

**ЕКОНОМІКА ТА УПРАВЛІННЯ НАЦІОНАЛЬНИМ ГОСПОДАРСТВОМ**

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P. Yu. Kurmaiev, Doctor of Economic Sciences,  
Associate ProfessorП. Ю. Курмаєв, д. е. н.,  
доцент**PROSTITUTION: CHOOSE EFFECTIVE  
MODEL OF STATE REGULATION****ПРОСТИТУЦІЯ: ВИБІР ЕФЕКТИВНОЇ  
МОДЕЛІ ДЕРЖАВНОГО РЕГУЛЮВАННЯ**

**Urgency of the research.** For many years, prostitution remains in the focus of economists, sociologists, criminologists and public figures. The need for state regulation of prostitution is due to many factors: participants' motivation, outreach to the criminal world.

**Target setting.** in the world practice, three main models of state regulation of prostitution are used. The efficiency of the prostitution state adjustment depends on the chosen model.

**Actual scientific researches and issues analysis.** The works by R. Weitzer, H. Wagenaar, S. Altink, A. Schloenhardt have been devoted to the research and comparative analysis of various models for state regulation of prostitution.

**Uninvestigated parts of general matters defining.** The study of practical aspects in applying particular models of state regulation of prostitution requires additional research

**The research objective.** The purpose of the article is to analyze the advantages and disadvantages of applying the models of state regulation of prostitution.

**The statement of basic materials.** The article examines the main models of state regulation of prostitution in the world. On the example of countries with different levels of development, legal, economic and social aspects of prostitution are considered. Based on the analysis of statistical data and the study of expert evaluations, the efficiency of regulatory measures has been identified. The results of the research carried out have shown a generally low effectiveness of the prohibition (criminalization) model of prostitution and mixed (Swedish) model.

**Conclusions.** The results of the research indicate that legal prostitution is not a catalyst for destructive processes in the society. The following thesis has been substantiated that the choice of a model of prostitution legalization is more in line with the needs of modern society.

**Keywords:** state regulation shadow economy; prostitution; efficiency.

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**Актуальність теми дослідження.** Протягом багатьох років проституція залишається у центрі уваги економістів, соціологів, криміналістів, громадських діячів. Необхідність державного регулювання проституції обумовлена багатьма факторами: мотивація учасників, зв'язок з кримінальним світом.

**Постановка проблеми.** У світовій практиці використовуються три основні моделі державного регулювання проституції. Ефективність державного регулювання проституції залежить від обраної моделі.

**Аналіз останніх досліджень і публікацій.** Дослідженню та порівняльному аналізу різних моделей державного регулювання проституції присвячено матеріали R. Weitzer, H. Wagenaar, S. Altink, A. Schloenhardt.

**Виділення недосліджених частин загальної проблеми.** Додаткового дослідження потребує вивчення практики застосування моделей державного регулювання проституції.

**Постановка завдання.** Метою статті є аналіз переваг та недоліків застосування моделей державного регулювання проституції.

**Виклад основного матеріалу.** У статті досліджуються основні моделі державного регулювання проституції у світі. На прикладі країн із різним рівнем розвитку розглядаються правові, економічні та соціальні аспекти проституції. На основі аналізу статистичних даних та вивчення експертних оцінок визначена ефективність заходів регулювання. Результати проведеного дослідження засвідчили в цілому низьку ефективність функціонування моделей заборони (криміналізації) проституції та змішаної (шведської).

**Висновки.** Результати досліджень вказують, що легальна проституція не є катализатором деструктивних процесів у суспільстві. Обґрунтована теза, що вибір моделі легалізації проституції більшою мірою відповідає потребам сучасного суспільства.

**Ключові слова:** державне регулювання; тіньова економіка; проституція; ефективність.

**Urgency of the research.** For many years, prostitution remains in the focus of economists, sociologists, criminologists and public figures. The need for state regulation of prostitution is due to many factors: participants' motivation, outreach to the criminal world.

We proceed from the fact that state regulation of prostitution is a deliberate influence of state authorities on the subjects of prostitution and their interrelations in order to achieve certain goals. The intensity of the processes of state regulation occurs under the influence of two main trends of social development: globalization; transformation of the role of religion in the society.

**Target setting.** The process of state regulation is based on the chosen model. At present, in the world practice, three main models of state regulation of prostitution are used. In the resource [1, p.10-13] the classification of models of state policy in relation to prostitution is presented.

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Taking into account that this classification is given in the scientific literature quite often, we consider it expedient to use its main points, which are grouped as follows: prohibition (criminalization); legalization; mixed (limited legalization). The efficiency of the prostitution state adjustment depends on the chosen model.

**Actual scientific researches and issues analysis.** The researches on this topic have been characterized by the pluralism of thoughts on the effectiveness of a particular regulatory model.

The works by Paul Bisschop Stephen Kastoryano, Bas van der Klaauw [2], Ronald Weitzer [3], Hendrik Wagenaar, Sietske Altink, Helga Amesberger [4], Andreas Schloenhardt & Lachlan Cameron [5] have been devoted to the research and comparative analysis of various models for state regulation of prostitution. We have used the materials of statistical, sociological and other studies on the research issues – 100 Countries [6], Country split on legalizing [7], Estonian Institute for Open Society 2005 and 2008.

**Uninvestigated parts of general matters defining.** Given the fact that supporters of different approaches make arguments in favour of their positions, the study of practical aspects in applying particular models of state regulation of prostitution requires additional research.

**The research objective.** The purpose of the article is to analyze the advantages and disadvantages of applying the models of state regulation of prostitution.

**The statement of basic materials.** The theoretical basis of our research is understanding of prostitution as a complex, socially sensitive type of entrepreneurial activity. The results of the research carried out [6], within the frame of which the legislation regarding prostitution in 100 world countries has been analyzed, has shown that in 61% of countries providing of sexual services is not forbidden. It should be noted that in many countries, where prostitution is formally prohibited, the attitude towards its manifestations is tolerant enough.

Prohibition Model (Criminalization). Its essence lies in the definition of prostitution as an unlawful activity and, consequently, its further prohibition. Given the socially dangerous nature of prostitution, the legislation of the countries using this model contains clear rules for the prohibition of its manifestations. Various types of this model are used in many countries around the world. In our opinion, its formation has been significantly influenced by religious beliefs. Gradually, the norms of religious law and morals have been transformed into public norms.

The most severe punishment for prostitution can be seen in the legislation of countries where religion plays a dominant role in the public life. For example, the Criminal Code of the UAE foresees a 1-year or more term of punishment for prostitution and a payment of fixed penalty [9]. Similar rules exist in Bahrain, Saudi Arabia and other countries.

Among the countries, in which religion does not play a decisive role in the society, a considerably strict liability is observed in the United States. For example, legal acts of Kansas [10] foresee an imprisonment up to 6 months and a fixed penalty of up to 1 000 USD. The Legislation of North Dakota is less stringent [11], imposing a punishment of up to 30 days of imprisonment and a fixed penalty of 1000 USD.

The analysis shows that in many countries, where prostitution is prohibited, the responsibility for such legal offense is, in fact, declarative.

For example, the Article 181-1 of the Code of Ukraine on Administrative Offenses [12] states that prostitution is punishable by a warning or by imposing a fixed penalty of five to ten tax-free minimum incomes. The same punishment for prostitution is provided by the legislation on administrative offenses of the Republic of Lithuania [13]. This model of state regulation is aimed at the fight against the offer of services. It is also advisable to agree with [16] that criminalization of prostitution creates antagonistic relationships between employees of the following sphere and employees of legal social institutions (for example, law enforcement agencies, medical institutions). As a result, prostitutes usually have limited access to health services and do not report offenses against themselves or others.

In 1999 the described above model was slightly modified by Swedish government. The Act on Prohibiting the Purchase of Sexual Services (SFS 1998: 408) has introduced amendments to the Section 6 of the Swedish Penal Code exactly on prohibiting the purchase of sexual services.

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Thus, the norms of the Criminal Code establish the liability in the form of a fixed penalty or an imprisonment of up to four years for individuals that buy or encourage casual sexual relations with another person in exchange for a fee or improperly use them for commercial purposes. This means that only buyers of sexual services are prosecuted, not those who are engaged in prostitution.

At the same time, in [15] it notes that it is not possible to solve this problem only by reducing the demand. An important element of the Swedish model is the implementation of initiatives on public support for the prostitutes who want to get another job. Moreover, the Swedish government has additional funding for educational programs in order to raise public awareness of prostitution.

The analysis of the results of implementation of this law, given in [15], have shown that over the period 1999-2005, the number of prostitutes in Sweden has dropped by 150 people to about 500 people. The research carried out [17, p.35] has proved that the volumes of street prostitution in Stockholm in 2008 were three times lower than in the cities of Oslo and Copenhagen. At the same time, starting from 2003 there has been a rapid increase in the number of criminal proceedings for violating the prohibition on the purchase of sexual services. The results of the following experiment have been determined as positive by the Government of Sweden.

A similar approach as for the changes in the legislation on prostitution has been used by Iceland and Norway, and it is quite popular in the United States. So, according to the results of the research carried out by YouGov (2015), the vast majority of Americans (74%) believe that the responsibility for breaking the laws against the sale of sexual services should be mutually exclusive. 18% of respondents believe that only clients should take the liability, while 7% consider the responsibility of prostitutes themselves. [20, p. 3]

However, in the report [17] it is indicated that evaluating the effectiveness of the Swedish model is quite a complex procedure. In our opinion, the practice of its functioning has shown the existence of some debating points.

First, we believe that the definition of individuals involved in prostitution as the victims of sexual violence is actually not correct. For a certain part of prostitutes, provision of sexual services on a paid basis is a conscious choice for them.

Secondly, the criminal liability of the buyer does not affect the further formation of his needs of a sexual nature. In this case, the prohibition on the purchase of sexual services in Sweden is offset by the increasing popularity of sex tourism to the countries where prostitution is actually and / or juristically legalized. Our own analysis has shown that within the geographical structure of outbound tourism in Sweden [18, p. 9] 82% go to Turkey (as prostitution is legalized there) and Thailand (the country with a tolerant attitude towards prostitution). In the period of 2005-2008, the growth rate of tourist flows from Sweden to the countries, where prostitution has been legalized or, in fact, not prohibited, has increased substantially. For example, in India, the tourist flow has increased by 105% (with an average growth of 53% in Asia), in Nigeria by 110% (Africa + 28%), in Thailand by 75% (South Asia + 66%) [18, p.10].

Thirdly, the researches proving a reduction of prostitution in Sweden include mainly the sector of street women's prostitution. Instead, there were other forms of prostitution left behind the topic – male prostitution, indoors sexual services, the Internet prostitution.

At the same time, the results of the National Survey of Swedish Citizens held in 2009 [17, p. 21] showed that 56% of young people with the experience in the sale of sexual services through the Internet are using it in order to find the buyers. This figure is three times higher than in 2004, when just over 16% of respondents identified the Internet as a way of selling sexual services.

Consequently, in our opinion, the above mentioned facts identify the controversy and inadequacy of the so-called efficiency of the "Swedish" model in prostitution regulation.

Legalization. The legislation of the countries, that have legalized prostitution, defines it as a form of legitimate economic activity.

The report [19] states that main reasons for the legalization of prostitution in the Netherlands are: control and regulation of the process of hiring employees into this activity with the help of municipal licensing system; protection of personal property rights and non-property rights of employees; protection from coercion to prostitution; protection of minors from sexual violence; reduction of the level of

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prostitution among foreign residents illegally living in the Netherlands; reduction of the level of mutual influence between prostitution and crime. The results of the survey among the USA citizens, conducted by YouGov in August 2015 (Tab. 1), showed that the main arguments in favour of decriminalization of prostitution were: reducing the level of state interference in the private life of citizens, the necessity of socialization and tolerant attitude to prostitutes.

We believe that legalization of prostitution also creates prerequisites for solving other problems: facilitation of social adaptation for individuals who stopped prostitution; increase of the revenue part of budgets of all levels due to the taxation of this type of activity; reduction of unemployment; raising the level of self-realization, economic and other types of human freedoms.

Table 1

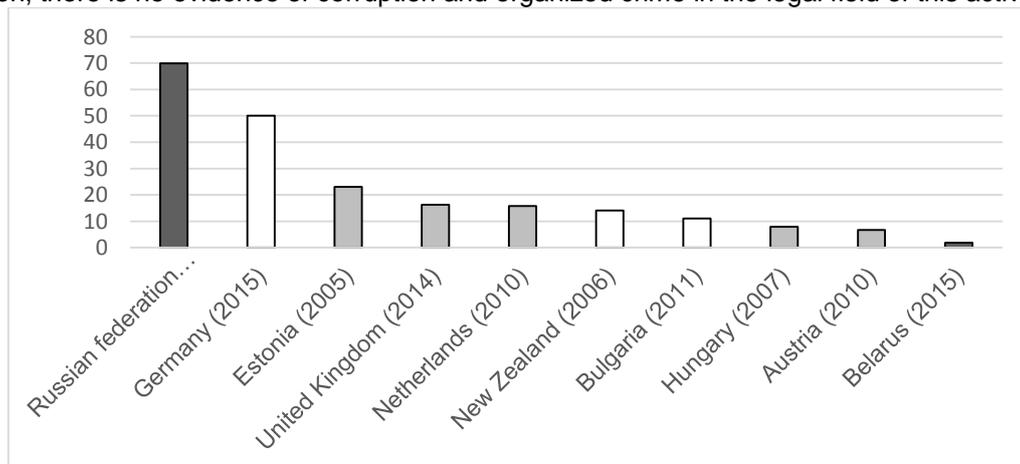
**Arguments in favour of decriminalization of prostitution**

Argument	Men, % of respondents	Women, % of respondents
voluntary sex between adults should be free of state interference	55	30
reduction of the level of negative perception of prostitution	38	31
the possibility to officially earn money	21	15
professional activity that can provide retirement and employment	22	16
simplifying the exchange of information about unscrupulous clients	33	29
none of the above	17	25
I do not know	11	20

Source: [20]

The process of legalization of prostitution is characterized by the presence of two opposite tendencies. In the countries with the established legalization of prostitution a rapid increase in the number of people employed in this area is observed, together with the growth in the number of illegal houses of debauchery, intensification of organized crime [21], the increase in the number of cases of human trafficking for the purpose of sexual exploitation.

It is estimated that 50% or more of female prostitutes in Denmark are victims of human trafficking [15, p. 20]. M. Farley also points out [22] that legal sexual business creates places where sexual exploitation and violence against women take place with impunity. Legalization, in fact, does not contribute to creation of real prerequisites for the change of workplace among individuals engaged in prostitution. Still, there is another point of view as for the problem of legalization of prostitution. In the 2004 report [27] it is concluded that Queensland (Australia) has a safe and effective business model for prostitution, there is no evidence of corruption and organized crime in the legal field of this activity.



**Fig. 1. The number of prostitutes per 10 thousand of citizens (excluding prostitutes who work outside the country)**

Note: black – prohibition; gray – mixed; white - legalization

Source: calculations are based on [4, p. 27; 8; 19; 23; 24; 25; 26]

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In the 2004 report [27] it is concluded that Queensland (Australia) has a safe and effective business model for prostitution, there is no evidence of corruption and organized crime in the legal field of this activity. It also indicates the minimal impact of legal brothels on the society. In summary, the above mentioned information is provided in the following resource [28].

The results of the research [29] have proved that 84% of the polled sex workers who are legally working in Nevada (US) feel safe, and they have not been subjected to commerce or forced into prostitution.

Quite interesting, in our opinion, is the study completed by Devin Bowen [30] as for the impact of prostitution on the level of crime. The statistical data of 34 member countries of the Organization for Economic Cooperation and Development for the period of 1990-2010 has become the information base for the research conducted. According to the results, legalization of prostitution, in general, will not have a negative impact on the number of violent crimes. Also, the results have shown that in the countries, where the average annual income per person is from 35684 USD, legalization of prostitution is accompanied by the increase in the number of crimes committed. However, in economically underdeveloped countries, where the average income per person ranges from 12512 USD per year, legalized prostitution promotes reduction in the number of registered crimes. It should be noted that taxation and other proceeds from prostitution can be a significant source for the budget revenues at all levels.

The analysis of Nevada's income from prostitution [31] indicates that through its legalization 20000 USD of federal taxes per one working person in this area can be generated annually. In its turn, the legalization of prostitution does not mean the absence of its state regulation. In Austria and Netherlands, prostitution, as a type of activity, is governed by the principles of observance of public order, as well as health and financial responsibility [4, p. 48].

Mixed model (limited legalization). This model involves the following elements: legalization of individual prostitution and / or lack of responsibility for the provision of sexual services on a paid basis; prohibition on the functioning of specialized objects, where paid services of a sexual nature are provided; prohibition of mediation institution (pimping). Among the countries using the mixed model of prostitution regulation are Bulgaria, Brazil, Estonia, India, Kazakhstan, Malaysia, Hungary, the Czech Republic, Japan, and others.

Considering the fact that the distinctive features of this model from the model of full legalization are mostly formal, the further liberalization of the prostitution legislation will be possible. This is confirmed, to a certain extent, by the data of sociological surveys. For example, according to [8], about 60% of the male population of Hungary agrees with the need to legalize prostitution.

**Conclusions.** The results of numerous researches confirm the thesis that legal prostitution is not a catalyst for destructive processes in society. Instead, its criminalization does not affect the social and economic background of the existence of prostitution, does not fight the reasons that actually force people to choose this type of activity, and only deepen social stratification.

The analysis of legislation in European countries testifies to the gradual decriminalization of prostitution. This is explained by the low effectiveness of criminalization and intensification of the influence of public authorities on this area as a result of some preventive measures, reducing the shadow economy component. In our opinion, these facts indicate the lack of advantages of a mixed model and a prohibition model. Their application (with the exception of the United States and the countries in which religion is defined as the basis of social existence) does not imply real responsibility, but it promotes development of the shadow economy in prostitution and related spheres. In addition, obvious advantages of the legalization model have not been used.

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