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An empirical examination of prostitution policies
throughout feminist perspectives.
The Swedish, German and Italian cases

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*Dedicated to my family
Nicola, Angela and Andrea*

Abstract

For years, feminism has been questioning the symbolic and political significance of prostitution, without finding a unified consensus on the position to be taken with the phenomenon. Moreover, in recent years, the attention of the feminist and women's movement has grown to legislative policies that governments undertake to regulate prostitution. In this research we have chosen to focus on three European countries, Germany, Sweden and Italy, as examples of three different political regimes, neo-regulation, neo-abolitionism/neo-prohibitionism and 'classic' abolitionism. The research shows a growing 'globalization of feminist thinking' which, on the one hand, has freed the range of possibilities to be considered in the management of prostitution from the limits of geographical partiality and, on the other hand, risks losing sight of the influence of specific factors in each country.

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Foreword

This premise briefly clarifies some choices made in this thesis. We have explained them in order to keep in mind the complexity of the chosen issue and, at the same time, draw the necessary boundaries as clear as possible.

What kind of prostitution?

According to the International Encyclopaedia of Social Science 'Prostitution involves an exchange of sex for money or other material compensation. The most common type of prostitution involves women who provide sex to male customers' (Weitzer, 2008, 559). A very broad definition that contains all the nuances of the phenomenon. However, when we talk about prostitution, we can start by dividing it into heterosexual, homosexual and transgender prostitution, which already present different specificities.

Among the fields of heterosexual prostitution, we find very different cases around the planet, from exploited Nigerian ladies held in a state of semi-hostage by criminal organisations to those Eastern girls often induced and/or exploited by their own partners, up to those who claim to be self-determined sex workers and the so-called escorts. Again, from the prostitution of substance addicts, who carry out this activity in order to buy or in exchange of drugs, to the cases of those homeless women for whom the very act of selling sexual services is the only available way to earn necessities such as food and shelter to survive; or from those who carry out this activity to supplement the earnings from their main job to those who live entirely from sex work. We also include in the category of prostitution both 1) the act of young students selling their performances in order to pay off their studies and social

life, and 2) the infamous constant of underage girls lured and abused by adult men. Another fundamental pillar of prostitution lies in the phenomenon of sex tourism, for which people who go to poorer countries buy sexual services. Often men look for very young girls, and especially for minors, though also women look for young men. Homosexual prostitution involves sexual services between same sex people, who are not necessarily homosexual in everyday life. In this case we find mainly male prostitution: men who pay for having sex with other men. Here we have adult men paying other adult men, even though the demand for minors is still present. Prostitution for transgender women also considered more or less self-determined. However, in this case prostitution often becomes the only profitable activity granted in a society in which it is still difficult for them to find a job because of structural and legal discriminations, social stigma, lack of social support, rejection by friends and family, etc. Moreover, this dynamic has an impact on self-recognition and the need to play a role in society. In addition to providing economic income, prostitution can confer a social role for transgender people.

Risks are also different among these three different forms of prostitution. The greatest risk for women is physical and sexual violence; for men it is HIV transmission and other sexually transmitted diseases (STD); while for transgender women danger hides in an increase in the likelihood of homelessness, violence, drug use and contracting HIV (Moorman and Harrison, 2016).

Thus, in order to deepen 1) the topic of heterosexual prostitution it is necessary to keep in mind the structural dynamics of gender and power present in different societies. Similarly and in addition to the above, in order to deepen 2) the topic of homosexual prostitution we must also take into account discrimination on the grounds of sexual orientation, while in order to deepen 3) the topic of transgender prostitution we must expand the phenomenon of discrimination to the shores of gender identity. Certainly, all these different kinds of prostitution come from same societies; from a binary and hetero-normative gender order, but there are different in which different discriminations intertwine with each other, further complicating their overall character and reach.

In order to reduce this complexity, research focuses on the most common type of prostitution: heterosexual prostitution between adult women as sellers and adult men as customers. By 'adults' we mean people of legal age.¹ We exclude child prostitution because – even if it still exists – it is forbidden everywhere in the world. The Convention on the Right of the Child² (1989) synthesises a global feeling and ethic that considers child prostitution an evil to be eradicated.

Nevertheless, such divisions do not smooth out the general complexity of the topic. Another distinction made in the field of prostitution is between indoor and outdoor prostitution. The first category includes all forms of prostitution that take place indoors: brothels, apartments, private residences, clubs, etc. We define prostitution as outdoors when the contact between buyer and seller takes place on the street (even if sexual services generally take place in a closed environment, like a car or an hotel room). A distinction that, even though it appears to be merely locational, actually involves profound differences 1) in terms of advantages and disadvantages for the people involved, 2) in terms of tolerance of the phenomenon by society, and also 3) legislatively speaking (Danna, 2001a; Czarnecki et al., 2014).

Street prostitution may seem to present the worse risks and conditions. Let us just think about the unpredictability of the weather, the lower prices, the chances of being seen and recognised, while also being mainly exposed to violent attitudes by third parties. However, it may instead be indoors, far from everyone's eyes, that women find themselves in a greater state of vulnerability towards customer behaviour: times get stretched and, once the door is closed, what happens inside becomes more difficult to predict. This is why some scholars assume rigid stratifications of prostitution filling each category with different characteristics (Monroe, 2005); others entail a high level of fluidity since we can find the same women in different settings and environments, simultaneously or sequentially (Kramer, 2004). It seems that, for society, indoor prostitution is easier to accept than outdoor prostitution. Public opinion is always subject to bad feelings ensuing from both moral concerns and

¹Consent validity for sexual intercourse is usually extended to minors as well, while consent for the act of proper prostitution requires the attainment of 18 years of age, though sometimes the necessary age is required to be even higher.

²See [The Convention on the Right of the Child](#).

issues of public order and land degradation. Lastly, States can prohibit both, can allow one and not the other, can regulate both in the same way or in different ways.

However, in the face of the impossibility of establishing clear and fixed boundaries over time in prostitution, in this research we consider both, indoor and outdoor heterosexual prostitution.

One of the most contentious issues in the world

Prostitution has ancient roots and has always been controversial. It is a phenomenon that has survived through all societies, while getting modified by and adapted to their changes: even with the liberalisation of sex, we still find prostitution all over the world. Thus, before the re-emergence of prostitution as an issue on the public agenda, all prostitution manifestations were deeply entangled with States, which have always tried to control the phenomenon ([Outshoorn, 2004a,b](#); [Wagenaar, 2018](#)).

States have always tried to prohibit, control and manage the phenomenon of prostitution through legislative policies whose principles have been transformed and modified over time. Nowadays, legislation on prostitution still varies greatly from country to country, due to the foundational, local perceptions of the phenomenon, which are very discordant from one another.

We focus on heterosexual prostitution even if some of the highlighted aspects shall be easily generalised to the whole phenomenon. In sociology we find three different approaches to the phenomenon of heterosexual prostitution: functionalist, sociocultural and feminist ([Järvinen, 1993](#)). The functionalist approach is outdated, while the sociocultural approach does not take into account prostitution as a gender issue ([Järvinen, 1993](#)). The theoretical frame will be one of feminist descent as a choice of stance that cannot ignore a careful consideration as well as a reflection upon the subordination and discrimination dynamics that the female gender still experiences compared to the male gender. Moreover, as we see in [chapter 1](#), feminist approach on prostitution has nowadays become so wide and heterogeneous. This variety allows us to capture the many nuances of the phenomenon while keeping in

mind its gender specificity.

This study goals are three. The first one is 1) to assess whether and how feminist perspectives on prostitution affect empirical debates on prostitution policy in three different countries: Germany, Sweden and Italy.³ Then, investigating what feminist debates exist on the effects of implemented policies, it makes possible to show both, 2) which current feminist debates are present in their country and 3) whether there have been changes over time. Thus, it will be possible to highlight understandings and/or disagreements in the policy debate between different actors, and especially between actors with different feminist stances.

Indeed, although prostitution touches a key area in feminism, that of sexuality, we know little about the role that feminists and feminist knowledge play in shaping policies on prostitution. In 2004, Outshoorn determines 'whether the women's policy agencies bring the prostitution issue into the policy arena and promote feminist framing(s)' in twelve different countries (Outshoorn, 2004b, 2). Afterwards, because the 2002 German law and the Swedish law aim at improving the situation of women in prostitution, historian Dodillet (2013) has defined both of them feminist laws. In 2015, Euchner and Knill (2015) provide an overview of the regulation of prostitution in nineteen Westerner European Countries between 1969 and 2010. Erikson (2017) analyses the Swedish case in depth, but ends her feminist analysis with the introduction of the law in 1999. According to Heying (2018a), the 2002 German law was the result of also a 20 years of huge work of the 'whore movement'. More recently, Euchner (2019) shows us that, in the field of prostitution, NGOs and sex workers' organization have been involved in the implementation of the policy guidelines. However, these analysis do not go into the contents of the different debates and how these have changed over time. Thus, this research goes one step further the previous ones. It describes and considers in more detail the different nuances of feminist debates, positioning them geographically and historically. Furthermore, this collocation highlights feminist divergences, but also their flexibility and unexpected meeting points. Thus, this study fills this gap for the three study countries. Last but not least, this study present one of the first very reconstruction of the Italian

³The choice of case studies will be detailed in Chapter 2 on the study approach.

case from the Merlin Law to 2019. In addition, the use of English also for the Italian case allows access to broader readers.

Understanding feminist debates and their evolution is important for several reasons. a) First because feminists can be one of the third-party actors involved in the policy debate. Important actors due to their attention to the gender specificity of the phenomenon. b) Then because the lack of precise and reliable data on prostitution in every country provides a free and convenient cognitive space for projecting individual ideologies (Doezema, 2010), also and especially in feminisms. Language is a powerful tool. Debates shape public understandings and perceptions of different phenomena. Thus, understanding debates behind and after law endorsements is crucial since they guide new prostitution policies (Wagenaar and Altink, 2012; Wagenaar, 2018). c) Moreover, because the lack of consensus within feminist and women's movements makes it complicated to assess the achievement of feminist goals in policies on prostitution (Outshoorn, 2004a). The existence of very different feminist positions does not allow us to establish at a glance whether a prostitution policy is also an expression of feminist contributions. It is necessary to deepen the debates country by country as well as policy by policy.

In order to answer the research questions, in this study, the opinions of privileged feminist observers on their current national legislation have been explored in depth. This choice to combine feminist theoretical/political reflection - sensitive to the gender specificity of the phenomenon - with empirical knowledge of the phenomenon in the study context. These in-depth studies are carried out both through the analysis of written texts and through semi-structured interviews.

This dissertation consists of six chapters. Following this introduction - which will briefly highlight the evolution of policies on prostitution, as well as existing disputes and gaps - Chapter 1 seeks to frame the feminist contribution to the subject. It highlights the heterogeneity of existing thoughts and shows how they can be traced back to two more general antithetical positions. It explains the policy models that the different schools of thought stand for and explores how these have influenced both the international and European tools in the field of prostitution. Finally, it

highlights the influence of policies on public's attitudes. Chapter 2 explains in detail the method, analysis tools, people involved, ethics and limitations of this study. Chapters 3, 4 and 5 present respectively the cases of Germany, Sweden and Italy. Chapter 6, reflecting on the comparison of the three case studies, shows the strength and weakness of 'globalization of feminist thinking'.

Classic prostitution regimes

Since it is not possible to dive into detail with regard to all the practical policy variations that each country has implemented over the years, we therefore need to proceed through macro-models. In fact, despite the specificities of different legislations, scientific literature has identified certain 'policy regimes': general models to which the laws of the various States can be traced on the basis of their main characteristics. To better understand its evolution, we shall first proceed with a brief follow-up on the three 'classic'/'traditional' regimes: prohibition, regulation and abolitionism.

Prohibitionism, or 'the criminalisation stance' as some scholars might define it, refers to prostitution as illegal, criminalising the whole field: sellers, related activities, sometimes even buyers. According to them, prostitution is an immoral act contrary to the Christian principles and therefore an evil to be eradicated (Shaver, 1985; Barry, 1995; Danna, 2001a; Garofalo, 2014). Although in a context of total criminalisation, women pay the highest price, being considered the temptresses of men's extramarital sexual activities, a direct threat to marriage (Danna, 2001a). Overall, the prohibitionist model is considered bankrupt as it does not act on the causes of prostitution, rather solely on its manifestations. Besides, still unable to limit prostitution (de Vries, 2000), its effects are: 1) to force the phenomenon underground, 2) to decrease the numbers of requests for help and medical care for women, and 3) everything that ultimately ensues from these two aforementioned effects. This model, while failing to combat prostitution, also intensifies discrimination against women (Jenness, 1993; Garofalo, 2014).

Regulation, or 'the legalisation stance' as some scholars might refer to it, accepts

the existence of prostitution as a necessary evil with some indispensable social functions. Originally developed to ensure easy military access to prostitution (Barry, 1995), it aims at eliminating prostitution from the streets by establishing State-regulated brothels (Danna, 2001a; Garofalo, 2014). Those who support this model propose it as the best solution to serve the interests of both society and the women involved in prostitution. In addition to resolving public order issues, it would provide women with a safe and legal working environment (Shaver, 1985). Supporters believe that regulation 1) protects the health of customers (men) through regular checks on the women involved in the act of prostitution; 2) reduces rape by making some women available for sexual services; 3) reduces prostitution and organised crime by making brothels legally available; and 4) hides prostitution away from the people who are annoyed by it: nothing more than idealised patriarchal justifications (Barry, 1995). Unsurprisingly, this old kind of regulation has also been widely criticised. State's brothels have created additional discrimination and stigmatisation for women who, once embroiled in prostitution, cannot longer escape (Walkowitz et al., 1982; Shaver, 1985). This could implement various other forms of women control, for example through the establishment of prostitute registers and compulsory health control. And, above all, these aspects are applied just to women, while not a word is spoken against buying men (de Vries, 2000). These unilateral obligations are indicative of a widespread thought that identifies women as guilty of the existence itself of the evil of prostitution (Danna, 2001a). Many women in these types of regulatory systems have described them as an equivalent to a state of slavery (Shaver, 1985; Pocchiesa et al., 2008).

Abolitionism, though varying in its implementations, decriminalises prostitution itself by shifting attention to the activities associated with it (exploitation, management of brothels, induction, recruitment, facilitation, primacy, etc.) (Danna, 2001a; Garofalo, 2014). According to the abolitionist theories, any condition of prostitution is a violation of human rights. The goal are social reforms that would promote women's political influence and improve their social conditions, so that they would no longer be forced to resort to prostitution to earn a living. This is why abolitionism does not penalise either women nor men: on the contrary it refuses to

acknowledge the existence of a single actor who, out of profit, facilitates and regulates prostitution (Barry, 1995; Danna, 2001a). For a subtle analysis of abolitionism, it is necessary to specify the existence of two distinct schools of thought present within. One wants to eliminate the practice of prostitution for the sake of the women involved in it. It affirms no woman would ever choose a life of prostitution had her been presented with alternatives, just as no one would ever choose a life of slavery (Danna, 2001a; Showden and Majic, 2014). The other does not recognise prostitution itself, but recognises the possibility for women to exercise this activity autonomously (Danna, 2001a). Thus, prohibition and regulation condemn both prostitution and the people involved in it. Abolitionism, while condemning prostitution, does not condemn the people involved in it. On the contrary, it considers them to be victims of the system. As we shall see better in the next chapter, this approach stems from feminism. However, it has also been widely criticized in more recent times. In short, those who hoped for an end to prostitution were disappointed and those who consider prostitution a job find in abolitionism no rights for sex workers. Relevant and supportive critics of the new prostitution regimes.

Birth of new regimes

Since the end of the 1970s – with the increase of international tourism, migration, changes in the sexual mores and the rise of AIDS – prostitution has come back at the top of the political agenda in many post-industrial democracies (Kilvington et al., 2001; Outshoorn, 2004b). After that, since the mid-1990s, there has been a new wave of legislative changes in the field of prostitution. Just to mention a few countries which have changed their legislation in the last 20 years, we find Sweden in 1999, the Netherlands in 2000, Germany in 2002 and 2017, New Zealand in 2003, Finland in 2006, Norway and Iceland in 2009, Canada in 2014, Northern Ireland in 2015 and France in 2016. This has given rise to new approaches, which replacing the previous ones.

In the 1990s, a new form of regulation regime, or legalisation, was born in the Netherlands based on the concept of prostitution as a women's right, marking

a sharp distinction between ‘free’ and ‘forced’ prostitution (Barry, 1995; Danna, 2001a). Legalising States not only accept the existence of prostitution, they also recognise it as an economic and social space (Garofalo, 2014). The idea is to recognise prostitution as work, sex work. Thus, regulation provides for a set of rules, laying down very specific conditions after which prostitution is possible (Phoenix, 2009). The logic behind it is no longer to control and limit a perceived evil, but rather to recognise the rights of people within sex trade: an idea which was impossible to imagine merely a century ago.

Furthermore, a neo-prohibitionist or neo-abolitionist (as the same creators claim) regime based on the criminalisation of customers came in sight in Sweden. This new regime further convolutes power relations in prostitution, limiting the responsibility for the act to those men who buy sexual services, for without demand there would be no supply (Danna, 2001a; Erikson, 2017). Prostitution there is regulated by the Penal Code (Skilbrei and Holmström, 2013), among the pages of which the focus of criminalisation has shifted completely. In previous regimes either 1) both the actors involved were criminalised; 2) or just the woman, 3) or neither. Never before had exclusively the customer (a male in most cases) been criminalised.

In the 2000s, decriminalisation, or non-regulation, appears in New Zealand. There, there are no special laws on prostitution, which is considered an ordinary job like any other (Geymonat, 2014). The prostitution system is only regulated by health and safety legislations (Phoenix, 2009). However, there are restrictions on migrants. Indeed, in New Zealand it is not possible to obtain a VISA for any kind of work related to prostitution. It should be pointed out that, in order to legally enter the prostitution market, it is necessary to already possess a residence permit for employment purposes (Östergren, 2017b). This last requirement is present in all countries that recognise prostitution as a job, including those with neo-regulation regimes. Since the prostitution market is deeply tied with the trafficking of human beings for the purpose of sexual exploitation, States do not want to promote trafficking and sexual exploitation, nor do they want to facilitate a prostitution market growth. Thus, acknowledging it as a social space just because prostitution exists does not erase the awareness of the phenomenon particularities and specificities.

The decriminalisation can therefore be total or partial (Phoenix, 2009).

Thus, new models have evolved from previous ones making terminology and meanings more complex. As we have seen, regimes definitions are not clear by literature. Each regime has more than one name and sometimes the same term means different things. Since that, Östergren (2017a,b) has recently suggested a new classification, eliminating the difference between 'classic' and 'new' regimes. However, her classification is not neutral and it results from a biased stance on the phenomenon. Coming from a liberal school of thought, she recognises the commerce of sex, distinguishing three general types of policy: repressive, restrictive and integrative. Synthesizing, the repressive type aims at completely suppressing the phenomenon in order to protect society and/or those who sell sex. It prohibits the sale and/or purchase of sexual services and third-party facilitations. Restrictive policies seek to regulate prostitution in a very detailed manner, always in order to protect society and/or those who sell sex. It imposes specific conditions on sex trades (for instance: zoning laws, registration systems, prohibiting third-party involvements, etc.). The integrative type instead drags the phenomenon into a legal dimension in order to protect those very people selling sex. It integrates the prostitution sector into societal, legal and institutional frameworks (Östergren, 2017a,b).

In view of this, many scholars agreed that focusing excessively on 'models' or 'regimes' could be dangerous since they seem to hide more than they detect (Wagenaar and Altink, 2012; Skilbrei and Holmström, 2013; Wagenaar, 2018). Prostitution remains one of the most contentious policy areas among European politics, alongside a growing demand for sharing the best practices of governance across countries (Skilbrei and Holmström, 2013; Crowhurst and Skilbrei, 2017). Moreover, a recent international exploration on the topic of prostitution policies brought forward by different European projects shows that maybe it is not useful to find the 'best model' as many try to do. The comparative work done by the projects' members had steered away from the goal of identifying one specific model to be transposed indiscriminately across Europe. They believe that, in order for a law to be a good law, first of all it must be sensitive to the specificities of the contexts in which it is applied, and above all especially to the people involved (Crowhurst and Skilbrei,

2017).

Why is the issue of prostitution policies so controversial?

Every European country has a prostitution law. They are very different from each other and just that alone requires explanations (Cairney, 2011). However, despite a growing attention in recent years, public policies have generated much less academic attention. Although there is still a lot of work to be done on the subject, literature on prostitution policies is still scarce and controversial (Wagenaar and Altink, 2012; Skilbrei and Holmström, 2013; Crowhurst and Skilbrei, 2017; Wagenaar, 2018). The difficulty in drawing clear boundaries in between different models and, consequently, in attributing universal characteristics and meanings to them reflects the complexity of the subject matter. Furthermore, a few scholars have analysed the most trivial aspects of prostitution policy such as agenda-setting dynamics, policy implementation policies, selection of policy instruments or the undesirable consequences of regulatory measures on the people concerned (Allwood, 2018). Lastly, despite the many different attempts made by the States to respond to the phenomenon of prostitution, the ‘best practice’ does not seem to have been identified yet (Skilbrei and Holmström, 2013). Or, at least, there is no agreement on which one can be considered as such, not even among feminists. This diversity of approach is both intricate and complex, dividing not only society at large, but the women’s movement too (Danna, 2004a).

In practice, legislation may refer to different models. The German Federal Law of 2002, for instance, could have brought Germany under a decriminalisation regime. However, a number of other administrative regulations have since given rise to a more regulatory set of laws. Similarly, new forms of regulation do not necessarily improve the rights of the people involved in prostitution. For instance, if the first objective of a neo-regulatory policy is to curb the phenomenon, that very policy may discriminate those involved more than an abolitionist regime would, which instead - by definition - struggles for prostitution abolition. Likewise, countries may therefore have similar objectives while choosing different regimes or, on the contrary, have

fundamentally different objectives while sharing the same basic legislative framework (Phoenix, 2009). Thus, in a wide range of prostitution laws, bringing a policy back to a regime tells us little about that particular case.

Moreover, the impact that economic and social transformations have on these policies is significant. In particular, the close relationship between migration and prostitution is a real challenge⁴, and the picture is further complicated by the connections that prostitution entertains with the practice of human trafficking. Concerns about sex trafficking and its eradication has become a political priority for European countries and, despite some distinctions, laws on prostitution are inextricably connected with the urgency to fight exploitation (Della Giusta and Munro, 2008; Skilbrei and Holmström, 2013). However, despite this connection, nowadays, prostitution policies are entirely left to the jurisdiction of individual States, which can decide which regime they prefer (Allwood, 2018; Outshoorn, 2018). Thus, there are many differences among the human rights of those involved in prostitution across different countries (Wagenaar and Altink, 2012). On the one hand, it is understandable that the EU has a policy on a transnational phenomenon such as human trafficking, yet it lacks an official stance on prostitution, which remains more a matter for Member States to individually decide upon (Outshoorn, 2018). On the other hand, the EU's competence is not something static and has expanded to such an extent that prostitution can be included among its concerns (Allwood, 2018). Likewise, while it is true that highly controversial issues are often discarded from the EU agenda, which prefers policies concerning a greater consensus (Princen, 2011), it is also true that other controversial issues have been dealt with by the Union. Indeed, the European competence has been laid down in the Treaties, yet it is still subject to interpretation. Thus, there often emerge attempts to cross its borders and to frame issues so that they can be covered. Prostitution is one such phenomenon: the European Parliament avoids the debate on it (Allwood, 2018).

Also, we must not forget that prostitution, along with the lives of the people

⁴Since the end of the 1990s, prostitution has mostly become migrant because the stigma and poverty in which people involved in it find themselves leads them to move from their place of origin. Movements facilitated by the globalization phenomenon and the entry of an increasing number of countries into Europe and the Schengen area.

involved in it, is also affected by many other policies (Della Giusta and Munro, 2008; Skilbrei and Holmström, 2013), like the ones on taxation, licensing laws, drugs criminalisation and anti-social behaviours (Crowhurst and Skilbrei, 2017). In addition, the stigma doesn't only marginalise the people involved in prostitution, but also conditions legislative choices, policies and intervention practices (Wagenaar, 2018).

Furthermore, prostitution policies can be a case of so-called morality policies. This because they include decisions on fundamental principles such as human dignity, individual freedom, public order (Euchner, 2019) and health. Prostitution policies often reflect moral/ideological ambitions of policymakers and/or dominant actors (Wagenaar and Altink, 2012; Skilbrei and Holmström, 2013; Wagenaar et al., 2017). In addition, morality policies also stimulate conflicts over society's values, mobilising third-party actors more easily than other type of policies (Knill, 2013). Indeed, especially at the local level, in the field of prostitution, NGOs, religious welfare organizations, sex workers' organization, and, sometimes, owners of prostitution facilities have been involved in the implementation of the policy guidelines (Vermeulen and Persak, 2014; Euchner, 2019).

Finally, although prostitution touches a key area in feminism, that of sexuality, their role in shaping policies on prostitution is rather underexplored. We know little about the role that feminists and feminist knowledge play in decision-making and political debate. This phenomenon is puzzling, since among third-party actors (NGOs and other organizations) we also find feminists. As we shall see in the next chapter, the issue of prostitution divides both feminism and the women's movement itself. Together with surrogacy, prostitution is a widely discussed topic and central to the division of feminists. They either disagree on how to interpret the phenomenon and on what is the specifically feminist approach to the issue (Erikson, 2017). Theoretically, these controversies in the feminist debates has been noted. However, we know very little about how these divergent perspectives manifest in empirical debates on prostitution policy and in the debate on policy effects.

Chapter 1

Feminist perspectives on prostitution

Vision requires instruments of vision; an optics is a politics of positioning.

Donna Haraway, 1988

As stated in the foreword, the subject of this study is heterosexual prostitution. We talk about women which, in numerous parts of the world, lack support for the basic functions of human life and do not enjoy full legal equality. Women are less healthy and nourished than men, plus it is more difficult for them to afford an education and even rarer to obtain a professional training. Moreover, even in countries where equality is guaranteed by law, women still experience numerous forms of discrimination. They have more difficulties in accessing the labour market and are more discriminated against within the market itself. They have a lower life expectancy even when in good health, they get ill more often and are exposed to male violence. Women have little presence in prominent positions, have lower status and power than men, and as a result, have less power in the social, economic and political arenas (Nussbaum, 2000). Therefore, it is necessary to keep in mind the gender-related difficulties that women face in their lives. Not by chance, even with the increasing visibility of men and transgender people in the sex industry, gender inequality remains evident in regard to numbers, pay and discrimination (Kempadoo, 1998).

Moreover, as we see in this Chapter, international prostitution instruments are largely influenced by feminist movements. Gender difference in the perception of the prostitution phenomenon is the only cross-cutting aspect found among the studies of public opinion (Cotton et al., 2002; Kuosmanen, 2011; Jakobsson and Kotsadam, 2011; Immordino and Russo, 2015; Jonsson and Jakobsson, 2017). Thus, we clarify feminism's contribution on prostitution and its legislative implications.

1.1 *Feminisms and prostitution policy*

Prostitution remains a particularly interesting case through which to study relationship between the feminist movements and women's policy agencies, since they are deeply divided on these issues. The influence of feminist thinking on the complex and varied debate over prostitution began in the second half of the Nineteenth Century (Outshoorn, 2004b). Women had to wait until the beginnings of their own movement in the 1960s to experience a serious growth of popular attention regarding the phenomenon (Kilvington et al., 2001; Outshoorn, 2004a). However, even nowadays there is no firm agreement among Feminisms. They either disagree on how to interpret the phenomenon or on what is the specifically feminist approach to the issue (Erikson, 2017). Feminism has fought against the double sexual standard, which allows men sexual freedom at the expense of women (Outshoorn, 2004b). Therefore, feminist theories on prostitution concern the project of re-appropriation of female sexuality, which is considered to be the fulcrum of male domination (Selmi, 2016). However, starting with common critics of women's prostitution as an activity that reflects the subordination of women in society, feminism has developed different approaches. It is an ideological disagreement on the role of prostitution in society as well as the role of women involved in prostitution (Erikson, 2017). Let us summarize here below the most important feminist thoughts.

Radical feminists consider prostitution as a violation of women's rights, both a cause and a consequence of patriarchy. An evident symbol of commodification¹,

¹To 'commodify' means treating or considering something 'as a commodity, as a product that can be bought and sold' (Cambridge Dictionary). Through commodification, a person is treated as a thing, not perceived as a whole with its own worth but possibly divided in 'parts' that can be

exploitation, commercialisation and reduction of female beings as dehumanized objects. In their perspective, prostitution is a form of sexual slavery, reproducing gender inequality rather than reducing it (Millett and Bossi, 1975; Barry, 1995; Bromberg, 1997; Simmons, 1998; Kesler, 2002). Radical feminists consider women in prostitution as being compelled by social circumstances and believe that the involvement of women in prostitution is always a question of mere necessity deriving from their marginal position in a male values dominated society (Bromberg, 1997; Simmons, 1998). Gender inequality, violence against women and poverty limit women's choices, pushing vulnerable women towards entering prostitution. Radical feminists acknowledge that not all women in prostitution undergo the same degree of control and coercion, yet firmly defend the idea that the relationship between female prostitute and male customer is always uneven. According to them, women in prostitution fail precisely because of their claim to separate body and mind: the basis for the commodification of the female being is the separation of body and mind (Barry, 1995; Pateman, 1988; Davidson, 1998). According to Danna (2001b), an ethical construct tied to the commodification of women's bodies is the 'second paradox of prostitution': even if unintentionally, every woman in prostitution reinforces the objectification of all women, nullifying the construction of a female subject free of male sexual desire, as well as hope for a world in which people - women included - do not have a price. By reinforcing the dichotomy between men-subjects and women-objects, prostitution keeps all women in a subordinate position (Selmi, 2016). According to radical feminism, prostitution should be eradicated. This school of thought main principles are all about changing men's attitudes and foster social equality (Bromberg, 1997).

According to Marxist feminism, prostitution is a case of alienation: women in prostitution are oppressed workers who strengthen a capitalist system of exploitation (Bromberg, 1997). Gender analysis is therefore accompanied by class analysis. Prostitution becomes a form of oppression produced by the social and material conditions in which women live (Selmi, 2016). Even though women are active 'used' and 'commercialised', while human relationships are turned into contracts (Marway et al., 2014).

subjects, they are pushed into prostitution by different levels of coercion (Davidson, 1998). According to Marxist feminism there are two layers of exploitation: first, the body becomes a commodity, then the person loses complete and independent control over her own newly commodified body (Bromberg, 1997). Women give into this kind of exploitation precisely because of the structural conditions in which they find themselves in. Therefore, as a classist and sexist occupation, prostitution must be eradicated (Davidson, 1998; Selmi, 2016). However, they do not seek a specific legal remedy to the phenomenon: by eliminating capitalism, prostitution will disappear (Bromberg, 1997).

Socialist Feminism puts together gender and class discriminations shifting focus on women. According to this thought, sexuality is intrinsically connected with identity and therefore prostitution can only produce irreversible damages to the people involved in it (Bromberg, 1997). In addition to individual damage, prostitution promotes and reinforces the existence of low-ranking human relationships. It distorts intimacy and pleasure (Kesler, 2002; Selmi, 2016). Thus, prostitution has a negative connotation and should be eliminated. However, again, this approach does not seek a legal remedy, but it focuses on the social structure that causes prostitution. If the social structure changes, prostitution will disappear (Bromberg, 1997).

Existential Feminism sees prostitution as the opposite of marriage. It recognises the possibility for some women to emancipate themselves from the institution of monogamy. Some women are trying to take advantage of it and achieve a certain degree of independence. By indulging in physical activities with many men then they do not belong to any of them. Furthermore, gained incomes allow economic autonomy. To some extent, money rebalances inequality: sex is not 'taken' but paid for. According to de Beauvoir (1953), women in prostitution feel integrated into a society that requires their services: there will be women in prostitution, as long as prostitution exists. However, since female prostitutes always depend on male desire in this asymmetrical relationship of money and power, even those who are free to choose cannot break the system of exploitation. Even if the women involved in prostitution are not subject to men, they still need both them and their desire to earn a living. It is just a temporary mean to obtain/increase incomes, to

which women themselves often remain enchained. Thus, prostitution should not be eradicated (Bromberg, 1997), although it should not be considered a regular job.

Materialist feminism considers prostitution as just one form of the bigger ‘sexual-economic exchange’ between women and men. In such an exchange, women provide a service or performance and men provide a fee or a salary. A gigantic mockery based on the most complex, widespread and enduring class relationship in human history: the disproportionate concentration of wealth in males’ hands with the consequent endemic economic dependence of women (Tabet, 2014). According to them, societies have specific ownership rules for women. These rules are the pillars of family, reproduction and the overall relationship between the sexes. Prostitution is the transgression, the disruption of these rules. Therefore, all of the different definitions of prostitution are nothing more than debates on whether the use of one women’s body and sexuality is legitimate or not. Stigma becomes a price to be paid by the person who shows the rules of this game: every form of this exchange is not natural but the product of a society that discriminates against women. Thus, according to materialist feminism, prostitution can be considered exactly a job like some other (e.g. care work, reproductive work, etc.) (Tabet, 2014).

Liberal feminism – which includes the voice of those who define themselves as sex workers – considers prostitution as a service, as a job (Jenness, 1993; Bromberg, 1997). An activity that supports gender equality by promoting women’s rights by allowing women to do what they want with their bodies (Nikita and Schaffauser, 2009). Women in prostitution are conscious decision-makers, they are fully active in the choice of prostitution. According to them, the structural conditions that produce gender, class and racial inequality occupy a marginal position (Kissil and Davey, 2010). Some of them report knowing that prostitution is one of the consequences of the oppression of women in society. They are also aware of the needs imposed by gender discrimination both in workplaces and in poverty stricken areas, but they believe that free women in prostitution have the power to negotiate service and payment (Simmons, 1998). Some also point out that, due to the pervasiveness of women’s oppression, different jobs are not that much better at all (Danna, 2001a). In addition to pro-sex workers’ right activists, women who declare themselves to

be sex workers by choice strongly agree with this line of thought. In the 1970s, in the USA, the first sex workers' organisation was born. Subsequently, in 1985, the first International Congress of Prostitutes was held in Amsterdam, during which the 'Declaration of the Rights of Sex Workers' was written. In this document the prostitutes declare that they do not sell their bodies: they rather use them to enhance sexual performance. What they sell is sexual pleasure. They also believe that power comes from physical seduction (Nikita and Schaffauser, 2009). They call for recognition, rights and protection just like every other worker (Sapio, 1999).

The complexity of several nuances of feminist approach is even more complicated since feminists can identify themselves with a general approach without fully committing to its every precept. Moreover, they can recognize themselves in a thought that draws from two or more different perspectives (Bromberg, 1997). However, keeping ourselves aware of this complexity, it is still possible to identify two opposing ideological approaches. This division, which began in the Sixties, has often been referred to as the 'feminist sex wars' (Duggan and Hunter, 2006). Different scholars have assigned different names to these two opposing groups: Sexual Equality First vs. Free Choice First (Jolin, 1994), Sex Positive Feminists vs. Anti-Sex Work or Abolitionists (Lerum, 1997; Wahab, 2002), Prostitutes Rights vs. Feminists Against Systems of Prostitution (Simmons, 1998), Radical Feminists vs. Sex Radicals (Scoular, 2004), Social/Marxist vs. Radical feminists (Monroe, 2005), Oppression paradigm vs. Polymorphous paradigm (Weitzer, 2010), and Abolitionist position vs. Normalization position (Outshoorn, 2004a; Showden and Majic, 2014; Erikson, 2017). The main question dividing these two groups of feminists is: whether women involved in prostitution are either coerced victims of a system which makes them vulnerable or just entrepreneurs and empowered women (Jolin, 1994; Simmons, 1998; Lerum, 1997; Scoular, 2004; Weitzer, 2010). Thus, it would be a question of establishing whether equality is either 1) an emancipation from male sexual oppression (seeing women in prostitution as victims) or 2) a freedom of choice (seeing women in prostitution as workers) (Jolin, 1994). Consequently, debates rage on over whether the solution is the abolition of prostitution or its legalisation/regulation/decriminalisation.

1.2 Why feminist sex wars?

Even nowadays the feminist debate is still heated and polarising (Erikson, 2017; Wagenaar, 2018) Moreover, this ‘war’ makes it difficult to assess the goal achievements of the various feminist actors (Outshoorn, 2004a).

In the feminist sex wars there are three different disputes over 1) the commodification of women’s body, 2) the rhetoric of ‘it is - or it is not - like any other job’ and 3) the contrasting views on exploitation and free choice, used by the two opposing positions to criticise or to support prostitution.

Commodification of women’s body

According to abolitionists, prostitution constitutes a specific and self-evident case of commodification. Considering mind-body bonds essential,² the objects of sexual-economic transactions are not body-goods, but the person per se, completely alienated from the property of itself (Davidson, 1998). The dispute over commodification is also linked to the one of sexual objectification. The latter, first formulated by Kant in the *Metaphysics of Customs* and subsequently deepened over the years by feminist thought, indicates the reduction of an entire human being to a mere instrument of another person’s desires. In this case, women become a sexual object. According to MacKinnon (1989), women constantly live through sexual objectification. For them it is impossible to escape the daily experience of objectification. Because of its pervasiveness, it is difficult to conceptualize it, while at the same time it is not easy to resist it. Experiences of sexual objectification also promote self-objectification which, in turn, intensifies the impact of subsequent further episodes of objectification³

²The analysis of the relationship between body and soul, conceived as interacting entities, begins with Aristotle who defines the soul as an ‘act of the living body’. Just because the activities of the soul are also activities of corresponding parts of the body, the first proof of their bond is found (Aristotele, 1996). Merleau-Ponty (1942) believes that the relationship between body and soul becomes clear as soon as the body is recognized as the bearer of its own dialectic. According to him, the body has a fundamental function in the knowledge of what surrounds us. It is the ‘lived body’ that inhabits the world: a presence that pervades everything, that allows access to the world of things and that leaves its mark on everything we do. An analysis that will see mind and body increasingly considered as two articulated and interacting entities in the psychosomatic complex, becoming the cornerstones around which the human personality is built (Downing, 1995).

³According to Volpato (2014), objectification is one of the multifaceted forms of dehumanisation. It is an instrument of social and psychological oppression and it can be expressed in explicit or subtle

(Volpato, 2014).

Supporters of normalisation positions argue that prostitution does not commodify neither women nor their body. In their view, people in prostitution use their own body to offer a service. Thus, supporters leave the dispute over the commodification of the body and sexual objectification, shifting the focus to the topic of work. For them, prostitution can be part of 'emotional labour' or 'care work', jobs for which care and feelings are required, commodified and commercialised, such as psychotherapy, child care, etc. People involved in prostitution are able to distinguish intimacy and love from the sexual act itself, just like the therapist is able to separate her work from her private life (Nikita and Schaffauser, 2009; Chapkis, 2013). If work is a service that is given in the context of the supply/demand relationship, sex can also be considered as work. Moreover, in capitalism, prostitution can be a better option than unpaid work (e.g. housewife), the countless poorly paid jobs or bare unemployment (Heying, 2018b). Some authors also point out that sexuality is generally complex for women. Based on the supposed obligation to satisfy male desires, for most women the sexual act itself becomes a form of work, whether they are involved in prostitution or not (Federici, 2012; Tabet, 2014). They also try to challenge this tendency to essentialise the people involved in prostitution with a specific cultural construction of femininity: these people are not only women (Kempadoo, 1998). In response to this last aspect, abolitionists claim that men and transgender do not change the gender pattern of prostitution because they usually serve men. Thus, their role is often feminine (Pheterson, 1993).

'It is - or it is not - like any other job'

As mentioned above, regarding the whole rhetoric of 'it is - or it is not - like any other job', supporters of sex work think about it as any other form of work (Jenness, 1993), or wage labour, such as 'emotional labour'. Thus, women in prostitution are

ways. Dehumanization comprises seven dimensions: instrumentality, denial of autonomy, inertia, fungibility, violence, property and denial of subjectivity. The author considers instrumentality one of the most dangerous. Because the individual serves a purpose, becomes 'attractive' to anyone interested in that purpose. In this way the dehumanized individual is approached and not distanced (as it usually happens) from further processes of dehumanization.

paid for their time and skills to offer warmth, affinity and desire (Chapkis, 2013). The opportunity of receiving payment for sexual services is seen as a manifestation of individual freedom. Prohibiting prostitution would mean denying the woman's right to effectively decide on her own body (Nikita and Schaffauser, 2009). According to them, abolitionists are hypocrites for saying that they reject the institution of prostitution and not the people involved in it. By fighting the system, abolitionists are stigmatising the people involved and complicating the conditions in which this activity takes place (Pheterson, 1993). In addition to that, if there lies exploitation in the prostitution industry, as in any other job or unregulated market, we should struggle for better working conditions, rights and benefits (Kempadoo, 1998).

On the other side, as mentioned above, abolitionist question the nature of this activity. In addition to that, authors against prostitution argue that, if selling sex is supposed to be considered as any other regular working activity, and the people involved in prostitution are supposed to be considered as regular workers, then why do the supporters of this conception demand for this activity to be regulated differently from all other jobs? (Ekman, 2013) (e.g. the employer cannot decide the total amount of work hours, the kind of services, the number of customers, etc.). Another fundamental aspect in this critique concerns the notion of 'alienation'. Although acknowledging that some forms of wage labour may provoke different degrees of alienation, Pateman (1988) believes that these are not comparable to prostitution. While line workers use factories machineries - material things - to make the final product of their work (a concrete object), in prostitution, women employ a part of their own body to allow the sexual act. Thus, talking about selling sexual services is a distortion since the sexual organ cannot be used without its physical presence, or without its subordination.

Exploitation and free choice

Among the contrasting views on exploitation and free choice feminisms have not agreed yet upon these concepts. If 'involuntary prostitution' is within a more or less stringent system of exploitation/coercion, 'voluntary prostitution' should correspond

to a free and self-determined kind of prostitution. However, the boundary between what can be defined as ‘voluntary’ and ‘involuntary’ is often so thin as to make its identification complex. For example, can a choice be identified as such, even if it is not forced by a third party, but related to compelling needs or the lack of any other possible alternative? A question to which we have no answer and to which we cannot give a definite answer. It opens up to subjective ideological positions, in which each one starts from her/his own idea of choice and freedom. According to [Arendt \(2006\)](#), it is not possible to answer the question ‘Are individuals really free to choose?’ once and for all. If, according to the common sense, will is free, science knows no free will. Even if acting beings individually feel free, in practice, action always takes place within a context within other actions and events. Circumstances that have influenced choices and actions become clear to everyone as we stop acting and start examining what we have done. Thus, for [Arendt \(2006\)](#) both hypotheses are legitimate. As [de Beauvoir \(1953\)](#) provocatively writes, we should not ask ourselves why prostitution exists, rather why should it not exist. If there is a role in society, there will always be someone willing to follow it: people integrate into the society that requires their services. Therefore, as long as there is prostitution, we will have women in prostitution.

Using [Arendt \(2006\)](#), the abolitionists embrace the position of ‘science’. They consider the social, cultural and political context in which prostitution takes place more relevant than the individual choice. Prostitution is an exploitative industry that profits from women’s bodies ([Ekman, 2013](#)). Following their perspective, prostitution has to be considered as a form of access to and use of women’s bodies by men ([Pateman, 1988](#)). Judith Butler writes: ‘My body, as socially structured in public life, is and is not mine’ ([Butler, 1996](#), 46). On the one hand, the author legitimises those women’s claims on autonomy and right over their own bodies. On the other hand, she recalls the inevitable public dimension of the body. If the body implies mortality and vulnerability, women are way more politically constituted by the social vulnerability of their body than any other class or group, as they are constantly exposed to the possibility of violence. No amount of money could ever compensate the use of a woman’s body, employed as a mere mean to satisfy others’

sexual desires. Secondly, this approach questions the notion of ‘consent’, asking how should we assess the voluntariness of a woman’s decision. In their analysis, they take into account dynamics of physical, psychological, cultural, social and economic coercion, manipulation, control and influence (Ekman, 2013; Marway et al., 2014). That line of thought does not only apply to prostitution. More generally, the philosopher Nussbaum (2000) focuses on understanding people’s hopes, desires, aspirations, motivations and decisions, with particular attention to the condition of the female gender. She has paid much attention to the social norms and traditions that form women’s preferences and influence their aspirations and choices. According to her, freedom requires the necessary conditions to exercise it. If circumstances influence people’s inner lives (what they hope for, what they love, what they fear, etc.), as well as their external choices, a person can consider herself satisfied with her condition for many reasons that surpass the concrete presence of well-being. This last aspect has an even greater impact on the life choices of women because of the greater conditions of disadvantage and impotence that they experience in their daily lives compared to men. In other words, disadvantaged groups perpetuate their disadvantage by internalising their status.

On the other hand, those who support sex work embrace the ‘common sense’ position. They argue that, since a woman’s body is her property, she owns the right to use it for whichever purpose she aspires to. In the pro-market approach, the expression of a person’s free will is based on a free, valid, informed consent. Allowing women to sell sexual services means respecting the individual along with their intentional choices, which are considered autonomous, capable of undertaking contractual agreements and responsible for the consequences of their conscious decisions. Supporters of normalisation position believe that abolitionists consider women into prostitution as not capable enough as to speak for themselves or to determine their own lives: women in prostitution are viewed either as either victims of the prostitution system or as its very collaborators. Thus, they are not considered an ally in the struggle for survival and liberation. Supporters instead consider the practices of prostitution as sites of ingenious resistance and cultural subversion where women make active use of the existing sexual order (Nikita and Schaffauser, 2009;

Chapkis, 2013). They are aware of the disadvantageous conditions of women in society, but this is still the society in which they live and make choices. Considering them victims of themselves rather than of the system keeps them in a condition of greater subordination. Thus, from this point of view, claiming that sex work could be a choice was a major step forward. Some authors also reject the distinction between 'free' and 'forced' prostitution developed in response to who saw all prostitution as abusive. Voluntary/forced dichotomy pushes women involved in prostitution again into guilty/voluntary and innocent/forced paradigms. This 'reinforces the belief that women who transgress sexual norms deserve to be punished' (Doezema, 1998, 42). Thus, supporters overturn the abolitionist assumption that there is no self-determination in prostitution, pointing out that different people can give different values and meanings to their sexual lives (Kempadoo, 1998; Selmi, 2016).

Both positions recognise prostitution - as we know it until today - as a product of patriarchy. Women, unlike men, are included in the 'Madonna'-'whore' dichotomy. On the one hand we have the 'wives and mothers', while on the other the 'whores': categories born from the division between reproductive sex and sex for pleasure. Obviously both feminist positions would like an end for this split. The question still hangs between the right to self-determination and the right to be free from prostitution. Abolitionists claim the right to be sexually free, without being deemed as 'whores'. The others, the right to also be 'whores' in being sexually free.

In conclusion, although focusing on different aspects, the multiple feminist positions previously synthesized can still be brought back within the two macro-positions (Table 1.1)

Abolitionist position	Normalisation position
<ul style="list-style-type: none"> - Radical feminism - Marxist feminism - Socialist feminism - Existential feminism 	<ul style="list-style-type: none"> - Materialist feminism - Liberal feminism - Sex Workers

Table 1.1. Feminist position in the prostitution debate

1.2.1 Abolitionist and Normalisation position

The two previously described positions have different origins and developments. The abolitionist position has originated in Great Britain in 1860 from a popular movement led by feminist Josephine Butler. She founded the International Abolitionist Federation, in which the condition of women in prostitution was seen as an almost-kind-of slavery (Danna, 2001a; Bindel, 2017). It aimed at the abolition of prostitution regulation, not of prostitution itself: laws prohibiting or regulating prostitution should be abolished while laws against pimping and procuring should be strengthened. For abolitionists the latter force women into prostitution or prevent them from escaping. They reject State intervention for regulation, since its main legislations would only advantage male customers, completely ignoring the seller's side of the issue. Abolitionism refuses the dual morality existing for men and women regarding sexuality. It condemns both patriarchy and social institutions as the real factors responsible for the existence of prostitution (Barry, 1995; Danna, 2001a).

Such position formed the foundations for the 1949 UN Convention⁴ legislated against pimping, brothels, and trafficking (Barry, 1995; Danna, 2001a; Bindel, 2017). Thanks to abolitionism, most European 'State brothels' were shut down in the first decade of the Twentieth Century, favouring laws which criminalised prostitution related-activities rather than the specific people involved in the activity (Outshoorn, 2004a).

Moreover, within this stance we also find the movement of the so-called 'survivors of prostitution': women (or women's organisations) who have left the prostitution market and who are fighting for the abolition of the system.⁵

⁴Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which amends four previous international agreements/conventions: (1) International Agreement of the 18th of May 1904 for the Suppression of the White Slave Traffic; (2) International Convention of the 4th of May 1910 for the Suppression of the White Slave Traffic; (3) International Convention of the 30th of September 1921 for the Suppression of the Traffic in Women and Children; (4) International Convention of the 11th of October 1933 for the Suppression of the Traffic in Women of Full Age. It was approved by the United Nations General Assembly the 2nd of December 1949 and entered into force the 25th of July 1951. See the [1949 UN Convention](#).

⁵In 1985 the first 'Women Hurt in Systems of Prostitution Engaged in Revolt' group was born (currently known as [Breaking Free organization](#)). Yet, among the largest, we find: [Coalition Against Trafficking in Women](#), born in 1988; [Standing Against Global Exploitation \(SAGE\)](#), born in 1992; [Survivor of Prostitution Abuse Calling for Enlightenment \(SPACE\)](#), born in 2012; etc. In the international movement, we then find [Coalition Abolition Prostitution \(CAP\)](#) International

Therefore, this position was born and developed by putting aside State control, leaving the possibility to choose to the individual actors directly involved in the exchange. At the same time, this approach called for a more general cultural change that would promote equality between women and men. If prostitution is the expression of the subordination of the female gender to the male gender, once equality has been achieved, it would have disappeared or would have been reduced to completely derisory numbers. However, this did not happen. We cannot affirm yet with full certainty that in an equal society, prostitution will disappear. Nowadays, no country in the world has achieved gender equality.⁶ However, we can say classic abolitionism has failed its purpose: it has failed to put an end to prostitution. At the same time, through the processes of globalisation, this approach has often proved insufficient to cope with the increased human traffic related to sexual exploitation. From classical abolitionism failures, the underlying ideas of neo-abolitionism or neo-prohibitionism have then developed.⁷ The blame for prostitution existence shifts from the more general patriarchal society (Barry, 1995; Danna, 2001a) to individual men buying sex (Erikson, 2017). Anyone who buys sex is criminalised because, by doing so, they guarantee the existence of prostitution, as well as its growth. Consequently, for abolitionists, models of regulation or decriminalisation approve prostitution and reinforce its existence. Such approaches send the message that, in some places and circumstances, 1) it is possible to consider women as a commodity and 2) that prostitution is an harmless form of entertainment (Raymond, 2004).

To sum it up, as summarised in Figure 1.1, the abolitionist stance nowadays includes two different policy regimes.

(composed of 27 member organisations), [European Women's Lobby](#) and [Equality Now](#).

⁶See [The Global Gender Gap Report 2018](#).

⁷Even in this case the terms are not used in a neutral manner. The model of criminalisation of sex buying is defined as neo-abolitionism by those who conceived it and who support it. Thus, they place the accent on the ideology at the base of the model which, precisely, is the same as that of classic abolitionism. The model is instead defined neo-prohibitionism by those who are against it. This way, the accent is placed on the practical aspect of the sanction which refers, precisely, to a model based on deterrence and which has already failed in the past.

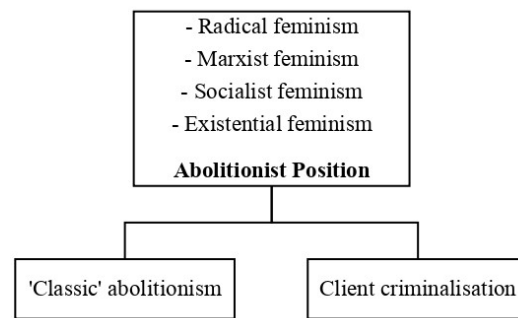


Figure 1.1. Policy regimes of abolitionist positions

The normalisation stance was born almost one hundred years after that of abolitionism (Duggan and Hunter, 2006) and it contains all the individual positions of those who believe that personal rights take precedence over social good concerns. They divide into 1) those who consider prostitution a civil right by asking for an identical, equal treatment to the one they would expect working any other job and 2) into those who consider it as a civil right even though it should not be encouraged (Bromberg, 1997; Showden and Majic, 2014). They aim at legalisation by a regulation which guarantees rights for the people involved in prostitution while normalising sex trade, or by removing prohibitive articles in criminal codes (Outshoorn, 2004b). Nowadays the second case is more frequently called decriminalisation. According to this position, the underlying abolitionist principles are one-dimensional, paternalistic and hypocritical, limiting women's self-determination (Pheterson, 1993; Weitzer, 2010). Those who support the normalisation stance argue that prostitution is more heterogeneous than what abolitionists want to show. For them, prostitution is experienced as an integral part of many people's lives around the world, and not necessarily as the sole defining activity around which their identity is shaped. Moreover, this activity is not always stable and is often carried out alongside different other jobs at the same time. It can also be quite short-lived: very few people stay in prostitution for their entire adulthood. In most cases, individual wealth is not the ultimate decisive factor, but rather the family well-being or survival.

For many women, prostitution means migration from their hometown or country. For others, it is associated with substance use, indentureship or debt-slavery. For the

vast majority of them, being involved in prostitution means living a marginalized life (Kempadoo, 1998; Plumridge and Abel, 2001; Harcourt and Donovan, 2005). Thus, although exploitation and other harms are certainly present in the prostitution industry, they put their attention on the differences between those who sell sex and the overall changes through space, time and political economies all across the industry (Monto, 2004; Weitzer, 2010). Supporters analyse contexts to show how limiting the abolitionist analysis really is. They carry on the idea that it is not the activity itself that is the problem, rather the context and conditions in which it is carried out. In addition to that, supporters believe that laws and attitudes against prostitution 1) deprive the people involved in such activities of dignity and social participation, 2) tolerate hypocrisy in customers, and 3) anticipate violence from the pimps. According to them, legal, social and psychological authorities should take into account women's consciousness regarding prostitution issues instead of excluding them (Pheterson, 1993; Doezema, 1998). Within this position we also find the sex workers movement composed by people involved in prostitution and pro-prostitution market activists.⁸

To conclude, as summarised in Figure 1.2, normalization position nowadays includes two different policy regimes.

⁸The beginning of a self-identified prostitutes' movement is inscribed within the establishment of the prostitute organization 'Call Off Your Old Tired Ethics' (COYOTE) in San Francisco in 1973. In Europe, two of the best known organisations today are 'The European Network for the Promotion of Rights and Health among Migrant Sex Workers' (TAMPEP), a network that unites many sex workers' organisations across Europe, and the 'International Committee on the Rights of Sex Workers in Europe' (ICRSE), a network of sex worker organisations and their allies that work together to support the development of national and international law, policy and practice, which respects and upholds the human and labour rights of sex workers throughout Europe and Central Asia.

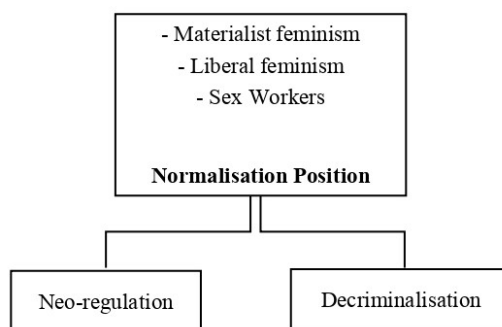


Figure 1.2. Policy regimes of normalization position

1.3 International and European instruments: links with sexual exploitation

According to several scholars, the abolitionist and normalisation positions have often influenced international and European instruments on prostitution. Moreover, as we shall see below, these documents are closely linked to the fight against the exploitation of sexual traffic.

At an international level, the 1949 United Nation (UN) Convention – which was based on the principles of abolitionism (Barry, 1995) – strongly condemns prostitution:

[...] Prostitution and the accompanying evil of human traffic for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community [...]. (Preamble).

After that 1949 Convention, prostitution issue abated for a time (Doezema, 1998). Then, as gender specificity got recognized at the 1979 UN Convention⁹ - the main legally binding text on women’s rights – States called in for measures to be taken in order to suppress exploitation of prostitution. The Convention uses the same wording of the 1949 Convention, but when Morocco introduced an amendment

⁹Convention on the Elimination of All Forms of Discrimination against Women. Adopted by General Assembly resolution on 18 December 1979 and entered into force on 3 September 1981. See the [1979 UN Convention](#).

1.3 International and European instruments: links with sexual exploitation 29

for adding the suppression of prostitution (without the word exploitation), it was rejected (Doezema, 1998). This shows that 30 years later, there was no longer any agreement between States on what prostitution actually was. Since the mid-1980s, there has been a new wave of campaigns against women traffic, sex tourism and child prostitution. Thus, prostitution has returned back at the top of the international agenda. However, since then, most of the international instruments only refer to *forced* prostitution (Doezema, 1998). The 1993 Declaration¹⁰ and the 1995 Platform for Action approved by the Beijing Conference¹¹ only mention the fight against forced prostitution. Could that mean they are imagining *voluntary* prostitution? Not exactly.

According to Doezema (1998), since the rights of sex workers were not mentioned in the draft document, it was impossible to introduce them at the Conference. Thus, sex workers' right supporters could only limit abolitionist language. In addition, always according to the 1995 Platform for Action, prostitution remains an encouragement factor of women traffic. However, the sex work supporters' strategy does not resolve the ambiguity. If mentioning forced prostitution could mean that not all kinds of prostitution should be suppressed, there would remain no definition of 'exploitation'. Consequently, there could be no consensus among States on this definition (Outshoorn, 2004b). The same problem lies into the 2000 UN Protocol¹². This Protocol mentions 'the exploitation of the prostitution of others'. Two clarifications might suggest the recognition of voluntary prostitution: the presence of the word 'exploitation' and the clarification given by the word 'others' – which does not include the exploitation of oneself. However, under no cases is the presence of voluntary prostitution clarified (Nanni and Carchedi, 2019).

At the European level, all the relevant directives¹³ have followed the same line

¹⁰Declaration on the Elimination of Violence against Women. See the [1993 Declaration](#).

¹¹The Platform for Action is a document adopted at the IV World Conference on Women held in Beijing on 4-15 September 1995. It stated that women's rights are human rights. It remains the most relevant and consulted political text by women around the world to this day. See the [Beijing Declaration and Platform for Action](#).

¹²Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. Adopted by General Assembly resolution the 15th of November 2000. See [the 2000 UN Protocol](#).

¹³97/154/GAI; 2002/629/GAI; 2004/81/CE; 2011/36/UE.

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of the UN. There is a strong tie between human traffic and the exploitation of prostitution, the latter of which is recognised as a gender-specific phenomenon, but nothing is specified on prostitution (Nanni and Carchedi, 2019). According to Outshoorn (2018), the European Union (EU) has first confronted the issue of prostitution in 1981, considering it a violation of human rights. Subsequently, the EU has considered the existence of prostitution as a ‘further form of exploitation of women’, ‘calling attention to the hypocrisy of those societies which condemn and penalise prostitutes, while their ‘clients’, who are ultimately responsible for the prevalence of this phenomenon, have neither slur, nor stigma, nor prosecution to fear’. However, at the same time, it refers to prostitution as a ‘profession’ (Official Journal EC,1986. No. C176, 81).¹⁴ In 1989, the EU has condemned prostitution without any further clarification (Official Journal EC,1989. No. C120).¹⁵

In 2001, the Court of Justice recognised prostitution as an economic activity when carried out autonomously.¹⁶ On the contrary, the European Parliament (EP) voted a resolution on the 26th of November 2009 on the elimination of violence against women. It states that ‘prostitution tolerance in Europe leads 1) to an increase in women’s trafficking into Europe for sexual purposes, and 2) to sex tourism’ (European Parliament, 2009). Later, despite the cyclical re-emergence of the subject debate, it was only in 2014 that a third resolution on prostitution was approved.¹⁷ This resolution refers to ‘prostitution and forced prostitution’. It sees both as a cause and a consequence of gender inequality, two forms of slavery incompatible with human dignity and fundamental human rights. It calls on Member States to adopt the criminalisation of the purchase of sexual services. However, the resolution was widely criticized: 560 NGOs and 94 academics asked to reject

¹⁴See EC,1986. No. C176.

¹⁵See EC,1989. No. C120.

¹⁶The case was presented by two Polish and four Czech citizens. They were refused a residence permit for employment purposes in the Netherlands, in Amsterdam, in order to carry out prostitution. The court ruled that ‘prostitution is an economic activity pursued by a self-employed person [...] where it is established that it is being carried on [...]: outside any relationship of subordination concerning the choice of that activity, working conditions and conditions of remuneration; under that person’s own responsibility; and in return for remuneration paid to that person directly and in full’ (Court of Justice of the European Union, 2001, 34).

¹⁷European Parliament resolution of the 26th of February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)). See P7_TA(2014)0162.

it.¹⁸ Anyway, resolutions are part of the recommendations and these acts are not binding on member States. Again, according to [Outshoorn \(2018\)](#), the clarification of the ‘exploitation of prostitution’ might suggest that the existence of ‘voluntary’ prostitution is recognised. However, what if it is just a compromise? In a context of strong ideological disagreement, clarifications over ‘forced’ prostitution could represent the necessary compromise for the approval of those directives that allow to intervene on the conditions of serious exploitation. Without such distinction, even exploitation would remain unregulated. Therefore, this choice is not necessarily tied to the recognition of a ‘voluntary’ kind of prostitution (never explicitly mentioned in any directive), but rather to a first step towards actually combating crime upon which all parties are in agreement to oppose. The idea of compromise is supported by [Doezema \(1998\)](#). According to her, since there was no agreement about ‘voluntary’ prostitution, the consensus on ‘forced’ prostitution has come into being. Those who wish to eliminate prostitution can be satisfied by the fact that the worst abuse is being fought, and those who recognise prostitution as a regular job are relieved that this right is not threatened.

Anyway, over the years, the most common strategies used to bring prostitution under the EU competence have been gender sensitive: associating prostitution with exploitative sexual traffic; with gender inequality; with violence against women, considering it as a consequence of economic crisis/poverty/social inequality ([Allwood, 2018](#)). The idea of prostitution as a job has never prevailed in the EP and some scholars claim that pro-sex work organisations have always been silenced ([Allwood, 2018](#); [Outshoorn, 2018](#)). Despite several attempts, the most common justification used to silence prostitution issues is that they fall outside the competence of the EU: a choice that, according to [Allwood \(2018\)](#), is neither passive nor accidental, but active and institutionalised.

In the meantime, growing signs are showing that the European countries are heading towards the direction of customers’ criminalisation. After the Swedish implementation, Norway, Iceland, Northern Ireland, the Republic of Ireland and France have implemented the same model, although with some differences from

¹⁸See the [Letter](#).

a country to another. That being said, there are countries which have regulated and integrated prostitution as a legal – even if particular – economic sector: the Netherlands, Germany and Austria. In view of the above, the three European case studies mentioned in this thesis title were chosen as specific examples of the broader policy regimes covered by feminism (see Fig. 1.3).

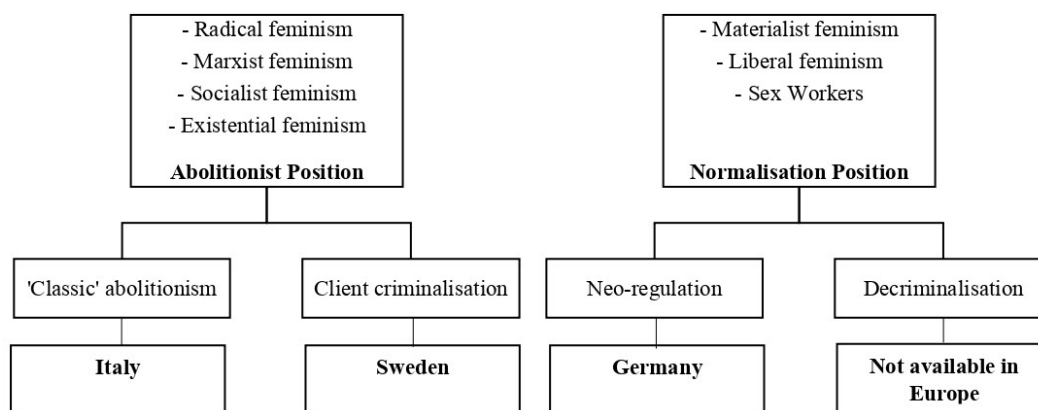


Figure 1.3. Policy regimes and case studies

In the next chapters we investigate whether and what contributions have been made by feminisms. However, further investigation is useful first. As said, the lack of data on prostitution provides a free space for projecting individual ideologies (Doezema, 2010), which then shape and guide prostitution policies (Wagenaar and Altink, 2012; Wagenaar, 2018). At the same time, implemented policies seem to influence public debates. We have learned from several studies that laws on prostitution affect people’s attitudes: most of public judgments tend to be in line with the type of law in force (Kuosmanen, 2011; Jakobsson and Kotsadam, 2011; Kotsadam and Jakobsson, 2011, 2014; Immordino and Russo, 2015; Jonsson and Jakobsson, 2017). Even if the necessary knowledge in this area is still sparse (Kotsadam and Jakobsson, 2011), it is evident that laws may affect attitudes (Della Giusta and Munro, 2008; Della Giusta et al., 2009). This last aspect makes the deepening of this research even more relevant. The policies on prostitution chosen by a country do not only affect the lives of the people involved in the phenomenon, but also the majority of the rest of the population. If the living conditions of people involved in prostitution are in themselves sufficient to demand attention for the policies chosen,

the impact on the rest of the population makes it a wide-ranging political issue. It is not a question of legislating for a minority of the population, it is a question of influencing the construction of the future values of an entire society. Moreover, in a logic of mutual influence, the thoughts of a population will influence future legislative actions. Below, then, analysing existing studies, we see how policies influence the population. In addition, these studies also show how socio-economic and religious factors are not relevant to the perception of the phenomenon. The only relevant factor appears to be the gender. This confirms the need for a gender approach to the phenomenon of prostitution.

1.4 Mutual influence between policies and opinions

Public opinion has also often spoken out on prostitution and, over the years, public debate has focused on four different aspects. For some people, prostitution is a social problem, leading to territorial degradation, public disturbance, extramarital sexuality, sexually-transmitted diseases, etc. Others believe it is a positive phenomenon, providing a sexual market for some women who do not have alternatives. Others focus instead on those psycho-physical consequences ensuing from prolific sexual intercourses on women's bodies and minds. Then we have women being described as sex workers, focusing on sex work as an employment (Danna, 2004a).

We know that, in democratic societies, public opinion is an expression of the will of the people: thus it needs to be considered by policy makers when shaping decisions that will influence social life. It is frequently cited by political leaders in order to publicly legitimate their policy proposals (Burstein, 1998; Baldassarri and Gelman, 2008). Generally speaking, the more salient the policy issue, the stronger public opinion impacts the policy (Burstein, 2003). Prostitution is an issue where opinions, ideology and values are particularly salient in the debate. It is a controversial topic that touches upon fundamental value conflicts as gender equality, human dignity, individual freedom, free will/choice, health, etc. We know that, the responsiveness of policy makers to public opinion has not weakened over time (Burstein, 2003). While most of the findings reviewed by Burstein (2003) were based on a single Nation,

the United States, research on other countries has presented results illustrating a certain synergy between policy and public opinion. Moreover, as said, debates are stronger over prostitution issues because laws rarely change despite new relevant data (Wagenaar, 2018).

The public debate has grown over the last years while, at the same time, the number of studies bringing together the attitudes of the population toward prostitution have increased. In a comparative study from Stack et al. (2010), more than 45,000 people in 32 nations were included. Results indicate that 74% of the attitudinal variations towards prostitution happens at the individual level, while 26% of these variations happen on a National level, where one's sense of feeling and/or judgment absorbs the major shifts happening all over the surrounding socio-cultural, economic and political environment. Compared to different outcomes modelled with hierarchical models, 26% is quite high, suggesting that a much higher-than-average share of attitudes towards prostitution is shaped by the national context (Stack et al., 2010). Furthermore, cross-nationally, religious importance is associated with more conservative attitudes towards female prostitution. People with an higher level of education show more open attitudes, and whereas older people and women have more conservative attitudes toward prostitution, people who are more financially satisfied hold more liberal orientations. The main thesis of Stack et al. (2010) relies on Inglehart¹⁹ explanation of values systems currently existing in the main countries: in countries showing high levels of survivalist orientations, people tend to condemn prostitution, while where self-expressionist values prevail prostitution is more culturally tolerated.

National cultural systems have been classified along a continuum that draws on the opposite ends of the spectrum survivalism and self-expressionism (Inglehart and Baker, 2000). Survivalist culture places an emphasis on material security.

¹⁹Ronald Inglehart and his colleagues have collected data on the cultural dimensions of nations during four waves of their World Values Surveys (Inglehart and Baker, 2000; Halman et al., 2007). From this body of work, there are several principal findings. First, as nations undergo the process of industrialisation and modernisation, their cultural systems tend to shift in a predictable manner from a concern with physical and economic security to post-materialist values. Second, there is a secondary variation in such changes. The secondary variation can be partially explained by location in a set of eight culture zones of the world including Orthodox, Confucian, Protestant Europe and former Communist Europe.

Until recent centuries, world history has overwhelmingly been a battle for survival. Famines, disease pandemics, wars, droughts and other problems contributed to a widespread sense of insecurity for most people. In response to these material conditions of economic and political insecurity, there is a relatively high chance that the societal cultural system will tend towards the survivalist mode. At the other end of the survivalist versus self-expressionist cultural continuum rests the culture of individualism, or self-expression. Self-expressionism represents post materialism and taps a syndrome of trust, tolerance, subjective well-being and political activism. Self-expressionism thrives on the tolerance of individual differences. The economic and physical security that underlies self-expressionism is associated with a new set of values such as environmentalism and active citizen involvement in social and political affairs.

When applied to the criminological literature on public opinion, people high in self-expressionism would be expected to be low in authoritarianism and religious fundamentalism, high in political liberalism and sense of empathy, and so forth. Nonetheless, where self-expressionism is high, we must ask: is there a relatively high chance that prostitution will be more tolerated, in at least some of its forms? Looking at Europe, other researches show that it is not like this. For example, notwithstanding Sweden scores the highest levels of self-expressionism attitudes in the Inglehart's ranking countries. According to a study conducted in this country (Kuosmanen, 2011), 76% of respondents believed that to buy sex should be treated as illegal (69% of males and 83% of females). Another survey conducted in Norway and Sweden – where buying sex is criminalised – attests that older people are less convinced about criminalising male customers while more educated people tend to reverse the judgment. 62.6% of the Swedish population and 53.2% of the Norwegian population think it should be illegal to buy sexual services. The study finds it plausible to say that the law standpoint is important with regard to these results. In Sweden, the law was introduced for reasons of gender equality, while in Norway for reasons of economic inequality. In comparison to the Norwegian population, the Swedish population therefore recognises a greater gender problem in the existence of prostitution (Jakobsson and Kotsadam, 2011).

As a confirmation of the normative value of legislation in Sweden, previous studies show different consensus rates. In 1996 – three years before the entry into force of the new law – a survey shows that just 45% of Swedish women and 20% of Swedish men wanted to criminalise the sex buyer (Månsson, 2000). Another research on attitudes uses World Value Survey²⁰ data from 2005 to 2008. The question used is ‘Do you consider prostitution justifiable?’, responses show how populations justify prostitution in those countries where it is legal and, more importantly, where it is regulated (Immordino and Russo, 2015). Likewise, where buying sexual services is legal, 1) people report buying more sex and 2) they are also more likely to report knowing someone who has bought sex. Probably there is less willingness to report doing an activity if it is illegal than if it is not. Investigating the effects of the change on attitudes towards buying sexual services, one finds indications that criminalising prostitution decreases the recurrence of people legitimising the purchase of sexual services (Kotsadam and Jakobsson, 2014). Therefore, it seems that regulative policies influence individual attitudes towards prostitution with an expressive effect. A recent and complete research on population attitudes regarding prostitution includes eight European countries: the United Kingdom, Spain, the Netherlands, France, Germany, Sweden, Norway and Denmark.²¹ Data was collected in 2014 via an anonymous online survey²² to which 16,948 people have responded (Jonsson and Jakobsson, 2017). The referenced research focused on two different questions in the questionnaire: ‘According to your opinion, is paying for sex morally justified or is it morally wrong?’ and ‘Should it be illegal to buy sex?’ 53% of the population in Sweden declared that the purchase of sex should be illegal. In other countries, the percentages vary between 16% and 34%. To be more specific, the Germans and the Dutch show the most approval to the purchase of sex. In countries where the purchase of sex is legal but brothels are forbidden, the population accepts the idea of buying sex less than the population in those countries where brothels are

²⁰The WVS is a global research project, the aim of which is to compare people’s beliefs and values in different countries and to track their evolution over time.

²¹During data collection, in Spain, the UK, Denmark and France buying sex is legal, but running a brothel is criminalized. Later, Northern Ireland criminalized the purchase of sex in 2015 and France in 2016.

²²SIFO was hired to conduct the survey for the Scandinavian countries (Denmark, Norway, and Sweden) and Alstra AB for the other countries (France, Germany, Netherlands, Spain, and the UK).

regulated. Another important aspect is the association between the importance of gender equality and prostitution. In both Sweden and Norway, people who declare gender mainstreaming are those who less accept the buying of sex. In the Netherlands and Germany, people who declare gender mainstreaming are, instead, those with a greater acceptance towards the sale of sex. In countries where purchase is legal but brothels are banned, there seems to be a slightly positive association between gender equality and prostitution. Confirming, once again, the correlation between the law of a country and the attitudes of the phenomenon among the population (Nanni, 2018). This gives even more meaning to the laws on prostitution which, in addition to affecting the lives of the people involved, could really contribute to cultural change over time.

However, could there be any undesirable effects? Two pieces of research show that a progression in public opinion has taken place in the direction of a greater support towards the prohibition of prostitution, regarding both the sale and the purchase of sex (Nanni, 2018). In Sweden, the population is more likely to consider the seller criminalisation to be correct. As if the women involved in prostitution, while being considered the part to be protected of law, would in all practice be an ‘accomplice’ for the local population to the creation of the problem, tied to the achievement of equality between the sexes (Jakobsson and Kotsadam, 2011; Kotsadam and Jakobsson, 2011). This public opinion seems to view prostitution in gender-neutral terms: who sell sex just needs to be equally treated as those who buy sex. This aspect has suggested that the Swedish model may risk further stigmatising women into prostitution by subjugating them to secondary victimisation Nanni (2018). In regard to this, Waltman (2011b) highlights a report by the Swedish National Council for Crime Prevention in 2010. According to their opinion, the very neutral formulation of the question could be misleading: the general meaning of ‘selling sex’ could have made respondents think about the procurement of prostitution, which includes pimping and trafficking, not only women using prostitution for a living. To confirm this, Waltman (2011b) compares two studies made only 3 years apart from one another. In the 1996 survey (Månsson, 2000), in which the question was clearly formulated as ‘A woman accepts money for a sexual contact: should the

woman's action be regarded as criminal?', only 42% of women responded positively. On the contrary, the 1999 survey (Kuosmanen, 2008) asked the question in more general terms and 78% of women wanted to criminalise 'selling sex'. It is true that in 1999 the new law was already in force and that may have had already influenced the interviewees perception of the phenomenon interviewees. On the other hand, it would be very risky to believe that less than a year of law implementation could have produced such a twist in the perception of the phenomenon. Moreover, when asked about the sentence 'State-run brothels ought to be introduced in Sweden', a third of the men (32%) agree either completely or partially, while only a fifth of women (17%) share a similar opinion. When these answers are compared with those in relation to the retention of sex purchase prohibition, we truly discover a paradox: 16% of the men and 8% of the women who wish to retain the legislation, at the same time agree with the statement that State-run brothels should be introduced. The researcher's hypothesis justifies this paradox by claiming it is an expression of the desire to control prostitution, even if in very different ways (Kuosmanen, 2011).

Again, noteworthy it is the gender difference. What is clear is that attitudes and opinions widely vary cross-nationally. So much so that compared to socio-economic, ideological and religious factors, the main study shows that they influence different attitudes so much in the various countries that it is not possible to identify a single correlation, and that further research is necessary (Jonsson and Jakobsson, 2017). The only aspect found crosswise in all studies is the gender difference in the phenomenon perception. This aspect confirms the relevance of the gender issue, which ultimately remains this study groundwork. Unsurprisingly, there are noticeable differences between men and women: men are most critical towards the imposition of criminal sanctions, while women tend to be closer to abolitionist positions. Female public opinion is more likely to identify women involved in prostitution as exploited by men, and to show more empathy with them (Cotton et al., 2002; Kuosmanen, 2011; Jakobsson and Kotsadam, 2011; Immordino and Russo, 2015; Jonsson and Jakobsson, 2017). Generally, in all countries women are more likely than men to oppose the act of buying sex. However, this female opposition varies from country to country: it is stronger in Norway and weaker in Germany, the Netherlands and

France (Jonsson and Jakobsson, 2017).

According to Immordino and Russo (2015), the increase in justifications for violent attitudes towards wives is associated with broader justifications for the purchase of sexual services. One should not underrate the conscious association between prostitution and violence against women in general. On the contrary, this aspect should be further explored because, if confirmed, it would give reason to a part of feminism (Nanni, 2018).

In conclusion, it is plausible to say that the point of view of the law is important for public opinion on prostitution, while the impacts of such policies are not yet entirely clear. Moreover, opinions on prostitution appear to be disconnected from the predictable shifts in cultural systems. Although new-regulatory policies have succeeded in associating the idea of gender equality with sex work (Jonsson and Jakobsson, 2017), they are not able to guarantee specific protection for women (Cho, 2015), nor they have changed the power unbalance in the sex industry: on the contrary, they risk further increasing sexual trafficking (Marinova and James, 2012; Cho et al., 2013). Neo-prohibitionist/neo-abolitionist policies, on the other hand, require further insights and improvements. They have succeeded in associating the idea of gender inequality with prostitution (Jakobsson and Kotsadam, 2011; Immordino and Russo, 2015; Jonsson and Jakobsson, 2017), but it is not yet evident whether they have succeeded in triggering the cultural feminist change they aim to or not. Also because, as said, client criminalization policies are not necessarily the consequence of the search for gender equality. For instance, Sweden places it at the centre of its debate (Erikson, 2017), while Norway talks about economic inequality (Jakobsson and Kotsadam, 2011). In Italy, municipal ordinances on client criminalisation are implemented for reasons of public order. How does this impact on the perception of the population? This also deserves further investigation. In view of this, the debates on prostitution are becoming increasingly important. In addition to driving policies on prostitution, they allow the impact of policies on the attitudes of the population to be explored in greater depth. Do debates change over time? In what way? By focusing on feminist positions within the case studies, in the next chapters we see what the majority positions are, and if and how they have

evolved over time.

Chapter 2

The approach to the study

For the sake of clarity, we have chosen to investigate and analyse each country separately. Possible comparative reflections are intended for a final specific chapter. To make this possible, in this chapter we are addressing the methodological aspects, although we shall then return to literature before discussing the results.

As we said, literature on prostitution policies is still scarce and controversial in many ways (Wagenaar and Altink, 2012; Skilbrei and Holmström, 2013; Crowhurst and Skilbrei, 2017; Wagenaar, 2018). However, in this study we focus on the role that feminists and feminist knowledge play in decision-making and political debate. Furthermore, let us see if and how these debates have changed over time. We focus on the debates because 1) they guide policies on prostitution and 2) they show whether there is a change in attitudes about the phenomenon and what it is related to. Moreover, we chose feminist knowledge because we consider it the most complete.

In sociology we find three different approaches to the phenomenon of heterosexual prostitution (Järvinen, 1993). First, the functionalist approach is based on double sexual morality and describes prostitution as ‘woman’s oldest profession’.¹ This dominant approach was widely questioned in the second half of the 20th century by the sociocultural and feminist approaches. According to the sociocultural approach prostitution is not a natural, a-historical phenomenon intrinsically tied to the way

¹It deals with, on the one hand, the supposedly promiscuous and uncontrollable sexuality of men, while on the other, the supposedly monogamous and emotional sexuality of women. According to the functionalists, prostitution is a natural phenomenon, universal to all societies and necessary to satisfy a distinct human need. Thus, it cannot and should not be eradicated (Järvinen, 1993; Davis, 1937).

men and women are born.² Prostitution is a social construction that interacts with other phenomena and changes over time (Järvinen, 1993). The feminist approach agrees with the latter and places gender inequality and women's objectification at the heart of the analysis. This perspective is relevant because of the specific viewpoints it holds on women's oppression. In this case, prostitution is a social phenomenon, constructed and maintained by the patriarchal structures of society (Järvinen, 1993; Barry, 1995). However, the feminist approach is anything but homogeneous. Some more recent theories claim that some people actually choose to engage in prostitution on the basis of an informed choice (Kempadoo, 1998). Others also emphasise the liberating function of sex work since it breaks social norms on sexuality (Nikita and Schaffauser, 2009). Thus, it has been so vastly articulated over the decades that it no longer speaks of a single kind of feminism, rather of numerous, distinct *Feminisms*. As we have seen in the chapter 1, we have a wide and heterogeneous feminist literature, which has divided – and still divides – even the feminist and women's movement themselves. Therefore, the choice of using a feminist approach as the framework of this analysis is based on the inherent gender specificities still present in prostitution. Let us just think about the gender roles crystallisation during the exchange, which in the majority of cases sees women on the supply side and men on the demand side. Let us also consider the higher vulnerability of women to gender abuse in prostitution, including the social problems that women in prostitution are often accused of, while buyers rarely get charged or even mentioned, etc. Thus, the different points of view developed in the previous chapter are the basis for the whole subsequent analysis: a basis for the deepening of the political debate, a basis for the choice of the privileged observers,³ a basis for the emergence of changes over time.

Although prostitution touches a key area in feminism, that of sexuality, we know little about the role that feminists and feminist knowledge play in shaping policies on prostitution. As said, Outshoorn (2004b) and others later (Danna, 2004c;

²In his analysis of sexuality Foucault (1979) recognises sex as the way of access to the body and life, a decisive target of power relations. Sex is endowed with ample instrumentality, it is used for the broader number of manoeuvres, serving as a support for the most varied strategies.

³The choice of privileged feminist observers is discussed in depth in the next paragraph.

[Dodillet, 2013](#); [Euchner and Knill, 2015](#); [Heying, 2018a](#); [Euchner, 2019](#)) investigated the relationship between feminism and prostitution policies. However, They do not go into the contents of the different debates and how these have changed over time. Thus, this study fills this gap for the three study countries. Precisely it aims at:

1. assessing whether and how feminist knowledge have influence the policy making process;
2. highlighting which current feminist debates are present in the country;
3. investigating changes in debates, divergences and similarities among different feminist positions.

2.1 Method, methodology and tools

In this research a qualitative approach is used for two reasons: a) studies provide an in-depth analysis of a limited number of cases; b) there are no relevant data to answer the research questions. Indeed, available data are also unrealistic to represent generically the phenomenon on prostitution in each country ([Wagenaar, 2018](#)).

For assessing whether and how feminist knowledge has influence the policy making process, we proceed in several ways: (1) by rebuilding literature that investigates the links between feminism and prostitution policies; (2) by analysing bills, parliamentary work, approved legislation, court ruling and party policy proposals; (3) by analysing in-depth documents and press releases with specific indications and requests to the government, drawn up by feminist associations and counselling centres. All these documents are available on the official governments' and associations' websites. The comparison between the contents of the political debate and those of feminist movements allows us to detect both 1) whether the debate was gendered or not and 2) the impact of feminist movements, meaning how often their demands have obtained a desired law.

According to [Outshoorn \(2004b\)](#), the impact of feminisms is classified in terms of the 'four-fold typology'. This means that we can detect four different results. If the State does not allow women into the process, neither as individuals nor as groups,

nor does it respond to feminist demands, then there is 'no response'. If the State does not allow women into the process but only emanates satisfaction policies, that is 'pre-emption'. On the contrary, it is called 'co-optation' when the State allows women into the process but does not emanate satisfaction policies. Finally, when the State accepts women into the process and changes policy to coincide with feminist goals, there is a 'dual response'.

		Policy coincides with feminist goals	
		yes	no
Women involved in policy process	yes	Dual response	Co-optation
	no	Pre-emption	No response

Figure 2.1. Typology of feminist impact and state response
Source: [Outshoorn \(2004a\)](#)

[Outshoorn \(2004a\)](#)'s study stops with the passing of the law, while we also go into the evolution of subsequent debates. Some argue that the formulation process of a law is separate from its implementation and that the discussion is reduced to one element of the political process. However, it is not possible to rigidly divide the two aspects. 'Methodologically this leads to the advice that the analyst's focus should be on 'micro-practices' and different and unexpected outputs, without too much of a normative frontloading of the analysis towards attaining policy goals' ([Wagenaar et al., 2017, 77](#)). The micro-practices that are of interest to feminist movements are those whose consequences affect women, whether or not they are involved in prostitution. Policy implementation does not depend solely on political intentions, and 'if the law wants to go beyond a purely symbolic function, its ambitions require translation into action' ([Wagenaar et al., 2017, 71](#)). Therefore, after clarifying whether the law reflects one or more feminist principles or not, it is also necessary to investigate the perceived effects of the law among feminist experts. After the implementation of the law, what debates have developed among feminists? Have the positions changed? Are there similarities and/or differences among the different positions? At this point, we have investigated the views of feminist experts. Precisely speaking, we have investigated reactions and interpretations of legislations among the expert feminists who live and work in that specific country. Consequently, in

order to highlight which current feminist debates are present in the country and investigate changes, we use the analysis of several semi-structured interviews with the feminist experts of each country, some of which are proper interventions made during events and conferences here below listed in detail. Since interviews mentioned were conducted in English in both in Germany and Sweden, the quotes from respondents from these countries used in this thesis are verbatim. The information coming from Italy has been translated by the author. Themes discussed in the next chapters were drawn from the research and interviews using a Grounded Theory categorization of data (Corbin and Strauss, 1990).

2.2 Choosing case studies

Policy studies usually compare different countries (Crowhurst and Skilbrei, 2017). Here we chose to focus on three European countries: Germany, Sweden and Italy. Despite the problems of classifying policies, we have chosen among countries whose laws can be traced back to three of the four models theoretically supported by feminisms. As we said, 'classic' prohibition and regulation are unanimously rejected by feminisms (Walkowitz et al., 1982; Shaver, 1985; Barry, 1995; de Vries, 2000). While, classic abolitionism, neo-prohibition (or neo-abolitionism), neo-regulation and decriminalization all have the support of a part of feminism, respectively. However, no country in Europe has implemented a decriminalisation regime. Thus, we have chosen three case studies that literature links back to the three remaining regimes supported by a part of feminism. Germany as a neo-regulation regime, Sweden as a neo-prohibition/neo-abolitionism regime, Italy as classic abolitionism regime. More precisely, we chose these countries as representative cases and not others because:

- nowadays, Germany is still one of the few countries in Europe to present a neo-regulation regime on prostitution (the other most popular are the Dutch and Austrian laws) and the second country - after the Netherlands - to have implemented it. Since 2002, the German Government has recognized both sex trade contracts and the access to social security for the people involved in prostitution (Kavemann and Steffan, 2013) and it is often used as an example

of liberal regimes (Dodillet, 2004, 2013; Weitzer, 2012; Pates, 2012; Östergren, 2017a,b). Even if, without implementation guidelines, it seems that the law has practically remained without much of an effect (Pates, 2012). Moreover, unlike the Netherlands, Germany is back to legislating on this issue after only 15 years. Let us therefore assume that the existence of two close legislative debates allows us to better highlight the evolution of thought concerning prostitution. In addition, an initial research also reveals a heated internal debate among feminists whose evolution is interesting to investigate. Initially, the most feminist associations have welcomed the neo-regulation regime in a positive way (EP, 2015a). Afterwards, for instance, some feminists consider the German 2002 law on prostitution one 'among the most modern and liberal in Europe' (Kavemann and Steffan, 2013, 9), or at least a solid starting point that needed to be improved with more detailed provisions. Other feminists believe that the law has turned Germany into the 'brothel of Europe' (Czarnecki et al., 2014). Or, again, in 2013 the German magazine EMMA collected signatures in favour of the customers criminalisation and the abolition of prostitution (Czarnecki et al., 2014; Hunecke, 2018). In response to this, the Professional Association for Erotic and Sexual Services was born and rebutted the opinion distributed by the petition (Heying, 2018a; Hunecke, 2018). In 2017, Germany changed the law again becoming the only country in Europe to have changed two laws on prostitution in the last 20 years. In this case the law has been recently implemented and it has not yet been studied.

- Sweden has been the first country in the world to implement a neo-abolitionist (or neo-prohibitionist) regime. Thus, they criminalise only the purchase of sexual services and not the sale of these services (Erikson, 2017; Holmström and Skilbrei, 2017). After being widely discussed throughout the Nation, this choice came into force in 1999, attracting interest all across the world ever since. Some countries have adopted the Swedish model, albeit with variations. In Europe we find Norway, Iceland, Northern Ireland and France. In 2014, the European Parliament has also approved a report promoting the adoption of this model (P7_TA(2014)0162). However, literature continues to be strongly

discordant. 20 years after the implementation of this ban, at least apparently, Sweden is so satisfied with its law that it is hoped that it will be approved everywhere in Europe and worldwide. In the face of a very discordant scientific literature - some scholars claim that the ban on the purchase of sexual services is meeting its objectives (Waltman, 2011b,a, 2017; Kuosmanen, 2011; Bindel, 2017), while others strongly criticise the Act (Dodillet and Östergren, 2011; Levy and Jakobsson, 2014; Östergren, 2018) - what makes Sweden so sure of its approach? What does Swedish feminism think? In addition, unlike other Scandinavian countries, Sweden has specified the feminist nature of the law and its gender specificity. Indeed, the ban was introduced for reasons of gender equality (Jakobsson and Kotsadam, 2011; Erikson, 2017) and gender specificity is at the core of this research.

- The Italian case reflects the 'classic' abolitionist position and can be considered an intermediate stance between two 'extremes'. In 1958 the law that closed State brothels came into force, putting an end to the old regulation of prostitution. The law prohibits brothels and any other form of control, whether public or private, over any women involved in prostitution. However, this law does not criminalise the act of prostitution, neither specifically the seller nor the buyer. Thus, prostitution is considered incompatible with the world of labour, even if its existence remains possible in the private sphere of adults lives. Since then, the various legislative interventions have focused on the topic of human trafficking for the purpose of sexual exploitation. Italy is a case which attracted only limited scholarly attention in terms of prostitution policy reforms. However, as the 'classic' abolitionism is a quite common regime in Europe, it is very interesting to explore. Moreover, over the years, there has been no lack of legislative proposals in the field of prostitution, coming from different political parties with very different approaches: between 1996 and 2019, 86 bills were deposited. Thus, as Danna (2004b) wrote and other scholars have agreed upon (Crowhurst et al., 2018), Italy hosts a 'never ending debate' on prostitution. However, little is known about the evolution of this debate over the years. Even less if we consider the international scientific community since

very few studies on the Italian case in English are available.

2.3 Respondents

With expert we mean 'privileged observers': people who have come into contact with the phenomenon directly or indirectly. Four different 'categories' of experts were chosen: associations, political parties, scholars and professionals.

1. Organisations (NGOs, women's and sex workers' organisations) are included since they are important third-party actors in the debates on prostitution. They promote policies concerning women's rights and very often run help and counselling centres for women/people in prostitution. Therefore, a privileged observatory of field work.
2. Political parties are included in the research to highlight whether there are debates within them on the phenomenon of prostitution and what their position is. This is relevant because it is the politicians who table bills, discuss them and approve them.
3. Scholars of policies on prostitution have often devoted more than a little time to the issue, close contacts on the territory and developed a vision that takes into account the complexity of the phenomenon. Scholars are not free from ideological conditioning, but scientific rigor also requires a certain awareness and ability to put distance in the analysis. Aspects more easily overlooked by the types of actors mentioned above. For these reasons they are considered important actors in order to obtain a vision that is as comprehensive as possible.
4. Professionals (social workers, judges, prosecutors, psychotherapists, etc.) are actors who during their career have come into contact with many women and as many different stories. They are privileged observers of one or more specific aspects of the phenomenon. For example, social workers can tell us if a policy on prostitution has changed the access to counselling and help services; a judge can tell us if a law is useful to fight organised crime or not, etc.

The privileged observers were selected through three steps: (1) a mapping of the territory to identify associations and organisations working in the field of prostitution, (2) a mapping of the most active scholars of the subject, through the analysis of literature, and then (3) with snowball sampling. This sampling is a recruitment method extensively used for accessing specific and hidden populations, particularly

in relation to research on sexualities (Browne, 2005). We have chosen this type of sampling precisely because approaching prostitution means addressing the issue of sexuality and stigma (two sensitive aspects). Certainly, the voices of interviewees and their expressed opinions cannot end up representing the entire female universe, let alone infer all the necessities and needs of women involved in prostitution. On the contrary, the subject of the analysis concerns the relationship between legislation, feminist positions and the evaluation of legislative interventions starting from the judgments made in the heterogeneous field of feminism experts.

In accordance with the ethic of research, some of the respondents' birth names were not used in order to protect their privacy and ensure the confidentiality some of them required. The description under their name has been given by the interviewees themselves. Here below respondents are divided by country.

Germany

8 face to face interviews were carried out in English between the 18th of April and the 17th of July, 2018, in Frankfurt, Berlin and Düsseldorf. The two speeches given by German experts at the Chamber of Deputies in Rome, more precisely at the Conference 'Hidden slavery and the prostitution business: a perspective of the experience', the 15th of March 2019, are also considered.

In addition to the fore mentioned, we have used some useful information from the 'Closed Houses' journalistic investigation carried out by PresaDiretta⁴ and broadcasted on the 9th of September 2016. Unfortunately, it was not possible to interview any of the representatives of the German sex workers' organisations. They did not have time because of the amount of consultations and obligations that have exploded with the new law coming into force. Thus, we here use their documents, but we also remember that the voice of sex workers is a part of liberal feminism (see section 1.1).

⁴PresaDiretta is an Italian television program about journalistic investigations, see [the episode](#).

ASSOCIATIONS

- **Terre Des Femmes - Abolitionist Position**
Andrea Tivig - Policy specialist from Terre Des Femmes
- **SOLWODI - Abolitionist Position**
Anonymous - Coordinator of counseling center
- **FIM - *Frauenrecht ist Menschenrecht* e.V. - Suspends positioning**
Gabi Schmitt - Coordinator: trafficking FIM e.v.

POLITICAL PARTIES

- **Feminist Party (*Feministische Partei – DIE FRAUEN*) - Abolitionist Position**
Sigrid Werner - Spokesperson Berlin of Feminist Party

SCHOLARS

- **Mareen Heying - Normalization Position**
Researcher, University of Bochum
- **Tzvetina Arsova Netzelmann - Normalization Position**
Psychologist, researcher at SPI Research gGmbH, Berlin
- **Elfriede Steffan - Normalization Position**
Sociologist, researcher at SPI Research gGmbH, Berlin
- **Sibylla Flügge - Normalization Position**
Prof. Dr. She was also a member of the Frankfurt Women's Council
- **Sandra Norak - Abolitionist Position**
Survivor of prostitution in Germany (intervention at the Chamber, Rome)

PROFESSIONALS

- **Ingeborg Kraus - Abolitionist Position**
Psychotraumatologist (intervention at the Chamber, Rome)

Sweden

16 interviews were carried out in English between the 15th of November 2018 and the 31st of January 2019, in Stockholm, Uppsala and Gothenburg. 12 of these were made face to face and 4 of them, according to the interviewees' choices, via specific questions sent by email. We have also considered the speech of the Swedish Chancellor of Justice's that was given on the 14th of March 2018 at the Embassy of Sweden, in Rome (the meeting brought the title of 'Dialogue on prostitution in existing legislation in Sweden and Italy').

ASSOCIATIONS

- **Roks, National Organization for Women's Shelters - Abolitionist Position**
Jenny Westerstand - President
- **Talita - Abolitionist Position**
Meghan Donevan - Operator of women's shelters
- **Kvinnofronten, the Women's front in Sweden - Abolitionist Position**
Annina Claesson - Member and English translator of Kvinnofronten
- **Fuckförbundet - Normalization Position**
 1. Angelica Wendel (streetname), Swedish sex worker
 2. Deeva Dasi (streetname), sex worker in Sweden with foreign origins
- **Real Stars - Abolitionist Position**
Anonymous, member of Real Stars

POLITICAL PARTIES

- **Left Party - Abolitionist Position**
Nooshi Dadgostar, member of the parliament and spokesperson considering feminist issues
- **Green Party - Abolitionist Position**
Martin Candell, political secretary
- **Sweden Democrats Party - Abolitionist Position**
Anonymous, spokesperson of Sweden Democrats Party

SCHOLARS

- **Josefina Erikson - Does not state positioning**
Researcher and teacher, University of Uppsala
- **Max Waltman - Abolitionist Position**
Researcher, University of Stockholm
- **Wiveca Holst - Abolitionist Position**
Activist, Swedish representative of the European Women Lobby for 10 years

PROFESSIONALS

- **Eva Wintzel - Abolitionist Position**
Public Prosecutor, Stockholm
- **Marie Johansson - Abolitionist Position**
Therapist and social worker for customers, Stockholm
- **Social Worker specializing in prostitution - Abolitionist Position**
Social worker for people involved in prostitution, Stockholm
- **Peter Åström - Abolitionist Position**
Senior police officer of IGOB Swedish Police, Stockholm

In Sweden it is very difficult to find associations claiming a normalisation position. Excluding those few and small associations whose members identify themselves as sex workers, women's associations seem to place themselves almost entirely on the abolitionist stance. Thus, in an attempt to gather opinions on the other position, we have also chosen to contact the Swedish Federation for Lesbian, Gay, Bisexual, Transgender and Queer Rights (RFSL). Although not officially declaring it, they had brought reflections in line with normalisation positions in an event they have

organised in Uppsala. They did not agree to participate in the research, but one of them advised me to watch the speech of Juno Mac on Ted.com. In addition to that, we have again used some useful information from the 'Closed Houses' journalistic investigation carried out by PresaDiretta and broadcasted on the 9th of September 2016.

Italy

16 face to face interviews were carried out in Italian between the 11th of January and the 4th of April 2018, and March 2019.

To these were added a number of interventions carried out in some events on the subject of legislation on prostitution. 1) The 'Sex Work is Work' event held at the International House of Women on the 20th of January, 2018. 2) The event 'Dialogue on prostitution in existing legislation in Sweden and Italy' held at Embassy of Sweden on the 14th of March, 2018. 3) The press conference 'Merlin law is untouchable' held in Rome on the 5th of March, 2019. 4) The book presentation of 'The pimping of prostitution' by Julie Bindel, organised by Resistenza Femminista and Space International, held in Rome on the 5th of March, 2019.

ASSOCIATIONS

- **UDI, Union of Italian Women - Abolitionist Position**
Vittoria Tola - National coordinator of UDI
- **Gruppo Abele - Abolitionist Position**
Mirta Da Pra Pocchiesa - Coordinator of trafficking and prostitution sector
- **Ombre Rosse, Sex Workers Rights - Normalization Position**
Anonymous - Member of Ombre Rosse
- **LEF Italia (Italian Coordination of EWL) - Abolitionist Position**
Maria Ludovica Tranquilli Bottarelli Leali, President of LEF Italia

POLITICAL PARTIES

- **5 Star Movement - Suspends Positioning**
Alessandra Maiorino, senator of the Italian Republic

SCHOLARS

- **Francesco Carchedi - Suspends Positioning**
Teacher, University of Rome
- **Daniela Danna - Abolitionist Position**
Researcher, University of Milan
- **Giorgia Serughetti - Normalization Position**
Researcher, University of Milan
- **Giulia Garofalo Geymonat - Normalization Position**
Researcher, University of Venice
- **Giulia Selmi - Normalization Position**
Researcher, University of Bologna
- **Emanuela Abbatecola - Suspends Positioning**
Teacher, University of Genoa

PROFESSIONALS

- **Elisabetta Rosi - Suspends Positioning**
Judge, adviser to the Court of Cassation, Rome
- **Paola Di Nicola - Abolitionist Position**
Judge, Court of Rome
- **Maria Virgilio - Normalization Position**
Lawyer (former researcher and teacher), Bologna
- **Maria Gigliola Toniollo - Normalization Position**
Coordinator of the 'New Rights' sector of National CGIL (Italian trade union)
- **Anonymous - Normalization Position**
Immigration expert, Rome

2.4 Additional significant aspects and limitations

Ethics of research

Interviews were conducted taking into account research ethics (Commission, 2010). During the first interviews that were carried out in Italy, consensus was given by voice. This choice was based on the condition of equality that the researcher shared with the majority of the interviewees. A written consent form was subsequently given, especially in anticipation of the interviews to be carried out 1) in other countries and 2) in English (a secondary language for all participants). In addition to that, it was useful to better protect respondents in a more vulnerable position such as women involved in prostitution.

The consent form clarifies background, purpose, research procedures and any withdrawals from participation (see Appendix 1). However, the written consent form was only used in Germany and Sweden. The Italian respondents preferred to give their consent orally; written consent form were considered formal enough to generated anxiety rather than a greater feeling of safeness.

Language

Many scholars and people make another macro distinction between ‘voluntary’ or ‘free’ and ‘involuntary’ or ‘forced’ prostitution⁵. Those who make this distinction often do it also employing a different language. Voluntary prostitution is defined as ‘sex work’. Expressions such as ‘sex work’ and ‘sex workers’ were born in 1970 along with the prostitutes’ rights movement in the USA. The intention was to shift the attention from the stigma that typically characterises the word ‘prostitution’ to the symbolic dimension of work. Nowadays, the use of words such as ‘prostitution’ or ‘sex work’ has become the signifier of an alignment with a specific position on the phenomenon.

⁵In this thesis we prefer the use of ‘voluntary/non-voluntary’ prostitution rather than ‘free/forced’ prostitution. With the term ‘voluntary’ we mean an individual will, while with the term ‘free’ to that individual will we add the absence of constraint and limitation. Therefore, this second aspect would reopen the ideological question arising from the question: how much can the choice of a woman in a patriarchal society be considered free?

‘Prostitution’ and ‘prostitute’ are associated to abolitionist perspectives; ‘sex work’ and ‘sex workers’ are associated to normalisation perspectives (Della Giusta and Munro, 2008; Crowhurst and Skilbrei, 2017). However, in the last version of the International Encyclopaedia of Social Science (2008) we can only find the word ‘prostitution’ and it subsequently remains the term used in policy and law documents of many countries (Crowhurst and Skilbrei, 2017). In line with these aspects, we prefer to use the more ‘neutral’ word prostitution.

Likewise, ‘prostitute’ is also adopted as a legal term, even if it could have a stigmatising effect (Crowhurst and Skilbrei, 2017). The term is not only rejected by those who prefer to talk about sex workers, but it is also rejected by the so-called survivors of prostitution. The former redefine the term as workers, the latter distance themselves from it. For instance, in a recent speech at the Italian Chamber of Deputies, the founder of SPACE International⁶ stressed «I refuse to refer to women as prostitutes, because, when you really think about what that word means, what it means is what we are saying to the women involved is ‘you are that’, which is done to you. And I think that that is very, very unfair».⁷

Indeed, according to Pheterson (1993) the ‘whore stigma’ is a general mechanism of female oppression: a gender stigma that, as a whip, keeps women in a state of subordination. It is not a coincidence that even today the different variants of the term ‘whore’ are the worst and most common insults used against women. This reflects an ideological and cultural structure that measures women’s value – or disvalue – from their sexual conduct and it reminds them what is the social norm to respect out of fear of being judged. Moreover, referring to women in prostitution as sex workers has not been successful in reducing stigma, as the social structures of patriarchy, classism, and heterosexism play a crucial role in keeping these women marginalised (Kissil and Davey, 2010). Thus, we use the expression ‘people/women involved in prostitution’, which on the one hand includes every woman involved in prostitution, and not just those who call themselves ‘self-employers’, while, on the

⁶SPACE is ‘an international organisation, formed to give voice to women who have survived the abusive reality of prostitution’. Visit the website of [SPACE](#).

⁷Based on Rachel Moran’s speech at the ‘Hidden slavery and the prostitution business: a perspective of the experience’ conference at the Italian Chamber of Deputies, 15th of March 2019.

other hand, we avoid labelling affected people. Certainly, some may consider this choice not neutral in any case, but we believe it is the most correct one to use for the reasons listed above.

Positioning

Feminist theories are based on the recognition of subjective positioning as an analytical starting point, producing a knowledge in which the consideration of the embodied singularity becomes a critical instance to the idea of knowledge seen as the product of a universal and disembodied Subject (Rich, 2003). Research is not undertaken in a vacuum, and scholars cannot claim to be neutral and objective from the social world we study: our feelings, thoughts, experiences, behaviours and stances are influenced by society and our own individual biographies (Mason, 2017). Thus, in order to develop a theory, we must first start from the lucid awareness that we are located in a precise point. Positioning implies a network of relationships - of class, race, culture, census, etc. - that structure us (Braidotti, 1991).

In my case putting subjectivity at the centre means being aware that I am a white, Western, agnostic woman who has grown up in an abolitionist country. A country where prostitution is neither a crime nor a job. A country where, for more than 60 years, this aspect of sexuality has been left by the State to the private and personal sphere, where neither those who sell nor those who buy are criminalised. I am also a social worker and a feminist activist and I have been working for years with women who are victims of violence, including the exploitation of prostitution or women involved in prostitution who are victims of violence from customers or third parties. This starting point sees me involved as a woman, as a feminist and as a professional: a woman born with the privilege of choosing opportunities other than prostitution, albeit within the limits of a patriarchal society, an activist who wishes to achieve equality between women and men and a professional on the side of women whose integrity and rights are violated on a daily basis. Thus, my geographical background and my personal experience have contributed in shaping my position on prostitution, a position similar to that of existentialist feminism (see section 1.1). Such positioning

brings with it strengths and weaknesses. Several scholars have argued the need for a political commitment inherent to the scientific approach. According to Ritzer (1998), the best sociological theories often arise from deeply personal interests. For example, he cites feminist thought, queer theories and post-colonial studies, pointing out how these areas are driven by clear values and political choices. These areas necessarily interface with collective mobilisations and forms of political participation, studied especially in the context of social movement studies. The sector of social movements studies is decidedly unbalanced on the side of those authors who claim some kind of more or less intense involvement with the studied themes. However, it is correct to separate one's own ethical/political convictions from the research activity, at least during the phase of the analysis. It is necessary to pursue a balance between 'engagement' and 'neutrality' in research work, considering that both, no matter how much effort can be made, cannot in any way eclipse the other (Bertuzzi, 2018).

Starting from us then, aware of our positioning, we look towards meeting, knowing and deepening the other stances. If it is impossible not to judge, it is instead possible to be aware of that judgment and to suspend it: an intentional and responsible exercise of our own limit. An exercise of assuming complexities and contradictions in the encounter of other conscious partialities. An exercise of exchange of specific skills and personal reflections, always curious to understand and deepen. It is not a coincidence that my personal positioning has undergone changes during the research.

It is also not a coincidence that the topic of positioning immediately emerged contacting some experts in the field of research. Although the request to participate in the research was standardised for all, in Germany and Sweden some experts firstly asked what my positioning was before either accepting or rejecting the request (this demand was always made by those who support the normalisation position). Ethically speaking, I have always chosen to answer questions honestly. That being said, even though I have always declared my position, I have made it clear that I was suspending judgement on the basis of a strong interest in going deeper into the subject and developing a competence supported more by concrete elements than by ideological ones. In Germany my personal positioning has never been a reason for the interviewees to refuse my call: those who have asked for it then agreed

to participate. In Sweden though, unfortunately, the experience has been a little tougher. The greatest difficulty there emerged in contacting organisations that support the normalisation position. For instance, following the contact of one of these associations, I was added to a secret Facebook group composed by people who sell sex and pro-normalisation activists in order to directly propose the interview. After synthesising my study, they have asked me whether or not I was in favour of decriminalisation. A few minutes later, I was contacted by those who had added me to the group, saying that they had to remove me. According to some of them, only those who support decriminalisation can have access to it. In any case, despite these difficulties, I had the opportunity to interview two women involved in prostitution. The marginality of the normalisation position seems to contribute to their separatism in Sweden.

Stigma

I think it is useful to highlight some aspects that reinforce part of the reflection made by other scholars, which ensue from their constant being encouraged to examine their own actions and role in the design and research process. Some discovered that they have experienced stigma from their research involvement in the fields of sexuality and/or prostitution (Israel, 2002; Attwood, 2010; Taylor and Davidson, 2013; Hammond and Kingston, 2014). According to these studies, the stigma attached to prostitution and the people involved in the sex industry has spread to those who conduct research on this topic. Such stigma, especially if the researcher is a woman, has led people within and outside the academic world to question their validity. Although my research refers to legislative policies on prostitution and not to prostitution itself, I have also come up against some forms of cultural resistance. I have not experienced situations of danger, harassment or personal denigration, but my work has been frequently mocked or considered of little importance.

In Italy my own department teachers have criticised my topic with statements such as «Why such a sad subject?!» and «The feminist approach to the problem is not enough». Also, the choice of a non-discriminatory and gender-based language

was considered a 'cacophonous and redundant' choice: «Why writing 'women involved in prostitution' every time, when you can just write 'prostitutes'?» Thus, this led to the language specification inserted in this thesis. More subject sensitive teachers justified the difficulties I have met by considering the subject I chose as 'rough' and as something that 'does not sell'. According to them, this phenomenon is of interest to just a few scholars, it does not interest society, it is difficult to properly unravel it by bringing new and useful scientific contributions.

Contrary to my expectations for a country that chooses to regulate prostitution and considers it similar to a regular job, during my period in Germany as a visiting fellow, general resistance was even greater. It has been very difficult for me to find a teacher who was interested in the topic. Although I have contacted those who had previously written on the field of prostitution policies, they have replied explaining they were no longer interested in the topic. Once in Germany, during an exchange with other PhD students, colleagues laughed at my research topic. One of them literally asked me: «Then what will you do? Will you go out in the streets looking for prostitutes to talk to?!» I specifically remember a student who commented on my research topic with a sounding «Why? Is prostitution being studied?» A teacher even said to me «Ah, I know this thing exists, I do not understand it and I am not even interested in understanding it». This difficulty has also emerged when looking for interviewees. Emails often went unanswered before the second or third attempt, and the answers were hardly ever positive. Many experts were elusive and politicians even more so. The latter did not reply to the emails, or when they did, they were asking to be able to answer some questions via virtual correspondence. However, they have never answered the short questionnaire I have sent them.

On the contrary, it seems to me that talking about prostitution is much easier in Sweden. Conversations were always serious and respectful. I had a positive amount of responses to my interview requests, something that can be verified by looking at the number of interviews that were carried out in such a short time. Certainly the Swedish model is often the subject of study and debate. The Government itself is trying to spread it throughout Europe and the world, so much so that it does not seem to be a new thing for them to openly face this topic. However, my

experience confirms that the stigma linked to prostitution and the people involved in it spreads to those who carry out research in this field. Moreover, the need to escape the constant frustration of having to deal with devalued comments about my research interests and about the phenomenon of prostitution has often led me to work solo. The perceived marginalisation of such a relevant issue, with all the debates about human rights that it should involve, has unfortunately led to the loss of opportunities for a serious and constructive dialogue. However, it is interesting to note that I have experienced more stigma in Germany and Italy than in Sweden. I have experienced more stigma where prostitution is considered a job or has no clear connotation than in the country where it is fought because it is considered a problem in achieving gender equality. In order to understand why further investigation would be necessary. It would be interesting to investigate how much the attitude towards the phenomenon - which precedes and succeeds the law - makes the difference. As we see in the following chapters, prostitution in Germany appears above all as something that exists and therefore needs to be managed in the best possible way. In Italy as something that exists and must now be tolerated and/or curbed. In Sweden, on the other hand, the phenomenon is considered relevant first and foremost by the State, it has been debated and deepened for years and, despite the agreement on the law in force, it continues to be relevant. Positions are clear and responsibilities are shared. Thus, once again, the public and political debate on the issue, how much does it impact on society's consideration of the phenomenon?

Chapter 3

The German case: the Prostitute Protection Act

The German case is complex and equally interesting. The Prostitute Protection Act defines and perimeters prostitution establishing obligations and restrictions for the people involved in prostitution and prostitution facilities. Considering what has emerged from the vision of the two general feminist positions - normalisation and abolitionist - and adapting them to the German context it is possible to make different assumptions (see table 3.1).

Feminist Positions	Why might it agree?	Why might it disagree?
Normalisation	After the 2002 law, a part of this school of thought believed that a better regulation of the sector was necessary.	The PPA sets very specific obligations and still considers prostitution different from all the other jobs.
Abolitionism	With its restriction, the PPA might be a step towards abolitionism, a first mediation after their claims.	The PPA still recognises the existence of prostitution as a work.

Table 3.1. Thought hypothesis of feminist positions on PPA

Within the normalisation position, the increased regulation of the prostitution sector could be well seen by those feminists who felt some improvements to the 2002 law were necessary. On the other hand, there may be disagreement from those who do not consider special laws necessary or even consider such regulation inadequate. Similarly, within the abolitionist position, some might agree with the PPA, if seen

as a first step towards the idea that prostitution must be combated. On the other hand, they may disagree because the law continues to recognise and regulate 'sex work'.

Thus, looking at the table, the law is puzzling. It is not self evident if there were some feminist influences and, consequently, which feminist position it reflects. It is confusing, and its conflicting nature motivates the need to study it further: both a) in regard to if and how feminists and feminist knowledge have influenced the policy making process, and b) in regard to what feminists think about it.

On the grounds of the general aims set out in Chapter 2, we proceed as follows:

1. To assess whether and how feminist knowledge has influence on the PPA policy making process, we proceed in two steps. (a) First let us briefly reconstruct from literature the influence of feminisms on German policy making over the last 100 years. This allows us to contextualize the debates and better understand their evolution. (b) Then, we analyse separately the existing debates during the policy making process. On the one hand, the parliamentary debate, which can be found in the reading of the parliamentary proceedings. On the other hand, the feminist debates both those who had access to the Parliamentary Arena and those who remained outside. These debates are reconstructed from an analysis of the several documents produced by German feminist associations. Some of these documents were sent to Parliament, registered and available together with the parliamentary proceedings, while others were found online on the websites of the several organisations. In this way we can classify the influence of feminism according to [Outshoorn \(2004b\)](#)'s 'four-fold typology'.

2. In order to highlight which current feminist debates are present in Germany, we deepen the existing debates on the PPA implementation through the analysis of semi-structured interviews. In fact, during the implementation of the interviews in 2018, the PPA implementation process was not yet complete. However, feminists already had very clear ideas about the law.

3. At the end, we investigate changes in debates, divergences and similarities among different feminist positions highlighted.

3.1 Feminist influence on prostitution policies

Looking back at the history of German legislation on prostitution,¹ the role of feminist positions in setting the agenda for some important changes is significant (Heberer, 2013; König, 2015; Heying, 2018b). Thus, here below we present a brief historical excursus of prostitution and its interweave with the women's movement.

Evolution of Classic Regulation

In 1918, universal suffrage was introduced, giving women the opportunity to enter Parliament. Some years later came the first abolition of State-brothels. A female member of the German Social Democratic Party defined women in prostitution as people of very low social status, marginalised, oppressed and despised. Thus, the 1927 reform that put an end to the classical regulatory regime, which was completely degrading for women, was initiated and favoured by women themselves. Even if their presence was derisory, it was enough to modify the contents of the speeches: men in Parliament found themselves talking about women involved in prostitution in the presence of other women (König, 2015). Prostitution itself was neither regimented nor criminalised (Heberer, 2013), but this reform was soon interrupted by the advent of the Nazi regime.

In 1933, the Nazis presented themselves as guardians of conventional sexual morality. Therefore, from 1934 to 1939, there was a new institution of brothels and an increasingly brutal suppression of street prostitution. In 1939, the Nazis did a decree for the establishment of licensed brothels with greater police control. Women in prostitution who had violated established norms could then be taken into a concentration camp (Roos, 2002). The primary motivation for Nazi-brothels was to 'maintain the physical fitness and morale of 'Arian' men' (Roos, 2002, 93).

After the end of the Second World War, in Eastern Germany the common wisdom was that, without any capitalist's influence, prostitution would simply vanish from society. However, this did not happen and in 1968, the new penal code made

¹For an overview of the history of prostitution in Germany from 1846 to 2002, please see: Heberer (2013).

prostitution illegal. Although it was illegal, State security used prostitution to obtain compromising proof against high-ranking men from East and West. This way, women in prostitution - considered 'accomplices' in the system - could do this activity with toleration from the State. Certainly, there was no way for women to resist the demands of the State. In the German Democratic Republic, all women could easily find a job, but the earnings from prostitution were higher than other jobs, especially in comparison to the living costs (Heberer, 2013).

The situation in Western Germany was not better. Even though they had abolished the Nazi laws on prostitution, marriage and prostitution had become institutions to prevent rape for women. Since 1973, a new reform was witnessed thanks, again, to the diffusion of a different conception of sexuality initiated by the women's movement (Heberer, 2013). Thus, prostitution was no longer prohibited, either indoors or outdoors, except for in certain areas. However, a 1980 sentence proclaimed prostitution immoral. The immorality of the activity precluded people in prostitution from accessing the welfare system. In addition to that, in order to limit the contagion of sexually transmitted diseases, they were obliged to undergo periodic health checks. Any facilitation that could help them staying in prostitution was forbidden, including the supply of towels and condoms (Heberer, 2013; Heying, 2018b,a).

Still in 1980, the 'whore movement' - *Hurenbewegung* - was born by women involved in prostitution along with their supporters.² This new mobilisation of national importance tied the social acceptance of prostitution to the legal acceptance. Women in prostitution were obliged to pay taxes called 'other income', but they had no rights. Even though prostitution was not considered a job under the German law, the tax office demanded taxes payment on prostitution earnings. In addition to that, women could neither access welfare nor pretend money from customers for their activity. If customers refused to pay them, they had no legal recognition. On the other hand, customers could sue women in prostitution for not providing the service they wanted. Women were also generally not allowed to carry out the

²The *Hurenbewegung* has been active for 20 years. During the 1990s, many movement groups became service centres. A large part of them are still active, even if they are no longer managed directly by women in prostitution, but by social workers (Heying, 2018b,a).

activity together, otherwise they could be accused of promoting prostitution. In light of this, women in prostitution required the recognition of their activity as a job, access to social services, health insurance and retirement (Barry, 1995; Kavemann and Steffan, 2013; Heying, 2018b,a).

The movement compared prostitution to other jobs and related it to the role of women in society. According to them, every woman is considered a sexual object by men. Therefore, every form of work and relationship between the two sexes is characterised by prostitutive behaviour. Women within the ‘whore movement’ defined themselves as feminists, claimed gender equality and women’s freedom. In their view Women’s oppression put them into prostitution, but all those who use prostitution to live should be supported. This will continue as long as prostitution will be part of the patriarchal and capitalist system and women will be disadvantaged in the labour market. It is not prostitution itself that hurts women, but the conditions in which they carry out this activity. For them it was important to combat patriarchy and also to destroy prostitution as a part of the patriarchal structure, not prostitution as a profession. Moreover, in the meantime protecting the women involved in it was essential and more urgent than ideological concerns (Heying, 2018b,a). Therefore, they, as the feminist movements, demanded a general change in the condition of all women and society. In line with the normalisation position, in Berlin, back in 1985, during the first Whores’ Congress, the *Hurenbewegung* wrote its 22 social and political demands. According to Heying (2018a), equality for women in prostitution, right to sexual self-determination, recognition of prostitution as a service, inclusion of women in prostitution in health insurance, abolition of the law requiring health checks for women, Federal measures to educate about safe sex (especially for men), no discrimination against women who have left prostitution (in professional and private life) and tax exemption as long as the civil rights of women in prostitution are restricted.

The influence of the movement was important in Germany. In 1986, *Hydra*³ approached the Green Party to discuss the demands wrote in the Whores’ Congress and the Party women agreed that women in prostitution were discriminated against

³Hydra e.V. is a German self-help and advocacy group for people in prostitution.

as women. However, the bill prepared by the Party did not satisfy the movement. Because compulsory health checks were included in the draft, the movement made a series of collective activities aimed at making customers understand the feelings of degradation that women were forced to feel and to underline that both, men and women, were responsible for each other's health.⁴

In 1989 a new State was born after the fall of the Berlin Wall. Prostitution also increased in the East and the shared opinion was that to impede prostitution could be another discrimination against women. Even then, the common thought was that the sex market would regulate demand and supply independently (Heberer, 2013). Thus, prostitution was not forbidden but still it remained immoral.

During the 1990s, the *Hurenbewegung* worked on a legal draft, which was discussed with all political parties in 1995 (Dodillet, 2013). Green Party/Alliance 90⁵ became the spokesperson for some of *Hurenbewegung*' demands by presenting the bill – which was rejected by the Government – aimed at eliminating discrimination against people in prostitution (Kavemann and Steffan, 2013).

The watershed of 2002: the neo-regulation

Later, in 2002, the Prostitution Act came into force thanks to the coalition between the Green Party/Alliance 90 and the much larger Social Democratic Party of Germany (SPD). Since then, prostitution has no longer been deemed immoral, offering towels and condoms is no longer punishable and brothels operators can enter into formal work contract with people in prostitution (Pates, 2012; Dodillet, 2013; Heying, 2018a; Hunecke, 2018). The law – which is only composed by 3 articles - recognised contracts in the sex industry along with the right of access to social security for people in prostitution. With this law the Federal Government regards prostitution as

⁴They place the focus of the discussion on customers: men should be examined, not women. For instance, men could sit down on a gynaecologist's chair and an activist pretend to perform a health examination. Afterwards, she gave out a health certificate similar to the one received by women in prostitution (Heying, 2018a).

⁵In German *Bündnis 90/Die Grünen*. Alliance 90 was born as a political Party in Eastern Germany, the Greens were born in Western Germany. They have become a single Party following the unification of Germany. The Party has included feminism among its ideologies and has an online blog – 'green is purple' – with the aim of 'creating a platform for feminist ideas and promoting the reflection of our positions on women and gender politics'. See the [blog](#).

an 'autonomous risky decision': a job, but not a job like any other. In other words, prostitution is not considered a desirable economic activity, but a choice which must be respected by law. A choice full of risks and dangers, including psychological and physical effects on people. However, if they have the effect of further marginalising, high moral standards are not useful to those individuals involved in prostitution. Thus, the principle of the law was that harmfulness depends on the conditions in which it is practiced and not necessarily on prostitution itself. The approach was only to regulate a social phenomenon, neither to abolish it nor to encourage it. The focus was on improving the conditions under which prostitution is carried out for people who voluntarily earn a living this way (Federal Report, 2007). Precisely, the goals were to eliminate the sense of immorality associated with prostitution; to guarantee wages and the possibility to sue customers, to facilitate access to social security and health insurance, to contain and prevent criminal activity in prostitution, to ensure better working conditions and to facilitate an exit from prostitution (Federal Report, 2007; Hunecke, 2018). Thus, some of the *Hurenbewegung*' demands have been fulfilled but the law has remained a compromise for them. Prostitution had always been regulated by criminal law and not by labour law. Moreover, the law was only valid for women with valid residence permit and did not consider migrants (Heying, 2018a). Anyway, because the Prostitution Act aims at improving the situation of women in prostitution, historian Dodillet (2013) has defined it a feminist law. According to Heying (2018a), this law was not the result of the work of the movement alone, but certainly its contribution has been huge: a work that has lasted for 20 years.

Despite the diversification of thought, the most feminist associations initially welcomed the Prostitution Act in a positive way, although after its implementation, there was clearly no lack of criticism and conflicting thoughts among feminisms (EP, 2015a). Greater attention to prostitution and trafficking dates back to the 2006 Football World Cup. The open debate saw Germany accused of promoting prostitution and of complicating the fight against trafficking in women (Federal Report, 2007; Hunecke, 2018).

In 2007 the law was evaluated. Its failure was highlighted by the Federal Government's Report on the Effects of the Prostitution Act. This shows that the

contributions to access employment with social security has been used very little. The positive effects on working conditions are difficult to measure, no alternatives to prostitution have been created, there are no reliable indicators of a reduction in committed crimes in prostitution, the transparency of the 'red light world' has improved only to a limited extent, and trafficking and exploitation do not seem to be decreasing (Federal Report, 2007). Thus, over the course of the last years, the debate over the women's movement has become heated and polarised between those who consider it a form of violence and those who support its voluntary nature and self-determination of choice (EP, 2015a). Thus, 'liberal' feminists consider the Prostitution Act one 'among the most modern and liberal in Europe' (Kavemann and Steffan, 2013, 9) or at least a good starting point that needs to be improved (Czarnecki et al., 2014; Heying, 2018a; Hunecke, 2018). On the other hand, abolitionists believe that the law has turned Germany into the 'brothel of Europe' (Czarnecki et al., 2014). The petition launched in 2013 by the magazine EMMA is explanatory. It collected signatures in favour of a legislative intervention to criminalise customers and eliminate prostitution (Czarnecki et al., 2014; Hunecke, 2018). In response to this, the Professional Association for Erotic and Sexual Services (BesD) was born and rebutted the opinion distributed by the petition (Heying, 2018a; Hunecke, 2018).

A new law came into force on July 2017, the Prostitute Protection Act (PPA). According to Hunecke (2018), its goals are:

1. to strengthen the right to self-determination of the people involved in prostitution,
2. to ensure acceptable conditions and health protection to people in prostitution,
3. to improve regulatory legal instruments for the supervision of sex trade,
4. to improve legal security for the exercise of licensed prostitution,
5. to eliminate the dangerous activities around prostitution,
6. to fight against criminal activities around prostitution as human trafficking, violence against, and exploitation of, people in prostitution.

Given the history of feminist influence on prostitution legislation it is indeed interesting to study if and how feminists have influenced the new law. However,

studies on PPA are still scarce. Some scholars mention the law critically. Before the law came into force, jurist Flügge (2016) already identified numerous critical issues and inconsistencies. For her the PPA will easily induce more people in prostitution to carry out this activity in secret pushing them away from help and reception places. According to Heying (2018b), the law makes conditions more complicated for people involved in prostitution. For Hunecke (2018), the legalisation introduced by the 2002 law has been replaced with supervision and repression. The Head of the Department of Emancipation⁶ (until 2017) believes that the PPA will reinforce the existing stigma rather than reducing it. In addition, the law proves to be a setback, only an example of a restrictive moral policy (Zimmermann-Schwartz, 2018).

For a better understanding of the analysis of the debates on the law, the PPA is explained below, the current prostitution system is clarified and some data is shown.

3.2 Current framework for prostitution

The PPA⁷ is entitled the ‘Act on the Regulation of the Prostitution Trade and the Protection of People Engaged in Prostitution’. It consists of 38 paragraphs, divided into 8 sections. The main innovative aspects concern a series of obligations and duties linked to detailed regulation of prostitution for the protection - this is the stated goal - of the people involved in it.

According to section 1 – general provisions – a sexual act is an act of a sexual nature for consideration, committed by at least one person together with at least one other person, both present and participating in the act. People in prostitution are people who provide sexual services in exchange for money. A prostitution company is an activity which offers various services to at least one person providing sexual services (§ 2 ProstSchG).

To carry out this activity, it is necessary to register with the competent authorities, both in case of self-employment and as dependent work. This registration will be allowed only if requirements are met, such as age of majority, absence of pregnancy,

⁶Ministry of Health, Emancipation, Nursing and Old Age.

⁷See the [Prostituiertenschutzgesetz – ProstSchG](#).

certificates of medical consultation, right to work for foreign citizens and absence of exploitation. It must be renewed every two years for the people who have reached the age of 21 and every year for those between the ages of 18 and 21, applying the same rules of registration. At the time of registration, there is also an information interview on the law, social security, consulting services, taxation and obligations, as well as the activation of help in cases of exploitation. These certificates must always be carried with oneself during prostitution activities and they only have value in the territory of registration (exception made for any specific and counter-acting deal or agreement separately stipulated by different Lands) (§ 3-11 ProstSchG).

Section 3 contains rules and requirements for commercial activities management in the prostitution sector. Again, you have to obtain a license, which can be withdrawn at any time if the requirements are no longer met. To obtain a license, you have to be of legal age and must not have received any criminal conviction in the 5 years preceding the application. The licenses will be reviewed every three years. In order to avoid a license withdrawal, it is necessary to respect the sexual self-determination of people in prostitution and not to feed their exploitation (§ 12-23 ProstSchG).

For the protection of the people involved in prostitution, customers and public interest aspects, the essential characteristics of those places dedicated to prostitution activity are also specified. For indoor prostitution, for instance, brothels must guarantee spaces of suitable size. Rooms used for sex activities cannot be visible from the outside, but must provide access to sunlight. They must be equipped with emergency call systems and doors that can be opened easily from the inside. There are also toilets, meeting and resting areas for people who carry out the activity of prostitution as well as private depots for personal belongings. It is also up to brothels to take care of the obligation to use condoms, the guaranteed presence of lubricants and hygiene products, and they must enable access to competent bodies that provide health advice to the people involved. They may not employ pregnant people or those who do not comply with certificates. They must keep a copy of certificates, preventing access by third parties. The law makes it clear that brothel owners have no say in the design of sexual services, which is a responsibility of the

parties directly involved. Furthermore, the agreements between the operator and the people involved in prostitution must be written down, and the payments between the two must be traceable (§ 24-28 ProstSchG).

The law provides 1) for monitoring and surveillance of the prostitution industry, 2) for the obligation for managers and people selling sex to provide information to the authority (§29-31 ProstSchG), 3) for the regulations and prohibitions, such as the use of condoms, the prohibition of advertising and administrative offences (§32-33 ProstSchG). It also clarifies how to collect data, the possibility of supplementing this law with ordinances concerning minimum requirements for prostitution activities, health protection and compliance with the obligations of registration, collection and transmission of data. Finally, it provides for its evaluation from 2022 onwards (§ 34-38 ProstSchG).

The PPA came into force on the 1st of July 2017 and had to be implemented by the 1st of January 2018. In practice, only some Land were able to meet the deadline: others, at least at the end of my field research work (July 2018), are still not. Considering prostitution as a different profession from any other means that the contract is unilateral. The people involved in prostitution have the right to terminate the activity at any time, to refuse a customer or a service. In addition to that, Federal Employment Agency does not place any prostitution job offer. Otherwise, it would directly promote prostitution. In placement practice, this means that job offers and candidates in the field of prostitution are not accepted by employment agencies and that offers entered into the virtual portal are deleted.

On the other hand, job offers are accepted for related activities in the erotic field (e.g. dancers, barmaids etc.), as long as there is no obvious connection to prostitution. These jobs will only be handed over if the customer approaches the employment agency with the express wish to find such a job ([Federal Report, 2007](#)). However, some newspaper articles have spoken of borderline situations. In 2013, an employment agency would offer a 19-year-old girl a job in the inner bar of a brothel ([SPIEGEL, 2013](#)). In 2017, a job as a 'brothel service worker' would be offered to a young woman ([Louis, 2017](#)).

The PPA is a Federal law and it is valid for the whole country. However, it allows different Land to impose local restrictions on tax and trade law. Thus, the creation of facilities for prostitution is never free. With the exception of Berlin, every Land have identified specific urban areas where red light zones can be set up. These are specific neighbourhoods or areas, sometimes divided into indoor and outdoor prostitution areas. There are also time restrictions in some of these areas. The Land of Berlin, on the contrary, does not provide for territorial restrictions, but merely regulates the location of prostitution activities certain kilometres away from churches, schools and public parks. Municipalities under a certain number of inhabitants may prohibit the presence of brothels or places for prostitution altogether (Federal Report, 2007).

The places of prostitution are:

- The so-called *FKK Clubs*. Large multi-functional areas with saunas, whirlpools and other services. FKK means 'free body culture', which denotes that it is not possible to wear clothes inside the clubs. Both customers and women pay an entrance fee that includes the use of the structure's services, then negotiate directly between them performance and price.
- *Appointment houses*. Small houses in normal condominiums where there is no fee for customers. Women deliver between 40% and 50% of their income to the owners
- *Eros Centre*. Buildings consisting of many rooms rented to women in prostitution. Customers pay an entrance fee and, while walking through the floors, they choose the woman they prefer.
- *Night Clubs*. Places where customers pay entry, drink with the women inside and, if they want, by paying, can go to a room with one of them. Also in this case women are generally entitled to about 50% of the payment for the sexual intercourse.
- *Red Light street, with its windows*. It is rarer in Germany, but still present. Generally, access from the street is controlled, minors and sometimes women cannot enter.
- *Love-Mobile*. Prostitution in caravans, SUVs, and vans.
- *Escort service*. Includes women who meet customers in the hotel or at home for a few hours outing where sexual services is not the only activity carried out with the

customer.

- *Box for sexual intercourse.* In some cities 'garages' have been equipped. Negotiations take place on the street and performances take place in the box away from prying eyes.
- Prostitution in the street, where allowed.

3.3 Some data from previous research

Contrary to what we can imagine in a country where prostitution is legal and regulated, it is useful to underline that the subject remains taboo. Moreover, because prostitution and trafficking in human beings are phenomena that are often confused, partly submerged and involve a 'rare' population (the existing stigma means that very rarely people in prostitution openly declare themselves as 'prostitutes' or 'sex workers'), there are no reliable statistics in this field. The unrealistic nature of the German data has recently been confirmed also by [Wagenaar \(2018\)](#) and [Hunecke \(2018\)](#). Anyway, even if underestimated, some data do exist and it is useful to highlight them.

Media and politicians often cite 1,200,000 customer contracts per day and 400,000 people in prostitution. They suggest 14.5 billion of euros are generated every year by the prostitution sector. However, according to [Hunecke \(2018\)](#), these figures seem to be entirely speculative.

The research study 'Health, Well-Being and Personal Safety of Women in Germany' ([Müller et al., 2004](#)) is the first representative survey on violence against women in Germany. In 2003, 110 women in prostitution were interviewed extensively as to their experiences with violence, their feelings of personal safety and their psycho-social and physical health situations. The study immediately showed that this group, along with that of the women prisoners, were affected by physical, sexual and psychological violence, as well as sexual harassment, to a markedly greater degree than the women in the main representative study. Women in prostitution often expressed a low sense of personal safety, frequently fearing physical or sexual

assaults by customers, but also by strangers, pimps, female colleagues and male partners. They have experienced a high measure of violence at the hands of current or previous partners and, after them, customers were the second most frequent assailants for both physical and sexual violence. According to the study, 92% of women in prostitution had experienced sexual harassment; 87% physical violence; 82% psychological violence (which is a strange fact since it is not possible to suffer physical or sexual violence without it also being psychological); 59% sexual violence and 62% sexual or physical violence by partner. Moreover, 41% of physical or sexual violence, or both, have taken place in the context of performing sexual services. They have suffered from abuse during their childhood and/or adolescence: 43% of them had experienced sexual abuse during childhood, 52% of them were punished physically by their parents, while another relatively high percentage had suffered physical abuse at the hands of other people responsible for their upbringing. Furthermore, physical and mental health of many women in prostitution is extremely difficult, including a higher occurrence of health problems such as gynaecological complaints, stomach and bowel or digestive complaints, and eating disorders. Around half of the interviewees showed symptoms of depression; a fourth of them entertained frequent or occasional thoughts of suicide, almost a third of them dealt with anxiety and panic attacks, and about one in seven had had the intention of injuring herself in the last 12 months. The very high psychological and physical health risks in this interview group are clearly reflected in a high level of drug consumption (41% had taken drugs in the last 12 months) (Müller et al., 2004, 24,25,26).

An often quoted estimate was made in 2008 by TAMPEP.⁸ Again here we find 400,000 people involved in prostitution; 90% of these are women, of whom about 63% are of foreign origin. The 87% of prostitution in Germany takes place indoors, of which 45% in brothels, clubs, bars; 36% in apartments and windows and 6% in visiting services ('escort agencies'). 42% of migrants come mainly from Central European countries, 16% from Eastern Europe (extra EU countries and Central Asia), 15% from Pacific Asia, 8% from the Baltic countries, another 8%

⁸The estimate is calculated through data collections carried out during awareness campaigns. The data were collected by 30 public health services, 22 NGOs, a law enforcement authority and a youth welfare office. The 54 organisations are based in 39 different German cities (TAMPEP, 2010).

from Latin America and the Caribbean, 6% from Africa, 3% from the Balkan countries and 2% from the rest of Europe. Studies also highlight the five main vulnerability factors for people in prostitution: financial problems (pressure, debts, poverty, unemployment, homelessness); violence and abuse; no professional identity, no professionalism, lack of self-confidence, of self-esteem; stigma and discrimination; exploitative personal dependencies, psychological pressures, instability. In addition to that, other significant vulnerability factors are alcohol and drug dependency, lack of or low educational level, social isolation and exclusion, demand for unsafe sex, bad working conditions, lack of information about labour rights, few possibilities to leave prostitution, lack of viable work alternatives, lack of access to health and social care, bad living conditions, competition, and exclusion zone ordinances (TAMPEP, 2010, 112,113). 60% of the national people and 80% of the migrants involved in prostitution have to share their income with third parties from the sex industry, from traffickers to brothels owners (excluding their family) (TAMPEP, 2010, 115). Of the questionnaire respondents, 80% of them estimated that national people in prostitution face higher levels of violence and other crimes against them than the general population, while 85% estimated the same for migrants. Moreover, 70% of the respondents estimated that national people involved in prostitution have higher levels of drug and alcohol dependency than the general population, while 50% of them estimated the same for migrants (TAMPEP, 2010, 116).

These estimates give us an idea of the situation in Germany, where even after the 2002 law the situation of the people involved in prostitution is certainly still not positive. However, because of the speed with which the phenomenon of prostitution is changing, these estimates are obsolete nowadays.

Again, another Federal research carried out between 2011 and 2015 with the aim of capturing the living conditions (inside and outside prostitution) of the people involved and the factors that help them out, shows that stressful experiences were reported in the period before prostitution (violence in childhood/adolescence, violent relationships, family hardships such as the loss of parents or a home). Psychological crises or problems such as depression were also reported. Some of the interviewees have described the prostitution activity as very stressful. Some have also described

it as something that 'destroys you'. Special health risks have been described in the form of poor conditions where prostitution takes place, violence, and threats by customers or other people. They have also mentioned the double life that many feel compelled to lead as a source of depression (Federal Report, 2015, 25). Moreover, they have internalised the 'public stigma'. Interviewees believed that most people view prostitution as 'reprehensible'. They stated that people in prostitution are 'denigrated' and 'condemned' by other people. Many feared and anticipated social stigma: for example, they expressed surprise when employees of Government agencies treated them with respect. Other interviewees had taken on the stigma and were ashamed of their past in prostitution (Federal Report, 2015, 21), confirming that the stigma, even in a regulatory context, remains strong and affects the lives of those who are involved in prostitution.

Then, there are the police statistics (BKA – *Bundeskriminalamt*) on the established crimes,⁹ which we have described below.

What can we get from the crime statistics?

Even criminal statistics greatly underestimate the phenomenon. They capture only the visible field and often relate more to the detection of such crimes than the actual number of the crimes themselves. However, these data can still tell us some things. For example, in the survey, since the data is underestimated every year, major changes from one year to another are most likely related to changes in the context.

From the police statistics in Germany we have extracted data relating to those crimes useful for our analysis from 2001 to 2018 (years available). More precisely, from 2001 to 2006 the crimes of 'exploitation of prostitution' (§180a Penal Code) and 'exploiting another's prostitution' (§181a Penal Code) were recorded. §180a regulates the ban of personal or economic dependence between operators and people involved in prostitution. §181a is the ban of sexual exploitation or 'surveillance' of profit from prostitution, which also applies to spouses. Since 2007, in addition to the above, the data of 'trafficking in human beings with intent to exploit prostitution' (§232

⁹Reports or Excel files are public and can be downloaded from the bka.de website.

Penal Code) has been recorded. Introduced in 2006 to combat trafficking in human beings, the article of the Criminal Code regulates the ban of human trafficking for the purpose of sexual exploitation.

As we can see from table 3.2, since 2001, sentences for exploitation of prostitution (§180a and §181a) are derisory.

Offense	Years					
	2001	2002	2003	2004	2005	2006
§180a	929	620	326	194	130	103
§181a	1010	667	578	476	436	422
Total	1939	1287	904	670	566	525

Table 3.2. Recorded cases for each offence per year from 2001 to 2006

With the entry into force of the 2002 law, they were reduced by about one third and then gradually continued to decrease. However, there is no agreement among experts about the real influence of the law. According to [Federal Report \(2007\)](#), half of those interviewed between the police and the prosecutors believe that the 2002 law was an obstacle to their struggle against trafficking and the exploitation of prostitution, while the other half found no connection between them since numbers have always been low. Certainly, the key to counter trafficking is mainly the presence of specific State policies ([Marinova and James, 2012](#)). Unsurprisingly, as table 3.3 shows, the introduction of the specific offence of trafficking in human beings for the purpose of sexual exploitation (§232) has led to an increase in sentences (the total number of sentences doubled from 525 in 2006 to 1073 in 2007), even if the numbers remain derisory.

Offense	Years											
	'07	'08	'09	'10	'11	'12	'13	'14	'15	'16	'17	'18
§180a	58	58	62	50	62	44	35	73	39	27	18	34
§181a	360	282	298	264	238	229	273	305	249	229	154	160
§232	655	704	811	621	636	558	473	524	557	552	141	402
Total	1073	1044	1171	935	936	831	781	902	845	808	313	596

Table 3.3. Recorded offence cases per year from 2007 to 2018

With the entry into force of §232 in 2007, convictions for the crime of 'exploitation

of prostitution' (§180a) were almost halved and then continued to decrease until their almost disappearance in 2017 (18 cases throughout Germany). Sentences for trafficking for sexual exploitation are more clearly identifiable (§232) and seem to increase (at least initially, and then decrease as well). It is plausible to assume that sentences for exploitation of prostitution' (§180a) prior to 2006 also included cases of trafficking for sexual exploitation.

The full trend of the 18 years available is shown in figure 3.1. Since the exploitation of prostitution has not ceased in Germany, the reduction in convictions shows an intrinsic difficulty for - or low interest of - the system for it to combat this kind of exploitation. The presence of laws is not enough to solve the problem, but it is certainly an indispensable tool. It is no coincidence that major changes in trends - even when underestimated - correspond to the introduction of a new legislation (after 2002, after 2006 and, it seems, also after 2017).

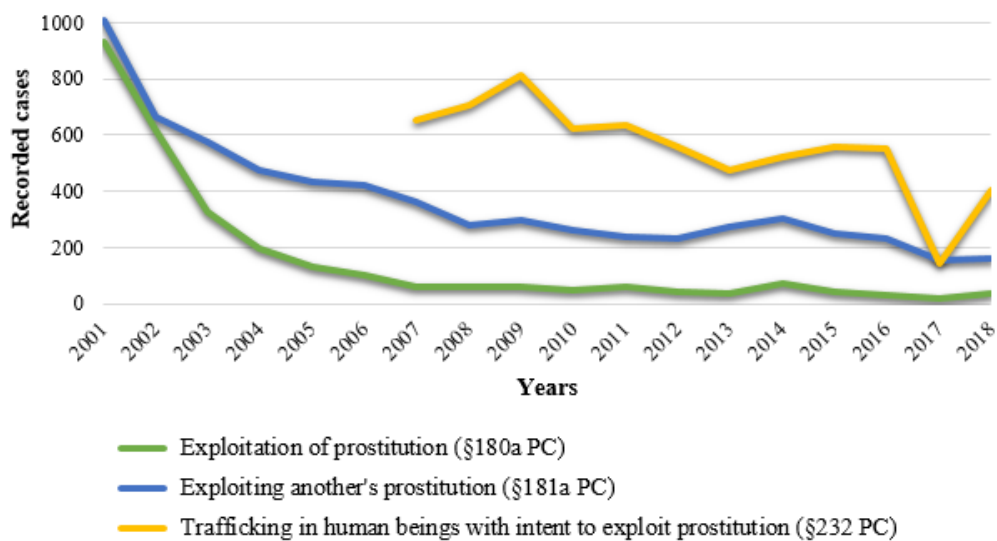


Figure 3.1. Trend of recorded offence cases from 2001 to 2018

Having explored the German context in which the debates on prostitution arise and change, we proceed in the next paragraph with the empirical analysis.

3.4 Evolution of parliamentary debates from 2014 to 2016

Prostitution again becomes a political issue

As we said at the beginning of this chapter, let us first investigate the parliamentary debate and whether and which feminist positions are present in it. From a review of parliamentary work, the topic of prostitution re-emerges in 2014 along with the ones of exploitation and trafficking in human beings in the Social Democratic Party of Germany (SPD) and CDU/CSU¹⁰ (Bundestag, 2014a,b). However, the two Parties use different shades of language. Inside the CDU/CSU, Michael Brand calls Germany 'the brothel of Europe' (Bundestag, 2014b, 2368). His colleague, Elisabeth Winkelmeier-Becker, talks only about forced prostitution (Bundestag, 2014c, 3894). As we have previously seen (see 1.3), talking about forced prostitution without specifying the existence of voluntary prostitution may mean that both are recognised, or it may be an expression of compromise: they are first of all leveraging on something with which everyone agrees. Not by chance, while talking about trafficking and forced prostitution, they believe that a reform of the 2002 Prostitution Act is necessary. This is because the 'lax legal situation' has made it easy for brothel owners to exploit the people involved in prostitution (Bundestag, 2014d, 7128). On the other hand, Eva Högl of the SPD always points out the difference between exploitation and legal prostitution (Bundestag, 2014a, 594) (Bundestag, 2014d, 7126), clearly placing herself on the normalisation stance. Along the same lines, Alliance 90/The Green believe that they must regulate prostitution sites under trade law (Bundestag, 2014d, 7128). They, together with The Left,¹¹ consider the CDU/CSU's thesis about lax legal situation to be nonsense and believe that exploitation and prostitution should not be mixed up (Bundestag, 2014d, 7128). The strength with which the Alliance 90/The Green and The Left Parties are pursuing the position of normalisation, places the answers given by the CDU/CSU increasingly blatantly far from it. For

¹⁰The CDU/CSU is a single parliamentary group composed by two Parties: the Christian Democratic Union of Germany (CDU) and the Christian Social Union in Bavaria (CSU).

¹¹In German Die Linke. It was founded in 2007 by the Union of the PDS and the Work and Social Justice movement. In their website they define themselves as a feminist political force.

instance, Volker Ullrich (CDU/CSU) says 'We need to change the culture of this country. Bodies are not a commodity' and then 'You do not buy people. Respect for people forbids us to regard sexual services as goods' (Bundestag, 2014d, 7128). Clear statements that classify prostitution as body marketing and therefore as wrong. Furthermore, if they believe that the sale of sexual services is not respectful towards people, according to them prostitution should not be considered a job. Unsurprisingly, Alliance 90/The Green accused him of wanting to ban prostitution (Bundestag, 2014d, 7129).

Thus, in 2014, the discussion on prostitution saw Alliance90/The Green and The Left embracing the normalisation position in a clear way, as the CDU/CSU reflections seem less clear and more in line with the abolitionist position. More ambiguous, however, is the position within the SPD, which has participated less in the debate.

Furthermore, the issues of prostitution, exploitation and trafficking in human beings have not been discussed in a gender-sensitive manner. References are to 'people', to 'human dignity', to 'human rights violation' (Bundestag, 2014a,b,c,d): women are hardly ever mentioned by the CDU/CSU (Bundestag, 2014c, 3900) and the relationship between women and men or between sellers and buyers is never mentioned.

In 2015, something changes in the CDU/CSU debate. In a speech on violence against women, Sylvia Pantel (CDU/CSU) includes the theme of the exploitation of prostitution, but also points out that they do not want to ban prostitution:

All over the world women are beaten, mutilated and killed. They are exploited, raped and forced into prostitution. That is why fighting violence against women is an important issue for us. [...] Sexual self-determination is our greater good. The protection of women is an important goal for us. The 2002 Prostitution Act is not good enough, therefore it needs to be improved. [...] Women must no longer be victims of sexual exploitation and human trafficking. We do not want to ban prostitution, but rather to improve legal security, strengthen the right to self-determination and fight crime (Bundestag, 2015a, 7685,7686).

This way, the debate over the exploitation of prostitution is gendered: exploitation as a form of violence against women as women. At the same time, sexual self-

determination belongs to the normalisation position: the 2002 law should not be abolished, but improved. Thus, despite some thoughts closer to abolitionism, they support a form of regulation. After that, exploitation of prostitution issues emerge, once again, associated with trafficking in the debate for implementing Directive 2011/36/EU. There is an agreement from all political Parties on the need to reform sex trade, always within the framework of regulation (Bundestag, 2015b).

In 2016, the PPA bill and two bill requests were submitted. One request was from The Left Party 'Strengthening self-determination rights of sex workers'. The 2002 law has taken an important step towards them. They believe that this law 'has strengthened the legal position of sex workers and thus also brought about a change in the social evaluation of the profession' (Bundestag, 2016b, 1). However, they point out that employment relationships in prostitution facilities have not been established in practice; that the central problem for the people involved in prostitution is still social security; that there is a lack of affordable work space; and that the social stigmatisation of people providing sexual services continues. According to them, prostitution as a self-selected activity and criminal offences such as trafficking in human beings for the purpose of sexual exploitation are an inadmissible mixture. This mixture would further increase the stigmatisation of and discrimination against the people involved in prostitution without giving them any increased legal protection. For these reasons they ask: 1) accessible ways to enter social security systems; 2) clear minimum standards for prostitution facilities; 3) expansion of counselling centres. All measures have to fight the stigmatisation of the people involved in prostitution (Bundestag, 2016b).

On a similar line the second request of Alliance90/The Green. According to them:

The situation of many prostitutes is in need of improvement. Basic rights such as sexual self-determination, personal freedom, health and personal rights of prostitutes are particularly endangered. In contrast with other kinds of trade, the field of sexual services has so far not been subject to any specialist legal regulation tailored to their specific needs. [...] Effective and practicable regulations are necessary to better protect prostitutes in the prostitution facility, to strengthen their right to self-determination, to guarantee legal foundations of compatible working conditions and to fight crime such as trafficking in human beings, violence against women, exploitation and pimping. This is to be achieved with a law on prostitution

centres (Bundestag, 2016a, 1).

Thus, they have asked for a bill regulating prostitution facilities as commercial businesses, which includes licensing requirement, the implementation of socio-hygienic standards and the expansion of counselling services for the people involved in prostitution (Bundestag, 2016a). Both requests are an expression of the normalisation position and are distinctly liberal. Sexual self-determination is associated with 'sex work', there are no restrictions and/or obligations for the people involved in prostitution and, albeit with specific standards, prostitution facilities must be governed by commercial law.

Their gender analysis is not hierarchical. Both requests recognise that it is mostly women who sell sex, but often use the term 'people', plus clients are never mentioned. Moreover, the Left points out that other genders also sell sex and their needs need to be further investigated and taken into account (Bundestag, 2016b).

The approval process of the Prostitute Protection Act

The PPA draft was presented from Manuela Schwesig of SPD (Bundestag, 2016c) and it expressed an agreement between the SPD and the CDU/CSU. Alliance90/The Green and The Left opposed the bill.

Supporters have highlighted the need to put an end to violence within prostitution, trafficking and exploitation. According to them, the first task of the State is to protect the weakest (Bundestag, 2016e,f). Schwesig (SPD) stressed that it is more difficult to set up a business in Germany than a brothel and that 'this must end'. She has argued for an end to the inhumane conditions under which the people involved in prostitution are forced to live. Only those who know their rights are really protected and, therefore, access to information and compulsory registration are necessary. According to her, the PPA was not to stigmatise, but to protect (Bundestag, 2016e). Thus, thanks to these registrations, women in prostitution are not lost in the invisibility that makes them a perfect prey for traffickers. Supporters felt it was necessary to give the authorities tools to control the sector. Moreover, those

individuals who want to choose prostitution must respect these rules (Bundestag, 2016e,f; Bundesrat, 2016).

Opponents considered instead the PPA draft an expression of mere control. The draft has 'a paternalistic attitude that denies self-determination to all women and men in prostitution. [A law that] continues the stigmatisation of the stigmatised' (Bundestag, 2016e, 17009). According to them, the PPA further complicates the lives of the people involved in prostitution (Bundestag, 2016d,e,f). The Left and Alliance90/The Green agreed with what was said by Cornelia Möhring (The Left):

That does not mean that sex work is a profession like any other; but it does mean - and this is the real point - that prostitution is legal, is a profession, and prostitutes must not be restricted in their freedom of occupation. It is therefore necessary to regulate professional conditions and safeguard the rights of those who work in this industry (Bundestag, 2016d, 14741). [...] The employment relationship as we normally know it in business is not practicable for sexual services. They therefore need much stronger rights (Bundestag, 2016d, 14744).

With this reflection, the normalisation position among policy makers is revealed in a more 'moderate' attitude. They recognise prostitution as a job, but believe that this activity is different from all the others and needs specific interventions. Thus, they definitively move away from the most extreme liberal position, that of decriminalisation, positioning themselves within those who see neo-regulation as the best way forward. Not by chance, they were in favour of regulating prostitution, with the need to verify the reliability of brothels owners, and to design better conditions for the people involved prostitution (Bundestag, 2016d,e; Bundesrat, 2016). However, they have opposed compulsory registration and health counselling. They perceive these as means of control and repression. Since only anonymity protects the people involved in prostitution from stigma, they claim that the PPA will promote secret and unprotected labour (Bundestag, 2016e; Bundesrat, 2016). Before taking action against prostitution, they think it is necessary to resolve the social issues that produce it (Bundestag, 2016e). Thus, it is necessary to strengthen the self-determination of people in prostitution and to protect the most vulnerable (Bundestag, 2016e,f).

Both positions were based on concrete evidence. Supporters referred to the

failure of the 2002 law mentioned especially in the [Federal Report \(2007\)](#). On the other hand, opponents said that they were referring to requests from expert organisations in this field. The whole debate is based on very concrete aspects and tries to appear free from general ideological reflections, however, implicitly there are a lot of normative assumptions and values. There is almost never any reference to the hierarchical or egalitarian dynamics between genders, and those who buy sexual services are hardly ever mentioned. Focus is always on those who sell sex, on their rights or on the need to protect them. The reference to women as the majority of those on the supply side is not a source of reflection: on the contrary, there is often a tendency to use a more generic and inclusive language towards other groups of subjects. Those who most of all use the reference to women are from the CDU/CSU. However, they do it in a paternalistic way labelling them as 'weak women' and/or 'women to be protected'. Considering women as weak per se is contrary to the whole landscape of feminist theories, including the field of prostitution. It would have been more correct and not devaluating, for example, to talk about 'women in a vulnerable situation'. Very often it is not women who are vulnerable, but the situation in which they live that makes them vulnerable. Despite the nuances of thought, however, all political Parties are on the normalisation stance. Alliance90/The Green and The Left strongly reaffirm the distinction between voluntary and forced prostitution, the SPD states the same, albeit with less emphasis, and the CDU/CSU does so even more timidly. For the latter, not only does the boundary between the two forms of prostitution seem more blurred but, as seen, they tend to condemn the whole prostitution system more easily. The latter, although close to an abolitionist position, are not in a feminist way. Yet, despite differences of opinion in the normalisation position, all political Parties are calling for sex trade regulation and agree on the need to improve the 2002 law. Alliance90/The Green and The Left would only regulate prostitution facilities, the SPD and the CDU/CSU would also regulate people selling sexual services. Thus, the Parties' thoughts on prostitution within the Parliamentary Arena can therefore be summarised as in figure [3.2](#).

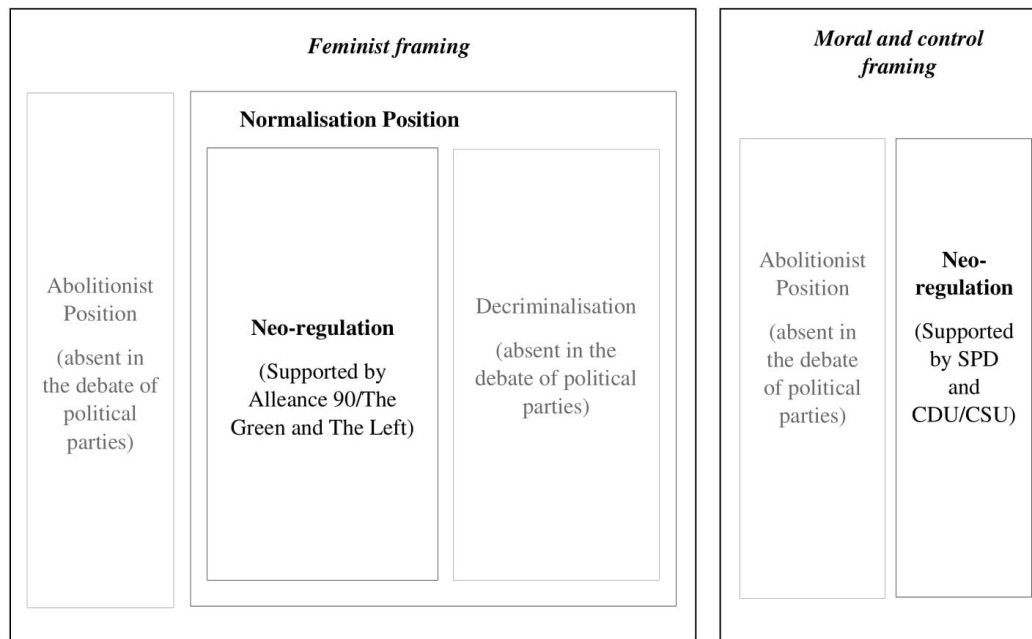


Figure 3.2. The debate on prostitution among German political Parties in the Parliamentary Arena

The abolitionist thought that sees prostitution as a problem, although sometimes mentioned in some of the speeches made by members of the CDU/CSU, has never been explicitly supported. Moreover, as we have seen, all of those reflections coming from the CDU/CSU are socio-political (protection of the weakest) and not gender-based. At the same time, despite policy makers talking about the normalisation of sex work, total decriminalisation is never mentioned. The 2002 law, which is extremely general, is considered by some as a form of decriminalisation (Östergren, 2017b) and all Parties agree that it is not enough. They are all orientated towards neo-regulation, albeit declined in very different ways. Certainly, the position taken by Alliance90/The Green and The Left and that of the SPD and the CDU/CSU cannot be put on the same level. While not advocating for decriminalisation, Alliance90/The Green and The Left support neo-regulationist feminist ideas. On the contrary, the ideas of the SPD and CDU/CSU cannot be traced back to any feminist analysis. Nevertheless, we call the position of SPD and CDU/CSU neo-regulatory because it is different from that of the classic regulation.

The PPA discussion included a public hearing with some experts, as well as the

receipt of several letters from women's organisations. Here below, the thought of the feminist experts inside and outside parliamentary debate.

3.5 The feminist debate during the discussion of the Prostitute Protection Act

Some women's organisations have had access to the parliamentary debate, others have not, but have nevertheless expressed their opinion. In order to have a more complete picture of the feminisms demands, we have investigated both.

Feminist thoughts that have had access to the Parliamentary Arena

During the discussion of the PPA draft, the analysis of the documents submitted to the German government by different women's organisations shows a general disagreement on the bill. The National Coordination Group against Trafficking in Human Beings (KOK e.V.) - which brings together 38 specialist counselling centres for victims of trafficking in human beings and the people involved in prostitution - has written all their scepticism and concerns about the PPA draft. For them the focus should not be on the general control of prostitution, but on the welfare of the people involved in it (KOK e.V., 2016). Deutscher Juristinnenbund e.V (2016) (DJb) – the German Women Lawyers Association - believes that the level of control required by the PPA is inadequate. For them, there are milder means than compulsory registration to inform people about their rights. According to SISTERS (2016), an association to get out of prostitution, the PPA points in the right direction trying to limit exploitation. However, it does not go far enough to do so, continuing to consider the possibility of 'sex work'. Once again, the debate revolves around very concrete facts. However, implicitly the positions are detectable.

Organisations generally welcome the regulation of prostitution facilities (KOK e.V., 2016). However, some are concerned that the requirements are too stringent (Deutscher Juristinnenbund e.V, 2016). The almost complete disagreement is over the obligations for the people involved in prostitution. According to them, the bill

3.5 The feminist debate during the discussion of the Prostitute Protection Act

relies unilaterally and disproportionately on the control of women by compulsory registration and health counselling. Organisations underline the importance of anonymity (KOK e.V., 2016; Deutscher Juristinnenbund e.V., 2016), as well as the responsibility of all those people involved, including customers (Deutscher Juristinnenbund e.V., 2016). Concerning registration, few recognise any possible advantage ensuing personal contact in the context of registration: most organisations assume that it would not lead to greater protection against exploitation (KOK e.V., 2016; Deutscher Juristinnenbund e.V., 2016). It is not possible to identify victims of exploitation in a short interview. Experience shows that victims need time to develop trust and tell their story. How can a victim go to a public authority if there is an obligation to report people without a residence permit? In addition to that, failing to identify the victim's status could then legally invalidate the victim's credibility in subsequent admission. The certificate could then easily become an instrument of blackmail, especially for those coming from countries where prostitution is a crime (KOK e.V., 2016). Compulsory registration and health counselling are only supported by SISTERS (2016). In its opinion, registration provides an identity, information and possible help to those who are exploited, while health counselling provides an health system for those who are generally excluded from it.

The criticisms made on very concrete issues arising from the experience of the counselling centres find agreement on different theoretical/ideological stance. This is particularly the case of the KOK which never refers to political/ideological issues and both the document produced and the spokesperson present at the public hearing mention prostitution generally without ever specifying it neither as 'forced' nor 'voluntary'. This may be necessary to keep together 38 different counselling centres or maybe, they simply focus on a harm reduction logic.¹² On the other hand, other organisations have been clearer about their basic thinking, allowing us to identify their position. The three women's organisations present at the public

¹²Harm reduction is typically applied to drug consumption, but it is also widely used when talking about prostitution. According to Open Society Foundations (2019): 'Harm reduction refers to a range of services and policies that lessen the adverse consequences of drug use and protect public health. Unlike approaches that insist that people stop using drugs, harm reduction acknowledges that many people are not able nor willing to abstain from illicit drug use, and that abstinence should not be a precondition for help'.

3.5 The feminist debate during the discussion of the Prostitute Protection Act

hearing introduced two opposing positions, both not present in the debate between the parties.

Normalisation Position

Within the normalisation stance, more liberal positions are emerging. Maria Wersig of Deutscher Juristinnenbund e.V. says:

Prostitutes have rights. The Federal Constitutional Court has explicitly placed prostitution in the context of Article 12 of the Basic Law, freedom of occupation. [...] We have come to the conclusion that the regulation is partly unsuitable and partly disproportionate and thus unconstitutional. [...] It opens the floodgates to abuse by the administration and is also unique in trade law (Bundestag, 2016g, 20).

They consider the obligation to register unconstitutional because prostitution is considered a job like any other. In fact, they specify that no other work requires such a restriction and, in relation to brothels, she takes New Zealand as an example (Bundestag, 2016g, 38). As mentioned in the first chapter, New Zealand is usually taken as a reference country for the decriminalisation model. Moreover, on the same line there lies the thought of Anja Kasten, spokesperson of Berufsverband erotische und sexuelle Dienstleistungen e. V. (BesD) - 'Professional association of erotic and sexual services'. She states: 'Many of us sex workers lead a double life because in our society sex work is unfortunately not yet recognised as a normal profession', and adds that 'The current draft law worsens our working conditions' (Bundestag, 2016g, 23). They criticise compulsory registration by raising the issue of stigma: it exists and creates numerous difficulties in the lives of the people involved in prostitution. Thus, documents attesting this activity would inevitably make the situation even worse. According to BesD, even the minimum standards proposed for brothels are not adequate, but 'counterproductive for the sector' (Bundestag, 2016g, 24). As well as not sharing obligations and restrictions imposed on those who sell sexual services, these positions also criticise the standards set for prostitution facilities. They also point out that considering prostitution as a different job from all others is a problem. These positions feeds the debate with contents of decriminalisation, under which there would be no special laws on prostitution, which would be considered as any other job. This position is absent from the debate between the political Parties

3.5 The feminist debate during the discussion of the Prostitute Protection Act

which, although with different nuances, have recognised the specific nature of the phenomenon of prostitution and the need to regulate it.

At the same time, the abolitionist position emerges as well.

Abolitionist Position

Leni Breymaier, spokesperson for SISTERS, brings clear abolitionist content which, in addition to concrete issues, generalises the cultural impact of prostitution on women and society. She states:

If my colleague can run off at lunchtime and do what he wants with a woman for 25 Euros, how does he actually look at me and my colleagues when he comes back? What does that do to the image of women in this society? (Bundestag, 2016g, 18).

Customers are no longer embarrassed at all. The boys of a whole school leaving class go to the brothel together, because that's what wellness is all about nowadays and not the abuse of women. They have the attitude: 'That's your job and you have to do it'. [...] Here the woman is used as a toilet (Bundestag, 2016g, 31,32).

For SISTERS, prostitution changes the way men look at women, reinforcing gender asymmetry and contributing to the reification of women. Moreover, confirming that the typical women involved in prostitution on the German market is the total opposite of the self-determined person we all know from the talk shows, she brings their experience to Stuttgart. She highlights that women work up to 16 hours a day in prostitution, that a room costs between 120 and 160 euros a day while penetration costs just 30 Euros. Thus, as a result, women have to serve four to six customers before they make any money. In addition, most women come from Southern and Southeastern Europe, they often have no school education and are not able to communicate with customers. Many of them do not have a life outside the prostitution system and remain invisible to the German State. For these reasons, SISTERS believes that compulsory registration and health counselling can be useful tools for contacting these women (Bundestag, 2016g, 14,30). SISTERS introduces feminist abolitionist thinking. The idea that every woman in prostitution reinforces the objectification of all women is a thought of radical feminism, as well as the idea that prostitution is always a question of mere necessity and that it reduces women to dehumanised objects. They clearly write that prostitution is not a job and Germany

3.5 The feminist debate during the discussion of the Prostitute Protection Act

should not recognise 'sex work' (SISTERS, 2016). At the same time, given the still prevailing position in Germany, they consider that the PPA is at least going in the direction of limiting exploitation.

As Figure 3.3 shows, women's organisations' thought has made the debate more heterogeneous. However, such integration of thought has remained marginal, being used by political supporters and opponents of the PPA draft to reaffirm their positions, remaining unheard of in relation to real feminist demands. While the CDU/CSU had partly hinted that prostitution was a problem, it had never expressed itself in terms of gender equality. On the contrary, in this case the reference is clear. Similarly, Alliance 90/The Green and The Left have never defined prostitution in the same way as other jobs, albeit using the views of some women's organisations to support their opposition to the PPA draft.

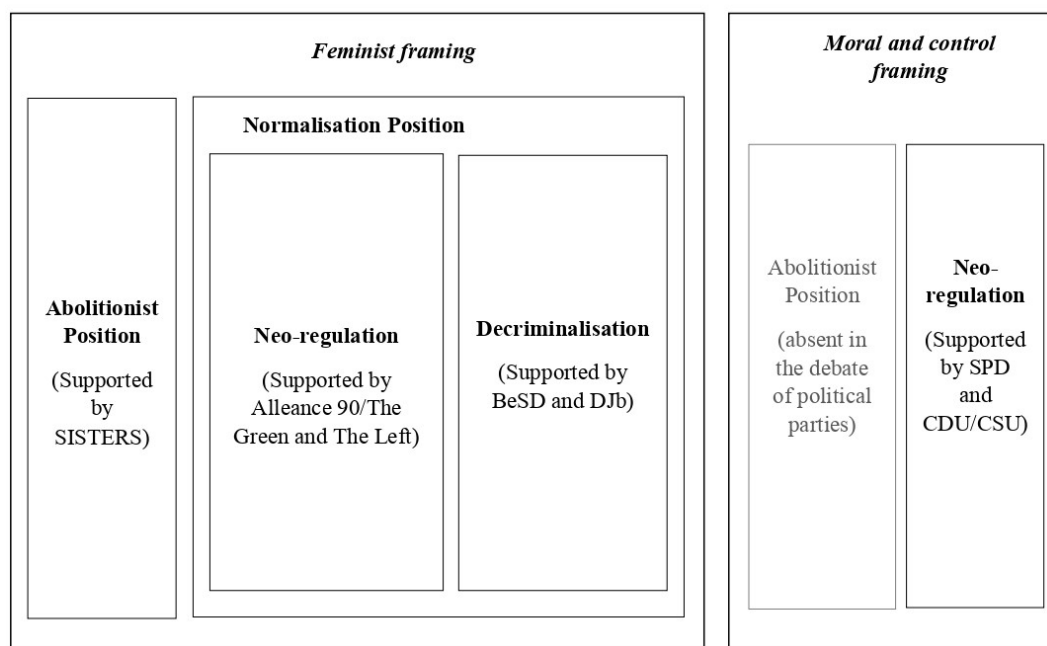


Figure 3.3. German political parties and Women's organisations debate on prostitution in the Parliamentary Arena

Feminist thoughts outside the Parliamentary Arena

In 2016, during the discussion/approval of the PPA, in addition to the feminist organisations present at the debate, others have expressed their views on the pro-

3.5 The feminist debate during the discussion of the Prostitute Protection Act

posed law through press releases. Among these we find: Deutscher Frauenrat, an umbrella organisation of 60 nation-wide women's associations and organisations and BufaS e.V., an alliance of 22 Counselling Centres for Sex Workers in Germany. **Deutscher Frauenrat (2015)** believes that the bill is stigmatising, does not protect against exploitation and increases discrimination. In their view, a 'control frenzy' prevails and the bill goes into the opposite dimension to the stated intentions. In addition, all obligations fall on women in prostitution and nothing is said about the customers (except for condom obligation). Deutscher Frauenrat's political/ideological position is not explicit, but they clearly reject the bill. Furthermore, even clarifying the absence of instructions for clients, they stress that the approach used by the law continues to focus only on women. This reflection, also made previously by DJb, seems relevant to feminist approaches, all aimed at achieving gender equality. Therefore, whether the discourse is approached with a principle of equal treatment of genders, or whether the gender analysis is hierarchical, an approach aimed at gender equality should keep them all in mind.

BuFaS e.V (2016) believes that the bill does not respect sexual self-determination, personal freedom, health and human rights of the people involved in prostitution. According to them, the bill seems not to consider the stigma that already weighs on people in prostitution. Moreover, those who come from countries where prostitution is a crime will avoid registration and end up with legal problems. They are also against some minimum standards proposed for brothels as they favour the monopoly of large facilities at the expense of smaller ones, not considering that it is in private apartments that women in prostitution have greater self-determination. To conclude, according to them the bill ignores the specific competence of counselling centres. BuFaS e.V. is associated with the thinking of BesD and DJb, thus supporting the position of prostitution decriminalisation.

Based on the evidence, the impact of feminisms on the PPA has been 'co-optation'.¹³ Evidence shows that some feminist stakeholders have been identified and involved in the PPA making process: some feminist organisations took the floor

¹³ **Outshoorn (2004b)**'s 'four-fold typology' identifies 'co-optation' as when the State allows women into the process but does not give policy satisfaction.

at the hearing (SISTERS, BeSD and DJb) and sent their thoughts on the law to parliament in writing, as it is evidenced by their presence in an official government document. There is almost unanimous disagreement among feminist organisations on the PPA. They have highlight very well the possible harms and negative impacts upon those who will be affected by the bill, upon those who the law is trying to protect. However, all of this has not led to a change in arguments on the part of policy makers. Positions taken by the promoters of the bill have not changed. Continuing to justify the compulsory registration and health counselling, despite all of the evidence, by the need to protect those involved in prostitution.

Thus, up to now we can say two things: first, the demands of feminist organisations have not been heard by politicians, but rather used to support their starting positions. Second, feminist position within political parties, that of moderate normalization - neo-regulation -, is marginal outside the Parliamentary Arena, at least in terms of claims.

Having clarified this, what happened after the implementation of the law? What debates exist among feminists? Are there similarities? What divergences are there? We go into this in the next paragraph with the analysis of the interviews.

3.6 The complexity of feminist positions and some anomalies between ideological positions and concrete claims

The feminist normalisation position seems to be the majoritarian one, and even the more strongly aligned. On the other side, the feminist abolitionist position has only been made explicit into the Parliamentary Arena by SISTERS which, however, eventually supported the PPA, a law regulating the sex market. The analysis of the interviews offers some reflections upon this. It certainly confirms the presence of different feminist positions.

In the normalisation position we find statements such as these:

«They say it's a job. They say they don't sell their bodies, but sexual services. That's it»
(Sibylla Flügge)

«There is not only one unique way to live one's sexuality and meet one's needs [...] so this is a way of having sex» (Tzvetina Arsova Netzelmann).

«I use the term 'sex worker' because in my opinion it is first of all a job. it is a job that women do especially because we still live in a patriarchal world and in capitalism. Men have more possibilities in this society and then prostitution becomes an option for women, especially foreign women. [...] Surely it is a particular job because it has to do with intimacy and because it is a job that mainly women do. [...] Although: what job is a job like any other? [...] yes, sex work is really special, but there are many special jobs» (Mareen Heying).

«It's easy to say that prostitution for me it is not a job as any other job; but it is a possibility. Some women think they can do it and I have to accept this. [...] If it's wrong or not it is not a discussion» (Elfriede Steffan).

As already shown by the literature within the normalisation position there are several nuances. The quotations are arranged in such a way as to show a continuum that proceeds from the more liberal to the less liberal positions. First of all, those who consider prostitution as a job or as a way to have sex. Then, there are those who recognise it as 'special', but normalise it by specifying that other jobs can be considered special as well. Finally, those who believe they have to accept the existence of prostitution as a job in support of women who claim it, even if, according to her, it is objectively different from what we commonly call work.

Moving further along the continuum we find the position of those who, recognising the link between structural inequalities and prostitution, decide to suspend judgment on the phenomenon:

«We mainly deal with women who work in prostitution because of poverty, but they see themselves as voluntarily choosing the sex business. [...] We accept what they do and we try to support them in either way. You want to stay there? We are supporting you in having a good healthcare, for example, and if you want to go out, we try to help you to go out. My personal opinion is also something in between, I cannot decide, but I think we could do without prostitution» (FIM e.V.).

This position is often associated with the logic of harm reduction, supported in some counselling centres, alongside an openness towards the unions of these centres (as for KOK e.V.) or the unions of organisations (as for Deutscher Frauenrat). However, while for counselling centres this position may really seem the result of a lack of political/ideological reflection, for some feminist organisations it is more often than

not a cohesion strategy, as a compromise that allows them to combat more strongly what does not respect women's rights, without diving into all the different ideological nuances. This approach has often been adopted during the discussion over the PPA, where women's organisations have objected it with very practical contents and intents, with the direct support of various different organisations working in this field, from religious organisations (e.g. [Diakonie Deutschland \(2016\)](#), organisation of Germany's Protestant churches) to other organisations that did not have a gender approach (e.g. Deutsche AIDS-Hilfe, the German AIDS Service Organizations).

Then, moving further from a logic of harm reduction, we find strongly abolitionist positions:

«Prostitution is the symbol of not being equal [...] many women must prostitute themselves to survive and this option is truly diabolical» (Feminist Party).

«We want a world without prostitution. Prostitution is viewed as a structural violence against women as one of the hindrances to gender equality, and as a strong form in which the patriarchy is continued today, where women's sexuality is available for purchase. [...] Even if a woman does not perceive prostitution as violence, it ends up a systemic level of structural violence against women, and it does not only affects women in prostitution, but all women and all men» (Terre des Femmes).

«Normalising prostitution means cementing inequality between men and women and accepting violence against women, and this concerns all of us, women and men» (Ingeborg Kraus).

The identified abolitionist positions are strongly radical. They support the criminalisation of the client, pointing out that it is now normal in Germany to buy sex, and this leads in the opposite direction of gender equality. Prostitution has been seen as violence against women, even when they do not recognise it as such, because it is part of a patriarchal system with structural gender inequalities. However, this position seems to be recent in Germany. Although feminist abolitionists of prostitution have existed even before the 2000s, their demands were different from those usually attributed to them. Despite the different positions, the most feminist associations have welcomed the 2002 law in a positive way ([EP, 2015a](#)). Therefore, why did abolitionist groups support a neo-regulation of prostitution similar, as mentioned, to a decriminalisation model? The respondents' answer is:

«Until 2014, we thought that regulation was the best way to ensure the protection of women in prostitution» (Terre des Femmes).

«They thought that the solution could be to stop discrimination and to allow women to say that they need money, that this is a contract, that these are their rules and that they have rights» (Feminist party).

«The thought behind the 2002 law was a good one to say that women who wants to prostitute herself can do it» (SOLWODI).

As mentioned above, Germany has an history of regulating prostitution entirely to the detriment of those who sell sex, namely women. These women were burdened with numerous obligations, but had no rights (Heberer, 2013; Kavemann and Steffan, 2013; Heying, 2018b,a). Thus, in this situation, always in a logic of harm reduction, many abolitionists agreed with the law that recognised sex work or even just its good intentions. According to Bromberg (1997), beyond the differences of thought on prostitution, feminism is based on the promotion of a world where women enjoy equal rights and equal powers. Therefore, this is a case where, very different ideological positions agree trying to improve women's conditions. At that time, the urgency was discrimination against submissive women by society and the lack of rights and protection more than prostitution itself. From this perspective, they wanted to strengthen these women as much as possible. To confirm this, an analysis of the 2001 parliamentary work immediately shows that women and their rights were at the heart of the debate. The pro-law group considered it necessary to grant rights on people in prostitution as well as duties. They considered important to put an end to the double standard that men can buy sex, while women make an immoral gesture by selling it (Bundestag, 2001a). Moreover, they believed that better legal conditions could free people in prostitution from dependence on pimps, allowing them to refuse the client at any time (Bundestag, 2001b). Thus, the idea that self-determination is an expression of human dignity won the debate, and with that the one that individuals decide for themselves what constitutes dignity for them. It decided that it was not the State's task to protect the people from the consequences of their freely taken decisions (Federal Report, 2007). Moreover, as Dodillet (2013) reminds us, Germany has a liberal State. This type of State organisation accepts that people have different opinions on what is right for them and chooses to be neutral towards the choices of its citizens. Its main task is to create the prerequisites for people to

choose the lifestyle they prefer. On the field of prostitution, this starting point has been translated into the right of every individual to determine her/his sexuality, including the possibility of prostitution (Dodillet, 2013): a starting context and a tradition of thought that have also contributed in shaping the solutions of feminist thoughts.

However, the 2007 Federal Government's Report on the Effects of the Prostitution Act shows that the objectives set by the law were only partially achieved (Federal Report, 2007). Thus, the federal evaluation and the general discontent with the German situation have pushed the abolitionists towards more radical positions. Nowadays, they are strongly in favour of adopting the Swedish model based on the criminalisation of the purchase of sexual services. For example, in 2013, feminist magazine EMMA launched an appeal 'calling for a ban on purchasing sexual acts', signed by about 13.000 people (EMMA, 2013). Since 2014, Terre des Femmes, the largest German women's association for women's rights, «wants to focus the attention on the demand side, on the men that buy sex. [...] We [Terre des Femmes' associates] want exit programs for prostitutes; we want the criminalisation of sex buyers and we want to ensure that prostitutes are not criminalised».

Then, in 2019, Ingeborg Kraus, psycho-traumatologist and founder of the Trauma and Prostitution Organisation, during a Conference at the Chamber of Deputies in Italy, has stated: «In Germany, and all over the world, we need to swear at the Swedish model». Always in 2019, the 3rd 'World Congress against the sexual exploitation of women and girls', promoted by CAP International and hosted by SOLWODI, took place in Germany. According to them, the Congress made a significant contribution to building a new abolitionist momentum in Germany.¹⁴ They have released an abolitionist manifesto (EMMA, 2019).¹⁵

To sum it up, compared to the historical reconstruction and the impact that the movement of the people who define themselves as sex workers had on the passing of the 2002 law, this is weaker today. However, the presence of a feminism that defends

¹⁴See [CAP International's commentary at the Congress](#).

¹⁵It also seems that some of the SPD leaders were present at the Congress and, since that, they are now publicly calling out for the adoption of the Swedish model in Germany and for its inclusion in the political program of their political Party. See the [newspaper article](#).

the idea of prostitution as a job remains strong. On the other hand, more changes are evident within abolitionist feminism. We cannot say that this has really grown in numerical terms, but there is a clear shift in their demands towards more radical positions than in the past. In other words, the concrete claims today are more in line with the ideologies of reference than in the past. The abolitionist movement, with a few exceptions (e.g. SISTERS), appears less willing to compromise and less conditioned by Germany's long history of regulating prostitution. However, how is the heterogeneity of feminist thinking reflected in the evaluation of PPA?

The general feminist disagreement during the implementation of the Prostitute Protection Act

The interviews carried out in 2018 confirm the feminist general disagreement with the PPA, even after its implementation. Criticalities mentioned above by the analysis of documents have been emphasized in the interviews. We can highlight:

«This law is much debated among NGOs and most of them are critical. The intention was to protect women from trafficking but it will not really do so» (FIM e.V., suspends positioning).
«[The PPA] will not change the situation for those who are in danger in the context of prostitution, I don't see how this law would protect them. And for those who were not in danger why would they have all these restrictions?» (SOLWODI, abolitionist position).
«This new law states that it wants to protect women, but no woman is protected by this law. We already had the registration in the 1920s and it was not working; we also had something similar before 2002, [...] and it did not help any woman in need. [...] this law will only make a big mess and in the end will not help any person in prostitution» (Mareen Heying, normalisation position).

Despite the greater heterogeneity of feminist thoughts compared to the past and the greater consistency between theoretical and concrete claims, once again, the three positions - two explicit and one suspended - are in agreement. On this, one study attempts to investigate whether people involved in prostitution are more protected in countries where prostitution is regulated. This starts from the hypothesis that where prostitution is a recognised profession, women have more chances of asking for help. The research uses a sample of data from 149 countries from the 2001-2011

decade: in 55.5% of the countries prostitution is prohibited, in 44.5% it is either legal or regulated. Results indicate that regulation of prostitution is irrelevant, if not harmful in some cases, to protection policies. Regulation of prostitution leads to negative predictions on preventive performance and, again, prevention policies have a positive impact on the anti-trafficking regime (Cho, 2015). The researcher points out that, although she cannot evaluate the overall effect of liberal policies towards prostitution, she can affirm out of the obtained results that 'the presumed positive link between legalised prostitution and victim protection is not empirically supported, leaving one of the main policy goals of the liberal policy unfulfilled' (Cho, 2015, 19).

Respondents of our study point out that from 2002 to 2017 registration as a 'prostitute' was possible, but not compulsory. The experience has showed that people in prostitution almost never register as such and are not inclined to pay taxes as 'prostitutes'. They are afraid to be identified as such, especially those who come from a country where prostitution is prohibited. Very often they have health insurance, but they do not do it by claiming to be 'prostitutes'. However, the same applies to all the people involved in prostitution - whether they are involved in it occasionally or for a limited amount of time - who do not recognise themselves as 'prostitutes' or 'sex workers'. The experts involved have also spoken about other negative impacts of the PPA for women and people in prostitution. As we have written below, at least until July 2018, the implementation of the various measures has not yet been smooth and efficient on the German territory. The law leaves up to the Land to identify the authorities responsible for registration and there is a great general confusion. In Berlin, for instance, it was not yet possible for the people involved in prostitution to register. However, they were obliged to possess a document to prove the attempted registration. This is in order to relieve themselves of individual responsibility for non-compliance with the rules. On the other hand, where registration was already active, like for instance in many Hessen cities, NGOs note a general lack of preparation by the competent authorities, as well as a lack of mediators available to communicate with foreign people. The absence of official mediators allows the use of an informal translator who, for obvious reasons,

cannot guarantee the same level of professionalism, confidentiality and anonymity as a professional would guarantee in this role. Respondents confirm that the costs of registration and health counselling in some Land are borne by those directly concerned, paradoxically charging the cost of 'protection' to those who, according to the State, should be protected. Considering the existing stigma on the people involved in prostitution, it is possible to apply for certification under a pseudonym. However, an health counselling certificate with your name is required for registration. Therefore, in order to have a pseudonym you need (1) an health counselling under your own name, (2) a registration under a pseudonym, (3) a new health consultation under a pseudonym. This makes the procedure more time-consuming and more expensive (always at the expense of those already living in a vulnerable situation).

Another delicate aspect is pregnancy. Pregnant women cannot be registered as 'prostitutes'. However, pregnancy cannot be ascertained without the woman's consent (forced investigations are prohibited by another law). Therefore, the certificate should be denied upon the sole suspicion of the doctor. But again, such denial is part of those discriminations on the grounds of pregnancy, which is also denied by law.

Another important aspect concerns sanctions. People identified without a certificate are invited to register and take it to the checkpoint. If they do not do so, there is a fine up to a thousand Euros. Repeated reprimands or unpaid fines can lead to the imprisonment and criminalisation of the people who, once again, the PPA wishes to protect. Moreover, what seems to be missing entirely is a perspective that really takes migrants into account. The latter were, and continue to be, the women in the most vulnerable situations, as well as the most penalised by the German prostitution system:

«I think we should include them because more than 50% of prostitutes have a migration background in Germany. [...] I'm thinking about a Nigerian woman who has only Nigerian papers and who maybe came with a tourist visa with expired: obviously she can't have the permit for prostitution. And I don't know what is going to happen because we have many undocumented, we have many cases like the Nigerian who just doesn't have a residency or doesn't have a work permit but who is in prostitution... So, where is she going to go?» (SOLWODI).

Thus, although recent and not complete, for feminists the implementation of the law already highlights many critical issues, many of which have already been foreseen by the organisations and well explained during parliamentary work. As seen from the analysis of parliamentary work, for supporters of the law, the PPA should be the result of the need to combat trafficking and exploitation and the need to protect people in prostitution. These aspects are of course shared by all feminisms. However, the disagreement with what has emerged to the detriment of women involved in prostitution is more or less supported by both positions, that of normalisation and that of abolition. The dissatisfaction of all feminist thoughts detected, highlights once again that the PPA is not a law that considers feminist analysis on prostitution. After all, as history shows, feminist access in a previous debate does not automatically guarantee its access to the next debate (Outshoorn, 2004a). After that, there is also another level of disagreement which, always referring to concrete aspects, brings out the different ideological basis.

The disagreement of the normalisation position

Within the normalisation area of the spectrum, we certainly find supporters of decriminalisation who are against tightening up special regulations. However, even feminists who have supported neo-regulation, calling for an improvement in the 2002 law, do not agree with the PPA. The latter referred to different rules, to setting real protective standards for people in prostitution. For instance:

«[...] the point is that they [public authorities] controlled and regulated only from the perspective of the public moral and the public order, they [the street prostitution tolerance zones] are not regulated positively in relation to meet the needs of what happens there: no safety, no light, no water, no toilets. For instance, you should stay 500 meters proximity to Kindergarten, or to church, or where you have a living house and it has to take place between 10 p.m. and 4 a.m. This is not regulated zone for outdoor prostitution; this is just a tolerance zone [...] This is very, very hypocritical!» (Tzvetina Arsova Netzelmann).

In their opinion the 2002 law has only recognised those who was in a stronger legal, social and economic position in the exercise of prostitution, such as the most autonomous and independent German citizens. Other people – such as migrants and the majority of women who are in a more vulnerable position – did not seem to

have been positively affected by the effects of the law. The experience of counselling centres shows that much of the exploitation took place in brothels, where it was easier to exploit and hide the inhumane conditions of trafficked women, and where the owners could relieve themselves of all the responsibility by declaring to be extraneous to crime and violence. That is why they were asking for more protection. However, according to them many of these restrictions seem to be more instrumental towards pleasing public morality rather than to actually protect the women/people involved in prostitution. This hypocrisy has existed since the implementation of the 2002 law and has been further accentuated by the PPA. They see the PPA as a step back in time and a compression of the rights of the women/people involved in prostitution.

The disagreement of the abolitionist position

The abolitionist position does not agree with the law because it does not fight for the abolition of prostitution. Prostitution is still recognised as sex work and, again, the focus is always on women:

«There are obligations and restrictions for all but not for the purchasers of sex! They are not really interested in making women free from prostitution» (Terre Des Femmes).

Thus, according to them, the PPA does not protect women in prostitution just as much as it is far from promoting gender equality.

To sum it up, we can consider correct two of the four hypotheses made at the beginning of the chapter (see table 3.1): the normalisation position disagree because the PPA sets very specific obligations and still considers prostitution different from all the other jobs. The abolitionist position disagrees because it still recognises the existence of prostitution as a work.

3.7 Chapter Conclusions

In Germany, the normalisation position of prostitution was prevalent between the late 1990s and early 2000s. The 'whore movement' was so strong that it managed to bring some of their claims to Parliament. Women and their rights were at the

heart of the debate for the adoption of the 2002 law. The pro-law group considered it necessary to grant both rights and duties to the people involved in prostitution. They considered important to put an end to the double standard that men can buy sex, while women make an immoral gesture by selling it. Some abolitionists also shared this choice, in the logic of harm reduction.

In the following years, studies have shown that despite the law, women in prostitution continued to be affected by physical, sexual, psychological violence, as well as sexual harassment, to a markedly greater degree than the other women (Müller et al., 2004; Federal Report, 2015), confirming that the stigma, even in a regulatory context, remains strong and affects the lives of those who are involved in prostitution (Federal Report, 2015).

Feminists into the normalisation position expressed criticism for the effects of an implementation which was not based on the real empowerment of the people involved in prostitution. On the other hand, abolitionists could only be dissatisfied because the system generated by this law was a step towards the «normalisation of the sexual commodification of women» (Terre Des Femmes). Thus, the results of the 2002 law have increased the differences between the two opposing positions. Abolitionists demand with greater force the abolition of prostitution, the criminalisation of the purchase of sexual services and a real policy of support for social and labour reintegration for the people who want to escape prostitution. However, none of this has happened in the following years.

In 2014 the debate on prostitution also re-emerged in the Parliamentary Arena. All political Parties have agreed on the need to improve the 2002 law. The focus is always on those who sell sex: on their rights for Alliance90/The Green and The Left and on the need to protect them for the SPD and CDU/CSU. Thus, Alliance90/The Green would only regulate prostitution facilities, while the SPD and CDU/CSU would also regulate people selling sexual services, mainly through compulsory registration and health counselling. Anyway, although with different aspects, all of them were calling for a new regulation of sex trade, remaining within the logic of neo-regulation. On the other hand, the demands of the feminist movement were 'radical' in both

directions. Within the normalisation position, women's organisations criticised both the obligations imposed on those who sell sexual services by raising the issue of stigma and the standards set for prostitution facilities by considering prostitution as any other job. According to them restrictions and obligations imposed are stigmatising for the people involved in prostitution and do not even produce the expected security effects. Thus, bringing in New Zealand as an example, they support the decriminalisation model. Moreover, women's organisations have also brought about the abolitionist position into the debate, which is completely absent among policy makers. They confirm that the burden of prostitution continues to weigh on only one of the parties involved in the exchange: women, while customers (men) are not subject to any intervention. The accusation is that the PPA is unable to protect the people involved in prostitution and it is far from promoting the cultural change necessary to achieve gender equality.

Thus, feminist movement has made the debate more heterogeneous, but such integration has remained marginal. Feminist reflections have been used by policy makers to support their own position. While the CDU/CSU had in part mentioned that prostitution was a problem, it had never expressed itself in terms of gender equality as feminists do. On the other hand, Alliance 90/The Green and The Left spoke about the rights of the people involved in prostitution, but they have never identified prostitution as a job like any other. Of course, the ideas of Alliance90/The Green and The Left lie in accordance with some feminist theories, although not those demanded at the time by the women's movement outside the Parliament. However, the PPA is not an expression of their ideas, but of those that belong to the SPD, CDU/CSU which, on the contrary, do not have any feminist nature.

Based on the study evidence, the impact of feminism on the PPA, in term of the [Outshoorn \(2004b\)](#)' four-fold typology', has been 'co-optation': the German government allows women's organisations into the process but does not give them policy satisfaction. There was almost unanimous disagreement among feminist organisations on the PPA. They have neatly highlighted the possible harms and negative impacts upon those who will be affected by the bill. However, positions taken by the promoters of the bill have not changed. The PPA is not a feminist

law, it is a restrictive amendment which concerns the modalities of administrative and legal control of prostitution. No reference is ever made to the relationship between genders in the exchange of sexual services, whether this is considered equal or hierarchical. The focus is always only on those selling sexual services who are also often labelled as 'weak' and 'vulnerable' by the CDU/CSU. Certainly, it is possible to talk a lot about different feminist ideologies on prostitution, however, if they both strongly disagree with the law, it is clear that the PPA does not empower women.

Besides not being an expression of feminism, the PPA does not even take into account suggestions and requests coming from counselling centres expert in this field. It may be considered the result of a thought that gives prostitution a negative and moral connotation, but that does not have the strength to fully declare it. Parties in favour of it have underlined the need to combat trafficking and sexual exploitation tied to the sex industry. Obviously, the struggle against trafficking is supported by all feminists, without exception. However, according to the experts, the tools chosen by policy makers are not adequate and not capable of meeting their own objectives. Certainly, as we have mentioned above, there are also those who believe that compulsory registration could allow meeting people who would otherwise remain in the shadows. In this way, they could have the opportunity to receive information about their rights and get out of the invisibility that often characterises the prostitution sector. To this, in regard to the analysis, we ask: at what price? This research has clearly highlighted and justified all the very likely negative consequences of the application of the PPA. The law is based on the control of those very people that it should protect. A disproportionate control over the people involved in prostitution is evident just from a mere reading of the law. People who already carry the weight of the stigma also have obligations that expose them to discrimination and danger. In addition, non-compliance with these obligations may lead to detention. Exemplificative is the request to repeat the registration every two years for people over 21 years of age and every year for people between 18 and 21 years of age, while the owners of prostitution facilities are checked only every three years. The only obligation for customers is to use condoms. However, the law does not specify any sanction for those who do not comply with this obligation.

Excluding criminal organisations and brothel owners, there are always at least two actors in prostitution, but the rules are again only imposed on the people who sell – an approach to problem-solving in the world of prostitution that has already demonstrated its historical failures.

The current debate among German feminists appears increasingly polarised and distant, not only ideologically but also in terms of practical demands. The normalisation position remains strong in Germany and continues to be divided between those calling out for total decriminalisation and those calling out for neo-regulation to improve the situation of the women/people involved in prostitution. The movement of those who call themselves sex workers is certainly less strong than it was in the '80s and '90s, but it still exists. The greatest change has taken place within the abolitionist position. If until the early 2000s they had recognised the good intentions of the neo-regulation of prostitution, nowadays they are strongly in favour of adopting the Swedish model based on the criminalisation of the purchase of sexual services. They are no longer willing to limit the damage of prostitution, but want to fight for its abolition. Thus, the ideological split translates today, more than in the past, into the impossibility of finding meeting strategies on the subject. However, the analysis of the debates has shown that feminist demands on the management of the phenomenon of prostitution do not always respond to their ideological starting positions. Feminisms are therefore not always as rigid as we are often used to thinking. On the contrary, they are on the move within a process in which ideologies are mixed with the history of the phenomenon, the current context of reference, individual experiences and examples from other countries.

Chapter 4

The Swedish case: the Sex Purchase Act

Sweden has been the first country in the world to criminalise only the purchase of sexual services and not the sale of these services (Erikson, 2017; Holmström and Skilbrei, 2017). After being widely discussed throughout the Nation, this choice came into force in 1999, attracting interest all across the world ever since. However, literature continues to be strongly discordant, also and above all, among feminist positions.

Thus, on the grounds of the general aims set out in Chapter 2, we proceed as follows:

1. We already know whether and how feminist knowledge has influence the Swedish Sex Purchase Act (SPA) policy making process: according to the Outshoorn (2004b)' 'four-fold typology', there was a 'dual response'. The process was supported by women, the Government had accepted women into the process and the SPA had met the goals of the majority of the women's movement. However, we reconstruct from literature some aspects in order to contextualize the debates and better understand their evolution.

2. In order to highlight which current feminist debates are present in Sweden, we deepen the existing debates on the SPA implementation through the analysis of semi-structured interviews. 20 years is not enough to transform a culture, but it can be more than enough to change its debates, to show its strengths and weaknesses.

3. At the end, we investigate changes in debates, divergences and similarities among different feminist positions highlighted.

4.1 Feminist influence on the Swedish Sex Purchase Act

In her study of the SPA, [Erikson \(2017\)](#) shows how an individual idea can become an institution. According to her, the Swedish case is a specific kind of institutional change, where gendered ideas have gradually become institutionalised. In the previous section we have seen the impact of German women's movement on the history of German legislation on prostitution. However, real pressure - especially from the 'whore movement' - had come from outside the Parliamentary Arena. In Sweden, on the other hand, feminism had a decisive role starting from within the Parliament. Since extra-Parliamentary groups, protest movements and dissent groups tend to be absorbed by the State, Sweden is also defined as a country of 'feminism without feminists' ([Gelb, 1989](#)). Thus, here below we present a brief historical excursus of the prostitution policy debate and its connections with feminism.

Evolution of policies on prostitution

In 1918 the Swedish Government completely abolished its prostitution regulatory system. Before that, prostitution was an accepted evil: the real problems were considered to be its consequences (e.g. STI) and not the phenomenon itself. However, regulation over the previous 70 years only referred to outdoor prostitution, while brothels were already prohibited ([Svanström, 2004](#); [Erikson, 2017](#)). The 1918 reform abolished regulation of outdoor prostitution, provided for a national STI prevention regime and an expansion of rules against pimping and procuring. Thus, while any activity related to prostitution was criminalised, women were not ([Erikson, 2017](#); [Östergren, 2018](#)). However, according to [Östergren \(2018\)](#), from 1920 to 1960, suspected prostitution was often considered to be a basis for expulsion of foreign women, while the Vagrancy Act was used against native women: they were put to forced labour, mostly with the charge of having sold sex. Moreover, already at

the beginning of 20th century, some women's groups argued that 'it is the man who should be punished and shamed': 'if the man would not pay, then the woman would not engage in this vice' (Erikson, 2017, 53). From 1960 to 1970 small brothels were opened although covered as other activities (e.g. massage centres). However, the acceptance of prostitution did not increase and it remained considered a social problem. In 1973 sex clubs were required to hold a Police license and, some years later newspapers also needed permit to publish this kind of advertisements. Since sex clubs were increasingly refused licences, they disappeared (Östergren, 2018). Up until that point, the measures adopted by the Swedish Government to engage with the prostitution issue have revolved around the topics of health issues, social problems and crime. On the contrary, as we see below, from the 1970s onwards, the adopted measures increasingly responded to the idea that prostitution was an obstacle to gender equality.¹

1970s	Prostitution again becomes a political issue
Early 1980s	Prostitution itself is understood to be a problem
Late 1980s	Prostitution is gendered
Early 1990s	Prostitution is understood as a criminal justice issue
Late 1990s	Client criminalisation is institutionalised

Figure 4.1. Evolution of the prostitution debate in the Swedish Parliament.

Source: Erikson (2017)

In 1972 three motions on prostitution were tabled. One of them demanded the establishment of a system of State-brothels, the other two requested the extension of the regulations concerning procuring to all types of promotion of prostitution. The Committee on Health and Welfare, in the view of that circumstances, made it pertinent to survey the extent and nature of prostitution, but no prostitution inquiry was appointed at the time (Erikson, 2017). However, in the same year, a review of decency offences had been initiated by the Social Democratic Party. The Sexual Offences Inquiry consisted of seven experts, six of whom were men. The final report, published in the 1975, proposed a series of legislative changes that

¹For a full and detailed analysis of the evolution of the prostitution debate in Sweden from the 1970s to 1999 (when The Sex Purchase Act came into force), please see: Erikson (2017).

involved an easing of the criminal code and decriminalisation. This report was met with an overwhelmingly negative response and strong criticism by both the consultative bodies and several women's organisations. The consultative bodies were concerned that the evidence provided by the Inquiry was not sufficient to justify decriminalisation, while 13 women's organisations demanded for a new inquiry into prostitution based on a feminist analysis. It was completely unacceptable to them that a rape would be considered a less serious crime if the woman had supposedly encouraged sexual overtures by the man, and that the restrictions on pimping would be softened (Svanström, 2004; Erikson, 2017). These organisations included the women's associations of all the political Parties as well as several extra-Parliamentary women's groups. According to Erikson (2017), the joint women's activity was exceptional in several ways: it transgressed both Parliamentary boundaries and Party ideologies. Albeit from two different standpoints, they challenged the existing law and helped bringing prostitution into the political agenda. In 1976, two new Parliamentary motions requested an inquiry on prostitution. In the meantime, during the 1970s, a number of articles concerning prostitution appeared outside the Parliament among women's groups. Despite differences of thought, the phenomenon was analysed from a gender perspective: some viewed prostitution as an economic exploitation of women, others saw any type of criminalisation of prostitution as an expression of fascism and some others demanded client criminalisation. These viewpoints, while important in maintaining the political debate on prostitution alive, failed to bring a gender perspective into Parliamentary discussions. According to Erikson (2017), during the 1970s, the Parliament looked at prostitution with both abolitionist and normalisation intents. The abolitionist position was in turn divided into the socio-political stance and the criminal justice framing stance.

At the beginning of the 1980s, prostitution was examined in two studies: the Prostitution Inquiry, published in 1981, and the report of Sexual Offences Committee, published in 1982. The Inquiry drew on personal narratives of women involved in prostitution. In it, prostitution was theorised as a structural problem and a form of patriarchal oppression of women (Hulusjö, 2013). It proposed a raise in awareness towards preventive social measures, a 'dissemination of information concerning

prostitution, education and a tightening of criminal code' (Erikson, 2017, 63,64), but was against criminalising women and/or men in prostitution. On the other hand, the Committee was to identify legal penalties for preventing exploitation of prostitution. The report proposed any measures to assist women involved in prostitution, but client criminalisation was described as unsustainable in practise (Svanström, 2004; Erikson, 2017). Following inquiry publication, the consultative process was positive. However, a number of respondents wanted to criminalise both the sale and purchase of sexual services. Some motions were also tabled in this direction, but rejected. Moreover, several motions were tabled for criminalising the purchase of sex. Women from different Parties - from Left to Right - agreed and demanded this kind of criminalisation. Thus, in the 1980s, the Parliament reinforced its abolitionist position, as prostitution was essentially described as a problem, while the normalisation position was dismissed (Svanström, 2004; Erikson, 2017; Östergren, 2018). According to Svanström (2004) and Erikson (2017), the analysis of prostitution was gendered and the investigation focused on heterosexual prostitution: they had highlighted a patriarchal relationship between men and women, gender roles, men's view of women, economic, sexual and labour oppression of women, etc. Homosexual prostitution between men has been little considered and has been seen as a result of heterosexual society's contempt for homosexuality (Svanström, 2004). As mentioned above, the abolitionist position was divided into two different framing. a) The socio-political perspective – primarily in the early 1980s - focused on society and social structures. b) The perspective of criminal justice placed responsibility for prostitution at an individual level, directly on the people involved in it. According to both of them, despite patriarchal society being the ground of prostitution, the issue was to be regarded as a human question. During the late 1980s, it had raised men's sense of responsibility towards prostitution and, between 1985-1986 and 1989-1990, 18 motions were placed for client criminalisation and one for criminalisation of both, buyers and sellers. However, the Committee on Health and Welfare and the Committee on Justice feared the several problems that would have emerged along with a criminalisation frame, including possible negative effects on the women involved in prostitution (Svanström, 2004; Erikson, 2017).

During the 1990s, the Swedish Parliament moved definitely from a socio-political perspective to a criminal justice perspective. In 1992 the Government announced its decision to appoint a commission to investigate the possible criminalisation of prostitution. Once again, a cross-Party motion from women of different Parties demanded client criminalisation. Moreover, there were also several proposals for dual criminalisation. As we have said, the criminal justice framing places the focus on the individual, but it can be declined differently. The key was in the ways in which the relationship between men and women in prostitution was perceived. Precisely, client criminalisation described the relationship between the sexes as hierarchical and identified men as responsible for prostitution, while dual criminalisation does not take this into account. Men and woman are equal partners, they are both responsible and victims, and the focus is also on moral and health problems (Erikson, 2017).

The election of 1994 saw the first Swedish Government where half of the Ministers were women and where gender inequality issues had become a priority. Therefore the debate on prostitution intensified until 1998 with the adoption of the SPA. The women's associations have been working together for some time to introduce the Act. In 1996, all of the women associations from all of the political Parties, except for the Moderates,² joined together in a common motion proposing client criminalisation. In the same period, the debate across the media seemed more heterogeneous. On the one hand, a number of politicians expressed their support for client criminalisation; on the other, growing numbers among the media were advocating legitimising sex trade and permitting sex work as an ordinary employment (Erikson, 2017).

The decisive turning point on customer criminalization

In 1998, the Women's freedom bill contained measures for combating violence against women, sexual harassment in the workplace and prostitution was deposited. Even if Sweden was already one of the most gender-equal countries in the world, the general basis of the bill was that there was an imbalance in the power relationship between

²The Moderate Party is a liberal-conservative political party in Sweden. The party generally supports tax cuts, the free market, civil liberties and economic liberalism. The party was founded in 1904 by a group of conservatives and it was later known as 'The Right' and 'Right Wing Party'.

the sexes in many aspects. Prostitution was described as a problem incompatible with gender equality aspirations and sex trade was analysed in terms of women as sellers and men as buyers. The concept of hierarchy is crucial in clarifying the SPA: the basis of the law is that an unequal power relationship between the genders in society had found its expression in prostitution. The ban on the purchase of sexual services came into force on the 1st of January 1999. Although the bill was passed, there were significant divisions among political Parties with 181 votes in favour, 92 against and 63 absents. The majority of the Social Democrats, the Left Party, the Centre Party and the Green Party voted for client criminalisation. The Liberals were divided by sexes, woman were in favour and man were against. The Conservative were against, while the Christian Democrats voted for their proposal for dual criminalisation (Svanström, 2004; Erikson, 2017).

To better understand what has happened in the 30 years just summarised, the figure 4.2 illustrates how different debates and positions have declined within the abolitionist position.

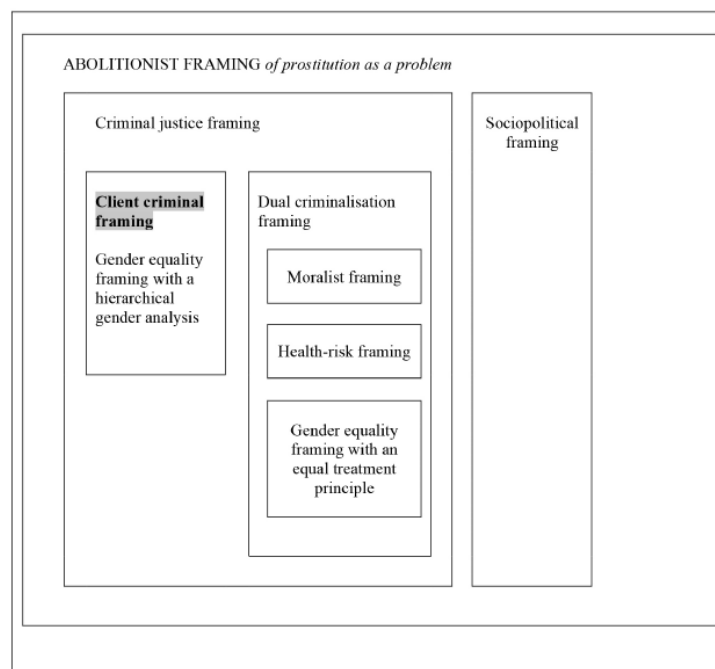


Figure 4.2. Framings and their characteristics in the Swedish prostitution debate.
Source: Erikson (2017)

The position of normalisation is absent because, after the 1970s, it had become irrelevant in the debate. Thus, within the abolitionist position there were two perspectives, the socio-political perspective (which initially prevailed) and the criminal justice perspective.

The first one focused on society and social structures; the latter, which has been declined towards both client criminalisation and dual criminalisation, focuses on the individuals. The client criminalisation framing described the relationship between genders as hierarchical and claimed that prostitution was caused by client (men) demand. The dual criminalisation framing described the problem in terms of immorality, health risk and unequal society, without distinction of liability between genders (Erikson, 2017).

The role of women is central. In the 1970s, the extra-Parliamentary women's movement was significant especially in putting the issue of prostitution on the political agenda. They repeatedly discussed the issues and demanded for client criminalisation. Moreover, in the late 1980s, the National Organisation for Women's and Girls' Shelters in Sweden (ROKS) arranged the first meeting with Parliamentarians women and subsequently, during the 1990s, it became noticeably active among the debates on prostitution. ROKS has a regular yearly meeting with the women in Parliament and in 1992, 1994 and 1995 the criminalisation of customers ended up at the centre of these meetings (Svanström, 2004; Skilbrei and Holmström, 2013; Erikson, 2017; Östergren, 2018). However, the more prominent role was played by the women in Parliament. Out of the 42 proposals that were tabled proposing client criminalisation from 1983 to 1998, 35 had a woman as the top signatory (Erikson, 2017). Since the 1990s, the organised women's movement within the Parliament was in a consolidation phase. They joined forces across different Parties on the issue of prostitution and became very cohesive in asking for client criminalisation (Svanström, 2004).

That being said, although women from the majority of political Parties were engaged on this issue, those of the Centre Party stood out from the very beginning as active proponents of the criminalisation of the purchase of sexual services. After them, the women of the Social Democratic Party. In addition to individual women, the

women's sections of the different political Parties were also important in deepening the issue of client criminalisation. Men have instead intervened in these debates mainly in opposition, demanding and being in favour of the status quo (Erikson, 2017). Outside the Parliamentary arena, some feminist debaters supported the idea of prostitution as a sex work. In 1998, after the bill was passed in Parliament, some critical voices were still raised. According to them, the SPA would stigmatise those who call themselves sex workers. The issue is that these women did not sell their bodies, but sexual services. Thus, supporters of the ban were pictured as feminists who reinforce the women's division into whores and madonnas (Svanström, 2004).

As Svanström (2004) had already analysed, and other studies confirmed, in terms of the Outshoorn (2004b)' 'four-fold typology', there was a 'dual response' in Sweden. The process was supported by women, the Government had accepted women into the process and the SPA had met the goals of the majority of the women's movement.

It is also important to note that Erikson's analysis disproves what is usually superficially thought of. Some research on the SPA claim that the law is an expression of radical feminism (Gould, 2001; Ekberg, 2004; Östergren, 2018). However, the idea of prostitution as violence against women was extremely marginal in the debate and played a marginal role in the political process. The specific focus was on gender equality (Governmental Commission, 2010a; Erikson, 2017). Moreover, the debate highlighted by Erikson seems to adhere to the theoretical basis of socialist feminism (see section 1.1) in which the focus is on the social structures that produce prostitution and the damage it generates on people and human relations. More precisely, the Ministry of Justice, defines the social importance of the struggle against prostitution:

The reason behind the introduction of legislation on the purchase of sexual services was - and is - the importance for society of fighting against prostitution. Prostitution is considered to cause serious harm both to individuals and to society as a whole. Large-scale crime, including human trafficking for sexual purposes, assault, procuring and drug-dealing, is also commonly associated with prostitution.³

³Information available on the website of the [Government Offices of Sweden, Ministry of Justice \(1\)](#), published in 2011 and updated in 2015.

The focus therefore continues to be on the more general well-being of society as a whole. Other scholars have pointed out that the main ideological inspiration of the Swedish women's movement is that of socialist feminism (Sainsbury, 2004). Contrary to radical feminism, the Swedish feminist movement has favoured collaborations over separatism, considering the State a key player in achieving gender equality (Gustafsson, 1997). According to Florin and Nilsson (1999), Sweden has a corresponding Swedish gender model which only appears radical when compared with the gender models of other countries. A model rooted in older specific social structures where the forms for decision-making were based on consensus and compromise. Even though the role of radical feminism should certainly not be underestimated, particularly because of its influence in matters relating to women's body and sexuality (Sainsbury, 2004; Erikson, 2017).

4.2 National law and its implementation

The Swedish law is entitled 'Ban against the Purchase of Sexual Services' and provides for 'Anyone who obtains a casual sexual relation in return for payment is sentenced for - unless the offense is punishable under the Penal Code - purchasing sexual services with fine or imprisonment for a maximum of six months' (SFS 1998:408). The Act entered into force on the 1st of January 1999 and, as said, the main innovative aspect concerns the criminalisation of the purchase, but not the sale, of sexual services. Prostitution related activities, pimping, leasing locals for prostitution etc are also prohibited. However, before the Client criminalisation these prohibitions were already in place. According to the SPA the seller is also legally treated as an accomplice in a crime. It is important to point out that - as ruled by the Supreme Court of Justice in 2001 - prostitution is considered to be an offence against public order and not against specific individuals. This means that the people involved in prostitution are usually summoned to court as witnesses, rather than as plaintiffs (Waltman, 2011b; Florin, 2012; Östergren, 2018).

In connection with the sexual crimes reform of 2005, the Act was revoked and

replaced by a new legislation on the purchase of sexual services (SFS 2005:90).⁴ The ban has been inserted into chapter 6, section 11 of the Swedish Penal Code. This ban also applies to those taking advantage of casual sexual relations paid for by another person, including situations in which a payment has been promised but never delivered.

In 2011, the Swedish Parliament decided to approve more severe penalties for the purchase of sexual services. Thus, on the 1st of July 2011, the maximum penalty has been raised from imprisonment for six months to imprisonment for one year. The purpose of the amendment is to make possible a more nuanced assessment of the penal value in serious cases of purchase of sexual services.⁵

There is no explicit legal definition of prostitution. However, according to [Mujaj and Netscher \(2015\)](#), National institutions have mainly used the definition of prostitution as given in SOU 1995:15:

When a minimum of two parties obtain or provide sexual services in return for payment (usually financial); this constituting a prerequisite for sexual services ([Mujaj and Netscher, 2015](#), 14).

Thus, the term 'sexual services' refers to intercourse, but also encompasses other sexual acts. Both individuals must be present at the act and, consequently, the provision excludes compensation for any other activity without touching (e.g. webcam sex, striptease, etc) ([Florin, 2012](#); [Östergren, 2018](#)). 'Payment' refers to financial remuneration and also any other payment in kind – for example alcohol or drugs. Certainly, although the parliamentary debate on prostitution has addressed the issue by placing men on the demand side and women on the supply side, the law is gender-neutral. Both buyer and seller can be male or female, law applies equally.⁶ Moreover, the Swedish Penal Code also penalises procuring, defining it as promoting or financially exploiting casual sexual relationships for payment of another person.

⁴see the [Law on changes to the Criminal Code](#).

⁵Information available on the website of the [Government Offices of Sweden, Ministry of Justice \(2\)](#), published in 2011 and updated in 2015.

⁶Information available on the website of the [Government Offices of Sweden, Ministry of Justice \(1\)](#).

The provision also applies to owners who do not revoke their property lease if they know that it is being used for prostitution (Östergren, 2018).

Working against prostitution is a key concern in Swedish gender equality policies, being the elimination of prostitution their long-term objective. Policies focus on buyer responsibility - men are expected to take full responsibility for their behaviour and sexual actions (EP, 2015b, 25). The general purpose of the ban is to help fighting prostitution and its harmful consequences more effectively than what was possible with the previous measures. Prostitution is considered harmful not only to those directly concerned but also to society in general. According to **Governmental Commission (2010a)**; **EP (2015b)**; **Erikson (2017)**; **Holmström and Skilbrei (2017)**, the goals are:

1. to have a deterrent effect on prospective purchasers of sexual services, so that the number of purchasers would decline,
2. to reduce the interest of various groups or individuals abroad in establishing more extensive organised prostitution activities in Sweden,
3. to lead to a reduction in the number of both the people involved in street prostitution and its new recruits,
4. to change attitudes towards the purchase of sex.

The Government emphasised that 'the underlying reasons for people to be involved in prostitution vary, but the primary factor that perpetuates both human trafficking and prostitution is demand, that is, that people, primarily men, purchase sex' (**Governmental Commission, 2010a**, 5). Moreover, according to the Swedish Government, from a perspective of gender equality and human rights, shifting the focus from what is offered — those who are involved in prostitution — to what is demanded (traffickers, procurers and sex buyers), the distinction between voluntary and non-voluntary prostitution is not relevant (**Governmental Commission, 2010a**).

We need to remember that Sweden has, as well as the rest of the Nordic countries, a reputation of permissive sexual mores and promiscuous women. There, sex education is introduced early in schools and attitudes towards sexual minorities are progressive. However, this does not apply to commercialised sexuality. Prostitution

and pornography are not included in the 'good and healthy sex' rule by the State (Skilbrei and Holmström, 2013).

4.3 What assessments?

There is no national collection of data on prostitution over time (Governmental Commission, 2010a; Östergren, 2018). Nowadays, there are two official evaluations of the law, one made in 2010 and one in 2014. In the first evaluation immediately emerges the difficulty - even for the Government - of concretely mapping the phenomenon of prostitution. The inquiry is precise:

After having read the extensive number of existing reports and studies from authorities and researchers on the subject, we realised that it would not be possible [...] to produce the precise knowledge about prostitution (Governmental Commission, 2010a, 14).

This is confirmed by the 2014 evaluation (Mujaj and Netscher, 2015). This difficulty also varies according to the different types of prostitution. Information on street prostitution is considered reliable, while information on the Internet and on indoor prostitution is more difficult to quantify. Even if ads and offers of sexual services are checked, one ad may refer to several people providing sexual services or (more commonly) several ads may come from one single person in prostitution. In addition, people in prostitution may be active both on the Internet and on the street and/or ads may remain online even after the person involved has ceased her/his activity. As for indoor prostitution, the available information on the extent to which this occurs is limited. Moreover, a different type of prostitution occurs among drug users and in vulnerable social environments, where sexual services are offered in exchange for drugs, food and housing (Governmental Commission, 2010a; Mujaj and Netscher, 2015).

- *Street prostitution.* According to national evaluations, available data shows that street prostitution has decreased by more than a half since 1995. In 1999, when the SPA went into force, street prostitution first disappeared and increased again shortly afterwards, being found especially in the biggest cities (Stockholm, Gothenburg and

Malmö). However, the number of people involved was significantly lower. More precisely, although its factors remain uncertain, street prostitution seems stable since 2010 (Mujaj and Netscher, 2015). The majority of women in street prostitution are of foreign origin, especially from Romania and Nigeria (Mujaj and Netscher, 2015).

- *Internet prostitution.* The Internet has become an increasingly larger and essential arena for people who buy and sell sexual services - especially for young people (Governmental Commission, 2010a; Mujaj and Netscher, 2015). The national survey conducted in 2009 has found out that among the young people who had experience of selling sex on the Internet, 56% uses the Internet to find buyers. This tripled the 2004 figures, when just over 16% named the Internet as their method of contact. The Prostitution Knowledge Centre in Malmö has described a dramatic upswing in ads on the Internet, with the number of ads for sexual services doubling between 2008 and 2009 (Governmental Commission, 2010a). Just over one fifth of the advertisers state that they are Swedish. While, in 2006 Swedish was the most common language used in the ads, in 2014, English was the most common language. Moreover, in the majority of the ads studied, another nationality is given (Mujaj and Netscher, 2015). Evaluations concluded that if the use of mobile phones has facilitated contacts between people, however, there are no data showing that this in itself has led to an increase in prostitution as a whole in Sweden. This is also because, for example, ads can remain online even if they are no longer active or several ads can be placed by the same person (Governmental Commission, 2010a; Mujaj and Netscher, 2015).

- *Indoor prostitution.* According to national evaluations, indoor prostitution refers to sex clubs, massage parlours, solariums and similar businesses, hotels, restaurants, bars, pubs, cafés and nightclubs. Both the Police and the people who have worked in these places state that prostitution occurs behind their walls, and that they also serve as methods of contact for prostitution. However, it is difficult to distinguish between cases in which the first contact is made directly at these places and cases in which the contact was the result of an Internet ad, for example (Governmental Commission, 2010a; Mujaj and Netscher, 2015). According to the National Board of Health and Welfare and other surveys, these places host primarily acts of indoor prostitution involving younger women. Moreover, according to the court verdicts, young women

around 20 years of age are most often used in procuring and human trafficking. Finally, there is no information to support the notion that people who were previously involved in street prostitution have moved to these places (Governmental Commission, 2010a).

Although they specify that the analysis is not exhaustive, they feel that it is 'the clearest picture it is currently possible to achieve' (Governmental Commission, 2010a, 15) and that the ban is an important instrument in preventing and combating prostitution (Governmental Commission, 2010b; Mujaj and Netscher, 2015). These national assessments underline that there is no evidence that the SPA is harmful and has favoured the growth of hidden prostitution. On the contrary, they attribute to the law the merit of having reduced street prostitution, reduced the demand for the purchase of sexual services and contributed to changing public attitudes towards prostitution (Governmental Commission, 2010a; Mujaj and Netscher, 2015). However, according to Dodillet and Östergren (2011), the 2010 evaluation lacks in scientific rigor, presenting methodological problems, inconsistencies and contradictions. Moreover, the debate on the SPA has received a lot of international scholarly and political attention. A new approach to the most controversial issue in the world has meant that many scholars are interested in whether this model is 'right' or 'wrong' (Skilbrei and Holmström, 2013). Both supporters and opponents of the law bring ideological aspects to their analyses - prostitution as work or as violence against women - in support of their thesis (Ekberg, 2004; Dodillet and Östergren, 2011; Gould, 2001; Waltman, 2011a,b, 2017; Östergren, 2018), but the lack of sound empirical evidence makes it impossible to conclude which side is right (Skilbrei and Holmström, 2013).

Different interpretations in the evaluation of the Swedish law

Aspects brought in support of the two different theses by the different scholars can be summarised as follows:

- *Decrease in purchasers of sexual services and decline of prostitution.* Opponents of the SPA agree that the decline of street prostitution is a consequence of the

development of new technologies and new channels of communication (Mujaj and Netscher, 2015), as has also happened in other countries (Munro and Della Giusta, 2008). Moreover, the ban itself has moved prostitution indoors (Dodillet and Östergren, 2011; Levy and Jakobsson, 2014). Other opponents argue that this reduction has increased the vulnerability of sex sellers. Because supply exceeds demand, the bargaining power of people in prostitution is significantly reduced (Zeegers and Althoff, 2015). Sellers are increasingly forced to accept unsafe sex, lower prices, dangerous clients and dangerous circumstances (Dodillet and Östergren, 2011). Thus, this way, some of them indirectly recognise a decrease in demand for sexual services. Supporters, on the other hand, believe that both declines are due to the ban. In 1996, before the SPA, 12.7% of the Swedish population reported the experience of buying sex. In 2014, this percentage had fallen to 7.5% (Mujaj and Netscher, 2015).⁷ Moreover, before the ban, the Swedish numbers of street prostitution were much the same as in Norway and Denmark. However, in Norway and Denmark there has been an increase in street prostitution, while in Sweden there has been a decline. Then, street prostitution in Norway fell sharply in 2009, when they introduced the client criminalisation (Governmental Commission, 2010a; Mujaj and Netscher, 2015). Moreover, although online prostitution appears to be on the increase, it seems to be less so than, for instance, in Denmark (a Nordic country that has not criminalised the purchase of sexual services) (Waltman, 2011a). Thus, supporters acknowledge the lack of comprehensive data. However, they believe that it is possible to detect trends in general terms of improvement or worsening of the situation, especially in comparison with other States.

- *Change attitudes towards buying sex.* Supporters stress the growing consensus on criminalising the purchase of sexual services by the population (Ekberg, 2004; Waltman, 2011b; Mujaj and Netscher, 2015). As we have seen in paragraph 1.4, in Sweden, people are more likely to consider the criminalisation of selling sexual services to be correct. Moreover, according to studies, this consensus has grown in the years following the entry into force of the law (Jakobsson and Kotsadam, 2011;

⁷It is important to note that: studying changes in behaviour at least once in a lifetime takes a lot of years. This is because it is only when individuals disappear from the population (for death or migration) that the prevalence in a population can change (Mujaj and Netscher, 2015).

[Immordino and Russo, 2015](#); [Jonsson and Jakobsson, 2017](#)). Opponents seem to agree on this, but they believe that, identifying prostitution as a problem, the law has increased the stigma of those involved in this activity ([Levy and Jakobsson, 2014](#)). As we have seen in paragraph 1.4, it seems that part of the population also wants to criminalise those who sell sexual services. Those against the law see this as an increase in the stigma of those involved in prostitution. Supporters respond to opponents by saying that the question about criminalisation of sellers is problematic and may confuse respondents. The expression 'selling sex' can refer to many things and not only to people who directly sell sexual services ([Waltman, 2011b](#)).

- *Reduce the interest of organised crime in establishing prostitution in Sweden.* Supporters of the SPA highlight some Police interceptions to confirm the achievement of this goal. The Swedish law has had a deterrent effect on trafficking for sexual exploitation.⁸ Other research has pointed out that, according to economic theories, we must consider two effects: the scale effect and the substitution effect. According to the scale effect, prostitution regulation leads to a market expansion and a consequent increase in trafficking. Conversely, the substitution effect reduces demand for traffic as it favours people who are regularly present on the territory. The analysis of such effects, carried out on a sample of 150 countries, shows that the scale effect is predominant over the substitution effect ([Cho et al., 2013](#)). The researchers themselves point out that the reliability of this analysis is compromised by the fact that the trafficking phenomenon largely takes place underground, where numbers are not clear ([Cho et al., 2013](#)). However, a previously and smaller research that compares three European countries (Sweden, the Netherlands and Germany) supports these results. It points out that prostitution regulation leads to an increase in trafficking, pointing also out that the key to countering trafficking is the presence of specific State policies. The reason why paying greater attention towards fighting trafficking puts Germany in a better position than the Netherlands. Anyway, the two solutions appear to be overall less effective than in Sweden. The research shows that none of the three countries has managed to make trafficking disappear, while Sweden has

⁸European Parliament resolution of the 26th of February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)). See [P7_TA\(2014\)0162](#).

seen it decline, the Netherlands and Germany have seen it increase (Marinova and James, 2012). Opponents says that until 2010 the number of reported sex trafficking offenses did not increased while, until 2015, the annual number of prosecutions and convictions have only modestly grown (Östergren, 2018).

What has just been described shows a strong split in the scientific community. Below, we investigate opinions of those who work, study or are involved in the field of prostitution. Consequently, we also highlight which current feminist debates are present in the country.

4.4 The Swedish feminist debates on the Sex Purchase Act

As mentioned, the Sex Purchase Act was approved in 1998 and came into force in 1999. We believe 20 years to be a sufficient amount of time for us to notice change in debates, their strengths and weaknesses. Ideological starting positions certainly have a weight in reading the reality that surrounds us, but this does not prevent people from changing their opinions or noticing problems in the system, as happened, for instance, within German abolitionist feminism (see paragraph 3.6).

In order to provide greater clarity, the debates are analysed by topics: consensus growth, risks for women involved in prostitution, access to help services, limitation of prostitution, the role of the ban in the fight against procuring and trafficking and the role of the person selling sexual services.

Consensus growth

In addition to the quantitative studies mentioned above, all respondents unanimously agreed that there was a great consensus among the Swedish population on the SPA. A consensus also found by women involved in prostitution: «Yeah, more people are pro the ban in Sweden, so that has increased» (Angelica Wendel, sex worker) and «They are truly convinced» (Deeva Dasi, sex worker). According to all of them, the credit for this growth belongs to the law. Since the consensus grew after the law came into force (Jakobsson and Kotsadam, 2011; Immordino and Russo, 2015;

Jonsson and Jakobsson, 2017), according abolitionists this is proof that the law works in changing the attitudes of the population.

«It's not socially accepted to buy sex in Sweden, it's less socially accepted than in other countries and that is because the law, that's really, really clear» (Real Stars).

«The law is very normative and really sends a clear message about who's the victim and who's the perpetrator, it sends a signal that it's not ok for men to buy women's bodies. [...]

It's important to continually educate young people» (Talita).

The aspect of education introduced by Talita remains a central node. The abolitionists see the change of attitudes as a success, but not a point of arrival. They believe that there is still much to be done and that not everything can be left to the existence of the ban on the purchase of sexual services. However, the existence of the law is a good starting point and also creates other educational opportunities:

«Young men grow up in Sweden and they know that we have this law. [...] We go in school classes and we talk about prostitution and when we explain why the Swedish law has this ban they understand! We can change attitude, this is an attitude that we can change, we see this all the time» (Real Stars).

The abolitionists place a lot of emphasis on the younger generation, which grew up with the ban and thus with another way of looking at prostitution:

«If you talk to young men in Sweden, most of them will tell you that they would never ever think of buying women in prostitution and they do not accept it and they do have a problem travelling, for instance, making business in China because a lot of deals are signed in brothels and I spoke to a lot of young businessmen and they hate it» (Wiveca Holst, ex representative of EWL).

However, at the same time, Wiveca Holst, Swedish representative of European Women's Lobby for 10 years, believes that today it would not have been possible to achieve what they struggled to achieve 20 years ago: the Sex Purchase Act. Among the abolitionists, there are concerns caused by the growth of reactionary trends around the world, including Sweden. Ideas that can appeal to young people and question some of the steps taken towards achieving gender equality. According

to ROKS, nowadays, talking about gender equality for some people is more of a politically correct way of talking than a real progressive push. Thus, in this atmosphere, even the SPA would also be at risk:

«I think it's under some kind of recent, I would say, attack... So, we have to defend it more and more, I would say... [...] Sadly enough from young people, both from the right side and from the left. I say we live in times where we have an increased conservative regarding gender. In Sweden, we have a debate that men should be man and young people think 'wow that's cool!'» (ROKS).

However, according to them, this 'attack' in Sweden is not feminist in nature. The attack on the Swedish law by the normalisation position comes from other parts of the world. In Sweden, according to the interviewees, the normalisation position is very small. There are some organisations, individual researchers and debaters who have voice on such claims, but it is not a strong movement, they are a few more individuals. However, these few people return to make their voices heard when they find the space for it:

«Feminists have agreed, but still there are these groups that advocate for sex workers' rights and decriminalisation... And in this time, these groups are coming back, rise their voice again and attract some feminists as well. But the feminist movement in Sweden is quite unified...» (ROKS).

The normalisation position in Sweden recognises that it is really difficult to find space for their demands within their country:

«We are very often derided and people say things about that we are like pimps, and Conservatives, right wing or things like that. So it's difficult to have an organisation in Sweden, we are three now and we are happy about that» (Angelica Wendel, sex worker).

The three organisations are Fuckförbundet, which the interviewees are part of, Feminist for Solidarity and Rose Alliance. The normalisation position is also supported by the Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL) and the Swedish Association for Sexuality Education (RFSU) (Dodillet and Östergren, 2011). The last two did not agree to officially participate in the research.

However, participation in an event organised by the RFSL in Uppsala showed that, despite the use of liberal language, they themselves felt they still had to go deeper into the subject. The conversation with an RFSU member showed that behind the official position, lie deeper internal fragmentations. Over the years, this has led to several clashes at the local level.

The interviewees, belonging to the normalisation position, consider the broad consensus on the law to be totally inadequate:

«People have no idea how the industry works. They feel that they have good intentions, the law has a good intention, and I think it actually has good intention, but giving us in the hands of the Police makes us vulnerable. It's doesn't really matter what happened on the street, they do not listen the victims working there and mute them and believe what they imagine and what they want to believe. They don't really care about what really happened. It's all about ideology, the situation is not really understood» (Deeva Dasi, sex worker).

As was the case in Germany in 2002, where some abolitionists recognised the good intentions behind the choice to regulate the sex market, in Sweden some liberal feminists recognise the good intentions behind the SPA. However, it opens up the big question of the consequences that this law has on the people involved in prostitution. According to liberal feminists, the position of the abolitionists is only ideological, it lacks empirical evidence and makes people in prostitution more vulnerable.

The risks for women involved in prostitution

The law would have made the already difficult life of people selling sexual services worse. This is the greatest criticism moved towards the law by the normalisation position. According to them, this law is paternalistic because it provides a form of control over women's right to their own bodies (Gould, 2001; Dodillet and Östergren, 2011; Levy and Jakobsson, 2014). Although legal, the sale of sex is not legitimate in Sweden (Skilbrei and Holmström, 2013) and this would help to stigmatise people involved in prostitution. The ban has worsened the conditions of women who are in prostitution: they are more vulnerable and more forced to accept unsafe sex, lower prices, dangerous clients and dangerous circumstances (Dodillet and Östergren, 2011; Levy and Jakobsson, 2014; Zeegers and Althoff, 2015). Moreover, the increasing difficulty in establishing direct contact with customers makes the role played by

pimps even more important for people's livelihoods in prostitution, pushing them into the hands of abusers (Dodillet and Östergren, 2011). The theme of vulnerability returns in interviews with sex workers, but not everything really seems to be due to the law.

«The clients usually only get small fees, most of them, they confess and pay it, I don't know how much money, and then it is over. But for sex workers it's different: the Police are following the sex workers to catch clients and many sex workers don't have any paper or visa and getting involved in the situation isn't good for them either. And, for example, if they know you also consume drugs, they put you in prison for the rest of the night... And also I never heard that the social services have called to the client's home and taken away the children from them, but this is what they do to sex workers... So, clients have an higher stigma, but the sex workers have the worst consequences as a result. Here in Sweden it is really stigmatised, I think it probably is one of the worst societies for sex workers actually» (Deeva Dasi, sex worker).

«I'm white, so I'm quite privilege in this but some clients have told me that they appreciate that I'm white and speak Swedish. They say they wouldn't go to someone who is not white and Swedish because they are afraid of getting caught by the Police and that makes me able to take actually a higher price and those who are not white in Sweden have to take a lower price because they can't offer the safety because the Police might be watching them, but the Police is not watching me because I'm white. So, the law is targeting people who are neither Swedish nor white, people who are migrants» (Angelica Wendel, sex worker).

Some of the problems reported by Deeva and Angelica, such as documents irregularities, drug use and prices, are not attributable to the SPA. Certainly in the Swedish case the Police is more likely to get in touch with these people during the 'hunt' for clients. According to Vuolajärvi (2019), migrant people in prostitution had frequent contacts with the Police, while nationals rarely experience it. Thus, migrants live in fear of being deported, and sometimes they are. The double standard in the governance of national and foreign people in prostitution highlighted by her study is the consequence of immigration and third-party laws, while client's criminalisation has a minor role in the regulation of the sex industry among Nordic Countries. Unsurprisingly, in the neo-regulation and decriminalisation models, the problem of migrants emerges as well. In the latter cases the fault is attributed to the licences, permits, or any situation where migrants in prostitution are obliged to show their documents. This is because, all around the world, it is not legitimate to be in prostitution without a legal residence permit, let alone obtaining one to carry out the

activity of prostitution. Thus, since prostitution is mainly carried out by migrants, the question of documents is of extreme importance. However, it does not concern the criminalisation or non-criminalisation of those who buy sexual services.

The same goes for prices. White women in prostitution tend to have higher prices and a higher bargaining margin than black women in most of the world. According to another study, this concern of the Swedish customers seems real: 'sellers reported that buyers were often concerned with the fact that they [the prostitutes] are working independently and are not exploited'. Moreover, the Swedish debate forces women in prostitution to convince customers that they are 'really okay with this', 'happy', and not 'exploited' (Vuolajärvi, 2019, 151). This aspect, which is negatively perceived by those who support the normalisation position, is instead an indication of the 'functioning' of the law according to its supporters. As we shall see later, for the abolitionists, making customers responsible also means remembering them that a woman in prostitution could be a victim of exploitation and/or trafficking and that, consequently, buying sexual services from her means facilitating her exploitation.

The question of parenting is more controversial. The idea that being in prostitution compromises the assessment of parenting skills does not lack support. According to some, 'if you want to be 100 per cent safe as a prostitute in Sweden, you should not have any children' (Levy and Jakobsson, 2014, 11). However, this is completely refuted by the social services and the Police. For instance, Simon Häggström, the head of the Stockholm Police Prostitution Unit, in one of his books, states that:

I have on several occasions, especially when I am abroad, been asked to address how the Police together with the social services take children away from their mothers because their parent is in prostitution. That is nothing but a lie. [...] I am not aware of a single case where a woman has had her child taken from her simply due to the fact that she is selling sex. Since in Stockholm we have social workers specifically focusing on these questions I have worked closely with several of them for years. The Prostitution Unit even has social workers with us on our interventions [...]. All this time I have never witnessed a social worker or a Police officer question the suitability of a mother to care for her child based on her being in prostitution (Häggström, 2016).

A study shows that female parents in prostitution may face great stresses in being both women in prostitution and mothers. The fear for their children is ever present

and changes their behaviour. Several of them spoke about the necessity and difficulty of securing childcare, a situation that sometimes prevented them from the activity of prostitution (Sloss and Harper, 2004). The possible questioning of parenting, besides being a very delicate subject, is also often strongly marked by mutual myths and prejudices. Mothers towards institutions and vice versa.⁹ However, if the point is the 'whore stigma', it unfortunately exists everywhere in the world (Benoit et al., 2018), even in countries where prostitution is regulated or decriminalised (Bindel, 2017). As shown, for instance, by the German evaluation (Federal Report, 2015), and by studies made on New Zealand (Abel et al., 2007; Wahab and Abel, 2016),¹⁰ and as the supporters of the law in Sweden strongly reiterate:

«Stigma isn't decreased in Germany or in The Netherlands, stigmatisation does not appear to be necessarily linked to the legislative model necessarily, it's a different social dynamic. [...] We don't see that women in prostitution have more agency in Germany and in The Netherlands than in Sweden. There are also dynamics that limit women choice in prostitution like witch client, how many a day, the prices and so on. But in the Nordic model you can go to the Police!» (Kvinnofronten)

«Yeah, it is still a stigma, it's always gonna be a stigma because this never changes, you can't do anything, unfortunately there will always be stigma for women in prostitution. That's a very really sad thing but, I mean, they are also stigmatised in Germany where prostitution is a work» (Wiveca Holst, ex representative of EWL).

Stigma is not only about prostitution, which is more divisive than others. According to Weitzer (2010), stigma is present in all activities that have to do with sex. Even those considered a job for many years, in many countries, such as stripping and pornography (Benoit et al., 2018). Other supporters, as Marie Johansson, psychotherapist, add that precisely because of the stigma existing on people in prostitution, the law tries to shift the responsibility of the act by giving women

⁹According to my experience as a social worker in Italy, for instance, it is true that social services are often tied to cultural stereotypes about parenting. By focusing on minors, they are sometimes very rigid. Moreover, they demand much more from mothers than from fathers. However, among mothers there is also a stereotype without empirical evidence: the one for which social services take children away from mothers very easily (e.g. even simple economic difficulties). Unrealistic fears which, however, are real for women, wielding great influence over their lives and their concrete access to social services. Therefore, from my experience and from what emerged from the study, true or not, this stereotype is certainly paralysing for many women and must be strongly fought against.

¹⁰For some testimonies of survivors of prostitution in New Zealand, please see the article '[Six survivors speak out about New Zealand's punishing "sex" industry](#)'.

the opportunity to report clients and be believed. After all, reporting violence in prostitution and being believed are not a given. Especially for women who live in more vulnerable conditions:

«Those [female victims of exploitation or trafficking] we've met are in favour of the law! Some women, for instance Nigerian women, have no rights and then they come here and suddenly they not only have rights, but are also treated with respect by the Police, they are taken care of. As a victim who has been horribly treated, they deserve to receive care, to be treated respected, to be treated with dignity» (Talita).

«We also have migrant women in prostitution and these women are comfortable with this law because for the first time they are the subject and not the object!» (Real Stars).

According to some law supporters, the real problem is the limitation of the business of prostitution, not the stigma, because it is not the law itself that stigmatises it:

«Since the law seems to have protected women and it has set some moral standard. [...] So, I don't at all understand that point of view. There is no evidence for it [the increase in victimisation and stigmatisation]. On the contrary, what came from the Police is that the women feel empowered by the way they can report the buyer if they want to. And if they don't want, they don't have to. If they don't want to be included in the process against the buyer, they don't have to be there and give testimony. So, they get more opportunities and why would anyone feel victimised? I think it's just a kind of a mainstream speech. Some women in prostitution may be angry about this law because it stops them from making money, so I realise that not all women like it, but I don't think it dis-empower them or make them stigmatised. The law stops their business, this is the real point» (ROKS).

Regarding this, it seems that the majority of people in prostitution in Sweden opposed the SPA not because it is stigmatising, but 'because it renders their clients criminals' (Vuolajärvi, 2019, 157). The same disagreement applies to the issue of violence in prostitution. The abolitionist position is divided between those who believe that nothing has changed and those who venture that prostitution in Sweden is safer. To give an example, the former state:

«Women are always abused and violated in prostitution because it is what it is. Men are violent but not more than before. When you talk with the women it is neither better nor worse, it's the same» (Wiveca Holst, ex representative of EWL).

In any case, again, according to the abolitionists, at the same amount of violence, women in prostitution have more rights under the SPA, because the possibility of reporting and being believed improves the situation:

«Many talk about the violence that was worst after the law coming into force in 1999, but this is not my experience because prostitution has always been violent. But the change is that, now, if you are in prostitution and they rape you, since we have the law, it's easier to report to the Police. They feel safer and that is better than before» (social worker).

«This is what one of the young women we've worked with said about the Swedish legislation: 'When I met a sex purchaser, he always had economic, physical and social power over me. The only power I had was that I knew that if I'd call the Police they would have come and been on my side, not his'...» (Talita).

On the other hand, but always among abolitionists, there are those who think that prostitution is safer in Sweden than in other countries thanks to the SPA, since clients there are more careful:

«I have heard lots of women that it's better to work in Sweden than in many other countries, because they get paid better and because of customers generally behaving better. They are not often violent and it's better to work in Sweden, not only because of the money but also for work conditions, it's better because the clients' behavior is better» (Eva Wintzel, public prosecutor).

«From my experience, it is rather the opposite. Since the 1st of January 1999 there has been a rapid decrease in persons in prostitution that has been exposed to violence from buyers. I would say that the sole reason for this is the ban. Since it is criminalised to buy sexual services and the crime itself is utterly shame filled, johns in Sweden do not want to bring more light upon themselves than they already do when they buy sexual services. [...] The persons in prostitution in Sweden know that they can call the Police if they have a violent customer etc. So, from my point of view, the ban has radically reduced the number of customers being violent to persons in prostitution» (Peter Åström, Senior Police Officer).

In support of this thesis, Max Waltman specifies that a) «Sweden had a number of murders in prostitution before the law, while after 1999 it hasn't been one murder» and that b) «also in New Zealand they had have a number of murders after their law and they have half the population of Sweden. Moreover, in Germany there have been many murders since 2002». Bindel (2017) points out the same: there have been no women in prostitution killed by customers since the law was enforced. While Schon (2019) confirms the crimes: from 2002 to 2019 there were 84 murders and 47

attempted murders of people involved in prostitution (of these, 134 were female). Regarding the increase in violence in prostitution, interviewed sex workers talk about the risk they feel they are affected by, not about the actual increase in violence:

«I've been lucky, I have never been subjected to that much violence. But I know that now it's difficult in the street because the client is afraid. Sex workers in the street have to immediately jump in the car, they don't even have the time to check the client... So, it's dangerous...» (Deeva Dasi, sex worker).

«For me it's very, very difficult to get clients who want to tell me what their name is before I meet them. So it's like I go away and I have only spoke on the phone but I don't know who I'm going to meet, I don't have a picture of him, or a name, or anything... So I cannot tell anyone 'I will be with this guy, this long and if I don't call you, something has happened' and sometimes also clients are nervous and it's like 'Oh, is he just nervous or is he a bad guy?', they are paranoid: 'No I don't want to give you that information!', 'what? why you're asking that?...' and yeah, it is that disturbing...» (Angelica Wendel, sex worker).

According to the interviewed sex workers, the SPA makes them feel less safe, but they have fortunately not experienced violence. The perception of security seems once again more linked to stigma than to safety. In general, people who sell sex in Sweden reported an intensification of stigma linked to prostitution, which makes them feel 'victimised and treated differently within social services and society at large' (Vuolajärvi, 2019, 151). However, opinions on the ban from those who sell sex varied from perceiving it as stigmatising, harmful, dangerous, or protective. The latter said that the ban gives them a tool to protect themselves against customers and that buyers behave better because it is them who are committing a crime. In addition to that, some women who have left prostitution in Sweden are also in favour of the law. Those who perceived their experiences in prostitution as traumatic, hoped that the ban would prevent more women from entering the sex industry and punish the customers. Others, although they were initially against the ban, argued that 'repealing it now would indicate a positive attitude towards men's right to buy sex and the overall normalisation of commercial sex within society' (Vuolajärvi, 2019, 151). Wiveca Holst and the interviewed social worker, who has been listening to women in prostitution for 21 years, report similar trends. Generally, women's perceptions of the SPA and prostitution change depending on the phase of their path. If they are still active in prostitution, they tend to declare that they are fine,

have no problems and earn a lot of money. If they have left prostitution they declare that it was not a good time and that they do not wish it on other women.

Access to help services

The normalisation position in Sweden considers that the SPA has removed people from the help services (Levy and Jakobsson, 2014). Interviewees in this position went to the health services, but did not feel welcomed:

«I went once, and I saw their disgusted face. They didn't say anything particular, but I saw their face expressions and they were talking to themselves» (Deeva Dasi, sex worker)
«I visited some health services that are turned to sex workers [...] I felt so patronised there, like one woman she even asked me 'Have you thought about what you do to your soul?' and I was like 'what? do you really think my soul is in my pussy?' and she was like really turning everything I said, for her I was sad because of sex work. [...] And also one time I had been working in an apartment with some sex worker colleagues and we had different ways on how to protect ourselves from STIs, so I wanted to ask to the gynaecologist 'what is the best way to protect yourself orally?' and I told her that I've been working with people who do it in different ways and she said something like 'Oh, it's not good to work with other sex workers because they can influence you to do bad things, you have to be careful, don't listen to them' and... what? They are my best friends! I didn't feel that she listened to me at all. So I don't want to go to that place anymore» (Angelica Wendel, sex worker).

Both of them felt judged because of feelings or words. These experiences for the interviewees are proof of the strongly moralistic attitude of those who work in the services. The presumption is that they are sad, struggling and doing something wrong. Certainly, as said above, the impact of stigma on people who suffer from it is an extremely significant problem. However, it is difficult to ascribe it to the law. In New Zealand, with a decriminalisation regime, the majority of the people involved in prostitution had a regular doctor, but only half of these disclose their occupation to their doctor, since participants to the evaluation 'thought that there was a stigma attached to sex work and that there was also a fear that the knowledge of their occupation would affect their treatment regarding other health issues' (Abel et al., 2007, 12).

It would have been a totally different matter if the law had actually reduced tangible opportunities for the people in need. According to Levy and Jakobsson (2014), the shift of prostitution from the streets to more hidden places increases the

gap between the people involved in it and the provision of help from health services and the Police, thus reducing opportunities for contact, protection and intervention. Such criticism seems to have no basis according to the experts interviewed. The social worker in Stockholm says she had the same concerns at first, then she realised she was wrong:

«I was suspicious at the beginning, I was against of its effect on the people involved in prostitution and that they would put away the social work, but that didn't happen. [...] I've changed my mind when I saw that ok, it doesn't affect me so much, it doesn't affect the people I work with that much, we just keep ongoing. The Police had to change their work, not us. . . So, I do not see how that have any influence on my work, no one who comes here is afraid, they don't have to be afraid because they have not done anything wrong» (social worker).

The social worker (and she is not alone in this) recognises that sometimes women in prostitution talk about the negative experiences they have had with the health care system, agreeing with what was said before by other sex workers. These experiences are attributed to the lack of training of many operators, especially non-specialised ones. Moreover, Talita and ROKS, thanks to the experience of their women's shelters, strongly reject the accusation made by [Levy and Jakobsson \(2014\)](#). Women in prostitution have not strayed from places of support:

«There is no connection between not asking for help and having a ban for buying sex. In our organisation we are constantly meeting on this: women in prostitution who call our helpline, they feel so bad, they have different problems, but they are trying to find help, they are not trying to run away from help. The law is not the problem in their life, the problem is that there is not help enough! I want these people who say these things to come up with some data or prove. . . We do not see this, we do not say it!» (ROKS).

Even the Police agrees: «I would rather say that the ban has facilitated the contact with Police and social help services on one hand and person in prostitution on the other» (Peter Åström, Senior Police Officer). Again, the problem of services access seems to be more relevant for migrant women who are not legally living in Sweden. According to [Vuolajärvi \(2019\)](#), the 'double standard' is also present in the Welfare State, where migrants without permanent residence permits are excluded from

support services as social benefits, housing, and public healthcare. The interviewed Stockholm social worker confirms it. As there are no 'special' programs to support people in prostitution, there is not much more to do for the non-regular migrants, other than being listened to.

According to some, the general increase in access to help services has led to new opportunities for men. The social worker and psychotherapist who has been working with sex buyers for 14 years says:

«I think more, because prostitutes have asked help for many years and men started to get help now, after the law. Now they can come here for help services. [...] What was before the law? Well, it wasn't anything. Maybe the people didn't like prostitution, but they didn't even think about that. For some of them it's kind of a ritual that they really, really, have to do it and they don't really have to stop like it is a compulsive problem. So, I think it's better now» (Marie Johansson, psychotherapist).

Real stars agrees and believes that making the purchase of sex unacceptable also helps relationship and men's self-esteem.¹¹

Limitation of prostitution

The decline of street prostitution is supported by all respondents, as well as by existing data. The belief that online prostitution would increase in any case, with or without the SPA, is also unanimous, since it has happened everywhere in the world thanks to the development of technology. However, some respondents say that online prostitution is neither more hidden than street prostitution, nor more difficult to fight. This has already been highlighted in 2013 by Simon Häggström, nowadays head of the Stockholm Police Prostitution Unit, in a European Women's Lobby seminar on prostitution. According to him, «if a sex buyer can, sit in front of his computer, be able to locate where is prostitution, then, of course, the Police can do the same. Yeah, we are not stupid».¹² Six years later, the claims are the same.

¹¹In addition to that, customer support services also seem to have led to results. According to Marie Johansson, in her service, «over 80% of clients, last year, have stopped to buying sex». With psychotherapy, customers «learn how prostitution really is. It's a kind of an education for men». The service is completely voluntary, no one can be forced to go. They have customers with ages ranging from 18 to 79, and most of them are in a relationship.

¹²For quotes and further explanations on how the Police work in Sweden please see the [short video](#).

Here below two examples:

«For us [the Police], this is no problem. It made our job much easier and, yes, it is possible to deal with online prostitution. I cannot reveal how we do this since it is a Police method that is secret, but I can say that it is very easy. I take us, say, less than 30 minutes to locate an address or apartment and from there report perpetrators, procurers or traffickers. The online prostitution is much more manageable than street prostitution. That I can say for sure» (Peter Åström, Senior Police Officer).

«Prostitution on the internet is very open, it's there, it's not hidden at all. Some said 'oh, prostitution in the street is disappearing, you can't find it, you can't see it', no, that's wrong. We can see it very well, because the buyers need to find people in prostitution otherwise there is no business...» (social worker).

Moreover, ROKS, Talita, the social worker interviewed (who has been working with people in prostitution for 21 years), Josefina Erikson and Max Waltman agree that there is less prostitution and trafficking in Sweden than in other European countries. In their view, the law has limited the growth of prostitution in Sweden, despite the fact that it has been a growing sector in Europe over the last 20/30 years. Prostitution has certainly changed over time in Sweden. According to the public prosecutor and social worker both before and during the first years of the ban, the majority of women in prostitution were stable in Sweden and mainly drug addicts. At the same time, with the expansion of the Schengen area, the number of women from other countries has increased: women who do not have a permanent address and family in Sweden.

Thus, despite the lack of data that would allow a strong and solid analysis of the phenomenon over time - as we said before -, this topic continues to be at core in the debate on the SPA. This is also particular because the the primary aim of the ban was to make a statement that prostitution is not acceptable and to change attitudes. It was never argued that the ban fully should abolish prostitution in the short run, however, this aspect is always brought up in the discussion of the SPA. Around the lack of data in this regard, there have been continuous theses in support of one or the other position. It is as if the relevance of the law was all there: whether or not it succeeded in putting an end to prostitution in 20 years. Without considering that the economic, social and geographical transformations of the last 30 years would

make the comparison between the number of people in prostitution 20 years ago and the number of people in prostitution today completely inadequate. This does not apply only to Sweden, but to any country.

The role of the ban in the fight against procuring and trafficking

In 2013, in the European Women's Lobby seminar on prostitution, Simon Häggström considered the SPA «our [their] best tool in fighting human trafficking». Nowadays, the experts interviewed still agree on the importance of the law in fighting human trafficking for sexual exploitation. According to the Police:

«The ban of purchase sexual services and the form and meaning it has today renders it as a very important tool in the battle against trafficking for sexual purposes and procuring. It works well since it targets the demand for purchase of sexual services. The demand is the sole factor that makes it worth for traffickers and procurers to continue with their activities. If the demand drops or disappears, no money will fall into the pockets of these» (Peter Åström, Senior Police Officer).

Thus, first of all, the attack on the demand reduces the income of criminal organisations and, in addition to that the law facilitates investigations, as the public prosecutor explains in more detail:

«That's how the Police officers, in our investigation, realise that there are women who are victims of human trafficking. [...] They follow what's happening on the internet and in the streets, but especially on the internet, and that's how they get into the cases when we suspect there is a procuring case. So, we start just following networks or pimps with their girls. Then, we could start by going where the client is at, talk to the girls and, thanks to the law, Police officers have the possibility to break into an hotel room, or in an apartment, because buying sex is a crime. So, that's the way they could start the investigation regarding procuring, and sometimes, during the development of the case, we realise the human trafficking» (Eva Wintzel, public prosecutor).

She also adds that, during the process, the presence of customers in court is useful:

«We usually bring to court some of them [customers] as evidence. It's an evidence to show the court 'this is the reality'. It's more or like to get more details about what's really happened in the hotel rooms. It's a good evidence in both cases, for procuring and especially for human trafficking» (Eva Wintzel, public prosecutor).

Certainly, the public prosecutor points out that women involved in procuring and trafficking cases are not always willing to tell the facts. This is because a) their chance of earning money would be interrupted, and b) they are afraid of the Police. Many of them come from countries where selling sex is illegal and not everyone knows that in Sweden it is the opposite. In any case, they usually speak after a while, when they feel safe and confident enough.

The role of the person selling sexual services

According to some of the normalisation position supporters, the legal position of the people involved in prostitution is ambiguous: while they can be required to testify in court they ‘neither enjoy the rights of the accused nor of the victim’ (Dodillet and Östergren, 2011, 22). However, even some abolitionists see this aspect of the law as a weakness. This is because from a radical feminist point of view, women in prostitution are victims and not witnesses (Waltman and MacKinnon, 2010). According to them, women in prostitution should be entitled to a recompense, which should be borne by those exploiting their vulnerability. Without this, the Swedish system significantly reduces the potential for supporting people in prostitution even by limiting their exit possibilities (Waltman, 2011b). The topic is:

«In Sweden if you're violated by a crime you can get an amount in criminal damage from the perpetrator. [...] If in the 2001 the Supreme Court had actually said 'buying sex is a crime against her', then she could have been entitled to damages from every john, and that could be a lot of money for her and that could be a different kind of support. Being regarded as crime victim can also mean helping getting a psychologist, an education, a job training, residence permit. It could mean a lot of things» (Max Waltman, researcher).

All of this follows what the Supreme Court had argued in 2001. It stated that the so-called 'consent' from the people involved in prostitution suggests the offense is 'primarily' committed against 'public order', more than against them as a 'person' (Waltman, 2011a; Florin, 2012; Östergren, 2018). On a first reading, this can be a little disconcerting. If by law the good to be protected is public order and not the person, what kind of consideration is then given to the people? Moreover, with this law the Swedish Government declares that prostitution is dangerous for society itself and for its individuals. Thus, at this point the ban contradicts itself in a

theoretical way. However, a more careful reflection puts this choice in line with the arguments that led to the law. During the process of discussing the law, prostitution has been seen more of as an evil for the whole of society, as one of the consequences of patriarchal societies and as an obstacle to achieving gender equality. There have been no relevant discussions about violence against women, nor have people who sell sexual services been labelled as victims (Erikson, 2017). Consequently, the purchase of sexual services first harms society and only then the person who sells them. Moreover, this approach also invalidates the accusation that the Swedish State considers women involved in prostitution as victims. Not by chance, the Police considers this aspect a point of strength in their relationship with people in prostitution:

«The main strength of the ban is that it considers the person in prostitution as a witness in a Police investigation. This is very important, especially for the Police because the money given from the 'buyer' to the 'seller' will be kept by the "seller", since it is legal to sell, but not to buy, and since the main reason that persons are within prostitution is because of money. Because of this witnesses cooperate with the Police in a very high degree, which leads to about 95% of convicted perpetrators» (Peter Åström, Senior Police Officer).

Since a person in prostitution is considered a witness, the Police shall not take any money in custody. On the contrary, when there is a reason to believe that the person is being procured or trafficked, the money will be taken into custody. In these latter cases, money becomes crime evidence. Thus, according to the Police, not taking away from the people who sell sexual services what they earn from prostitution, makes it easier for them to cooperate with the Police.

4.5 Twenty years later: what demands of the feminist movements?

The analysis of the interviews shows a very strong agreement among both the women's movement and political Parties. After 20 years, the abolitionist position stands compact in several aspects. The experts agree on a) the normative usefulness of the law, b) its empirical usefulness and, albeit with some differences, c) the

interventions needed to improve the existing implementation. On the other hand, the normalisation position is still marginal and weak in its demands.

General agreement and demands of the women's movement

The general agreement emerged from very general questions, such as: what weaknesses do you find in the Swedish model?, What changes would you like? To these, 11 out of 16 respondents raised the same questions. The three recurring issues are: a) the responsibility of the buyer, which is almost always male, b) the lack of resources and c) the impact of pornography on prostitution. Three of the remaining five interviews (out of a total of 16 interviews) are with political Parties, two with sex workers. These are analysed separately.

Focus on customers: responsibility and stigma

Talking about prostitution still often means talking about women. When we are not talking about women, we are still talking about those who sell sexual services. As seen from the reconstruction of the discussion that led to the law, many feminists in Sweden try to change this perspective. Thus, those who buy sex are expected to take full responsibility for their behaviour and sexual actions (EP, 2015b). Even today, this shift continues to be what Swedish feminists consider essential, especially the abolitionists.

«We shouldn't discuss always about women in prostitution, we should also discuss about the clients, who are they and why they buy sex, why they should have the right to buy sex» (Josefina Erikson, researcher).

«People don't talk about sex buyer, they talk about prostitutes person: how they are, how they look, their background, etc... [...] Sometimes we have campaigns like 'women are not for sale', 'this is human trafficking', without mention the root cause: buyers and myths of prostitution. They are general, they don't attack the problem, we must see who is the responsible, we must engage men in this, otherwise we can't solve it!» (Real Stars).

Thus, the central point of the discussion is still the inclusion of the subject that is hardly ever mentioned when we speak about prostitution. Therefore, if there are at least two actors in prostitution, it is right to talk about both. If prostitution is a problem to be tackled, both actors must be considered in the reflection and in the

interventions to be implemented. Otherwise, according to the interviewees, no change can be achieved: «The main thing I think is: if you want to do something about prostitution, you have to work with both side, otherwise you can't do anything» (Marie Johansson, psychotherapist).

However, although the law criminalises the buyer of sex, whether man or woman, the discourse in the women's movement is not neutral at all. Prostitution is still analysed exactly as it was in the process that led to the law. When interviewees talk about buyers, they talk about men. When they talk about sellers, they mostly talk about women, stressing that prostitution is a matter of gender inequality. Men are described as still too accustomed to the right to take what they need, without worrying about anything:

«Most of the buyers buy just because they have the right to do so: they are men and they have decided what they need. [...] Men buy everything, they buy girls and boys, men and women, couples and transgender people. They buy everything. They buy from the street, from the internet, from trafficking, in Sweden, in other countries, they keep it all together!» (social worker).

Thus, just as we have seen before, the framework of client criminalisation described the sexes relationship as hierarchical, identifying men as the ones who are responsible for prostitution (Erikson, 2017) and this is no longer tolerated:

«When you pay another human being for sex you should be forced to think the worst, because you know that it's so common...» (ROKS).

«The focus is on the men, they have to stop to asking and doing that. When I met those who buy sex, sometimes in the court, they are usually quite embarrassed about it. They understand what they are doing and they know it's wrong. [...] This is not accepted at all because in Sweden you don't have the right to buy sex» (Eva Wintzel, public prosecutor).

It is clear from the interviewees that the stigma and sanctioning of men's behaviour is considered necessary to induce them to think about the general problem. Even if only for a fine, being spotted can become an embarrassment. According to the experience of the public prosecutor, clients identified by the Police have sometimes tried to deny the evidence, even using excuses like 'we were just talking', but no

one has ever claimed not to know the law. After 20 years, every interviewee agrees that it is not socially acceptable to buy sexual services in Sweden. Thus, doing it and being 'discovered' is at least an embarrassment. Probably not for everyone, but it's a start for the ban supporters. However, according to some abolitionists, the current functioning of the system is not stigmatising enough for those who buy sexual services:

«I think the stigma should be put on the man who buys women. We want that the courts will actually send men to jail because the fine is not stigmatizing for a man because no one would know» (Wiveca Holst, ex representative of EWL).

«First and foremost I would see that there will be some judgements from Swedish courts that send some perpetrators to imprisonment instead of just giving them a fine. [...] This is a major drawback. Since the focus on the demand, sentencing a perpetrator to, say, two weeks imprisonment would be enough to make a major decrease in the demand. I talked to several perpetrators and they all said to me that when they committed the crime, they also made a risk assessment of getting caught by the Police, and if they got caught, they would confess and only get a fine. No one, wives, children, employers, etc would ever find out what they have been doing. But if there will be, say 14 days imprisonment, all would find out eventually because the perpetrator would be out of his social situation» (Peter Åström, Senior Police Officer).

Although the ban also provides for the arrest of those who buy sexual services, this has never happened. According to abolitionists, this reduces the possibility of customers being stigmatised by society for their actions. The fine can often be taken and paid without others ever knowing about it. As the Police officer points out, this is a type of risk that many men consider acceptable when they choose to buy sex.

Along the same lines, there is a demand to criminalise sex tourism as well:

«The number one thing is to be able to prosecute men when they purchase sex abroad as in Norway» (Kvinnofronten).

«We would also like a law against the men who buy sex in other countries, like in Norway. [...] It's going to be hard to convict them, probably, but it's also stigmatising men. So, I mean other people can report them because they have seen them in a brothels. It's about trying to stop sex tourism» (Wiveca Holst, ex representative of EWL).

Thus, the stigma theme is recurrent. It does not matter that it would be difficult to discover, try and therefore punish the purchase of sex in other countries, the

existence of such a ban would be a further signal to the buyer. They would be given further responsibility on this issue. The demand to criminalise those who buy sexual services abroad is not recent. The issue is already mentioned in the 2010 evaluation. Since the ban is universally applicable, there are no territorial limits on its applicability. However, 'the competence to pass judgment on offenses committed outside Sweden is normally conditional on dual criminality' and the majority of other countries do not have the same ban ([Governmental Commission, 2010a](#), 13). Therefore, allowing the ban to be an exception to the dual criminality requirement would involve a clear deviation from the general principles requirement for dual criminality in Sweden to prosecute a crime committed in another country ([Governmental Commission, 2010a](#)). Nevertheless, the abolitionists continue to call for a law allowing such criminalisation. After all, as they say, Norway does.

Pornography

Although without any questions about it, the topic of pornography is recurrent in the interviews. Besides being a problem in the construction of a respectful sexuality towards women, pornography appears to be related to prostitution and the use of violence within it. The President of the National Organisation for Women's and Girls' Shelters in Sweden underlines the problem that new generations of men are facing:

«We have a problem with the extensive use of pornography in Sweden by young men. [...] boys watch pornography and put those role models in their relationship with girls. So, many girls have been used and young boys have started also to turn into prostitution in a way that we have never seen before in Sweden, and that's because of pornography and the ways you look at gender and sexuality» (ROKS).

As studies show, around two thirds of young men in Sweden are thought to watch pornography on a regular basis, from several times a month to every day ([Waltman, 2014](#)). Certainly, the high consumption of pornography would not be a problem if it were not related to prostitution and violence. However, correlations between prostitution and pornography are also supported by various studies, where male pornography consumers are statistically significantly more inclined to buy sex than other men ([Monto and McRee, 2005](#); [Farley et al., 2011a](#)). Marie Johansson, a social

worker and a psychotherapist who has worked with sex buyers for years, confirms this:

«Sometimes when the younger start to look at porn, and maybe it goes over the limit all the time, then they don't really know how normal sexuality really is. So they can be more violent because that's what they see even in younger age. [...] Most of young people have probably never had sex [...] they don't really know how to have sex for the first time and then they start with a prostitute, to train what have seen, and that's not ok because it's really tough, it's violent. And then they are kind of destroyed...» (Marie Johansson, psychotherapist).

Thus, again, the reference to 'non-normal' sexuality patterns is highlighted. Commercial pornography reinforces the women's categorisation as asexual ('Madonnas') or promiscuous ('whores'). An imagery that justifies or minimises men's violent behaviours towards the group of women considered 'whores'. Sexual violence is the norm in commercial pornography, as shown by a study on the most popular pornographic films in the U.S.. Precisely, physical aggression occurred on around 90% of the scenes and verbal aggression, such as 'bitch' and 'slut', occurred in 48,7% of the scenes (Bridges et al., 2010). According to the experts interviewed, such attitudes are observed and then replicated in real life:

«Buyers want in prostitution what they see in porn and the Police also tell us that: people in prostitution report to the Police violence and crimes and when they ask to the perpetrator, the man, because in 99% the perpetrator is a man, 'why did you do this?' they answered 'I've seen that in pornography'. So, they are affected by pornography, they want to try what they have seen in the movie... And also women who come here, they tell me about prostitution and it's more or like, strangulation, and hits... They [the customers] see these things and then they want to do the same» (social worker).

Even a majority of sex buyers may explicitly admit they want to imitate pornography (Farley et al., 2011b, 2012). As other studies show, consumption of pornography makes men among the normal population more sexually aggressive (Foubert et al., 2011; Wright et al., 2016). Moreover, a study shows that pornography production appears to be at least as harmful as other forms of prostitution (Farley, 2007). In this regard, Talita also helps women get out of pornography:

«Talita offers support to women who have been exploited in prostitution, trafficking and photography. [...] it's so connected and porn affects both sides, it affects the men who

purchase sex: they demand more violent and extreme sexual acts when they purchase a woman's body in prostitution, and pornography is also a form of prostitution, what we call filmed prostitution» (Talita).

Thus, the scenario described by the Swedish experts seems to agree with previous studies. Moreover, the issue of pornography associated with prostitution has only emerged in Sweden and also in a very relevant way for abolitionist feminists. In Germany and Italy no one has mentioned it. By this we do not mean that this association is alien to German and Italian feminists because it is widely discussed in feminist theories. However, in the absence of direct demand, it did not emerge.

Improving law implementation

As we have said, in Sweden, client criminalisation described the relationship between the sexes as hierarchical and identified men as the sole responsible for prostitution (Erikson, 2017). Consequently, prostitution as a problem is incompatible with the aspirations of a gender equality. According to the interviewees, this message is very important, even though it never gets stressed enough. Thus, even if the law is a good starting point, its implementation needs to be improved. The recurring topic revolves around resources, whether or not they should be focused mainly on the need to help the people, especially women, involved in prostitution.

«It comes down to resources for women to be able to exit prostitution, because otherwise they are left there with no choice. So, the law should be complemented by resources for women shelters, exit programs, and education. Without these other elements, the law can't have its full effect» (Talita).

«Support services, exit programs and harm reduction services are still woefully inadequate in Sweden, and they are especially not geographically equal. [...] We need more help services and more resources, women cannot ask help just to the Police» (Kvinnofronten).

«I would like to have the legislation actually make the State allocate money for exit programs, we should have been able to give to women in prostitution an opportunity to exit programs» (Wiveca Holst, ex representative of EWL).

The Swedish State therefore does not have a holistic view of the problem. Changing the attitudes of the population, reducing the demand for sexual services and combating trafficking in human beings is a necessary but not sufficient condition.

Experts are calling for concrete opportunities and alternatives for women, especially those involved in prostitution. The lack of national and specific social policies has surprised those who study Swedish prostitution policies:

«I was surprised when I started to look at this issue because I imagine that would be much more programs, or local policies, or people working on this issue from a social perspective. [...] We have this national legislation but other from that, there is not that much. I mean it's up to the municipalities to work with these issues and to have kind of local solutions, local programs to help women in prostitution and women in trafficking as well. [...] we have also take into account women in prostitution and their needs [...], what we need now is to work much more with policies that also addressed the needs of people, mostly women, in prostitution» (Josefina Erikson, researcher).

The phenomenon of prostitution requires specific interventions which, if left to the freedom of individual local policies, remain insufficient, unevenly distributed and vulnerable to public decisions (including misplaced management interventions or budget cuts) (Waltman, 2017). Thus, according to the interviewees, these failures prevent the law from really achieving its objectives.

In addition to exit programs, support services for women in prostitution identify as indispensable the free treatment of the trauma that prostitution entails:

«I find the big weakness in the lack of social support to women in prostitution, for who want get out from prostitution and also for who want treatment for the harms cost in prostitution» (ROKS).

«My experience is that many people in prostitution have been exposed to trauma, both many times before prostitution and, of course, in prostitution. Many times it's sexual abuse and rape, and things like that. And that has to be taken care of! [...] Until 2 years ago, you could get trauma treatment here, in this clinic. It was very successful, over 80% left prostitution and healed from this trauma. Over 80% is an high percentage for this treatment. They themselves describe this as a success. So, I would like more possibilities, many people ask for that, but we can't provide. . . » (social worker).

Exposure to violence generates trauma that often requires specific psychological support (Carlson, 2005). Many studies point out the high levels of violence to which women in prostitution are exposed (Müller et al., 2004; Farley et al., 2012; Moorman and Harrison, 2016). Thus, if many women suffer violence in prostitution, psychotherapy treatments appear indispensable to provide them with adequate

support. The social worker who has been working with people involved in prostitution for more than 20 years talks about the current difficulty of responding to this request for help from her clients. Moreover, she points out that when the psychotherapy service existed, people benefited greatly from it. This last aspect is confirmed by a study: the 2012 evaluation of the Swedish specialised public social service for people in prostitution shows that 80% of the 26 clients who were still in the program after one year had left prostitution, while the other 20% resorted to prostitution less frequently and wanted to leave it entirely (Waltman, 2017).

The issue of resources also concerns the Police. According to ROKS, the Stockholm Police force that the women's shelters work with is filled by some distinct Police officers. However, they believe more work would be needed. Interviewees believe that the Police could certainly do more if they had the appropriate resources:

«And the Police is not prioritising, I mean prostitution is not severe crime in the eyes of Police because with limited resources they have, they work on this issue but they could do more... and it's obviously a question of resources...» (Josefina Erikson, researcher).

According to the public prosecutor, doing more for the Police certainly means strengthening the fight against prostitution, reducing it: «I think if we'd have more resources in the Police enforcement, allowing them a greater control and action range against prostitution, I think prostitution would decrease». Moreover, she adds, it would increase the number of customers punished for committing the crime:

«We haven't had any person that had been convicted several times, yet. The convictions are not that many, unfortunately, because the Police do not have enough resources to work on this... So, we do not take them very often. I think some had been convicted twice, I do not think several times» (Eva Wintzel, public prosecutor).

As seen before, the aspect of customers' punishment is dear to Swedish abolitionist feminists. According to them, as long as men who buy sex remain unpunished, they will neither be held responsible nor stigmatised for their behaviour. Moreover, thanks to their demand for sexual services, they will keep the prostitution market alive.

The decriminalisation request

The topics just discussed do not emerge from our interviews with women involved in prostitution who choose to call themselves sex workers. They argue that prostitution is not inherently exploitative and must be separated between prostitution involving consenting adults and forced prostitution. Otherwise, some prostitution experiences are universalized. This, is highly problematic for those who argue that they have voluntarily chosen this activity and do not wish to be placed with those who are forced to stay it. According to them, this law is paternalistic because it provides a form of control over women's right to their own bodies (Gould, 2001; Dodillet and Östergren, 2011; Levy and Jakobsson, 2014). They claim the right of people to decide for themselves and to be considered capable of doing it in spite of everything:

«Many feminists, and abolitionists as well, they make an assumption that women are poor, or black, or they are using drugs or they had been abused as children or they have mental health issues, as they don't have the agency even to have sex. And I imagine something like, what are they thinking? Are women not allowed to give consent because of this? I'm wondering, why we have not agency on our body because of this? It's like you have to be white and rich and privileged and healthy to be able to have a sexual relationship... I think this is not feminist at all, I hate this kind of thinking. Even if you are in the situation, even if you are a survivor sex worker, you still make choices and you have agency. Women on the street are smart, they are confident and feminists, I mean they can take care of themselves!» (Deeva Dasi, sex worker).

The interviewed sex workers do not talk about prostitution as something that empowers them, they do not deny that it can be a source of violence and suffering and they recognise gender inequality. However, they do not want to be limited in their choices, whatever the reasons for them.

«They say 'why is it often women who sell sex and why is it often men who buy sex?' Well men have higher salaries, women have a lower salary; women are often alone in taking care of their children after their divorce, so maybe they don't have money, and maybe they have to do sex work! And yes, sex work is just a tool, it's just a symptom and an alternative that is used because there is patriarchy and I think we should not take away that alternative, but we should like make people less poor, less vulnerable in society. That's important! [...] I think that the Swedish feminism is very privileged: many people have said that the most terrible thing ever is to sell sex to someone, but they don't understand that it's actually not good to take away that choice from some people like, for example, maybe someone who is

choosing between baking and selling sex and they will earn more from selling sex so they've chosen that. It's like the Swedish feminists want to take that opportunity, or alternative, or whatever I should call it, away from them and I think that's wrong, I think it's very privileged way to look at» (Angelica Wendel, sex worker).

The question of privilege often returns among our interviews with sex workers. Certainly, Swedish or Western feminists, or those in a position of greater socio-political-economic advantage in the world than most women in prostitution, are privileged. But what about the so-called survivors? The women who have been in prostitution and who have come out of it, do they speak because they are privileged as well? As [Bindel \(2017\)](#) points out, the survivors' movement, which mirrors that of the sex industry, is populated by a huge number of native and black women. However, understandably, when asked what change they would like, their answers spring from themselves and their direct experience. Both of them do not appreciate any of the European laws and are calling for full decriminalisation: «Because it's already illegal to rape someone, it's illegal to hit someone, steal, threaten, those things... So, I don't really know why we need extra laws for that» (Angelica Wendel, sex worker). At the same time, support for the New Zealand model is just given on a base of trust, from what they have read and heard about it:

«As myself I'm very much into the New Zealand view on prostitution. [...] but in New Zealand they have like two extra laws: one law is that you cannot sleep with a sex worker without a condom and the other law is that you can't buy sex from someone who is under 18. And I know that that has also been criticised by sex workers but I don't know... It sounds good but it's not really an opinion because I don't know how it really is in practice» (Angelica Wendel, sex worker).

Some reflections inside the Parliamentary Arena

Nowadays, the issue of prostitution is not officially on the political agenda. However, we have looked into whether and what speeches exist in and among the Parties 20 years after the entry into force of the SPA. According to the three interviewed Parties, In spite of ideological differences, there is a general agreement on the ban by all political Parties. The Left Party and the Green Party continue to support

the ban on the purchase of sexual services. Precisely the Left has a more 'radical' position:

«Prostitution is a part of men's sexual violence towards women and children. Prostitution is an expression of both social and economic inequality and an aggressive standard for male sexuality. [...] We took an active part in the in the process introducing the law in Sweden. Today we continue spreading knowledge about the law to other countries for example by our work in the EU-parliament» (Left Party).

According to them, prostitution is not only an expression of gender inequality, but also a sexual violence. They believe that the «public support for the ban has increased» and that it is «an important tool for reducing prostitution and human trafficking in Sweden». In support of their statement they mainly use the [Governmental Commission \(2010a\)](#) and assert that «it is not unusual that legislations change public attitudes», as has happened, for instance, with the same-sex-marriage law. Their current high level of support for the ban can also be deduced from the claim of their active role in introducing the law in Sweden and their current role in the European Parliament in achieving the same result in other countries.

The Green Party «support[s] the Swedish ban of sex purchase». In addition to that, they also assert that «the majority of Swedes supports the law and the number of supporters have increased over time». According to them, the majority of the people who are involved in prostitution are victims of trafficking, violence and abuse. Thus, since the seller is already in a vulnerable position, it is correct to criminalise only the buyer. They also justify their statements referencing to the Government's evaluations and the NGOs debate.

The support for the law by the Swedish Democrats Party is surprising. They were not in Parliament when the law was passed, but positions closer to their own voted against the law or for dual criminalisation (e.g. Conservative and Christian Democrats). They describe themselves as a social conservative Party with a nationalist foundation and prefer not to be identified as feminists, but to talk about gender equality. According to them, they have «no official opinion about the phenomenon of prostitution», but «are largely in favour of the current Sex Purchase Act». They agree that «all political Parties are in favour of the ban along with the

majority of the population who support it, which means it has had a normative effect on society». Despite the normative value of the law, they specify that it does not fully apply. This is because in 20 years no one has been sentenced to prison for buying sex.

By asking the Parties what changes they would like to make to the law, they confirm their support and respond in line with what has been previously said. The Left Party calls for the criminalisation of those who buy sex abroad and greater support for the people who live in prostitution. The Green Party also wants to increase support for people in prostitution and, in addition, to invest more in prevention measures. The Swedish Social Democratic Party, on the other hand, would like stricter penalties for sex buyers, «in order to solve the problem of too low punishment and to make the sex purchase law more effective».

4.6 Chapter Conclusions

Sweden has a long abolitionist history, which began in 1918. During the 1970s, prostitution has once again returned being deemed as a political issue. This debate lasted about 30 years and led to the adoption of the current Sex Purchase Act in 1998. The debate was gendered and moved from a socio-political framework, focused on society and social structures, to a criminal justice framework, focused on individuals. Since the gender relationship was described as hierarchical and the client was considered responsible for prostitution (as a producer of demand for sexual services), the choice to criminalise just the client prevailed.

The aim of the law is to fight prostitution, which is considered harmful not only to those directly concerned but also to society in general. Prostitution is incompatible with gender equality. In all of this, the normalisation position within the Swedish Parliament, which had always been marginal, was definitively dismissed between the end of the 1970s and the early 1980s (Svanström, 2004; Erikson, 2017). Studies agree that the role of women has been central to every aspect of the process: a) bringing the issue on the political agenda, b) proposing bills and c) leading the

discussion towards client criminalisation. While the first step was taken by the women's movement outside the Parliament, then the prominent role was played by Parliamentary women (Svanström, 2004; Erikson, 2017). Thus, in terms of the Outshoorn (2004b)' 'four-fold typology', there was a 'dual response' in Sweden: the process was supported by women, the Government has accepted women into the process and the SPA has met the goals of the majority of the women's movement. Another noteworthy aspect is that, although it is commonly believed that the SPA is the result of the demands of radical feminism, the law is instead an appendix of socialist feminism. This shows, once again, that feminist thoughts and the policies associated with them are not so rigidly established.

Thus, the SPA entered into force on the 1st of January 1999, its main innovative aspect concerning purchase criminalisation, but not the criminalisation of the sale of sexual services. 20 years after the entry into force of the law, investigating the reactions and interpretations of the legislation among feminist experts, the empirical data of this research shows:

a) Public consent to the law has grown. In general the abolitionist position in Sweden is still dominant. Moreover, over the years, it has seen a growth in consensus among society as a whole. Nowadays, among the abolitionist and normalisation positions, all respondents unanimously agreed that there is a great consensus among the Swedish population on the SPA, inside and outside the feminist movement. Of course, this social consensus is not entirely feminist in nature. However, it does not conflict with the demands of the abolitionist feminist movement. Although some studies show, albeit ambiguously, that some people would consider it appropriate to criminalise the sale of sexual services as well, there are no official demands or official pressure towards this direction. Thus, abolitionists continue to highlight the importance of education, especially in a historical period when non feminist conservative instances are growing.

b) According to abolitionist, the risks for women in prostitution in Sweden are not related to the SPA. The lack of support and access to social and health services; the fear of being found by the Police without regular documents; the fear of being

deported for migrant women depend on other policies. There is no evidence that violence against people in prostitution has increased and abolitionist thoughts are divided between those who believe that it is still the same and those who believe that it has decreased. However, sex workers claim to feel less safe. Finally, there is an unanimous recognition of the stigma of those who sell sex, just as in all other countries of the world. It certainly seems more difficult to sell sex, but there are different interpretations of this, depending on the ideology frame. Moreover, the latter cannot be considered a risk for women in prostitution, but rather a loss of earnings for them.

c) According to abolitionist, access to help services has not been reduced. Social workers, counselling centres and shelters have not seen a decrease in requests for help. Rather, the phenomenon of prostitution and the needs of the people within it have changed (e.g. there has been a decrease in drug addicts and an increase in women from the East and from Africa). Furthermore, if we consider that services have also been established for those who buy sex, some point out that the number of people accessing services has increased. However, supporters of normalisation position disagree: both sex workers interviewed report that because of their perceived judgment they stopped going to the places they needed help (health care places).

d) The limitation of prostitution. According to the experts interviewed, prostitution in Sweden has changed over the last 20 years, as in many other States. Again, the two feminist positions emphasise different aspects: on the one hand, abolitionists believe that the PPA has counteracted the increase in prostitution. On the other hand, the advocates of the normalisation position stress that prostitution has not been abolished. Thus, as we said, despite the lack of data, this topic continues to be at core of the debate.

e) According to abolitionist the SPA is a tool to combat trafficking in human beings for sexual exploitation. The Police and the public prosecutor argue that all investigations of procuring and trafficking begin as simple cases of buying sexual services. The existence of the ban gives the Police the opportunity to interrupt the act, question the buyer and talk to the seller. In addition to that, by reducing the

demand, it makes the country less convenient for traffickers.

f) People in prostitution as witnesses. This is considered a critical issue both by the normalisation position and by part of the abolitionist position. According to the former it is a paradox because it does not give any 'status' to sex workers. For radical feminism, this is not enough, because they see prostitution as violence, people involved should be regarded as victims and get all the benefits that this entails: first of all an amount in criminal damage. However, as we said, the law appears to be consistent with its guiding principles: under the SPA prostitution must be fought as a threat to society as a whole and not to individuals.

According to this study, the current debate within the feminist movement in Sweden is as follows. Outside the political arena, today the problem of prostitution remains of considerable importance. The abolitionist position remains prevalent. Within it, however, the thoughts of radical feminism seem to have been strengthened. Contrary to the discourses that led to the law, nowadays prostitution is more commonly considered a form of violence against women. The abolitionists, although happy and supporters of client criminalisation, do not spare some criticism when talking about its implementation. They believe that some important improvements are necessary. Thus, the reflections of abolitionist feminism in Sweden reveal three main discourses: a) the responsibility of the client, b) pornography and c) the absence of support programs for women involved in prostitution.

The responsibility of the client is still at the core of the abolitionist demands. According to abolitionist respondents, the existence of sanctions that are impossible to hide from society remains the first deterrent to the demand of sexual services. This is because criminal sanctions would be added to the social sanction and the resulting stigma. From this ensue the demand for the application of the prison sentence already provided for by the law, the criminalisation of the purchase of sexual services abroad and the allocation of more resources for the Police to devote to this type of investigation.

Another issue is that of pornography, a topic which emerges from interviews with associations offering counselling and shelters and social workers working both

with people in prostitution and with clients. According to them, it emerges from the stories of women and men that pornography has a performative effect on prostitution and that this trend has been increasing. More and more men, especially among young people, are turning to commercial pornography, learning practices and then asking to reproduce them when buying sexual services. According to respondents, high exposure to commercial pornography contributes to the normalisation of violent and abusive sexual behaviours that do not respect women.

Last but not least, programs support. The abolitionists unanimously acknowledge the lack of adequate measures to support women in need of help. 20 years after the implementation of the law, there are still no nationwide ad hoc programs. Assistance to women remains the responsibility of the 'classic' social system, leading to inadequate responses in many aspects. The support does not take into account the specificity of the phenomenon, it is not homogeneously distributed over the territory and it excludes foreign women who are not regularly and permanently present in the country. Moreover, where interventions exist, since they are left to local administrations, they risk being merely temporary or subjected to unexpected cuts.

Within the Parliamentary Arena the topic of prostitution is not on the agenda. However, according to the three Parties we have interviewed, support for the SPA is unanimous. Probably, such unanimity is not entirely abolitionist-feminist. As said by the Swedish Democrats Party, they support the ban, but do not consider themselves feminists and have no official position on prostitution. It is no coincidence that their attention is focused on the certainty of punishment without any reference to the dynamics of gender relations. Furthermore, during their interview, they have never mentioned other important aspects, such as the gaps in measures to support women involved in prostitution. The Green Party and the Left Party, on the other hand, are more in line with the wishes of the extra-Parliamentary abolitionist feminists. Both recognise the need for support programmes for the people involved in prostitution and, furthermore, the Left Party would like to see sex tourism criminalised and the Swedish model adopted in other European countries. Thus, despite differences of opinion on possible improvements, after 20 years, the SPA is not questioned within

the Swedish Parliamentary Arena.

The position of normalisation in Sweden, which is absent among political Parties, exists within the feminist movement but remains a minority. They recognise that they are struggling to find space within the national borders and find it easier to find support outside the country. The women's organisations defending sex work in Sweden are three, maybe four, and composed of a few members. Among the opponents of the law there are also some scholars, such as Östergren and Dodillet, but also in this case many critics are from other countries. The demands of this position, coherently with their nature, claim the right to have sex work recognised in its total decriminalisation.

In the face of all of this, two further aspects are highlighted: the debate on prostitution which is still strongly heterosexual and the divergence from the SPA which appears to ideologically belong to the normalisation position.

As we have seen, the Swedish abolitionist position addresses the issue of prostitution by placing women on the supply side and men on the demand side. According to some of the normalisation position supporters, for instance Östergren (2018), considering prostitution as a phenomenon in which most women sell sex and men buy is heteronormative and it reinforces a view of sexuality in which men are active and women passive. However, this consideration appears to be a constraint for two reasons. First of all because, although not exhaustive, all estimates agree on the greater prevalence of women on the supply side and men on the demand side. Secondly, because this statement goes against the vision that Östergren herself wants to support: that of normalisation, according to which those who are on the supply side are not passive. The gender division in the sex trade is objective to date. Thus, more properly, we could say that the law focusing only on heterosexual prostitution, did not take into account the specificities of other forms of prostitution.

From what has emerged from this research, the point at which the normalisation and the abolitionist positions do not meet is merely ideological. As we have seen in Germany, opposing feminist positions may agree in recognising any positive aspects, or at least the good intentions behind certain choices. Or, even more so, agreeing to

a law that clearly worsens the condition of women in prostitution. In Sweden, there is an agreement about certain results, but the reading of these results is diametrically opposed. For instance: (1) The SPA is recognized by both positions as an expression of a part of feminism and, some opponents, however, recognize its good intentions. (2) both positions in Sweden, more or less directly, recognise the growing consensus that the law has produced on criminalising the purchase of sex. They recognise that the demand for sexual services has decreased and that customers are concerned about possible exploitation. However, these results are a little 'victory' for abolitionists and a problem for those who support the normalisation position. (3) Both positions recognise that customers are stigmatized. However, even this is considered a victory for the abolitionists and a critical issue for the supporters of sex work. For the latter, the stigmatisation of the client increases that of those involved in prostitution.

The abolitionists continue to place the structural inequality that exists between women and men at the centre of the debate. Moreover, as some people point out, the State prohibits many other things (e.g. selling drugs), because it considers it harmful for individuals and society. Thus, the role of the State is also this. Prostitution is related to organised crime, trafficking, exploitation, violence and to the way gender is created and that is not up to individual women or men to decide. They stress that the State must have an overview of society and protect people in vulnerable situations. For them, women who want to prostitute themselves can do it, but they cannot expect this to be normalised by society as a whole to the detriment of the majority of women in prostitution. This is because, without client criminalisation, the State is implicitly telling customers that what they are doing is right and they can continue to do it. The kind of discourse impossible to share from the position of normalisation which, on the contrary, claims the right to their self-determination without any moral or protective limitation.

According to the research, two aspects in Sweden contribute significantly to limiting the lives of women who say they want to be in prostitution: stigma and additional discrimination for migrants. However, the former is present everywhere in the world, the latter is linked to immigration and assistance policies and not to the SPA. Certainly, the abolitionist position could be made more advocate of the

rights of migrant women. However, ad hoc intervention programs, such as those called for by the abolitionists, would provide access and concrete alternatives also for women who are not legal on the territory.

In the Swedish case the 'inconsistencies' between ideological positions and empirical claims are softer than German ones. However, the choice of the criminalisation of the client comes from socialist feminism and not from radical feminism. Likewise, even those who support the ban see problems with its implementation, do not hide them and claim the solution. Another relevant aspect is the marginality of neo-regulatory thinking: none of the interviewees claim it today and even in the past it does not seem to have been very present. After all, Sweden has opted for Classic abolitionism for more than 100 years - since 1918. Thus, here again, historical experience may have played an important role in the evolution of feminist debates.

Chapter 5

The Italian case: The Merlin Law

The Italian case instead reflects the 'classic' abolitionist stance. In 1958 the law that closed State brothels came into force, putting an end to the old regulation of prostitution. Since then, the various legislative interventions have focused on the topic of human trafficking with the purpose of sexual exploitation. Thus, after 60 years the law is still in force. However, as [Danna \(2004b\)](#) wrote and other scholars have agreed upon ([Crowhurst et al., 2018](#)), Italy hosts a 'never ending debate' on prostitution. After 60 years of debate, what can we detect? Have there been any changes? Any similarities or differences in thinking between feminists?

Thus, on the grounds of the general aims set out in [Chapter 2](#), we proceed as follows:

1. to assess whether and how feminist knowledge has influence on the PPA policy making process, we proceed to briefly reconstruct from literature the influence of feminisms on the Merlin Law policy making process. This allows us to classify the influence of feminism according to [Outshoorn \(2004b\)](#)'s 'four-fold typology'.

2. In order to highlight which current feminist debates are present in Italy, we proceed in two steps. (a) First let us briefly reconstruct from literature the evolution of feminist debates after the Merlin Law. This allow us to contextualize the currently debates. (2) Then, we deepen the existing debates on prostitution policy through the analysis of bills, documents, semi-structured interviews and events organized on

the issue.

3. At the end, we investigate the changes in the debates, including divergences and similarities among different feminist positions highlighted.

5.1 Feminist influence on the Merlin Law

In 1958, the regulation of prostitution was abolished by the Law N. 75 - passed into history as 'Merlin Law' -, after a long parliamentary process that lasted ten years. The law does not criminalize prostitution per se, but everything around it. Before the Merlin Law, prostitution was regulated by the Cavour Government, which in 1860 authorised State-brothels and imposed strict health controls on women involved in prostitution. On the one hand, this regulation guaranteed men access to the female body in hygienic and sanitary safety conditions and, on the other hand, ensured the ethical-social control of women's behaviour in public spaces (Bellassai, 2006).

The context of the Merlin bill was that of a country recently emerged from World War II and 20 years of fascist dictatorship, where women were relegated to the 'domestic hearth' leaving the public sphere exclusively to men (Bellassai, 2006, 45). During these years, women obtained the right to vote.¹ In 1946, 21 women were elected to the Constituent Assembly and among them, there was the socialist feminist Angelina Merlin. She was the reference point for all the women's associations of that time, from Christian Democrats to Communists. Thus, in 1948, Senator Merlin presented her bill to Parliament, which would not be approved until 1958 - after almost ten years of parliamentary debate -, with 385 votes in favour and 115 against. The votes in favour were those of Christian Democrats, Communists, Socialists and Republicans; while those against were monarchists, liberals and neo-fascists.

According to Senator Merlin, two fundamental principles underpin the bill: gender equality and women's freedom and dignity (Pitch, 1989). Indeed, Senator

¹In 1945 women obtained the right to active voting and in 1946 the possibility to be elected. However, 'prostitutes' were placed in the excluded categories. They did not get the right to vote until 1947 (Bellassai, 2006).

Merlin's aim was to abolish the regulation of prostitution, not prostitution per se. As she clearly pointed out in an interview in 1963:

And who wanted to abolish prostitution? Me?!? My law only aimed to prevent the complicity of the State. You reread the title: 'Abolition of regulations to fight against the exploitation of the prostitution of others'. And that's it. Prostitution isn't a crime, it's a malpractice. [...] I want to live in a country of free people: free also to prostitute themselves.²

However, the 10 years of parliamentary procedure overshadowed these aspects (Pitch, 1989). While it was always a woman who initiated the bill, pushed it forward and kept it alive, they did not succeed in influencing the arguments in the debate (König, 2015). In 1946, women were just 4.1% of the Constituent Assembly. In 1948, they were just 1.1% in Senate and 6.7% in Chamber; in 1953 just 0.4% in Senate and 5.5% in Chamber, and again, in 1958 they were just 1.2% in Senate and 3.6% in Chamber (Marcucci, 1987). Thus, the parliamentary debate was largely dominated by men. They were producers of the speech, and never questioned themselves as customers. The debate primarily concerned 'prostitutes' (obviously women) and prostitution as an immoral derivation of femininity (Bellassai, 2006). Not by chance, the terms 'emancipation' and 'prostitution' were used almost synonymously in many speeches during the debate: greater freedom for women constituted a very serious danger to public morality. Moreover, this link was not only found in the speeches of those opposed to the Merlin bill, but also by some in favour (Bellassai, 2006).

According to the opponents, state brothels were necessary to satisfy 'natural male instincts' and to defend the moral and health of society. They considered State-brothels as a men's natural right aimed to preserve the masculinity of old and new generations. Women in prostitution were described as 'intellectually disabled', 'immoral', 'inferior' and 'sources of disorder' (social, moral, family, hygienic) (Pitch, 1987; Bellassai, 2007, 145-158). However, the real workhorse of the opponents discourses was the social and health alarm. According to them, with the closure of the State-brothels, a large number of former prostitutes would have taken to the streets without any control, contributing to the spread of venereal diseases. Indeed,

²Oriana Fallaci's interview with the Senator Lina Merlin published in 1963 and extracted from the book «Se nascerai donna».

the main objective of the regulation was client's health. Women in prostitution had no health right, but only the duty to not transmit the infection to others (Bellassai, 2006). Thoughts belonging to the functionalist approach of prostitution, which defends patriarchal masculinity.

According to the supporters, on the other hand, the question was simply moral: they considered it necessary to heal the painful 'scourge of prostitution'. For the majority of them, the abolition of State-brothels meant to restore dignity to women within a morally healthy society. Woman had to be able to fulfil her mission as wife and mother, without running the risk of stumbling into lustful temptations (Pitch, 1987; Bellassai, 2003). According to the opponents, women in prostitution were 'inferior' while, according to the supporters, they were 'poor victims' (Pitch, 1989). Thus, the offended good was not the woman, but the moral order of society. For others, voting in favour was simply due to the women who elected them. Exemplary speeches such as: '[the woman] did not send us here to defend our selfishness, but to defend her freedoms', or 'if there were as many women in this Chamber as could arithmetically correspond to the number of women in the country who gave us the vote, this bill would pass by an overwhelming majority or unanimously' (König, 2015, 379). In addition, there was the international abolitionist push of the 1949 UN Convention against pimping, brothels, and trafficking (Bellassai, 2006).

The abolitionist discourse of the 1950s did not consider women as subjects to 'liberate' but to 'defend' (Pitch, 1986, 40). According to Pitch (1986, 1987, 1989), from the comparison between the bill and the law passed, the prevalence of moralistic tones over women's demands for freedom and self-determination is evident. While the bill emphasized the protection of fundamental freedoms and the Constitution, the law rather defends the effects of corruption, vice and crime produced by regulation. Thus, the Merlin law, which marked a huge step forward for Italy, had suffered from many compromises. The Merlin's project was initially perceived as a 'product of feminism', risking to push the more conservative abolitionist front away from the cause (Bellassai, 2006, 223). Unsurprisingly, the abolition of State-brothels for moral purposes was mainly supported by the interventions of the Catholic composition. In those years there was a laic Puritanism, marked by a "morality" not foreign even to

the Marxist and left-wing parties (Bellassai, 2006). Therefore, the abolition of the regulation of prostitution cannot be considered a 'victory' for feminism. Although it is part of a historical and cultural heritage in which women's struggles are part, the struggle did not see women as protagonists who spoke of their condition and worked personally to change it (Pitch, 1986).

Based on the very thorough studies mentioned above, the impact of feminisms on the Merlin law has been 'pre-emption'. Outshoorn (2004b)'s 'four-fold typology' identifies 'pre-emption' as when the State does not allow women into the process but emanates satisfaction policies. Although the initial bill was presented by a woman, the female presence in the debate was almost non-existent. Women were few in number and unable to make their voices heard. In addition, in order to obtain the law, they had to give up their claims to freedom and self-determination. However, they obtained the closure of State-brothels, the abolition of the regulation of prostitution, registration and health control over women involved in prostitution.

5.2 Current framework for prostitution

Entitled 'Abolition of the regulation of prostitution and the fight against the exploitation of the prostitution of others', nowadays the Merlin Law is still in force. The law does not define prostitution and to sum it up:

1. it prohibits all types of prostitution facilities (Art.1, 2);
2. it provides for imprisonment from two to six years and a fine for anyone who owns, operates or manages a prostitution facility. It includes anyone who tolerates the presence of prostitution within any other structure. In addition, it punishes those who recruit or facilitate people to enter into prostitution and those who facilitate their exploitation (Art.3);
3. it prohibits any direct or indirect form of registration of women involved in prostitution by the police, health authorities and any other administrative authority (Art.7).

While Merlin Law remains the main National legal framework on prostitution, a number of law provisions and jurisprudential interventions are also used in this field.

Above all we can highlight those concerning crimes related to prostitution such as trafficking, child prostitution and, more generally, immigration (Crowhurst et al., 2018).

In 1998 two laws came into force. The first one (Law. n.269/98) set out the criminalization of those who buy sex from underage people. It has been modified in 2006 to introduce child pornography and children's sexual exploitation. The second one is the Law Decree 286/98 with its Article 18. This introduced a system of protection for the victims of human trafficking. A residence permit and entry into a social work reintegration program were granted to the victims of this crime. Although it covered both trafficking with the purpose of labour and sexual exploitation, mostly applied in cases of sex trafficking (Danna, 2004b; Crowhurst et al., 2018). Moreover, in 2003 the law against slavery and human trafficking came into force. In order to make the crime of slavery more easily applicable to the exploitation of migrants - including women and children in prostitution - introduced in the penal code the concept of 'servitude' (Crowhurst et al., 2018).

Therefore, nationally, prostitution is neither illegal nor regulated, but legal. As we said, the official intention of the law was to abolish the regulation of prostitution, not prostitution per se. This second aspect was more a long-term hope, linked to cultural change. Indeed, both people who sell sexual services and customers are decriminalized. However, given the legal provisions, legally indoors prostitution is complicated to exercise. In practice, only people who own the apartment in which they engage in prostitution would fully comply with the criteria of the law.³

Since the mid-1990s, in response to the massive increase in the number of foreign people involved in street prostitution, mayors began issuing administrative ordinances on prostitution (Crowhurst et al., 2018). This instrument was used mostly by mayors of medium-large municipalities, particularly in northern Italy. Thus, the phenomenon of prostitution became among the most regulated, together with the consumption of alcoholic beverages and vandalism. Mayors justified their interventions with the aim of countering a) 'disorderly conduct and outrage the

³For instance, if the apartment where prostitution is practiced is rented, the land owner could be charged with aiding and abetting.

public decency', b) 'morally harmful message', c) 'potential health public risk', d) 'illegal public land occupancy' (AA.VV., 2012, 34). Although their effects were never systematically evaluated, mayoral ordinances were widely criticised. These had a pronounced effect on movement and composition of street prostitution population. People moved to more peripheral municipalities, increasing their concentration. As a result they had to move continuously, lower prices and stay on the street for several hours (Crowhurst et al., 2018).

5.3 Some data to frame the phenomenon of prostitution in Italy

Estimates on prostitution are mainly produced by NGOs and some institution operating in anti-trafficking and harm reduction project (Crowhurst et al., 2018). TAMPEP (2010)'s⁴ 2008 estimate found 50,000 people involved in prostitution and they believe that the percentage of migrants (including EU citizens) might be as high as 90%. 40% of these came from Africa, 24% from Central European countries, 15% from Latin America and the Caribbean, 7% from Eastern Europe (extra EU countries and Central Asia), 6% from the the Balkan countries, 4% from Pacific Asia, 3% from the rest of Europe and 1% from the Baltic countries. Moreover, 82% of the total were women, 15% transgender and 3% male. Precisely, the two top countries from which migrants come are Romania and Nigeria. The 60% of prostitution takes place outdoors and the remaining 40% indoors (clubs, bars, parlours, apartments). However, outdoor and indoor prostitution are not mutually exclusive. Depending on the circumstances people in prostitution may stay in both settings and move fluidly from one to the other (TAMPEP, 2010, 144,145,146). The five main vulnerability factors for nationals in prostitution are social isolation and exclusion; alcohol and drug dependency; customers violence; lack of protection from law enforcement agencies and lack of access to healthcare and social assistance services. While, the five main vulnerability for migrants in prostitution are violence

⁴The estimation was determined by surveying NGOs working with people involved in prostitution across Italy, which are generally accepted as being credible (TAMPEP, 2010, 144).

from organisers of the sex industry; legal status in the country; social isolation and exclusion; Police violence and harassment and lack of access to health and social care services. According to the study, 55% of nationals and 45% migrants have control of their conditions in prostitution and safe sex practices. 9% of the national people and 91% of the migrants involved in prostitution have to share their income with third parties as traffickers, smugglers and club managers (excluding their family). The percentage of earnings that nationals keep for themselves varies from 60% to 100%, while for migrants is just the 30% (TAMPEP, 2010, 147,148,149). Thus, if 90% of the people involved in prostitution are migrants and they are forced to share with traffickers, smugglers and club managers 70% of their earnings, the vast majority of prostitution is not free as declared in to Merlin Law, which criminalises instigation, exploitation, aiding and abetting of prostitution.

Although not exhaustive and completely reliable, the data agree on an increase in prostitution in the last 10 years. Indeed, in 2018, the last survey carried out by Coordinating committee of consumer associations (Codacons) shows that there are about 90,000 people involved in prostitution (instead of 50,000, according to TAMPEP (2010)). 55% of them are foreign girls of age, the majority coming from Eastern European countries (Romania, Bulgaria, Ukraine) and Africa (mainly Nigeria). In addition, indoor prostitution of Chinese women is increasing. While 10% of the total are underage girls. Street prostitution remains the largest percentage (60% of the total). However, the biggest increase concerns online prostitution, which exploded with the economic crisis: about 18,000 women (20% of the total), generally under 40 years of age, show their naked bodies through a web cam. While about 3 million are customers (Codacons, 2018) and, according to several studies, buying sexual service is a male experience shared across ages, relationship statuses, and classes (Cutrufelli, 1981; Caletti, 1986; Leonini, 1999). Finally, the sex market has an annual turnover of around euro 3.9 billion (Codacons, 2018) or 3,6 billion, according to ISTAT (2017).

Crime statistics

Even in Italy, crime statistics greatly underestimate the phenomenon. As we said, they capture more the number of cases detected than the actual number of the crimes themselves. However, these data tell us some things. We extracted data relating to those crimes useful for our analysis from 2000 to 2017 (years available), from the Italian National Institute of Statistics (ISTAT). More precisely, the crimes of 'Instigation, exploitation, aiding and abetting of prostitution' (Merlin Law) and 'Trafficking in Persons and Slavery' (other laws) were recorded.

As we can see from tables 5.1 and 5.2⁵, sentences for Trafficking in Persons and Slavery are very derisory, almost non-existent. Confirming that, since their complexity and conflation, these new legal measures are difficult to apply practically. Thus, they seem to be more symbolic than effective (Crowhurst et al., 2018). On the other hand, considering the data described above - on the amount of people who hand over a large part of their earnings to third parties - sentences for 'Instigation, exploitation, aiding and abetting of prostitution' are also few.

Offense	Years								
	2000	2001	2002	2003	2004	2005	2006	2007	2008
Trafficking	3	44	41	40	44	59	63	78	91
Prostitution	1386	2146	1778	1973	1873	1894	1704	1892	2081

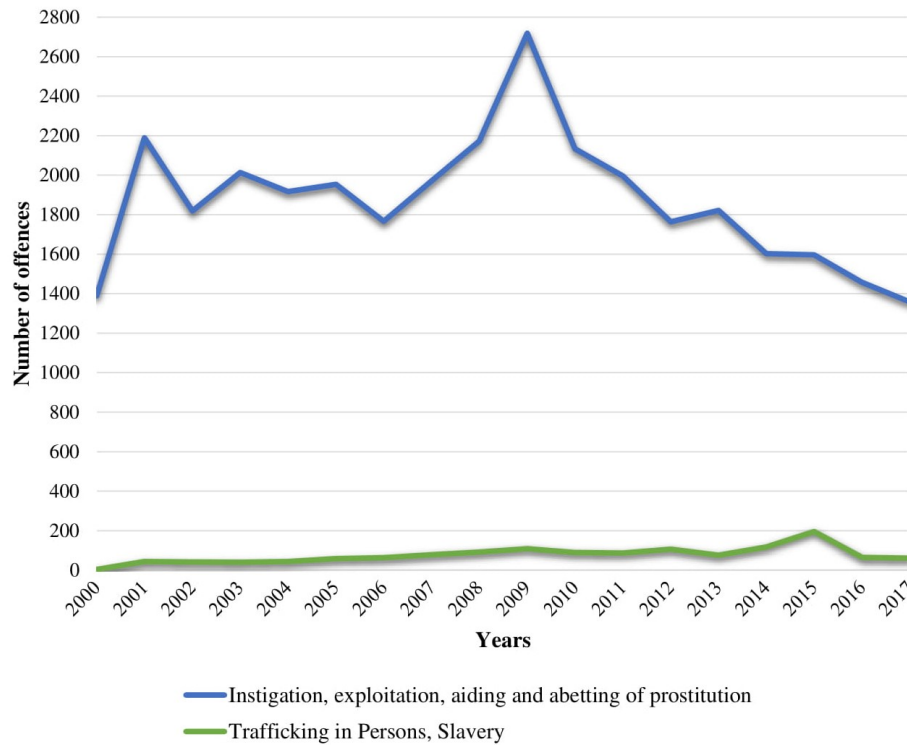
Table 5.1. Number of offences with irrevocable judgment per year from 2000 to 2008

Offense	Years								
	2009	2010	2011	2012	2013	2014	2015	2016	2017
Trafficking	118	89	86	106	76	117	195	65	61
Prostitution	2611	2044	1910	1658	1746	1485	1401	1392	1297

Table 5.2. Number of offences with irrevocable judgment per year from 2009 to 2017

These data clearly show that Italy is struggling to combat the exploitation of prostitution and human trafficking. Certainly not because it lacks the law to do it. However, as the data show, despite other law provisions and jurisprudential

⁵The tables have been divided, otherwise they would have been unreadable. Moreover, always for reasons of space, into the tables 'Trafficking' stands for 'Trafficking in Persons and Slavery', while 'Prostitution' stands for 'Instigation, exploitation, aiding and abetting of prostitution'.



H

Figure 5.1. Trend of number of offences with irrevocable judgment from 2000 to 2017

interventions, the Merlin law is still widely used. Much more used than the others. Surely the crime of exploitation of prostitution is a 'simpler' crime to bring out than the crime of 'trafficking', but it is not just that. Those who work in the field know that a big difference is made by the limitation period of the offence. The crime of trafficking begins when the person traffics across national borders, while the exploitation of prostitution is established at the time of reporting. Considering that a person can stay in prostitution for a number of years before the crime emerges, these years take time away from the Italian penal system to complete sentences. Thus, thanks to the crimes of 'exploitation of', 'aiding and abetting of' prostitution and the aggravating circumstance related to the foreign victim, it is still often the Merlin Law that punishes human traffickers for sexual exploitation. In practice, the Merlin Law also punishes trafficking in human beings, as is also shown in Sweden. Indeed, as 5.1 shows, the trend in sentencing under the Merlin Law has not fallen sharply since the introduction of the 2003 law against slavery and human trafficking.

On the contrary, it saw an increase in sentences from 2006 to 2009. In addition, the decrease in sentences recorded in 2009 was not balanced by the slight increase in sentences for trafficking in human being. Certainly, this overall decrease does not reflect the trend of the above mentioned estimates, which instead indicate an exponential increase in prostitution in Italy. Thus, if the law is not an obsolete and useless tool in the fight against the various forms of exploitation of prostitution, it seems that institutional attention to these crimes has decreased over the last 10 years.

5.4 Evolution of feminist debate on prostitution after the Merlin Law

As [Danna \(2004b\)](#) wrote and other scholars agree ([Crowhurst et al., 2018](#)), Italy has an ‘ever ending debate’ on prostitution. Over the years, there has been no lack of legislative proposals in the field of prostitution, coming from different political parties with very different approaches. However, the Merlin Law has survived for over 60 years. Below we reconstruct the evolution of feminist discourse on prostitution in Italy.

The 1970s and Marxist feminism

In 1968, the first women-only groups were born as new spaces for reflection. The apex of that period is placed at 1976-1977, years which were followed by the first decline and loss of strength of the women’s movement ([Guerra, 2004](#); [Bertilotti and Scattigno, 2005](#)). In those years, the majority of the women’s movement supported the abolitionist position of prostitution. They recognized the step forward made with the Merlin Law, but noted as prostitution had changed form rather than diminished ([Apruzzi et al., 1975](#)).

According to the majority of feminism in those years, prostitution could not be a free choice. It was rather the product of the economic, social and political system in which women lived. Prostitution was the commodification of women’s bodies

within capitalism. The only freedom granted to women was to sell themselves: in marriage, obtaining maintenance in exchange for total dedication to the family; or in prostitution, as a commodity for customers. The latter was not a form of deviance from patriarchy, but served to reconfirm the family as a positive example (Apruzzi et al., 1975). Feminists of the 1970s, therefore, placed the figures of the 'wife' and the 'prostitute' on an equal basis, both economically enslaved to man (Tatafiore, 1986). Moreover, prostitution was considered part of the 'double sexual morality', in which the man had the right to satisfy his carnal needs with women in prostitution and those of love and care with the wife and mother of his children (Apruzzi et al., 1975, 101).

The analysis of the thoughts just described, allows us to lead them back to the theory of Marxist feminism, in which prostitution is an oppression produced by the social and material conditions in which women live (see 1.1). The commodification of the body is also present in radical feminism. However, in those years, the reference to prostitution as violence was marginal. The main themes were capitalism, the use of the body as a commodity, the housewife, economic dependence and unemployment. In addition, the existence of prostitution was also recognised as a form of 'determined and personally managed exploitation' (Apruzzi et al., 1975, 133). There was a hint of self-determination completely absent in radical feminism.

Always in these years, the Christian Democrat Party promoted, without success, campaigns for the reopening of State-brothels. The women's movement opposed the request by some to restore compulsory health checks on women in prostitution and proposed compulsory checks on their customers (Danna, 2004b).

The 1980s and the rise of the normalisation position

In 1982, the Committee for prostitutes' Civil Right (Comitato) was born in Pordenone, after a protest against violence and rapes committed by the soldiers of the NATO base in Aviano. The founders, Maria Pia Covre and Carla Corso, wanted to 'prostitute themselves better' by decriminalising the crime of aiding and abetting of prostitution (Corso and Landi, 1991; Danna, 2004b; Heying, 2018b). They did not ask for the

recognition of prostitution as a job:

One thing has always been very clear to us: [...] we don't want to codify the work. Our job is beautiful because it is free, each one of us regulates it as she sees fit, we don't have fixed formulas, that's what we have always fought for it (Corso and Landi, 1991, 166).

The main issue was that of civil rights, necessary to get out of social exclusion. Thus, they called for the elimination of the offence of aiding and abetting, opposing the regulation of prostitution, which they considered a job, but not a job like any other. According to them, an emphasis on the stable and professional nature of this activity would be detrimental to the free, personal and private nature of the 'prostitute profession'. The Comitato called for the intensification of the fight against the exploitation of prostitution, which prevented this activity from being a free choice for women. Moreover, they also wanted a law establishing rules for running 'small businesses' where few women - three or four - could manage themselves (Tatafiore, 1994, 156, 157). According to them, prostitution was born within the 'millenary macho culture', however, the elimination of prostitution was paradoxical, since it would have meant the elimination of their main means of livelihood. Therefore, the criticism of prostitution seemed dangerous, as well as unnecessary. They did not want to question their activity, but the injustices they suffered (Teodori, 1986; Corso and Landi, 1991; Heying, 2018b).

There were several clashes when the Comitato sought dialogue and solidarity between the various feminist groups of the time (Teodori, 1986). The Comitato's claims were not supported by the majority of the women's movement. The only groups that supported them were those fighting for the wage for domestic work. Both positions demanded higher social consideration and legitimate pay for activities considered marginal and placed at the bottom of the social hierarchy (Danna, 2004c).

Besides the ideological differences of the two movements, there were other structural ones. The Italian women's movement had developed separatism, the practice of self-consciousness - of starting from oneself - and horizontality within groups. On the contrary, the Committee was open to anyone, including men. It had an internal hierarchy and used the instrument of delegation: the two spokeswomen

talked for all the others. Moreover, while the former refused contact with politics and institutions, the latter looked for consensus among the political parties from the very beginning (Tatafiore, 1986, 1994).

The Comitato was immediately supported by the Radical Party which, at the end of 1982, deposited a bill written with the Comitato's suggestions. In the early 1980s, at least four bills were tabled in parliament by left-wing parties. All very similar to each other, they were in line with the Comitato's demands (Tatafiore, 1986). In the meantime, the Comitato, together with women in prostitution in other cities, began to mobilize through manifestations and pickets (Corso and Landi, 1991). The initial growth of the movement was followed by its re-dimensioning in the second half of the 1980s. At the end of the decade, the Comitato was once again the only active group (Heying, 2018b). Anyway, in the years in which the strength of the women's movement in Italy was weakening, the position of normalization claimed the right to speak and to be heard.

The 1990s and the problem of trafficking in women

In the 1990s, the massive increase in the number of foreign women involved in street prostitution redefined the issue of prostitution. In addition to the alarm about the exploitative status of these women, there was the alarm about public decency (Danna, 2004b). As mentioned earlier, the 1990s saw the explosion of measures by mayors to contain the phenomenon (AA.VV., 2012; Crowhurst et al., 2018).

As Danna (2004b) shows us, in these years the topic of exploitation produced three legislative interventions: a) the institution of a special residence permit for victims of trafficking; b) the criminalisation of the customers who buy sex from minors; c) the State funding of exit and protection programs. In all three cases women within the government promoted the discussion and they implicitly consider women on the supply side and men on the demand side. In the first case, left-wing women found support from Catholics. Indeed, help organizations in the field of trafficking and prostitution were mostly religious. In the second case there was unanimity from left to right on the topic. No one could oppose the fight against

the exploitation of minors. In the third speech there was space within the centre-left parties that involved and listened to the expert organizations, including the Committee (Danna, 2004b).

Just between 1996 and 2001, 22 bills were submitted in parliament, without however producing changes to the Merlin Law. In those years, within the centre-left politics, we find a general consensus on the distinction between 'free' and 'forced' prostitution. However, the Merlin law has been reconfirmed, with the agreement of the expert organizations, in a logic of 'harm reduction'. While, the women's movement remained fairly silent. According to them, prostitution remained a cultural problem and they did not see any kind of criminal repression as a solution (Danna, 2004b).

In 1999, the first bill for the criminalization of the client was deposited, immediately rejected by feminists in politics. This, it would seem, on the recommendation of the Committee (Danna, 2004b). In the meantime, the right-wing parties proposed bills for reopening of brothels and the abolition of the Merlin Law. According to one study, 64.7% of young people seemed to agree with the possible reopening of brothels. (Buzzi, 1998). However, nothing was done.

The different claims of the 2000s and the resurgence of clashes between feminists

In the early 2000s, we were observing a new mobilisation of public opinion on the phenomenon of prostitution which would later involve feminist positions.

The requests coming from a part of public opinion

In Italy there is a general confusion about prostitution. Since the Merlin Law prohibits any form of regulation, many believe it is illegal. However, in the 2000s there were two popular expressions on the topic.

In 2003 a citizens' initiative bill was tabled in parliament, which aimed to suppress the demand for sexual services by criminalising the client. Within a few months, Papa Giovanni XXIII's Community Association - a national Catholic organisation -

collected 110,000 signatures. In 2016, once again, Papa Giovanni XXIII launched 'This is my body' campaign supporting Bini's bill on client criminalisation, collecting 31,625 signatures. With far fewer sign-ups than 13 years earlier. Part of the petition says:

The victims [women in prostitution] belong to vulnerable groups in unfavourable social and economic conditions. Going with a prostitute is a 'freedom' exercised against a person who is not free and has no choice: weak people, sometimes little more than adolescents, without documents, uprooted from their country, unable to defend themselves and react; women sold, forced by force or 'exported' by trickery. A seemingly free consent is instead a chain of overwhelming, culminating with the client. Who knows this situation, and becomes an exploiter himself. Prostitution is always abusive. Then the fight against prostitution must be approached from the customer's point of view. Demand makes the market, it drives trafficking and exploitation. Demand fuels slavery.

Although in line with a part of feminist abolitionist thinking, this religious instance is not rooted in the gender analysis of feminisms. In Italy, as it was for the approval of the Merlin Law, the Catholic component's contribution to the phenomenon of prostitution remained strong. However, common concrete claims between feminists and Catholics did not correspond to common analyses.

On the other hand, in 2017, following an online vote by citizens who were registered with the 5-star Movement Party (M5S), a bill on the regulation of prostitution was presented. The bill provided for the prohibition of outdoor prostitution and the regulation of indoor prostitution. However, the activity could only be carried out on an individual basis, either at the customer's location or at the person involved in prostitution location. In addition, authorisation was required following medical certification of good health.

The existence of such bottom-up demands highlights the dissatisfaction of many citizens with the current situation. Certainly, this attention is more related to the collateral aspects of prostitution - such as social, moral, urban degradation and, maybe, the protection of rights - than to prostitution itself. Anyway, political parties have no longer seriously discussed the issue of prostitution since the Merlin Law.

The countless bills remained undisputed

From 2001 to 2008, 36 bills were deposited in the two Berlusconi's Governments. The majority proposed systems of neo-regulation of prostitution, others simply increased the penalties against exploitation. A similar situation occurred in the following legislature between 2008 and 2013, when 25 bills were deposited in parliament. The right-wing parties continue proposing regulations providing for controls on people involved in prostitution and public order. None of these have ever been discussed in depth.

Between 2013 and 2018, 21 bills were tabled in the XVII Legislature, of which 13 proposed neo-regulation systems; 4 the criminalisation of the client, and 3 increased penalties for exploitation. In these years, while the right-wing parties remained united in their demand for neo-regulation, conflicting positions emerged within the centre-left parties. Precisely, the Democratic Party (PD) deposited two bills on the criminalisation of the client, one focusing on exploitation and another one on neo-regulation system. This confirms that there was not yet a shared discussion. Two women Members of Parliament, Bini and Puglisi, deposited the same bill on the client criminalisation, in which sexual exploitation was recognised as gender-based violence, while prostitution and trafficking were recognised as consequences of discrimination against women and gender inequality. Furthermore, in the proposal there was a reference to the Nordic countries where the system is already in place and the 2014 resolution of the European Parliament. Not by chance, Bini had been in contact with the Italian coordination of the EWL, which was (and is) actively involved in the adoption of the Nordic model. Once again, none of these projects were discussed in parliament.

In the current legislature, since 2018, however, 7 bills have been submitted. 6 by right-wing parties (3 by Lega and 3 by Fratelli D'Italia) proposing the opening of brothels and one by Bini (PD) proposing the previous bill on the client criminalisation. If not in the parliamentary arena, however, the debate on prostitution within the parties is growing. Between 2018 and 2019, former Interior Minister Salvini has often stated that he is in favour of reopening brothels, as his party's bills show. In

2019, one of the biggest Italian newspapers, La Repubblica, wrote in an article that the Lega finds the opposition of the PD, but could find the agreement of the M5S. This, for the above mentioned bill following the online vote. However, 66 members of the M5S respond with a letter to La Repubblica. Below a small part:

Starting from that proposal born on the Net, many M5S spokespersons have deepened this delicate and complex issue [...], thus becoming aware of data and facts that make the formulation of that bill in need of a wider debate [...]. The fruit of this internal work has been represented through a cycle [3] of conferences. [...] What we would like to point out right now is that Germany and Holland are returning to their steps.⁶

The letter specifies how the regulation of prostitution in Europe has failed and mentions the existence and development of the Nordic model. Furthermore, according to the 66 signatories, nothing can be decided without the involvement of expert organisations. Nowadays, the prostitution Inquiry launched by the Senate is still ongoing with hearing of organisations and experts.

However, in the above mentioned conferences, some women of M5S talked about prostitution as violence, adopting the thinking of radical feminists. Below an example:

«From my point of view, prostitution is always violence even when the person is exercising in a consensual manner, at least in an apparent way» (Fabiana Dadone, M5S).⁷
 «With the choice of the date of November 25th [for the conference on prostitution in 2018], we wanted to provide the key to interpret prostitution as violence, in a perspective that tended to sweep away all stereotypes without ambiguity and without easy compromises» (Gemma Guerrini, M5S).⁸

Thus, supporting a serious debate on prostitution in Italy, some M5S women look with great interest at the Swedish model. Naturally, after these new events, the women's movement has returned to talk about prostitution.

⁶I got the full letter from Senator Alessandra Maiorino (M5S).

⁷Based on Fabiana Dadone's speech at the "Hidden slavery and the prostitution business: a perspective of the experience" conference at the Italian Chamber of Deputies, 15th of March 2019

⁸Based on Gemma Guerrini's speech at the "Hidden slavery and the prostitution business: a perspective of the experience" conference at the Italian Chamber of Deputies, 15th of March 2019

The abolitionist position raises its voice

Within the abolitionist position, a more radical part is taking voice and some examples are given below. The Italian coordination of the EWL had contact with parliamentarian Bini (PD) who, as we said, presents in the previous and current legislature a bill on the client criminalisation. Moreover, a women's organisation, Feminist Resistance (RF), makes contact with Rachel Moran of SPASE International. In 2017 RF translates her book 'Paid for: My Journey Through Prostitution' and began to present it in several Italian cities. Next year, RF with other three women's organizations promote the 'Communiqué of the Italian abolitionist network for the adoption of the Nordic model'. Subsequently signed by 62 other women's associations. In 2018, RF, IROKO and other four organisations organised two days of study on the sex industry and trafficking in the presence of some politicians.

Attention increases in 2019 when the Supreme Court of Cassation expressed its opinion renewing the constitutionality of the crime of aiding and abetting prostitution (Constitutional Court, sentence n.141 year 2019).⁹ This circumstance led to the loud intervention of the abolitionist position¹⁰ in defence of the crime of aiding and abetting. The Network for Equality and Differenza Donna constituted themselves Civil Parties (without being accepted by the Court). Eight women's organisation held a press conference, including speeches by Rachel Moran of SPACE International and Julie Bindel. In addition, they launched the 'I am Lina Merlin' campaign, claiming that the law should not be touched. In one of the applications for admission as a Civil Part to the Court, we can read:

From our experience we see that aiding and abetting, far from meeting the needs of the prostitute, undermines her self-determination. Indeed, aiding and abetting exclusively underlies the economic interests of the aider, and recruitment always takes advantage of the woman's

⁹Between 2008 and 2009, the businessman Gianpaolo Tarantini brought 26 so-called 'escorts' to the then Prime Minister Silvio Berlusconi's parties. Afterwards, in 2015 he was sentenced for recruitment, aiding and abetting of prostitution. However, the Court of Appeal accepted the request of Tarantini's lawyers, who asked for an assessment of the continuing validity of the crime of aiding and abetting in situations of totally free prostitution. This, because escorts are a recent phenomenon, non-existent in the years of the approval of the Merlin Law. For the judgment, please see [Constitutional Court, sentence n.141 year 2019](#).

¹⁰Eight of the most active women's organisation: Network for Equality, Italian coordination of the EWL, RF, Italian Women's Union (UDI) of Naples, Donne in quota, Salute Donna, IROKO e Differenza Donna.

discriminatory condition, also by mystifying prostitution as a form of emancipation (Teresa Manente, lawyer of *Differenza Donna*).

However, the protection of the Merlin Law is only the starting point for these organizations. Indeed, they are the same active organization demanding client's criminalisation. Not by chance, RF also translates Bindel's book 'The Pimping of Prostitution: Abolishing the Sex Work Myth', presented in 6 Italian cities. In addition, they made contact with some M5S members of parliament and organize one of the conferences mentioned in the letter sent to *La Repubblica* by some M5S members.

Thus, part of the Italian abolitionist feminism begins to speak of prostitution as violence against women, and an increasing part of them is in favour of adopting client's criminalisation. The debate is gendered and the relationship between the sexes is hierarchical in which women are bought by men.

Moreover, this part of the women's movement changes strategy and approaches politics. a) The failure of the Merlin Law in terms of the abolition of prostitution; b) the inability of the new legislative instruments to stop the trafficking and exploitation of women; c) the advice of the international movement of prostitution survivors and d) the positive feedback from Swedish studies lead some abolitionists to consider further legislative intervention necessary.

The normalisation position

The normalisation position is also becoming extreme, starting to talk about sex work and the total decriminalisation of the sex trade. In 2017, in a national feminist manifestation, organised by the new *Non Una di Meno* movement in Rome, we listen the Red Shadows's (RS) speech. RS, a collective composed of sex workers and pro-sex work activists, claims to fight for sex workers' rights and asks support to the different feminist groups. The *Non Una di Meno* movement immediately seems to have empathized with the Red Shadows collective's request for solidarity. Thus, although some local groups declare themselves abolitionists, the tendency of the movement is to support decriminalization. Many feminists have moved away from

Non Una di Meno precisely as a result of this choice.

During the evaluation of the constitutionality of the crime of aiding and abetting of prostitution, linked to the Tarantini case, the position of normalization was not expressed. Probably a choice of silent consent, since it has been in favour of such abrogation since the 1980s.

Moreover, the National Anti-Trafficking Platform's Charter of Intent says:

The Platform promotes and claims proximity interventions as essential, focused on harm reduction and non-judgmental methodologies [...]. It considers any punitive and/or repressive policy (ordinances, prohibitions, client criminalisation, etc.) an obstacle to such interventions. [...] It considers that neo-prohibitionist regulations hide and do not solve the phenomenon of trafficking for sexual exploitation, pushing it indoors where the victims can hardly be reached.¹¹

The Anti-Trafficking Platform is made up of numerous organizations and institutions active in the fight against trafficking and exploitation of prostitution. Most of these are neither feminist nor women's organizations, but there are the Comitato and TAMPEP Italy. In response to the abolitionist demands, which they call 'prohibitionist campaign', the Anti-Trafficking Platform also seeks political support. However, following a national meeting held in April 2019, they agree in a) claiming the importance of harm reduction, while waiting for a more general cultural change; b) considering it inappropriate to present legislative proposals nowadays. They believe they do not have the strength in cultural, social and voting terms. However, in October 2019, the President of the Comitato took the New Zealand model as an example, called for the abolition of the crime of aiding and abetting of prostitution and mentioned the possibility of self-employment during her hearing in the Senate. She is absolutely opposed to brothels, confirming the same position as in the 1980s

The normalisation position reaffirms diversification within prostitution, however, the relationship between sellers and buyers is still hierarchical, due to the stigma and lack of rights of people who sell sexual services.

If the relationship between the abolitionist position and that of normalisation

¹¹I got the Charter from the National Anti-Trafficking Platform.

has never been good, positions'extremism has accentuated the clashes. Women who call themselves sex workers have gone from being labeled by abolitionist as 'collaborators of the patriarchy' in the past, to victims nowadays. On the contrary, the abolitionists have witnessed a shift from the Comitato's civil rights claims to those of sex work on a par with other jobs of the RS collective and supported by the national Non Una di Meno movement. Thus, if the Merlin law was a compromise, now we see an increasing divergence in the feminist debate.

Furthermore, the position of normalisation appropriates more violent language and methods towards abolitionists than in the past.¹² Modalities of which they considered themselves victims and for which they criticised the abolitionists in the 1980s (Teodori, 1986; Tatafiore, 1986).

5.5 The hard core of Classic abolitionism

We have just seen how feminist positions have increased in recent years and changed their strategies. Almost exchanging roles: the radical part of the abolitionists seek support in political parties, on the contrary sex workers seek alliances in the feminist movement. However, the analysis of the interviews reveals the still very strong presence of the 'moderate' feminist component. Some do not have a clear ideological positioning, others, although they do, believe that the compromise of the Merlin Law still remains the best model today. Not by chance, Italy is the country with the highest number of interviewees who suspend the positioning: 4 out of 16 respondents. In Sweden 1 out of 15 and in Germany 1 out of 10.

«I have been doing research on trafficking for almost 20 years, and I suffer from a certain intolerance of this debate, which can be summed up as follows: if you are pro-sex you have to be distrustful of the rhetoric about trafficking and exploitation; while, those who deal with trafficking are necessarily abolitionist and do not recognise the rights of sex workers. I am very uncomfortable in this debate for several reasons. Either because there are aspects that

¹²Some examples: 1) In April 2017, after Red Shadows' speech at the Non Una Di Meno demonstration, the speech of a prostitution survivor who had spoken out in favor of the Nordic model was interrupted with whistles. 2) In October 2017, the Red Shadows collective and other activists interrupted the presentation of Rachel Moran's book at the International House of Women. During the interruption, an 84-year-old historical feminist was yanked almost to the ground. 3) In 2018 during the presentation of the book in Bologna, some pro-sex work activists used the fake news that Rachel Moran had invented her story to prevent its presentation.

can be shared in both arguments, or because it does not help: any entanglement produces a stalemate and does not bring change. [...] selling sexual services can mean very different things, you can't talk about prostitution in the singular, in my opinion you have to talk about 'prostitutions'» (Emanuela Abbatecola).

Abbatecola, while recognising different forms of prostitution, does not fully embrace the normalisation position. According to her, the analysis of prostitution must take into account the system of inequalities and gender discrimination existing in society. The presence of understandable instances in both feminist positions is also supported by Mirta Da Pra Pocchiesa and Francesco Carchedi. Thus, both support the Merlin Law as the best possible model:

«The field is complex and part of the truth is in both positions. However, we must choose one field and I choose this [that of the Merlin law]. [...] The Merlin law basically says that any person who practices prostitution can do so and therefore recognizes the person as such, does not judge her [...] However, around her, there must not be those who stimulate the perpetuation of that condition. This is greatness! [...] In my opinion, Merlin had conceived of prostitution as a transitory passage, because a person cannot be a prostitute all her life, it is difficult. So, the Merlin Law as the abolition of exploitation and not the abolition of prostitution» (Francesco Carchedi).

«I think the big change in Italy came with the Merlin law. A law that has been and remains brilliant. [...] I am convinced that the best legislation is ours. [...] This is because it didn't define it as a job like any other, but left it in the sphere of personal self-determination among adults» (Mirta Da Pra Pocchiesa).

Therefore, the compromise of the Merlin law, while more should be invested in the more general cultural change. Exactly as advocated by Classic feminist abolitionism. Therefore, the compromise of the Merlin law, meanwhile, should be more invested in the more general cultural change. Exactly as advocated by Classic feminist abolitionism. According to Da Pra Pocchiesa and Carchedi, the change must take place both in the relationship between genders, and towards the elimination of all those political, social and economic conditions that favor access to the sex market: poverty, wars, discrimination, immigration policies, etc.

However, the Merlin Law is not only claimed by those who do not identify a clear positioning and who choose the positioning of the abolitionism of the regulation of prostitution and not prostitution itself. Vittoria Tola, president of the Union of

Italian Women (UDI) also supports the compromise of the Merlin Law. Tola has a clear idea of what prostitution is:

«Prostitution in my opinion is one of those expressions that over the centuries has shown how male power is legitimate and legitimized. It shows that male sexuality has been used to strengthen this power, using all the means at its disposal to divide, exploit and use women's bodies» (Vittoria Tola).

Tola sees the existence of prostitution as one of the greatest expressions of the patriarchal oppression of women. According to her, prostitution cannot be considered a job and clients have no justification for buying sexual services. However, she considers the Merlin Law to be the best way forward. Tola points out:

«I can see neither the best possible legislation, nor, above all, can I see a majority power relationship within parliament that goes in the same direction» (Vittoria Tola).

And once again the issue of the context around prostitution is relevant:

«I would like to see conditions in which no woman thinks of becoming a prostitute. So: work on the possibility of employment, work on the possibility of autonomy, work on the possibility of knowledge, culture, education. In my opinion, none should be thrown away, even those who are more convinced to do so freely. They are choosing a path that will perhaps lead them to have some money, I know some who have made money, but that is not the solution for the world, even less so for the world of women!» (Vittoria Tola).

Thus, in Italy, the Merlin law is strongly supported by those who suspend the positioning; by those who consider themselves abolitionists only of the regulation of prostitution and also by a part of the feminists who more clearly want the abolition of prostitution. Moreover, let us not forget, it enjoys the defence of radical feminists who do not accept steps towards the normalisation of prostitution. For them, the Merlin Law remains the starting point to be integrated with client's criminalisation. At the same time, part of the normalisation position prefers the Merlin Law to the possibility of changes in the direction of criminalizing the purchase of sexual services or, worse, the implementation of a regulatory model to the detriment of people involved in prostitution, as provided for in some bills of the right parties.

The latter aspect is often reiterated by interviewees who support the normalisation of prostitution:

«I really fear the moment when a debate on prostitution will start in our country because I do not know what law can come out of it!» (Giulia Selmi)

«Thank God there's Merlin law these days!» (Maria Gigliola Toniollo) «Given the risks of passing other laws that would move towards old-fashioned regulation, [Merlin Law] is not so bad. So, let's say, rather than make a bad law, better to do nothing» (Giulia Garofalo Geymonat).

Confirming, once again, that the Merlin Law remains the compromise with the ability to hold all positions within. This is certainly one of the main reasons why the Merlin Law still enjoys good health, despite its 60 years. However, we have seen that what makes the difference is not always strength in terms of majority thinking, but above all the ability to identify the right interlocutors and forge alliances with other actors involved. For the abolitionist position in Italy, for example, the contribution of Catholic organizations remains relevant. This leads us to suppose that the Italian situation could either remain unchanged for many more years, or change within a few years.

5.6 Chapter Conclusions

The Merlin Law is considered revolutionary for Italy in the 1950s by both feminist positions. Although, as we have seen, the process that led to its approval was not feminist. Indeed, according to [Outshoorn \(2004b\)](#)'s 'four-fold typology', the impact of feminisms on the Merlin Law has been 'pre-emption'. The bill was presented by a woman, but the female presence in the debate was almost non-existent. Moreover, the discussion moved from the principle of women's freedom to the moral principle of condemning prostitution and protecting victims with a strong religious imprint. A necessary compromise to achieve the abolition of regulation, still strongly defended by the parliamentarians of the time.

However, the criticism of feminism was not long in coming. On the one hand, in the 1970s, the abolitionist position was dissatisfied with a law that could not

put an end to prostitution. On the other hand, in the 1980s, the normalisation position considered the Merlin Law to be too rigid and consequently still stigmatizing for women in prostitution. The compromise seemed to persist: the Merlin Law did not entirely satisfy and did not completely displease either position. Even so, this compromise was more imposed on the normalisation position, since it was the only one really active in trying to change the Merlin Law. On the contrary, the abolitionists felt they had to invest in cultural change and not in laws.

The increase in migration, trafficking in women and the exploitation of prostitution led to a further shift in attention. The new urgency and the increase in funds for its management, has strengthened the logic of harm reduction. In Italy there are many organizations and institutions active in the fight against trafficking and exploitation, most of them have a religious and/or mixed connotation without a feminist approach to the phenomenon. These organizations recognize the gender specificity of sexual exploitation, but they choose to remain outside the political/ideological debate surrounding prostitution.

However, in recent years, as already happened during the Berlusconi Governments, the advance of conservative and reactionary right-wing policies has seen the women's movement raise its voice again. A new mixed feminism, inclusive of more subjectivity and consequently more heterogeneous has taken hold. Thus, today, in Italy it is possible to identify 4 general different feminist positions.

Within the normalisation position we find two nuances, one more 'liberal' and one more 'moderate'. The first was publicly introduced by RS in the 2000's and supported by a good part of the national movement Non Una di Meno, which refers to prostitution as a job like any other. The second, the one supported by the Comitato dating back to the 1980s, which instead claims some changes to the Merlin Law without, however, wanting to frame prostitution legally as a job. According to both of them, the relationship between sellers and buyers is hierarchical, due to the stigma and lack of rights of people who sell sexual services.

Similarly, within the abolitionist position we find a more 'radical' and a more 'moderate' nuance. Some abolitionists recognise prostitution as violence and call for

client's criminalisation. Others, more cautious, remain reluctant to State involvement in prostitution. According to both of them, the relationship between the sexes is hierarchical in which women are bought by men.

Despite the heterogeneity of the existing thoughts, nowadays, the clash between the radical and liberal position appears more alive than ever. Unsurprisingly, many groups of feminists choose not to talk about prostitution so as not to risk sharing. Another noteworthy aspect is that the strategies of the two emerging positions have been reversed with respect to the past. In the past, the Comitato sought alliances and dialogue with politics, whereas today it is the radical feminists.

Nowadays, it is not possible to identify which position is the most popular among Italian feminists, but it does not seem to be the most relevant aspect for a legislative change. Senator Merlin has achieved most of her desired outcomes despite being the only woman in the Senate. The Senator found in the compromise of the tone of the speech, the support of Christian Democrats and left-wing politicians for the passage of the bill. In the same way, in recent years, radical feminism has been heard by politicians on the topic of prostitution, even riding on the historical period. Indeed, even if in an instrumental and masculine way, the Italian right-wing parties have often brought the attention of the media and the population to the phenomenon of prostitution.

Certainly, the Merlin Law still represents the compromise able to hold together the four feminist speeches and also the fifth, very strong one, based on the logic of harm reduction. The latter enjoys good health, remaining the compromise on which the various positions are able to agree.

Chapter 6

Conclusion: *'The Globalisation of Feminist Thinking'*

Since feminisms call for a world where women enjoy equal rights and powers (Bromberg, 1997), this study sheds light on how different feminist perspectives are present in the policy making process/debate. What is the role of feminists and feminist understandings in empirical debates on prostitution policy? Are all feminist positions involved? How do they interpret the need for policy and policy effects? Are there similarities and differences among different feminist schools of thought, regardless of their normative stance? Which feminist perspectives are dominant? Are there changes over time? This research fills these gaps for the three case studies.

Indeed, as analyzed in section 1.1, there is a vast panorama of feminist theories on prostitution and they are very often simplistically associated with the legislative choices made by States. Thus, we find client's criminalisation associated with radical feminism; 'classic' abolitionism models with Marxist, socialist and existentialist feminisms and neo-regulation and decriminalisation with materialist and liberal feminisms. However, this does not appear to be fully confirmed by the analysis of the case studies.

As we have seen, from the example of Germany, Sweden and in some way Italy, feminisms are not always as rigid as we are often used to thinking. On the contrary, they are on the move within a process in which ideologies are mixed with the history of the phenomenon, the current context of reference, individual experiences and examples from other countries. The initial ideological theories interact and adapt to

the context with the aim of improving the condition of women. As was the case in Germany in 2002, where some abolitionists recognised the good intentions behind the choice to regulate the sex market, in Sweden some liberal feminists recognise the good intentions behind the SPA.

In this sense the case of Germany is the most striking. In 2001, in a regulatory context that has always been unfavourable to women, abolitionist positions have also seen a possible improvement in neo-regulation. Thus, supporting the 2002 law the abolitionists have chosen a practical approach to prostitution, even though it was far removed from their ideological constructs. This in the hope of improving the situation of women involved in prostitution.

In Sweden, too, although less strikingly, we find a deviation between theories and practice. Indeed, it was socialist feminism that identified the client's criminalisation as the most effective tool for fighting prostitution. A theoretical approach which recognizes prostitution as a consequence of social structures of gender inequality chooses instead a legislative approach focused on the individual who, through his actions, helps to promote such inequality. Moreover, as we have seen, not only opponents, but even those who support the ban see problems with its implementation: the abolitionists unanimously acknowledge the lack of adequate measures to support women in need of help. According to them, the phenomenon of prostitution requires specific interventions which, if left to the freedom of individual local policies, remain insufficient, unevenly distributed and vulnerable to public decisions (Waltman, 2017). In addition, according to both of them - supporters and opponents - the legal position of the people involved in prostitution is ambiguous: while they can be required to testify in court they neither enjoy the rights of the accused nor of the victim (Waltman and MacKinnon, 2010; Dodillet and Östergren, 2011).

In Italy, on the other hand, it is the prostitutes' movement that makes claims different from those present in the literature. In the 1980s, and with less force even today, the Committee called for the recognition of women's civil rights and non-work rights in prostitution. They did not, and do not, demand the abolition of the Merlin law. They recognised the importance of that law and rebuked a single aspect of it,

the crime of aiding and abetting.

Thus, as Phoenix (2009) wrote, countries may have similar objectives while choosing different regimes or, on the contrary, have fundamentally different objectives while sharing the same basic legislative framework. After all, generally speaking, prostitution is considered a problem for all three case studies. In Germany it is a problem to be managed and controlled, albeit 'for the good', in Sweden it is a problem to be fought with the ultimate aim of eradicating it, while in Italy it is a problem not to be encouraged and left to the private sphere of individuals. Thus, according to this study, we can say the same for feminist positions: different reference theories might converge on the same legislative choice. Likewise, the same theories might identify different legislative solutions. Deviations in legislative preferences from the original theories seem to be also influenced by the starting context and a long tradition of thought, both with respect to the phenomenon of prostitution and to the role of the State in its way of conceiving the choices of individuals.

This hypothesis refers to two aspects. On the one hand, the assertion of some German feminists who consider the implementation of client's criminalisation in Germany impossible, as for instance Stated by FIM e.V.:

«We had talk about the Swedish model but I think it's not possible here... [why?] I don't know... Sometimes I think Sweden is a very small country with few people and here you have thousand of prostitutes and brothels... It's a big industry with a lot of money! and, I mean, there is no intention...» (FIM e.V.).

From what has been said it seems as if a long tradition and the consequences of these choices made it difficult to even imagine being able to do otherwise.

On the other hand, we find the analysis made by Dodillet (2013) appropriate, in which the basic idea of what is the role of the State seems important in considering one choice rather than the other. She uses the theory of the Swedish political scientist Bo Rothstein, which distinguishes two ways of organizing the relationship between the State and the individual: communitarianism and the principle of autonomy. If the State follows the principle of autonomy, it accepts that people have different views of what is a good and right life and behaves neutrally towards the life plans of

its citizens. Thus, the most important task of the State is to create the conditions for people to be able to choose what they themselves perceive to be a morally correct way of life. While, if the State follows communitarian principle, it stands for collective moral principles and decides which life plans are desirable. Since citizens form a collective group with common values, the common best is a central criterion when communitarians judge whether the preferences of a person are legitimate or not. In her analysis, [Dodillet \(2013\)](#) shows as Swedish choices in the field of prostitution can be traced back to the communitarian principle and German choices to the principle of autonomy. These aspects often return in the statements of the interviewees. In Germany, the position of normalization chooses not to enter into the meaning of prostitution, but suspends judgment in order to respect the choices of those involved in prostitution. For instance:

«We accept what they [women involved in prostitution] do and we try to support them in either way» (FIM e.V.).

«Some women think they can do it [work in prostitution] and I have to accept this. [...] If it's wrong or not it is not a discussion» (Elfriede Steffan).

In Sweden, on the other hand, statements such as 'what kind of society do we want?', 'not everything can be lawful' frequently come back, stressing that it is not possible to look at all individualities, but a more comprehensive view is needed. One interviewee makes this clear by responding to the accusations of paternalism made against Swedish law, which chooses from above what is right and what is not for all women:

«In the Nordic countries people are generally more accepting State regulation, there has been a tradition and we accept in return for some benefits that we get and that's the welfare State model for nearly a century now. In my view the role of the State is to protect the most vulnerable» (Kvinnofronten).

This also explains why, in Europe, left-wing parties take more diverse positions on the issue of prostitution than right-wing parties. In all three case studies, the right-wing parties were more conservative and more opposed to feminist demands. On the contrary, the centre-left parties were more inclusive and open to dialogue

with the women's movement. Thus supporting very contrasting positions: it is the centre left that has supported the neo-regulation in Germany; the centre left that has supported the client criminalisation in Sweden and always the centre left that first supported the Italian normalisation position of the 1980s - and partly still supports it - and then the client criminalisation (if we consider the bill presented by two PD candidates in the last two legislations).

However, communitarianism and the principle of autonomy fail to explain the recent change of trend within the women's movement. In recent years, as we have seen, German abolitionist feminism is calling for the client criminalisation, moving from an approach, we might say, of harm reduction through neo-regulation, to a very radical claim of criminalisation of demand. In the same way, the Italian women's movement, which has always been reluctant to enter the State in the resolution of issues considered cultural, sees a different vision grow within it. Indeed, part of Italian feminism calls for the legislative intervention of the State to address the issue of prostitution.

All feminists in the three countries dissatisfied with the legislation in their respective countries declare that they have changed their minds, mainly on the basis of the negative aspects of the law. Thus, the German abolitionists accuse the failure of the neo-regulatory system to protect women; the Italian radicals accuse the failure of the Merlin Law to end exploitation and the Swedish pro-sex-work activists accuse the client criminalisation for worsening their working conditions. However, comparing the speeches of feminists in the three countries studied, a further aspect emerges that we call the growing 'globalisation of feminist thinking'. The connection of feminist groups on a European and global scale seems to have contributed to loosening the limits of thinking linked to the reference context. In each country each feminist position, whatever it may be, supports and justifies its thesis on the basis of experiences in other countries around the world. The whole normalisation position - in favour of decriminalisation - takes New Zealand as an example and claims the qualities of the approach, even though it does not know the system in depth and has never experienced it personally. In the same way, the growing demand for client criminalisation among abolitionists is sometimes ideologically supported

without knowing the empirical implications. In Italy, for instance, the mayors' ordinances fining clients had been positively received by some feminists (Danna, 2004b), without considering that a measure not national but limited to the territory of a municipality, linked to non feminist motivations (public order, morality, etc.) would inevitably lead to the emergence of further problems for people in prostitution. Moreover, frequently, similar examples emerged in the discourses of feminists to support their theses and discredit others. The feeling was that sometimes those who spoke were talking more about what they had read on the topic than what they had really experienced about it. Or more likely, what they had read on the issue had conditioned their way of looking at the reality in which they are placed and the possibility of noticing one thing more easily than another.

Thus, on the one hand, the 'globalisation of feminist thinking' freed the range of possibilities to be considered in dealing with prostitution from the limits of geographical partiality (e.g. traditions of each Nation). Therefore, for instance, German feminists allow themselves to claim a regime for prostitution far from their traditions of respect and promotion of individual autonomy. On the other hand, the 'globalisation of feminist thinking' risks losing sight of the influence of specific context factors in the choice of the most appropriate legislative policies. Prostitution is linked to many other aspects (mainly immigration and poverty) which vary from country to country and influence the effects of the approaches implemented. For instance, how can we even compare the weight of trafficking for sexual exploitation in Italy - as one of the most interested countries in the world - with that of New Zealand - two islands located north-east of the Pacific Ocean?

Certainly, feminism remains an important tool for reading the phenomenon of prostitution, which confirms its gender specificity. Indeed, from what we have seen, it is possible - and also easy - to implement a model that targets women involved in prostitution, without affecting customers. However, it seems almost impossible to target customers, without indirectly affecting also some women involved in prostitution. Therefore, we can discuss what sexual self-determination is, but surely it is not possible to consider the world of prostitution as a context of equal exchange between women and men. Fortunately, over the years, the most common

strategies used to bring prostitution under the EU competence have been gender sensitive (Allwood, 2018).

Another particular aspect concerns the response of women's movements to the oppression they suffer. Two of the three case studies have shown that in Western countries the women's movement, including that of women involved in prostitution, becomes stronger in its claims the more it sees its rights under attack. In Germany, the 'whore movement' had national relevance and developed to stop discrimination and claim its rights. Likewise, the abolitionist movement is growing in the face of the increasing normalisation of the sex market. In Italy, although smaller, the Comitato was born to fight abuse, injustice and claim the civil rights of women in prostitution. Likewise, abolitionist feminists have intervened in defence of the Merlin Law in response to growing proposals to reopen brothels. On the contrary, the sex workers' movement in Sweden has never had a historic moment of strong aggregation and claiming their rights. It would appear to be risky to attribute this aspect both to communitarianism and to the absence of strong discrimination against women in prostitution, so further study would be necessary and interesting.

6.1 A perhaps difficult replicability

The first aspect that emerges from the in-depth analysis of the three case studies is that of whatever nature feminist interventions are never able to guarantee complete protection for all women. Despite the good intentions, every decision taken clashes with the undesirable effects produced by the interaction with a more general context still strongly discriminating for women. Thus, we cannot forget that different laws are connected and – despite feminist influences – a broader patriarchal society of gender structural inequalities can easily change the desired results of many interventions. However, the comparison of the three cases shows significant differences.

German law appears to be the worst model among the three studied. The Prostitute Protection Act is a restrictive amendment which concerns the modalities of administrative and legal control of prostitution. It does not take into account sugges-

tions and requests coming from counselling centres expert in this field: according to them the tools chosen by policy makers are not adequate and not capable of fighting trafficking and sexual exploitation tied to the sex industry. Moreover, the issues of prostitution, exploitation and trafficking in human beings have not been discussed in a gender-sensitive manner. References are to 'people', to 'human dignity', to 'human rights violation' (Bundestag, 2014a,b,c,d): women are hardly ever mentioned by the CDU/CSU (Bundestag, 2014c, 3900) and the relationship between women and men or between sellers and buyers is never mentioned. Thus, the law is based on the control of those very people that it should protect and it may be considered the result of a thought that gives prostitution a negative and moral connotation, but that does not have the strength to fully declare it. Unsurprisingly, the Prostitute Protection Act is a law without any feminist output. Indeed, we have 'co-optation': although the State has included the women's movement in the legislative process, it does not give to them policy satisfaction. Some feminist organisations took the floor at the hearing and there were almost unanimous disagreement among feminist organisations on the new German law. They had highlight very well the possible harms and negative impacts upon those who will be affected by the bill, upon those who the law is trying to protect. However, all of this had not led to a change in arguments on the part of policy makers. Positions taken by the promoters of the bill had not changed. Continuing to justify the compulsory registration and health counselling, despite all of the evidence, by the need to protect those involved in prostitution. Whether the decriminalisation or the Swedish model might be considered as a good solution in Germany, it is not for this analysis to establish it. What is clear is that the German Federal Government was not – and nowadays is still not – prepared either to recognise prostitution as a job like any other, or to recognise it as an expression of the subordination of the female gender to the male gender, which is incompatible with gender equality. Indeed, the normalisation position among policy makers is revealed in a more 'moderate' attitude. They recognise prostitution as a job, but believe that this activity is different from all the others and needs specific interventions. Thus, they move away from the most extreme liberal position, that of decriminalisation, positioning themselves within those who see neo-regulation as the

best way forward. Not by chance, they were in favour of regulating prostitution, with the need to verify the reliability of brothels owners, and to design better conditions for the people involved prostitution ([Bundestag, 2016f](#); [Bundesrat, 2016](#)).

Thus, always thanks to the German example, we can make another more general reflection upon the neo-regulation approach. New forms of regulation do not necessarily improve the rights of the people involved in prostitution. If the first objective of a regulatory policy is to curb the phenomenon, that very policy may discriminate those involved more than an abolitionist regime would, which instead - by definition - struggles for abolition of prostitution. Indeed, it is clear how choosing a regulatory system of prostitution is a slippery ground. Establishing obligations and restrictions can easily become a form of control for those who should not be controlled, but rather supported and protected. These measures add responsibility to those who already live with the constant judgment of society. Confirming literature, it emerges that some feminists on the normalisation position wish to build forms of regulation that focus on the needs of the people in prostitution and not on public order. On the other hand, other feminists and those who call themselves sex workers claim for the abolition of all sorts of special law for prostitution in favour of equating it with any other job. This case study clarifies their fears. Germany considers prostitution 'an autonomous risk decision that must be respected, but not encouraged', thus a job, but not a job as any other. Setting standards, considering prostitution as a special job, leads to an inevitable limitation of the sexual self-determination of women who sell sexual services. Moreover, the more special rules there are, the more women/people are left out. Yet, establishing a system of special limits, involves the criminalisation of all those people who cannot respect those limits. Thus, only people in a position of greater strength can benefit from such intervention and, as we know, women in prostitution are mostly migrants and exposed to great vulnerability. At the end, the paradox of the neo-regulation system is to penalize people it would/should protect, even when it has good intentions. For all these reasons, we retain that any special sex trade regulation is destined to fail in terms of women's empowerment.

On the contrary, Sweden appears to be the most effective model in achieving its goals. The law has had a deterrent effect on the purchase of sexual services. The

data, although not robust and criticised by some, show a reduction in the percentage of people buying sexual services from 1996 to 2014 of 5.7% (Mujaj and Netscher, 2015). Moreover, the decrease in demand is also highlighted by the sex workers themselves: studies speak of the decrease in prices of sexual services caused by the decrease in demand. In addition, respondents report that customers prefer white and Swedish-speaking women, thus posing the problem of paying a possible trafficked woman more than they did previously. Sweden has also seen a more general change in attitudes towards prostitution. This has been shown by studies and unanimously confirmed by respondents: it is no longer socially acceptable to buy sex in Sweden. The goals on which there is most disagreement are those concerning the general decrease of prostitution and criminal organisations in Sweden. According to the research, it is probably a bold assumption that prostitution as a whole has declined significantly in Sweden. However, the Swedes have managed to limit the growth of the prostitution market, while Italy and Germany - as the other European states - have seen a significant increase over the last 30 years. Therefore, while it cannot be said with certainty that Sweden has reduced prostitution, we do believe it can be said that it has significantly reduced its growth. Moreover, according to the majority of interviewees, the 'attack' on the Swedish law by the normalisation position comes above all from other parts of the world. In Sweden, the normalisation position is very small. However, nowadays, the problem of prostitution remains of considerable importance among feminists. If the abolitionist position remains prevalent, within it, the thoughts of radical feminism seem to have been strengthened. Indeed, the issue of pornography associated with prostitution has only emerged in Sweden and also in a very relevant way for abolitionist feminists. In Germany and Italy no one has mentioned it. By this we do not mean that this association is alien to German and Italian feminists because it is widely discussed in feminist theories. However, in the absence of direct demand, it did not emerge.

Given the effectiveness of the law, two further relevant aspects should be considered: the 'price' with which Sweden is achieving its goals and the replicability of the model in terms of its effectiveness.

The first question is more idealistic, very much conditioned by the distinction

seen previously on what the task of the State should be. Do we want a State that favours the common good or a State that protects individual freedom? Although personally uncomfortable in telling a woman what it is more or less right for her to do, we believe that the achievement of individual freedom necessarily passes through the achievement of the common good. According to [Nussbaum \(2000\)](#), freedom is not only a matter of having rights, it also requires that there are conditions for exercising them. Indeed, we know that circumstances influence people's inner lives (what they hope for, what they love, what they fear, etc.), as well as their external choices. Thus, a person can consider oneself satisfied with one's condition for many reasons other than the concrete presence of well-being (e.g. out of habit or because it is human to adapt one's vision to the life that is actually possible to live). While this aspect certainly applies to all human beings, we know that it has a greater impact on women's choices given the greater disadvantage they experience in everyday life than men. In stating this, we do not believe that women in prostitution are all victims, deprived of strength and self-determination; however, we believe that such self-determination is necessarily limited by the context of life. Not by chance, national and international studies point largely to economic motives for both entering and leaving prostitution ([Leopold and Steffan, 1996](#); [Gangoli and Westmarland, 2006](#); [Svanström, 2006](#)). Moreover, for many women the primary reason for wanting to leave prostitution seems to derive from mental, physical, and/or economic burn-out ([Leopold and Steffan, 1996](#)). In other words, thinking that every single woman can potentially emancipate herself in complete autonomy, one runs the risk of overestimating what women can do in a world characterised by de facto discrimination, gender prejudice and structural barriers to their abilities.

According to [Nussbaum \(2000\)](#), disadvantaged groups - including women - internalize their status to the point of making choices that perpetuate their disadvantaged status. Thus, if this reality is scientifically recognised for the condition of women in the world, we believe that prostitution cannot be divorced from this logic. Only a more equal society between women and men will really be able to produce greater well-being and freedom for all women and not just some. However, we are aware that there is a price for some women currently involved in prostitution in favour of

communitarianism, and we believe it is necessary to understand both what this is and how much we are willing to pay. From the in-depth literature and empirical study in Sweden, there are no particular critical issues relating to the implementation of the law for women in prostitution. Certainly the stigma emerges, but it is present everywhere in the world. In addition, on this, we also remember that doing research on the issue of prostitution was simpler and less stigmatising than in Germany and Italy. The violence of customers still exist, but is also found everywhere in prostitution. Discrimination against migrants emerges too, however it is an aspect linked to immigration policy and a central point also in the claimed decriminalisation. In Sweden the decrease in prices is caused by the decrease in demand, but in Germany the same problem is a consequence of the increase in supply as stated by a brothel owner:

«I know we shouldn't talk in these terms but, even here, everything is based on the market laws. So, if the offer is very high the rates of sexual services are lowered and, consequently, women pay us less too... This is the risk for the future... We have already reached 30 euros per service, so women need at least 4,5 clients per day just to pay the rent. The prices outside Stuttgart are even lower, they are 15 euros per service» (Brothel owner, PresaDiretta min. 05:30 – 06:30).

There is no empirical evidence that Sweden is charging women currently in prostitution a higher price than women in prostitution pay anywhere in the world. Moreover, according to some, the situation in Sweden would be better than in many other countries. Leaving the latter aside, it would be like saying that Sweden, 'paying the same costs', has nevertheless achieved more in the fight against prostitution.

The second question concerns the replicability of its effectiveness. Contrary to what is generalized for neo-regulation systems (the German system allows us to reflect on the more general model of neo-regulation), in the case of client's criminalisation the specific context variables seem more relevant. Sweden already had a very long abolitionist tradition. It approved the ban after 30 years of parliamentary debate, research and confrontations with feminists, both inside and outside the institutions. Moreover, the adoption of the law was not the end point, but on the contrary the issue remained of primary importance for the feminist movement, and in part

also for the State. Since each country has its own internal specificities, which contribute to changing the expected results of a given policy, to say that customer's criminalisation is an effective model everywhere because it is effective in Sweden seems more problematic. Especially when applied in very different countries such as, for instance, Italy. A country where the feminist movement is strongly divided, where there is a strong tradition of harm reduction and where the numbers of prostitution and exploitation are exponentially higher. A country where the population has a great sense of distrust of the State and is not generally respectful of the rules just because they are 'law'. In this regard, in a few years' time it would be very interesting to go into the French case. Both because the Swedish abolitionists themselves see the French system as an 'upgrade' of their model, and because France is traditionally a country more similar to Italy - for instance - than Sweden or other Scandinavian countries.

Appendix 1

RESEARCH CONSENT FORM

This form is part of the process of informed consent. It should give you the basic idea of what the research is about and what your participation will involve. If you would like more detail about something mentioned here, or information not included here, you should feel free to ask.

Researcher: Giulia Nanni, specialist social worker and Italian PhD candidate in Applied Social Sciences. Department of Social Sciences and Economics at the Sapienza University of Rome, Italy.

Background and purpose: You are being asked to take part in the Giulia's PhD research project. The purpose of this research project is to analyse legislative policies on prostitution through feminist perspectives, with a specific focus on Italy, Sweden and Germany. In short, my research questions tackle the following: Have feminist theories in Italy, Sweden and Germany influenced legislative policies? And have the laws of these three countries had the desired effect after many years?

As a feminist expert on prostitution, you are in a position to provide me with insight into the situation, and I would appreciate it if I could interview you.

Procedures: The format of the interview will be a semi-structured discussion. I expect that the interview will take no longer than 1 hour/1 hour and half. With your permission, I will audiotape the interview solely for the purposes of accurately transcribing the conversation. The audiotapes, as well as the transcriptions, will be stored securely in my personal archive and they will not be used by third parties.

Confidentiality: If you prefer to be anonymous or wish pseudonyms to be used to protect your privacy and confidentiality, I will be happy to do so. Please know though that you do not have to answer any questions or discuss any topics that make you feel uncomfortable.

Withdrawal of participation: If you decide at any time during the interview that you no longer wish to participate, you may withdraw your consent without prejudice.

Request for more information: You may ask more questions about the study at any time. Please contact me at giulia.nanni@uniroma1.it

CONSENT:

I, allow Giulia Nanni to use the recorded materials for the aforementioned research.

I give the researcher permission to use these materials at her discretion for all academic purposes.

Yes: No:

Yes, with the following exceptions:

As the participant, I give permission for the student researcher to use my name in the communication of this research. Yes: No:

I wish to be identified as:

Your signature on this form means that:

- * You have read the information about the research
- * You have been able to ask questions about this study
- * You are satisfied with the answers to all of your questions
- * You understand what the study is about and what you will be doing
- * You understand that you are free to stop the interview at any time
- * You give up the copyright on what you will say in the interview

If you sign this form, you do not give up your legal rights, and do not release the researcher from her professional responsibilities.

I have read and understood the description provided. I have had an opportunity to ask questions; my questions have been answered and I consent to participate in the research project.

A copy of this Consent Form has been given to me for my records.

Signature of participant:

Date:

Email address:

I have explained this study to the best of my ability. I believe that the participant fully understands what is involved in being in the study, any that she or he has freely chosen to be in the study.

Signature of researcher:

Date:

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