostitution. Since the Netherlands has participated in the EVS since 1981, this study utilized data for the Netherlands from that database rather than the WVS, for the sake of consistency.

The European Values Study (EVS) is a longitudinal survey that examines basic human values to provide insight into citizen's ideology, opinions, and preferences of citizens

in Europe. Initiated by the European Value Systems Study Group in the late 1970s, citizens within European Member States were interviewed using standardized questionnaires beginning in 1981 and again every nine years with varying amounts of nation-states participating in each wave. The first wave in 1981 was conducted in only 10 European countries, while the fourth wave in 2008 took place in 47 countries.

The question relevant to this study is Variable v160; “Do you justify: prostitution (Q44L). Please indicate for each of the following whether you think it can always be justified, never be justified, or something in between.” The respondent then ranked the justifiability of prostitution on a Likert scale, ranging from one (1) never being justifiable, to ten (10) always being justifiable.

It is important to note that the question was not asked in 1999. Interviewers in certain countries decided whether to ask certain questions depending on national context, such as current legislation and topic sensitivity. Other than prostitution, there were five other optional questions: avoiding fare on public transport, sex under legal age of consent, political assignments, scientific experiments on human embryos, and genetic manipulation of food stuffs.

First conducted in 1981, the World Values Survey (WVS) is an international network of researchers who seek to understand changing values and the impact they have on political and social life. Led by scholars around the globe, the WVS strives to “help scientists and policy makers understand changes in the beliefs, values and motivations of people throughout the world” (Inglehart et. al 2014). Data is used by students to government officials, and even the World Bank. The surveys were based on the European Values Study

(EVS) and carried out across all six inhabited continents. Though the initial wave was rather Eurocentric, the survey has become more decentralized and globally representative. The most recently published wave, Wave Six, included 60 countries, six times more than the first wave.

The relevant question asked in the WVS is V203A, “Please tell me for each of the following statements whether it can always be justified, never be justified, or something in between, using this card”. The justifiability of prostitution was ranked by the respondent using a Likert scale from one (1) to ten (10), with one being “Never justifiable” and ten being “Always justifiable.”

Data Analysis

In addition to comparing the prevalence of sex trafficking, a policy analysis of laws is included. This study incorporated traditional and interpretive approaches to a policy analysis in addition to quantitative data analysis, as described by Browne, Coffey, Cook, Meiklejohn, and Palermo (2019). The traditional approach focuses on factual evidence and was used to analyze the sex trafficking policy. The interpretive approach utilizes a social constructionist lens, where the development of policy is based on the perceived reality of appropriateness, and hence was used to analyze the prostitution policy.

The traditional approach addressed the effectiveness of the solution to sex trafficking that a state took in comparison to the prevalence of sex trafficking per capita. This approach is very objective, in that it deals with the outcome of the policy, rather than the rhetoric and politicized language and context of the policy. The interpretive approach focuses instead on language and discourse, or the meaning of the policy. This analysis recognizes that policies

are produced historically and culturally and through processes of discourse, which illustrates how the problem is framed within the policy (Browne et. al., 2019:1038).

Interpretive policy analysis is especially useful because of two main underpinnings; first, problems that policies address are not innate, but created through history and according to culture (i.e. are social constructs), and second, policy is formed through discourse (Browne et. al, 2019:1038). It is also important to note that the focus of policy impacts the identification of crime (Kragten-Heerdink, et. al, 2018). If a policy allocates more resources and efforts to identifying certain situations, that does not necessarily mean that situation is more prevalent than another situation types but is simply identified more often (ibid:1771-1782).

Hypothesis

- 1) Public support for, and a policy of, decriminalization of sex work is correlated with lower prevalence of sex trafficking.

Nevada legalized prostitution and sex work in the 1970s (Brents, 2016), and has lower rates of sex trafficking (by cases per capita) than Washington, D.C., Atlanta, Georgia, Orlando and Miami, Florida. Additionally, Nevada is ranked ninth, along with Pennsylvania, for states reporting human trafficking cases. California, Texas, Florida, Ohio, New York, Michigan, Georgia, and North Carolina criminalize prostitution, and are all ranked higher (National Human Trafficking Hotline, 2017, Benjinariu, 2019). This project applied the logic of what appeared on the state level, to nation-states on the international stage.

Public opinion and engagement are “perhaps the most important and least understood mechanisms to combat human trafficking (Bouche, Farrell, and Wittmer, 2015:29).” However, public opinion also impacts the formation and passage of comprehensive legislation on topics such as sex work and sex trafficking (ibid). Public acceptance of prostitution and a national policy of decriminalization could lead to lower rates of sex trafficking through an increase in regulation, and therefore safety.

POLICY ANALYSIS

A recurring theme in the current literature is the need to overcome and address gender inequality (Britton and Dean 2014). This failure to incorporate preventative measures that address gender inequality, human rights, and economic development is indicative of the moralistic view of sex championed by certain religious scholars, and the exploitative perspective of prostitutes championed by radical feminists (ibid). Another common issue is the continued conflation of prostitution and sex work with sex trafficking, undocumented migration, and transnational organized crime (Esmer and Francis 2017). There is no centralized database of victims of trafficking, so the numbers presented are theorized to be inaccurate and very low (p. 194).

For a policy to be effective, it must make sense in the cultural context; as such, traditional leaders in rural areas must also approve of the policy (Britton and Dean 2014). Interagency and interdepartmental cooperation and coordination are also vital (Esmer and Francis 2017). Unless law enforcement, traditional leaders, prosecutors, and different governmental departments begin a cohesive effort to combat human trafficking, it will

remain a largely under addressed problem. Effective policy must incorporate cooperation in order to work.

The Case of the Republic of South Africa

Laws

The national policy in South Africa is one of prosecution rather than addressing root causes of sex trafficking or the reasons why people go into sex work. In 1957, the Republic of South Africa amended and renamed the Immorality Act to the Sexual Offenses Act. Among other things, the Act criminalizes both the buying and selling of sex, or anything related to sexual activity outside of heterosexual marriage. Prior to addressing the language in this Act, it must be noted that the culture in which this was written was the height of the Apartheid: the epitome of racist patriarchy. In the Sexual Offenses Act, many sections addressed sex work, or “unlawful carnal intercourse.” Section two (2) is a brothel ban; section ten (10) criminalizes the procurement of “unlawful carnal intercourse,” specifically pertaining to women; section 12 addresses those who would “take or detain any female” for “unlawful carnal intercourse;” section 19 addresses window solicitation; and section 20 states that any person who sells acts of indecency is guilty of an offense. Those found guilty of section twenty can be sentenced to up to three years imprisonment with compulsory labor and may be fined up to £300, or £6,168 (7,733 USD). The focus on policing women’s sexuality in this law is indicative of the gender discrimination and racism that was so rampant during Apartheid, and still exists today.

Half a century later, in 2007, the Sexual Offenses Act was amended by the Criminal Law Sexual Offenses and Related Matters Amendment Act. However, the buying and selling

of sex remains illegal. Section 71 of the Act addresses trafficking in persons for sexual purposes: “A person who traffics any person without consent is guilty of the offense of trafficking in persons for sexual purposes (p. 85).” The Act only addresses the sex trafficking aspect of human trafficking. However, the use of non-gendered language is a step forward compared to the original 1957 Act. The 2007 Act mentioned “trafficking in persons” 17 times and each those were followed by the phrase “for sexual purposes.” Such rhetoric indicates the improvement the South African government has made in addressing trafficking in persons as a whole, since the language became slightly less gendered and increasingly inclusive. In 2008, the province of KwaZulu Natal in South Africa created an anti-trafficking task force, funded by the European Commission, that was copied elsewhere in the country (Esmer and Francis 2017:191). However, this format for locating and prosecuting trafficking was too decentralized and formal to be properly effective. Furthermore, the taskforce focused on sexual exploitation and used gendered rhetoric which led to the neglect of male victims and victims of labor trafficking (p. 197). A few years later, the 2007 Act was amended in 2013 by the Prevention and Combatting of Trafficking in Persons Act.

The Prevention and Combatting of Trafficking in Persons Act repeals sections 70 and 71 of the Criminal Law Sexual Offenses and Related Matters Amendment Act, where sex trafficking is addressed more thoroughly. This Act does not address sex work except in the case of children. The new law focuses on trafficking more generally rather than only addressing sex trafficking of women and children like previous laws. As such, children in sex work are automatically considered trafficked. Furthermore, it expands the scope of who may be charged with trafficking to include those who intentionally use the services of a trafficked person (section seven). A non-citizen victim of human trafficking can be granted a thirty-day

visitor visa, *if* they decide to cooperate with law enforcement and prosecutorial offices, and they are allowed a three-month time frame to recover. This three-month period can only be extended once, for an additional three-month period. A victim of trafficking can apply for permanent residence if there is reason to believe that they would be harmed if repatriated, and if they assisted in the prosecution of their traffickers. Additionally, the law calls for a more cohesive government-wide effort to combat human trafficking.

Reports by U.N. and other Bodies

The Republic of South Africa is a young democracy and is still struggling with the legacy of Apartheid, as well as patriarchal norms and violence against women. As such, it is understandable that there is a disparity between the constitutional outline of human rights, and the realities of limited access to those rights (Special Rapporteur 2016). Many of the factors that contribute to high rates of both prostitution and sex trafficking overlap, such as poverty, low educational standards and attainment, high unemployment, and experiencing high levels of gender discrimination and violence (UNESCO 2007). All of these factors, combined with the fact that South Africa is a regional economic powerhouse, makes the country a destination, origin, and transit country for trafficking. Furthermore, there are limitations placed on women's legal migration at the same time there has been an increase in female migrants (UNESCO 2007:34). Therefore, an increasing number of migrants are resorting to illegal means in order to search for better opportunities abroad (UNESCO 2007).

The government is continuing to face issues with certain traditional practices that are technically sex trafficking such as ukuthwala. Ukuthwala is a traditional practice of kidnapping a young woman to be a bride. This practice is seeing a resurgence, as is virginity

testing (Committee on Economic, Social, and Cultural Rights 2018). Though this practice meets the criteria of sex trafficking, cases are often prosecuted as kidnapping or statutory rape rather than sex trafficking (Special Rapporteur 2016).

Furthermore, the country is still recovering from the legacy of Apartheid that imbedded a racist, capitalist, and patriarchal system into the fabric of South African Society (Commission for Gender Equality 2013). This system has contributed to a prohibitionist legal framework when it comes to sex work because “sex work differs in a crucial way from other forms of labor done by women, because it is predicated on the asymmetrical relationship of economic exchange between men and women, without which it cannot be sex *work* (CGE 2013:3).”

There is debate concerning the nature of prostitution, and whether it is sex work, or sexual exploitation. The Commission for Gender Equality (2013) argued in favor of decriminalization because it can lead to a distinction between voluntary sex work and forced sex work. They stated there is no evidence that decriminalization leads to an increase in sex workers, but such a policy would allow sex workers to exercise their constitutional rights, and to have agency. In 2018, the Women’s Caucus agreed to push for the decriminalization of sex work because they wanted sex workers to have better working conditions as well as agency, something that is denied to them with the criminalization of sex work. The Sex Workers Education Advocacy Taskforce released a report in 2019 stating that under the current law, sex workers are especially vulnerable to abuse, and that if decriminalization occurred, sex workers could organize into unions, gain more respect, and have better access to services such as health care, which would lead to a lower likelihood of exploitation and trafficking. They also argue that sex trafficking narratives put forth by the media and those

for abolitionist or prohibitionist policies oversimplify the issues individuals face (SWEAT 2019). Even the United Nations has recommended the decriminalization of sex work and for the South African government to protect the workers from abuses committed by the police (Committee on Economic, Social, and Cultural Rights 2018).

The Human Rights Commission's Report of the Special Rapporteur (2016) revealed that in addition to evidence of police abuse of sex workers, sex workers were ignorant of their rights, and when they were arrested, they were denied HIV/AIDS medication. Police also fail to believe prostitutes can be raped, leading to secondary victimization of the victim by the police when reporting gender-based violence. Criminalization of sex work contributed to underground prostitution, increased stigma and discrimination, obstacles to services such as healthcare, and increased vulnerability to violence and human rights violations such as sex trafficking. Also, while the buying and selling of sex is criminalized, sex workers were more often arrested, and the buyers were not charged. As such, the Report recommended the decriminalization of sex work.

However, the South African Law Reform Commission (2017, Section 8,:4) "is of the view that exploitation, particularly of women in prostitution seems inherent in prostitution and depends on the external factors of gender violence, inequality, and poverty and is not caused by the legislative framework in which it finds itself." It goes on to say that although prostitution should be criminalized, there needs to be a diversionary practice, because the women who are prostitutes are victims who need to be reformed (p. 5, p. 12). The Law Reform Commission takes the view that prostitution, and sex work in general, is not *work* due to the fact that it is not considered "decent" work (p. 13). All reports agree on the need

for a more concerted effort by the South African government to tackle sex trafficking and its root causes: economic inequality and gender-based violence and discrimination.

Although there is institutional framework that addresses sexual exploitation and child trafficking, and slavery is addressed in the constitution (UN Global Report), South Africa remains a Tier 2 Watch List country by the United States. The U.S. Department of State releases an annual Trafficking in Persons Report assessing other countries and their successes in tackling the global problem of trafficking in persons. South Africa was a Tier 2 country from 2012 to 2017, but in 2018 and 2019 was ranked a Tier 2 Watch List. This means that though the South African government does not fully meet the Trafficking Victims Protection Act of 2000, they are attempting to comply with those standards (Tier 2 requirements). For a nation to be moved to the Watch List, the number of victims must have increased, there was a failure to prove that the government is increasing efforts to combat trafficking, or that there is little evidence the government is committing to make significant efforts to be in compliance within a year. In South Africa's case, there has been no significant evidence that they are increasing their efforts to combat trafficking since 2017. Furthermore, there has been a decrease in prosecutions for trafficking (p. 425), and there is no systemic or orderly protocol for the prosecution of traffickers (p. 426). Of the 260 government-identified trafficking victims, only 20 were trafficked for sexual exploitation, and 32 of the victims absconded from care due to the failure to prosecute the traffickers. The report also stated that "some well-known brothels previously identified as locations of sex trafficking continue to operate with officials' tacit approval" (p. 428).

Data

Since 2013, the number of cases of sexual exploitation has decreased. In 2014, there were 1,694 cases, and in 2017 there were 1,221 sexual exploitation cases. Data was gathered from the United Nations concerning prevalence of sexual exploitation, because there is not a clear database on sex trafficking prevalence. While sex trafficking doesn't appear to be a significant issue, to the fact that prostitution remains criminalized could mask the severity of the issue. In addition, the government may not be exercising due diligence in combatting sex trafficking or gathering information.

Public opinion on the justifiability of prostitution is not easy to interpret. The highest rate of respondents who believed prostitution was always justifiable was in 1990, with 6% approval from the public. That was also the year most people responded that prostitution was never justifiable (76%). The percentage of people who believe prostitution is never justifiable has been declining with the starkest drop between 2006 and 2013 from 57% to 34%. Since the beginning of the World Values Survey, South African respondents have increasingly said that prostitution is sometimes justifiable beginning in 1990 with an increase from 40% to 62% during the 2006 to 2013 period. This difference is significant at the $p < 0.01$ level.

Table 1: Prostitution as Justifiable in South Africa

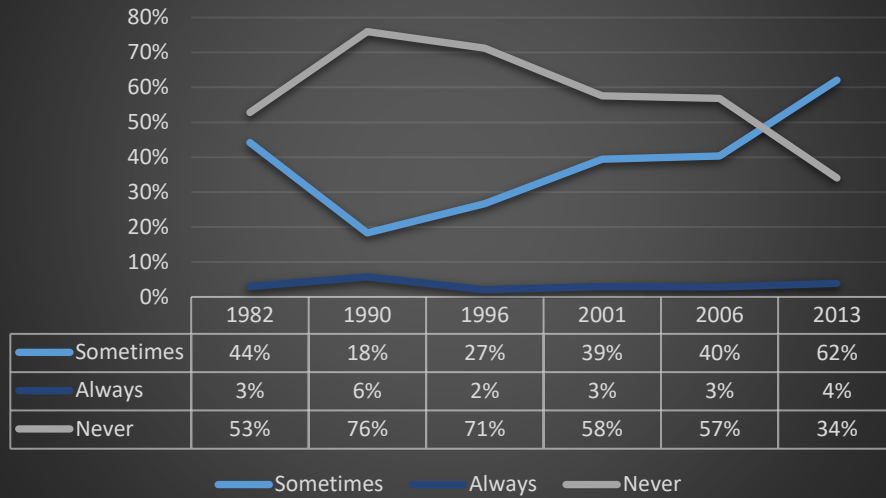
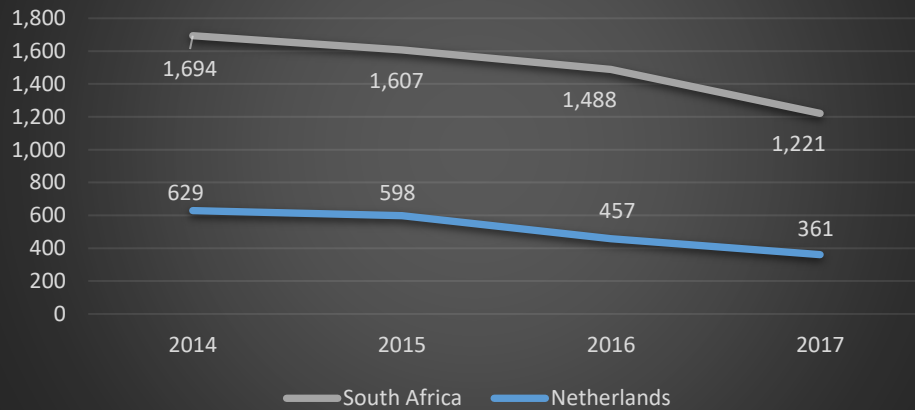


Table 2: Prevalence of Sexual Exploitation



The Case of the Kingdom of the Netherlands

Prostitution has been legal in the Netherlands since 2000, when the brothel ban was lifted. The brothel ban existed to prevent and criminalize the selling of sex, specifically in organized institutions such as brothels and window prostitution. There was an assumption by policy makers that the businesses and behaviors would become more normalized and the sector, which already existed, would be more regulated. In other words, there would be less trafficking (Huisman and Kleemans 2014). However, there were mixed results. One issue was that the legal business of sex work retained some characteristics of the illegitimate market like the stigma of paying or getting paid for sexual services. Pimping was also a neglected aspect in the policy. Current legalization is not sufficient to provide the necessary transparency within the sex work sector to help government agencies easily locate and prosecute sex traffickers (Huisman and Kleemans 2014), and many illegal practices remain undetected.

The culture in the Netherlands has always been somewhat permissive due to the cosmopolitan nature. Throughout most of their history, there was no dominant elite, which contributed to groups being more open to compromise (Outshoorn 2004:174). In the nineteenth century, most of the population supported the regulation of prostitution due to public health concerns. Prostitution was considered a side effect of male sexuality (Boutellier 1991:202). In 1911, the Morality Act was referred to by one historian as “the institutionalization of prudery” because it was passed by a coalition between radical feminists and the Christian puritans who wanted the state to regulate morality (Boutellier 1991:203). The brothel ban was largely ignored by local police officers provided sex workers did not cause public disturbances. It was not until the latter half of the century, following the sexual

revolution, that the brothel ban came back into public discourse (Outshoorn 2004:167). In the 1970s, the demand for prostitutes increased. However, due to a rise in the standard of living and the introduction of the welfare state in 1964 that provided people with a social safety net, the supply of Dutch prostitutes decreased, which led migrant workers to fill the void. By the 1980s, there was the realization that some of the immigrant prostitutes were being sexually exploited and trafficked by organized crime groups (ibid).

The combination of a booming sex industry and feminist groups who advocated for the differentiation of voluntary sex work and sexual exploitation led to a 1985 bill that attempted to remove the brothel ban and codify the difference between voluntary and forced prostitution. However, the bill was effectively extinguished years later due to the Christian Democrat Party that was part of the coalition government. In 1988, a law was introduced that allowed undocumented immigrants who were sex trafficked temporary residence if they agreed to testify against their trafficker. The bill was eventually passed in 1992 which stated that all prostitutes were forced into prostitution if they were from the 'Third World.' At this point, cultural attitudes were changing, and throughout the early 1990s town and city governments were preparing for the regulation of the sex industry. In 1994, there was a coalition government for the first time since World War I that did not include the Christian Democrats. As such the coalition government was able to put forth a bill that would make prostitution sex work, and sex work legal. That bill was debated and passed in 1999 and went into effect on October 1, 2000 (Outshoorn 2004).

Both major laws, the Morality Act of 1911 and the lifting of the brothel ban in 2000 were due to activities of the feminist movement, and those laws are reflective of the evolution of feminism. In the first part of the 20th century, feminists wanted to protect women

from violent clients, and in the latter part of the century, feminists wanted to reclaim sexual agency (Outshoorn 2004). Halfway through the century, there was an overall shift within the state; in the 1960s the government turned away from being the “moral taskmaster” (ibid:174). Prior to that time, prostitution was viewed as a mental or moral issue for the prostitutes and the clients (Boutellier 1991:204). In the 1970s and 1980s, prostitution was a problem to be solved through regulation (Boutellier 1991:205).

The purpose of lifting the brothel ban was to improve the lives and health of sex workers, increase transparency and monitoring, and combat the criminal activities that had long been associated with the sex industry. However, due to the decentralized nature of the Dutch government, implementation was left to towns and cities (Wagenaar 2006). While this allows certain areas to do what works for them, there also needs to be more dialogue between local sex workers and authorities. This sort of communication is difficult due to the amount of resources required, the high level of associated crime, and the fact that even some police officers are afraid to go to areas of the city where sex work was common without backup (Wagenaar 2006).

The Netherlands led western Europe in acknowledging the problem of sex trafficking domestically, and to recognizing that Dutch people were being exploited (Kragten-Heerdink, Dettmeijer-Vermeulen, and Korf 2018). Prior to January 2005, human trafficking in the Netherlands only included sex trafficking. The new human trafficking provision, Article 273a (later f), is dissimilar in many ways. The previous provision on human trafficking was Article 250a, under “Serious Offenses Against Public Morals.” Article 273f is under the section “Serious Offences against Personal Liberty.” This rhetoric in the policy reflects a continued shift in the Dutch government from a moralistic guardian state to a human rights

state. Rather than such conduct being criminal and punishable due to moral reasons (i.e., the fact that it is tied to sexuality) the crime is punishable because there was an infringement or violation of personal liberty via exploitation for any purpose (National Rapporteur, 2010:25).

Legalization of prostitution could make it safer but can also increase trafficking due to the potential profit (Weitzer 2010, Cho, Dreher, and Neumayer 2013, Jakobsson and Kotsadam 2013). According to Cho, Dreher, and Neumayer (2013), the legalization of prostitution increases trafficking coming into the nation, as do a high gross domestic product per capita, a large population, a large population of existing migrants, and a politically democratic society. Since the Netherlands has all of these factors, it is a destination country for trafficked persons.

The Netherlands is ranked as a Tier 1 nation, which means that it complies with the United States' minimum protection standards per the Trafficking Victims Protection Act of 2000, (Trafficking in Persons Report 2019). In 2018, the Walk Free Foundation ranked the Netherlands first on the Global Slavery Index and it was the sole recipient of an 'A' rating which is indicative of a government that is doing the most to combat human trafficking (European Commission 2020).

The Netherlands has also taken a human rights approach in attempting to secure rights and accessibility to specialized care for trafficked persons (U.S. Department of State 2019). According to the United Nations Office on Drugs and Crime and the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence Against Children, actual numbers of sex trafficking victims are four to five times higher than the reported numbers (Dettmeijer-Vermeulen et. al 2017). This means that the total number of people trafficked in

the Netherlands is likely between 6,250 and 6,500. Rates of women are higher than men and the rates of non-Dutch victims are higher than those of Dutch nationality (Dettmeijer-Vermeulen et. al 2017).

In the globalized market, fears of *the other* are easily seen in the migration policies that focus on women due to the gendered expectation that they will inevitably be trafficked as well as an effort to assert sovereignty over women's bodies (Outshoorn 2012, Russell 2014, Meshkevskaya et. al 2015, Moore and Goldberg 2015). For the Netherlands, most policies focus on arrived cross-border trafficking, and exploitation outside of the sex industry has only been criminalized since 2005 (ibid:1772).

Laws

Dutch Criminal Code, under part XVIII Serious Offences Against Personal Liberty, Section 273f, addresses human trafficking and places the maximum sentence of eight years in prison or a fine of the fifth category which is currently € 82,000, or approximately \$90,396 (USD). Article two states that “exploitation shall at least include exploitation of another person in prostitution, other forms of sexual exploitation, forced or compulsory labor or services, slavery or practices similar to slavery or servitude (p. 121).” Articles three, four, and five, state that if the offenses have occurred to more than one person, a person under the age of 16, a person's life was endangered or harmed, or a death occurred, then terms of imprisonment would be increased, by no more than 18 years imprisonment or a fifth category fine (p.122).

In the Dutch Aliens Act Implementation Guidelines (Vreemdelingen-circulaire), that also passed in 2000, the B9 procedure protects victims of human trafficking by allowing a

three-month reflection period during which the individual must decide whether to press charges against the person who trafficked them. The victim is protected from immediate deportation and does not have to press charges against the perpetrator to be convicted of human trafficking. Further, there is a Residence Scheme for the Victims of Human Trafficking, which would grant at least temporary residence for the victim during the period of investigation and proceedings.

Public Discourse

In 2019, there was a resurgence of the prostitution debate in the Netherlands. A petition signed by 42,000 young people, mostly Christians and radical feminists, called for the Netherlands to move towards the “Nordic” model, that criminalizes the consumers of sex work, rather than the workers (Knight, Butler, and Lufkin 2019; Holligan 2019). A year prior, with the election of the first female mayor of Amsterdam, sex workers were involved in policy discussions about sex work with increasing frequency (Abdul 2019). Those who supported criminalization cite the vulnerability of the population of sex workers and the potential for increased human trafficking for supporting stricter sex work policy. Some sex workers, on the other hand, argued they would face more stigma and have even less protection and economic opportunities if buying sex became illegal (Abdul 2019, Knight et al. 2019, Holligan 2019).

Case Law

Since 2018, the Dutch have taken further steps to prevent human trafficking with the National Action Plan and Continued Rapporteur. The plan includes increased focus on the hotel and hospitality sector due to sexual and labor exploitation (European Commission

2020). The actions of the government of the Netherlands indicate they understand the vulnerability of victims of human trafficking, and that prevention is key, as is understanding the difference between sex and labor trafficking. Though the policy and case law precedent exist, there remains a lack of enforcement or follow through of that policy against human trafficking. Though policy is formed by legislative bodies in the form of penal codes and laws, it is through the legal system that those laws are enforced.

There are only eight cases of trafficking in persons, with sentencing dates from 2008 to 2013, listed in the UNODC's case law database. Only two were classified as domestic, and two were related to sexual exploitation. One of the domestic cases was also a sexual exploitation case. The perpetrator, sentenced in 2010, was found guilty of exploiting his girlfriend, whom he forced to work as a prostitute in the Red-Light District of Amsterdam. Though he had a past criminal history of physical abuse, and the victim also had a young daughter, the court only sentenced him to two years in prison and to pay € 9800 to the victim. The other case where sex trafficking and exploitation of prostitution was an element was the *Z.Z.Z.* case, where a Chinese national, who was trafficked and sexually exploited, filed a claim with the Committee on the Elimination of Discrimination Against Women (CEDAW). The victim filed the complaint because her application for asylum in the Netherlands had been denied and stated that the B9 procedure was ineffective. Though the Committee found the Netherlands was not at fault, the minority opinion was that the Netherlands had a responsibility to better protect the victims of human trafficking. In a 2012 case concerning international human trafficking for labor exploitation, the court acknowledged that the Dutch authorities had not been trained well enough to identify trafficking outside the prostitution sector.

The Netherlands has operated not only as a country of destination, but of transit and origin. The Sneep case is a prime example of how the Netherlands is a country of destination and reinforces the narrative of racialized fears of men of color exploiting vulnerable women. In 2008, six men were sentenced to prison for terms of 8 months up to 7 years and 6 months for sex trafficking two women from Eastern Europe to the Netherlands from 2002 to 2004. The near maximum penalty was due to aggravating factors such as coercion to undergo breast enlargement, forced abortion, and rape. However, part of the defense's argument was that the women were already prostitutes when the perpetrators met them, which mitigated the exploitation and violence. Though there were allegations of up to 120 women being trafficked, the men were only convicted of trafficking two women from Eastern Europe.

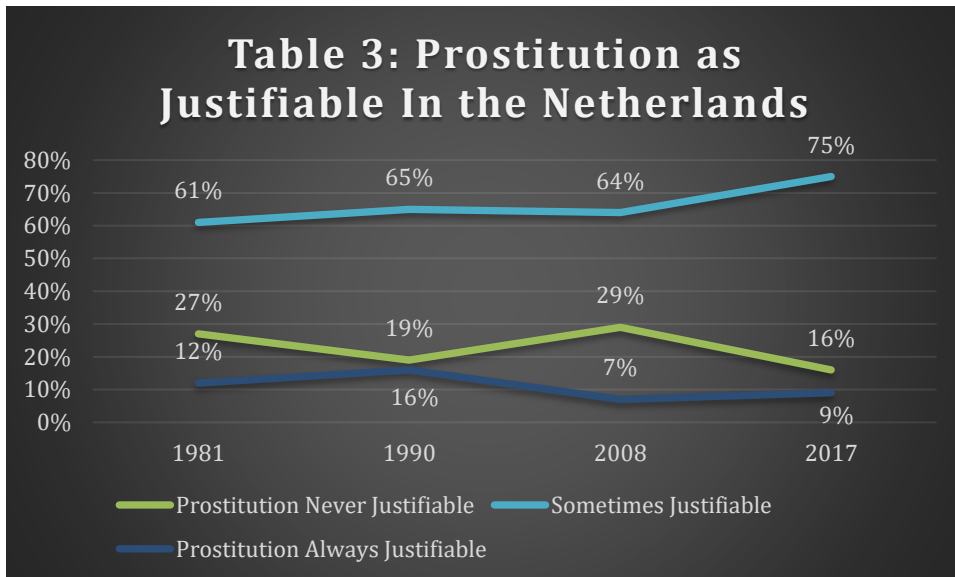
The Koolvis case occurred in 2006, and the defendants were sentenced in 2009. This case showed that many underage girls from Nigeria were entering the Schengen area through the Netherlands en route to Italy or Spain, where they would be forced to work as prostitutes. Though the defendants were acquitted of trafficking in human beings, they were convicted for leading a criminal organization/participating in one and human smuggling, receiving between one year and four and a half years in prison. The Netherlands led the rest of western Europe in acknowledging the problem of sex trafficking domestically (Kragten-Heerdink, Dettmeijer-Vermeulen, and Korf 2018).

Data

From 2014 to 2017, the prevalence of sexual exploitation decreased from 629 to 361 cases (UNODC 2020). The prevalence of the crime of sexual exploitation was already lower compared to South Africa, but the nation has further reduced recorded cases of the crime in

recent years. Regarding public opinion on the *justifiability* of prostitution, the percentage of respondents who thought prostitution was never justifiable was at the lowest recorded was in 2017, at just 16%. That same year, prostitution was at its highest recorded for sometimes justifiable at 75% the same year. In 1990, the highest percentage of people thought prostitution was always justifiable (16%) while there appears to be a dip in the trend for prostitution as never justifiable; in 1981 it was 27%, then in 1990 it was 19%, then in 2008 the percentage of respondents is the highest recorded for never justifiable at 29%.

Furthermore, these changes are significant at the $p < 0.01$ level.



DISCUSSION

The hypothesis that public support of prostitution and a policy decriminalizing sex work is correlated with lower prevalence of sex trafficking was supported. The culture surrounding sex work and public support for policies that decriminalize sex work reduces the stigma of sex workers in the Netherlands. This correlates with lower rates of sex trafficking compared to South Africa. Though this finding is consistent with other research (Benjinariu 2019, Bouche, Farrell, and Wittmer 2015, Boutellier 1991, Brents 2016, Breuil et. al 2011, Farrell and Cronin 2015, Hedlin 2016, Lerum and Brents 2016, Limoncelli 2009, Outshoorn 2012, Smith 2010), this correlation does not imply causation. Additional research with a broader scope is needed.

Due to the legacy of Apartheid and the continued prevalence of gender-based violence with certain traditional practices, the Republic of South Africa exhibits many factors correlated with sex trafficking and prostitution. In 2017, there were more than 1,000 cases of sexual exploitation (UNODC 2019), and South Africa has been on the U.S. Department of State's Tier 2 Watch List for human trafficking since 2018. The prevalence of sexual exploitation is likely even higher due to underreporting. Furthermore, there is the potential that the government of South Africa and its institutions are not doing their due diligence combatting gender-based violence due to cultural factors.

The kingdom of the Netherlands decriminalized sex work in 2000. The decriminalization policy led to an increase in the regulation of sex work. Additionally, the Netherlands has the best possible rating by the United States' concerning trafficking in persons. Though the prevalence of sexual exploitation decreased, sex trafficking remains an

issue in the Netherlands, with 361 reported cases of sexual exploitation in 2017 (UNODC 2019). In 2017, three-quarters of the respondents, which is representative of the population, viewed prostitution as sometimes justifiable, which is the highest ever recorded.

Both nations ratified the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol). Though both nations have taken steps to address gender-based violence in the area of prostitution and trafficking, only one acknowledges prostitution as legitimate work and subscribes to Hoang's (2015) feminist exchange theory, which has benefitted those most vulnerable to exploitation. Though there are still factors that lead for people and their labors to be consumed somewhere other than their nation of origin, trafficking of people is more complicated than Wallerstein's World System's Analysis (2014) would suggest, as both nations examined were countries of destination, transit, and origin, rather than fitting neatly into the core, semi-periphery, and periphery like Wallerstein does. Initially, the use of Wallerstein's World System's Analysis sought to draw attention to the parallels of the rhetoric of destination, transit, and origin country in trafficking literature to Wallerstein's core, semi-periphery, and periphery. However, it was more effective to focus on the gender aspect while simply comparing destination and semi-periphery nations.

Trafficking in persons is viewed as a human rights issue, penalized in many nations' criminal codes (Vance, 2011:936), and often confused with prostitution. Though legalization and regulation make it safer for prostitutes, it may also increase trafficking due to the potential profit (Weitzer 2010, Cho, Dreher, and Neumayer 2013, Jakobsson and Kotsadam 2013). Research suggests that a government's effectiveness is also a factor in reducing

human trafficking (FikreJesus, 2015). Efficacy is defined as the ability to enforce laws and the accountability of their public servants such as those in the criminal justice system.

Much of current literature on sex trafficking utilizes gendered and value-laden rhetoric, consistently referring to the victims of sex trafficking as females, women, girls, and sex slaves. Though most victims identified are women, this rhetoric obscures the fact that people who do not identify as women are also trafficked for sexual exploitation (Hedlin 2016:370). Furthermore, there is a certain group of researchers who are proponents of the oppression paradigm and believe that prostitutes are always victims of trafficking, ignoring the concept of consent or that economic factors entice individuals to become sex workers (Weitzer 2012). The focus on “push” factors supports the oppression paradigm. This example argues that economic factors such as poverty and wealth inequality compel those with limited options to engage in sex work. As these factors might suggest that consent is not given freely, that concept should be explored in future research.

Research also suggests a correlation between criminalized prostitution and higher rates of sex trafficking (Hedlin 2016). Hedlin (2016) posits that legislation which 1) decreases the size of the sex work market, 2) increases the opportunities for legal prostitution, and 3) actively criminalizes and prosecutes trafficking, leads to lower sex trafficking rates. Interestingly, Farrell and Cronin (2015) discovered that in some areas, passing legislation to combat sex trafficking led to less enforcement of prostitution laws. However, this continued focus on prosecution ignores the human rights aspect of trafficking (Smith 2010).

Sex trafficking was not always a factor in the discourse surrounding legalized prostitution, but the two issues are now intertwined within the public sphere (Weitzer 2012). Though there is no evidence that most, or even a majority, of prostitutes have been trafficked, human trafficking has become the arena for opposing positions on prostitution, immigration, and the status of women (ibid). Furthermore, there is some evidence to support the notion that the criminalization of prostitution leads to increased vulnerability of sex trafficking. In addition to the need for better data on the actual prevalence of prostitution and sex trafficking, there are critiques who contend that those seeking aid consciously misrepresent the facts in order to receive increased funding or additional aid (Smith 2010).

Parallels

Though both countries at some point attempted to regulate morality (the Netherlands Morality Act of 1911, and South Africa's Immorality Act of 1957), continue to focus on the sex trafficking of women, and the three-month time frame of non-nationals who were trafficked; that is where the similarities end. Both nations allow a time period of three months for trafficked people to decide what to do next. In the Netherlands it is up to the victims to decide whether to participate in a criminal investigation. In South Africa the three-month period is only for those willing to participate in a criminal investigation and allows time to recover from the trauma before having to apply for longer term residence or repatriation. Though both nations have sexism in their policies, South African law always frames women as victims, and denies them agency over their own bodies and sexuality. This is due, in part, to the historical and cultural contexts of the society which is generally biased against women.

The Netherlands has historically been a cosmopolitan nation with more permissive attitudes and less stringent rules governing people of different races and classes. The nation was largely one focused on mercantilism, thereby promoting a more economic sense of morality into society. South Africa, on the other hand, was characterized by extraordinary violence, first with colonialism and slavery, then with Apartheid. Even within discourse surrounding sex trafficking, there are more instances where slavery is referenced in the literature that focuses anywhere on the African continent (Walker and Oliveria 2015). There are also often racial undertones in the legislation and reports because in South Africa, young black women are the most vulnerable to exploitation.

It is important to note that this study is constrained by existing data sources. Sex trafficking is incredibly difficult to measure, especially on a global scale. The data is not uniformly defined or measured, and governments have a vested interest in potentially misrepresenting the information to their own ends, such as maintaining or gaining funding or foreign aid. Data on sex trafficking is conflated by measures of human trafficking for other purposes, and there can be tremendous overlap. Furthermore, due to the underground nature of the crime of sex trafficking, it is difficult to get “good” data, regardless of the amount of resources researchers have at their disposal. There is also the issue of availability of information; there was more existing research on the Netherlands compared to South Africa. Despite these challenges, the policy analysis and comparison within the context of effectiveness and the international human rights corpus provides additional understanding of the relationship between policy, public opinion, and prevalence of sex trafficking.

CONCLUSION

Every nation has its difficulties confronting public issues that affect citizen's private lives. In this case, two nations with relatively different historical, cultural, social and political underpinnings and characteristics which in turn led to different approaches were examined. The Netherlands has legalized prostitution; sex work is less stigmatized, and the country has a lower prevalence of sex trafficking than South Africa. However, there are many factors that must be taken into consideration when examining the policies of the two nations. In this case, the primary factor was public opinion, which is heavily influenced by cultural context, and the contexts of South Africa and the Netherlands are very different. Both nations have laws against trafficking in persons, and against sex trafficking specifically (Dutch Criminal Code Section 273f, and the 2013 South African Prevention and Combatting of Trafficking in Persons Act). Though both nations have sexist undertones in their policies, the Netherlands government and permissive culture deems sex work as legitimate, rather than criminal and immoral actions. The combination of public support (culture) and legalization of prostitution in addition to the policy against trafficking makes the Netherlands more effective according to this study than South Africa in terms of combatting sex trafficking.

Future policies should be crafted with input from those who are or have been sex workers and those who have been trafficked. Additional regulation of the sex work industry is also necessary to better monitor and prevent exploitation. This regulation may help increase the supply of legal sex workers and thereby reduce the monetary reward of those who are trafficking. Finally, more diligent law enforcement efforts and the successful prosecution of traffickers are necessary to serve as effective deterrents.

APENDIX:

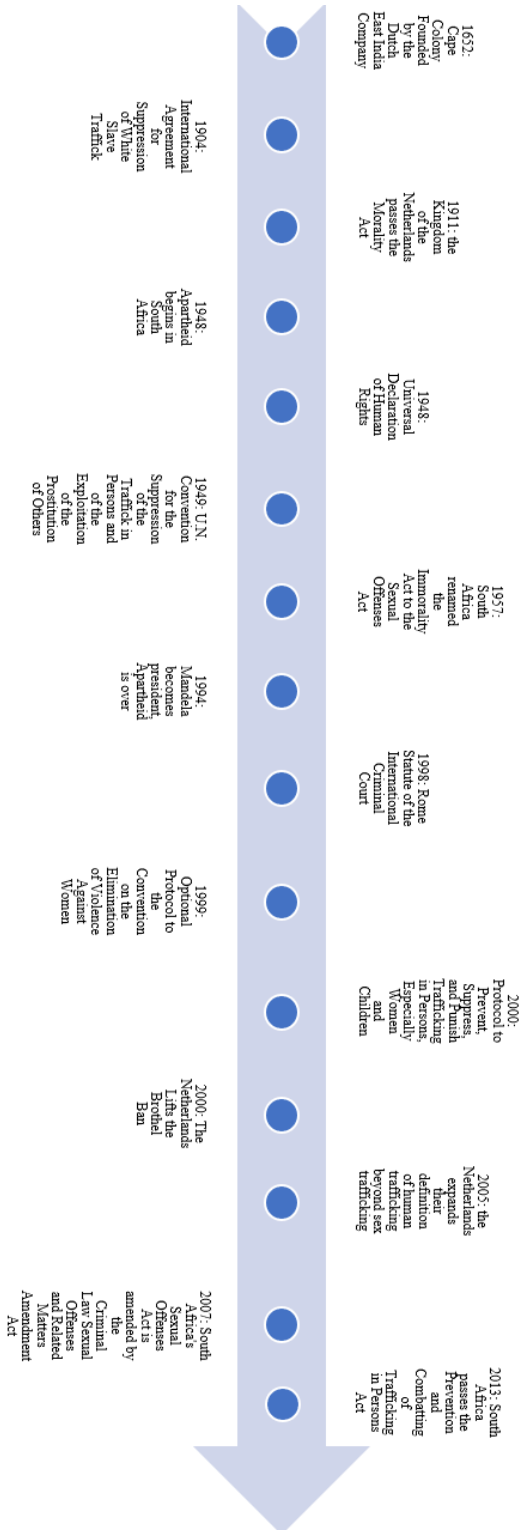


Figure 1. Basic Timeline of Events

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