

**Seminar**  
**Sex work – Ethics & Law**  
**FORTHEN Alliance**

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**The legal perspective**

Warning: I will use the term “sex work” and not “prostitution”. The latter is negatively connoted, while the former was coined by a sex worker<sup>1</sup> and is used to advocate in favor of the protection of human rights of sex workers.

**I. A bit of history**

I will not dwell into the numerous international regulation against sex work. Here are a two references on that topic<sup>2</sup>.

The classical ways of policing sex work:

**A. Regulationist**

Making it legal and regulated under strict conditions

- The old French model (since 1802):
  - o Regulated brothels and mandatory declared activity; monthly medical visits; sex work is seen as a necessary activity, to protect “good women” and relieve the “needs of men” (enhance the stability of marriage)<sup>3</sup>
  - o Until the Marthe Richard law, April 13<sup>th</sup>, 1946: for moral, hygienic justifications, as well as collaboration during the Second World War; also abolishes the national database of prostitutes, in favor of a database for sick prostitutes
- The current German model:
  - o 2001 Prostitutionsgesetz: no rights, a very brief law: legality of the sex work contract, right for the sex worker to claim for the fee, absence of instructions. The effectivity of the law is questioned<sup>4</sup>

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<sup>1</sup> Carol Leigh (aka Scarlot Harlot), in 1978. On the use of both expressions, see D.M. Haak, “Re(de)fining Prostitution and Sex Work: Conceptual Clarity for Legal Thinking,” *Windsor Review of Legal and Social Issues*, February 13, 2019, vol. 40, pp. 67-112, online <https://papers.ssrn.com/abstract=3333280> (retrieved on July 28, 2021)

<sup>2</sup> J.R. Pliley, “Ambivalent Abolitionist Legacies: The League of Nations’ Investigations into Sex Trafficking, 1927–1934,” in D.W. Blight, G. LeBaron, J.R. Pliley (eds.), *Fighting Modern Slavery and Human Trafficking: History and Contemporary Policy*, Cambridge University Press, Slavery since Emancipation, 2021, pp. 97-118 ; L. Lammasniemi, “International Legislation on White Slavery and Anti-trafficking in the Early Twentieth Century,” in J. Winterdyk, J. Jones (eds.), *The Palgrave International Handbook of Human Trafficking*, Springer International Publishing, 2020, pp. 67-78. Here the list of international treaties: International Agreement for the suppression of the “White Slave Traffic,” May 18, 1904, International Convention for the Suppression of the White Slave Traffic, May 4, 1910, International Convention for the Suppression of the Traffic in Women and Children, September 30, 1921, International Convention for the Suppression of the Traffic in Women of Full Age, October 11, 1933, Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, March 21, 1950.

<sup>3</sup> J.J.M. Van Rij, *The trafficking and sexual exploitation of native Hungarian speaking women in the Netherlands. A case study into the nature of forced prostitution and the modus operandi of organised crime groups involved in human trafficking in Europe.*, Thesis, Inholland University of Applied Sciences, Inholland University of Applied Sciences, June 2014, pp. 65-66

<sup>4</sup> “The 2007 evaluation of the German legislation (ProstG) found that all its goals had not been achieved and that it was underused”, M.-L. Skilbrei, “Assessing the Power of Prostitution Policies to Shift Markets, Attitudes, and Ideologies,”

- Reform: 2016 Prostituiertenschutzgesetz: more rights but it's effectivity is questioned, in particular due to implementation by the Lander<sup>5</sup>. There is still a notion of control by the state: registration, license, control of place of exercise, ...
  - Warning! Evaluation upcoming
- Local laws: notion of public nuisance, creating red-light district or zoning law
- ➔ An administrative system of control instead of a protection perspective<sup>6</sup> (an “administrative hurdle” for sex workers<sup>7</sup>); when a sector is legal only when regulated, an unregulated part will still exist and be harder to control<sup>8</sup>
- ➔ Might be complemented by a system of “professionalization”, that regulates sex work by the law, offering labor rights to the workers<sup>9</sup>

## B. Abolitionist

- The origin of the concept: to abolish laws discriminating sex workers (Contagious Diseases Act – 1864): the UK was applying the French model, and increased the control on the basis of disease control. It planned mandatory health control, increasing the powers of control of doctors and the police on sex workers (possible imprisonment of sick sex workers). A campaign of early feminists denounced the control of women that way, and the dual policing of women and men (clients were not controlled for instance)
- ➔ Objective: the dignity of sex workers and denouncing the double standard, by abolishing regulating laws BUT sex work itself is not prohibited
- ➔ Problem: later, the campaign was mainly run by religious groups and bourgeois feminists, resulting in the promotion of sexuality restriction and patriarchal family<sup>10</sup>
- The actual use of (neo-)abolitionism:
  - The end-demand model: demand is the cause of sex work, and clients are the bad ones (although the research is completely saying the opposite<sup>11</sup>). Supply is there to feed a “male desire” and sex work should disappear
    - Solution: a ban against purchasing sex.
    - But it is like asking: “Who comes first? The egg or the hen?”
  - The original system: the Nordic model: Sweden 1999, Finland 2006, Iceland and Norway 2009
  - The French current approach: Law No. 2016-444 of April 13, 2016 to strengthen the fight against the prostitutional system and to accompany prostitutes
    - Suppression of loitering offences

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*Annual Review of Criminology*, 2019, vol. 2, no. 1, p. 503, online <https://doi.org/10.1146/annurev-criminol-011518-024623> (retrieved on February 2, 2022)

<sup>5</sup> R. Pates, “Liberal Laws Juxtaposed with Rigid Control: an Analysis of the Logics of Governing Sex Work in Germany,” *Sex Res Soc Policy*, September 2012, vol. 9, no. 3, p. 214, online <http://link.springer.com/10.1007/s13178-012-0092-3> (retrieved on January 3, 2022)

<sup>6</sup> M. Wijers, “Fifteen years lifting of the ban on brothels The struggle of policy makers between sex workers as agents or victims,” in R.W. Piotrowicz, C. Rijken, B.H. Uhl (eds.), *Routledge handbook of human trafficking*, Routledge, Taylor & Francis Group, 2018, p. 487

<sup>7</sup> J.J.M. Van Rij, *The trafficking and sexual exploitation of native Hungarian speaking women in the Netherlands. A case study into the nature of forced prostitution and the modus operandi of organised crime groups involved in human trafficking in Europe.*, op. cit. note 3, p. 57

<sup>8</sup> W. Huisman, E.R. Kleemans, “The challenges of fighting sex trafficking in the legalized prostitution market of the Netherlands,” *Crime Law Soc Change*, March 1, 2014, vol. 61, no. 2, pp. 215-228, online <https://doi.org/10.1007/s10611-013-9512-4> (retrieved on May 20, 2021) ; C. Rijken, L. van Krimpen, “The Introduction of Quality Labels in the Prostitution Sector as a Means to Combat Trafficking in Human Beings,” *Eur. J. Crime Crim. L. & Crim. Just.*, 2008, vol. 16, no. 1, pp. 58-88, online <https://heinonline.org/HOL/P?h=hein.journals/eccc16&i=65> (retrieved on October 29, 2021)

<sup>9</sup> J. Vernier, “La loi pour la sécurité intérieure : punir les victimes du proxénétisme pour mieux les protéger?,” in M.-E. Handman, J. Mossuz-Lavau (eds.), *La prostitution à Paris*, Martinière, 2005, p. 122

<sup>10</sup> For an analysis of this period, see J.R. Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State*, Cambridge University Press, 1980

<sup>11</sup> J.L. Mosley, “The ‘john’: Our new folk devil,” *Routledge International Handbook of Sex Industry Research*, Routledge, 1st ed., 2018, pp. 352-365 ; T. Sanders, B.G. Brents, C. Wakefield, *Paying for sex in a digital age: US and UK perspectives*, Routledge, 2020 ; S. Berger, “No End in Sight: Why the ‘End Demand’ Movement is the Wrong Focus for Efforts to Eliminate Human Trafficking,” *Harvard Journal of Law and Gender*, 2012, vol. 35, pp. 540-542, online <https://papers.ssrn.com/abstract=2172526> (retrieved on August 16, 2021)

- Criminalization of all clients and increase in penalties when they are underage<sup>12</sup>
- Creation of a system to help “victim of prostitution” to leave the sector”<sup>13</sup>

→ Objective: to abolish sex work (not a law), which is the objective of the prohibitionist model

### C. Prohibitionist

Objective: to prohibit sex work, in any possible way: all aspects of sex work are illegal  
The US model, although laws are very diverse depending on states

## II. The current models

Warning! Other models exist. For instance: repressive, restrictive or integrative models<sup>14</sup>

### A. Criminalization

Various ways of criminalization (from a complete one to a partial one): “measures directly criminalizing sex work through sanctions such as criminal prosecution, detention and fines”<sup>15</sup>

#### a. *Direct criminalization*

Direct criminalization of sex workers, a stigmatized population. Is their criminalization against human rights?  
Options:

- To forbid the selling of sex: direct criminalization of sex workers
- To forbid loitering: its objective is to make disappear visible sex work (on the street). It stigmatizes even more a certain category of people. We can see a trend regarding the suppression of those offences<sup>16</sup>

#### b. *Indirect criminalization*

- Third parties: pimps and traffickers: where is the limit?
  - o France: a wide interpretation of “pimping”: coercing pimp and supporting pimp<sup>17</sup>. Basically, the pimp is the person that “manage” a sex worker. So the sex worker is not independent. Let’s say there are good and bad pimps, but of course in real life it’s much more complicated. Someone that coerces someone else to do sex work is obviously a coercing pimp, that should and is criminalized by law. But the law is written in a very broad way. If you use the money of a sex worker, you are a pimp. So, if you are friend with a sex worker and that person invites you for a lunch, you become a pimp. Same situation for the landlord of the flat of a sex worker. Or imagine a sex worker that would like to hire a bodyguard. Or a group of sex workers that help each other by sharing the same place for their business.
    - Article 225-5 of the Code penal: “Pimping is the act, by anyone, in any manner whatsoever, of: (1) aiding, assisting, or protecting the prostitution of another person; (2) profiting from the prostitution of others, to share the proceeds or to receive subsidies from a person who habitually engages in prostitution; (3) hiring, training or diverting a person for the purpose of prostitution or to exert pressure on that person to engage in or continue prostitution”

<sup>12</sup> Articles 225-12-1 to 225-12-4 and 611-1 of the criminal code

<sup>13</sup> Article L121-9 of the Code of social action and families, which implementation is highly limited, Inspection générale des affaires sociales, Inspection générale de l’administration, Inspection générale de la justice, “Evaluation de la loi du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées,” France, December 2019, pp. 62-63 ; H. Le Bail, C. Giametta, N. Rassouw, “Que pensent les travailleurs du sexe de la loi prostitution ? Enquête sur l’impact de la loi du 13 avril 2016 contre le « système prostitutionnel »,” April 2018, pp. 56-68

<sup>14</sup> P. Östergren, “From Zero-Tolerance to Full Integration: Rethinking Prostitution Policies - DemandAT Working Paper No. 10,” Funded by the European Union’s Seventh Framework Programme for Research, Technological Development and Demonstration under Grant Agreement No. 612869, June 2017, p. 4

<sup>15</sup> Amnesty International, “Sex workers at risk - A research summary on human rights abuses against sex workers,” Amnesty International, 2016, p. 18

<sup>16</sup> Like in the US (in New York) and in France

<sup>17</sup> J. Vernier, “La loi pour la sécurité intérieure : punir les victimes du proxénétisme pour mieux les protéger?,” *op. cit.* note 9, pp. 125-126

- Canada: three offences were declared unconstitutional because they violated sex workers' right to security: keeping or being in a bawdy-house, living on the avails of prostitution, and, communicating in public for the purposes of prostitution. Those offences were "imposing dangerous conditions on prostitution; they prevent people engaged in a risky — but legal — activity from taking steps to protect themselves from the risks". There was problems of "arbitrariness (where there is no connection between the effect and the object of the law), overbreadth (where the law goes too far and interferes with some conduct that bears no connection to its objective), and gross disproportionality (where the effect of the law is grossly disproportionate to the state's objective)" (for instance, it "punishes everyone who lives on the avails of prostitution without distinguishing between those who exploit prostitutes and those who could increase the safety and security of prostitutes")<sup>18</sup>
  - Problem: Canada decided to abandon partial decriminalization in favor of full criminalization
- When any helper can be deemed as a pimp, sex workers will be less prompt to ask for help (for security, for managing earnings), and they will be pushed out of hotels and official apartment rentals, ...
- Trafficking: everyone is on the same page on this: it is BAD and has to be criminalized (we will come back to the definition later)
- Clients: the Nordic model
  - Results: few actual penalization of clients<sup>19</sup> despite a lot of awareness campaigns (using money that could be given to law enforcement authorities or to associations assisting victims; no evaluation of the actual effectivity of those campaigns)
  - As visible sex workers are mostly migrants, the regulation of sex work is done through migration policies<sup>20</sup>: the debate is less transparent
  - Clients do not want to receive a fine or worst: they accept less time to negotiate on the street, and they may be more violence
  - Yet, it is globally the system advocated for, and in particular by the European Parliament<sup>21</sup>
- ➔ In any of those policies:
  - Increased violence: the risk of sanction or deportation worsen the relations with the police (no reporting of crimes), contributing to the erosion of trust
  - Increased vulnerabilities: the law and the state use the criminal system instead of considering the health, incomes, accommodation, ... of sex workers
  - It reinforces stigma and marginalization<sup>22</sup>
- ⇒ Many ways of criminalizing sex work: "*over criminalization of sex work*"<sup>23</sup>

<sup>18</sup> Supreme Court of Canada, *Canada (Attorney General) v. Bedford*, December 20, 2013, no. 34788, 2013 SCC 72

<sup>19</sup> In the Nordic model see N. Vuolajärvi, "Governing in the Name of Caring—the Nordic Model of Prostitution and its Punitive Consequences for Migrants Who Sell Sex," *Sexuality Research and Social Policy*, June 1, 2019, vol. 16, no. 2, p. 151, online <https://doi.org/10.1007/s13178-018-0338-9> (retrieved on August 5, 2021) ; in France see Inspection générale des affaires sociales, Inspection générale de l'administration, Inspection générale de la justice, *Evaluation de la loi du 13 avril 2016*, op. cit. note 13, pp. 47-52. Similarly, in the UK, M. Della Giusta et al., "Quashing demand or changing clients? Evidence of criminalization of sex work in the United Kingdom," *Southern Economic Journal*, 2021, vol. 88, no. 2, pp. 527-544 ; in Ireland, Amnesty International, "'We live within a violent system.' Structural violence against sex workers in Ireland," 2022

<sup>20</sup> For an example, see Amnesty International, *Sex workers at risk - A research summary on human rights abuses against sex workers*, op. cit. note 15, p. 11

<sup>21</sup> European Parliament, "Resolution on sexual exploitation and prostitution and its impact on gender equality," EU, February 26, 2014, 2013/2103(INI). A later resolution is more ambivalent, considering sex work as contrary to human dignity (well maybe you should ask sex workers), fueling human trafficking (we don't have real research going that way) and violence (actually, research says that criminalization enhances violence) BUT as the same time, urging "to establish a concrete framework for the rights and protection of sex workers during and after a crisis; further insists on the importance of including measures and strategies that tackle the discrimination faced by sex workers in access to funding, housing, healthcare, education and other services", European Parliament, "Resolution on the EU Strategy for Gender Equality," EU, January 21, 2021, 2019/2169(INI)

<sup>22</sup> E. Albright, K. D'Adamo, "Decreasing Human Trafficking through Sex Work Decriminalization," *AMA Journal of Ethics*, January 2017, vol. 19, no. 1, pp. 122-126

<sup>23</sup> Vernier, "La prostitution des femmes saisies par la norme pénale," *Figures de femmes criminelles de l'Antiquité à nos jours*, Publications de la Sorbonne, 2010, p. 229

## B. Decriminalization<sup>24</sup>

- Decriminalization of only sex workers since they are seen as victims: it fosters the “rescue industry”<sup>25</sup> and a “carceral feminism”<sup>26</sup>: sex workers might be arrested and afterwards considered as victims; they might be imprisoned in rehabilitation centers or repatriated against their will in their origin country
  - The New Zealand model: it was the first country in the world to adopt a policy of full decriminalization (Prostitution Reform Act, 2003). The concerned persons participated in the revision of the law!<sup>27</sup>
    - o Sex work is legal
    - o Brothel operators need a certificate
    - o Sex workers have labor rights
    - o Improvement of the relation with the police
    - o Limit: the sector is not open to holders of temporary working visas (possible repatriation)<sup>28</sup>
  - Belgic: adoption of the decriminalization model in 2022<sup>29</sup>
- ⇒ Nowadays, we see the opposition of the Nordic model and the full decriminalization model as “polarized approaches” in the public debates<sup>30</sup>

## III. Defining sex work

To prohibit or to regulate something we need to define it: “the question of paid sexuality is not only taken into account by the law: it is constructed through it”, in particular depending on how we define it<sup>31</sup>

- Amnesty international: “By “sex worker”, Amnesty International means adults (18 years of age and above) who receive money or goods in exchange for consensual sexual services regularly or occasionally. By “sex work”, Amnesty means exchange of sexual services, involving sexual acts, between consenting adults for remuneration, with terms agreed between seller and buyer”<sup>32</sup>
- Germany: “(1) A sexual service is a sexual act by at least one person on or in front of at least one other person who is directly present for a fee, or allowing a sexual act on or in front of oneself for a fee. No sexual services are performances of an exclusively theatrical character in which no other

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<sup>24</sup> For a quick approach of advocating in favor of decriminalization, see LastWeekTonight, “Sex Work: Last Week Tonight with John Oliver (HBO),” February 28, 2022, online <https://www.youtube.com/watch?v=-gd8yUptg0Q> (retrieved on March 2, 2022)

<sup>25</sup> L.M. Agustín, *Sex at the margins: migration, labour markets and the rescue industry*, Zed Books, 2. impr, 2008 ; G. Soderlund, “Running from the Rescuers: New U.S. Crusades Against Sex Trafficking and the Rhetoric of Abolition,” *NWSA Journal*, October 2005, vol. 17, no. 3, pp. 64-87

<sup>26</sup> E. Bernstein, “Militarized Humanitarianism Meets Carceral Feminism: The Politics of Sex, Rights, and Freedom in Contemporary Antitrafficking Campaigns,” *Signs: Journal of Women in Culture and Society*, The University of Chicago Press, September 1, 2010, vol. 36, no. 1, pp. 45-71 ; K.K. Hoang, “Perverse Humanitarianism and the Business of Rescue: What’s Wrong with NGOs and What’s Right about the ‘Johns’?,” *Perverse Politics? Feminism, Anti-Imperialism, Multiplicity*, Emerald Group Publishing Limited, Political Power and Social Theory, January 1, 2016, vol. 30, pp. 19-43 ; E. Bernstein, “La politique carcérale comme justice de genre ?,” *Cultures & Conflits*, November 8, 2021, vol. 122, no. 2, pp. 139-173, online <https://www-cairn-info.docelec.u-bordeaux.fr/revue-cultures-et-conflits-2021-2-page-141.htm> (retrieved on November 18, 2021)

<sup>27</sup> L. Armstrong, “Sex worker rights activism and the decriminalisation of sex work in New Zealand,” *Routledge International Handbook of Sex Industry Research*, Routledge, 1st ed., 2018, pp. 138-147. While the absence of consistent consultation in the other models is criticized, I. Crowhurst, M.-L. Skilbrei, “International comparative explorations of prostitution policies: lessons from two European projects,” *Innovation: The European Journal of Social Science Research*, Routledge, April 3, 2018, vol. 31, no. 2, p. 155, online <https://doi.org/10.1080/13511610.2017.1419337> (retrieved on August 5, 2021)

<sup>28</sup> L. Armstrong, “Decriminalisation and the rights of migrant sex workers in Aotearoa/New Zealand: Making a case for change,” *Women’s Studies Journal*, December 2017, vol. 31, no. 2, pp. 69-76

<sup>29</sup> Loi modifiant le Code pénal en ce qui concerne le droit pénal sexuel, March 30, 2022, <https://www.ejustice.just.fgov.be/loi/loi.htm>

<sup>30</sup> L. Armstrong, “Decriminalisation of sex work in the post-truth era? Strategic storytelling in neo-abolitionist accounts of the New Zealand model,” *Criminology & Criminal Justice*, SAGE Publications, July 1, 2021, vol. 21, no. 3, p. 3

<sup>31</sup> E. Lê, “La construction juridique de la prostitution. Trois récits différenciés,” *Cahiers du Genre*, December 15, 2014, vol. 57, no. 2, p. 141

<sup>32</sup> Amnesty International, *Sex workers at risk - A research summary on human rights abuses against sex workers*, op. cit. note 15, p. 6

person present is involved in a sexually active manner. (2) Prostitutes are persons who provide sexual services.”<sup>33</sup>

- France: “prostitution consists of lending oneself, in exchange for payment, to physical contact of any kind, in order to satisfy the sexual needs of others”<sup>34</sup>
  - o For instance, a 2022 case law set that camming or selling nude pictures and videos in not “prostitution”<sup>35</sup>, because prostitution needs a physical contact
- New Zealand: “commercial sexual services means sexual services that (a) involve physical participation by a person in sexual acts with, and for the gratification of, another person; and (b) are provided for payment or other reward (irrespective of whether the reward is given to the person providing the services or another person) [...] prostitution means the provision of commercial sexual services”<sup>36</sup>
- Canada: “activity of exchanging sexual services for payment or consideration”<sup>37</sup>

➔ It is an umbrella concept that is expansible:

- How about porn? It is legal almost everywhere, people have sex, are generally paid for it, but in front of a camera

Ex: by not defining sex work consistently, we do not regulate porn: except for the “protection of minors” (which is, not having access to porn websites or magazines). Yet, there are indeed abuse in the sector, but since it is stigmatized, the French justice system did not consider at first that porn actresses might suffer rape, and their complaints were not heard at the beginning<sup>38</sup>. Also, porn platforms only recently considered to screen their content to be able to erase abuse content or child pornography<sup>39</sup>.

- How about tantric massage? It is a massage of genitalia but the objective is not orgasm
- How about webcamming? It does not involve direct contact
- How about BDSM? It might not involve contact with genitalia

Going further:

- A marriage in which there is a housewife and a man earning the money: is it sex work?
- Patronizing a student so she does her studies without financial problems, is it sex work?

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<sup>33</sup> Prostituiertenschutzgesetz, Section 1 §2

<sup>34</sup> Cass. Crim., March 27, 1996, no. 95-82016

<sup>35</sup> Cour de cassation, criminelle, Chambre criminelle, May 18, 2022, 21-82.283

<sup>36</sup> Prostitution Reform Act, Section 4(1)

<sup>37</sup> D.M. Haak, “Re(de)fining Prostitution and Sex Work,” *op. cit.* note 1, p. 78

<sup>38</sup> N. Chapuis, L. de Foucher, S. Laurent, “Dans le porno français, une mécanique des larmes et de la violence,” *Le Monde.fr*, December 16, 2021, online [https://www.lemonde.fr/police-justice/article/2021/12/16/dans-le-porno-francais-une-mecanique-des-larmes-et-de-la-violence\\_6106296\\_1653578.html](https://www.lemonde.fr/police-justice/article/2021/12/16/dans-le-porno-francais-une-mecanique-des-larmes-et-de-la-violence_6106296_1653578.html) (retrieved on December 21, 2021) ; N. Chapuis, L. de Foucher, S. Laurent, “« Tout le monde m’a renvoyée à l’idée qu’on ne violait pas une actrice porno » : la lanceuse d’alerte et les ratés judiciaires,” *Le Monde.fr*, December 18, 2021, online [https://www.lemonde.fr/police-justice/article/2021/12/18/derriere-toi-il-y-a-52-autres-victimes-les-reactions-en-chaine-d-un-metoo-du-porno\\_6106610\\_1653578.html](https://www.lemonde.fr/police-justice/article/2021/12/18/derriere-toi-il-y-a-52-autres-victimes-les-reactions-en-chaine-d-un-metoo-du-porno_6106610_1653578.html) (retrieved on December 21, 2021) ; L. de Foucher, N. Chapuis, S. Laurent, “« C’était des viols déguisés en vidéo » : le réseau, le recruteur et les proies,” *Le Monde.fr*, December 15, 2021, online [https://www.lemonde.fr/police-justice/article/2021/12/15/c-etait-des-viols-deguises-en-video-le-reseau-le-recruteur-et-les-proies\\_6106152\\_1653578.html](https://www.lemonde.fr/police-justice/article/2021/12/15/c-etait-des-viols-deguises-en-video-le-reseau-le-recruteur-et-les-proies_6106152_1653578.html) (retrieved on December 15, 2021) ; S. Laurent, L. de Foucher, N. Chapuis, “Pratiques dégradantes et arnaques en série : les supplices de l’internationale du porno,” *Le Monde.fr*, December 17, 2021, online [https://www.lemonde.fr/police-justice/article/2021/12/17/pratiques-degradantes-et-arnaques-en-serie-les-suppliques-de-l-internationale-du-porno\\_6106457\\_1653578.html](https://www.lemonde.fr/police-justice/article/2021/12/17/pratiques-degradantes-et-arnaques-en-serie-les-suppliques-de-l-internationale-du-porno_6106457_1653578.html) (retrieved on December 21, 2021) ; R. D’Angelo, “Une enquête pour traite des êtres humains expose les pratiques de l’industrie du porno,” *Mediapart.fr*, November 23, 2020

<sup>39</sup> La Presse canadienne, “Mindgeek, société mère de Pornhub, visée par une poursuite aux États-Unis,” *Radio-Canada.ca*, Radio-Canada.ca, June 18, 2021, online <https://ici.radio-canada.ca/nouvelle/1802513/sites-porno-consentement-exploitation-sexuelle-feras-antoon-mindgeek> (retrieved on June 24, 2021) ; G. Turner, “MindGeek Calls Criminal Allegations in Civil Suit Over Third-Party Content ‘Absurd, Reckless,’” *XBIZ*, June 28, 2021, online <https://www.xbiz.com/news/259952/mindgeek-calls-criminal-allegations-in-civil-suit-over-third-party-content-absurd-reckless> (retrieved on June 24, 2021) ; G. Turner, “Pornhub: Canadian MPs Finally Invite Sex Worker Advocates,” *XBIZ*, April 19, 2021, online <https://www.xbiz.com/news/258640/pornhub-canadian-mps-finally-invite-sex-worker-advocates> (retrieved on April 25, 2021) ; M. Le Corre, “Pourquoi 34 femmes ont attaqué Pornhub, « système mafieux », en justice,” *Madmoizelle*, June 21, 2021, online <https://www.madmoizelle.com/pourquoi-34-femmes-ont-attaque-pornhub-systeme-mafieux-en-justice-1139769> (retrieved on August 2, 2021)

- An old man donating a big sum of money to his young partner in a adultery relation, is it sex work?<sup>40</sup>

What is work? What is a remuneration?

- Only a financial remuneration?
- What about previous deposits?
- Any kind of remuneration or one that is consistent with the market?
- Any kind of remuneration or one that is enough to live?
- Can it be negotiated?

➔ It questions how we define “sex” and how we define work

#### **IV. Sex work and human trafficking**

##### **A. What is human trafficking?**

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000 (Palermo protocol, article 3.a):

- Action: recruitment, transportation, transfer, harbouring or receipt of persons
- Means: threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person
- Purpose: exploitation: includes at minimum: exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs

The problem is: we do not define exploitation. Is it slavery in a restrictive sense (owning a person like a good)<sup>41</sup>, is it severe forms of exploitation, is it the mere non-respect of labor rights?

The question is: is all sex work exploitation?

##### **B. The origin of sex wars: two polarized feminist perspectives**

Origin: 1990s in the US

###### **a. *Radical feminism***

“1. Heterosexual sexual relations generally are characterized by an ideology of sexual objectification (men as subjects/masters; women as objects/slaves) that supports male sexual violence against women.

2. Feminists should repudiate any sexual practice that supports or "normalizes" male sexual violence.

3. As feminists we should reclaim control over female sexuality by developing a concern with our own sexual priorities, which differ from men's-that is, more concern with intimacy and less with performance.

4. The ideal sexual relationship is between fully consenting, equal partners who are emotionally involved and do not participate in polarized roles.

From these four aspects of the radical-feminist sexual ideology, one can abstract the following theoretical assumptions about sexuality, social power, and sexual freedom:

5. Human sexuality is a form of expression between people that creates bonds and communicates emotion (the primacy of intimacy theory).

6. Theory of Social Power: In patriarchal societies sexuality becomes a tool of male domination through sexual objectification. This is a social mechanism that operates through the institution of masculine and feminine roles in the patriarchal nuclear family. The attendant ideology of sexual objectification is sadomasochism, that is, masculinity as sadistic control over women and femininity as submission to the male will.

7. Sexual freedom requires the sexual equality of partners and their equal respect for one another both as subject and as body. It also requires the elimination of all patriarchal institutions (e.g., the pornography

<sup>40</sup> The French high court said it was totally fine, E. Lê, “La construction juridique de la prostitution,” *op. cit.* note 31, pp. 148-149

<sup>41</sup> “Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”, article 1.1, Slavery Convention, 1926

industry, the patriarchal family, prostitution, and compulsory heterosexuality) and sexual practices (somasochism, and adult/child and butch/femme relationships) in which sexual objectification occurs.”<sup>42</sup>

→ All sex work is exploitation

It is the US and French approaches at the policy level (I recall that there is currently no more difference between the abolitionist and prohibitionist systems)

It considers that legalizing sex work increases human trafficking<sup>43</sup> BUT their use of data and their researches are highly criticized<sup>44</sup>

- Critics:

- More generally, critics of a system that considers whether a determined sexuality is good or bad<sup>45</sup>, by an “essentialization of sexuality, womankind, and sex”<sup>46</sup>. “By suggesting that their work is categorically “wrong” or immoral and treating it as a vice to be eliminated, these scholars marginalize sex workers and reflect a continuity with patriarchal discourses that condemn sex work because it is a form of female sexuality that is inconsistent with dominant morality”<sup>47</sup>
- A victim perspective: it “views the woman who chooses to engage in sex work as either a victim of circumstance or a victim of her own false consciousness”<sup>48</sup>. Therefore, there is an absence of empowerment and agency. The fight against sex work was firstly coined to legitimize certain sexual acts within marriage, nowadays, it is coined to “protect” the capacity of people to consent, in particular, women
- Absence of intersectional perspective: it “reflects white supremacy in its failure to adequately address the concerns of sex workers of color and consider that these women always face constrained choices and multiple systemic barriers”<sup>49</sup>. It is a one-dimensional perspective<sup>50</sup>

**b. Liberal feminism**

“1. Heterosexual as well as other sexual practices are characterized by repression. The norms of patriarchal bourgeois sexuality repress the sexual desires and pleasures of everyone by stigmatizing sexual minorities, thereby keeping the majority “pure” and under control.

2. Feminists should repudiate any theoretical analyses, legal restrictions, or moral judgments that stigmatize sexual minorities and thus restrict the freedom of all.

3. As feminists we should reclaim control over female sexuality by demanding the right to practice whatever gives us pleasure and satisfaction.

4. The ideal sexual relationship is between fully consenting, equal partners who negotiate to maximize one another's sexual pleasure and satisfaction by any means they choose.

The general paradigms of sexuality, social power, and sexual freedom one can draw from this sexual ideology are:

5. Human sexuality is the exchange of physical erotic and genital sexual pleasures (the primacy of pleasure theory).

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<sup>42</sup> A. Ferguson, “Sex War: The Debate between Radical and Libertarian Feminists,” *Signs: Journal of Women in Culture and Society*, University of Chicago Press, 1984, vol. 10, no. 1, pp. 108-109

<sup>43</sup> The research S.-Y. Cho, A. Dreher, E. Neumayer, “Does Legalized Prostitution Increase Human Trafficking?,” *World Development*, January 2013, vol. 41, pp. 67-82 was highly criticized: E. Jeffreys, “Public encounters with whorephobia: Making sense of hostility toward sex worker advocates,” *Routledge International Handbook of Sex Industry Research*, Routledge, 1st ed., 2018, p. 513

<sup>44</sup> R. Weitzer, “Sex Trafficking and the Sex Industry: The Need for Evidence-Based Theory and Legislation,” *Journal of Criminal Law and Criminology*, 2013, vol. 101, no. 4, p. 1336 ; R. Weitzer, “Flawed Theory and Method in Studies of Prostitution,” *Violence Against Women*, July 2005, vol. 11, no. 7, pp. 933-949 ; S. Berger, “No End in Sight,” *op. cit.* note 11, p. 531 ; L. Mathieu, *La fin du tapin: sociologie de la croisade pour l'abolition de la prostitution*, Éditions François Bourin, Collection Penser le monde, 2014

<sup>45</sup> G.S. Rubin, “Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality,” *Deviations*, Duke University Press, 2012, pp. 137-181

<sup>46</sup> I. Thusi, “Radical Feminist Harms on Sex Workers,” *Lewis & Clark Law Review*, 2018, vol. 22, no. 1, p. 218

<sup>47</sup> *Ibid.* p. 229 ; A. Jolin, “On the Backs of Working Prostitutes: Feminist Theory and Prostitution Policy,” *Crime & Delinquency*, SAGE Publications Inc, January 1, 1994, vol. 40, no. 1, pp. 69-83

<sup>48</sup> I. Thusi, “Radical Feminist Harms on Sex Workers,” *op. cit.* note 46, p. 197

<sup>49</sup> *Ibid.* p. 214

<sup>50</sup> For an example of the various faces of sex work, see C. Harcourt, B. Donovan, “The many faces of sex work,” *Sexually Transmitted Infections*, June 1, 2005, vol. 81, no. 3, pp. 201-206



6. Theory of Social Power: Social institutions, interactions, and discourses distinguish the normal/legitimate/healthy from the abnormal/illegitimate/unhealthy and privilege certain sexual expressions over others, thereby institutionalizing sexual repression and creating a hierarchy of social power and sexual identities.

7. Sexual freedom requires oppositional practices, that is, transgressing socially respectable categories of sexuality and refusing to draw the line on what counts as politically correct sexuality<sup>51</sup>

➔ Sex work may or may not suppose exploitation

It is the New Zealand, Belgium and German approaches: those countries, regulationism or implementing full decriminalization, suffer pressure from the US, that is the world leader in the fight against human trafficking, to change their legislations<sup>52</sup>

Priority: giving more rights to sex workers and a safe legal position

- Critics: notions of consent and agency:

- At the judicial level: how we prove it at during a criminal process?
- Also, choice is hard to define: "calling the decisions women make "choices" conflates decisions made because of the obligations of religious faith (veiling), the grim realities of economic necessity (staying with an alcoholic husband), or the preconditions necessary for sexual arousal (traditional sex roles) with seemingly elective options", "the rhetoric of "choice" focuses attention on the individual choice-maker and so takes the focus off the ways in which women's choices are often overdetermined by societal structures and cultural traditions"<sup>53</sup>
- Agency<sup>54</sup>: sex workers can have a real power to decide, even when limited due to their environment. The problem is when they have at least a bit of agency, they might not receive help if needed when they ask for it. Instead, negating any agency of sex workers made them into victims, devaluing their own discourse<sup>55</sup>

More generally, such approach is Manichean:

➔ I usually argue that sex work and regulation of sexuality in general are not so much a problem of law but of education: we need to talk about respect, consent, communication! That is from both perspective: the consent giver and the consent receiver: we need to deconstruct patriarchy, and more generally, power relations. Sexuality is not only about women and men, but also about all genders, races, classes: it is an intersectional topic. For the consent giver, we also need to take into account economic and financial considerations and improve the global level of life!

➔ But then, we are talking about another level, fighting against patriarchy, capitalism, and probably global warming. Sex work policy should be down-to-earth, considering the current situations of the persons that are exercising it<sup>56</sup>

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<sup>51</sup> A. Ferguson, "Sex War," *op. cit.* note 42, p. 109

<sup>52</sup> C.R. Showden, "From human rights to law and order: The changing relationship between trafficking and prostitution in Aotearoa/New Zealand policy discourse," *Women's Studies Journal*, July 2017, vol. 31, no. 1, pp. 13-16 ; J.E. Halley et al., "From the International to the Local Feminist Legal Responses to Rape, Prostitution/Sex Work and Sex Trafficking: Four Studies in Contemporary Governance Feminism," *Harvard Women's Law Journal*, 2006, vol. 29, no. 2, p. 335

<sup>53</sup> R.C. Snyder-Hall, "Third-Wave Feminism and the Defense of 'Choice,'" *Perspectives on Politics*, March 2010, vol. 8, no. 1, p. 256. On the notion of choice, see also: K.A. Pataki, K.M. Robison, "The Concept of Choice," in L. Walker, G. Gavia, K. Gopal (eds.), *Handbook of Sex Trafficking*, Springer International Publishing, 2018, pp. 39-43

<sup>54</sup> The capacity to act, depending on knowledge, power and opportunity, A. Feenberg, "Technique et agency," *Revue du MAUSS*, La Découverte, June 12, 2014, vol. n° 43, no. 1, p. 169; the capacity to act beyond determinisms, the consciousness of acting, M. Haicault, "Autour d'agency. Un nouveau paradigme pour les recherches de Genre," *Rives méditerranéennes*, TELEMME (UMR 6570), February 29, 2012, no. 41, pp. 10-24

<sup>55</sup> On agency and sex work, see S. Cheng, "A critical engagement with the 'pull and push' model Human trafficking and migration into sex work," in R.W. Piotrowicz, C. Rijken, B.H. Uhl (eds.), *Routledge handbook of human trafficking*, Routledge, Taylor & Francis Group, 2018, p. 499 ; M. O'Connor, "Choice, agency consent and coercion: Complex issues in the lives of prostituted and trafficked women," *Women's Studies International Forum*, May 2017, vol. 62, pp. 8-16 ; C. Benoit et al., "Would you think about doing sex for money? Structure and agency in deciding to sell sex in Canada," *Work, Employment and Society*, SAGE Publications Ltd, October 1, 2017, vol. 31, no. 5, pp. 731-747 ; M. Viuhko, *Restricted agency, control and exploitation - Understanding the agency of trafficked persons in the 21st century Finland*, Thesis, University of Helsinki, University of Helsinki, 2019 ; R. Andrijasevic, *Migration, agency, and citizenship in sex trafficking*, Palgrave Macmillan, Migration, minorities and citizenship, 2010

<sup>56</sup> See for instance: "Why do we always fight with homosexuality or smoking or sexual industry or what else? Because this doesn't require any investments from the state. Because if we start to resolve real serious social issues - like pensions, for example, or healthcare, education and so on - this will require money, billions of investments", A.

- Example of the problems conflating human trafficking and sex work:

During raids to investigate human trafficking, sex workers suffer collateral damages<sup>57</sup>. In practice, the notion of consent and coercion is still used<sup>58</sup>: if you were not under pressure, you are not a “real” victim, and thus not entitled to trafficked victims’ rights (by the way, you can be a sex worker and a victim of a criminal offence<sup>59</sup>)

➔ In any case, any kind of policy should be evaluated to consider its actual effectiveness<sup>60</sup>

Why do we need to regulate sex work, why is it still a hot topic?

- Yes, there are abuse in the sex industry
- It relates to how we find new ways to work in our globalized society and considering our own capabilities: for instance, the evolution of the entertainment sector and paying people to stream online or to do challenges
- It relates to how we consider sex: sex can be political

With politics and morals, we are reaching ethics.

## V. Bibliography

- AGUSTÍN L.M., *Sex at the margins: migration, labour markets and the rescue industry*, Zed Books, 2. impr., 2008, 248 pages.
- ANDRIJASEVIC R., *Migration, agency, and citizenship in sex trafficking*, Palgrave Macmillan, Migration, minorities and citizenship, 2010, 168 pages.
- MAINSANT G., *Sur le trottoir, l'État: la police face à la prostitution*, Éditions du Seuil, La Couleur des idées, 2021, 344 pages.
- MATHIEU L., *La fin du tapin: sociologie de la croisade pour l'abolition de la prostitution*, Éditions François Bourin, Collection Penser le monde, 2014, 264 pages.
- SANDERS T., BRENTS B.G., WAKEFIELD C., *Paying for sex in a digital age: US and UK perspectives*, Routledge, 2020, 1 pages.
- VAN RIJ J.J.M., *The trafficking and sexual exploitation of native Hungarian speaking women in the Netherlands. A case study into the nature of forced prostitution and the modus operandi of organised crime groups involved in human trafficking in Europe.*, Thesis, Inholland University of Applied Sciences, Inholland University of Applied Sciences, June 2014, 234 pages.
- VIUHKO M., *Restricted agency, control and exploitation - Understanding the agency of trafficked persons in the 21st century Finland*, Thesis, University of Helsinki, University of Helsinki, 2019.
- WALKOWITZ J.R., *Prostitution and Victorian Society: Women, Class, and the State*, Cambridge University Press, 1980, DOI:10.1017/CBO9780511583605.
- GLOBAL ALLIANCE AGAINST TRAFFICKING IN WOMEN (GAATW) (ed.), *Collateral damage: the impact of anti-trafficking measures on human rights around the world*, GAATW, 2007, 265 pages.
- ALBRIGHT E., D'ADAMO K., “Decreasing Human Trafficking through Sex Work Decriminalization,” *AMA Journal of Ethics*, January 2017, vol. 19, no. 1, pp. 122-126.
- ARMSTRONG L., “Sex worker rights activism and the decriminalisation of sex work in New Zealand,” *Routledge International Handbook of Sex Industry Research*, Routledge, 1st ed., 2018, pp. 138-147, 10 pages.
- ARMSTRONG L., “Decriminalisation and the rights of migrant sex workers in Aotearoa/New Zealand: Making a case for change,” *Women's Studies Journal*, December 2017, vol. 31, no. 2, pp. 69-76.
- ARMSTRONG L., “Decriminalisation of sex work in the post-truth era? Strategic storytelling in neo-abolitionist accounts of the New Zealand model,” *Criminology & Criminal Justice*, SAGE Publications, July 1, 2021, vol. 21, no. 3, pp. 369-386, DOI:10.1177/1748895820918898.
- BENOIT C. et al., “Would you think about doing sex for money? Structure and agency in deciding to sell sex in Canada,” *Work, Employment and Society*, SAGE Publications Ltd, October 1, 2017, vol. 31, no. 5, pp. 731-747, DOI:10.1177/0950017016679331.
- BERGER S., “No End in Sight: Why the 'End Demand' Movement is the Wrong Focus for Efforts to Eliminate Human Trafficking,” *Harvard Journal of Law and Gender*, 2012, vol. 35, p. 523, online <https://papers.ssrn.com/abstract=2172526> (retrieved on August 16, 2021).
- BERNSTEIN E., “Militarized Humanitarianism Meets Carceral Feminism: The Politics of Sex, Rights, and Freedom in Contemporary Antitrafficking Campaigns,” *Signs: Journal of Women in Culture and Society*, The University of Chicago Press, September 1, 2010, vol. 36, no. 1, pp. 45-71, DOI:10.1086/652918.

Kondakov, D. Zhaivoronok, “Re-assembling the feminist war machine: State, feminisms and sex workers in Russia,” *Routledge International Handbook of Sex Industry Research*, Routledge, 1st ed., 2018, p. 250

<sup>57</sup> J. Vernier, “La loi pour la sécurité intérieure : punir les victimes du proxénétisme pour mieux les protéger?,” *op. cit.* note 9, p. 137 ; Global Alliance Against Trafficking in Women (GAATW) (ed.), *Collateral damage: the impact of anti-trafficking measures on human rights around the world*, GAATW, 2007

<sup>58</sup> In France, see G. Mainsant, *Sur le trottoir, l'État: la police face à la prostitution*, Éditions du Seuil, La Couleur des idées, 2021, the author highlights that law enforcement authorities, in practice, does not have an abolitionist perspective, but more of a regulationist one. However, then, they usually have a stereotyped vision of the “victim”.

<sup>59</sup> M. Jakšić, “« Tu peux être prostituée et victime de la traite »,” *Plein droit*, March 18, 2013, vol. 96, no. 1, pp. 18-22

<sup>60</sup> Evaluation can rest on 4 elements : intentions, instruments, implementation, and impact, P. Östergren, *From Zero-Tolerance to Full Integration: Rethinking Prostitution Policies - DemandAT Working Paper No. 10*, *op. cit.* note 14, p. 4

- BERNSTEIN E., "La politique carcérale comme justice de genre ?," *Cultures & Conflits*, November 8, 2021, vol. 122, no. 2, pp. 139-173, online <https://www-cairn-info.docelec.u-bordeaux.fr/revue-cultures-et-conflits-2021-2-page-141.htm> (retrieved on November 18, 2021).
- CHENG S., "A critical engagement with the 'pull and push' model Human trafficking and migration into sex work," in PIOTROWICZ R.W., RIJKEN C., UHL B.H. (eds.), *Routledge handbook of human trafficking*, Routledge, Taylor & Francis Group, 2018, p. 499.
- CHO S.-Y., DREHER A., NEUMAYER E., "Does Legalized Prostitution Increase Human Trafficking?," *World Development*, January 2013, vol. 41, pp. 67-82, DOI:10.1016/j.worlddev.2012.05.023.
- CROWHURST I., SKILBREI M.-L., "International comparative explorations of prostitution policies: lessons from two European projects," *Innovation: The European Journal of Social Science Research*, Routledge, April 3, 2018, vol. 31, no. 2, pp. 142-161, online <https://doi.org/10.1080/13511610.2017.1419337> (retrieved on August 5, 2021), DOI:10.1080/13511610.2017.1419337.
- DELLA GIUSTA M. et al., "Quashing demand or changing clients? Evidence of criminalization of sex work in the United Kingdom," *Southern Economic Journal*, 2021, vol. 88, no. 2, pp. 527-544, DOI:10.1002/soej.12532.
- FEENBERG A., "Technique et agency," *Revue du MAUSS*, La Découverte, June 12, 2014, vol. n° 43, no. 1, pp. 169-180.
- FERGUSON A., "Sex War: The Debate between Radical and Libertarian Feminists," *Signs: Journal of Women in Culture and Society*, University of Chicago Press, 1984, vol. 10, no. 1, pp. 106-112, DOI:10.1086/494117.
- HAAK D.M., "Re(de)fining Prostitution and Sex Work: Conceptual Clarity for Legal Thinking," *Windsor Review of Legal and Social Issues*, February 13, 2019, vol. 40, pp. 67-112, online <https://papers.ssrn.com/abstract=3333280> (retrieved on July 28, 2021).
- HAICAULT M., "Autour d'agency. Un nouveau paradigme pour les recherches de Genre," *Rives méditerranéennes*, TELEMME (UMR 6570), February 29, 2012, no. 41, pp. 10-24, DOI:10.4000/rives.4105.
- HALLEY J.E. et al., "From the International to the Local Feminist Legal Responses to Rape, Prostitution/Sex Work and Sex Trafficking: Four Studies in Contemporary Governance Feminism," *Harvard Women's Law Journal*, 2006, vol. 29, no. 2, p. 335.
- HARCOURT C., DONOVAN B., "The many faces of sex work," *Sexually Transmitted Infections*, June 1, 2005, vol. 81, no. 3, pp. 201-206, DOI:10.1136/sti.2004.012468.
- HOANG K.K., "Perverse Humanitarianism and the Business of Rescue: What's Wrong with NGOs and What's Right about the 'Johns'?", *Perverse Politics? Feminism, Anti-Imperialism, Multiplicity*, Emerald Group Publishing Limited, Political Power and Social Theory, January 1, 2016, vol. 30, pp. 19-43, DOI:10.1108/S0198-871920160000030007.
- HUISMAN W., KLEEMANS E.R., "The challenges of fighting sex trafficking in the legalized prostitution market of the Netherlands," *Crime Law Soc Change*, March 1, 2014, vol. 61, no. 2, pp. 215-228, online <https://doi.org/10.1007/s10611-013-9512-4> (retrieved on May 20, 2021), DOI:10.1007/s10611-013-9512-4.
- JAKSIC M., "« Tu peux être prostituée et victime de la traite »,," *Plein droit*, March 18, 2013, vol. 96, no. 1, pp. 18-22.
- JEFFREYS E., "Public encounters with whorephobia: Making sense of hostility toward sex worker advocates," *Routledge International Handbook of Sex Industry Research*, Routledge, 1st ed., 2018, pp. 505-515, 11 pages.
- JOLIN A., "On the Backs of Working Prostitutes: Feminist Theory and Prostitution Policy," *Crime & Delinquency*, SAGE Publications Inc, January 1, 1994, vol. 40, no. 1, pp. 69-83, DOI:10.1177/0011128794040001005.
- KONDAKOV A., ZHAIVORONOK D., "Re-assembling the feminist war machine: State, feminisms and sex workers in Russia," *Routledge International Handbook of Sex Industry Research*, Routledge, 1st ed., 2018, pp. 250-262, 13 pages.
- LAMMASNIEMI L., "International Legislation on White Slavery and Anti-trafficking in the Early Twentieth Century," in WINTERDYK J., JONES J. (eds.), *The Palgrave International Handbook of Human Trafficking*, Springer International Publishing, 2020, pp. 67-78, DOI:10.1007/978-3-319-63058-8\_112.
- LE E., "La construction juridique de la prostitution. Trois récits différenciés," *Cahiers du Genre*, December 15, 2014, vol. 57, no. 2, pp. 138-158.
- MOSLEY J.L., "The 'john': Our new folk devil," *Routledge International Handbook of Sex Industry Research*, Routledge, 1st ed., 2018, pp. 352-365, 14 pages.
- O'CONNOR M., "Choice, agency consent and coercion: Complex issues in the lives of prostituted and trafficked women," *Women's Studies International Forum*, May 2017, vol. 62, pp. 8-16, DOI:10.1016/j.wsif.2017.02.005.
- PATAKI K.A., ROBISON K.M., "The Concept of Choice," in WALKER L., GAVIRIA G., GOPAL K. (eds.), *Handbook of Sex Trafficking*, Springer International Publishing, 2018, pp. 39-43, DOI:10.1007/978-3-319-73621-1\_5.
- PATES R., "Liberal Laws Juxtaposed with Rigid Control: an Analysis of the Logics of Governing Sex Work in Germany," *Sex Res Soc Policy*, September 2012, vol. 9, no. 3, pp. 212-222, online <http://link.springer.com/10.1007/s13178-012-0092-3> (retrieved on January 3, 2022), DOI:10.1007/s13178-012-0092-3.
- PLILEY J.R., "Ambivalent Abolitionist Legacies: The League of Nations' Investigations into Sex Trafficking, 1927-1934," in BLIGHT D.W., LEBARON G., PLILEY J.R. (eds.), *Fighting Modern Slavery and Human Trafficking: History and Contemporary Policy*, Cambridge University Press, Slavery since Emancipation, 2021, pp. 97-118, DOI:10.1017/9781108902519.006.
- RIJKEN C., VAN KRIMPEN L., "The Introduction of Quality Labels in the Prostitution Sector as a Means to Combat Trafficking in Human Beings," *Eur. J. Crime Crim. L. & Crim. Just.*, 2008, vol. 16, no. 1, pp. 58-88, online <https://heinonline.org/HOL/P?h=hein.journals/eccc16&i=65> (retrieved on October 29, 2021).
- RUBIN G.S., "Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality," *Deviations*, Duke University Press, 2012, pp. 137-181, DOI:10.1215/9780822394068-006.
- SHOWDEN C.R., "From human rights to law and order: The changing relationship between trafficking and prostitution in Aotearoa/New Zealand policy discourse," *Women's Studies Journal*, July 2017, vol. 31, no. 1, pp. 5-21.
- SKILBREI M.-L., "Assessing the Power of Prostitution Policies to Shift Markets, Attitudes, and Ideologies," *Annual Review of Criminology*, 2019, vol. 2, no. 1, pp. 493-508, online <https://doi.org/10.1146/annurev-criminol-011518-024623> (retrieved on February 2, 2022), DOI:10.1146/annurev-criminol-011518-024623.
- SNYDER-HALL R.C., "Third-Wave Feminism and the Defense of 'Choice,'" *Perspectives on Politics*, March 2010, vol. 8, no. 1, pp. 255-261, DOI:10.1017/S1537592709992842.
- SODERLUND G., "Running from the Rescuers: New U.S. Crusades Against Sex Trafficking and the Rhetoric of Abolition," *NWSA Journal*, October 2005, vol. 17, no. 3, pp. 64-87, DOI:10.2979/NWS.2005.17.3.64.
- THUSI I., "Radical Feminist Harms on Sex Workers," *Lewis & Clark law Review*, 2018, vol. 22, no. 1, p. 184.

- VERNIER, "La prostitution des femmes saisies par la norme pénale," *Figures de femmes criminelles de l'Antiquité à nos jours*, Publications de la Sorbonne, 2010, pp. 223-234.
- VERNIER J., "La loi pour la sécurité intérieure : punir les victimes du proxénétisme pour mieux les protéger?," in HANDMAN M.-E., MOSSUZ-LAVAU J. (eds.), *La prostitution à Paris*, Martinière, 2005.
- VUOLAJÄRVI N., "Governing in the Name of Caring—the Nordic Model of Prostitution and its Punitive Consequences for Migrants Who Sell Sex," *Sexuality Research and Social Policy*, June 1, 2019, vol. 16, no. 2, pp. 151-165, online <https://doi.org/10.1007/s13178-018-0338-9> (retrieved on August 5, 2021), DOI:10.1007/s13178-018-0338-9.
- WEITZER R., "Sex Trafficking and the Sex Industry: The Need for Evidence-Based Theory and Legislation," *Journal of Criminal Law and Criminology*, 2013, vol. 101, no. 4, p. 1336.
- WEITZER R., "Flawed Theory and Method in Studies of Prostitution," *Violence Against Women*, July 2005, vol. 11, no. 7, pp. 933-949, DOI:10.1177/1077801205276986.
- WIJERS M., "Fifteen years lifting of the ban on brothels The struggle of policy makers between sex workers as agents or victims," in PIOTROWICZ R.W., RIJCKEN C., UHL B.H. (eds.), *Routledge handbook of human trafficking*, Routledge, Taylor & Francis Group, 2018, p. 487.
- Supreme Court of Canada, *Canada (Attorney General) v. Bedford*, December 20, 2013, no. 34788, 2013 SCC 72.
- Cass. Crim., March 27, 1996, no. 95-82016.
- Cour de cassation, criminelle, Chambre criminelle, May 18, 2022, 21-82.283.
- Loi modifiant le Code pénal en ce qui concerne le droit pénal sexuel, March 30, 2022.
- AMNESTY INTERNATIONAL, "Sex workers at risk - A research summary on human rights abuses against sex workers," Amnesty International, 2016.
- AMNESTY INTERNATIONAL, "'We live within a violent system.' Structural violence against sex workers in Ireland," 2022.
- CHAPUIS N., DE FOUCHER L., LAURENT S., "Dans le porno français, une mécanique des larmes et de la violence," *Le Monde.fr*, December 16, 2021, online [https://www.lemonde.fr/police-justice/article/2021/12/16/dans-le-porno-francais-une-mecanique-des-larmes-et-de-la-violence\\_6106296\\_1653578.html](https://www.lemonde.fr/police-justice/article/2021/12/16/dans-le-porno-francais-une-mecanique-des-larmes-et-de-la-violence_6106296_1653578.html) (retrieved on December 21, 2021).
- CHAPUIS N., DE FOUCHER L., LAURENT S., "« Tout le monde m'a renvoyée à l'idée qu'on ne violait pas une actrice porno » : la lanceuse d'alerte et les ratés judiciaires," *Le Monde.fr*, December 18, 2021, online [https://www.lemonde.fr/police-justice/article/2021/12/18/derriere-toi-il-y-a-52-autres-victimes-les-reactions-en-chaine-d-un-metoo-du-porno\\_6106610\\_1653578.html](https://www.lemonde.fr/police-justice/article/2021/12/18/derriere-toi-il-y-a-52-autres-victimes-les-reactions-en-chaine-d-un-metoo-du-porno_6106610_1653578.html) (retrieved on December 21, 2021).
- D'ANGELO R., "Une enquête pour traite des êtres humains expose les pratiques de l'industrie du porno," *Mediapart.fr*, November 23, 2020.
- DE FOUCHER L., CHAPUIS N., LAURENT S., "« C'était des viols déguisés en vidéo » : le réseau, le recruteur et les proies," *Le Monde.fr*, December 15, 2021, online [https://www.lemonde.fr/police-justice/article/2021/12/15/c-etait-des-viols-deguises-en-vidéo-le-reseau-le-recruteur-et-les-proies\\_6106152\\_1653578.html](https://www.lemonde.fr/police-justice/article/2021/12/15/c-etait-des-viols-deguises-en-vidéo-le-reseau-le-recruteur-et-les-proies_6106152_1653578.html) (retrieved on December 15, 2021).
- EUROPEAN PARLIAMENT, "Resolution on sexual exploitation and prostitution and its impact on gender equality," EU, February 26, 2014, 2013/2103(INI).
- EUROPEAN PARLIAMENT, "Resolution on the EU Strategy for Gender Equality," EU, January 21, 2021, 2019/2169(INI).
- INSPECTION GENERALE DES AFFAIRES SOCIALES, INSPECTION GENERALE DE L'ADMINISTRATION, INSPECTION GENERALE DE LA JUSTICE, "Evaluation de la loi du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées," France, December 2019.
- LA PRESSE CANADIENNE, "Mindgeek, société mère de Pornhub, visée par une poursuite aux États-Unis," *Radio-Canada.ca*, Radio-Canada.ca, June 18, 2021, online <https://ici.radio-canada.ca/nouvelle/1802513/sites-porno-consentement-exploitation-sexuelle-feras-antoon-mindgeek> (retrieved on June 24, 2021).
- LASTWEEKTONIGHT, "Sex Work: Last Week Tonight with John Oliver (HBO)," February 28, 2022, online <https://www.youtube.com/watch?v=-gd8yUptg0Q> (retrieved on March 2, 2022).
- LAURENT S., DE FOUCHER L., CHAPUIS N., "Pratiques dégradantes et arnaques en série : les supplices de l'internationale du porno," *Le Monde.fr*, December 17, 2021, online [https://www.lemonde.fr/police-justice/article/2021/12/17/pratiques-degradantes-et-arnaqes-en-serie-les-suppliques-de-l-internationale-du-porno\\_6106457\\_1653578.html](https://www.lemonde.fr/police-justice/article/2021/12/17/pratiques-degradantes-et-arnaqes-en-serie-les-suppliques-de-l-internationale-du-porno_6106457_1653578.html) (retrieved on December 21, 2021).
- LE BAIL H., GIAMETTA C., RASSOUW N., "Que pensent les travailleurs du sexe de la loi prostitution ? Enquête sur l'impact de la loi du 13 avril 2016 contre le « système prostitutionnel »,» April 2018.
- LE CORRE M., "Pourquoi 34 femmes ont attaqué Pornhub, « système mafieux », en justice," *Madmoizelle*, June 21, 2021, online <https://www.madmoizelle.com/pourquoi-34-femmes-ont-attaque-pornhub-systeme-mafieux-en-justice-1139769> (retrieved on August 2, 2021).
- ÖSTERGREN P., "From Zero-Tolerance to Full Integration: Rethinking Prostitution Policies - DemandAT Working Paper No. 10," Funded by the European Union's Seventh Framework Programme for Research, Technological Development and Demonstration under Grant Agreement No. 612869, June 2017.
- TURNER G., "MindGeek Calls Criminal Allegations in Civil Suit Over Third-Party Content 'Absurd, Reckless,'" *XBIZ*, June 28, 2021, online <https://www.xbiz.com/news/259952/mindgeek-calls-criminal-allegations-in-civil-suit-over-third-party-content-absurd-reckless> (retrieved on June 24, 2021).
- TURNER G., "Pornhub: Canadian MPs Finally Invite Sex Worker Advocates," *XBIZ*, April 19, 2021, online <https://www.xbiz.com/news/258640/pornhub-canadian-mps-finally-invite-sex-worker-advocates> (retrieved on April 25, 2021).