

HAS LEGALIZED PROSTITUTION INCREASED HUMAN  
TRAFFICKING IN BRAZIL? A DISCUSSION OF THE BRAZILIAN  
CASE ON THE EVE OF THE 2014 WORLD CUP AND 2016 OLYMPIC  
GAMES

by  
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## ABSTRACT

Has legalized prostitution increased human trafficking in Brazil? Even though human trafficking and prostitution have long been linked to one another, until recently there has not been enough data on either phenomenon to make a quantitative analysis of the relationship possible. But in the January 2013 study “Does Legalized Prostitution Increase Human Trafficking?” a team of European economists concluded that the scale effect of legalizing prostitution leads to an expansion of the prostitution market, and thus an increase in human trafficking. Generally speaking, countries with legalized prostitution show a larger degree of human trafficking inflows. Using their findings as a base, this thesis uses qualitative analysis of human trafficking and prostitution in Brazil—the history, laws, etc.—in order to assess whether or not the Brazilian case corroborates the conclusions of the study. Finally, this thesis generates a SLEIPNIR analytical model to assess the effectiveness of Brazilian government in regulating human trafficking currently, and makes projections for 2014 and 2016. The model allows for a discussion of the national security implications of human trafficking during the upcoming World Cup and Olympic Games, and adds a more substantive analysis of the nature of the phenomena in the Brazilian case.

## DEDICATION

To my family, friends, and advisors, for their continuous support, direction, and motivation in this endeavor, and to the select few that remind me that failure isn't falling down; it's refusing to get back up.

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## PREFACE

Brazil is a country on the rise in more ways than one. With winning bids to host the World Cup in 2014 and the Olympics in 2016, it is obvious that the country is in the midst of an economic and social renaissance. The immense efforts that the Brazilian government has initiated within the past decade in order to prepare for the games regularly make worldwide news, pulling the country into the international spotlight for the first time in many years.

While Brazil has already begun to taste the spoils that come along with hosting international games—bolstered national identity, critical infrastructure expansion, not to mention the immediate increase in tourism—the country struggles with an issue that threatens to tarnish its public image as international attention shifts towards Rio de Janeiro and other major cities. After Thailand, Brazil is considered to have the worst problem with human trafficking *in the world*.<sup>1</sup> But as the country grapples with the ever-worsening human trafficking epidemic, adult prostitution—an occupation that many consider to have close ties with trafficking—remains legal.

Even though human trafficking and prostitution have long been linked to one another, until recently there has not been enough data on either phenomenon to make a quantitative analysis of the relationship possible. Their clandestine, criminal natures

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<sup>1</sup> *Brazil prostitution crisis* [Web Article]. (n.d.). Retrieved September 10, 2011, from Libertad Latina website: [http://www.libertadlatina.org/LA\\_Brazils\\_Child\\_Prostitution\\_Crisis.htm](http://www.libertadlatina.org/LA_Brazils_Child_Prostitution_Crisis.htm)

make the true statistics unknown.<sup>2</sup> Furthermore, theoretical analysis of the effect of legal prostitution on human trafficking has been complicated by the fact that not all prostitution is the same. Classic street prostitution varies from prostitution in establishments and brothels, which differs from escort agencies and call girls. A study published in the journal *World Development* in January 2013 is the first of its kind, running a regression on prostitution and human trafficking using principles of economic theory.<sup>3</sup> Titled “Does Legalized Prostitution Increase Human Trafficking?” the study concludes that “the scale effect of legalizing prostitution leads to an expansion of the prostitution market and thus an increase in human trafficking.”<sup>4</sup> While the study also concludes that substitution effect reduces demand for trafficked prostitutes by favoring prostitutes who have legal residence in a country, a quantitative empirical analysis for a cross section of 150 countries suggests that the scale effect “dominates” the substitution effect.<sup>5</sup> Generally speaking, countries with legalized prostitution showed a larger degree of human trafficking flows.

But has the legality of prostitution in Brazil affected the prevalence of human trafficking in the country? What are the contributing factors? These are the questions that I aim to explore, and answer, in this thesis. Although the authors of the *World Development* study supported their findings with case studies of Sweden, Denmark, and Germany, their analysis falls outside applicable parameters to the Brazilian case. The human trafficking and prostitution phenomena in South America are very different from their European cousins, and Brazil’s unique status as an emerging

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<sup>2</sup> Belser, P. de Cock, M., & Mehran, F. (2005). *ILO minimum estimate of forced labour in the world*. Geneva: International Labor Office.

<sup>3</sup> Cho, S.-Y., Dreher, A., & Neumayer, E. (2013). Does legalized prostitution increase human trafficking? *World Development*, 41, 67-82. 68.

<sup>4</sup> Cho, S.-Y., et. al., 75.

<sup>5</sup> Cho, S.-Y., et. al., 75.

superpower—and all of the idiosyncrasies that go with it—simply adds to the complexity of the situation.

As my own contribution to this academic discussion, I offer detailed qualitative analysis of the effectiveness of the Brazilian legal code regulating prostitution and human trafficking in order to corroborate this quantitative study's findings in the case of Brazil. Finally, I generate a SLEIPNIR analytical model in order to assess the effectiveness of the Brazilian government in regulating human trafficking, both currently and projected for 2014 and 2016. The model then allows for discussion on the national security implications of human trafficking during the multinational events of the World Cup and Olympic Games.

### **The Complication of the Upcoming World Cup and Olympic Games**

As it was seen with South Africa, the honor of hosting the FIFA World Cup offers countries innumerable social and economic opportunities, and provides incredible incentives to update and improve many parts of critical state infrastructure. In the case of Brazil, projects to build municipal stadiums, improve roads, and to expand the three major Rio de Janeiro airports have been underway since the country won the bid for the World Cup in 2004, and the Olympic bid in 2007.<sup>6</sup> But as the country prepares, concerns about corruption, lack of transparency, and human rights violations are rising. As Katie Vinton asserts in the *Harvard International Review*, “It

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<sup>6</sup> Brazil will stage the 2014 World Cup. (2007, October 30). *The BBC*. Retrieved from <http://news.bbc.co.uk/sport2/hi/football/internationals/7068848.stm>

remains to be seen if the Cup will give the Latin American nation a moment to shine, or if it will exacerbate realities of structural insufficiency and corruption.”<sup>7</sup>

It is no secret that hosting large, international events like the World Cup and Olympics thrusts a country into the world’s center stage, and every small move is subject to the intense scrutiny of the global community. It is for this reason that I find Brazil’s attitudes and actions towards prostitution and human trafficking so intriguing. Whereas many countries where prostitution is illegal—like the United States—are critical of the open policy in Brazil, other states are apathetic, or even share similar laws.<sup>8</sup> The U.S. State Department has gone so far as to adopt a strong policy against legal prostitution in any form internationally, saying that “prostitution and related activities—including pimping and patronizing or maintaining brothels—fuel the growth of modern-day slavery by providing a façade behind which traffickers for sexual exploitation operate.”<sup>9</sup>

While the United States may have deemed this true within it’s own borders, after living in Rio de Janeiro for eight months in 2012, I could not help but wonder if it is true in Brazil as well. Needless to say, after living in the U.S. my entire life, my move was a shock in more ways than one. While the city offers all of the major conveniences of any American metropolis, the lighthearted attitudes, friendly demeanor, and general “openness” of the Brazilian culture all contributes to the country’s distinct flavor and shapes its way of life. Rio de Janeiro specifically manages to maintain a year-round party atmosphere, with young *cariocas* (the colloquial term for Rio de Janeiro residents) hitting clubs and popular nightlife

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<sup>7</sup> Vinton, K. (2011). Is It time for Brazil?. *Harvard International Review*, 33(1), 7-8. Retrieved from EBSCOhost.

<sup>8</sup> *Prostitution Laws of the World* [Map]. (n.d.). Retrieved from Wikipedia database.

<sup>9</sup> United States Department of State. *The Link Between Prostitution and Sex Trafficking*. 24 Nov. 2004.

districts every day of the week. And even though I have seen prostitutes in many American cities, during my first adventure to *Lapa*—a revitalized downtown Bohemian district with an interesting mix of bars, clubs, and the endless rhythm of samba—I was shocked by the number of sex workers that openly paraded the street. While some women chose to stand idly by and wait for willing patrons, others proudly solicited customers, lauded their own particular “expertise,” and even offered “special promotions.”

Although I had begun my thesis research the semester before my study abroad program and I was no stranger to the realities of prostitution in Brazil, my first experience in Lapa gave me a perspective on the issue that I did not fully expect. If the prostitution that I had witnessed was in fact being used as a front for traffickers, I could not tell the difference. There were no obvious “pimps” or traffickers controlling the prostitutes on the street, no outward signs that they were coerced into sexual slavery as the U.S. government suggests. It was then that I truly began to realize that defining the blurred line between prostitution and trafficking was going to present much more of a challenge than I had initially anticipated.

## CHAPTER ONE: INTRODUCTION AND BACKGROUND

### **Why Trafficking Matters: Background on a Global Issue**

In this world of nuclear weapons, decade-long warfare, and endless conflict, one might wonder why human trafficking matters enough to demand international attention. But when analyzed, it becomes apparent that human trafficking encompasses not just one issue, but a conglomeration of issues that have gained their own fair share of notoriety: globalization, organized crime, and illegal migration/immigration, just to name a few. What is more, human trafficking is considered to be the *fastest growing type of organized criminality* as reported by the United Nations Office on Drugs and Crime.<sup>10</sup> According to the “U.N. Report on Trafficking in Persons” published in February 2009, between 600,000 and 2.5 million persons are trafficked each year.<sup>11</sup> But because very few trafficking victims ever seek justice, data on human trafficking is incomplete at best. That being said, popular consensus states that this group is disproportionately female: of the documented trafficking victims worldwide in 2006, 66 percent were women, and another 13 percent were underage girls.<sup>12</sup>

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<sup>10</sup> “Trafficking estimates.” United Nations Educational, Scientific and Cultural Organization - Bangkok. 4 February 2009. Accessed 21 December 2011. <http://www.unescobkk.org/index.php?id=1963>.

<sup>11</sup> “United Nations Report on Trafficking in Persons 2009.” United Nations Office of Drugs and Crime. February 2009. Accessed 20 December 2011. [http://www.unodc.org/documents/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/Global_Report_on_TIP.pdf)

<sup>12</sup> “United Nations Report on Trafficking in Persons 2009.” 66.

Trafficking today is continuously compared to the slave trade as we think of it in the traditional sense, which is to say, as it existed in the eighteenth and nineteenth centuries. While modern human trafficking has benefited from twenty-first century technologies and globalization, many of the core features remain remarkably unchanged with time. The significant growth of the trafficking industry suggests a return to the commoditization of persons in a way that can only be equated with slavery. In this sense, we are not faced with an entirely new illicit phenomenon, but rather a modernized, updated, and equally as destructive form of slavery.

As previously stated, human trafficking is growing not only as a criminal activity, but as a *business*, drawing many of the same benefits from twenty-first century phenomena that other, legal industries enjoy. Globalization has opened markets on a hitherto unprecedented scale, and economic development has taken off worldwide as a result. However, the pace of these economic developments across international boundaries has been far from even, and the rate of development has varied widely from country to country, and region to region. While some nations have flourished, others have lagged far behind, and the gap in the wealth of these two groups continues to grow.

While gaps in economic progress can be observed regionally (i.e. the “East” versus the “West”), drastic differences can be observed between neighboring countries as well, and South America is no exception. The inequalities in rates of economic development stem from a mix of complex causes. Oxford University economics professor Paul Collier highlights some of the most common development hindrances—which he refers to as “poverty traps”—in his 2007 book, *The Bottom*

*Billion*. Though Brazil has been relatively successful in playing economic “catch-up” over the past decade, examples of each poverty trap can be observed in many of the country’s neighbors. “Bad governance,” the “landlocked curse,” and the “natural resource trap” have all plagued Bolivia and Paraguay, whose combined economic performance represents only a fraction Brazil’s in recent years.<sup>13</sup> This stark imbalance only furthers observation that globalization creates two distinct classes of countries: those that come out on top, and those who come out on bottom.

While increasing market liberalization has many benefits, it has caused the problem of growing income inequality between countries and regions—and the problem is only growing.<sup>14</sup> This issue has introduced a volatile instability in Latin America, and has in many ways fueled the Brazilian trafficking epidemic. Poor economic conditions in the bordering countries of Paraguay and Bolivia in addition to struggling regions of Brazil itself have created a vast and expanding demographic of poor and unemployed women, who have become easy targets for traffickers.

To compound the issue, migration—both legal and illegal—has never been easier in this globalized world. In centuries past, the rural poor had little option when faced with economic hardship. But with transportation advances lowering travel costs and industrialization creating jobs in urban cities throughout the twentieth century, rural land workers continue to flock to cities in search of work and the chance to make a better life. In this regard, Brazil is no exception, and income inequality has

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<sup>13</sup> Collier, P. (2007). *The Bottom Billion: Why the Poorest Countries are Failing and What Can Be Done About It*. Oxford University Press.

incentivized migration to more prosperous urban areas like São Paulo, Rio de Janeiro and Salvador.<sup>15</sup>

But whereas these migration patterns hold promise for the economically disenfranchised in rural South America, *urbanization* inadvertently fuels the growing human trafficking problem. The facilitators of the sex trade have used the promises associated with urbanization to lure their prey. It is a story that is all too common amongst trafficking victims: traffickers in the guise of prospective employers promise free passage and respectable jobs in major Brazilian cities, only for the women to find themselves forced into sexual slavery. With governing forces woefully inadequate, many of these women simply disappear without a trace. To add another caveat to an already immensely complex issue, strict policy aimed at controlling illegal immigration has also made it increasingly difficult for those seeking to enter the country to do so. Faced with denial from the Brazilian government, many desperate migrants voluntarily turn to traffickers to transport for border crossings, thus putting themselves—and oftentimes, their families—at risk for exploitation.

The rise in human trafficking rates worldwide is a symptom of the increase in cooperation between international crime organizations. Crime experts expect human trafficking to surpass drug and arms trafficking in regularity, cost to human welfare, and profitability by the year 2020.<sup>16</sup> In today's globalized world, consolidating select operations between organizations in order to boost efficiency and profitability has become the norm. In South America, for example, human traffickers work closely with drug traffickers and illicit arms dealers. This new level of cooperation has

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<sup>15</sup>Newman and Sally Cameron, eds. *Trafficking in Humans: Social, Cultural and Political Dimensions*. New York:United Nations University Press, 2008, 61.

<sup>16</sup> Wheaton, E. M., Schauer, E. J., & Galli, T. V. (2010). Economics of human trafficking. *International Migration*, 48(4), 114-141. doi:10.1111/j.1468-2435.2009.00592.x. 114.

allowed organized crime networks to expand the number and complexity of smuggling routes on the continent.

To compound the issue, persistent public corruption in the political and judicial systems often thwarts any effort to dismantle trafficking operations. As the Brazilian government begins to step up efforts to address the human trafficking issue, institutionalized public corruption often makes it impossible to determine who is a friend or foe.

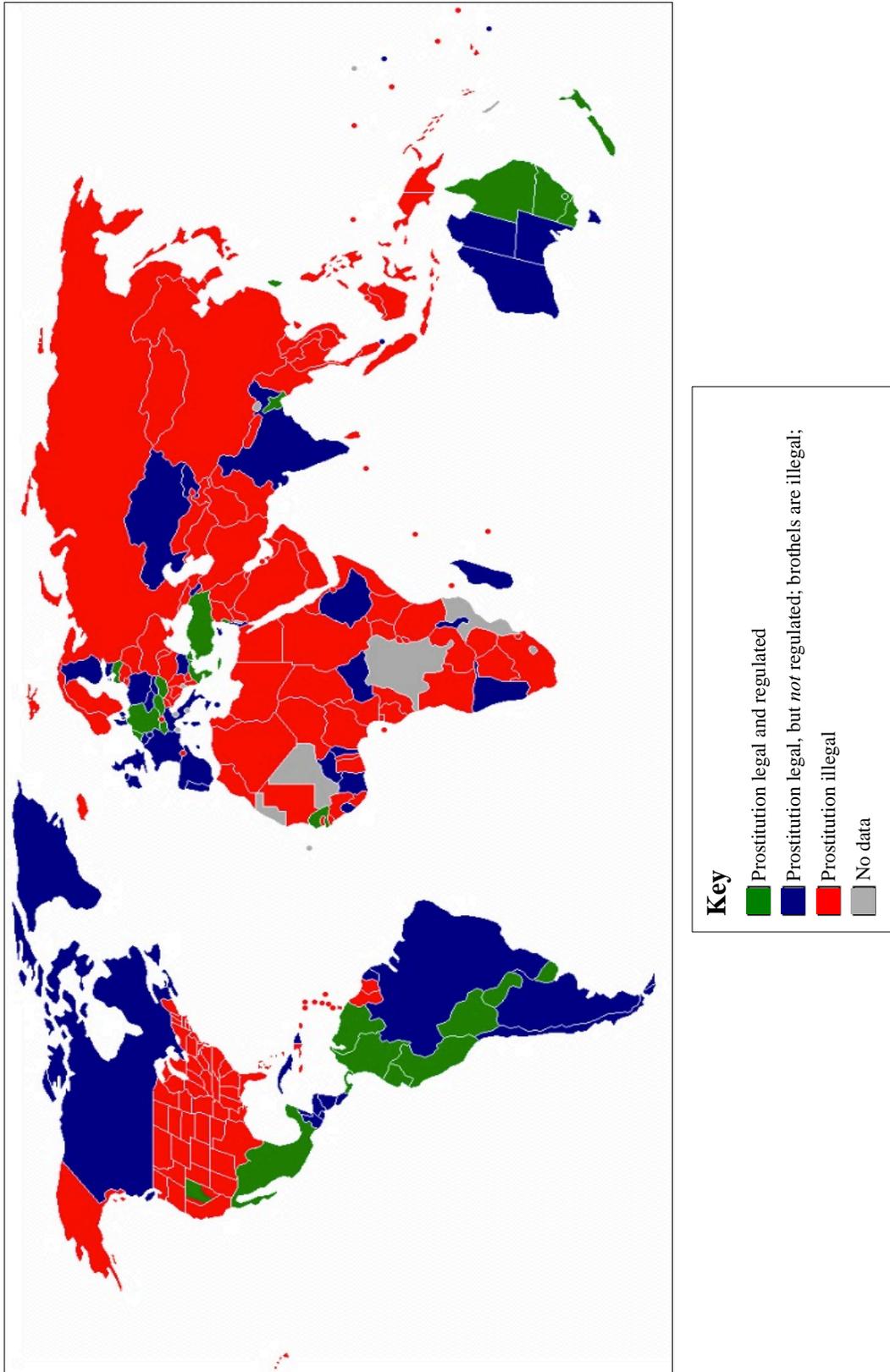
### **The Question of Prostitution**

As if the trafficking issue was not complicated enough, yet another complex caveat must be introduced to the equation. It is both a global debate and the subject of this thesis: prostitution, and its role in the human trafficking phenomenon. As illustrated by Figure 1.1, prostitution is legal to some degree in a surprising number of countries across the world, even though complete criminalization is the predominant policy.<sup>17</sup>

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<sup>17</sup> *Prostitution Laws of the World* [Map]. (n.d.). Retrieved from Wikimedia Commons database. Available at: [http://commons.wikimedia.org/wiki/File:Prostitution\\_laws\\_of\\_the\\_world.PNG](http://commons.wikimedia.org/wiki/File:Prostitution_laws_of_the_world.PNG)

Figure 1.1



As the figure illustrates, however, South America is noticeably an exception to this generalization, with Guyana and Suriname the only two countries on the continent where prostitution is completely criminalized. The rest—ranging from the middling Andean countries like Ecuador and Peru to the wealthier nations of Argentina, Chile and Brazil—have legalized prostitution, with varying degrees of regulation.

### **Human Trafficking and the Legality of Prostitution: A Correlation?**

This thesis does not seek to make a case against globalization and migration, even though they are often cited as the main catalysts for human trafficking. They are two incredibly viable forces that have helped to create this modern world of unprecedented prosperity, efficiency, and economic development. Nevertheless, it is important that we cite them as factors that have contributed to what we now identify as the modern human trafficking phenomena. With both the exploitation by organized crime rings and—perhaps more importantly—the lack of adequate policing and regulatory institutions to combat and eradicate the trade, the Brazilian problem is comparable to that of many other countries.

While many international organizations are quick to condemn the legality of prostitution as a direct factor in the human trafficking epidemic, they often fail to address the complex question of sex workers' rights. Policies that seek to regulate human trafficking often restrict or illegalize prostitution as well. But in countries like Brazil with a large, vibrant, and thriving sex tourism industry, most attempts to impose strict policies are met with significant backlash from the small but vocal sex

worker community. Nevertheless, it cannot be denied that prostitution and human trafficking are intertwined, and many question whether it is worth it to protect sex workers' rights when human traffickers continue to exploit the legality of prostitution.

## **Data and Methods**

There are specific areas within which I focused this thesis. In order to thoroughly research both prostitution and trafficking in Brazil, I needed to be able to understand what makes each phenomenon unique, and also be aware of what commonalities they share. By breaking my research up by topic (defining, the specificities of the Brazilian case, governmental and non-governmental responses, etc.) and then again by subject (prostitution and trafficking), it was easier to not only plan my investigative work, but to structure this thesis as well. The parallel structure between prostitution and trafficking is maintained in Chapters 1 through 3. Planning out the first stages of this project in this manner helped me to identify not only possible gaps in my areas of research, but strategize *where* I might be able to find the information and data that I need.

In order to find the most credible and up-to-date information as possible, I relied heavily on reports published by the United Nations, the Brazilian government, the U.S. State Department, various non-governmental organizations (NGOs) and credible human rights groups. A significant amount of information was pulled directly from the Brazilian Penal Code as well. An interview with a distinguished professor of law from the Pontifical Catholic University of Rio de Janeiro (PUC-

Rio)<sup>18</sup> proved instrumental in analyzing the link between prostitution and human trafficking, and her answers are cited exclusively in Chapter 4.

While these governments and organizations might have been reliable points of reference for primary sources, they were by no means the only sources cited in this thesis. Because quantifiable data sets on human trafficking and prostitution are virtually nonexistent (even the most complete of international reports relies on estimates), I cite many credible secondary sources that are often produced by the same organizations mentioned above. Their own reports and analysis of the same primary sources that I cite in this thesis provided invaluable perspective as I developed relevant background information on both prostitution and trafficking.

Additionally, as the 2014 World Cup draws nearer, I paid significant attention to news regarding Brazil's preparations for the event. Although a few pieces on corruption, social issues and other "growing pains" associated with the country's scramble to update its infrastructure had been published when I began my research, the volume of related reports has increased significantly in both quantity and credibility in recent months. Even though many of these articles were hardly academic, they provided an interesting, candid perspective. The articles were not afraid to scrutinize the country's human trafficking problem or the legality of prostitution, and often raised questions that academic or governmental literature often failed to address. Thus, nonacademic articles are occasionally cited in this thesis.

Finally, a reader should be aware that much of the research of this thesis was conducted in Brazilian Portuguese. While a significant amount of literature exists in

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<sup>18</sup> Original Portuguese translation: *Pontifícia Universidade Católica do Rio de Janeiro*. The acronym PUC-Rio is used almost exclusively in Brazil, pronounced poo-kee-HEE-oh.

English on the larger topics of prostitution and human trafficking, the number of sources specifically on Brazil in the English language is limited. Expanding my research into the language of my country of study expanded my research capabilities significantly. All statistics, words and phrases that were pulled from Portuguese documents will be henceforth cited in-text in English, and footnoted with the original version. Several Brazilian expressions that have no English equivalent will be explained in this manner as well.

### **Structure of the Thesis**

I have broken up my thesis into five chapters. Chapters 1 through 3 build context for my final argument presented in Chapters 4 and 5, which is that legalized prostitution has led to an increase in human trafficking in Brazil.

Beyond this introductory chapter, the second chapter focuses primarily on providing definitions for sex trafficking and prostitution for the purpose of this thesis. It presents the major international theoretical perspectives surrounding each definition, and discusses popular consensuses. This chapter also provides background on worldwide history and attitudes towards prostitution and trafficking so that Brazil's policies can be further analyzed in future chapters.

In the third chapter I seek to present the state of affairs regarding human trafficking and prostitution in Brazil specifically. It first introduces the sex trafficking industry in the country, and then describe the nature of modern prostitution. Chapter 3 pays particular attention to the demographic of sex trafficking victims and voluntary sex workers (as well as their traffickers and/or clientele), their working conditions,

and the development of both industries. This chapter also introduces current international and Brazilian laws that govern sex trafficking and prostitution. Chapter 3 also presents and examines the various governmental and non-governmental responses to sex trafficking and prostitution *in Brazil specifically*. I then discuss the actions of various high-profile non-governmental organizations on sex trafficking and prostitution in the country.

The fourth chapter fully introduces *World Development's* article "Does Legalized Prostitution Increase Human Trafficking?" its regression, and its findings. It then compares the findings of the quantitative study to the realities of the Brazilian case using supporting qualitative analysis, and introduces the major shortcoming of a 2002 study on human trafficking in Brazil that has affected most reports on the Brazilian case to date.

In the fifth and final chapter, I address the human trafficking issue in the context of national security, specifically with the upcoming World Cup and Olympic Games. I study and analyze the *effectiveness* of four Brazilian policies in policing human trafficking using an analytical model known as SLEIPNIR, and defend my argument developed in Chapter 4 that in the case of Brazil, legalized prostitution leads to an increase in human trafficking. The qualitative analysis of the effectiveness of Brazilian legal code presented in Chapter 5 also identifies how the lack of effective regulation exasperates the problem, and explores how the current regulatory infrastructure's weaknesses in addressing human trafficking can be exploited by extremists groups, including terrorists looking to target the sporting events that will draw hundreds of thousands of fans and tourists from across the world.

## CHAPTER 2: AN ISSUE OF PERSPECTIVE: CONSTRUCTING DEFINITIONS FOR HUMAN TRAFFICKING AND PROSTITUTION

This chapter has two main objectives. To effectively discuss the relationship between human trafficking and prostitution in Brazil, I must first clearly outline the context of each term, and offer definitions that will hold consistent for the duration of this thesis. The second objective is to put these definitions into perspective by discussing main international schools of thought. For reasons I will discuss in this section, in the case of human trafficking, I identify just one school of thought: the United Nations' Palermo Protocol. Regarding the legality of prostitution, however, I consult four. While there is a general, worldwide consensus against human trafficking, prostitution remains a phenomenon that divides global opinion. Because of this, the end of this chapter pays particular attention to prostitution in order to accurately present complex background information necessary when discussing alternate policy views and addressing Brazil's own unique situation.

### **The Importance of Definitions**

Though a variety of definitions are available from numerous sources—state governments, NGOs, etc.—many are subject to the agenda of the author and suffer from certain biases. I already judged the U.S. State Department as a biased—though

valuable—resource when it comes to my research. While the definitions that they have constructed for the purpose of their annual and special reports are valuable, I could not rely on them to provide impartial descriptions of the two terms in question because the government of the United States has already adopted a strong policy against both prostitution and human trafficking. Thus, I elected to use the following definitions from more unilateral, relatively unbiased, and universally recognized sources.

### **Human Trafficking**

In researching the many definitions for *human trafficking* available today, there was one report that was continually cited and referenced far more than any other when defining the phenomenon, and that was the 2003 *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the UN Convention against Transnational Organized Crime*. Otherwise known as the Palermo Protocol (named for the city in which it was written), Article 3 of this document has become the universally accepted definition of human trafficking. As it stands today, every South American country has signed the protocol, and Cuba and Honduras are the only two Central American countries that have yet to become signatories.<sup>19</sup>

The exact definition of *human trafficking* used by the United Nations Palermo Protocol is as follows:

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<sup>19</sup> United Nations. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*. 2000.

- a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring 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 labor or services, slavery or practices similar to slavery, servitude or the removal of organs;
- b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c) The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d) “Child” shall mean any person under eighteen years of age.<sup>20</sup>

In signing the Palermo Protocol, nations promised to both combat human trafficking and protect the trafficking victims within their borders. Although there has often been a disconnect between the number of signatories and the true number of countries who choose to take an active and progressive role in implementing the promised policy changes, the number is nevertheless impressive. The true success of the Palermo Protocol was the creation of an internationally recognized definition of human trafficking, and a clear legal definition of who the victims are as well. Before the Protocol was written in 2003, there was no clear and universally accepted definition of the phenomena, or the people involved in it.

Even with the success of the Palermo Protocol, various concerns were left unanswered. Most signatory nations still define human trafficking differently in their

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<sup>20</sup> United Nations. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*. United Nations, 2000, 2.

own anti-trafficking laws.<sup>21</sup> *Human trafficking* itself is often used to describe many smaller, complex criminal activities on a macro scale, and it fails to address the varying degree of victim participation; the difference between a co-conspirator and a blameless victim is often left unaddressed.

Additionally, many terms used to describe the components of human trafficking outlined in Figure 2.1 have no clear definitions. These important concepts are applicable not only to the question of trafficking, but prostitution as well. *Coercion, consent, and exploitation*, to name a few, have no universally accepted or identified definitions. Nevertheless, these components are officially recognized by the United Nations, and most governments that have ratified the Palermo Protocol also acknowledge how the elements play a role in the illicit activity. Figure 2.1 provides a visual representation of the factors that play a role in the trafficking issue, and illustrates how traffickers use certain methods (the ‘means’ of the ‘act’) in order to exploit victims (the ‘purpose’).

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<sup>21</sup> Aromaa, K. (2007). Trafficking in Human Beings: Uniform Definitions for better Measuring and for Effective Counter-Measures. *Measuring Human Trafficking: Complexities and Pitfalls*, 13-26. 16.

Figure 2.1<sup>22</sup>

Elements of Human Trafficking		
The Act	The Means	The Purpose
Recruitment, transportation, transfer, harboring, receipt	Threat, use of force, other forms of coercion, abduction, fraud, deception, abuse of power, abuse of position of vulnerability, giving or receiving of payments or benefits to achieve consent of a person having control over another person	Exploitation

In Article 3(a), the Palermo Protocol identifies *coercion* as the “threat or use of force or other forms,” but fails to expand on the topic or offer specifics or clarification. This can prove particularly problematic when countries seek to prosecute human trafficking, but they cannot accurately define the term. A “threat or use of force” as cited above is rather easy to prove (evidence of physical violence, verbal intimidation), but the phrase “other forms” is disappointingly vague, and raises far more questions than answers. What, exactly, can be considered a form of coercion? *Psychological coercion* would almost certainly be more difficult to identify let alone prove in court. *Situational coercion*—that is, a trafficker’s exploitation of victims’ circumstances, to include poverty, familiarly strife, societal instability, and

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Source: UNODC (This table was shown in the PowerPoint presentation given at the Global Report on Trafficking in Persons launch event at Foreign Correspondents’ Club of Thailand on February 13, 2009. [http://www.unodc.un.or.th/2009/02/ht-report/PPT%20TIP%205%20GB%20gl%20\(13%20Feb%2009\).pdf](http://www.unodc.un.or.th/2009/02/ht-report/PPT%20TIP%205%20GB%20gl%20(13%20Feb%2009).pdf))

war—would be as equally difficult to defend. Traffickers primarily target those who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin, and while some governments like the United States have expanded their own definition of *coercion* to include these acts that do not inflict obvious bodily harm,<sup>23</sup> most nations have yet to follow suit.

Along with *coercion*, *consent* proves to be a difficult term upon which to determine an international consensus. In Article 3(b), the Protocol states simply that if one or more of the means of *coercion* outlined in subparagraph 3(a) were used by a trafficker, then any superficial show of *consent* on the part of the victim should be considered null and void. But as it has already been established, the elements at play in human trafficking are not always so cut and dry. A large number of Brazilian women are found in prostitution abroad, often in European countries, including Spain, Italy, Portugal, the United Kingdom, the Netherlands, Switzerland, France, and Germany but also in the United States and even Japan. Many of these women took the occupation willingly, trading their bodies for a free passage to Europe or North America.<sup>24</sup> This inter-regional pattern is not unique to South America alone: In Eastern Europe as well, many women turn to traffickers to help them leave their home countries, knowing very well that they will be recruited into prostitution.<sup>25</sup> In many countries, human rights protections allow traffickers to raise the consent of their victims as a strong defense against prosecution, even though the Protocol clearly

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<sup>23</sup> Trafficking Victims Protection Reauthorization Act of 2008, H.R. 7311, 110th Cong. (2008).

<sup>24</sup> Global Report on Trafficking in Persons 2012.” United Nations Office of Drugs and Crime. 2012. [http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking\\_in\\_Persons\\_2012\\_web.pdf](http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf). 95-96.

<sup>25</sup> Nijboer, J., & Voeks, J. (2000). The Promised Land: A Study of Trafficking in Women from Central and Eastern Europe to the Netherlands. *European Journal on Criminal Policy and Research*, 8(3), 379-388.

states otherwise in subparagraph (b). This is a clear example of how a lack of consensus undermines the effectiveness of the Palermo Protocol.

**Figure 2.2**



Figure 2.2, generated using information from the *United Nations Report on Trafficking in Persons*, provides an excellent visual aid when attempting to picture how trafficking legislation varies across South America, and failed to adhere to Protocol standards.<sup>26</sup> As illustrated, although every South American country has signed the Palermo Protocol, many nations—including Brazil—still have yet to correct the holes in their trafficking legislation that allows traffickers too many times go unprosecuted.

### **The Economics of Trafficking**

What drives human trafficking to begin with? In the preamble to the *United Nations Global Plan of Action against Trafficking in Persons*, the General Assembly recognized that “poverty, unemployment, lack of socioeconomic opportunities, gender-based violence, discrimination and marginalization are some of the contributing factors that make persons vulnerable to trafficking in persons.”<sup>27</sup> That being said, trafficking does not only exist because people of certain demographics display vulnerability. What eventually sets the events into motion can be explained easily with the economic principles of supply and demand. As with the illegal firearms and illicit drug trade, human trafficking is propelled forward by one thing—profit.<sup>28</sup> Trafficking is fueled by a demand for cheap labor, and traffickers are the suppliers who take advantage of that demand by exploiting their victims. From a slightly more complex perspective, according to John Chuang for the University of California-Berkeley, trafficking is “an opportunistic response to the tensions between

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<sup>26</sup> “United Nations Report on Trafficking in Persons.” 157.

<sup>27</sup> U.N. General Assembly, 64<sup>th</sup> session. *Resolution 64/293. (2010) [United Nations Global Plan of Action to Combat Trafficking in Persons]*. 12 Aug 2010.

<sup>28</sup> Wheaton, E. M., Schauer, E. J., & Galli, T. V. 117.

the economic necessity to migrate, on the one hand, and the politically motivated restrictions on migration, on the other.”<sup>29</sup> When the price of victims decreases, the quantity of victims demanded by employers increases. The viability of these “shadow economies” is tied almost entirely to the condition of the mainstream/overt markets (be in sex, labor, etc.), and they are extremely sensitive to a variety of external factors (government regulations, socio-political upheavals, swings in the market or related markets).

Human trafficking thrives as an industry in the twenty-first century because of two factors: *low risk* and *high profitability*. When potential traffickers detect little deterrence or danger of prosecution (because of ineffective laws, lack of prosecution, government corruption etc.), the incentive for trafficking increases. Even with increased publicity with the Palermo Protocol, other UN resolutions and international condemnations of the practice, traffickers run a remarkably low chance of getting caught. Moreover, as long as people are willing to pay for sex, labor, and other physical services, a market where it is profitable for traffickers to exploit their victims will always exist. As with other industries, consumers provide both the demand and profit incentive for the sellers. If a quick and significant change is to occur in the trafficking industry, it will more than likely originate from the demand side of the equation, not the supply side.

### **Human Trafficking vs. Migrant Smuggling**

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<sup>29</sup> Chuang, J. (2006). “Beyond a snapshot: preventing human trafficking in the global economy.” *Indiana Journal of Global Legal Studies*, 13(1): 137–163.

One final question must be considered in the human trafficking debate, and that is the difference between *human trafficking* and *human smuggling*. Since the two crimes are so often intertwined, it can be difficult to determine if a case is legally one or the other. To complicate matters, the unclear distinction between the two poses many problems for prosecution efforts. The official definition of *migrant smuggling* recognized by the United Nations is as follows, as defined by the *2000 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime* Article 3(a):

“Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident.<sup>30</sup>

The difference between *human trafficking* and *migrant smuggling* lies in three key elements: movement across borders, consent, and the purpose of exploitation. Migrant smuggling requires the movement of people across national borders, while human trafficking does not.<sup>31</sup> Human trafficking can occur completely within a single country, and thus does not meet this first prerequisite to constitute smuggling. Second, those being smuggled consent completely to participating in the crime, and are not otherwise coerced, pressured or forced. The person or persons who decide to cross national borders illegally often pay large amounts of money to smugglers for safe passage, and are free to go once they reach their destination. In contrast, human

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<sup>30</sup> U.N. General Assembly, 55<sup>th</sup> session. *Resolution 55/25. [Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime]*. 15 Nov 2000. 55.

<sup>31</sup> U.N. General Assembly, 55<sup>th</sup> session. *Resolution 55/25*. 41.

trafficking victims may have agreed initially or even paid to be smuggled into a country, but then are forced into trafficking upon arrival. Once coercion is used to influence the victims, any act of prior consent is negated. Finally, the last key difference between *human trafficking* and *migrant smuggling* is the purpose for the crime—that is, the reason why the act is occurring. Profit can be a motive for either crime, but in the case of trafficking, a purpose is always *exploitation*. The purpose for smuggling is financial benefit only. The information in Figure 2.4 is pulled from the UNODC’s 2009 *Anti-trafficking Manual for Criminal Justice Practitioners*, and provides a matrix to compare the key differences discussed in this section.

**Figure 2.4**<sup>32</sup>

**Key Differences between Human Trafficking and Migrant Smuggling**

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<sup>32</sup> Source: UNODC (2009), *Anti-Human Trafficking Manual for Criminal Justice Practitioners*.

	<b>Human Trafficking</b>	<b>Migrant Smuggling</b>
Actions	Recruitment, transportation, transfer, harboring or receipt of a person 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 vulnerability or of the giving or receiving of payments or benefits.	Procurement of illegal entry of a person into a country of which the person is not a national or permanent resident.
Trans-nationality	Not required	Required
Consent of trafficked/smuggled person	Irrelevant once the means are established. For children, the consent is irrelevant regardless of the means.	The smuggled person consents to the smuggling
Purpose	<i>Exploitation</i> , which includes: prostitution and other forms of sexual exploitation, forced labor and services, slavery and similar practices, involuntary servitude, removal of organs.	For financial or other material benefit

### **The Sex Trafficking Phenomenon**

While the term *human trafficking* refers to the trafficking of persons with a wide variety of intentions ranging from sexual exploitation to forced labor, the number of persons trafficked for sexual purposes far outweighs the number of any other group combined. The *2009 Global Report on Trafficking in Persons* report by the UN estimates that sexual exploitation accounts for nearly 79 percent of all trafficking cases worldwide.<sup>33</sup> Though trafficking occurs in Brazil for many different purposes (forced manual labor, domestic slavery, etcetera), because *human trafficking* is being juxtaposed against prostitution in this document, I will address *sex trafficking* specifically for majority of this thesis.

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<sup>33</sup> “United Nations Report on Trafficking in Persons.” 6.

## Prostitution

Whereas the process of creating an internationally recognized definition for *human trafficking* by the United Nations was long and arduous, the definition of *prostitution* is much more universally accepted. The Merriam-Webster dictionary defines prostitution as “the act or practice of engaging in promiscuous sexual relations especially for money.”<sup>34</sup> Even though countless other reference sources exist which define the term, each definition is generally the same—the exchange of sexual acts for money, financial gain, or other economic benefits.

Prostitution is often called the world’s oldest profession. The first mention of a prostitute in world literature appeared more than four thousand years ago, in the Mesopotamian *Epic of Gilgamesh*. Called simply “The Whore,” the fact that this character is not even addressed by her true name shows how the social stigma that prostitution carries today existed millennia ago.<sup>35</sup> But since these ancient times, prostitution has been subject to countless laws, regulations and protocols, most seeking to either to place significant restrictions on the practice, or outlaw it altogether.

Although the U.N. has not adopted an official definition of prostitution, it has gone so far as to take a stand against it. The *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* was approved by General Assembly Resolution 317 in December of 1949. The language is as follows:

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<sup>34</sup> prostitution. (2013). In Merriam-Webster English Dictionary. Retrieved from <http://www.merriam-webster.com/dictionary/prostitution>

<sup>35</sup> Anonymous. (2003). *The Epic of Gilgamesh*. Penguin Classics. (Original work published 2500 B.C.)

*Article 1:* The Parties to the present Convention agree to punish any person who, to gratify the passions of another:

- (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;
- (2) Exploits the prostitution of another person, even with the consent of that person.

*Article 2:* The Parties to the present Convention further agree to punish any person who:

- (1) Keeps or manages, or knowingly finances or takes part in the financing of a brothel;
- (2) Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.

*Article 3:* To the extent permitted by domestic law, attempts to commit any of the offences referred to in articles 1 and 2, and acts preparatory to the commission thereof, shall also be punished.<sup>36</sup>

But even though this resolution was officially adopted in 1951, not all UN member states accepted the language or took action. This becomes clear when compares the laws that regulate prostitution around the world. To begin my assessment of the link between legal prostitution in Brazil and the human trafficking epidemic in the country, it is important to address the perspectives and positions that other governments and countries have adopted on the issue. In this next section, I will introduce four incredibly different “schools of thought,” one that complies with the convention, and three that do not.

#### **Four Positions: Global Perspectives on Prostitution**

As the Palermo Protocol failed to develop a working definition of *prostitution*, countries were free to develop their own definitions and procedures with little to no

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<sup>36</sup> United Nations. *The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*. United Nations. 2 December 1949.

outside interference. As a result, four distinct policy approaches developed that can be used to describe most countries: *complete criminalization*, *partial decriminalization*, *decriminalization*, and *legalization*.<sup>37</sup> While assessments of the benefits and shortcomings of each approach can be made, it is difficult to find impartial analysis and critiques, as reviewers often begin their research with pre-determined biases or motives. Regardless, in order to assess Brazil's stance on prostitution, it is crucial that the viewpoints of other nations be taken into account. The following section seeks to explore the general legal boundaries and structure of prostitution laws and legislation that characterize each of the four approaches, particularly focusing on complete criminalization in the United States and legalization in Brazil.

### ***1. Complete Criminalization: The United States***

Nations that have adopted a policy of *complete criminalization* of prostitution outlaw all forms of the sex trade; sale, purchase, etc.<sup>38</sup> In this type of system, the government attempts to eradicate prostitution by punishing both the prostitute and the client, addressing both the sides of supply and demand. In practice, however, those offering the sale of sex (prostitutes) are more often arrested and prosecuted than those buying sexual favors (the clientele).<sup>39</sup> Additionally, opponents of criminalization of prostitution argue that simply illegalizing the act does little to reduce prostitution rates, maintaining that the institution simply moves underground and continues operation, only without the benefit of government watchdogs and regulators.

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<sup>37</sup> Halley J., Kotiswaran P., Shamir H., & Thomas C., *From the International to the Local in Semi-Legal Responses to Rape, Prostitution/Sex Work, and Sex Trafficking: Four Studies in Contemporary Feminism*. (2006) 335-336.

<sup>38</sup> Halley J., *et al.* 335.

<sup>39</sup> Hughes, D., *The Demand for Victims of Sex Trafficking* (2005). 17.

Proponents assert that the legality of prostitution simply provides a front from which sex traffickers can operate.<sup>40</sup>

I will begin by addressing the position of the most powerful player in the western hemisphere, the United States. The country's stances on international issues, including those on human rights, arguably has the greatest sway on individual Latin American countries' policies than any other nation. While Brazil might be classified as an "emerging superpower" no other country in the Americas rivals the United States' sphere of influence, though Brazil is gaining ground. The U.S. Department of State is the country's main source for generating and implementing U.S. foreign policy, and the department maintains close ties with its Latin American neighbors—whether they like it or not.

The State Department regularly released official statements, documents and reports regarding human rights issues, and sex trafficking is no exception. Whereas it should come as no surprise that the United States has adopted a hard stance against the practice, it has also assessed the link between prostitution and human trafficking, releasing an official report in 2004, aptly titled *The Link Between Prostitution and Sex Trafficking*.

The Department of State has assessed that prostitution and its related activities (pimping, brothels, etc.) fuel the human trafficking phenomenon by providing a front behind which the illegal institution can operate with little opposition.<sup>41</sup> Its main concern, however, is that in areas of the world where prostitution laws are lax and where prostitution is legalized altogether, rates of human trafficking are higher. The

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<sup>40</sup> United States Department of State. *The Link Between Prostitution and Sex Trafficking*. 24 Nov. 2004. U.S. Department of State. 5.

<sup>41</sup>United States Department of State. 5.

State Department uses this data to draw the correlation that acts as the main condemning factor for the legality of prostitution.

Another main point that the *Link Between Prostitution and Sex Trafficking* report makes is that the women and children “caught in prostitution” wish to escape.<sup>42</sup> According to the State Department, most women and children involved in the industry are looking for an out, but simply cannot find one. It is important to note that with this wording, it is unclear if what they refer to as “prostitution” is just that, or if they are referring to human trafficking instead, or a combination of the two. The report fails to elaborate further on this point. Additionally, the State Department report assesses that prostitution leaves an often-irreversible mental and physical burden upon the prostitute. Field research in nine countries produced these statistics:

- 60-75 percent of women in prostitution were raped
- 70-95 percent were physically assaulted
- 68 percent met the criteria for post traumatic stress disorder<sup>43</sup>

The prevalence of potentially fatal sexually transmitted diseases—particularly HIV and AIDS—creates another layer of concern in the realms of both prostitution and sex trafficking. The State Department pulled this quote from a study from a comparative study of women in trafficking published by the Ford Foundation:

[T]he burden of physical injuries and illnesses that women in the sex industry sustain from the violence inflicted on them, or from their significantly higher

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<sup>42</sup> United States Department of State.5.

<sup>43</sup> Farley, Melissa et al. 2003. “Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder.” *Journal of Trauma Practice*, Vol. 2, No. 3/4: 33-74; and Farley, Melissa. ed. 2003. *Prostitution, Trafficking, and Traumatic Stress*. Haworth Press, New York.

rates of hepatitis B, higher risks of cervical cancer, fertility complications, and psychological trauma.<sup>44</sup>

Finally, the U.S. Department of State asserts that the legality of prostitution only encourages organized crime. The presence of legal adult prostitution makes it difficult for authorities to identify and prosecute traffickers, pimps, and other people responsible for forcing women, children—and to a lesser extent, men—into the sex trafficking trade against their will. The report cites a statement made by the Swedish government according to its own research. Here, the report plainly states that sex trafficking could not have developed into the robust shadow economy that it is today without prostitution as a cover:

International trafficking in human beings could not flourish but for the existence of local prostitution markets where men are willing and able to buy and sell women and children for sexual exploitation.<sup>45</sup>

Though this particular State Department report does not go into great detail, it makes a bold statement to the international community. As one of the most powerful and respected developed nations in the world, a strong stance from the U.S. does not go unheard. Additionally, formal policy decisions like the one highlighted in this 2004 report can often have a pronounced effect on American and U.S.-driven international aid programs. For example, the U.S. policy on prostitution that was highlighted in the 2004 report prompted the United States Agency for International Development (USAID) to add certain earmarks to HIV/AIDS program funding.

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<sup>44</sup> Raymond, J. et al. 2002. *A Comparative Study of Women Trafficked in the Migration Process*. Ford Foundation, New York.

<sup>45</sup> Swedish Ministry of Industry, Employment, and Communications. 2004. *Fact Sheet: Prostitution and Trafficking in Women..* <http://www.sweden.gov.se/content/1/c6/01/87/74/6bc6c972.pdf>

USAID now requires that governments receiving AIDS assistance explicitly condemn prostitution. When faced with this ultimatum, the Brazilian government decided to forgo nearly \$40 million U.S. dollars in aid.<sup>46</sup>

In a 2005 statement, Pedro Chequer, the director of the Brazilian government's AIDS program, defended the country's decision to refuse the money that at one point had comprised more than ten percent of their \$400 million dollar budget:

Our feeling was that the manner in which the USAID funds were consigned would bring harm to our program from the point of view of its scientific credibility, its ethical values and its social commitment...we must remain faithful to the established principles of the scientific method and not allow theological beliefs and dogma to interfere.<sup>47</sup>

Though it was only one of the first clashes in U.S.-Brazilian policy on prostitution and USAID financial aid contributions, with the approaching World Cup in 2014 and Olympics in 2016, it certainly will not be the last. A more detailed analysis of the strained relationship will be offered in the third chapter of this thesis.

## ***2. Partial Decriminalization: Sweden***

The second system that we find in addressing prostitution regulation is *partial decriminalization*. In this system, prostitutes cannot be detained for selling sex and other favors, but the clientele who buy their services can be arrested and prosecuted.<sup>48</sup> In this sense, *partial decriminalization* views prostitution as inherently immoral, but falls short of condemning the prostitutes—primarily women—from turning to the

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<sup>46</sup> Larry, R. (2005, July 24). Prostitution Puts U.S. and Brazil at Odds on AIDS Policy . *New York Times*.

<sup>47</sup> Larry, R.

<sup>48</sup> Svanström, Y. (2005). Through the Prism of Prostitution: Conceptions of Women and Sexuality in Sweden at Two Fins-de-Siècle. *NORA: Nordic Journal Of Women's Studies*, 13(1), 48-58.

trade to earn a living. In this sense, *partial decriminalization* attacks the *demand* side of the prostitution economy while leaving the *supply* side untouched.

While there are several examples of countries that have implemented *partial decriminalization* policies, Sweden's plan has received a significant amount of international attention. Proponents of Sweden's plan have argued that in addition to protecting women's rights, this specific approach also encourages prostitutes to report illegal sex and human trafficking because they can approach the authorities without fear of serious repercussion or legal penalty.<sup>49</sup>

Opponents of *partial decriminalization* who argue against the policy belong to separate camps. On one hand, prostitutes rights activists argue that prosecuting the clientele harms business and effectively pushes prostitutes out of the market. On the other hand, many complete criminalization hard-liners believe that *partial decriminalization* does not go nearly far enough, for reasons explained in the last section, using the United States as an example.

Interestingly enough, Sweden is in compliance for the "minimum standards" set forth by the United States for combating human trafficking, even with its *partial decriminalization* policies. This is because under Swedish law, the penalty for human trafficking is at the same level of criminality as many other major offenses.<sup>50</sup>

### ***3. Complete Decriminalization***

In countries that have implemented *complete decriminalization*, all criminal code that had been tied to prostitution—on both the part of the prostitute and the

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<sup>49</sup> United States Department of State. (2008) *2008 Trafficking in Persons Report*.  
<http://www.state.gov/documents/organization/105501.pdf>.

<sup>50</sup> Svanström, Y. 58.

client—is abolished. Theoretically, prostitution is regarded as any other business venture, and considered an ordinary business transaction.

Whereas *legalization* focuses on maintaining social order in regards to prostitution, *complete decriminalization* focuses on the human rights aspect of the prostitution debate, namely the rights of the prostitutes to sell sex and sexual favors and the clients' rights to buy their “products”. Currently, no countries or nations have implemented a *complete decriminalization* plan, so there is little to be expanded on in this section.

#### ***4. Legalization: Brazil***

Finally, *legalization* involves complete decriminalization *coupled* with “positive legal provisions regulating one or more aspect of sex work businesses.”<sup>51</sup> Though each government is free to interpret the regulations in different ways, common protocols include adherence to labor/employment law, zoning of sex businesses (into “Red Light Districts” or other commercial areas), compulsory medical check-ups, and the licensing of sex workers.

Legalization policies vary widely from country to country, and the differences are worth noting. The Netherlands, for example, has one of the most extensively regulated systems for prostitution, taking a decentralized administrative approach. Since prostitution was formally legalized in the country in 2000, each municipality has its own licensing program for brothels and sex establishments, and the regulation of these businesses is left up to a coalition of local authorities. The police, local medical and health services and even tax authorities each play an important, proactive

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<sup>51</sup> Halley J., *et al.* 346.

role.<sup>52</sup> The location and hours of operation of brothels are also extremely regulated. Licensing authorities have also placed strict regulatory controls on the use of coercion, abuse, or other illegal acts to negatively influence prostitutes. Violations can lead to various punishments depending on the severity of the offence, including fines, revocation of their business license, and further restrictions on hours of operation.<sup>53</sup>

Adversarial viewpoints still exist. Critics of prostitution say that the Dutch case proves that the legalization of prostitution does not lead to the empowerment of women, but rather an “expansion of their exploitation, making the Netherlands a safe and lucrative destination for traffickers.”<sup>54</sup> Many are critical of the brothel-based system, saying that it has led to the consolidation of the sex industry, and simply forced illegal activities underground. In fact, the number of reported human trafficking victims has risen threefold since the full legalization of prostitution in 2000, from just under 300 reports in 2000 to over 900 in 2009. This trend is illustrated in Figure 2.5. With such a drastic increase in the reported cases of human trafficking in the country after legalized prostitution, it is difficult not to draw conclusions as to the link between the phenomena.

**Figure 2.5<sup>55</sup>**

**Number of Reported Trafficking Victims in the Netherlands, by Year 2000-2009**

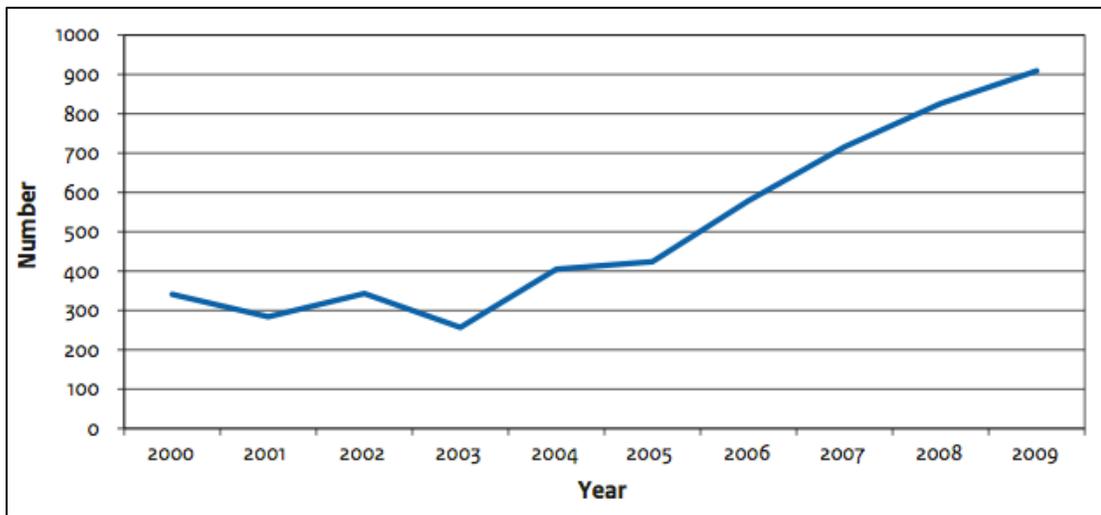
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<sup>52</sup> Halley J., *et al.* 398.

<sup>53</sup> Halley J., *et al.* 398.

<sup>54</sup> Halley J., *et al.* 399.

<sup>55</sup> *Human trafficking – ten years of independent monitoring.* (2010). The Hague, The Netherlands: Bureau of the Dutch National Rapporteur. 92.



Even with these statistics, the Dutch system—though relatively young—is considered to be one of the most effective methods of regulating prostitution, and is generally considered to do a better job at mitigating the risk factors associated with the practice than many other countries with legalized prostitution. But even though Brazil also falls under this *legalization* category, the Brazilian system varies dramatically from its counterpart in the Netherlands. Whereas brothels and sex houses form the backbone of the Dutch system, they are illegal in Brazil. Women instead typically stand in the street in order to solicit customers. Because Dutch prostitutes are required to work in specified, licensed brothels, it is much easier for government officials to regulate the industry. Compulsory health screenings for prostitutes and institutional inspections are commonplace in the Netherlands, but unheard of in Brazil. Additionally, Dutch cities restrict where brothels can open, typically zoning “Red Light Districts” in areas that would not perturb the local population. Brazilian cities, in contrast, rarely use policy in attempt to restrict where prostitutes can solicit

business. Even though “Red Light Districts” have oftentimes appeared organically, prostitutes can generally be found in nearly all parts of Brazilian cities.

This brief analysis of the Dutch model will offer a point of comparison as this thesis begins to focus on the Brazilian model of prostitution legalization. It is important to remember that although various countries fall into this category, their individual laws and regulations—or lack thereof—vary widely. Therefore, when discussing legalized prostitution in Brazil, the distinct nature of the Brazilian system must be kept in mind.

### **A Conclusion on Definitions**

In the study of human trafficking and prostitution, the importance of the cited definitions cannot be understated. Since so many biased versions exist in the emotionally and morally charged issues, this chapter’s main purpose was to address a few of the commonly-held schools of thought, identify consensus definitions for the purpose of this thesis, and briefly discuss various policy views in order to give the Brazilian case more context. In offering background information on the phenomena, Chapter 2 lays down the foundation of this thesis.

## CHAPTER THREE: THE BRAZILIAN CASE

Now that clear definitions have been developed for human trafficking and prostitution, we are free to begin our discussion on the subject of this thesis: the Brazilian case. In order to build the background for the quantitative analysis on the link between legalization of prostitution in Brazil and increased human trafficking in the country that will be discussed in Chapter 4, the details of the sex trafficking and prostitution phenomena in Brazil must first be discussed at length. Chapter 3 aims to identify the specifics of the questions of “who”, “what”, and “where.” This chapter will first discuss the nature of human trafficking in Brazil, addressing trafficking patterns (both internationally and domestically), victim profiles (to include catalytic socioeconomic factors), official laws and policy, and governmental non-governmental responses. In the discussion of prostitution in Brazil, this chapter will follow much of the same format as the human trafficking section, addressing the nature of Brazilian prostitution, profiles of prostitutes, introduce official laws and policy regulating prostitution, and governmental and non-governmental responses.

## Human Trafficking in Twenty-First-Century Brazil

In recent months, human trafficking has permeated the consciousness of the mainstream entertainment industry. For many Brazilians, the *telenovela*<sup>56</sup> represents something between a daily ritual and a national pastime. Unlike American soap operas, Brazilian *novelas* run for several consecutive months before they culminate in an explosive finale. *Novelas* are subject to intense rating competitions; so when the Brazilian *Salve Jorge* premiered on October 22<sup>nd</sup>, 2012 and was an instant hit—gaining over 60% of the market share opening night—it was worth noting.<sup>57</sup> The show has since broken four more viewing records, three of them in January 2013 alone.<sup>58</sup> Although Brazilian *telenovelas* generally enjoy cult-like followings, the amount of attention that *Salve Jorge* has received since its premiere is unusual, if not unprecedented. Even though the show boasts the steamy romance and complicated love-triangles that are a prerequisite of modern-day *telenovelas*, the true reason why audiences continue tuning in has been attributed to something completely different: the subject matter.

The opening scene in *Salve Jorge* is an auctioning block in Istanbul, Turkey, where the beautiful 18-year-old protagonist Morena is sold for the equivalent of \$3,500 US dollars. The majority of the show is a flashback to her life as a young single-mother living in the favelas of Rio de Janeiro, where she meets Livia Marino. Livia promises the naïve protagonist a too-good-to-be-true dancing job in Europe, but once she arrives, it is revealed that Livia was in fact the leader of a trafficking ring,

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<sup>56</sup> English translation: *soap opera*. I elected to maintain the original Portuguese word in this thesis because there are specific cultural differences that separate the Brazilian productions from their traditional American cousins.

<sup>57</sup> Kogut, K. '*Salve Jorge*' estreia com 35 pontos de audiência. [Save Jorge stars with 35 points of the audience]. (2012, October 23) patriciakogut.com.

<sup>58</sup> Kogut, K.

and forces Morena into slavery. Even though the show received some criticism for portraying the serious issue of human trafficking in an entertainment format,<sup>59</sup> *Salve Jorge* has also been praised for drawing critical light to a very real but seldom-studied human rights issue in Brazil.

According to the U.S. State Department *2012 Trafficking in Persons Report*, Brazil is a “Tier 2” country on a scale that is based on a government’s efforts against trafficking<sup>60</sup> and as measured by the *Trafficking Victims Protection Act* minimum standards.<sup>61</sup> Brazil is a large source nation for sex trafficking abroad, and has the highest export rate of trafficking in the Americas.<sup>62</sup> According to the same State Department report, Brazilian nationals are often found in European countries like Spain, Italy, Portugal, the United Kingdom, the Netherlands, Switzerland, France, and Germany.<sup>63</sup> An October 2012 study directed by the Brazilian Ministry of Justice and National Secretariat of Justice<sup>64</sup> and UNODC reported that at least 337 people between 2005 and 2011 were trafficked out of Brazil and forced into prostitution.<sup>65</sup> Women from Latin America, Asia, Caribbean and Africa are trafficked to Europe because the sexual market because of a demand for “exotic” females.

According to the Brazilian Federal Police, sexual exploitation for trafficking usually begins in the following cities and/or states, concentrated in the Northeast and Southeast regions of Brazil: Goiânia, Recife, Fortaleza, Belém, Rio de Janeiro,

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<sup>59</sup> Stycer, M. (2012, January 22). Crítica de “Salve Jorge”: Seria trágico se não fosse cômico [Critic of "Hail Jorge": It would be tragic if it was not entertainment]. Retrieved from Bol Notícias website:<http://noticias.bol.uol.com.br/entretenimento/2013/01/22/critica-de-salve-jorge-seria-tragico-se-nao-fosse-comico.jhtm>

<sup>60</sup> U.S. State Department. (2012). *2012 Trafficking in Persons Report*. 94.

<sup>61</sup> H.R. 7311. 110th Congress: *William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008*. (2008).

<sup>62</sup> Blanchette, T. G., & da Silva, A. P. 107.

<sup>63</sup> U.S. State Department. (2012). *2012 Trafficking in Persons Report*. 95.

<sup>64</sup> Original Portuguese translations: *Ministério da Justiça e Secretaria Nacional de Justiça*

<sup>65</sup> Diagnóstico mostra dados sobre tráfico de pessoas [Diagnosis shows data on human trafficking]. (2012, October 16). *Consultor Jurídico*.

Espírito Santo, São Paulo, and Mato Grosso do Sul.<sup>66</sup>

These states are targeted because they are the regions where income inequality and the size of the general populations is the greatest, and women are more susceptible to traffickers. From these locales, many women are trafficked internally to other major sex tourist cities in the Northeast or Southeast. But there are also many ways that victims can be trafficked out of Brazil. Due to the clandestine nature of human trafficking and lack of effective policing, many of the exact routes are still unknown. According to what information the Federal Police have been able to gather in this 2005-2011 timeframe, the main trafficking routes of Brazilian women out of the country are as follows:

Goiânia → Rio de Janeiro → Europe  
Recife → Fortaleza → Rio de Janeiro → São Paulo → Europe  
Belém → Surinam → Netherlands  
Rio de Janeiro → Israel  
Rio de Janeiro → □ Europe  
Paraná → Rio de Janeiro → Europe<sup>67</sup>

**Figure 3.1**

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<sup>66</sup> Original Portuguese translations: *Nordeste e Sudeste*

<sup>67</sup> Brasil combate tráfico de mulheres em parcerias com países e instituições [Brazil combats trafficking of women in partnerships with countries and institutions]. (2012, December 4).

### Reference Map: States of Brazil



But while Morena’s international trafficking experience in *Salve Jorge* is a memorable one, intercontinental trafficking from the Americas to Europe only makes up a very small percentage of current total UN estimates for 2012, just 6.8 percent.<sup>68</sup> In contrast, most trafficking victims on the South American continent are, in fact, South Americans— 87.9 percent.<sup>69</sup> Of that number, 47 percent are trafficked within their own countries, and the other 40.9 percent remain in the South American sub-region.<sup>70</sup> The immense size of Brazil is a significant factor in this statistic; the

<sup>68</sup> “Global Report on Trafficking in Persons 2012.” United Nations Office of Drugs and Crime. 56.

<sup>69</sup> “Global Report on Trafficking in Persons 2012.” United Nations Office of Drugs and Crime. 66.

<sup>70</sup> “Global Report on Trafficking in Persons 2012.” United Nations Office of Drugs and Crime. 66.

distance travelled by many victims would have them in another country if they were in Europe. A smaller demand for European women in large Brazilian cities like São Paulo and Rio de Janeiro does exist, but the number is relatively small.

### **Profiles of Trafficking Victims: Poverty a Deciding Factor**

Brazil as a country is almost as large as many continents. But regardless of the logistical obstacles of a nation of its size, Brazil boasts one of the fastest growing economies in the world. Though the international financial crisis that began in the latter part of the last decade slowed the pace of economic development, the country continues to progress. But even with its status as a BRIC country, Brazil still grapples with serious governmental issue—social inequality.

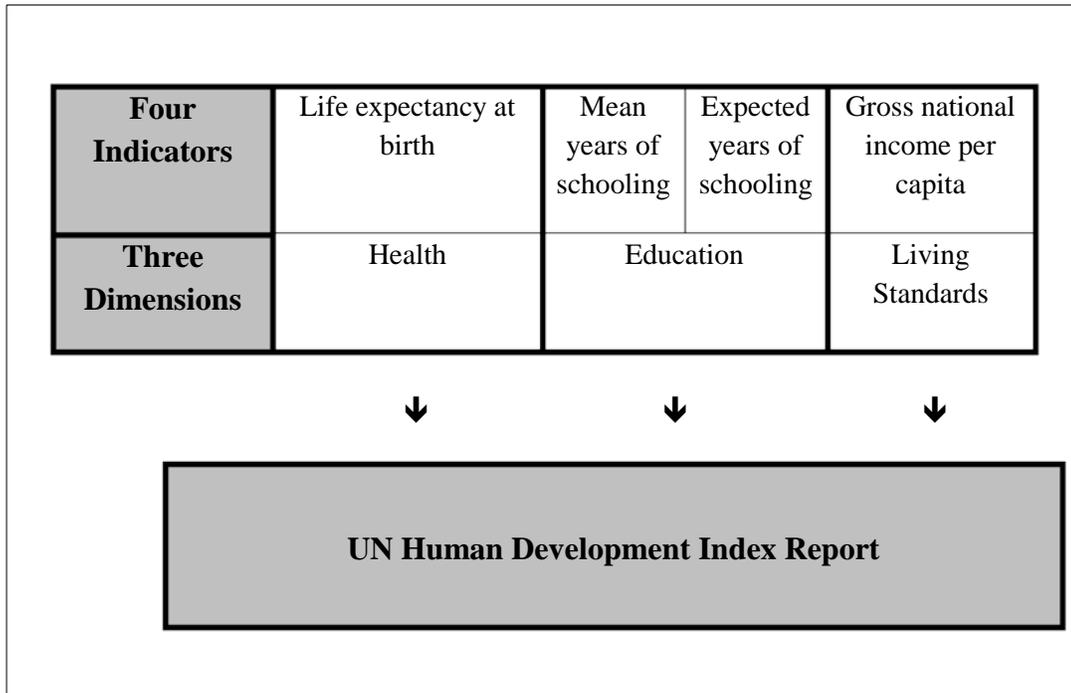
The Human Development Index (HDI) published annually for each country by the United Nations Program for Development (UNPD) tracks the advancement of a country's population based on social, political, and cultural characteristics that influence quality of life—the three main measures are for life expectancy, income and education. Life expectancy is measured with census data and estimates. In order to measure education, the UN uses literacy and the percentage of enrollment at the three levels of schooling (primary, secondary, and advanced). Income is measured using gross domestic product (GDP) *per capita*. Figure 3.2 provides a visual representation for the components of the human development index.

### **Figure 3.2<sup>71</sup>**

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<sup>71</sup> Human Development Index (HDI). (n.d.). Retrieved February 18, 2013, from UN Human Development Reports website: <http://hdr.undp.org/en/statistics/hdi/>

## Components of the Human Development Index



In the 2011 report that ranked 187 countries, Brazil placed 84<sup>th</sup> with an index of 0.718, classifying as a country with “high human development”.<sup>72</sup> In an analysis of the previous four years, Brazil remained in “high” category, but the rate of growth has stagnated. In 2010, Brazil ranked 73<sup>rd</sup> with an index of 0.715<sup>73</sup>, compared to 75<sup>th</sup> and 0.813 in 2009<sup>74</sup>. 2008, the year of the international financial crisis, the rate of Brazilian development slowed understandably, with the ranking 80<sup>th</sup> and an index at 0.800, and the country.<sup>75</sup> This proves the assertion that regardless of the advances that the country has made in recent years, according to the 2011 data, Brazil boasts one

<sup>72</sup> *Human Development Report 2011*. (2011). United Nations Development Programme. 128.

<sup>73</sup> *Human Development Report 2010*. (2010). United Nations Development Programme. 140.

<sup>74</sup> *Human Development Report 2009*. (2009). United Nations Development Programme. 172.

<sup>75</sup> *Human Development Report 2007/8* (2008). United Nations Development Programme. 230.

worst income inequality problems in the world.<sup>76</sup> The richest 10 percent of the population owns 42.7 percent of Brazilian wealth, while the bottom 10% controls less than 1.2.<sup>77</sup> The Gini Coefficient Index, used to measure income inequality, ranked Brazil 49<sup>th</sup> globally for 2012.<sup>78</sup> The final measure, the Human Poverty Index, is only calculated for developing countries. This index is calculated using three factors: short life expectancy (less than four years), lack of education (calculated using illiteracy percentages in the adult population) and the lack of access to public and private resources (access to clean water, infant weight and mortality). The last year that the Index was calculated for Brazil, 2006, the country index was 0.011.<sup>79</sup>

The Brazilian government took serious steps in the past decade to address social inequality. *Bolsa Família*, for example, the brainchild of now-former president Lula da Silva, represents the largest social welfare program in Brazilian history. Going into effect in 2003, the plan covers over one fifth of Brazil's population,<sup>80</sup> offering direct monthly allowances to low-income families, and health and education benefits.<sup>81</sup> But regardless of the many successes of the program, social inequality persists, creating an environment in which poverty, poor education, persistent low wages, and unemployment thrive. Though these might not be the only factors, they certainly contribute to the overall problem to a large degree.

Irrespective of government attempts to address the issue of social inequality, the Brazilian government estimates that over 16.7 million Brazilians—8.5 percent of

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<sup>76</sup> de Sainte Croix, S. (2012, February 7). Brazil struggles for economic equality. *The Rio Times*. Retrieved from <http://riotimesonline.com/brazil-news/rio-business/brazil-strives-for-economic-equality/#>

<sup>77</sup> *Síntese de indicadores sociais 2012 [Synthesis of social indicators 2012]*. (2012). Instituto Brasileiro de Geografia e Estatística.

<sup>78</sup> *Síntese de indicadores sociais 2012 [Synthesis of social indicators 2012]*.

<sup>79</sup> *Human Development Report 2011*. 144.

<sup>80</sup> *Human Development Report 2011*. 92.

<sup>81</sup> Lício, E., Mesquita, C., & Currálero, C. (2011). Desafios para a coordenação indergovernamental do programa Bolsa Família (Portuguese). *RAE: Revista De Administração De Empresas*, 51(5), 457-570.

the country's population—currently live and work below the poverty line, making less than 70 Brazilian reais a month, or 1.17 U.S. dollars a day.<sup>82</sup>

The need to make a living to support themselves and their families force many Brazilians to turn to illegal activities, including human trafficking. As discussed previously Chapter 2, traffickers take advantage of disenfranchised Brazilians' desire for a better life, promising job opportunities and improved working conditions only to trap them in the world of human trafficking. Because relative ease of this method of socioeconomic exploitation, a pattern in the demographic of Brazilian trafficking victims has arisen. Generally speaking, trafficking victims are from the lower class, are in a situation of underemployment or unemployment, live in *favelas* (slums) of large cities or poverty-stricken small communities, and are either black or mixed race.<sup>83</sup> Single mothers, or women who are the sole providers for their families, are also especially at risk.

So what does it all mean? The facts and data presented in this section serve to illustrate how social inequality in Brazil affects not only the availability of opportunities and upward mobility, but how social inequality itself makes the impoverished vulnerable to traffickers. Work and an income is a basic necessity in order to live a dignified life and raise a family, and the lack of jobs and opportunities force many Brazilians to take risks for employment. Legal migration to other cities or areas where employment is available is commonplace, and it provides excellent cover under which traffickers can operate. While there is no universal “profile” of

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<sup>82</sup> Andrade, C. (2011, May 3). Governo define linha de pobreza abaixo dos R\$ 70 por mês [Government defines poverty line below R\$ 70 per month]. *Jornal do Brasil*. Retrieved <http://www.jb.com.br/economia/noticias/2011/05/03/governo-define-linha-de-pobreza-abaixo-dos-r-70-por-mes/>

<sup>83</sup> Colares, M. *Diagnóstico sobre o tráfico de seres humanos*: São Paulo, Rio de Janeiro, Goiás e Ceará. Brasília: Secretaria Nacional de Justiça, 2004.

trafficking victims in Brazil—due to the country’s immense size and diversity—most victims exhibit some or all of the socioeconomic factors that make them vulnerable to trafficking.

### **Laws Governing Human Trafficking in Brazil**

Even though the Brazilian Congress ratified Palermo Protocol in 2004, it is important to remember that the Protocol itself is *not* penal legislation. The first legal article banning human trafficking was added to the Brazilian Penal Code in 1890.<sup>84</sup> The laws of imperial Brazil, which lasted until that year, had made no move to define or regulate trafficking. Article 278 of the 1890 Code is as follows, penalizing:

The inducing women, or abusing their weakness or misery, either constraining them with intimidation or threats of forcing them to prostitution; providing them, directly or others under their responsibility, assistance, and housing assistance to receive in return, directly or indirectly, profits of this speculation.<sup>85</sup>

Title VIII, as the section of code would be called, was revolutionary not only because it penalized human sex trafficking of women and children for the first time, but because it outlawed brothels and pimping activities in the country as well. However, the definition offered by the penal code was unclear at best: “women who were employed in the trade of prostitution.”<sup>86</sup> The law made no mention of trafficked men. Brazilian Law No. 2,992, passed September 25<sup>th</sup>, 1915, attempted tighten the

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<sup>84</sup> *O Código Penal da República dos Estados Unidos do Brasil de 1890*. (1890, October 11). Estados Unidos do Brasil.

<sup>85</sup> Original Portuguese Translation: *Art. 278. Induzir mulheres, quer abusando de sua fraqueza ou miséria, quer constringendo-as por intimidações ou ameaças a empregarem-se no tráfico da prostituição; prestar-lhes, por conta própria ou de outrem, sob sua ou alheia responsabilidade, assistência, habitação e auxílio para auferir, directa ou indirectamente, lucros desta especulação.*

<sup>86</sup> *O Código Penal da República dos Estados Unidos do Brasil de 1890*.

definition and the law as a whole, introducing the first concept of coercion and deception on the part of the traffickers and/or pimps.<sup>87</sup> Another decree on the 17<sup>th</sup> of January 1921 strengthened the code yet again, creating a heavier penalty for the crime.<sup>88</sup> A series of other decrees and revisions periodically strengthened Article 278, but it was not until 1959 that significant changes were made.

The parent of all Brazilian modern human trafficking legislation, *Decree No. 46,981* (which includes the UN judicial ordinance for *The Convention for the Suppression of Trafficking of Persons and of Pimping*), was passed by the country's congress in 1959.<sup>89</sup> The first four (and most important) of the articles of the *Decree No. 46,981* are as follows:

- Article 1:* The Parties to the present Convention agree to punish any person who, to gratify the passions of another:
- (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;
  - (2) Exploits the prostitution of another person, even with the consent of that person.
- Article 2:* The Parties to the present Convention further agree to punish any person who:
- (1) Keeps or manages, or knowingly finances or takes part in the financing of a brothel;
  - (2) Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.
- Article 3:* To the extent permitted by domestic law, attempts to commit any of the offences referred to in articles 1 and 2, and acts preparatory to the commission thereof, shall also be punished.
- Article 4:* To the extent permitted by domestic law, intentional participation in the acts referred to in articles 1 and 2 above shall also be punishable. To the extent permitted by domestic law, acts of participation shall be treated as separate offences whenever this is necessary to prevent impunity.<sup>90</sup>

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<sup>87</sup> *Lei n° 2.992 de 25 de setembro de 1915. Título VIII.* (1915, September 25). Senado Federal, Primeira República Brasileira.

<sup>88</sup> *Dec. n° 4.269 de 17 de janeiro de 1921.* (1921, January 17). Primeira República Brasileira.

<sup>89</sup> *Decreto No 46.981, de 8 de outubro de 1959 [Decree no 46, 981]* (1959). O Congresso Federal do Brasil.

<sup>90</sup> Translated from Original Portuguese. *Decreto No 46.981, de 8 de outubro de 1959 [Decree no 46, 981]* (1959).

The convention aimed to prevent the trafficking of persons—not just women and children as in previous legislations of the twentieth century—and linked prostitution to the practice. The Brazilian version of this “Final Protocol” also offered methods to prevent prostitution and trafficking, suggested social reeducation and adaption of prostitutes, and suggested measures that public and private services could take to aid the effort of repatriating prostitutes and sex workers into society. But it should be noted that the convention failed to clearly define *consent* for either trafficking or prostitution, and in fact, still failed to define the terms at all. As shown in Chapter 2 previously, the lack of a workable definition for *human trafficking* proved to be a critical issue in the legislative process. Brazil became one of the first signatory nations of the Palermo Protocol on December 12<sup>th</sup>, 2000, and the *Congresso Nacional do Brasil*—the National Congress—ratified the document four years later on January 29<sup>th</sup>, 2004.

The official, current definition of *human trafficking* according to the Brazilian government is as follows:

Human trafficking is the recruitment, transportation, transfer, harboring 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 the 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. It can occur in the form of exploitation of prostitution of another person or other forms of sexual exploitation, forced labor or

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O Congresso Federal do Brasil.

services, slavery or practices similar to slavery, servitude or the removal of organs, according to the Palermo Convention.<sup>91</sup>

One of the main functions of the Palermo Protocol was to effectively *un-link* the Brazilian laws governing prostitution and human trafficking. The Protocol instead highlighted the *exploitation* that can occur in either activity. This is crucial because it set a precedent in saying that trafficking of persons can occur for a variety of reasons (labor exploitation, organ harvesting, etc.), not just sexual exploitation or prostitution.

Articles 231 and 231-A of the Brazilian penal code restrict certain forms of sex trafficking specifically. Known officially as Brazilian Law No. 11,106 of 2005, the two articles—in addition to the definition offered forth by the Palermo Protocol—represent the core of Brazil’s modern penal code against human trafficking. They are as follows:

Brazilian Penal Code Against International Trafficking in Persons:

*Article 231:* To promote or facilitate the entrance, in the national territory [of Brazil], of someone who comes to exercise prostitution or another form of sexual exploitation, or the emigration of someone leaving to practice prostitution abroad.

*Penalty:* imprisonment, for 3 (three) to 8 (eight) years, and a fine.

(1) If any crimes in Article 227 occurred;

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<sup>91</sup> Diagnóstico mostra dados sobre tráfico de pessoas. *Consultor Jurídico*. *Revista Consultor Jurídico* is an electronic government journal dedicated to news related to legal issues with simpler, non-legal language. Original Portuguese translation: “*O tráfico de pessoas é o recrutamento, o transporte, a transferência, o alojamento ou o acolhimento de pessoas, recorrendo à ameaça ou ao uso da força ou outras formas de coação, ao rapto, à fraude, ao engano, ao abuso de autoridade ou à situação de vulnerabilidade ou à entrega ou aceitação de pagamentos ou benefícios para obter o consentimento de uma pessoa que tenha autoridade sobre outra para fins de exploração. Ele pode ocorrer sob a forma de exploração da prostituição de outra pessoa ou outras formas de exploração sexual, de trabalho ou serviços forçados, de escravatura ou práticas similares à escravatura, de servidão ou de remoção de órgãos, nos termos da Convenção de Palermo.*”

*Penalty:* imprisonment for 4 (four) to 10 (ten) years, and a fine.

(2) In the case of the use of violence, threats or fraud, the punishment is 5 (five) to 12 (twelve) years of imprisonment; the punishment corresponds with the severity of the violence.<sup>92 93</sup>

#### Brazilian Penal Code Against Internal Trafficking in Persons:

*Article 231-A:* To promote or facilitate the displacement of someone within the [Brazilian] territory for the exercise of prostitution or another form of sexual exploitation.

*Penalty:* imprisonment for 3 (three) to 8 (eight) years, and a fine.<sup>94</sup>

With the passing of Articles 231 and 231-A, significant changes to the penal code occurred. Whereas in the past the Brazilian penal code had been women and children-specific when defining human trafficking victims, the Article 231 broadly defined the act as the trafficking of *persons*, including men for the first time. Additionally, “facilitating” human trafficking was added to the legal vernacular, penalizing those enabling the act that the previous code left largely unaddressed.

Even though the articles describe the penalties to range from three to twelve years—well above minimum standards for prosecution set forth by the UN—and after signing this all-encompassing, authoritative document, like the Palermo Protocol,

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<sup>92</sup>Original Portuguese Translation: *Promover ou facilitar a entrada, no território nacional, de alguém que nele venha a exercer a prostituição ou outra forma de exploração sexual, ou a saída de alguém que vá exercê-la no estrangeiro. (Redação dada pela Lei nº 12.015, de 2009) Pena - reclusão, de 3 (três) a 8 (oito) anos. (Redação dada pela Lei nº 12.015, de 2009).*

<sup>93</sup> *Lei nº 11.106, de 28 de março de 2005, Artigo VI.* (2005 March 28). República Federativa do Brasil.

<sup>94</sup> Original Portuguese Translation: *Promover ou facilitar o deslocamento de alguém dentro do território nacional para o exercício da prostituição ou outra forma de exploração sexual: (Redação dada pela Lei no 12.015, de 2009)*

human trafficking in Brazil is still a highly organized, lucrative industry.<sup>95</sup> One of the major critiques of the 2005 articles is that they do not do enough to address the specific kinds of human trafficking present in Brazil, both domestically and internationally. Even though the Palermo Protocol represents an unprecedented expansion of the definition of human trafficking (and irrespective of the fact that it was signed and ratified by the national congress), a serious disconnect between the policy of the Protocol and actual implementation in the Brazilian penal code persists today. Because the wording of the Protocol was not directly written into the penal code, *criminal law in Brazil still links human trafficking with prostitution*.

The existence of this link in the Brazilian penal code is not superfluous; it presents real legal issues for companies, organizations and individuals that pay for relocation expenses of Brazilian citizens both domestically and abroad. As the code is written today, these organizations that finance such moves can be held in contempt of Article 231 and/or Article 231-A should the individuals in question decide to prostitute themselves. Since the Palermo Protocol clearly defines the “means” of trafficking as the “threat, use of force, other forms of coercion, abduction, fraud, deception, abuse of power, abuse of position of vulnerability, giving or receiving of payments or benefits to achieve consent of a person having control over another person”<sup>96</sup>, *coercion* is a key prerequisite to constitute human trafficking, and third-party organizations that pay for travel but have no part in the individual’s prostitution are thus not held accountable.

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<sup>95</sup> Almeida, L. R., Leite, L., & Nederstigt, F. (2006). Brazilian trafficking: soap opera versus reality. *Forced Migration Review*, (25), 34-35.

<sup>96</sup> *Palermo Protocol*. 2.

Another discrepancy arises in the case of human trafficking for the purpose of *forced labor*. While the Palermo Protocol includes slave labor as a possible “purpose” in the definition of human trafficking, the Brazilian Penal code does not. Should trafficking victims forced into labor be discovered by Brazilian authorities, prosecution would fall to articles penalizing slavery, not Articles 231 or 231-A.<sup>97</sup> Comparing the penal code with the wording of the Palermo Protocol shows that significant deficiencies in terminology, definitions, and specifics exist in current Brazilian law.

One of the most common, strong critiques of Law No. 11,106 of 2005 declares that Article 231 and Article 231-A do not follow the “spirit” of the Palermo Protocol at all, even though the law was passed only one year after the Brazilian Congress ratified the international document.<sup>98</sup> The Brazilian penal code continues to carry a moralistic attitude that aligns with the country’s Catholic roots, but it is a sentiment that many experts declare to be outdated and inadequate in addressing the human trafficking issue. In conclusion, Brazil has a long history of restricting the practice of human trafficking, with varying degrees of success. In order to understand how the prostitution phenomenon relates to human trafficking, a comprehensive understanding of the past of Brazil’s legal code addressing trafficking is essential.

### **Governmental Responses to Human Trafficking**

*Decree No. 5948*, published by the Brazilian government on October 26<sup>th</sup>,

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<sup>97</sup> Cardoso Onofre de Alencar, E. (2007). *Tráfico de seres humanos no Brasil: Aspectos sociojurídicos – o caso do Ceará* (Unpublished doctoral dissertation). Universidade de Fortaleza (UNIFLOR), Fortaleza, Brazil. 119.

<sup>98</sup> Cardoso Onofre de Alencar, E. 118.

2006, approved the *National Policy to Combat Human Trafficking*.<sup>99</sup> The act established the Interministerial Working Group with the purpose of creating and expanding the *National Plan to Combat Human Trafficking (PNETP)*.<sup>100</sup> The first Article of the decree, which highlights the purpose of the National Policy, is as follows:

*Article 1:*

The *National Policy to Combat Trafficking in Persons* is to establish principles, guidelines and actions to prevent and combat trafficking in persons and to care for the victims, according to the standards and existing national and international human rights law and the law of Brazil.<sup>101</sup>

Two years after the policy was announced, the *National Plan* fully went into effect in January of 2008. A report in plain language was published in Portuguese by the United Nations Office of Drugs and Crime for distribution to Brazilian and international citizens as well, in order to inform the international public of the intentions for the legislation.<sup>102</sup> Article 1 states the purpose and focus of the plan:

*Article 1:*

To prevent and suppress trafficking in persons, the perpetrators accountable and ensure attention to victims in accordance with current legislation and international instruments of human

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<sup>99</sup> *Decreto n° 5948 de 26 outubro 2006*. (2006 October 26). República Federativa do Brasil.

<sup>100</sup> Original Portuguese Translation: “*Plano Nacional de Enfrentamento ao Tráfico de Pessoas – PNETP*”

<sup>101</sup> Original Portuguese Translation: “*A Política Nacional de Enfrentamento ao Tráfico de Pessoas tem por finalidade estabelecer princípios, diretrizes e ações de prevenção e repressão ao tráfico de pessoas e de atenção às vítimas, conforme as normas e instrumentos nacionais e internacionais de direitos humanos e a legislação pátria.*”

<sup>102</sup> “*National Plan for the Combat of the Trafficking of Persons [Plano nacional de enfrentamento ao tráfico de pessoas]*.” United Nations Office of Drugs and Crime, Brazilian Ministry of Justice. 8 January 2008.

rights, as Annex to this Decree.<sup>103</sup>

The Plan itself was to be implemented over the course of two years, and divided its response to the human trafficking issue into three separate “axes.” Strategic Axis 1 covered *prevention*, Strategic Axis 2 covered *attention to the victims*, and Strategic Axis 3 covered *repression of human trafficking and holding its actors accountable*. Each Axis also outlined set priorities and actions to be taken in the implementation of policy. Additionally, the National Plan created the *Advisory Group for the Evaluation and Dissemination of PNETP*,<sup>104</sup> charged with the responsibility of aiding the Ministry of Justice with the monitoring and evaluation of the National Plan, establishing methodology for monitoring practices, adjust priority definitions as needed, promote dissemination of information across government agencies, and publish a semi-annual report. The group itself was a consolidated effort, comprised of nine ministries, three cabinet secretaries, and the Attorney General.

The UNODC office in Brazil, the National Plan “is an important advance, even though Brazil still does not have a complete legislative adaptation to the Protocol of the United Nations against trafficking in persons, the plan permits the integrated work in prevention, repression and protection of the victims.”<sup>105</sup> Though the National Plan was originally only scheduled to last from 2008 to 2010, it was extended by one year, and a substantial revision of the project in 2009 adjusted to the evolution of domestic responses to the issue as well as international attention. As the

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<sup>103</sup> *Decreto n° 6347 de 8 janeiro 2008*. (2008 January 8). República Federativa do Brasil.

<sup>104</sup> Original Portuguese Translation: “*Grupo Assessor de Avaliação e Disseminação do PNETP*.”

<sup>105</sup> *Independent project evaluation of counteracting human trafficking in Brazil*. (2011, December). Vienna, Austria: United Nations Office of Drugs and Crime. 5.

UN reported in their independent evaluation of the project, “the adjustments were made to the activities proposed, the project’s title, and the financial allocation of resources, without interfering in the overall goal of the project. Additionally, it is important to note that these adjustments were agreed between the Brazilian government and the UNODC.”<sup>106</sup> The National Plan set precedent for initiatives against human trafficking in Brazil, but both its merits and shortcomings will be discussed at length in Chapter 4.

According to the U.S. State Department, the Brazilian government today still does not fully comply with the minimum standards for the eradication of human trafficking, and consistency in the reporting on trafficking convictions continues to be a problem. That being said, the State Department also assessed that Brazil is “making significant efforts” to address the issue.<sup>107</sup> The government has constant law enforcement efforts to address internal trafficking networks, and has taken steps to confront forced prostitution in the past year.<sup>108</sup> According to the UN’s *2012 Trafficking in Persons Report* profile of Brazil, “there was limited public information on government efforts to prosecute and convict internal sex trafficking offenders, including those involved in the prostitution of children. In some...convictions achieved during the year, federal judges commuted sentences of less than four years’ imprisonment to community service, thus undercutting in practice the otherwise stringent penalties set forth in the relevant anti-trafficking statutes.”<sup>109</sup>

## **Non-Governmental Responses to Human Trafficking**

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<sup>106</sup> *Independent project evaluation of counteracting human trafficking in Brazil*. 5.

<sup>107</sup> U.S. State Department. (2012). *2012 Trafficking in Persons Report*. 95.

<sup>108</sup> Global Report on Trafficking in Persons 2012.” 95.

<sup>109</sup> Global Report on Trafficking in Persons 2012.” 95.

Non-governmental organizations perform an important role in addressing the human trafficking issue in Brazil. Hundreds of NGOs that cover trafficking with a variety of backgrounds—religious, socioeconomic, quasi-governmental, etc.—operate in the country today. Due to a lack of resources on the part of both the Brazilian government and international governance bodies like the UN, NGOs perform many data collection duties and supplemental bodies when standard sources run dry. A separate thesis could be written on the work of NGOs on human trafficking in Brazil, but this topic falls outside the scope of my project.

### **Prostitution in Twenty-First-Century Brazil**

As I stated earlier in this thesis, after spending twenty years in the United States—a country where prostitution is illegal—moving to a country like Brazil where prostitutes are free to roam the streets can come as quite a shock. In a typical night out in major cities like Rio de Janeiro, prostitutes, especially in bar districts and tourist traps, are a common sight. In order to continue onto the analysis of the effect of the legality of prostitution on human trafficking in Brazil, this section will develop a profile on Brazilian prostitutes, introduce the laws (or lack thereof) governing prostitution, non-governmental responses to prostitution, and public opinion.

### **Profiles of Brazilian Prostitutes**

Over one million women are estimated to work as prostitutes in Brazil, but that number could easily be much higher.<sup>110</sup> While there are similar characteristics

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<sup>110</sup> Brinkman, A. (2004). The Continuum Complete International Encyclopedia of Sexuality (Book). *Library Journal*, 129(5), 64.

among prostitutes in Brazil, the individual situations that lead women (and to a lesser extent, men) to pursue sex work as a career are very different indeed. During her long periods of field research with prostitutes around Brazil, Claudia Fonseca interviewed hundreds of sex workers of all ages, races, ethnicities, orientations and creeds. She chronicled her experiences and conversations in the Brazilian *Feminist Studies* journal in her article “The Double Life of a Woman Prostitute” in 2008: “I am here to support my children (or grandchildren)’ is a phase that I heard a lot in my initial research.... But none of our small example say that they were introduced to the profession against their will. Evidently between them they do not feel the necessity to emphasize a dramatic moment of break or decay in order to justify [their] fall.”<sup>111</sup>

This personal narrative reveals three things. One, there is no set profile or demographic for a Brazilian prostitute. Two, socioeconomic status is almost always a factor in their career choice. And three, few women feel the need to justify their prostitution with a specific, life-altering moment.

While there is no set “profile” of a Brazilian prostitute, socioeconomic factors tend to play a role in their career choice. That being said, one of the most striking conclusions that Fonseca draws in her article is the fact that most sex workers do not depend on prostitution for their only source of income. On the contrary, most “experiment” with other part-time employment, or simply use prostitution to supplement their other steady-but-low-paying jobs. Their other career choices range from waitressing at *lanchonetes*<sup>112</sup> to laundry and maid services, food preparation and even childcare. “I already worked as a clerk at a *lanchonete*,” one prostitute said in a

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<sup>111</sup> Fonseca, C. (2008). A dupla carreira da mulher prostituta [The double life of a woman prostitute]. *Estudos Feministas*, 7-33. 19-20. *Translated from Original Portuguese.*

<sup>112</sup> Original Portuguese Translation: *lunch stand*

televised interview, “and what I got paid wasn’t enough to feed my dogs.”<sup>113</sup>

Increasingly, another demographic is joining the ranks of the world’s oldest profession: young university students, struggling to pay their rent and tuition bills in Brazil’s increasingly expensive cities.<sup>114</sup> The recurring theme here is this: economic hardship—be it temporary or long-term—pushes women to exchange sexual favors for monetary gain.

Unlike countries like the United States, because prostitution is legal and there is no danger of prosecution, there are fewer legal barriers to deter Brazilians from pursuing a career in sex work. Nevertheless, severe social stigmas still remain. Prostitution tends to be a temporary form of employment, for both physical and psychological reasons, and most sex workers eventually attempt to find other forms of work. In a study on the social identity of sex workers in Brazil, the researchers found that “even for some women who recognized sex work as a respectable profession, they perceived it as being disrespected by the larger community and therefore desired to advance into other areas by learning new skills.”<sup>115</sup> During the course of the interviews, sex workers consistently compared themselves to and differentiated themselves from “normal” people—which is to say—what society perceives as “normal.” This “normalcy” described by the prostitutes was not sex work, but a “happily married housewife,” a surprisingly conservative response.<sup>116</sup> Many women hid their prostitution from their families and friends, and the limitations

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<sup>113</sup> Fonseca, C. 20-21.

<sup>114</sup> Silvia Reis, P. (2008, March 16). Estudantes universitárias fazem dinheiro rápido em vida dupla [University students make quick money in a double life]. *Diário de Notícias*. Retrieved from [http://www.dn.pt/inicio/interior.aspx?content\\_id=996135](http://www.dn.pt/inicio/interior.aspx?content_id=996135)

<sup>115</sup> Murray, L. R., Lippman, S. A., Donini, A. A., & Kerrigan, D. (2010). 'She's a professional like anyone else': social identity among Brazilian sex workers. *Culture, Health & Sexuality*, 12(3), 293-306. 301.

<sup>116</sup> Murray, L. *et al.* 300.

of their professional identity caused severe social strain. In their personal narratives as recorded by the study, improving individual status while also maintaining their identity as a prostitute was thought of as being nearly impossible “without collective efforts to change the basis which their marginalized status as sex workers was built.”<sup>117</sup> These findings seem to support the notion that women do not typically pursue sex work as a first-choice career, but rather as a job of necessity.

### **Laws Governing Prostitution in Brazil and Governmental Responses**

Somewhat surprisingly, one of the same laws that restrict human trafficking is also inadvertently the law that shapes the nature of prostitution in Brazil. If you will recall from earlier, *Decree No. 46,981* from 1959 is as follows:

*Article 1:* The Parties to the present Convention agree to punish any person who, to gratify the passions of another:

- (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;
- (2) Exploits the prostitution of another person, even with the consent of that person.

*Article 2:* The Parties to the present Convention further agree to punish any person who:

- (1) Keeps or manages, or knowingly finances or takes part in the financing of a brothel;
- (2) Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.

*Article 3:* To the extent permitted by domestic law, attempts to commit any of the offences referred to in articles 1 and 2, and acts preparatory to the commission thereof, shall also be punished.

*Article 4:* To the extent permitted by domestic law, intentional participation in the acts referred to in articles 1 and 2 above shall also be punishable. To the extent permitted by domestic law, acts of participation shall be treated as separate offences whenever this is necessary to prevent impunity.<sup>118</sup>

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<sup>117</sup> Murray, L. *et al.* 301.

<sup>118</sup> Translated from Original Portuguese. *Decreto No 46.981, de 8 de outubro de 1959 [Decree no 46, 981] (1959).*

Article 1 of *Decree No. 46,981* criminalizes any person that “procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person.” This article thus outlaws the act of *pimping*, a practice in which a third party brokers the deal for sexual favors between the prostitute and the potential client. The *pimp*—in mild cases—usually takes a cut of the deal, but in severe cases can control, exploit, and even subjugate the prostitute. Article 2 not only outlaws brothels, but it penalizes their organizers, financiers, and managers as well. Because of *Decree No. 46,981*, legal prostitution in Brazil must remain between a prostitute and his or her client, and cannot involve a third party.

Although prostitution itself is not illegal, many prostitutes are often prosecuted under Article 233 of the penal code, which forbids “obscene acts.” The code is as follows:

*Article 233:* To commit lewd acts in a public place, or open or exposed to the public:

*Penalty:* detention of 3 (three) months to one (1) year or a fine.<sup>119</sup>

Additionally, Article 61 of the Criminal Misdemeanor code of law is often used to penalize prostitutes who solicit costumers in public places:

*Article 61:* Harassing someone in a public place or public access, so offensive

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O Congresso Federal do Brasil.

<sup>119</sup> Translated from Original Portuguese. *Articulo 233 do Codigo Penal Brasileiro*. O Congresso Federal do Brasil.

to modesty:

*Penalty: fine.*<sup>120</sup>

In discussing prostitution, one darker, more corrupt nature of the phenomenon must be addressed. While adult prostitution is legal in Brazil, child prostitution is not, and the phenomenon poses a serious problem for Brazilian society. Over 250,000 children are estimated by the Federal Police to be victims of the practice, while other estimates put the number at between 500,000 and 1,000,000.<sup>121</sup> The minimum age for consensual sex in Brazil is 14. Statutory rape of minors carries a hefty sentence, between 8 and 15 years in prison, but it has done little to deter the persistent prevalence of this heinous act.<sup>122</sup> The national telephone hotline reported over 9,600 cases of sexual exploitation of children between the months of January and September of 2010 alone, and the Brazilian government has expressed serious concerns as to how the 2014 World Cup and 2016 Olympics may increase the demand for sex with minors. Many municipalities that are to host World Cup matches—including Rio de Janeiro and São Paulo—are requiring businesses in major tourism districts to post reminders in windows and on notice boards.<sup>123</sup>

### **Nongovernmental Responses to Prostitution in Brazil**

The popularity of prostitutes' rights organizations surged in Brazil in the late 1980s, when groups began organizing and forming alliances with other sectors of the

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<sup>120</sup> Translated from Original Portuguese. *Artículo 61 da Lei das Contravenções Penais*. O Congresso Federal do Brasil.

<sup>121</sup> *2010 Human Rights Report: Brazil*. (2011, March). Retrieved from United States State Department website: <http://www.state.gov/j/drl/rls/hrrpt/2010/wha/154496.htm>

<sup>122</sup> *2010 Human Rights Report: Brazil*.

<sup>123</sup> *2009 Human Rights Report: Brazil*. (2011, March). Retrieved from United States State Department.

working class to fight for better living conditions and recognition of their human rights under the law. After a long, bitter, drawn-out fight through the complexity that is the Brazilian bureaucracy, significant reforms to the penal and civil codes have been made. The same social identity study of Brazilian prostitutes quoted above found that activist women tend to move along “a continuum”, meaning that their involvement began at a basic, clinic-based research level, and then developed into a “proactive and reflective participation in community mobilization activities that lead to the eventual formation of an advocacy organisation.”<sup>124</sup>

### **Concluding Remarks**

The phenomena of human trafficking and prostitution in Brazil are constantly changing. Because of this, articulating profiles of each is a challenging task. But in order to assess the question of whether or not legalized prostitution has led to an increase in human trafficking (using the quantitative study that will be presented in Chapter 4), this step could not be avoided. The next chapter will introduce the quantitative analysis presented in the article “Does Legalized Prostitution Increase Human Trafficking?” and draw upon the information in Chapter 3 to support the assertion that in the case of Brazil, legalized prostitution *does*, in fact, lead to an increase in human trafficking.

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<sup>124</sup> Murray, L. *et al.* 297.



## CHAPTER FOUR: THE RELATIONSHIP BETWEEN PROSTITUTION AND TRAFFICKING IN BRAZIL

To begin my analysis of legalized prostitution's effect on human trafficking in Brazil, I first reintroduce the findings of the 2013 quantitative study "Does Legalized Prostitution Increase Human Trafficking?" and discuss the results specific to the Brazilian case. I then supplement the study's findings by offering a detailed analysis of the unique conditions that contribute to the phenomena in Brazil, drawing upon the research of the Brazilian case presented in Chapter 3. Finally, I address the issue of moral bias in data collection, and explain how it has affected research into this connection.

### **An Analysis of the Quantitative Study**

So has legalized prostitution increased human trafficking in Brazil? The answer, in short, is yes. But until recently, this answer had not been supported by quantitative studies or analysis, and much was left to speculation. While qualitative literature often contains strong opinions occasionally based on anecdotal evidence, systematic, thorough research is rarely found. Before "Does Legalization Prostitution Increase Human Trafficking"<sup>125</sup> was published, only two other quantitative studies on

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<sup>125</sup> This study was published in the journal *World Development* in January of 2013 by Eric Neumayer, Seo-Young Cho, and Axel Dreher of the London School of Economics, German Institute for Economic Research, and Heidelberg University, respectively.

the topic were known to exist, but faults in the theoretical framework and research designs (i.e. sample selection effects) of both led to questionable results.<sup>126</sup> The empirical analysis of the study in question, however, differed from these previous studies. The researchers looked at human trafficking at a fundamental level, and used a global sample of 116 countries instead of just one region. Additionally, by treating human trafficking like any other commodity market, the researchers were able to draw viable conclusions using economic theory models to study the phenomena.

In order to give the study context for the purpose of this thesis, I will briefly discuss the research design employed by the researchers. As already discussed, one of the principal challenges in studying human trafficking is the scarcity of reliable and comparable data. The researchers of the study also identified this as a major issue in isolating their dependent variable, *trafficking*. For the purpose of their study, they defined their dependent variable as “the incidence of human trafficking into a country,”<sup>127</sup> as taken from the Index on Incidence of Reporting of Destination Countries from the UNODC Report.<sup>128</sup> The index uses a scoring system that ranges from 0 to 5, whereas a score of 0 represents no reported inflow of human trafficking and a score of 5 represents very high inflows.<sup>129</sup> The main independent variable of the study is *Legalized Prostitution*, shown in two dummy variables which indicate

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<sup>126</sup> Cho, S.-Y. *et al.*, 68.

<sup>127</sup> Cho, S.-Y. *et al.*, 70.

<sup>128</sup> *Author's note:* the UNODC's index was constructed based on the Global Programme against Trafficking in Human Beings (GPAT) Database. This database includes critical literature on publications by 113 organizations/institutions reporting human trafficking instances in 161 countries from a 1996-2003 period of time. Scores were determined based on the data collected in countries of destination, origin, and transit. Some notable limitations of the Index should be recognized. First, it uses cross-sectional aggregated information, and therefore it is impossible to control for unobserved country and time effects. Second, geographical distribution is uneven across regions, favoring data from Western Europe and North America (presumably because these countries are in positions to provide more reliable, extensive data). Third, the reliability of data is largely reliant on the collecting institutions and countries. UNODC data comes from 18% research institutions, 18% NGOs, and 5% from the media.

<sup>129</sup> Cho, S.-Y. *et al.*, 70.

whether or not prostitution is legal (1 if yes, 0 if not), and whether or not third-party involvement (brothels, pimps, etc.) are legal (again, 1 if yes, 0 if not). The first dummy is the focus of the study; the second serves to measure if legalized pimping or brothels has any additional effect.<sup>130</sup>

The *estimation strategy* of the study is as follows. In order to preserve the specificity of the authors' methodology, it has been reproduced below:

Our estimation equations take the following form:

$$y_i = \alpha + \beta_1 Prostitution_i + \beta_2' X_i + \beta_3 Region_i + \varepsilon_i,$$

Where  $y_i$  represents the reported degree of human trafficking inflows in country  $i$ , and  $Prostitution_i$  is our dummy variable indicating whether or not prostitution is legal.  $X_i$  is the vector of explanatory variables, and  $\varepsilon_i$  is the idiosyncratic error term. Given the cross-sectional nature of our dataset, we cannot control for unobserved country heterogeneity by including country fixed effects. Nor can we find a suitable and valid instrument that would be partially correlated with our *Legalized Prostitution* variable, but uncorrelated with unobserved country heterogeneity. To mitigate any bias this might introduce, and in order to capture at least some heterogeneity across groups of countries, we include regional fixed effects instead, denoted as  $Region_i$ .<sup>21</sup> In all regressions, we use robust standard errors. The dependent variable is categorical and ordinal. We therefore use ordered probit to estimate the main equations; the results are robust toward using ordered logit instead."<sup>131</sup>

The statistical results for the regression are presented in Table 4.1.

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<sup>130</sup> To alleviate concerns that the lack of concrete data will skew the results of their study, the authors explain, that "the dependent variable thus does not reflect actual trafficking flows, and needs to be interpreted cautiously. Rather than being interested in absolute numbers, our analysis focuses on the effect of legal prostitution on trafficking flows. To the extent that—controlling for the substantial number of variables we employ below—the degree of distortions in the reported trafficking intensities is not correlated with whether or not prostitution is legal, the low quality of data will not bias our coefficient estimates, but will only make it less likely the coefficients are statistically significant. While probably not sharply distinguishing between different degrees of the crime, the indicator is arguably positively correlated with actual cases of trafficking, so the index remains meaningful."

<sup>131</sup> Cho, S.-Y. *et al.*, 70-71.

Table 4.1<sup>132</sup>

Human Trafficking and Prostitution Cross-Section

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Legal prostitution dummy	0.665** (2.38)	0.612** (2.18)		0.322 (1.45)	0.948* (1.83)	0.625** (2.61)	0.694* (2.47)	0.662*** (2.74)
Legal brothels dummy		0.555 (1.60)	0.689* (1.95)					
Rule of law	-0.555* (1.86)	-0.547* (1.83)	-0.361 (1.42)	-0.322 (1.41)	-0.827 (1.45)	-0.559** (2.13)	-0.536* (1.75)	-0.546** (1.99)
(log) population	0.232** (2.50)	0.241*** (2.60)	0.235*** (2.59)	0.195** (2.37)	0.530** (2.33)	0.177** (2.09)	0.236* (2.49)	0.187** (2.11)
(log) GDP per capita	0.664* (2.37)	0.627** (2.23)	0.495** (2.01)	0.444* (2.27)	0.787 (1.31)	0.645*** (2.72)	0.674*** (2.27)	0.673*** (2.67)
Democracy dummy	0.780** (2.02)	0.750* (1.94)	0.801** (2.07)	0.614** (2.28)	0.219 (1.91)	0.635* (1.91)	0.813* (1.91)	0.678* (1.83)
(log) migrant stock	0.228** (2.28)	0.221*** (2.21)	0.244** (2.43)	0.258*** (2.91)	0.183 (0.86)	0.200** (2.23)	0.222** (2.10)	0.196** (2.07)
Share of Catholics	-0.006 (1.48)	-0.006 (1.53)	-0.005 (1.21)	-0.005 (1.35)	-0.010* (1.92)	-0.005 (1.37)	-0.007* (1.65)	-0.006 (1.57)
East Asia dummy	0.251 (0.36)	0.159 (0.23)	-0.059 (0.09)	0.173 (0.29)		0.379 (0.59)	0.312 (0.42)	0.456 (0.65)
Developing Europe dummy	-1.057* (1.77)	-1.148* (1.94)	-1.199** (2.06)	-1.101** (2.10)		-0.909* (1.72)	-1.050* (1.69)	-0.890 (1.59)
Latin America dummy	-1.658*** (3.20)	-1.750*** (3.35)	-1.561*** (3.15)	-1.376*** (3.08)		-1.478*** (2.99)	-1.518*** (2.87)	-1.361*** (2.61)
MENA dummy	-0.726 (1.26)	-0.882 (1.53)	-1.056** (1.97)	-0.925** (1.97)		-0.587 (1.04)	-0.723 (1.17)	-0.592 (0.93)
South Asia dummy	-0.566 (0.92)	-0.633 (1.02)	-0.866 (1.38)	-1.530** (2.37)		-0.280 (0.51)	-0.526 (0.84)	-0.224 (0.39)
Sub-Saharan Africa dummy	-0.848 (1.36)	-0.942 (1.51)	-0.979 (1.62)	-0.905* (1.75)		-0.696 (1.16)	-0.734 (1.07)	-0.566 (0.83)
Sample method	No poor O. Probit, imputed	No poor O. Probit, imputed	No poor O. Probit, imputed	All O. Probit, imputed	Rich O. Probit, imputed	No poor OLS imputed	No poor O. Probit	No poor OLS
Number of countries	116	116	116	150	46	116	110	110

Absolute *t*-statistics in parentheses.  
 \* Significance at 10% level.  
 \*\* Significance at 5% level.  
 \*\*\* Significance at 1% level.

<sup>132</sup> Cho, S.-Y. *et al.*, 70.

The authors included several external variables in their results to further illustrate the specificities of the relationship between human trafficking and legalized prostitution. The first of these is a *rule of law* indicator according to the World Bank Governance Indicators,<sup>133</sup> ranging from -2.5 to 2.5, with higher values corresponding to better rule of law. The authors anticipated better rule of law to lead to a reduction in trafficking flows, as traffickers would face a higher risk of prosecution. Additionally, measures of (log) per capita income and (log) population size were included, according to the World Bank's 2010 World Development Indicators,<sup>134</sup> as control variables. This decision was made because richer countries with higher populations should experience larger human trafficking inflows. Third, a dummy variable for the indication of democratic governments was taken from a third source, coded as 1 if several democratic characteristics existed (i.e. multiple parties permitted, free elections, etc.).<sup>135</sup> This indicator is important because free democracies tend to have more open borders, which creates favorable trafficking conditions and lower risk of prosecution. Finally, the addition of a variable measuring for the size of the Catholic population highlights an important cultural element, as it has been shown that countries with larger Catholic populations have lower rates of human trafficking inflows.<sup>136</sup> Lastly, the logged share of pre-existing migrants in a country is included, because pre-existing migrant networks might attract potential

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<sup>133</sup> Kaufmann, D., Kraay, A., & Mastruzzi, M. (2009). Governance matters VIII: Aggregate and individual Governance Indicators 1996–2008. Policy Research Working Paper Series 4978. Washington, DC: The World Bank.

<sup>134</sup> World Bank (2010). World Development indicators. Washington, DC: The World Bank.

<sup>135</sup> Cheibub, J. A., Gandhi, J., & Vreeland, J. R. (2010). Democracy and dictatorship revisited. *Public Choice*, 143(1–2), 67-101.

<sup>136</sup> Cho, S.-Y. (2012). Modeling for determinants of human trafficking. Ibero- America Institute for Economic Research Discussion Paper No. 216. Georg-August-University of Goettingen, Germany.

trafficking victims.<sup>137</sup>

### **The Conclusions of the Study**

The final results of the study showed that countries where prostitution is legal tend to experience a higher reported inflow of human trafficking than countries where prostitution is illegal.<sup>138</sup> Interestingly enough, *countries with a higher GDP per capita, larger populations, greater populations of pre-existing migrants, and democratic political structures tended to also have higher rates of trafficking inflows.*

The Catholic variable is marginally insignificant, with a negative coefficient.<sup>139</sup>

Column 2 includes the dummy variable for third-party involvement in prostitution (brothels, pimping, etc.), and the results of the coefficient is marginally insignificant.

The authors assert that it implies “that the legalization of prostitution, *per se*, is more important in explaining human trafficking than the type of legislation, i.e., whether brothel operations or pimping are also allowed. This suggests that our assumption of a single prostitution market is justified.”<sup>140</sup>

Column 3 alternatively omits the legal prostitution dummy. Column 4 includes the low-income countries that were left out of Column 1, while Column 5 tests for high-income countries only. The effect of legal prostitution is *not* significant when low-income countries are included, which can be explained because traffickers tend to disregard countries where there is no market for trafficking victims, and thus their inclusion in this study only serves to clutter the data results. The high-income country sample shows the coefficient for legal prostitution significant at the 10%

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<sup>137</sup> Cho, S.-Y. *et al.*, 71.

<sup>138</sup> Cho, S.-Y. *et al.*, 71.

<sup>139</sup> Cho, S.-Y. *et al.*, 72.

<sup>140</sup> Cho, S.-Y. *et al.*, 72.

level, suggesting that legalized prostitution's effect is stronger in countries of a higher GDP per capita. Columns 6 through 8 test for robustness, and the results remain largely unchanged. The individual columns serve to further prove the hypothesis that legalized prostitution does, in fact, increase human trafficking rates.

### **The Results in Comparison to the Brazilian Case**

This quantitative analysis makes a strong case for legalized prostitution increasing human trafficking rates on a *global* scale, but it does little in terms of identifying the phenomenon in individual countries. Beyond looking at the regional results for Latin America, the researchers did not look at the Brazilian case specifically. This section of Chapter 4 will draw upon the qualitative evidence presented in Chapter Two and Chapter Three in order to show that legalized prostitution in Brazil has in fact increased human trafficking in the country, thus verifying the quantitative results.

Of the four major conclusions that the study draws—countries with a higher GDP per capita, larger populations, greater populations of pre-existing migrants, and democratic political structures tended to also have higher rates of trafficking inflows—the *Brazilian case is consistent with all four*. I will first address conclusions 1 and 2. According to the World Bank Indicators, Brazil is an upper middle-income country, and with a population of 196,655,014, it is certainly classified as having a “large population.”<sup>141</sup> To address conclusion 3, much like the United States, Brazil has a vibrant and important immigration history. Although the country went through a period of emigration during the 1980s and 1990s following the economic crisis, the

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<sup>141</sup> *Brazil Overview*. (2012, February). Retrieved from World Bank database.

2000 Brazilian census shows astonishingly large numbers of Brazilian migrants returning to the country.<sup>142</sup> But along with these returning Brazilians, many new emigrants of other nationalities, mainly from neighboring South American countries, Africa and Portugal.<sup>143</sup> Because of the migration trends of the past decade and a long history of immigration (not to mention the high levels of internal migration within Brazil), the “large pre-existing migrant population” characteristic of the study is also met. Finally, the fourth and final “democratic political structures” characteristic is represented by Brazil, as the country has maintained a multi-party system since the 1980s, when a long period of military dictatorship ended and a civilian-led federal presidential constitutional republic was reestablished.

But even though Brazil is consistent with all four of the aforementioned characteristics, the trafficking inflow of the country as defined by the UNODC Global Report in the Trafficking of Persons is classified as *very low* (see Appendix B). Can we account for this discrepancy and still support the hypothesis?

The answer is yes. As it was outlined in Chapter Three, we must remember that there are many characteristics that make the Brazilian case of legalized prostitution unique. The low rate of trafficking *inflow* can be explained by several factors. As it was already explained in Chapter Three, Brazil is a large *source* country for trafficking victims abroad, but does not have a high demand for the *importation* of trafficking victims. Because of already unequal socioeconomic conditions in the country, the “supply” of victims is already high, creating no demand for foreign victims. Low demand coupled with higher risk for trafficking across the national

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<sup>142</sup> Amaral, Ernesto F. (2005) "Shaping Brazil: The Role of International Migration". *Migration Policy Institute* website. Retrieved 24 February 2013.

<sup>143</sup> Fellet, J. (2012, January 26). Brasil se torna destino de novos imigrantes [Brazil turns into a destination for new immigrants]. *BBC Brasil*.

border explains low levels of trafficking *inflow*.

Agnes Christian Chaves Faria, Professor of Law at PUC-Rio, is an expert in Brazilian criminal law and criminal procedure. She substantiated this assertion in an interview conducted on February 20<sup>th</sup>, 2013:

Every year, hundreds of Brazilians are taken out of the country by mafias who exploit prostitution and slave labor. There is also trafficking for organs but in smaller quantities. The issue mobilizes Federal Police, the Senate Foreign Ministry and even inspired the plot of the telenovela *Salve Jorge*. It is the dreams and the hopes of victim that creates the opportunity for the [trafficker]: the proposal is tempting and the need is huge and mistrust is [ignored]. The victims are taken to other locales with the promise work and end up being tricked into prostitution. The victims have never before left the country [of Brazil] and do not speak another foreign language. When they arrive at the destination have their passports confiscated and are threatened and forced into prostitution.<sup>144</sup><sup>145</sup>

Dr. Christian's comments highlight the true complexity of the Brazilian trafficking issue. She emphasizes the socioeconomic vulnerability of many of the trafficking victims, and identifies the prevalence of trafficking of Brazilians *out* of the country for this reason. Because opportunities for economic advancement are so few and far between for many of Brazil's poorest citizens, she asserts that the false "opportunities" the traffickers present appear evermore appealing, and victims are willing to ignore obvious warning signs.

Additionally, because of the country's immense size, internal trafficking

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<sup>144</sup> Christian Chaves Faria, A. (2013, February 20). [E-mail interview by the author].

<sup>145</sup> Original Portuguese Translation: *Todos os anos, centenas de brasileiros são levados para fora do país por máfias que exploram a prostituição e o trabalho escravo. Há também para tráfico de órgãos mas em menor quantidade. O assunto mobiliza Polícia Federal, Senado e Itamaraty e até inspirou enredo de novela das 8 (Salve Jorge). É do sonho e esperança da vítima que nasce a oportunidade do bandido: a proposta é tentadora e a necessidade é enorme e a desconfiança é nenhuma. As vítimas são levadas para outros países com proposta de trabalho e acabam sendo aliciadas para prostituição. As vítimas nunca saíram antes do país e não falam outra língua estrangeira. Quando chegam ao destino tem seus passaportes confiscados e são ameaçadas e obrigadas a se prostituir.*

between regions is extremely common. This would again serve to account for the lack of trafficking *inflow* to the country: according to the UNODC, human trafficking is prevalent in every Brazilian state and the federal district.<sup>146</sup> Brazil itself is nearly the size of the entire European continent (Brazil's area is 8,516,000 km<sup>2</sup> versus Europe's 10,180,000 km<sup>2</sup>), and although Europe still outranks Brazil in population, trafficking between individual Brazilian states can be easily compared to trafficking between European countries. Because of the incredible diversity present in Brazil, cultural, social, linguistic and geographical borders are often crossed without ever leaving the country. The lack of international border controls between Brazilian states does not provide the same trafficking deterrent as it does in the European case, and instead exacerbates the problem because traffickers perceive the lower risk of prosecution. Even though it may be difficult to show empirically because of data scarcity, the UN Office of Drugs and Crime has also made these assertions.<sup>147</sup>

Dr. Christian emphasizes the pivotal role that “mafias”—or international organized crime networks—play in human trafficking. Major organized crime networks have taken advantage of the globalization phenomenon, exploiting human mobility in order to further their illicit activities. Oftentimes the same traffickers that deal in the trade of humans also have a hand in international drug trafficking, money laundering, and other trans-border crimes. On a whole, organized crime can even work to compromise legitimate economies. As the United Nations explains, “Organized crime has diversified, gone global and reached macro-economic proportions: illicit goods may be sourced from one continent, trafficked across

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<sup>146</sup> “United Nations Report on Trafficking in Persons 2009.”

<sup>147</sup> “United Nations Report on Trafficking in Persons 2009.”

another, and marketed in a third... transnational organized crime transcends cultural, social, linguistic and geographical borders and must be met with a concerted response.”<sup>148</sup> The assertion made by both Dr. Christian and the UN that Brazil is considered the *source* country in the trafficking cycle not only explains why the nation experiences such low rates of trafficking *inflows*, but it explains Brazil’s role in the context of the study.

### **Moral Bias in Data Collection: A Critique of PESTRAF in Brazil**

One of the main problems that presents itself when analyzing human trafficking in Brazil may be obvious, but it is often obscured or ignored by researchers and authors of international reports. Most of Brazilian human trafficking data is pulled from the same study that is outdated *by more than ten years*.<sup>149</sup> The “Study on trafficking in Women, Children, and Adolescents for Commercial Sexual Exploitation in Brazil”—known by its Portuguese acronym PESTRAF<sup>150</sup>—is by far the most-cited source in human trafficking-related academic reports in Brazil.<sup>151</sup> At first glance, PESTRAF is indeed impressive. At over 280 pages, the document cities cooperation with not only the Brazilian Government, but dozens of different NGOs, and researchers (partnered with the Brazilian Ministry of Justice and the International Institute on Laws and Human Rights at DePaul University).<sup>152</sup> The United States Agency for International Development (USAID), one of the world’s leading agencies for providing civilian foreign aid, provided most of the financial support for the

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<sup>148</sup> *Organized Crime* [Fact sheet]. (n.d.). Retrieved March 3, 2013, from United Nations Office of Drugs and Crime website: <https://www.unodc.org/unodc/en/organized-crime/index.html>

<sup>149</sup> Blanchette, T. G., & da Silva, A. P. (2012). On bullshit and the trafficking of women: moral entrepreneurs and the invention of trafficking of persons in Brazil. *Dialectical Anthropology*, 36(1-2), 107-125. 109.

<sup>150</sup> Original Portuguese Translation: *Pesquisa Nacional sobre o Tráfico de Mulheres, Crianças e Adolescentes*

<sup>151</sup> Blanchette, T. G., & da Silva, A. P. 118.

<sup>152</sup> *Pesquisa nacional sobre o tráfico de mulheres, crianças e adolescentes* (M. L. Maria Lucia Leal & M. de Fatima Leal, Comps.). (2012, December). Brasília, Brazil. PESTRAF. 37.

project.<sup>153</sup> On the surface, the analysis and findings in the PESTRAF document appear well investigated and executed, but a diligent researcher need only question the methodology of the report to begin uncovering procedural issues that challenge the validity of PESTRAF's argument.

In a scathing critique of PESTRAF and the international coalition that developed the report entitled “On Bullshit and the Trafficking of Women: Moral Entrepreneurs and the Invention of Trafficking of Persons in Brazil,”<sup>154</sup> the fundamental, structural faults of the report are made clear. The article points out that the exact methodologies of PESTRAF's research design were never explicitly stated beyond listing partnering organizations. Additionally, the study's two organizers relied on a network they had developed through their own children's advocacy organization, CECRIA,<sup>155</sup> in order to direct their research and engage partnering organizations throughout Brazil. Not only did this shallow methodological choice cut corners, but it exposed the study to unavoidable bias—many of the NGOs with which PESTRAF partnered were political or religious organizations. According to the critique, the research credentials of team members were uneven at best, even though simple corrections or adjustments could have easily solved the issue.

For example, in the most populous and wealthy region of Brazil, the Southeast (containing the metropolises of Rio de Janeiro and São Paulo), PESTRAF consulted

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<sup>153</sup> PESTRAF. 7.

<sup>154</sup> Blanchette, T. G., *et. al.*

<sup>155</sup> Author's note: *The Leal sisters, Maria Lucia and Maria de Fatima Leal, founded CECRIA, The Center for Reference, Study, and Action Regarding Children and Adolescents in Brazil. Beyond this organization, the Leals have little to no experience running NGOs or other studies or reports.*

only three NGOs, each with their own agenda.<sup>156</sup> Additionally, PESTRAF consulted the second-rate universities of UNIGRANRIO and UMESP<sup>157</sup> to support the study, even though many more reputable research institutions were available.<sup>158</sup> It is not the lack of prestige of the cited universities that is an issue, but rather the absence of standard, credible research practices on their part. Internationally recognized research institutions like the University of São Paulo (USP) and the Federal University of Rio de Janeiro (UFRJ)—easily accessible—are noticeably absent.

Finally, the main researchers for the Southeast region in PESTRAF had little to no experience in social science research, nor did they have any background in research methods, raising major concerns for the validity of their findings. While PESTRAF used six separate research instruments, most of the study's data sets came from only three sources: a media survey, a legal survey of federal investigations on trafficking and related offences, and interviews of trafficking victims. A PESTRAF researcher made the following report at the end of 2001, highlighting the lack of consistency in research methods:

The regions did not use the same methodologies. We were pretty much on our own when it came to collecting data. There was less than six months of training and...less than six months of research time to cover an area bigger of most of Western Europe...this was the situation all over Brazil and many of the groups had no idea how to do research. The data that people turned in ranged from excellent stuff that looked to be repetition of rumor. Unfortunately, poor material was very much the majority.<sup>159</sup>

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<sup>156</sup> The three NGOs referenced are the following: GELEDES (Black Women's Institute, a black feminist organization), IBISS (The Brazilian Institute for Social Health Innovation—a carioca organization working with street workers), and PACTO SÃO PAULO (an NGO working against violence against children).

<sup>157</sup> UNIGRANRIO is an acronym for *Universidade do Grande Rio* or the *University of Grand Rio* in English. EMESP is the acronym for *Universidade Metodista de São Paulo* or *The Methodist University of São Paulo*.

<sup>158</sup> Blanchette, T. G., & da Silva, A. P. 110-111.

<sup>159</sup> Blanchette, T. G., & da Silva, A. P. 111.

The authors not only criticize the methods of data collection in PESTRAF (as illustrated by the Southeastern region example in the previous paragraph), but they also accuse the international coalition of Brazilian NGOs, researchers, government agencies and funding sources of allowing moral bias to taint their findings. “Looking at [the study],” the article resolves, “it is hard not to conclude that PESTRAF’s goal was to create a sense of moral urgency regarding trafficking in Brazilian Civil Society.”<sup>160</sup> Their main conclusions, to which this thesis agrees, were as follows:

1. Little analysis has been undertaken of how key trafficking studies arrive at their data...By investigating how statistics are made on a case-by-case basis, we can discover which social groups are being transformed into objects of state interest.
2. Almost no English-language information regarding this phenomenon has yet been published outside of works based on PESTRAF itself.
3. PESTRAF has had an inordinate amount of influence in Brazil, being the study that underpins the country’s recently established National Policy for Confronting the Trafficking of People (PNETP). Furthermore, while the study is recognized as seriously flawed, no one has yet published a coherent critique of it.
4. Finally, international focus on Brazil as a source of trafficking victims is increasing due to the fact that the country will be hosting the Football World Cup in 2012 and the Olympic Games in 2016. The association of Brazil in the global mediascape with tropical sexuality and corruption gives added weight to the media-biased discourses that use PESTRAF as a source.<sup>161</sup>

Though serious questions about PESTRAF remain, because so little is known about human trafficking in Brazil, even the spotty findings of the report offer more insight into the issue than no findings at all. At the very least, the estimates offered by PESTRAF provide a general idea about trafficking patterns. In the end, PESTRAF’s

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<sup>160</sup> Blanchette, T. G., & da Silva, A. P. 118.

<sup>161</sup> Blanchette, T. G., & da Silva, A. P. 108.

findings are so ingrained into reports on Brazilian human trafficking in the last ten years (by both domestic and international organizations) that to discount the findings of all reports that cite the document would leave this thesis with very little research material. Since the quantitative study explained in this chapter does not rely on Brazilian data alone, but *global* reports, the findings are safe from the bias of the PESTRAF study.

### **Concluding Remarks**

Even though the “Has Prostitution Increased Human Trafficking” study did not address the Brazil specifically, it made important assertions based on global patterns of trafficking flows. The qualitative analysis presented in Chapter 3 with the Brazilian legal code in addition to Chapter 4 explains how the Brazilian case fits the conclusions of the study. The analysis provides a quantitative basis for the assertion that legalized prostitution does indeed lead to an increase in the rates of human trafficking on an *international* scale, and the supplementation of the details of the Brazilian case as highlighted in this chapter explains where Brazil fits into the global framework. The following chapter addresses international security implications of human trafficking during the 2014 World Cup and 2016 Olympics—a little-addressed issue that consistently plagues large, cosmopolitan international events.

## CHAPTER FIVE: WILL BRAZIL BE READY? INTERNATIONAL SECURITY IMPLICATIONS OF HUMAN TRAFFICKING DURING THE WORLD CUP AND OLYMPIC GAMES

In a world with the problems of war, genocide, nuclear proliferation and other concerns, human trafficking may not seem to be of much consequence. But with the approach of the 2014 World Cup and 2016 Olympics in Brazil, the world's attention has begun to pivot towards South America, and the issue has not gone unnoticed. Though human trafficking represents just one of the security concerns at these multinational games, it is at the center of a high-profile debate as to its relationship with international sporting events.

So why is the issue of human trafficking important in the context of security at the World Cup and Olympics? That is the question that this chapter aims to answer. In order to fully address this query in the specifically case of Brazil, this chapter first discusses human trafficking as a national security issue during international sporting events, drawing examples from past games like the 2010 South African World Cup and 2012 London Olympics. It then address the Brazilian case specifically, introducing the major concerns and the measures that the government has taken to address human trafficking since 2011, when UNODC published the *Independent Evaluation of the Counteracting Trafficking In Persons in Brazil* report on the effectiveness of Brazilian legislation against human trafficking. I will then use the

findings of this report as a basis for my qualitative analysis on the *effectiveness* of the Brazilian government's measures to address the trafficking issue, using 2011 (when the report was published) and 2013 (current conditions) as benchmarks for my projections on effectiveness in 2014 (the World Cup) and 2016 (the Olympics).

### **Human Trafficking as a National Security Concern during International Sporting Events**

International sporting events like the World Cup and Olympics are a nightmare for national security. The multitude of scheduled, public events and influx of hundreds of thousands of spectators and tourists create what security experts call a target-rich environment. Since September 11<sup>th</sup>, 2001, it is impossible to speak of security without addressing *terrorism*, which is defined as “the systematic use of terror especially as a means of coercion.”<sup>162</sup> After 9/11, risk management became of the most important aspects of event planning for international sporting events, and it led lead to many new security measures for spectators and higher standards of safety for the organizers themselves. Terrorism experts Atkinson and Young explained the nexus between terrorism and sports in the definition in the International Journal of Olympic Studies, OLYMPIKA:

For many reasons, individual terrorists or terrorist organizations might find suitable targets in athletes participating in games, spectators attending the events, or selected corporate sponsors of sports contests. Especially in those situations where athletic contests draw sizeable international audiences in geographical settings already embroiled in strife, sport can be utilized as a

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<sup>162</sup> terrorism. (2013). In *Merriam-Webster*. Retrieved from <http://www.merriam-webster.com/dictionary/terrorism>

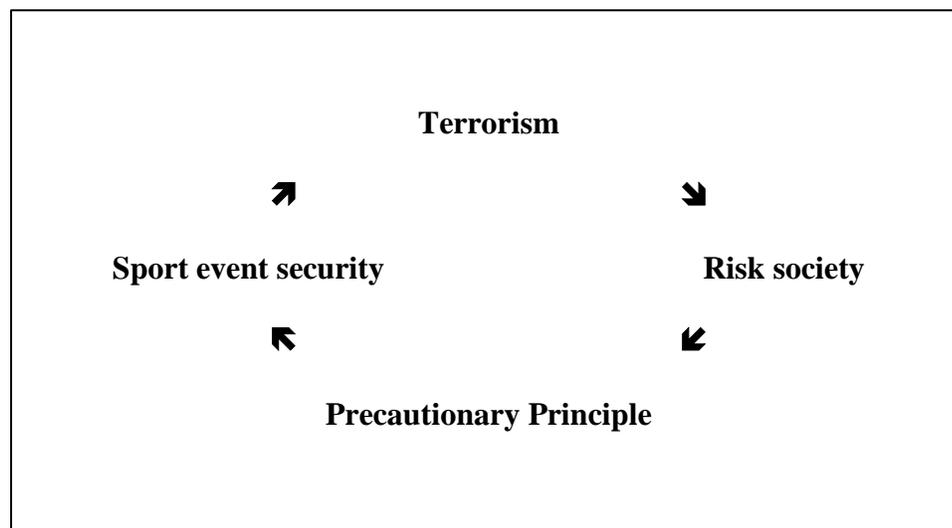
vehicle for political sparring, and waging and disseminating forms of political violence against others.<sup>163</sup>

Their analysis explains why sporting events are attractive terrorist targets, and the data corroborates it—there have been over 168 terrorist attacks related to sports between 1972 and 2004.<sup>164</sup> These statistics show that terrorism at sporting events is not simply a recent problem or post-September 11<sup>th</sup> issue, but a recurrent one, and proves that the concern for security during Brazil’s World Cup and Olympics is not unfounded.

The relationship between sporting events and terrorism can be defined in a cycle, tying together the principles of *terrorism*, *risk society*, the *precautionary principle*, and *sport event security*, as illustrated by Figure 5.1 below:

**Figure 5.1**

**Cyclical Relationship of Sporting Events and Terrorism**



<sup>163</sup> Atkinson, M., & Young, K. (2002). Terror games: Media treatment of security issues at the 2002 Winter Olympic Games. *OLYMPIKA: The International Journal of Olympic Studies*, XI, 53–78. 54.

<sup>164</sup> Toohey, K., & Taylor, T. (2008). Mega Events, Fear, and Risk: Terrorism at the Olympic Games. *Journal of Sports Management*, (22), 451–469. 451.

To understand how terrorism is linked to sport event security, the other two principles must be understood as the mortar that holds the cycle together. Ulrich Beck, a professor at the London School of Economics and expert on globalization's effects on society and sociology, first introduced the term *risk society* to describe the manner in which society organizes in response to perceived danger. The idea of modern *risk society* is:

Based on the view that more and more aspects of our lives are framed by an awareness of the dangers confronting humankind at the individual, local and global level, and the need to develop strategies to confront these dangers.<sup>165</sup>

Accordingly, people are likely to make decisions based upon what they believe to be the perceived risk of an activity. Terrorists feed upon the fear that defines the *risk society*, and as a result, the *precautionary principle* has governed risk management. In this context, the *precautionary principle* is as follows:

The absence of evidence of risk is not evidence of the absence of risk, and that rather than waiting for evidence of harm to be demonstrated before acting, the burden of proof should be shifted to require sponsors of a risky product or activity to demonstrate that it is safe or else be subject to regulatory restriction or ban.<sup>166</sup>

The *precautionary principle* here in the case of international sporting events is the responsibility of the organizing officials, or “sponsors,” to demonstrate the safety of the games, or their “product.” This leads to the fourth and final aspect of the

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<sup>165</sup> Toohey, K. *et al.* 455.

<sup>166</sup> Stern, J., & Wiener, J.B. (2006). Precaution against terrorism. *Journal of Risk Research*, 9, 393–447.

cyclical relationship, *sport event security*. Security measures at the games are the *precautionary* response of the organizing officials to the *risk society*'s fear of terrorism. In order to understand why national security is crucial to the viability of the World Cup and Olympics, this relationship must be understood.

So how does terrorism relate to human trafficking? Human trafficking networks have been linked with terrorist activity. With every major game or series of games—be in the Olympics, World Cup, and even the American Super Bowl—the illicit human trafficking business booms, generating billions of dollars in what is often a very short period of time.<sup>167</sup> When the demand for trafficking victims and the services they provide increases dramatically, the suppliers (traffickers) respond. No mistake can be made as to the profitability of the industry—the United Nations reported that human trafficking now has the third-highest profitability margin for organized crime, after only arms and drugs.<sup>168</sup> As this thesis has earlier described, globalization has led to the integration of organized crime organizations: no longer do individual organizations deal in just one illicit activity, but often spread their trade to several different areas. As U.S. Colonel Sandra Keefer reported in a research project targeting the question of human trafficking and national security: “Trafficking humans – especially children...enables these international mobsters to play in the wider field...of trafficking drugs, weapons, arms, chemicals, toxic waste, and even piracy on the high seas. Research substantiates indisputable links between human

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<sup>167</sup> Beale, M. (2011, October 18). The Infamous Link Between Sex Trafficking, Sex Tourism, and Sporting Events—What Lies Ahead for Brazil? Retrieved March 14, 2013, from Council on Hemispheric Affairs website: <http://www.coha.org/>

<sup>168</sup> Wolfe, L. “Fighting the War on Sexual Trafficking of Women and Girls.” University of Washington, 3 Nov. 2001.

trafficking and organized criminal syndicates the world over.”<sup>169</sup> Because of this phenomenon, when discussing human trafficking in terms of national security during international games, we must be conscious that the demand for trafficking victims also brings a supply of other dangerous items, like illegal drugs and dangerous arms, and the migrant smuggling of terrorists themselves.

Terrorists are known to use the same transportation networks to move operatives that traffickers do to move humans. Additionally, trafficking enables potential terrorists to easily move large sums of money through the channels of the illicit economy, and even to *generate* revenue.<sup>170</sup> Both of these are serious concerns as the 2014 World Cup and 2016 Olympics in Brazil approach. Current dialogue on the issue of national security and human trafficking in the context of these two events consistently ask two questions. One: what is the country doing to prepare? And two: will the preparations be effective in addressing human trafficking?

### **The Brazilian Case**

The 2014 World Cup and 2016 Olympics will bring to Brazil many of the same challenges that past host countries have faced, but will pose many unique challenges as well. Unlike past host nations that are major *destination countries* for human trafficking victims like the United Kingdom and Germany, Brazil is primarily a *source* country, meaning that the supply is very close to where the demand will be. Thousands of people will be forced into trafficking for these two events alone, representing a massive case of human rights violation, and the transportation of

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<sup>169</sup> Keefer, S. (2006, March). *Human Trafficking and the Impact on National Security for the United States*. Carlisle Barracks, PA: U.S. Army War College. 2.

<sup>170</sup> Keefer 3.

persons across state and country borders and the perpetuation of organized crime networks in Brazil represent major security concerns. On a more basic level, the spread of sexually transmitted diseases that follows human trafficking and sex tourism challenges health security.

With hundreds of thousands of tourists expected to attend Brazil's World Cup and Olympic Games in the next three years, the country's rush to prepare has been rocky at best, even though they have had nearly a decade to prepare.<sup>171</sup> *Favela* pacification, building new stadiums, bringing old stadiums up to code, and critical infrastructure updates have all represented major projects for the Brazilian government, and many of which have fallen desperately behind schedule. With all of these immediate concerns, fighting human trafficking does not appear to be of great importance, and while physical security concerns can be much more tangibly addressed, there are no set norms for addressing illegal social issues like human trafficking. Attempts have been made to apply lessons learned in the 2010 South Africa and 2006 Germany World Cups to the 2014 Brazilian games. As Andre Pruis, security adviser to FIFA for the 2014 FIFA World Cup Brazil, said at the 2013 FIFA Security Roundtable discussion in Rio de Janeiro on March 8<sup>th</sup>: "You can't make any comparison between South Africa... and Brazil. This is a country the size of a continent and it's a lot more complex. What we can do, and what we have already done in fact, is to apply the experience we acquired and the lessons learned from South Africa 2010."<sup>172</sup>

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<sup>171</sup> Brazil's successful bid to host the 2014 World Cup was announced on March 17<sup>th</sup>, 2004.

<sup>172</sup> Caetano: A great legacy for public security in Brazil. (2013, March 8). Retrieved March 14, 2013, from Fifa.com website: <http://www.fifa.com/worldcup/news/newsid=2027169/index.html>

One of the lessons to which Pruis referred was the importance of early preparation on all fronts. After winning the bid to host the 2014 World Cup in March of 2004, the Brazilian government began planning, strategizing and building with over ten years to work with. On the front of social issues, massive social projects and initiatives were launched to improve living conditions, curb violence, and ensure safety of the thousands of tourists and fans that would pour into the country. Even with time to spare, it took the Brazilian government over two years to draft a plan to address the security issue of human trafficking. *Decree No. 5948*, as it was already discussed in Chapter Three, was officially published on October 26<sup>th</sup>, 2006, approving the *National Policy to Combat Human Trafficking*.<sup>173</sup> The act established the Interministerial Working Group with the purpose of creating and expanding the *National Plan to Combat Human Trafficking* (PNETP).<sup>174</sup> With guidance from the UNODC, the final title of the project was called *Counteracting Trafficking in Persons in Brazil* (AD/BRA/05/S25). The project S25 was aimed at improving the institutional capacity of Brazil to address domestic and international trafficking in persons. The main strategy was the coordination of the federal executive government (including the various ministries and departments) and subnational governments in order to create a national, concencical policy in combatting human trafficking. Secondary objectices included a national human trafficking awareness campaign, a national hotline for victims and reports, and the creation of a database for statistics on human trafficking cases in Brazil. The project also aimed to impliament training programs to identify human trafficking for police officers and other officials.

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<sup>173</sup> *Decreto n° 5948 de 26 outubro 2006* . (2006 October 26). República Federativa do Brasil.

<sup>174</sup> Original Portuguese Translation: “*Plano Nacional de Enfrentamento ao Tráfico de Pessoas – PNETP*”

The ambitious project was originally slated to last from 2007 to 2010, and was extended through 2011. It represented the Brazilian government's largest preparation to address the human trafficking issue before the World Cup.

In 2011, the United Nations Office of Drugs and Crime conducted an independent evaluation of *Counteracting Trafficking In Persons in Brazil*, analyzing the general effectiveness of the main measures of the project. They identified key issues, offered supporting evidence, and developed recommendations to solve the problems and inefficiencies. The UNODC analyzed the effectiveness of the Brazilian government's actions over the 2007-2011 period, and published their findings in 2011. The five main "Findings/Concerns" of the independent evaluation are as follows:

- 1) There is still an imperative necessity to train and prepare people working at the centres and unities (postos *avançados e núcleos*) to understand the human trafficking phenomenon.
- 2) Brazil still lacks a mass public campaign to inform the population about the risks and occurrence of human trafficking.
- 3) Brazilian legislation does not rule on human trafficking (apart from some specific cases such as sexual exploitation and forced labour) .
- 4) Little information available on the profile of human trafficking in Brazil (the only diagnostic study conducted in Brazil was PESTRAF in 2002).
- 5) Despite the constant monitoring of project S25, the progress reports were overly concise/brief.<sup>175</sup>

The complete data table from which these five findings were pulled in the UNODC report can be found in Appendix C (the basis for these findings will be further discussed in the *Analysis* section of this chapter, and form the basis for the analytical model used). While the findings of the UNODC report provide solid

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<sup>175</sup> *Independent project evaluation of counteracting human trafficking in Brazil*. (2011, December). Vienna, Austria: United Nations Office on Drugs and Crime. 4.

analysis as to the Brazilian Government's effectiveness in addressing the human trafficking phenomenon in 2011, it did not provide projections for the future events. To fill in these analytical gaps, the following section of this chapter will use a SLEIPNIR Analytical Model to project the Brazilian government's effectiveness during the 2014 World Cup and 2014 Olympics.

### **SLEIPNIR Analysis**

So what is a SLEIPNIR model and how can it help in this analysis? This analytical technique was developed by the Royal Canadian Mounted Police in order to create a threat measurement technique for intelligence analysis of organized criminal groups in the country.<sup>176</sup> The method allows analysts to rank-order concepts in a systematic manner according to a consensus of expert data, indicated by a key. In the Canadian case, the resulting matrix not only provides an excellent visual aid, but it also allows analysts to identify holes in law enforcement policies. For the purposes of this thesis, the SLEIPNIR Analytical Model lends itself perfectly.

The results of my analysis are depicted in Figure 5.2 below. I chose to base this model on the first four findings of the UNODC's *Independent Project Evaluation of Counteracting Human Trafficking in Brazil*, and the results are shown in Column 1<sup>177</sup>. Not only is the UN's research impeccably cited and the theoretical framework heavily detailed, but its findings are backed up with supporting evidence. Its analysis

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<sup>176</sup> Royal Canadian Mounted Police. (n.d.). *Project SLEIPNIR: An Analytical Technique for Operational Priority Setting* (S. J. Strang, Author). Retrieved from <https://www.e-education.psu.edu/drupal6/files/sgam/Project%20SLEIPNIR%20An%20Analytical%20Technique%20for%20Operational%20Priority%20Setting.pdf>

<sup>177</sup> Author's note: *The fifth finding regarding the brevity of the Brazilian government's review of their own program does not offer much to analyze, and conclusions are not integral to the argument of this thesis. Thus, Policy 5 was left out of the SLEIPNIR model.*

of the effectiveness of Brazilian policy in 2011 forms the perfect basis for my own projections for 2014 (Column 2) and 2016 (Column 3). This basis will then be supplemented with qualitative analysis to explain how I arrived at the conclusion for each individual projection.<sup>178</sup>

**Figure 5.2: SLEIPNIR Analytical Model**

**Brazilian Government’s Effectiveness in Addressing the Human Trafficking Phenomenon; Current and Projected**

	Column 1 <i>past</i>	Columns 2 & 3 <i>projected</i>	
	<b>2011 (based on UNODC Report)</b>	<b>2014 FIFA World Cup</b>	<b>2016 Olympic Games</b>
1. Training Brazilian public officials about the human trafficking phenomenon	Moderate	Moderate	High
2. Informing the Brazilian population on the human trafficking phenomenon; public service announcements	Little to no	Moderate	Moderate
3. Brazilian legislation limiting or ruling on human trafficking	Little to no	Little to no	Moderate
4. State-led data collection campaigns on current trafficking trends in Brazil	Little to no	Little to no	Moderate

<sup>178</sup> Author’s note: *It is important to remember that since these projections are not based on quantitative data, the qualitative analysis is estimative in nature.*

***Policy 1: Training Brazilian Public Officials about the Human Trafficking Phenomenon***

*2011: The UNODC Report: moderate effectiveness*

In reviewing the Brazilian government's effectiveness, the UNODC found that over the 2007-2011 period: "There was a consensus among stakeholders that professionals working within the field should receive further training. It was reported that in some regions (particularly at Brazil's borders) these services are still fragmented and lacking adequate human resources (e.g. social assistants)."<sup>179</sup> The researchers reported in their *Supporting Evidence* section that the general consensus from professionals working on the issue in the field is that Brazilian officials need to receive further training on the human trafficking phenomenon. In certain areas, training services were extremely fragmented, and sometimes even lacked human resources necessary for conducting the training sessions. Given the vast size of Brazil, the Office of Drugs and Crime logically recommended at the report's conclusion that the greater United Nations reach out to the international community and foreign experts for more support. The office recommended the creation of small teams in order to spread the training information more efficiently. Even with the progress that was made between 2007 and 2011, because of the holes in dissemination of training and lack of universally adequate human capital resources, the effectiveness of the Brazilian government's training of public officials about the human trafficking phenomenon has been ranked *moderate*.

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<sup>179</sup> *Independent project evaluation of counteracting human trafficking in Brazil*. 4.

*2014 FIFA World Cup Projection: moderate effectiveness*

How does the Brazilian government's effectiveness in training its officials on human trafficking stand to change by the 2014 World Cup, if at all? Brazilian officials have attempted to show solidarity in their fight against trafficking since the 2011 UNODC Report. In an interview for a UN evaluation of Brazilian efforts to combat trafficking, the deputy representative of SNJ, João Guilherme Granja, expressed the current state of affairs in Brazil: "We hope it will be reduced, controlled and repressed constantly. It is a symbolic task: our State will not tolerate [human trafficking]. The State will act relentlessly to curb it. We are dealing with old, extremely refined structural conditions of exploitation that will always demand action."<sup>180</sup> But significant disconnect still exists between the Brazilian penal code and how the laws are actually "administered" by Brazilian officials and law enforcement agencies like the Federal Police.

Even though the following case took place outside of our 2011-2014 frame of focus, it provides an excellent case study for the phenomenon that is still persistent today, and with thus affect the 2014 projection. Take the June 2005 detainment of 29 American citizens and 40 Brazilian prostitutes on a party boat off the coast of Rio de Janeiro on the suspicion of sexual tourism and the exploitation of minors. While none of the foreigners had passports on their persons, the prostitutes were all confirmed to be above the legal age, and were released the same day. One American, however, was arrested on charges of brokering sex tourism. In a report published in the newspaper *O Globo*, the Federal Police admitted that there was no evidence that the Americans

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<sup>180</sup> *Independent project evaluation of counteracting human trafficking in Brazil.* 29.

had violated any Brazilian laws.<sup>181</sup> The Americans were deported for “sexual tourism,” a crime that *does not exist* in the Brazilian penal code. That did not keep the police from presenting the sting operation as a success to a conference later that month of the State Council of Women’s Rights in Rio de Janeiro (CEDIM). When representatives were questioned by members of the prostitute’s rights group Davida, the police were forced to backtrack, saying: “We were simply trying to expel them, because they were involved in activities that they should not have been.”<sup>182</sup> The Federal Police’s actions completely ignored the fact that no illegal act had occurred: the American men were free to pay for the prostitute’s services since each woman was both “self-employed” and above the legal age to consent.

None of these concerns raised alarm amongst the conference’s attendees. Instead, the police representatives were applauded for their efforts against human trafficking, and the incident was soon forgotten. Many rights advocacy groups like Davida use this example to try to raise awareness about the problem of moral biases in the police force, but such concerns often fall upon deaf ears. Nelson Motta, an influential columnist for the São Paulo daily paper *Folha de São Paulo*, wrote this scathing critique of the Federal Police’s proceedings. He raised many important questions, including the problem of moral biases:

In Brazil, on the contrary to the United States, prostitution is not illegal. So why was a group of Americans arrested on a boat full of women in the

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<sup>181</sup> Grupo de americanos é expulso do país por suspeita de turismo sexual [Group of Americans deported from the country on accusations of sexual tourism]. (2005, June 12). O Globo.

<sup>182</sup> Silva, Ana Paula da, Blanchette, Thaddeus, Pinho, Anna Marina Madureira de, Pinheiro, Bárbara, & Leite, Gabriela Silva. (2005). Prostitutas, "traficadas" e pânico morais: uma análise da produção de fatos em pesquisas sobre o "tráfico de seres humanos". *Cadernos Pagu*, (25), 153-184. Retrieved February 21, 2013, from [http://www.scielo.br/scielo.php?script=sci\\_arttext&pid=S0104-83332005000200007&lng=en&tlng=pt](http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-83332005000200007&lng=en&tlng=pt). 10.1590/S0104-83332005000200007. 158-9.

Guanabara Bay even though they were all professionals and of the legal age? Was it reserve of the sexual market? Genital xenophobia? Combating sexual tourism? Why combat sexual tourism if the objects of the visitor's desire are adult men and women who do it because they need or want to? And, certainly, they are not hurting anyone, but much to the contrary. What could be the problem? Could it be...umm...morality? Weren't the church and the State separated long ago?<sup>183 184</sup>

As the case of the Americans clearly demonstrates, the mixing of evangelical morality politics and law enforcement of women's rights has become nothing short of complicated. Marina Pereira Pires de Oliveira, the leader of the Justice Ministry's national campaign to draft new articles of the penal code against human trafficking between 2003 and 2007, calls the situation "confusing." In her article "On Traps and Banana Peels: A Critical Analysis of the Administration of Justice on Human Rights Themes", she references her work with the Brazilian government in trying to increase awareness with the police, judicial system, and civil society.<sup>185</sup> De Oliveira also addresses her experience in working with prostitutes, and attempting to correct the moral stigma that their profession carries in the government:

It continues to be difficult to have a prostitute seen as any other citizen, that she can have her rights violated, but also to show that the central element of traffic is not prostitution. Although prostitutes can be victims of this crime, the [crime also represents] the violations of rights that can be suffered by a

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<sup>183</sup> Motta, N. (2005, July 1). Nacionalismo genital [Genital nationalism]. Folha de São Paulo.

<sup>184</sup> Original Portuguese Translation: "No Brasil, ao contrário dos EUA, a prostituição não é ilegal. Então por que um grupo de americanos foi preso num barco cheio de mulheres na baía de Guanabara mesmo sendo todas profissionais e maiores de idade? Reserva de mercado sexual? Xenofobia genital? Combate ao turismo sexual? Por que combater o turismo sexual se os objetos de desejo dos visitantes são homens e mulheres adultos que fazem isso porque precisam ou gostam? E, certamente, não estão fazendo mal a ninguém, muito pelo contrário. Então qual é o problema? Seria... humm... moral? Qual delas? A oficial? A petista? A católica? A evangélica? Mas o Estado e a igreja não estão separados há muito tempo?"

<sup>185</sup> de Oliveira, Marina Pereira Pires, 2008. 'Sobre armadilhas e cascas de banana: uma análise crítica da administração de Justiça em temas associados aos Direitos Humanos' [On Traps and Banana Peels: A Critical Analysis of the Administration of Justice on Human Rights Themes], *Cadernos Pagu* 31: 125–149. 131.

domestic worker, a rural worker or a sex worker. But declarations of this broader type tend not to be well-received by the hegemonic morality of society and do not help to attract allies to our banner. This is one of the traps of this matter.<sup>186</sup>

De Oliveira goes on to assert in her article that the government had misused new laws in order to bolster the “normative” idea that adult prostitutes represent a “moral and ethical perversion.”<sup>187</sup> This affirmation emphasizes the importance of the government’s training programs on human trafficking realities, because the line between legal prostitution and illegal trafficking is often blurred in the eyes of Brazilian officials, causing disjunction in prosecution efforts. The U.S. State Department’s *2012 Trafficking In Persons Report* cited efforts by the Brazilian government to coordinate anti-trafficking efforts at both the national and state level during the 2011-2012 period.<sup>188</sup> Nevertheless, the effectiveness rating began to slide from *moderate* to *little to no* as the last national plan to combat human trafficking elapsed in 2011.

The Brazilian government struggled to formulate a second national plan, and legislation was pushed through chambers of congress in late 2012 after months of delay. On February 5<sup>th</sup>, 2013, the *Second National Plan for Confronting Human Trafficking*<sup>189</sup> was officially released, and will be effective over a three year period, 2013 to 2016. Though no plans were yet implemented by the publication of this thesis, the five main “goals” had been made public. The Brazilian government plans to invest nearly 3 million dollars for the creation of 10 new “service stations” in

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<sup>186</sup> de Oliveira, Marina Pereira Pires. 133.

<sup>187</sup> de Oliveira, Marina Pereira Pires. 131.

<sup>188</sup> *2012 Trafficking in Persons Report*. 97.

<sup>189</sup> *Decreto No 7.901/13, de 5 de fevereiro de 2013 [Decree no 7.901/13]* (2013). O Congresso Federal do Brasil.

border towns and the training of over 400 staff members.<sup>190</sup> The posts are to be built in high-traffic areas, like airports, busy interstates, port cities, etcetera. These new positions and staff jobs will bolster the 29 existing offices in order to more effectively combat human trafficking.

Even with the preliminary actions as outlined by the *Second National Plan for Confronting Human Trafficking*, this thesis's projection for the effectiveness of the Brazilian government's training program is likely to remain *moderate* in 2014. Because the second plan was delayed for more than a year, actual implementation is likely to also be behind schedule, and thus no major change between 2011 and 2014 is expected, as highlighted by the SLEIPNIR matrix.

#### *2016 Olympics Projection: high effectiveness*

This thesis's projection for Brazil's effectiveness in the training of officials on human trafficking by the 2016 Olympic Games is significantly more optimistic than the 2014 projection—upgraded from *moderate* effectiveness to *high*. This can be explained by several factors. Time itself plays an important role, as two extra years of training makes a great difference in effectiveness of training programs, allows for information dissemination, etcetera. Additionally, in preparing for an international sporting event like the World Cup only two years prior, it can be assumed that the officials would have learned from the hands-on experience. Unless significant changes occur to *The Second National Plan for Confronting Human Trafficking*, the

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<sup>190</sup> Melo, K. (2013, February 5). Decreto autoriza publicação do 2º plano nacional de enfrentamento ao tráfico de pessoas [Decree authorizes the publication of the second national plan for confronting human trafficking].

effectiveness rating for Policy 1 in 2016 this SLEIPNIR model will likely remain at *high*.

***Effectiveness of Policy 2: Informing the Brazilian Population on the Human Trafficking Phenomenon; Public Service Announcements***

*2011: The UNODC Report: moderate effectiveness*

As of 2011, Brazil still lacked a large-scale media campaign to raise public awareness about the human trafficking security issue. Though smaller campaigns existed, they were often disjointed, unclear and did not project a uniform message. The UNODC reported that “several stakeholders expressed concern that the awareness campaign developed by the National Secretariat of Justice (SNJ)/UNODC was focused on airport travelers and inadequate to reach the general population.”<sup>191</sup> Although the government was not completely off base when it decided to focus the campaign on international travelers, they significantly limited its audience. Because of these factors, the Brazilian government’s actions were found to have *little* effectiveness in 2011.

*2014 World Cup and 2016 Olympics Projections: moderate effectiveness*

From the information that has been released about *The Second National Plan for Confronting Human Trafficking* to date, the Brazilian government plans to revamp its public awareness campaign.<sup>192</sup> By broadening the scope from posters in limited

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<sup>191</sup> *Independent project evaluation of counteracting human trafficking in Brazil*. 4.

<sup>192</sup> Melo, K.

locations to a multi-media, nation-wide campaign, the Brazilian government's effectiveness would increase dramatically, especially since Brazilians are incredible consumers of modern social media. Over 85% of Brazilian Internet users are using social media, and technologic advances in the cell phone networks in Brazil have made the Internet widely available. Faster, more efficient 4G networks are being developed by all four of the main cell phone carriers in order to service expected international traffic during the World Cup and Olympics.<sup>193</sup> Because Brazilians are using social network tools so strongly, this is leading to social changes in everyday life, politics, education and other fields. Social networking has revolutionized "the way information circulates within the country, creating more awareness, actions and change,"<sup>194</sup> and embracing new platforms for public service announcements would represent an unprecedented boost in the effectiveness of Policy 2. Should these changes go into effect this year as the Brazilian government implements the second National Plan against human trafficking, the effectiveness rating would raise to *moderate* for both 2014 and 2016.

### ***Effectiveness of Policy 3: Brazilian Legislation Limiting or Ruling on Human Trafficking***

*2011: The UNODC Report: little to no effectiveness*

After the first National Plan covering 2007 to 2011 elapsed, significant gaps

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<sup>193</sup> Savitz, E. (2012, August 1). 4 Reasons Why Brazil Is The Next Hot Mobile Market. *Forbes*. Retrieved from <http://www.forbes.com/sites/ciocentral/2012/08/01/4-reasons-why-brazil-is-the-next-hot-mobile-market/>

<sup>194</sup> Recuero, R. (2011, May 10). Social media and change in Brazil. Retrieved March 11, 2013, from Media Social Change website: <http://mediasocialchange.net/2011/05/10/social-media-and-change-in-brazil/>

in law enforcement's ability to address human trafficking were exposed by the UNODC's independent study. These gaps were attributed to two causes: one, inadequate training of Brazilian officials, and two, inefficient laws, legislation, and policies governing human trafficking. The Office of Drugs and Crime reported the following: "Police representatives commented on their limitations in investigating possible cases of human trafficking. Although there have been important reformulations in the Brazilian norm, there is still an urgent necessity to typify the crime of trafficking in humans and its punishment."<sup>195</sup> Because of the issue of inadequate training, not only are officials not effective at spotting human trafficking, but they also do not fully understand what the actual legal code itself says *about* human trafficking.

The statistics support this assertion. There were nine reported human trafficking convictions in 2011, but over 2,800 *potential* trafficking victims identified.<sup>196</sup> Between 2005 and 2011—a period covered at least partially by the first National Plan—the Federal Police only 514 investigations into trafficking-related offenses. Of these, 344 were related to slave labor, and only 13 were related to human trafficking. Of the original 514 investigations, 381 were indicted, but only 45 percent (158 of those indicted) served prison time.<sup>197</sup> Of the trafficking-related investigations, less than 3 *percent* were for trafficking itself. In a country where thousands of women are trafficked every year, this statistic is both striking and troubling. Because of these results, the rating of *little to no effectiveness* was given for 2011 in the SLEIPNIR matrix.

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<sup>195</sup> *Independent project evaluation of counteracting human trafficking in Brazil*. 4.

<sup>196</sup> *2012 Trafficking in Persons Report*. 95.

<sup>197</sup> Melo, K.

*2014 FIFA World Cup Projection: little to no effectiveness*

Based the results from the 2005 to 2011 time period, this thesis projects the *little to no effectiveness* rating to persist through the 2014 World Cup for Brazil's legislation's effectiveness on policing human trafficking. As earlier discussed with Policy 1, the yearlong lapse between *National Plans* caused a significant stall in the government's ability to address human trafficking, setting all training efforts behind schedule. Additionally, any efforts to close any legal loopholes in the national legislation regarding trafficking itself would not be drawn up, debated on, and passed through congress in time by the 2014 timeframe. Because of these realities, the *little to no effectiveness* rating must stand.

*2016 Olympics Projection: moderate effectiveness*

Based on preliminary reports regarding *The Second National Plan for Confronting Human Trafficking*, closing the training gap will be a priority for the 2013-2016 time period. Additionally, the government has proposed revisiting current Brazilian legislation to address loopholes in the system.<sup>198</sup> Should these new measures take effect and make significant changes, by 2016 the effectiveness of the Brazilian government's legislation on human trafficking should reach a *moderate effectiveness* rating. Should efforts not begin immediately, however, this rating could very well remain stagnant.

***Effectiveness of Policy 4: State-Led Data Collection Campaigns on Current***

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<sup>198</sup> Melo, K.

## *Trafficking Trends in Brazil*

### *The 2011 UNODC Report and 2014 World Cup Projections: little to no effectiveness*

The independent evaluator of the first National Plan struggled to reach definitive conclusions on the Brazilian case because of the lack of reliable data, reporting the following: “During desk review for this evaluation it was difficult to draw an overview of this problem in the country due to the lack of information available (quantitative and qualitative).”<sup>199</sup> PESTRAF—the flawed, outdated 2002 study—still remains the most widely used study available that focuses specifically on Brazilian human trafficking. At the publication of the UNODC report in 2011, there was very little information available about the progress of the planned international trafficking information database.<sup>200</sup> Even though insiders reported that the database was ready, it was awaiting tests to ensure the confidentiality of the data. Because the state-led data collection campaigns have yet to actually occur (and it is unlikely that it will be available by 2014), the effectiveness rating is *little to no*.

### *2016 Olympics Projection: moderate effectiveness*

One of the priorities of *The Second National Plan for Confronting Human Trafficking* is to get the database functional and launched. Based on current preparations, by the Olympics in 2016, this is likely to occur. The use of one central database for data entry from both governmental agencies and the national, state and local level, domestic and international non-governmental organizations, and other

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<sup>199</sup> *Independent project evaluation of counteracting human trafficking in Brazil*. 4.

<sup>200</sup> *Independent project evaluation of counteracting human trafficking in Brazil*. 25.

relevant parties would help to: 1) accurately address the human trafficking issue, and 2) coordinate a unified, intelligent response. The Brazilian government's effectiveness rating on this policy has been designated as *moderate*, since time is likely needed for all parties to adjust to the system and work out any glitches that may arise. Nevertheless, state-led data campaigns like the national database could revolutionize the way that Brazil addresses the human trafficking issue, and holds much promise.

### **Concluding Remarks**

While it must be kept in mind that the topic of human trafficking itself proves difficult to study because of the lack of quantifiable data on the topic, estimative SLEIPNIR models like the one featured in this chapter can provide excellent analysis for assessing the effectiveness of Brazilian policy on human trafficking in the future. As this chapter addressed, the issue of human trafficking is an important issue for the World Cup and Olympics because of the national security implications it presents. By assessing the effectiveness of individual Brazilian policies in addressing human trafficking, problematic areas can be properly addressed, and the Brazilian government can take steps to mitigate national security issues related to human trafficking before they even occur.

## CHAPTER SIX: CONCLUSION

In conclusion, human trafficking and prostitution are both very complex issues that are not easily studied or understood. Because of their epiphenomenal clandestine nature, the lack of empirically collected data will likely never be overcome. Thus, any quantitative analysis like the one presented in “Does Legalized Prostitution Increase Human Trafficking?” must rely on estimated data. Though the results will remain approximate, they nevertheless provide important insight into the relationship between prostitution and human trafficking. As the report found, the scale effect of legalizing prostitution leads to an expansion of the prostitution market and thus an increase in human trafficking. This was true not only in the case of Brazil, but also in many different countries of very different geographic, economic, and ethnographic profiles.

Even though the report relied on measures of trafficking *inflow* to draw their conclusions on the global phenomenon—a measure that the Brazilian case does not share since it is a *source* country for trafficking victims—the immense size of Brazil means that the measure does not take into account the large amount of *internal* trafficking data. Although the qualitative analysis of the effectiveness of Brazilian law presented this thesis supports the hypothesis that legalized prostitution has led to an increase in the rate of human trafficking in the case of Brazil, further study on the

trafficking rates between individual Brazilian states would help to draw more concrete conclusions.

Additionally, even with the Brazilian government taking serious measures to combat human trafficking on the eve of the World Cup and Olympics, the reality is that there simply is not a perfect strategy. Regardless, government and law enforcement bodies need to take serious steps to ensure the security of these international events. The gaps in Brazil's security infrastructure—as highlighted in the SLEIPNIR model—that are regularly exploited by traffickers must be closed in order to prevent potential terrorists from doing the same. As outlined in Chapter 5, effective training of officials, dissemination of public service announcements, adjustments to current legislation, and implementation of efficient data collection campaigns could lead to significant advancements in the fight against human trafficking in Brazil. But in order to ensure the effectiveness of these new policies in 2012 and 2016, the government must guarantee that all policies are introduced in a timely manner, and that they are effectively enforced.

## APPENDICES

## APPENDIX A:

### Degree of Human Trafficking Inflows<sup>201</sup>

Number of sources	Index ranking	Total number of countries
0 <sup>a</sup>	0 (No)	24
1	1 (Very low)	29
2–3	2 (Low)	27
4–10	3 (Medium)	50
11–24	4 (High)	21
25–40	5 (Very high)	10

<sup>201</sup> United Nations Office on Drugs and Crime (UNODC) (2006). Global report on trafficking in persons. Vienna: UNODC. 118.

## APPENDIX B:

### Distribution of Countries Across Categories of Human Trafficking Inflows<sup>202</sup>

Very High	High	Medium	Low	Very Low
Belgium Germany	Australia	Albania	Cuba	Algeria
Greece	Austria	Argentina	Bangladesh	Bhutan
Israel	Bosnia and Herzegovina	Bahrain	Belize	Brazil
Italy	Cambodia	Benin	Brunei	Burundi
Japan	Canada	Bulgaria	Darussalam	Chad
Netherlands	China	Burkina Faso	Congo, Republic of	Chile
Thailand	Hong Kong SAR	Cameroon	of Costa Rica	Congo,
Turkey	Taiwan	Cote d'Ivoire	Ecuador	Democratic Republic of
United States of America	Cyprus	Croatia	Egypt	Djibouti
	Czech Republic	Curacao	Haiti	Dominica
	Denmark	Dominican Republic	Indonesia	Ethiopia
	France	El Salvador	Iraq	Fiji
	India	Equatorial Guinea	Ireland	Gambia
	Kosovo, (Serbia and Montenegro)	Estonia	Kyrgyzstan	Georgia
	Pakistan	Finland	Laos	Honduras
	Poland	Gabon	Libya	Jamaica
	Saudi Arabia	Ghana	Jamahiriya	Liberia
	Spain	Guatemala	Luxembourg	Malawi
	Switzerland	Hungary	Mali	Maldives
	United Arab Emirates	Iceland	Niger	Morocco
	United Kingdom	Iran	Oman	Mozambique
		Kazakhstan	Paraguay	Moldova
		Kenya	Romania	Senegal
		Kuwait	Slovenia	Sierra Leone
		Latvia	Sri Lanka	Slovakia
		Lebanon	Uganda	Sudan
		Lithuania	Tanzania	Tajikistan
		Macao	Uzbekistan	Trinidad and Tobago
		Malaysia	Yemen	Zambia
		Mexico		Zimbabwe
		Myanmar		
		New Zealand		
		Nigeria		
		Norway		
		Panama		
		Philippines		
		Portugal		
		Qatar		
		Republic of Korea		
		Russian Federation		
		Serbia and		

<sup>202</sup> UNODC (2006). Global report on trafficking in persons. 20.

		Montenegro Singapore South Africa Sweden Syrian Arab Republic Macedonia Togo Ukraine Venezuela Viet Nam		
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## APPENDIX C:

### Full 2011 UNODC Evaluation of AD/BRA/05/S25

<b>UNODC Independent Evaluation of <i>Counteracting Trafficking In Persons in Brazil (AD/BRA/05/S25)</i></b> <sup>203</sup>		
<b>Findings: Problems and Issues Identified</b>	<b>Supporting Evidence</b>	<b>Recommendations</b>
1. There is still an imperative necessity to train and prepare people working at the centres and unities (postos <i>avançados e núcleos</i> ) to understand the human trafficking phenomenon.	There was a consensus among stakeholders that professionals working within the field should receive further training. It was reported that in some regions (particularly at Brazil's borders) these services are still fragmented and lacking adequate human resources (e.g. social assistants).	The UNODC could facilitate the invitation of foreign experts to give presentations/seminars to these professionals. Because of the size and diversity of Brazil, this evaluation recommends the training of small teams that could diffuse the information to other professionals in their region.
2. Brazil still lacks a mass public campaign to inform the population about the risks and occurrence of human trafficking	Several stakeholders expressed concern that the awareness campaign developed by the National Secretariat of Justice (SNJ)/UNODC was focused on airport travelers and inadequate to reach the general population (e.g. women thrown in a dark room or a cardboard box simulating a cage).	Develop mass awareness campaigns such as the Blue Heart Campaign, which is yet to be promoted in Brazil.
3. Brazilian legislation does not rule on human trafficking (apart from some specific cases such as sexual exploitation and forced labour)	Police representatives commented on their limitations in investigating possible cases of human trafficking. Although there have been important reformulations in the Brazilian norm, there is still an urgent necessity to typify the crime of trafficking in humans and its punishment.	It is important to foster the debate on the necessity to expand the legislation on human trafficking. The SNJ/UNODC could promote this through public audiences in Congress to engage the federal legislative and through regional and national seminars (to empower civil society demands in Congress).
4. Little information available on the profile of human	During desk review for this evaluation it was difficult to	The SNJ/UNODC should continue encouraging studies to

<sup>203</sup> *Independent project evaluation of the counteracting human trafficking in Brazil.* (2011, December). Vienna, Austria:

United Nations Office on Drugs and Crime.

<p>trafficking in Brazil (the only diagnostic study conducted in Brazil was the 2002-Pestraf).</p>	<p>draw an overview of this problem in the country due to the lack of information available (quantitative and qualitative).</p>	<p>diagnose and map the extent of this problem in Brazil. Studies should also understand the perception of the victims of trafficking in Brazil. This could not only provide evidence to social assistance professionals but could also assist police officers on how to deal with these cases.</p>
<p>5. Despite the constant monitoring of project S25, the progress reports were overly concise/brief.</p>	<p>Desk review of the progress report suggests that these were unsatisfactory as it did not express in depth the advancements or limitations faced during the project's development.</p>	<p>On the project level, it is necessary to further clarify and specify the initiatives proposed (e.g. define the amount of resources to be allocated to each activity). Also, improve the annual progress review reports (e.g. give examples of how activities were implemented instead of listing them as completed). Finally, mid-term evaluations are also recommended.</p>