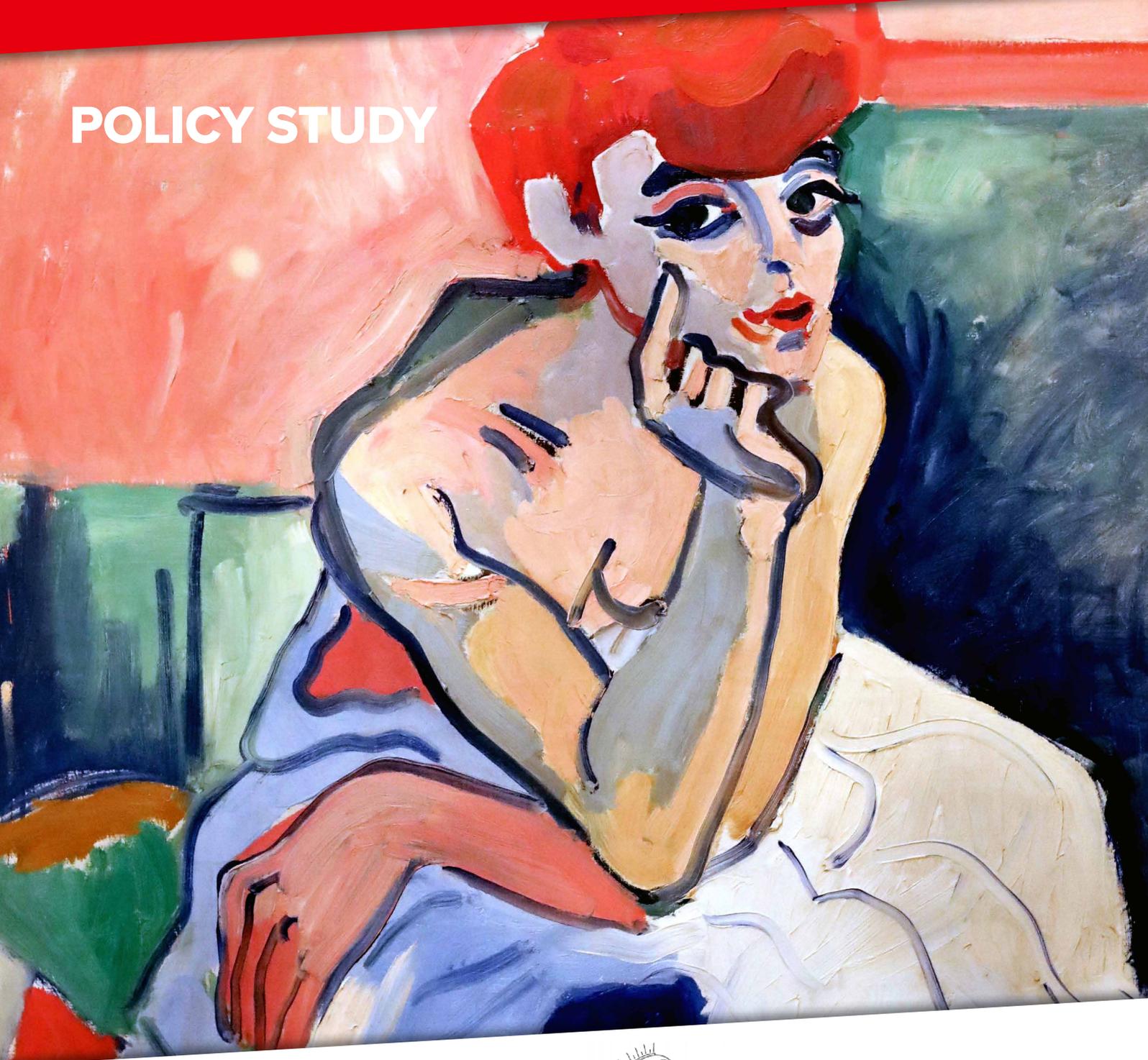


CONTESTED COMMODITIES **MY BODY MY CHOICE?**

Written by

Marco **BACIO** - Fabrizio **BOTTI** - Marcella **CORSI** - Hannah **MANZUR** -
Laeticia **THISSEN** - Giulia **ZACCHIA**

POLICY STUDY



FEPS
FOUNDATION FOR EUROPEAN
PROGRESSIVE STUDIES



ABOUT THE FOUNDATION FOR EUROPEAN PROGRESSIVE STUDIES (FEPS)

The Foundation for European Progressive Studies (FEPS) is the think tank of the progressive political family at EU level. Our mission is to develop innovative research, policy advice, training and debates to inspire and inform progressive politics and policies across Europe. We operate as hub for thinking to facilitate the emergence of progressive answers to the challenges that Europe faces today. FEPS works in close partnership with its members and partners, forging connections and boosting coherence among stakeholders from the world of politics, academia and civil society at local, regional, national, European and global levels. Today FEPS benefits from a solid network of 68 member organisations. Among these, 43 are full members, 20 have observer status and 5 are ex-officio members. In addition to this network of organisations that are active in the promotion of progressive values, FEPS also has an extensive network of partners, including renowned universities, scholars, policymakers and activists. Our ambition is to undertake intellectual reflection for the benefit of the progressive movement, and to promote the founding principles of the EU – freedom, equality, solidarity, democracy, respect of human rights, fundamental freedoms, human dignity, and the rule of law.

Avenue des Arts 46, B-1000 Brussels, Belgium

info@feeps-europe.eu

www.feeps-europe.eu

@FEPS_Europe

Find us on twitter, facebook, instagram and YouTube

FEPS
FOUNDATION FOR EUROPEAN
PROGRESSIVE STUDIES



ABOUT MINERVA

Minerva - Laboratory on Diversity and Gender Inequality at the Department of Statistics of Sapienza University of Rome was established in order to contribute to scientific research on gender equality and equity using both qualitative and quantitative methods, and to develop collaborations between scholars. The laboratory carries out multidisciplinary research activities promoting the cooperation between different research fields, from economics, law, history, sociology, demography and statistics. The strength of "Minerva" is the ability to mobilise experiences and skills thanks to a networks of experts (researchers, practitioners and local administrators) created by the staff involved in numerous research and awareness projects over the years. More information:

Piazzale A. Moro 5, RM - 00185 Roma

<https://web.uniroma1.it/labminerva/en>

@LabSapienza

Find us on twitter and facebook



ABOUT THE PROJECT

The FEPS - Minerva project endeavours to deepen our knowledge of gender issues in the socio-economic domain through a multi-disciplinary and progressive approach. Migration, asylum, war, economic growth, global crises, financial markets, employment, social development, as well as media, arts, history, welfare and social investments, institutions, health, and climate change are all gendered phenomena. A gender perspective cuts through all the most pressing issues that the EU faces today and in the foreseeable future, and a progressive approach to virtually all European policies requires taking the gender dimension into consideration. Such an endeavour is especially timely for two reasons. On the one hand, the position and role of women has considerably changed, and continues to do so in ways that require much more investigation. On the other hand, recent developments offer invaluable opportunities for radical change, including the potential to advance equality for women and men.

ABOUT THE AUTHOR



Marco Bacio is a double PhD. student of sociology at the University of Milan, Italy (where he teaches sociology to undergraduate students) and of gender studies at Lund University, Sweden (where he teaches quantitative methods to postgraduate students). His research interests include LGBT studies, gender studies, sexualities, sex work and the sociology of culture. Since 2011, he has been a research fellow at GENDERS, the Centre for Gender and Equality in Research and Science, at the University of Milan. Since 2019, he has been a member of Minerva – Laboratory on Diversity and Gender Inequality of Sapienza University of Rome. In 2018, he became a member of the scientific committee of the gender studies section of AIS (the Italian Sociological Association), and in 2020, he was appointed to the national board of AIS. His recent papers in English include “Social Suffering as Structural and Symbolic Violence: LGBT Experiences in the Face of AIDS Film Archive” (2018, with Cirus Rinaldi), “The Queer Researcher: Challenging Homonormativity in Research and Educational Settings” (2019, with Cirus Rinaldi), “Male Sex Work in Sweden: Criminalization of the Client” (2021).



Fabrizio Botti is a Research Fellow at the Department of Economic and Business Science at Guglielmo Marconi University (Rome). He is also Senior Fellow at Istituto Affari Internazionali (IAI), where he is Head of Research in economics and finance. He has contributed to various research projects, and collaborates with universities, government bodies and European and international institutions. He is one of the core experts of Minerva - Laboratory on Diversity and Gender Inequality at Sapienza University of Rome. He is author of several publications in the following fields of research interest: development and international economics, poverty, social and financial exclusion, and discrimination based on gender and sexual orientation.



© 2019 Stephanie Seguino

Marcella Corsi is a Professor of economics at Sapienza University of Rome. She holds a PhD in Economics from the University of Manchester (UK) and graduated in Statistics/Economics from Sapienza. She has worked as a consultant for the European Commission, the European Parliament, the OECD and several Italian institutions. She is one of the founders of the *Economia Civile* association (www.economicivile.it) and web magazine *inGenere.it* (www.ingenere.it). Her research mainly focuses on issues related to social inclusion, social protection and income distribution, often from a gender perspective. She is the author of several articles published in English and Italian in these fields of study (<https://ideas.repec.org/f/pco302.html>). Since March 2017, she has been editor of the *International Review of Sociology* and the coordinator of Minerva - Laboratory on Diversity and Gender Inequality.

ABOUT THE AUTHOR



Hannah Manzur is a PhD. candidate and Research Assistant at the Violence and Society Centre at City, University of London. Her current research looks at the impact of Brexit on gendered violence, with a focus on the prevalence and governance of violence at the intersection of migration, ethnicity and gender based inequalities. She previously worked as a Gender Policy Advisor at the European Parliament, where she specialised in prostitution policies, and co-authored the *Women and Brexit Report*.



Laetitia Thissen is the Gender Equality and Women's Rights a Policy Analyst at FEPS where she is in charge of the foundation's work related to gender equality and anti-discrimination issues. Over the years, her work focused on topics ranging from gender injustice to care work and gender-based violence. Before joining FEPS she worked in the European Committee of the Regions and in the European Parliament. She holds a Master's degree in European Studies from Maastricht University and undertook a specialization Master degree in Gender Studies (ULB) in 2020-2022. Additionally, she completed a post-academic specialisation course on "Migration, Ethnic Diversity and Intercultural Relationships".



Giulia Zacchia is a research fellow in economics at the Department of Statistics at Sapienza University of Rome, where she works with Minerva - Laboratory on Diversity and Gender Inequality. She holds a PhD in the History of Economic Thought. Her research interests include social and financial inclusion from a gender perspective, but also cover gender gaps in academia and economics. Her works draws attention to women's empowerment, financial literacy and microfinance.

© 2019 Stephanie Seguino

POLICY STUDY PUBLISHED IN JULY 2021

With the financial Support of the European Parliament



European Parliament

The present report does not represent the European Parliament's views. The present report does not represent the collective views of FEPS, but only those of the respective authors. The responsibility of FEPS and its partners is limited to approving its publication as worthy of consideration of the global progressive movement.

Photo cover : "Femme en chemise ou danseuse", André Derain

Design: Triptyque

Copyright © 2021 by the Foundation for European Progressive Studies and the Minerva Lab

ISBN: 978-2-930769-57-8 9782930769578

TABLE OF CONTENTS

EXECUTIVE SUMMARY

POLICY RECOMMENDATIONS

1. INTRODUCTION: A THORNY THOUGH DEEPLY FEMINIST ISSUE

2. THE COMMODIFICATION OF HUMAN BODIES

3. UNPICKING THE SEX WORK CONUNDRUM

4. CONCLUSIONS AND POLICY RECOMMENDATIONS



EXECUTIVE SUMMARY

In spite of the sensitivity and heterogeneity of the phenomenon, prostitution and sex work constitute an undeniably and highly gendered issue impacting women most particularly. Moreover, it affects certain groups in specific ways, including the socially and economically underprivileged, racialised but also LGBTQI communities. Although the moral and political dissension is challenging to overcome, it is evident that the commodification of women's bodies is an inherently feminist and therefore progressive issue calling for a contrasted approach with tailored answers rather than a one-size-fits-all policy strategy. The Covid-19 pandemic has undoubtedly exposed the deeply rooted gender inequalities in all aspects of human life. As our societies respond to the crisis trying to soothe all sorts of vulnerabilities and weaknesses of our modes of functioning, there are true strategic stakes in including the concerns of prostitutes and sex workers as well. In the light of the existing context, this policy study therefore aims at contributing to the debates by offering a collection of contributions from gender experts with experience in academia, grass-roots communities, policymaking and activism. Although far from exhaustive on the question, its endeavour is to map the complex nature related to the commodification of human bodies from a feminist perspective engaging multiple disciplines and perspectives.

The **first chapter** by Laetitia Thissen offers a brief introduction to the rationale of this policy study dwelling on the semantic and contextual nuances necessary to envision the subsequent chapters with the adequate lenses in what has always been an intensely debated and often misconceived issue. The **second chapter** co-authored by Marcella Corsi, Giulia Zacchia and Fabrizio Botti examines whether aspects of our bodies may be treated as ownable and tradeable objects of exchange on markets. That is, to what extent may aspects of our bodies be treated as commodities? Commodification is widespread in the contemporary world. The international trade in human organs is a thriving black market, as is the international trade in women for prostitution and children for adoption. The authors guide the reader in assessing whether these developments are justifiable, and whether we should try to curtail them or at least channel them through regulation. Acknowledging that commodification creates profound ethical dilemmas

because it is both a promise and a threat, the authors underline that there is no wholesale solution. Each must be confronted contextually and depending on the specific details of each practice and its perceived harms and benefits. In **chapter three**, Marco Bacio discusses one of the 'contested commodities' outlined in the previous part, namely sex work and prostitution. Although prostitution is called 'the world's oldest profession', the knowledge about this topic is still limited and widely contested. At first, the chapter aims to contextualise sex work in our own society, highlighting the presence of both female and male sex workers, the latter a well-unresearched aspect of this phenomena. Then, the discussion continues with the different ideas that feminists developed around prostitution and a comparison of opposed policy approaches on sex work. Finally, the chapter tries to answer its main question: 'what shall we do with sex work and sex workers?'. Is it possible to legitimise this job, particularly in the Western world, and leave the freedom to sell sex to those who want to do it? Or, by contrast, should we criminalise all form of sex equating them to the human trafficking? Finally, the chapter tries to answer its main question: 'what shall we do with sex work and sex workers?'. Is it possible to legitimise this job, particularly in the society of the Western world, and leave the freedom to sell sex to those who want to do it, or we should criminalise all form of sex working (as the Swedish Model does), equating them to the trafficking of human being? Finally, in **chapter four** Hannah Manzur builds on her personal experience as a gender equality expert and the European Parliament's report on "Sexual Exploitation and Prostitution and its Impact on Gender Equality" to formulate concrete policy proposals seeking to: (1) tackle demand for prostitution and sex trafficking by implementing the 'sex buyers law' and further prevention measures; (2) provide a support system for prostituted persons through networks, services and protections; and (3) encourage a change in perceptions, attitudes and practices through education, campaigns and training provisions. She emphasises the need for an intersectional, gender-mainstreamed and evidence-based approach to the development of sexual exploitation policies, including measures targeting systemic inequalities and violence experienced by marginalised and vulnerable groups, and the need for sufficient funding and resource allocation to achieve these policy aims.

POLICY RECOMMENDATIONS

1. CHANGING PERCEPTIONS

Education

Promote positive and respect-based approaches towards sexuality and sexual relationships free from coercion, discrimination and violence via education and public awareness campaigns.

Offer a range of educational tools, including comprehensive sexual health, relationship and consent courses, for various age groups on matters of sex and relationships, mutual consent and respect.

Media

Set up media watchdogs and regulatory boards to challenge reporting on sexual violence, prostitution and sex trafficking that minimises or blames victims, or that perpetuates harmful stereotypes and myths.

Encourages reporters, journalists and media institutions to **report issues related to sex trafficking, sexual violence and prostitution.**

Give equal weight to cases of violence against women and girls, sexual and domestic violence, child abuse, prostitution and sex trafficking regardless of the cultural, ethnic or religious background.

Fight gender imbalance in the media industry, namely through the introduction of gender quotas, targeted initiatives providing training, mentoring and networking opportunities for women, and for assessments on the working environment for women in these spheres.

Ban sexist advertisements and apply stricter advertising regulations regarding harmful gender roles and stereotypes, and the sexualisation and objectification of women's bodies.

Training

Ensure comprehensive police training on how to identify, react and report on cases of sexual violence, exploitation and abuse.

Introduce measures addressing 'unconscious bias' for jurors at trials which involve sexual abuse, violence against women and girls, human trafficking and prostitution.

Enforce specialist training for judicial staff for cases involving sex crimes and prostitution.

Implement **gender-balancing measures** in police, judicial and public spheres.

Research

Commission and adequately fund research into the positive and negative effects of current national policies on prostitution, with the aim of comparing findings across the EU and supporting policy changes based on recent, comparable data.

Foster research and data collection, which includes **greater disaggregation of the data** collected, not only with male-female disaggregated data, but also encompassing different socio-economic and identity-based groups. To create policies which, reflect the intersectionality of subjects, policymakers need access to data that address the complexity and multiplicity of the issue.

Encourage greater collaboration and best-practice sharing among national governments on prostitution, and for the establishment of an inter-state European research project which encourages collaboration and communication between different perspectives based on the sharing of data and analyses.

POLICY RECOMMENDATIONS

2. PROVIDING SUPPORT

Protecting Prostituted Persons from Violence and Abuse

Panic buttons with a direct line to emergency services should be installed in areas known for prostitution and made individually available.

Free 24-hour helplines to be made available to victims of prostitution and sex trafficking.

Clear reporting channels to report abuse and harassment against prostituted persons.

European Protection Orders as a way of tackling the level of sexual, domestic and gendered violence and abuse suffered by prostituted and trafficked persons, as these are cross-border issues.

The Istanbul Convention must be ratified, a European Directive on Violence against Women adopted and gender-based violence added in the list of *eurocrimes*.

Support Services

Provide a centralised online directory of support services to prostituted persons.

Offer free, comprehensive exit programmes for prostituted persons who wish to exit the sex industry.

Establish walk-in centres providing free health checks and access to free counselling.

Guarantee retraining and adult education programmes for prostituted persons without the requirement of exiting the sex industry before enrolling.

Secure and emergency housing options and women's refuges should be available to prostituted persons.

Include specialist support for migrant victims of prostitution and sex trafficking.

Support Networks

National and local authorities should establish '**link networks**' between different services, with named contacts ('link members') in each service, as part of a **strategic and supportive network on prostitution**.

3. CALLS FOR NATIONAL AND LOCAL ECONOMIC STRATEGIES WHICH INVEST IN WOMEN.

Member states should ensure **gender impact assessments** for economic policies, particularly in areas of social security, welfare, employment and austerity measures.

1. INTRODUCTION: A THORNY THOUGH DEEPLY FEMINIST STAKE

By **Laetitia THISSEN** (Foundation for European Progressive Studies)

As old as time, the issue of economic transactions surrounding women's bodies has been the source of serious moral and political dispute. And that is to put things quite mildly. This debate has also been a major point of contention within the feminist movement itself since the 1970s and has remained unsolved ever since. Stereotypical images fed by popular cultural and media representations also often fail to reflect a much more nuanced and diverse reality. The need for this discussion to still take place has become even more pertinent in an era where digitalisation plays an increasingly important part and brings additional dimensions scarcely considered within collective representations.

The very lack of adequate tools for a shared and a clearly delineated understanding of the issue at stake is perhaps one of the greatest sources of controversy. The most emblematic "contested commodity" is certainly to be found in the case of prostitution. The Merriam-Webster dictionary defines it as "the act or practice of engaging in promiscuous sexual relations for money". Yet, feminist research demonstrates that neither remuneration nor promiscuity are sufficient or necessary conditions to enter this categorisation. One only needs to think of the all too widespread "whore stigma" looming over women's heads and rooting them in profoundly unequal power relations based on gender. Many feminist scholars have therefore preferred alternative terminologies suggesting that prostitution does not enable us to capture the roots, the true scope and above all the heterogeneity of the phenomenon bearing consequences on a much larger scale in society. Most notably Paola Tabet referred to the idea of a *sexual-economic exchange*¹, which she conceives as a much broader continuum with vast differences across countries and situations. Additionally, the term of "sex work" seeks to differentiate itself from human trafficking situations. The latter force millions of women and girls into modern forms

of slavery and constitutes a scourge to be eliminated as a serious matter of concern. The latest ILO estimates namely suggest that just in 2016, close to 5 million persons were trapped into forced sexual exploitation². A decade after the adoption of the EU anti-trafficking directive³, recent data published by the European Commission (September 2020) show that over half of all human trafficking victims registered in the EU-27 concern sexual exploitation (60%)⁴. Out of these, nearly three quarter (72%) were female. It is therefore a highly gendered phenomenon. It also particularly affects asylum seekers, refugees, and migrants (namely unaccompanied minors) who are especially vulnerable to sexual exploitation. Whilst the absence of women's full and free consent is rather obvious in some cases, it might not always be so straightforward. On the one hand, the repeated performance of sexual acts in the absence of desire due to socio-economic vulnerabilities can be seen as a direct form of violence quite clearly exploiting their disadvantaged position⁵. On the other hand, sex workers' organisations have called for laws, policies and practices respecting and upholding their rights as human beings engaging in agency-based work free from stigma. Historically, sex workers have namely been amongst the first to establish guilds and to strike defying norms for centuries by describing their work as work⁶. However, due to the unresolved controversies, their demands have often been ignored. Following the lines of Angela Davis for instance, who has been vocal in arguing for decriminalisation whilst supporting the right of sex workers to organise themselves⁷, one should remain critical of gender justice becoming over-reliant on punitive and carceral approaches, which blind us to the very root causes of the problem, including the severe consequences crumbling welfare states can have for women⁸. In this view, the real problem therefore lies much more with underlying social injustice and gender inequalities.

1 See Paola TABEL, *La grande arnaque. Sexualité des femmes et échange économique-sexuel*, Paris, L'Harmattan, Bibliothèque du féminisme, 2004, 207 p.

2 ILO, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, Geneva, 2017. Available at: https://www.ilo.org/global/publications/books/WCMS_575479/lang-en/index.htm

3 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

4 European Commission, *Data collection on trafficking in human beings in the EU*, Luxembourg: Publication Office of the European Union, 2020. Available at: https://ec.europa.eu/anti-trafficking/sites/default/files/study_on_data_collection_on_trafficking_in_human_beings_in_the_eu.pdf

5 See Brussel's Call. *Together for a Europe free from prostitution*. 2019. Available at: https://www.womenlobby.org/IMG/pdf/brussels_call_brochure_8_pages.pdf

6 See Stardust, Zahra Zsuzsanna. 'Revolting Prostitutes: The Fight for Sex Workers' Rights'. *Current Issues in Criminal Justice* 31, no. 3 (3 July 2019): 455–59.

7 See for instance Siobhan Brooks, *Sex Work and Feminism: Building Alliances Through A Dialogue Between Siobhan Brooks and Professor Angela Davis*, 10 Hastings Women's L.J. 181 (1999). Available at: <https://repository.uchastings.edu/hwlj/vol10/iss1/9>

8 Davis, Angela Yvonne. *Are Prisons Obsolete?* New York: Seven Stories Press, 2003.

1. INTRODUCTION: A THORNY THOUGH DEEPLY FEMINIST STAKE

Beyond these semantic and moral debates, it becomes evident that the issue of body commodification is an extremely complex, yet inherently feminist and therefore progressive issue calling for a contrasted approach with targeted answers rather than a one-size-fits-all policy strategy. To this end, it is particularly relevant for the EU's Gender Equality Strategy 2020-2025⁹ to truly materialise in ways that respond to the needs of women in their fullest diversity taking into account the multiplicity of challenges they may face. Particularly in an era of growing globalisation and individualisation, social solidarity must constitute the foundation. The Covid-19 pandemic has undoubtedly exposed but also exacerbated the deeply rooted gender inequalities across all aspects of human life. As our societies respond to the crisis trying to soothe all sorts of vulnerabilities and weaknesses of our modes of functioning, there are true strategic stakes in including the concerns of prostitutes and sex workers – who are mostly women – in the social justice agenda. The pandemic made us realise the wide gender gap surrounding care work and its broader consequences. In this light, sex work lies in the direct continuation of this type of unbalance whereby women's position has been historically and persistently undervalued, underpaid and quite simply underestimated. Very often, misinformed practices have made the vulnerable even more vulnerable. Therefore, it is all the more imperative for feminist movements and progressive actors to stand for *all* women. Investing serious efforts in the elimination of women's exploitation but also the removal of barriers and stigma some of them may face eventually amounts to removing the burdens on all women's shoulders persistently assigning people to gendered roles and withholding women from achieving equality across all spheres of life.

In the light of the above reflections, this policy study therefore aims at contributing to the debates by offering a set of diverse contributions from gender experts with experience in academia, grass-roots communities, policymaking and activism. Although far from exhaustive on the question, its endeavour is to map the complex nature related to the commodification of human bodies from a feminist perspective engaging multiple disciplines and perspectives. Its objective is to enrich the debate in the hope of overcoming attitudes preventing people to take the place they deserve in society because of their gender, sexuality or any other traits of their identity.

⁹ Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions A Union Of Equality: Gender Equality Strategy 2020-2025 Com/2020/152 Final

2. THE COMMODIFICATION OF HUMAN BODIES

by Marcella CORSI, Giulia ZACCHIA, Fabrizio BOTTI (Sapienza University of Rome)

INTRODUCTION

The question before us today is to what extent our bodies can be treated as ownable and tradeable objects. Commodification refers to the social process by which something or somebody comes to be considered as a commodity once the process has taken place. We usually refer to “contested commodification” in instances in which we experience personal and social conflict about the process and the result¹⁰.

Because commodification of the body is a complex ethical question, there is no general answer that can be applied to all types of commodification. We will separately evaluate only certain kinds of human body commodification: the markets for organ transplantation¹¹, surrogacy and sex work, limiting our investigation to secular ethics, although many people hold religious beliefs about the proper limits of commodification. In our view, for democratic governments committed not to favouring any religion, the significant arguments are secular in nature.

According to traditional liberal views, the market appropriately encompasses the most desired transactions between people. That there should be a domain of inalienable “political” rights and a domain of alienable “property” rights seems fundamental to those economists who hold traditional views that divide the social world into politics and markets. In the political domain, there are familiar inalienable individual rights such as life, liberty and equal respect for persons. In the market domain, there are alienable property rights and free trade.

1. FREEDOM OF CHOICE? LIBERTY VS. REGULATION

Economic journals contain many instances of studies that treat as market commodities certain aspects of life and feelings that would normally be considered as non-economic. **What (if anything) is wrong with the commodification of anything?** To answer this question, we may need to resort to normative theory for a better assessment of the appropriate social role of the market.

Before doing so, we must review the ethical framework generated from the idea of respect for human beings. As stated by Radin (2011), the “idea of personhood, related to the ideal of freedom, was crystallised by Immanuel Kant in the late 1700s. In the Kantian view, the universe is divided into the categories of persons and objects, whereas the moral law involves maximising the freedom of persons.” Societies based on the freedom of choice should maximise each person’s freedom to use objects but, at the same time, prohibit any use of another person¹².

In this regard, it is also worth recalling John Stuart Mill’s well-known argument against the freedom to sell oneself into slavery. In his treaty *On Liberty* (OL), he states that: *By selling himself¹³ for a slave, (a person) abdicates his liberty; he forgoes any future use of it beyond that single act. He therefore defeats, in his own case, the very purpose which is the justification of allowing him to dispose of himself. (..) The principle of freedom cannot require that he should be free not to be free. It is not freedom, to be allowed to alienate his freedom.*¹⁴

This allows us to consider the notion of negative freedom and its connection to the free alienability of anything in economic markets. “Negative freedom” refers to the freedom of individuals to be left to do whatever they choose, as long as others are not harmed. By contrast, “paternalism” implies

10 Radin, M. J. (2011), “Bodies and Markets: Ethical Arguments and Choices”. in *Genere*, 6/09/2011.

11 Trafficking sex and/or labour are the most commonly considered forms of human trafficking among public policy leaders and general awareness campaigns. However, organ trafficking has a critical place within transnational organised crime groups due to high demand and relatively low rates of law enforcement.

12 Radin, M. J. (1996), *Contested Commodities: The Trouble with Trade in Sex, Children, Body Parts, and Other Things*. Cambridge, MA: Harvard University Press.

13 The original version of the text quoted above uses the masculine form only.

14 Mill, J. S. (1859), “On Liberty”. In: *Essays on Politics and Society*. Part I, vol. 18 of *The Collected Works of John Stuart Mill*, edited by J. M. Robson, pp. 213–310. Toronto: University of Toronto Press, 176

2. THE COMMODIFICATION OF HUMAN BODIES

substituting the judgement of a person for that of a third party (or the government), on the grounds that doing so is in that person's best interest. For advocates of negative liberty, substituting someone else's choice for one's own is a naked infringement of personal liberty. They hold that individuals' subjective preferences define their interests, and that it is therefore nonsensical to claim that anyone else knows what is good for them better than they do.

John Stuart Mill refused to support strong social control over the individual, considering "social machinery" to be ineffective or impractical. In OL, he very explicitly rules out that liberty in the economic field is on a par with Liberty with a "capital L" (civil, political, or relating to thought, discussion or alternative lifestyles) that he defends in the essay. He advocates a general competitive system when it comes to economic liberty, but not on the high moral grounds on which he argues for liberty in its broader sense. In the economic domain, any restraint on individuals' liberty always affects that part of their conduct which, if necessary, society is perfectly able to restrain. Legitimacy arises because individual action in the economic domain produces effects on other people and on society in general: "trade is a social act"¹⁵. **Thus, restraints on the functioning of the market "are wrong solely because they do not really produce the results which it is desired to produce by them"**¹⁶.

John Stuart Mill sees three cases where objecting to "government interference" is reasonable and the liberal stance should be upheld¹⁷. First, when the private sector is better suited to conducting a certain activity than the state. Second, when it is desirable that a certain activity is conducted by citizens, "as a means of their own mental education"¹⁸, even if government action might be more efficient or effective. Again, in this case, "these are not questions of liberty [...] they are questions of development. [...] These things

[are] parts of national education; as being, in truth, the peculiar training of a citizen, the practical part of the political education of a free people, taking them out of the narrow circle of personal and family selfishness, and accustoming them to the comprehension of joint interests, the management of joint concerns."¹⁹. Finally, the third reason for limiting government power in Mill's view is **the need to prevent the creation of an all-encompassing public administration, which poses a greater threat to social development. The more efficient public administration becomes, and the more it is able to attract the ablest individuals:** "Under this régime, [...] no reform can be effected, which is contrary to the interest of the bureaucracy"²⁰.

2. EMPIRICAL EVIDENCE

The markets for contested commodities are not easy to track. A number of challenges are involved in collecting reliable statistics, mainly due to the unregulated and often illegal nature of the commodification of the human body²¹.

According to international media, the international trade in kidneys and other organs is flourishing²². College newspapers in the US routinely run advertisements offering large sums of money in return for young women's eggs, provided the women meet certain criteria such as athletic ability or achieving certain test scores. However, empirical evidence remains scarce, with only very few statistical estimations of the size of these markets.

Organ traffickers make profits in the shadows, while their destructive medical footprint is the only thing that is felt. It leaves vulnerable populations – the "donors" – and first-world beneficiaries – the "recipients" – open to severe

15 Ibid.: 293

16 Ibid

17 Ibid: 305

18 Ibid

19 Ibid

20 Ibid: 306–7

21 Several multilateral organisations combat people trafficking; for a list, see the US Department of State website, <https://www.state.gov/j/tip/rls/tiprpt/2018/282589.htm>

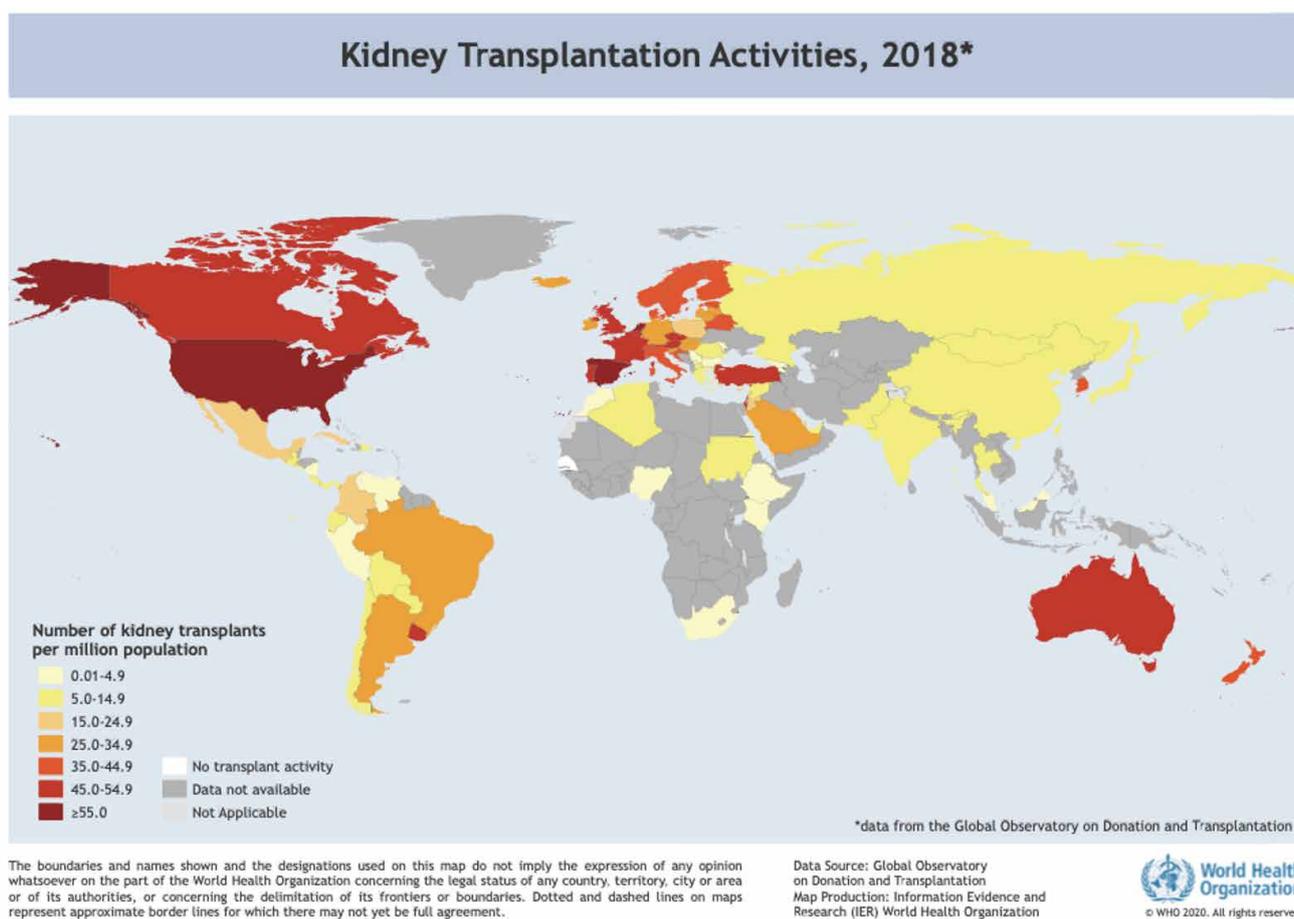
22 The February 2017 Summit on Organ Trafficking, hosted by the Pontifical Academy of Sciences in Vatican City, also shed light on the state of the organ trade. The Council of Europe adopted a Convention Against Trafficking in Human Organs in 2014, which came into effect in January 2018. This is a critical development, as it represents the first legal mechanism with a more universally agreed definition of organ trafficking. See <https://www.coe.int/en/web/anti-human-trafficking>

2. THE COMMODIFICATION OF HUMAN BODIES

exploitation and a lifetime of health consequences. Global Financial Integrity (GFI)²³ estimates that 10 percent of all organ transplants including lungs, hearts and livers, are performed using trafficked organs²⁴. However, the biggest trade in trafficked organs is in kidneys, with the World

Health Organization (WHO) estimating that 10,000 are traded on the black market worldwide annually, or more than one every hour²⁵. Figure 1 shows the distribution of living “donors” for kidneys²⁶.

FIGURE 1: Kidney transplantation activities - 2018²⁷



23 Global Financial Integrity (2017), Transnational Crime and the Developing World, March.

24 Cases are emerging in which an organ donor may have been a victim of sex trafficking and/or labour trafficking as well as a victim of organ trafficking, creating a multi-level equation of exploitation. See the Declaration of Istanbul on organ trafficking and transplant tourism (<https://www.declarationofistanbul.org/about-the-declaration/history-and-development>). See also <https://www.newyorker.com/news/news-desk/can-china-stop-organ-trafficking>

25 Campbell, D. and Davison, N. (2012), "Illegal Kidney Trade Booms as New Organ Is Sold Every Hour". The Guardian, May 27. <https://www.theguardian.com/world/2012/may/27/kidney-trade-illegal-operations-who>

26 Bain, C. (2018), "Organ Trafficking: The Unseen Form of Human Trafficking". ACAMS Today, <https://www.acamstoday.org/organ-trafficking-the-unseen-form-of-human-trafficking/>

27 Data from the Global observatory of donation and transplantation. Available online: <http://www.transplant-observatory.org>

2. THE COMMODIFICATION OF HUMAN BODIES

In most countries, the buying and selling of organs is illegal (Iran is the only country in the world where buying and selling an organ is legal, but this exception only applies to its citizens). Conversely, few laws restrict individuals from leaving their country to obtain an organ from someone abroad. In fact, there are many companies that cater to “transplant tourism”, but claim they only match up recipients with willing donors. It is difficult to know exactly how much transplant tourism generates annually worldwide, but GFI has conservatively estimated that the illegal organ trade generates approximately \$840 million to \$1.7 billion annually²⁸.

Reliable data concerning surrogacy are totally lacking.

According to Gaille (2018), in the United States, an estimated average of nine children are born every year in each state under a surrogacy arrangement. Gaille reports that the total number of in vitro fertilization (IVF) births per year has more than doubled over the last decade²⁹. In the US, the number of babies born to gestational surrogates grew by 89 percent in just four years³⁰. For surrogate mothers under the age of 35, the success rate of a pregnancy may be as high as 60%. As mothers increase in age, however, surrogacy success rates decrease accordingly.

Meaningful statistics for the sex industry are very difficult to collect.

Estimates are only available for the number of prostitutes/sex workers³¹ in a country and numbers can vary considerably depending on the source. Figure 2 shows data from the Joint United Nations Programme on HIV/AIDS³², while Figure 3 shows the prevalence of female sex workers (FSW) measured as the proportion of FSW in the adult female population (15–49 years). Poor methodology may skew the numbers from certain countries. National Ugly Mugs³³, a support organisation for sex workers in the United Kingdom, has identified several factors that make it difficult to collect statistics for the sex industry, including low response rates, the small scale of research compared to the actual size of the industry and the industry’s diversity. In other cases, results may be influenced by whether the organisation producing the numbers is understanding of or against the nature of the work. As a result, published statistics are often conflicting and contested³⁴.

28 Cf. Global Financial Integrity (2017), at http://www.gfintegrity.org/wp-content/uploads/2017/03/Transnational_Crime-final.pdf

29 Gaille, B. (2018), 25 Rare Surrogate Mother Statistics, 16/10/2018, <https://brandongaille.com/24-rare-surrogate-mother-statistics>

30 859 surrogacy and gestational carrier cycles were performed in the United States in 2010. Some programmes report delivery rates of over 50% per transfer for gestational surrogacy cases. IVF has a surrogacy success rate of about 65%. Blastocyst transfers are the most successful implantation method, with success rates rising by 10% since data tracking began. See Gaille, B. (2018), 25 Rare Surrogate Mother Statistics, 16/10/2018, <https://brandongaille.com/24-rare-surrogate-mother-statistics>

31 Sex workers are adults who receive money or goods in exchange for consensual sexual services or erotic performances, either regularly or occasionally. The term “sex worker” recognises that sex work is work. Prostitution, on the other hand, has connotations of criminality and immorality. Many people who sell sexual services prefer the term “sex worker”, and find “prostitute” demeaning and stigmatising, which contributes to their exclusion from health, legal and social services.

Source: Open Society Foundations (2019). “Understanding Sex Work in an Open Society”. Available online: <https://www.opensocietyfoundations.org/explainers/understanding-sex-work-open-society#:~:text=Why%20use%20the%20term%20E2%80%9Csex,connotations%20of%20criminality%20and%20immorality>.

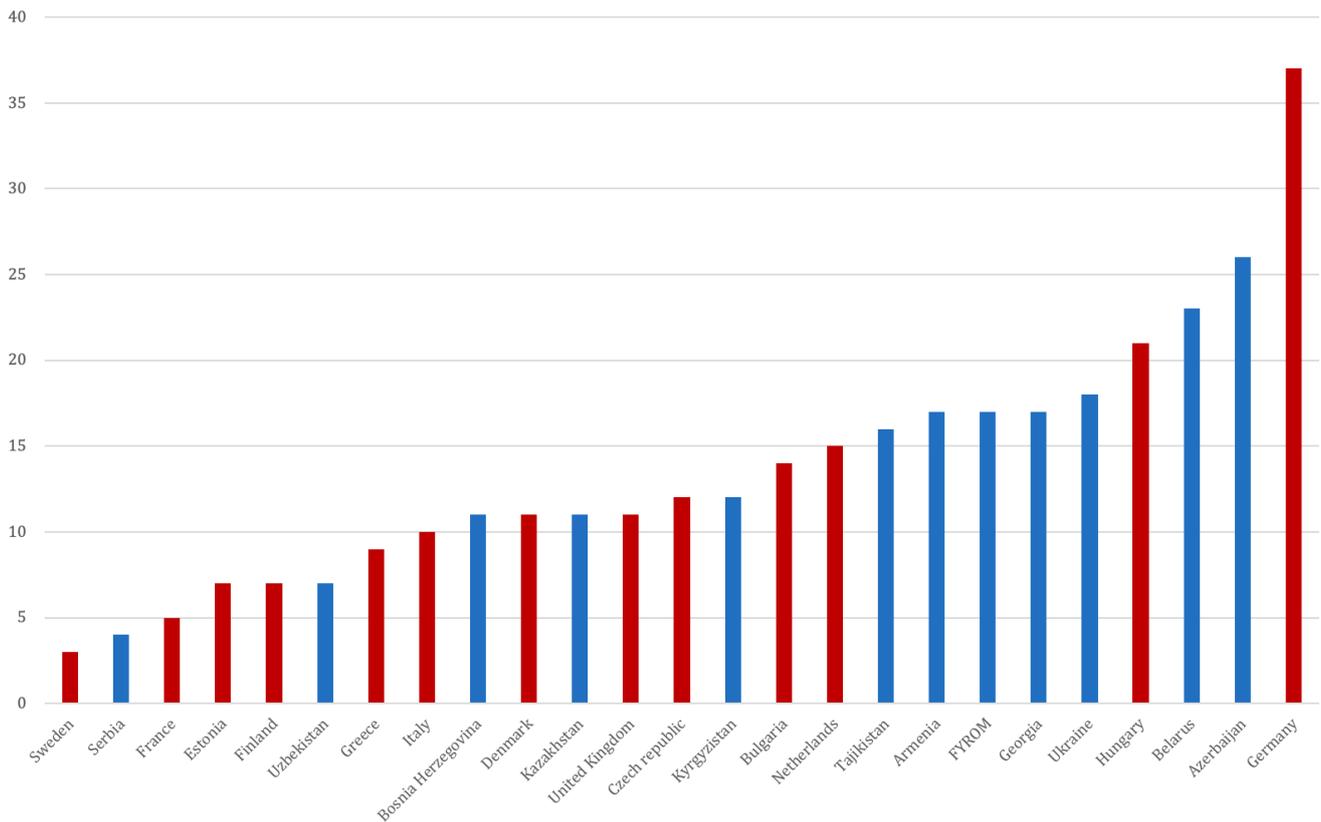
32 <http://www.unaids.org/en>

33 <https://uknswp.org>

34 Havocscope provides information about prostitution in the context of the global black market. Information about the black market is collected from government agencies, academic studies, media reports and other sources. All sources for prostitution statistics, as well as additional information on the prostitution industry worldwide, is available at <https://www.havocscope.com/prostitution-statistics>

2. THE COMMODIFICATION OF HUMAN BODIES

FIGURE 2: Sex workers per 10,000 population³⁵



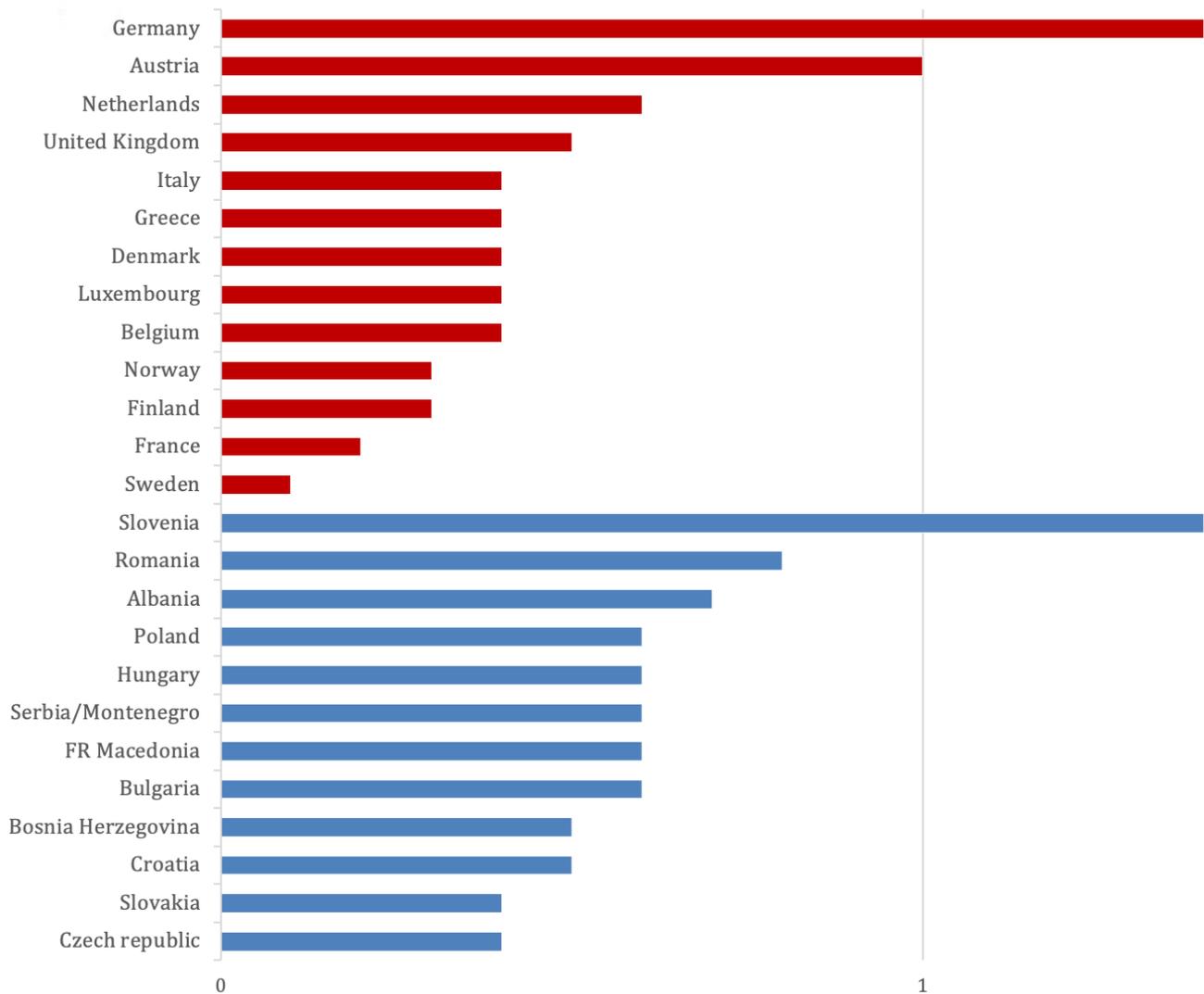
Moreover, in countries where prostitution is illegal, the use of arrest data to create general statistics can be misleading. Most prostitutes are never arrested, and those who are can often be charged with other offences instead. Class bias may be introduced into the statistics, because police officers are more likely to arrest street prostitutes than high-class call girls. In comparing one area with another, there may be differences in the definition of a crime, the police enforcement rate and the possibility of inflated arrest figures or the under-reporting of crime³⁶.

³⁵ Sources: 1. "Sexworkers: Population size estimate, 2016, UNAIDS. http://www.aidsinfoonline.org/gam/stock/shared/dv/PivotData_2018_7_22_636678151733621264.htm & 2. "Total Population - Both Sexes", World Population Prospects: The 2017 Revision. United Nations Department of Economic and Social Affairs, Population Division, [https://esa.un.org/unpd/wpp/DVD/Files/1_Indicators%20\(Standard\)/EXCEL_FILES/1_Population/WPP2017_POP_F01_1_TOTAL_POPULATION_BOTH_SEXES.xlsx](https://esa.un.org/unpd/wpp/DVD/Files/1_Indicators%20(Standard)/EXCEL_FILES/1_Population/WPP2017_POP_F01_1_TOTAL_POPULATION_BOTH_SEXES.xlsx)

³⁶ Cf. Flowers, R. B. (1998). *The Prostitution of Women and Girls*. Jefferson (North Carolina, U.S.A): McFarland.

2. THE COMMODIFICATION OF HUMAN BODIES

FIGURE 3: Prevalence of Female Sex Workers³⁷



Calculation of FSW prevalence: We defined the FSW prevalence as the proportion of FSW in the adult female population (15–49 years): % FSW in area A = (Estimated number of FSW in area A) × 100 / (Number of adult women living in area A)
 The population number, the proportion of women and the proportion of women 15–49 years were taken from the Population Estimates and Projections database of the UN Population Division (<http://www.un.org/esa/population/unpop.htm>) or, in some cases from national census reports.

³⁷ Chart based on data from Vandepitte, J., Lyaerla, R., Dallabetta, G., Crabbé, F., Alary, M. and Buve, A. (2006), "Estimates of the number of female sex workers in different regions of the world". Sexually Transmitted Infections, 82 (3):18-25.

2. THE COMMODIFICATION OF HUMAN BODIES

3. POLICY ISSUES

The market in human organs for medical transplants.

What does such a market promise? In addition to avoiding the horrors of the black market through authoritative policing, legalised markets in organ sale and transplantation would perhaps lead to an increase in supply. Such markets could provide more ready access to transplants needed by desperately ill people. What is the threat of a market in human organs? Should we consider that organs inside the living body are inherently off limits to being excised and turned into commodities and therefore turned for profit?

In ideal theory, the case for the threat to personhood is not so clear, because the person and that person's organs are not identical. Someone with an artificial hip or even an artificial heart is not considered less of a person.

However, the threat looks more serious in our non-ideal world. The sale of organs is hugely troubling primarily because it is understood as a "desperate exchange"³⁸. In other words, kidney sales are driven in a non-ideal world by desperation caused by poverty. Although, in ideal theory, we could alleviate the extremely uneven distribution of wealth that currently exists in our world, non-ideal analysis tells us that we are extremely unlikely to do so.

Thus, what should we make of the idea that people's desperate economic condition prompt them to believe that selling a kidney is preferable to doing without the most basic commodities – such as food, shelter or medical care for themselves or their children – which they cannot otherwise afford in the markets our states do sanction?

Indeed, it adds insult to injury to prohibit the sale because of the distaste of wealthier people who do not find themselves in these desperate straits, while at the same time failing to tackle the root causes of the problem.

Global wealth redistribution is very unlikely at this point in our history, but punishing the more vulnerable populations for their act of desperation rather than alleviating their predicament seems hypocritical.

Would the transfer of organs between living humans best be accomplished through a regulated market in which the regulatory authority seeks to ensure that the money goes to the seller rather than an entrepreneurial intermediary? This is not a question of abstract principle, but contextual to our non-ideal world.

Surrogacy. If we look at surrogacy as a special market for human organs (ie "womb rental"), the pro- and anti-market arguments laid out earlier again arise.

There are different circumstances under which commercialised adoption or baby-selling may occur, such as the paid adoption of unwanted children or commissioned adoptions (conceiving children in exchange for money). Commercial "surrogacy" (or "womb rental") is a special case of commissioned adoption; whereby one or both commissioning parties deliver genetic material to a woman hired to bear a child in exchange for financial compensation.

If ethically, there is no significant difference between commercial surrogacy and any other kind of commissioned adoption, then arguments in favour of commercial surrogacy might also provide reasons to permit the general practice of commissioned adoption, ie the hired production of children in response to market demand.

Table 1 provides a comparative overview based on the arguments for and against permitting commercial surrogacy, focusing on the secular rather than the religious perspective³⁹.

38 Walzer, M. (1983), *Spheres of Justice*. New York: Basic Books.

39 Radin, M. J. (2011), "Bodies and Markets: Ethical Arguments and Choices". *inGenere*, 6/09/2011.

2. THE COMMODIFICATION OF HUMAN BODIES

TABLE 1: Debate on surrogacy

PRO-MARKET ARGUMENTS	ANTI-MARKET ARGUMENTS
<p><i>Individual liberties in a market society</i></p> <p><u>Feminist/liberationist approach</u>: women themselves, not the state, should be able to decide whether to sell their children.</p> <p><u>Realist approach</u>: In the absence of a regulated market, black markets are bound to emerge to respond to existing demand, making any control impossible. This is the case, for example, with gambling, drugs, alcohol, prostitution, etc.</p> <p><u>Chicago economists' approach</u>: everything can be understood in market terms; no markets should be foreclosed or regulated unless there is some kind of market failure.</p>	<p>Women's emancipation is hindered by reinforcing the reductive image of women's reproductive role.</p> <p>The regulatory authority's intervention is essential to preventing the commodification of women's bodies becoming increasingly entrenched, infringing human rights principles.</p> <p>A person's freedom is diminished if things "internal" to the person are sold off.</p>
<p><i>Procreation should be understood as a deep desire or aspect of autonomy and self-hood or partnership.</i> People who are unable to bear children (eg because of infertility) should be given the right fulfil their desire autonomously.</p>	<p>The sale and purchase of children treats children as objects (market commodities), undermining the development of a self-concept as a unique person. (*)</p>
<p>(*) Black markets will do this too.</p>	<p>Markets will exacerbate the divide between the haves and have-nots, and even increase tolerance of racial discrimination.</p> <p>The marketisation of children will likely result in their treatment as products, with differentiating between "better quality" and "poorer quality" individuals according to their features (eye colour, physical and mental ability or ethnic traits).</p>
<p>Welfare maximisation can only be achieved if those wishing to become parents can have children as they want, without the adoption of orphan children being imposed as the only option available to them. Implementing other methods to lower the number of unwanted children would be more efficient.</p>	<p>If a market is allowed, "unwanted" children waiting for adoption may remain parentless. Those who want children and would otherwise adopt "unwanted" children will, if they have enough money, prefer to purchase children to their own specifications.</p>

2. THE COMMODIFICATION OF HUMAN BODIES

There is no easy solution to this debate. As underscored by Radin⁴⁰, if we are opposed to the general trade in children – be it commissioned adoption or the paid adoption of unwanted children – can we find a principled reason to be in favour of commercial surrogacy by would-be parents who supply genetic material? In her view, such a principle cannot be the general principle of freedom of contract. Neither can it be the general principle that women should have the right to make their own decisions about what to commodify and produce for sale. Nor can it be the general principle that would-be parents should be afforded any avenue to achieve parenthood. Ultimately, the only legitimate scenario justifying commercial surrogacy would be when the contribution of the genetic material by the would-be parents takes the transaction out of the ethically-prohibited category. However, the reality is different. Radin⁴¹ puts forward three main arguments in support of the position that commercial surrogacy amounts to the production of children for hire (ie commissioned adoption). On the one hand, she argues that starting a pregnancy with the transfer of parental rights in exchange for financial compensation amounts very much to a sale. On the other, she sheds light on how such a transaction places too much importance on genetic bonds rather than on emotional and parenting bonds. **The fact is that this remains a difficult and disputed ethical terrain.**

Sex work. In the context of this paper, we urgently need studies on prostitution as a form of work. At present, it still remains an insufficiently explored field. What type of contract is there between sex workers and their clients? What do clients buy? A service or a body? Can the two be separated?⁴²

Martha Nussbaum wrote in 1998 that “all of us, with the exception of the independently wealthy and the unemployed, take money for the use of our body... Some people

get good wages, and some do not; some have a relatively high degree of control over their working conditions, and some have little control; some have many employment options, and some have very few. And some are socially stigmatized, and some are not” (693-694)⁴³. Prostitution is the most stigmatized profession because “it is widely believed [...] that taking money or entering into contracts in connection with the use of one’s sexual and reproductive capacities is genuinely bad. Feminist arguments about prostitution, surrogate motherhood, and even marriage contracts standardly portray financial transactions in the area of female sexuality as damaging to women and as involving a damaging commodification and market alienation of women’s sexual and reproductive capacities”⁴⁴. Indeed, Nussbaum calls for a “fruitful debate about the morality and legality of prostitution”⁴⁵. On the one hand, this debate should consider what it means to take payment for the sexual use of one’s body. On the other hand, it should consider the options and the choices available for “poor working women”. However, the problem in this discourse is clear: not only does she only discuss women (while male prostitution should also be considered⁴⁶), but she only takes into consideration one particular category of women, the poor, with additional stigmatizing social factors such as race, education opportunities and addictions. This is the very depiction of the socially constructed representation of prostitution as an activity for women at the margins of society.

Nevertheless, Nussbaum’s point is clear: prostitution should be considered as a form of bodily service, detached from its pervasive stigmatization. She calls for a society that offers these women (and men) better opportunities and expands their options instead of marginalising them. The final implication from an economic viewpoint is that regulation is the only path not only to ending prostitution, but first and foremost to offering better living conditions to sex workers through education, decent labour conditions and wages.

40 *ibid*

41 *ibid*

42 Offe, C. (1985), “The Political Economy of the Labour Market”. In: J. Keane (ed.), *Disorganized Capitalism. Contemporary Transformations of Work and Politics*, pp. 10-51, Oxford: Polity

43 Nussbaum, M. C. (1998), “Whether from Reason or Prejudice: Taking Money for Bodily Services”. *Journal of Legal Studies*, XXVII: 693-724.

44 *ibid*: 695

45 *ibid*: 696

46 Bacio, M. (2018), *Male Sex Workers. A Comparative Study of a Fringe Phenomenon in Italy and Sweden*, mimeo, Lund.

2. THE COMMODIFICATION OF HUMAN BODIES

Unfortunately, countries do not have a clear idea about how to regulate this type of market. As pointed out by Giulia Garofalo Geymonat: “often the fact that a country says ‘no’ or ‘yes’ to prostitution does not have a real impact on the decrease or increase of the sexual market, it is more correlated with local and global economic dynamics”.⁴⁷ In the same vein, Holmström and Skilbrei argue that the “prostitution market is both highly flexible and international, and this means that its development is influenced by many different factors. In such a market, the law has limited scope to produce predictable outcomes”⁴⁸.

Many governments and politicians believe that they are able to control sex work. In some cases, the objective is to end the commerce of sex through legislation banning sex work and criminalising the workers and their clients. But the only real effect they can control is related to the visibility of this phenomenon, what has been called “spatial switching”⁴⁹. Even though some policy makers may already consider this a success, the real possibility of ending the sex market is limited.

There are many ways to call and define the various types of legislation available worldwide on sex work.

As Östergen points out, policies can be divided into two main categories: *abolitionism* vs. *prohibitionism*⁵⁰. The former is usually limited to abolishing the purchase and facilitation of sexual services. The latter describes regimes where any aspect related to sex work is illegal. A threefold scheme is also possible by distinguishing between *criminalisation*, *legalisation* (or *regulation*) and *decriminalisation*. Moreover, the first category can be subdivided into criminalisation of the client and criminalisation of the seller⁵¹.

Even if less common, it is possible to use a typology based on four categories, such as that adopted by Garofalo Geymonat⁵²:

<i>Criminalisation (or prohibition)</i>	<i>Regulation (or legalisation)</i>	<i>Abolitionism</i>	<i>Decriminalisation</i>
Public authorities completely outlaw sex in exchange for money. These countries directly target sex workers that commit what is seen as a criminal offence. This group also includes countries that have shifted their attention from workers to clients, such as Sweden.	Sex work is recognised by the state (only between adults and without any restrictions), and the sexual activities are regulated by law, as for instance in Germany and the Netherlands.	Sex work is not illegal per se, but the ban is on both illegal activities (such as trafficking) and third-party gain (such as brothels and pimping). Italy but also Spain and the United Kingdom belong to this group.	The last group is also the most recent, introduced in 2003. New Zealand was the first country and still one of the few to adopt this policy, where no specific law on sex work is in place and the act of selling sex and sexual services is equal to any other economic activity.

47 Garofalo Geymonat, G. (2014), *Vendere e comprare sesso. Tra piacere, lavoro e prevaricazione*. Bologna: Il Mulino. Translated in Bacio, M. (2018), *Male Sex Workers. A Comparative Study of a Fringe Phenomenon in Italy and Sweden*, mimeo, Lund.

48 Holmström, C., and Skilbrei, M-L. (2017), “The Swedish Sex Purchase Act: Where Does it Stand?”. *Oslo Law Review*, 4(2): 91

49 Hubbard, P., Matthews, R., Scoular, J. (2008), “Regulating Sex Work in the EU: Prostitute Women and the New Spaces of Exclusion”. *Gender, Place and Culture*, 15(2): 137-152.

50 Östergen, P. (2017), *From Zero-Tolerance to Full Integration: Rethinking Prostitution Policies*. DemandAT Working Paper, No. 10.

51 Ibid

52 Garofalo Geymonat, G. (2014), *Vendere e comprare sesso. Tra piacere, lavoro e prevaricazione*. Bologna: Il Mulino.

2. THE COMMODIFICATION OF HUMAN BODIES

As economists, we believe that public policy should take into consideration welfare (impact) considerations. **In other words, under which arrangements are the actors involved in sex work better off?**

A recent study by Bettio et al., shows that **prostitution/sex work does not lend itself easily to being classed as a crime.**⁵³ Criminalisation typically hopes to quash demand, but there is evidence that pushing prostitution into the shadows not only makes sex work more dangerous, but increases demand⁵⁴. Analysing the move towards criminalisation in the United Kingdom, Bettio et al. suggest that this has changed the profile of clients in ways that may worry those who are concerned about the welfare of prostitutes as well as public health. By and large, clients of sex workers tend to be risk-takers. There is a high correlation between paying for sex and engaging in other risky behaviours. To many men, criminalised prostitution is actually more attractive than decriminalised or legal sex work.

This paper benefited from the contributions given at the IAFFE 2018 session on “Bodies and Markets: Ethical Arguments and Choices” (19 June 2018, SUNY New Paltz, USA). It was also enriched by the comments of participants at other events: i) a seminar held in Brussels, at FEPS in November 2018; ii) a seminar held at Sapienza University in Rome in November 2019. All received comments have been duly taken into consideration. Usual disclaimers apply.

53 Research on sexually exploited trafficked women Di Tommaso *et al.* (2009) shows that women who work on the streets are in some ways better off than sex workers in parlours, clubs or hotels. For both clients and sex workers, criminalisation pushes the market into secluded and, for the workers, isolating places. Flats, clubs and massage parlours are more separate from the rest of society; the welfare of sexually trafficked women decreases in these dangerous environments. Cf. Di Tommaso, M. L., Shima, I., Strøm, S. and Bettio, F. (2009). “As Bad as It Gets. Well-Being Deprivation of Sexually Exploited Trafficked Women”. *European Journal of Political Economy*, 25(2): 143–62.

54 Bettio, F., Della Giusta, M., Di Tommaso, M. L. and Jewell, S. (2018), *Criminalising Clients: Some Evidence from the UK*, paper presented at the IAFFE conference 2018, New Paltz (USA) https://editorialexpress.com/cgi-bin/conference/download.cgi?db_name=ESPE2018&paper_id=348

3. UNPICKING THE SEX WORK CONUNDRUM

By **Marco BACIO**, Lund University

INTRODUCTION

What is sex work? I have decided to start this short contribution with a question, which I think the reader should answer before continuing. So what is sex work? Is it a legitimate form of work or is it a job whose only characteristics are exploitation, harassment, and coercion? Also, can a person (woman or man) freely decide to be a sex worker or is it impossible to engage in such profession without considering the patriarchal oppression of our society? After more than three years of fieldwork in both Italy and Sweden, researching men who sell sex to other men, I understood that there are a few subject more politicized than sex work. Assuming a neutral position seems impossible, you must stand on one side or the other. The paradox is that both sides self-defined themselves as ‘pro-sex workers’: on one hand, being ‘pro’ sex workers means fighting for their rights, helping them to gain recognition as workers, and calling for laws that protect and legitimise their activities. On the other, being ‘pro’ sex workers means helping them to give up with their activities, saving them from themselves, and maintaining the status quo where laws seek to stop the commercialisation of sex through strict forms of criminalisation. In what follows, I will do my best to present sex work in a direct and neutral way, even if my position in favour of protecting the rights of sex workers to work and to engage in the commercialisation of sex may occasionally emerge.

Until now, I have only used the words ‘sex work’ and ‘sex workers’, but this is not the only way people who sell sex or sexual services are referred to. Indeed, the words ‘prostitution’ and ‘prostitute’ are both more widespread, and the oldest way to define the people in this industry. Unfortunately, there is not a straightforward way of distinguishing between these words. As I write, prostitution may be considered an older way of defining the market than sex work. Moreover, according to some authors, the term ‘prostitution’ covers the provision of direct sexual services fairly exclusively, and does not incorporate all the diverse and varied forms that sex work can take⁵⁵. Indeed, sex work, as an umbrella definition, includes all the various forms of direct

and indirect sexual activities: “*from lap dancing to phone sex, dominatrix to prostitution [...] it also considers the role of those who are integrated in the “sex as leisure” industry such as phone sex workers, maids, managers, lap dancers and sex shop assistants*”⁵⁶. Finally, the term ‘sex work’ was invented by sex workers themselves in their fight for their recognition and rights. For this reason, we should not find it strange that abolitionists and people who support the criminalisation of sex for money only use the terms ‘prostitution’ and ‘prostitute’. In the same way, in Sweden, the words ‘prostitution’ and ‘prostitute’ are used by people who support the so-called ‘Swedish model’, while those who are against it, such as the two main associations fighting for sex workers’ rights (*Fuckförbundet* and Rose Alliance) use the term ‘sex work’ and ‘sex workers’ by way of differentiation⁵⁷. I really think that words matter, but for the purpose of this text, I will use the two terms (‘prostitution’ and ‘sex work’, ‘prostitute’ and ‘sex worker’) as synonyms.

In the next section, I highlight the presence of male sex workers both throughout history and today. For many years, and still today, sex work has only been acknowledged as a ‘women’s issue’. In the third section, I engage with the various ideas and opinions about sex work among feminists that have taken centre-stage in respect of policies and regulation on the commercialisation of sex. In the fourth section, I present how prostitution is regulated in two countries, Italy and Sweden, as an example of different legislations in the European Union. In the fifth section, I show some of the results of my research on these two different European case studies, answering the question: does the different legislation in force in these two countries produce different outcomes for men who sell sex to other men? In the sixth section, I discuss the actions of the main European association that fights for the right of sex workers, ICRSE (International Committee on the Rights of Sex Workers in Europe), that is made by sex workers themselves, trying to understand what they are doing in order to spread out the voice of sex workers and made it heard by national and international institutions. The conclusions summarise the answers of the questions discussed in the earlier sections

55 Kingston, S., Sanders, T. (2010), Introduction: New Sociologies of Sex Work in Perspective. In: K. Hardy, S. Kingston and T. Sanders (eds), *New Sociologies of Sex Work*, pp. 1-8. Farnham, Surrey and Burlington, VT: Ashgate Publishing.

56 Ibid: 3

57 Bacio, M. (2021), Male sex work in Sweden: Criminalization of the client. In: J. Scott, C. Grov and V. Minichiello (eds), *The Routledge Handbook of Male Sex Work, Culture and Society*, pp. 479-490. Abingdon, Oxon and New York, NY: Routledge.

3. UNPICKING THE SEX WORK CONUNDRUM

and they highlight the main ‘new’ characteristics of female and male sex workers in the era of digitisation and the internet.

1. MALE SEX WORKERS

The act of selling sex or, more broadly, sexual services, has always been part of our history. Indeed, it is widely known as ‘the world’s oldest profession’, although I do not like such a cliché. The first historical records of sex work date back to Ancient Greece and the Roman Empire⁵⁸. Sex work has been through times of tight regulation, of extreme ‘freedom’, and through times when it was completely and deliberately ignored. It may come as a surprise to the reader, but this applies to both women and men. Some of the records I just mentioned, clearly acknowledge that there were men engaging in the act of selling sex⁵⁹. According to Friedman, it is possible to find “*male sex work in ancient Greece and Rome, pre-modern and Renaissance Europe, Japan in the days of the samurai, colonial and industrial America, and fin de siècle Western society*”⁶⁰. The idea that selling sex and sexual services is a ‘woman’s thing’ is misleading, but it is also very common in both society and academic contexts. For example, some years ago, Dennis (2008) analysed 166 articles published in social science peer-reviewed journals between January 2002 and March 2007, and found that 84% of the articles discussed only female sex workers, 10% only male, and 6% both⁶¹. These are also rather optimistic figures because only in recent years has the attention of researchers moved from female to male sex workers.

Why has this happened? In my view, there are two main reasons. The first, extremely pragmatic, is that the number of men who sell sex and sexual services is low compared

to the number of women⁶². It is important to highlight that is impossible to count how many women or men are selling sex in a particular city, region, or country. Even in countries (like Austria and Germany) with mandatory registration, only a few sex workers have decided to give their details, and these registers have become completely useless. This is because once a person’s name is in the book, the stigma attached is so strong that he/she will remain a sex worker for life, even if he/she decides to leave the market. Moreover, the first studies in this field were heavily focused on street prostitution, and women are much more visible on the street than men. This is because, in the case of the latter, both sellers and clients tend to avoid streets to protect their identity, and we may say even their heterosexuality, not a problem that male clients of female sex workers have to worry about. Due to this greater accessibility of women on the street, researchers focused their attention quite exclusively on them. However, there is a second reason why when we talk about prostitution, we do not include men in the debate. According to Davies and Feldman (1997), studies on male sex workers are marginalised because they deal with two peripheral academic interests, namely prostitution and homosexuality⁶³. First of all, the presence of male homosexual prostitutes contradicts much of the previous analysis conducted in this field, which identifies sex workers as women who sell sex and men as the people who buy sex from them. Moreover, the fact that this man-to-man sexual exchange contract is happening in an era of gay liberation creates a problem of understanding around the revolutionary egalitarianism of the gay community⁶⁴. For a long time, homosexuality has been neglected in both society and academia. In other words, the ‘problem’ of studying men who sell sex is that it both challenges the gender inequality of sex work/prostitution and embarrasses the revolution of gay sex within the gay community.

58 Cantarella, E. (2016), *Secondo natura. La bisessualità nel mondo antico*. Milano: Feltrinelli & Cantarella, E. (2015a), *L'amore è un dio. Il sesso e la polis*. Milano: Feltrinelli & Cantarella, E. (2015b), *Dammi mille baci. Veri uomini e vere donne nell'antica Roma*. Milano: Feltrinelli.

59 Friedman, M. (2014), Male Sex Work from Ancient Times to the near present. In: V. Minichiello and J. Scott (eds), *Male Sex Work and Society*, pp. 4-34. New York, NY and York, North Yorkshire: Harrington Park Press.

60 Ibid

61 Dennis, J. P. (2008), Women are Victims, Men Make Choices: The Invisibility of Men and Boys in the Global Sex Trade, *Gender Issues*, March 2008, Volume 25, Issue 1, pp 11–25.

62 Scott, J. Minichiello, V. (2014), Reframing Male Sex Work. In: V. Minichiello and J. Scott (eds), *Male Sex Work and Society*, pp. XII-XXVII. New York, NY and York, North Yorkshire: Harrington Park Press.

63 Davies, P., Feldman, R. (1997), Prostitute men now. In: G. Scambler and A. Scambler (eds), *Rethinking Prostitution. Purchasing Sex in the 1990s*, pp. 29-55. London and New York: Routledge.

64 Ibid

3. UNPICKING THE SEX WORK CONUNDRUM

2. FEMINISTS' IDEAS ON SEX WORK

Since prostitution was acknowledged as a 'women's issue' where men were just buyers and never sellers, feminists became very prominent in the debate around the commercialisation of sex. I will briefly present two different feminist approaches to sex work from one American and one British author.

According to Zelizer (2005), taboos exist against sex for hire and, moreover, the common beliefs are that "intimacy corrupts economy and the economy corrupts intimacy"⁶⁵. Yet [...] people often mingle economic activity with intimacy. The two often sustain each other"⁶⁶. So, what is the relation between the economy and intimacy? Zelizer gives us three different clusters: 1) separate spheres and hostile world, 2) nothing-but, and 3) Connected Lives. To summarise, in the first cluster people do not think that intimacy and the economy can mingle, but rather, as the name suggests, intimacy and economy are two different spheres. Those in the second cluster believe that contamination can occur between the economy and intimacy, but this contamination happens only under negative circumstances, such as coercion, patriarchy and abuse of power. In the third and last cluster, Connected Lives, people differentiate their multiple social ties by putting variable boundaries between every day practices including intimacy and the economy, negotiating the content of such ties⁶⁷. In this sense, the contamination between economic transactions and intimacy can also produce positive outcomes. Unfortunately, the majority of discourse on prostitution falls within the first two clusters.

What are feminist ideas on sex work? According to Scouler (2004), there are three different perspectives: 1) domination theory, 2) sex radicals and 3) post-modern subjects⁶⁸. In the first theory, prostitution is understood as (male) violence

against women and there is no distinction between forced and voluntary prostitution, because men use prostitution to maintain the relationship of possession on women. Sex radicals see prostitution as a complex social practice, but feminists in this category are sceptical if not against the idea of equating commercial sex to erotic diversity, because they still hold the view that this activity reinforces the dominant norms of heterosexuality and femininity⁶⁹. The last perspective is also the newest: post-modern researchers, for example, engage with the variety of forms that sex work can take and the different degrees of control and power in sex work⁷⁰. The feminists who belong to the third group engage with the socio-economic practices and structures that lead women (and men) into prostitution⁷¹. For them, there is no black-and-white in sex work, but different approaches for different situations.

To summarise, feminists have different opinions about sex work. Depending on their perspective (or cluster, if we use the division offered by Zelizer⁷²), feminists can call for laws that prohibit the market in sex (separate spheres and hostile world and nothing-but or domination theory), for laws that regulate the market (sex radicals), for laws that decriminalise sex work (Connected Lives and post-modern subjects)⁷³. These different ideas and opinions on sex work are not just theories but, as the next section highlights, have been converted into real practices or legislation that govern the commercialisation of sex around the world.

3. TWO CONTRASTING APPROACHES TO SEX WORK

There are many forms of legislation in force around the world seeking to regulate the sex market. This has occurred because many politicians genuinely believe that prostitution can be easily governed, an idea that is at once extremely flawed and dangerous. It is flawed because sex

65 Zelizer, V. A. (2005), *The Purchase of Intimacy*. Princeton and Oxford: Princeton University Press.

66 Ibid: 1

67 Zelizer, 2005

68 Scouler, J. (2004), The 'subject' of prostitution. Interpreting the discursive, symbolic and material position of sex/work in feminist theory, *Feminist Theory*, Volume 5, Issue 3, pp. 343-355.

69 Ibid

70 O'Connell Davidson, J. (1998), *Prostitution, Power and Freedom*. London: Polity.

71 O'Neill, M. (2001), *Prostitution and Feminism*. London: Polity Press.

72 Zelizer, 2005

73 Bacio, 2021

3. UNPICKING THE SEX WORK CONUNDRUM

work is not a national phenomenon but an international one, especially in the era of globalisation and digitisation. It is dangerous because certain laws can create problems rather than solutions for the people involved in the industry.

My case studies focus on two countries: Italy and Sweden, which have found different ways to regulate prostitution. The story of regulated prostitution in Italy is as much linked to the country's 25 years of fascism as it is to the post-war period. Regulated prostitution was ended by Act No. 75 dated 20 February 1958, better known as the Merlin Act. According to Italian Catholic and abolitionist author Da Pra Pochiesa, the law was approved after ten years of discussion, debate and studies, but was also helped by the 1926 Geneva Slavery Convention and the 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution and Others⁷⁴. The Merlin Act does not make prostitution itself a crime (the exchange of sex for money between consenting adults is not illegal and those doing so commit no offence), but outlaws brothels and house-sharing by prostitutes, and leaves any intermediary (between prostitute and client) aiding and abetting the purchase of sex liable to prosecution. Indeed, the Italian Prostitution Act had two main aims. The first one was to close the regulated brothels where, according to the promoter of the law, women were oppressed and reduced to a condition of slavery. The second aim was to stop the obligatory registration of women by both the police and the health authorities⁷⁵. When the law came into effect, 3,000 women were registered as prostitutes, but the real number was higher. Indeed, the first unintended effect of the legislation was that it pushed a high number of prostitutes onto Italy's streets. After 1958, nothing happened at national level. From time to time, politicians use prostitution as an electoral issue but without a clear or fact-based idea on what to do and, especially, without any parliamentary majority that could support any change in any direction. In recent years, city mayors have tried to combat street prostitution by fining both sellers and buyers, but these are just occasional measures intended to 'clear cities'

from on-street sex activity, without offering any long-term solutions.

The Swedish Sex Purchase Act was first presented as part of the Women's Peace Bill. Its purpose was "to combat prostitution, which was seen as harmful, both for those directly involved and for society at large"⁷⁶. The law had two main aims: to reduce prostitution (both in the short term by policing it and in the long term by fostering a profound change in attitude towards it) and to reduce human trafficking for sexual purposes⁷⁷. Moreover, the chief target of the public authorities, such as the Swedish police, had been migrant women. For this reason, in 1999, Sweden approved a law that criminalised the clients of prostitutes (the law purposefully avoids the term 'sex workers'). These clients, who commit a criminal offence, are punished with a fine and in theory even a custodial sentence (the law also changed in 2011 and the prison sentence was increased from 6 to 12 months), but according to statistics, only 200 cases are reported each year, of which only 10% lead to a fine or to a custodial sentence⁷⁸. Sweden became a global model, 'the Swedish model' or 'the Nordic model', since later both Norway and Iceland approved similar legislation. The term 'Nordic model' is inappropriate, even if it is used by many scholars worldwide; firstly because the legislation in Denmark and Finland is different, and secondly because, even if Norway had approved legislation similar to that in force in Sweden, both the discourse and the way in which the law is perceived by the population are completely different⁷⁹.

These systems are different because they had different aims. In Italy, the women members of parliament who proposed this law wanted to stop brothels without stopping the sale of sex between consenting adults. Of course, it can be argued that they probably thought that as an indirect effect of brothel closures, both the demand and the supply of sex for payment would decrease. Not only did this not happen, but it pushed a higher number of sex workers onto Italy's streets. On the other hand, in Sweden, the women mem-

74 Da Pra Pochiesa, M. (2011), *Prostituzione. Un mondo che attraversa il mondo*. Assisi: Cittadella Editrice.

75 Ibid

76 Skilbrei, M-L., Holmström, C. (2011), Is There a Nordic Prostitution Regime?, *Crime and Justice*, Volume 40, No. 1, pp. 479-517: p. 83.

77 Ibid

78 Garofalo Geymonat, G. (2014), *Vendere e comprare sesso. Tra piacere, lavoro e prevaricazione*. Bologna: Il Mulino.

79 Skilbrei and Holmström, 2011

3. UNPICKING THE SEX WORK CONUNDRUM

bers of parliament wanted to end the commercialisation of sex for everybody, without exception. But sex workers are still present in the streets of country's main cities, albeit not as much as they were in the past. Moreover, in both Italy and Sweden (and everywhere in the West), escorting services offered on the internet are flourishing. This is a key point, especially for Sweden, because having less prostitution on the streets does not mean that there are less prostitutes in the business, it just means that the number of prostitutes is lowering on the streets and moving and growing indoor, thanks to the internet. Something that has been called 'spatial switching'⁸⁰.

4. DIFFERENT LEGISLATION, SAME RESULTS?

I interviewed 45 male sex workers who use the internet to advertise their services and to find clients. I only interviewed men who were selling sex to other men and who were not forced or trafficked. The interviews have been carried out in Milan for Italy and in Stockholm for Sweden. I recorded our meetings and I analysed the transcriptions with the qualitative software Atlas.ti. The names given below have been changed to protect the identities of the interviewees.

The majority of the men I met in both Milan and Stockholm were unaware of the legislation of the country they live in, or had very limited ideas about it. This is of most interest in the case of Sweden, as it transpires that the famous 'Swedish model' is not that famous at all. Some of these men know that it is not difficult to find the information regarding the laws in force in a particular country: 'It is not hard to find, it is just a Google away' (Lev, 20, Stockholm). In the era of the digitisation and especially for those sex workers who use the internet to find clients, research should not be that difficult. So, why do they not care?

Although the majority of the men I interviewed were based in the country in which the interview was conducted, I also had the chance to meet men who travel across Europe and worldwide and sell sex during these trips. The men who fell into this category (I called it the 'international group') were

also unconcerned about the different legislation in force in the countries they visit:

M: Do you know the legislations about sex work in the countries you visit?

J: Vaguely.

M: Also, in the US?

J: I just know that it is not technically legal, but I do not know any specifics besides that.

M: You said vaguely, what does it mean?

J: As I am aware because it takes no effort to know but I am also disinterested because it does not matter to me. Unless there are some countries out there where the penalty is death or something like that, then maybe I would be interested in knowing but it is not an important piece of information to me.

M: So, you did not check in advance before you came in Sweden?

J: No.

M: And also, in the US is a vague idea.

J: I think it is illegal in all states besides Nevada, I know that much. (Noah, 29, Stockholm).

These two extracts from interviews highlight that the men who sell sex to other men, regardless of the country they work in, feel comfortable and safe to work, without the need to be scared of the police or legislation. Indeed, 44 out of 45 men I met did not face any issue with any public authorities (police included) for their activities of selling sex and sexual services. As far as they know, this situation is shared with their clients. Paradoxically, the only man who had dealings with the police was Faruh a Master student of 26 years old, from South-East Asia, living in Copenhagen and who worked in both Denmark and Sweden. When he started work in the sex industry, he received a visit from the Danish police in order to check where he lived, and if there was any coercion involved in this work. Apparently, but not surprisingly, a country where prostitution is legal has more control of the people involved in the industry than a country where prostitution is a criminal offence.

80 Hubbard, P., Matthews, R. and Scoular, J. (2008), Regulating sex work in the EU: Prostitute women and the new spaces of exclusion, *Gender, Place and Culture*, Volume 15, Issue 2, pp. 137-152.

3. UNPICKING THE SEX WORK CONUNDRUM

I still need to answer the question about the reasons why men who sell sex to other men in Sweden and Italy do not care about the various laws on sex work. I think in essence, there is a simple answer. Because they are men or, more precisely, because they are not women. Indeed, since the debates of governments, parliaments (even the European Parliament), feminists and activists are so focused on women as sellers, men who sell sex can be both aware of this situation or not, but they can certainly benefit from it: the benefit of being invisible and to continue to sell sex⁸¹. This advantage is shared with their clients, although in some countries, like Sweden, they are committing a public offense. Anyway, here I just mention one of the aspects of their job: the visibility of their activities. Of course, there are more things to care about besides police enforcement. For this reason, the next section is devoted to the work of the main European association that fights for the rights of sex workers: ICRSE.

5. SEX WORKERS' RIGHTS IN EUROPE

It comes as a surprise, but female, male, and trans* sex workers are able to speak for themselves. Very often in debates, from local level to the highest international institutions, around the issue of prostitution many voices are heard (such as feminists, politicians, religious associations, women associations, and so on), but it is unlikely the opinions of those directly involved in the market are included. Why are sex workers' voices ignored? In my opinion, the main reason is linked to the stigma attached to this profession. Since prostitutes are largely perceived as victims (of trafficking or themselves) actors involved in policies debates do not think it is worthy to invite sex workers at their head tables. In this way, committing a real abuse because the developments of such discussion can lead to change in policies governing the sexual market. Then, it is for me important to highlight that sex workers are able to speak for themselves; they do not need any mediator, academic researchers included.

For this reason, I here present the work of the main European association that fights for the rights of sex workers: ICRSE. The International Committee on the Rights of Sex Workers in Europe is “a sex worker-led network representing 109 organisations led by or working with sex workers in 35 countries in Europe and Central Asia”⁸². The aim of ICRSE is “to ensure that the voices of sex workers in the region are heard, listened to and respected”⁸³. Most notably, in 2005 both a ‘Declaration of the Rights of Sex Workers in Europe’ and a ‘Sex Workers in Europe Manifesto’ have been elaborated and endorsed in order to clarify the position of sex workers themselves about their activities as sex sellers, the rights that are precluded to them due to such activities, and what they want to achieve in order to gain access to better living and working conditions. Indeed, the first two core values of ICRSE are: the recognition of sex work as work and the opposition to all forms of criminalisation and all the other legal provisions against sex work. Moreover, sex workers point to the New Zealand framework as the best model for protecting the life and the work of those involved in the market. In 2003, New Zealand became the first country in the world to adopt a policy labelled as “decriminalisation”. In this country, there is not a specific law on sex work (different from countries that have “legalisation”, such as Germany, the Netherlands, and Switzerland) and selling sex and sexual activities is equal to any other economic activity⁸⁴. Since then, only in other few contexts decriminalisation has been replicated (such as the state of New South Wales in Australia), but discussions are ongoing in many places (from the state of Washington DC in the United States to Slovenia and Malta in Europe). Anyway, the path to achieve decriminalisation is still long and difficult, because while sex workers are aiming to more rights and better future, there is a strong push towards the criminalisation of their activities, especially coming from those who want to extend the “Swedish Model” within and beyond Europe (in recent years, the legal framework that criminalise the client of prostitutes have been approved in France, Ireland, and North Ireland in the UK, just to name a few).

81 Bacio, 2021

82 www.sexworkeurope.org/about-us

83 ibid

84 Bacio, 2021

3. UNPICKING THE SEX WORK CONUNDRUM

Therefore, in recent years, together with their activities of “building capacities for sex workers and their organisations”, ICRSE developed an approach more directed towards the advocating for sex workers’ rights. In this way, ICRSE moved on the same ground and places of those who are in favour of extending criminalisation in prostitution. This has been an important and fruitful relocation. In this context, ICRSE developed relations with other organisations in Europe that clearly support decriminalisation of sex work (like Amnesty International). It is important to state that, although the path towards the full recognition of sex work as work is still long, in recent years sex workers have showed the capacity to organize themselves and to counterstrike policy attempts

to extend the “Swedish Model” beyond the north of Europe. The following two pictures⁸⁵ show two different rallies made by sex workers themselves: in the first picture, dated June 2015, sex workers are convening in Paris in front of the office of Médecins du Monde (Doctors of the World, another organization in favour of decriminalisation) to network, share strategies, and protest against criminalisation. In the second picture, dated June 2019, sex workers are protesting in front of the Romanian Parliament in Bucharest, asking for more rights and decriminalisation. In both pictures, sex workers and their allies are carrying red umbrellas, the international symbol of sex working.

FIGURE 1. Sex workers in Paris, June 2015.



85 ICRSE granted me the right to use these two pictures for the purpose of this contribution. Rights are reserved and the images cannot be used without explicit consent from ICRSE.

3. UNPICKING THE SEX WORK CONUNDRUM

FIGURE 2. Sex workers in Bucharest, June 2019.



6. CONCLUSIONS

The sample I used for this short contribution is biased. I only met people who are “happy” with the activity of selling sex and sexual services, who are not forced or trafficked. But is it my sample that is biased, or is it the general opinion that all but a small minority of people involved in prostitution are trafficked? In my view, there are two problems. The first problem relates to the fact that for many feminists, almost all women (and men) who sell sex are forced to do so. There are no reliable statistics about how many women and men are trafficked and how many are not, but the general idea is that trafficking is centre-stage when we talk about prostitution. This is misleading. Moreover, many feminists have the idea that legalising or decriminalising sex work would have the effect of increasing the number of people trafficked, while criminalising prostitution would lead to the end of trafficking. But what links radical feminists and activists is that they all want the end of trafficking of human beings for the purpose of prostitution.

The second problem arises from the fact that many feminists involved in the sex work debate cannot contemplate that some women and men may want to be sex workers. Then, the focus of these feminists is not only to stop trafficking but to stop prostitution in whatever form, even when there are women and men who are free and “happy” to do it. This is dangerous, because it results in many projects and actions, some of them publicly financed, focusing on rescuing people who do not want and do not need to be rescued from sex work.

During the fieldwork in both Italy and Sweden, I discovered that a strong majority of the people I met were part of the so-called middle class. In a recent work, Bernstein (2007) found particular and common characteristics for the sex workers who were working in the post-industrial cities of the West⁸⁶. These traits are being white, part of the middle class and having a high level of education

86 Bernstein, E. (2007), Sex Work for the Middle Classes, *Sexualities*, Volume 10, Issue 4, pp. 473-488.

3. UNPICKING THE SEX WORK CONUNDRUM

(e.g., university degree). Bernstein posits that, thanks to the internet and new communication technologies, sex work has become a profession for women and men who are, in a sense, privileged⁸⁷. In this way, the commercialisation of sex has taken on a “new respectability”: “middle-class sex workers’ frequent embrace of an ethic of sexual experimentation and freedom must thus be seen not only in ideological terms, but as a particular strategy of class differentiation as well [...] the new petite bourgeoisie regards fun, pleasure, and freedom as ethical ideals worthy of strenuous pursuit”⁸⁸. It is still open and not completely clear why certain middle-class and privileged women and men decide to engage in sex for money instead of finding other types of “standard” employment. But it is clear that women and men who want to sell sex should be able to do so safely and with the protection of society as a whole.

It is clear that sex workers’ voices have been largely ignored by all the actors involved in elaborating solutions to the long-standing debate of prostitution. The time has come to listen to those who are directly involved in the sexual market, both sides, sellers and buyers, inviting them when discussions around sex work are made. But before that, and in order to do it, public authorities, politicians, police, feminists and women associations, should change their attitude towards sex work and sex workers, opening up the possibilities for real debates and discussions without preconceived ideas. Not only sex workers will benefit from this inclusion, but it will lead to a better society too.

87 Ibid

88 Ibid: 477

CONCLUSIONS AND POLICY RECOMMENDATIONS

By **Hannah MANZUR** (City, University of London)

INTRODUCTION

The policy proposals outlined in this policy study reaffirm and extend the position and proposals outlined in the 2014 Honeyball Report⁸⁹, and align with the Neo-Abolitionist 'Equality Model' approach to prostitution.⁹⁰

These proposals seek to: (1) **tackle demand for prostitution and sex trafficking by implementing the 'sex buyers law' and further prevention measures;** (2) **provide a support system for prostituted persons through networks, services and protections;** and (3) **encourage a change in perceptions, attitudes and practices through education, campaigns and training provisions.** Alongside these recommendations, this report emphasises the need for an intersectional, gender-mainstreamed and evidence-based approach to the development of sexual exploitation policies, including measures targeting systemic inequalities and violence experienced by marginalised and vulnerabilised groups, and the need for sufficient funding and resource allocation to achieve these policy aims.

This report views **prostitution from a feminist perspective**, with an **emphasis on gender equality, security and health.** It argues that prostitution is a **profoundly gendered phenomenon** which poses a security threat to victims and survivors who are often silenced and marginalised, and results in long-term damage to prostituted persons' mental, physical and sexual health. These recommendations are based upon the view that rather than a form of employment, prostitution constitutes a form of gendered violence which is a cause and consequence of intersecting gendered inequalities. Within this perspective, violence and exploitation are not incidental, but intrinsic to the system of prostitution, which sits at the intersection of capitalist and patriarchal exploitation, and which relies on the invisibility of those most vulnerable to violence and exploitation to sustain this system.

1. PERSPECTIVES ON PROSTITUTION: GENDER, SECURITY AND HEALTH

Gender: Prostitution is divided along gendered lines, where the vast majority of prostituted persons are women and girls (90%)⁹¹ on the one hand and male sex purchasers and third-party actors on the other. It is the manifestation of a system of gender inequality and discourses of sexuality based on relations of power, control and ownership of women's bodies by men.

The specific causes of women's entry into prostitution are also deeply gendered. Female and family poverty, precarious and low-paid female employment, abusive and coercive relationships, sexual 'grooming' and insufficient support for vulnerable groups (eg victims of domestic violence, substance abuse, migrants and ethnic minorities) are all factors which push women into prostitution, with varying degrees of 'force'.

Prostitution therefore must be addressed as part of a comprehensive strategy against gender inequality. Policies that aim to challenge gender inequality must address prostitution as a form of sexual exploitation and gender-based violence, which is itself a cause and consequence of gender inequality.

Security: Prostituted persons, particularly women, are subject to a variety of threats to their security as a result of prostitution. These include economic precarity and exploitation, social exclusion and discrimination, health risks, criminalisation and abuse by authorities, and in particular, sexualised and misogynistic acts of violence and abuse. A study on violence and post-traumatic stress disorder among prostitutes found that 82% of prostituted persons had experienced physical violence, 68% had experienced rape and 68% suffered from post-traumatic stress disorder⁹², corresponding with various other

89 Honeyball, M. (Rapporteur). 2014. European Parliament Report on 'Sexual Exploitation and Prostitution and its Impact on Gender Equality. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2014-0071+0+DOC+PDF+V0//EN>

90 This report strongly supports an intersectional, gender-mainstreamed and evidence-based approach to policy development on sexual exploitation in the EU, including further targeted research on principles and best practices.

91 [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/493040/IPOL-FEMM_ET\(2014\)493040_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/493040/IPOL-FEMM_ET(2014)493040_EN.pdf)

92 Farley, M. and H. Barkan. 2008. 'Prostitution, Violence, and Posttraumatic Stress Disorder'. Available at: https://www.tandfonline.com/doi/abs/10.1300/J013v27n03_03

CONCLUSIONS AND POLICY RECOMMENDATIONS

reports and studies. Prostitution also fuels demand for sex trafficking, which not only carries an economic cost to victims, survivors and society of €2.7 billion per year in the EU, but the life-long consequences of sustained sexual and physical violence, sexual exploitation, trauma and marginalisation for victims and survivors.⁹³

In addition to violent and abusive practices, prostitution acts as a system of sexual exploitation which relies upon relations of control, ownership and coercion, particularly where third-party actors (eg pimps, brothel owners, sex traffickers) are involved. Victims of violence and abuse within prostitution are therefore often extremely limited in their ability to seek help, exit the industry, and voice their insecurities and experiences, despite 90% of women in prostitution expressing a desire to leave if they could.⁹⁴

In this way, prostitution involves the problem of ‘security as silence’, whereby “insecurity cannot be voiced, when raising something as a security problem is impossible or might even aggravate the threat being faced”.⁹⁵ Prostituted persons are often unable to ‘securitise’ the multitude of threats they face within the system of prostitution due to the gendered dynamic of the system, which is based on violence, inequality, marginalisation and deprivation, and their position within it.

Alternative models fail to effectively address the problem of ‘security as silence’ within prostitution, as Prohibitionist approaches, which primarily target victims over perpetrators, reinforce barriers to a victim’s ability to securitise prostitution-threats, and as Regulationist approaches, which legitimise prostitution as sex ‘work’, tend to deprioritise and marginalise the experiences of the majority who feel trapped within the industry and who suffer extreme levels of violence and insecurity.⁹⁶

Health: Prostitution is also a global health issue, as it is a global phenomenon which severely increases risks to individuals’ mental, sexual and physical health. Prostituted persons are more likely to suffer from sexual, physical and mental health traumas, drug and alcohol addiction and an above-average mortality rate⁹⁷. Social attitudes towards sex based on unequal gender roles and hierarchal gender relations perpetuate abusive and exploitative sexual practices, which are damaging to individuals’ mental, sexual and physical health.

Policies on prostitution must therefore include comprehensive healthcare provisions to prostituted persons and promote healthy attitudes and behaviours towards sex and sexuality in society, grounded in mutual respect and consent. Healthcare institutions and professionals should be better included in policy-making decisions and specialised support related to prostitution.

93 Walby et al. 2020. <https://op.europa.eu/en/publication-detail/-/publication/373138c5-0ea4-11eb-bc07-01aa75ed71a1/language-en/format-PDF/source-166581684>

94 Farley, M. and H. Barkan (2008)

95 Hansen, L. 2000. ‘The Little Mermaid’s Silent Security Dilemma and the Absence of Gender in the Copenhagen School’. page 287. Available at: <https://journals.sagepub.com/doi/pdf/10.1177/03058298000290020501>

96 Farley, M. and H. Barkan (2008)

97 See: Honeyball Report 2014. Esp. pages 7-9

CONCLUSIONS AND POLICY RECOMMENDATIONS

2. POLICY RECOMMENDATIONS

Tackling Demand: the ‘Sex Buyers Law’ and Preventative Strategies

Calls for the introduction of the ‘Sex Buyers Law’, which (1) criminalises the purchase of sexual services and (2) decriminalises the sale of sexual services.

Prostituted Persons

This approach recognises prostituted persons as victims of sexual exploitation, who should be the focus of protective and supportive measures. **The ‘sale’ of sexual services by prostituted persons⁹⁸, as well as associated practices like solicitation, should be decriminalised with retroactive effect.** This means that previous convictions and cautions for selling sex (and related offences) by prostituted persons would be deleted from their records. Retroactive decriminalisation seeks to remove barriers to alternative employment, social inclusion and exit pathways for prostituted persons, and to disrupt the cycles of poverty, exclusion, invisibility and silence which keep women in prostitution.

Sex Buyers

Calls for the criminalisation of the purchase of sexual services, as well as associated practices. Police and judicial efforts should be redirected away from seller-associated offences and towards purchaser-associated offences, such as kerb-crawling⁹⁹. DNA samples of offenders should be collected in all cases.

First-time offenders should be subject to a criminal caution and court-ordered ‘perpetrator programmes’: mandatory education and awareness programmes designed specifically for sex purchasers. These programmes should seek to inform and reform participants, and should include testimonies from former victims of sexual exploitation and trafficking. Perpetrator programmes and counselling should last for a minimum of six months, with a final assessment to determine the best long-term options for support and treatment based on offenders’ individual needs.

Repeat offenders should be subject to **criminal sanctions¹⁰⁰**. They should be offered support alongside their sentence, such as sex and relationship advice and counselling. Repeat offenders should be banned from areas known for prostitution (including identified hotspots and red light districts), with violations of this ban incurring additional penalties.

Third-party Actors

The involvement of third-party actors in prostitution, as well as the owning and running of brothels, should be criminalised, with strict penalties applied to offenders. Third-party actors include those who cause, incite, or control the prostitution of another person for their own gain or profit (including pimps, brothel owners and managers, ‘agents’ and ‘managers’, sex traffickers, etc.). States should consider **including pimps and sex traffickers on the sex offenders register**.

Brothels should be strictly banned, but laws should allow for the sharing of premises by prostituted persons (conditional on no third-party involvement), which is often practiced as means of protection against violence, forming support networks and resisting external exploitation. Prem-

98 Whilst this report takes the view that sex is not bought or sold, rather, access to victims and practices of sexual exploitation are bought and sold, it uses the more widely-used language of the former for clarity on laws and policies, but nevertheless encourages a wider discursive shift towards the latter.

99 For example, UK data shows that police forces focus on seller-associated offences twice as much as seller-related offences, leading to the disproportionate criminalisation of prostituted persons and a level of impunity for clients’ activities. See: House of Commons Home Affairs Committee 2016-17 report on Prostitution, page 16. Available at: <https://publications.parliament.uk/pa/cm201617/cmselect/cmhaff/26/26.pdf>

100 This proposal also includes a call for research into the effects of various forms of penalties (such as fines, community service, prison time etc.) on the rate of prostitution, the criminality of clients, security and health risks to prostituted persons, shift in societal attitudes and behaviours, as well as other effects. Such research should be prioritised in policy-making decisions regarding penalties for sex purchasers.

CONCLUSIONS AND POLICY RECOMMENDATIONS

ises suspected of prostitution should be subject to **health and safety checks**, in order to safeguard victims from unsafe and exploitative practices and environments, and to tackle third-party involvement. Training should be provided for relevant authorities, alongside a reporting mechanism, to prevent abuse or harassment from authorities through this measure.

Additional Protections for Vulnerable Groups

Offenders who purchase sex from, and third-party actors involved in, **the sexual exploitation of children and young people** (under 21 years old), **pregnant women** (beyond a certain threshold, ie 24 weeks) **and persons with mental or physical disabilities should be subject to stricter penalties**, due to the increased mental and physical health risks and likelihood of exploitation.

National and local authorities should adopt a proactive, zero-tolerance approach to child sexual exploitation, including stricter penalties in cases of underage sexual exploitation (with escalating prison sentences dependent on the victim's age, beginning at under 21 years old), regardless of the perpetrator's awareness of their age¹⁰¹, and placement on the sex offenders register.

Prostitution cases involving disabled individuals should scrutinise whether they were fully able to give consent, and whether they were coerced by or dependent upon either the sex purchaser or third-party actor involved. Identifying these cases and supporting the victims of them requires specialist training and services based on the specific needs of these vulnerable groups.

Prevention Strategies: Localised Measures

Calls for **watchdog and monitoring services for common entry points into prostitution**, such as modelling agencies, casting companies, massage parlours, etc. These services should be (at least) gender-balanced and include experts and service providers with on-the-ground experience of supporting those vulnerable to and subjected to sexual exploitation.

There should be an emphasis on prosecution and conviction, as these are disproportionately low for sex crimes and sex purchasers. There should be an **annual review of the level of convictions** in relation to prostitution rates, with increased efforts and strategy reviews where conviction levels are low.

Communities must be provided with the necessary tools, assistance and access to expertise and resources to enable them to address sexual abuse, exploitation and trafficking through local community action and support networks.

Prevention Strategies: External and Cross-Border Enforcement

The sex buyers law should also apply to citizens who purchase sex abroad¹⁰². States should proactively address the rise of sex tourism by prosecuting citizens for offences committed abroad, and by collaborating with other states, and police and judicial forces to identify perpetrators of sexual abuse and exploitation across borders.

Calls on all NGOs (particularly aid providers), and armed forces, to **take strict action against its employees and associates who purchase sexual services in conflict zones and aid-beneficiary areas**, and to take a proactive

¹⁰¹ Allowances for perpetrators to evade additional/harsher penalties due to a claimed lack of awareness of the victim's age should not be permitted, particularly as studies show that "half of purchasers continue to buy sex irrespective of clear indications that the prostituted persons are under 18 years of age" (Honeyball Report, page 7).

¹⁰² This law has been successfully implemented in Norway and Sweden, with reports suggesting that sex tourism from these countries is very low.

CONCLUSIONS AND POLICY RECOMMENDATIONS

approach in supporting victims of prostitution in conflict areas where possible.

Providing Support: Networks, Services and Protections

Protecting Prostituted Persons from Violence and Abuse

Support provisions must account for multiple and intersecting inequalities and vulnerabilities of victims and survivors, including those based on race and ethnicity, migrant status, socio-economic status, gender identity, sexual orientation, mental health and disability, and other systemic and individual factors affecting victims. Culturally sensitive and needs-based support should be provided, including services run by and for marginalised groups, with dedicated funding directly towards specialist services which address specific, multiple and intersecting vulnerabilities and inequalities.

Panic buttons should be installed in areas known for prostitution and made individually available to prostituted persons with a direct line to emergency services.

Free 24-hour helplines to be made available to victims of prostitution and sex trafficking. These should provide front-line advice and support, as well as information on relevant services for long-term support.

Establish **clear reporting channels** to report abuse and harassment against prostituted persons (including by corrupt police and government officials). Those reporting abuse and corruption through these channels should be entitled to whistleblower protections, and offered witness protection measures where necessary.

Promote the use of **European Protection Orders** to tackle the level of sexual, domestic and gendered violence and abuse suffered by prostituted and trafficked persons, as these are cross-border issues.

Reiterates the call for states to **ratify and implement the Istanbul Convention** as well as calls for a **European Directive on Violence against Women**, which research suggests may reduce VAW¹⁰³ by 10% and its economic costs by €7billion per year¹⁰⁴.

Harassment and abuse of women that is specifically misogynistic in character should be legally defined as a **misogyny hate crime**¹⁰⁵, with offenders facing proportionate penalties.

Support Services

A **centralised online directory of support services available to prostituted persons**. This should be linked to helplines where prostituted and trafficked persons may be advised on relevant support services.

Free, comprehensive exit programmes to be provided for prostituted persons who want to exit the sex industry¹⁰⁶. Exit programmes should be introduced and funded by national governments, in close collaboration with key stakeholders and relevant professionals. Exit programmes should include clear pathways to education, employment, and where relevant, citizenship. They should also provide psychological and social support tailored to the participant's needs (ie childcare, counselling, accommodation, etc). Mentoring schemes which partner former and current prostituted persons should also be provided alongside these programmes.

103 Violence against women and girls

104 EPRS Briefing. 2018. 'Violence against women in the EU: State of Play' [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/630296/EPRS_BR\(2018\)630296_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/630296/EPRS_BR(2018)630296_EN.pdf)

105 This proposal was successfully trialled in Nottingham, UK. See: Nottingham University Study on trial of Misogynist Hate Crime (2018), available at: <http://www.nottinghamwomenscentre.com/wp-content/uploads/2018/07/Misogyny-Hate-Crime-Evaluation-Report-June-2018.pdf>

106 Studies suggest that a vast majority of prostituted persons would like to stop, particularly if alternatives are available, but feel unable to do so. See Honeyball Report, page 45; Farley, M. and H. Barkan, 2008.

CONCLUSIONS AND POLICY RECOMMENDATIONS

Walk-in centres providing free health checks (including free STD tests and contraceptives) **and access to free counselling.** These centres should provide information on support services via a directory, and offer sign-up options for **long-term counselling, case-worker support and exit programmes.** Services should be tailored (and staff trained) to the specific needs of victims of sexual violence, exploitation and trafficking.

Retraining and adult education programmes should be made available for prostituted persons without the requirement of exiting the sex ‘industry’ before enrolling. Gaining further education and skills should focus on giving individuals the skills needed for alternative employment.

Housing options: emergency housing and women’s refuges should be available to prostituted persons, with priority given to trafficked persons and those suffering from violence, abuse and health conditions. Transitional housing should be available to those in exit and retraining schemes.

These services should include **specialist support for migrant victims** of prostitution and sex trafficking, including strict exemption from deportation, immigration advice for them and their families¹⁰⁷, the provision of temporary visas and clear pathways to permanent residency or citizenship, the provision of independent translation services¹⁰⁸ (digital apps, such as the VITA tool¹⁰⁹ may be useful where funding is insufficient for on-site translators), and access to supportive caseworkers trained in immigration and sexual exploitation. This report also proposes gender impact assessments to be conducted for immigration policies and procedures.

Support Networks

National and local authorities should establish ‘**link networks**’ between different services, with named contacts (‘link members’) in each service, as part of a **strategic and supportive network on prostitution.** These ‘link members’ may include police officers, courthouse staff, healthcare professionals, local political representatives, immigration officers, as well as non-public sector figures such as community leaders, women’s refuge staff and women’s rights advocates. They will receive specialist training, will hold regular communication with one another, will act as signposts for information and support services in their sector, and will provide reports on progress and emerging trends. This network will improve communication between ground-level and front-line actors, providers of long-term support and policy-makers/influencers.

These cross-sector link networks should encourage prostituted and trafficked persons to seek help; prevent re-traumatisation when reporting abuse; better protect them against corruption and abuse from officials in these sectors; and improve the visibility of victim’s needs and interests.

Economic: Investing in Women

In addition to providing support to women in prostitution, this report recommends the inclusion of a **gendered approach to economic policies** as a means of addressing gender inequity and female poverty as drivers of prostitution. Women act as the primary shock absorbers of family poverty, are more likely to be poor than men and to head single-parent low-income households, and generally bear the brunt of austerity measures and economic crises¹¹⁰. This report reiterates the statement made by the DEVE Committee in the Honeyball Report, that “*the root causes*

107 Family members are often used to coerce victims of prostitution and sex trafficking, particularly in cases where family members are in the victim’s country of origin or are dependent on the victim for immigration or economic reasons.

108 Independent translation when accessing services and advice is critical, as victims with poor language skills may depend on translation by their abusers or those complicit in their exploitation, preventing them from freely accessing, responding to and accepting the support and advice offered.

109 VITA (Victim-Translation-Assistance): Handbook for Law Enforcement Officers and Victim Service Providers. 2010. Available at: https://www.unodc.org/documents/human-trafficking/UN.GIFT/Final_VITA_Booklet_Part_I.pdf

110 The Women’s Budget Group. 2018. ‘The Female Face of Poverty’. Available at: <https://wbg.org.uk/analysis/the-female-face-of-poverty/>

CONCLUSIONS AND POLICY RECOMMENDATIONS

*of human trafficking and sexual exploitation are inequality between men and women and poverty, compounded by ethnic and other socio-economic inequalities ... and that the main victims are women and children of low socio-economic status*¹¹¹. Tackling prostitution therefore necessitates a proactive response to female poverty and women's economic inequality.

Calls for national and local economic strategies which invest in women. Member states should introduce initiatives which promote and support women's economic empowerment, through, for example, skills training, childcare provision, support in gaining stable employment, investing and supporting female entrepreneurs and aspiring businesswomen, encouraging mentorship schemes and women's networks, and introducing gender quotas for industries where women are underrepresented.

Calls on member states to introduce or further develop **gender impact assessments** for economic policies (as well as all new policies generally), particularly in areas of social security, welfare, employment and austerity measures.

Changing Perceptions: Education, Media and Training

Education

Calls for the widespread promotion of positive and respect-based approaches towards sexuality and sexual relationships free from coercion, discrimination and violence via education and public awareness campaigns.¹¹²

Calls for a range of **educational tools** for various age groups on matters of sex and relationships, mutual consent and respect, sexual and mental health, as well as specifically on issues such as grooming, abusive and coercive

relationships, pornography, sexual and domestic violence, and sexual exploitation and trafficking. For example:

- **Comprehensive sexual health, relationship and consent courses**¹¹³ compiled by educators, relevant NGOs and charities, sex and relationship therapists/counsellors, and healthcare professionals.
- **Educational films and talks** with students and course participants, which include testimonies from former prostituted persons and sex trafficking victims.
- Inclusion of **role-playing exercises and other interactive tools** in schools to reveal and address unconscious biases surrounding sexuality, women's bodies and gender roles.

Calls for school curriculums to include teaching children and teenagers about sexual abuse and 'grooming' through **age-appropriate lessons on how to identify signs and how to react to and report sexual abuse and grooming**. These may be included in lessons on 'stranger danger', internet safety, sexual health and relationships, and related subjects. Calls for teachers, school counsellors and nurses to be trained to identify signs that students may be being sexually abused or groomed, to react quickly and appropriately on suspicions, and to report suspicions and incidents to the relevant authorities, including the police and child protective services.

Media

Calls on media watchdogs and regulatory boards to challenge reporting on sexual violence, prostitution and sex trafficking that minimises or blames victims, or that perpetuates harmful stereotypes and myths. Encourages reporters, journalists and media institutions to **follow guidelines on reporting** issues like sex trafficking, sexual violence and

¹¹¹ 'Opinion of the Committee on Development' in the Honeyball Report, page 20.

¹¹² See Honeyball Report, page 7.

¹¹³ Consent courses have been implemented within multiple UK universities to combat sexual violence on campuses, with promising responses and results.

CONCLUSIONS AND POLICY RECOMMENDATIONS

prostitution¹¹⁴. Calls on media publications to give equal weight to cases of VAWG, sexual and domestic violence, child abuse, prostitution and sex trafficking regardless of the cultural, ethnic or religious background.

Calls for action on the **gender imbalance in the media industry**, where women are situated primarily in front of, rather than behind, the camera. Calls for the introduction of gender quotas, targeted initiatives providing training, mentoring and networking opportunities for women, and for assessments on the working environment for women in these spheres (eg lack of childcare provision, institutional and workplace sexism, working hours and work-life balances which disadvantage primary carers, etc). Gender balancing within the media industry should be accompanied by proactive efforts to shift female media representation from passive, supporting or merely aesthetic roles to speaking and leadership roles.

Calls for the **banning of sexist advertisements** (as successfully implemented in London and Stockholm) and for stricter advertising regulations regarding harmful gender roles and stereotypes, and the sexualisation and objectification of women's bodies.

Calls for the introduction of national legislation which would **regulate the production and distribution of pornography**. Recommends stricter vetting processes and monitoring (eg mental health checks and counselling, health and safety inspections, exploitation and abuse assessments, etc.) within the industry, as well as the banning of practices which are or appear to be non-consensual, harmful, abusive, humiliating or misogynistic. Distributors should also be held legally accountable for violations of age restrictions by viewers, and must demonstrate proactive measures to curb the level of underage viewing of pornography¹¹⁵.

Calls for a ban (or limitations) in all public media (including films, tv, adverts etc.), as well as in pornographic materials, on producing or distributing sexualised images or representations of children¹¹⁶.

Training

Calls for **comprehensive police training** on how to identify, react and report on cases of sexual violence, exploitation and abuse, particularly in relation to prostituted persons as victims. Police should be encouraged and given the necessary tools and training, to address the high levels of sexual and physical violence and abuse perpetrated against prostituted persons.

Calls for measures to address **'unconscious bias' for jurors** at trials which involve sexual abuse, violence against women and girls, human trafficking and prostitution, such as online training and video presentations¹¹⁷. **Judicial staff, including lawyers and judges, should receive specialist training** for cases involving sex crimes and prostitution. This report also recommends establishing **specialist courts** to handle cases of VAWG, sexual violence and exploitation, and prostitution.

Alongside training for police and judicial staff, this report also calls on states to implement **gender-balancing measures** in these spheres, similar to those suggested for the media sector above.

Research

Calls on national governments to **commission and fund research** into the positive and negative effects of current national policies on prostitution, with the aim of comparing findings across the EU and supporting policy changes based on recent, comparable data.

114 Such as those provided by the National Union of Journalists and the Ethical Journalism Network

115 Research suggests that under-age viewing of pornography has a negative effect on young men's perceptions of women and sexual relations. See, for example, Fidgen, J. 2013. Available at: <https://www.bbc.com/news/magazine-22987051>

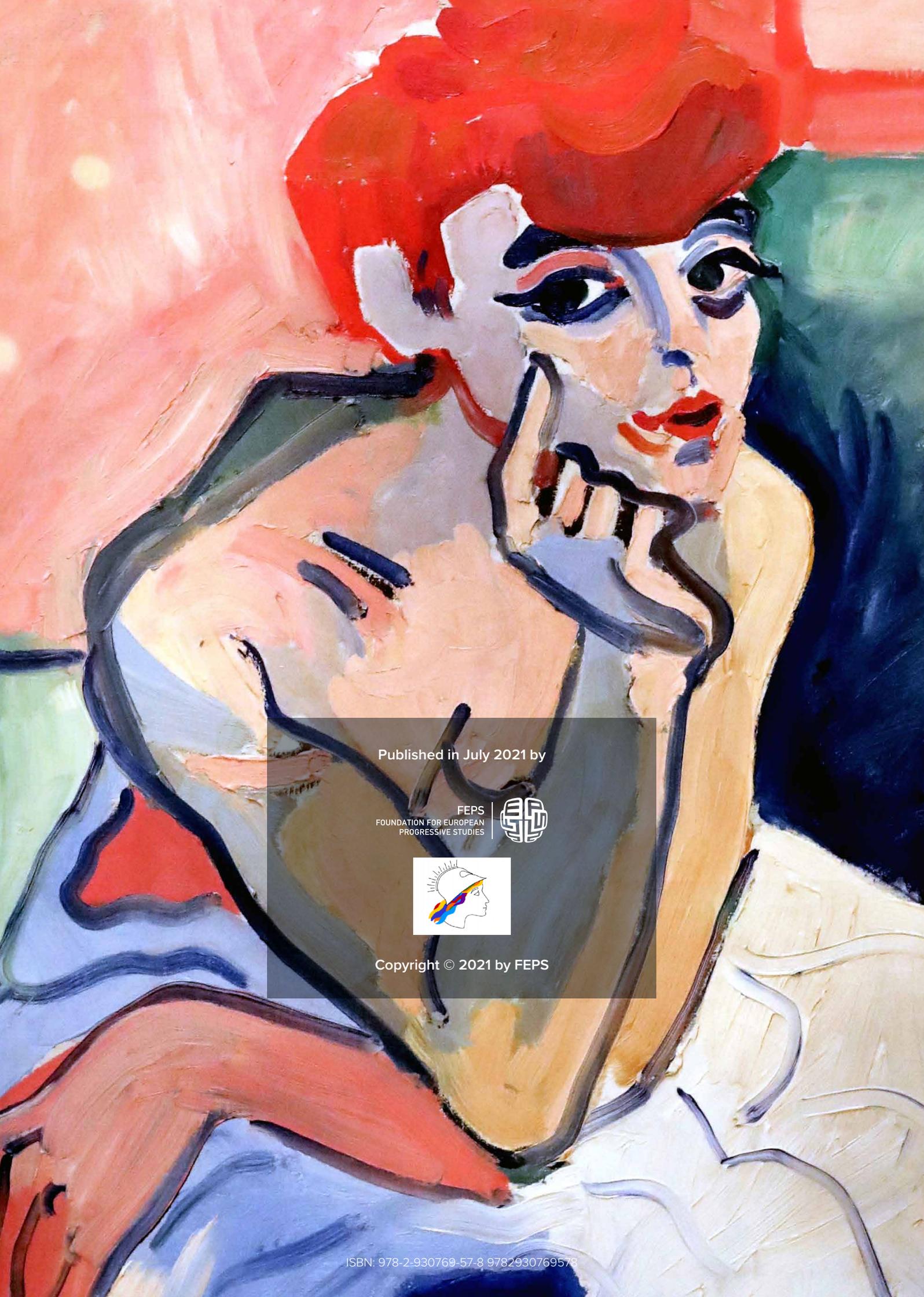
116 As well as individuals who appear to be, or are presented as, under the legal age of consent.

117 Examples of this include unconscious bias videos to be shown to jurors before trials. See: United States District Court, Western District of Washington, Unconscious Bias, video, 10:53, March 31, 2017, <http://www.wawd.uscourts.gov/jury/unconscious-bias>

CONCLUSIONS AND POLICY RECOMMENDATIONS

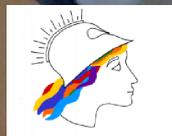
Calls for research and data collection to include **greater disaggregation of the data** collected. This should not only apply to male-female disaggregated data, but also to different socio-economic and identity-based groups. In order to create policies which reflect the intersectionality of subjects, policy-makers need access to data that address the complexity and multiplicity of the issue.

Calls for **greater collaboration and best-practice sharing** among national governments on prostitution, and for the establishment of an inter-state European research project which encourages collaboration and communication between different perspectives based on the sharing of data and analyses.



Published in July 2021 by

FEPS
FOUNDATION FOR EUROPEAN
PROGRESSIVE STUDIES



Copyright © 2021 by FEPS

ISBN: 978-2-930769-57-8 9782930769578