

# Prostitution and Public Life in Four European Capitals

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# Foreword

*Arianna Censi\**

Prostitution is a complex phenomenon that can only be understood by breaking out of the habit of interpreting it as something that only concerns women or as a problem exclusively linked to the sexual sphere. It is possible to truly understand prostitution only by taking a wider view that includes exploiters, who “import” women and children as if they were human goods, and clients: by requesting paid services from non-consenting people, clients increase the demand for a market of sex and play an important role in what must be considered gender violence and sexual exploitation.

The sex trade involves trafficking of human beings, almost always women and children, who are brought from one continent to another to satisfy the demand coming from developed countries. Human trafficking with the aim of sexual exploitation, but also work exploitation, has taken on such proportions as to be now considered the largest slave trade in history. The turnover is so sizeable, profitable, and extensive that trafficking of women and children is currently one of the fastest growing illegal enterprises in the world, growing faster even than drug trafficking. The 2005 *Trafficking in Persons Report*, drafted by the US Department of State, estimates that between 600,000 and 800,000 individuals fall prey every year to trafficking networks, and most of them are destined to sexual exploitation. About 80% of trafficked people are women and girls, and half are under 18 years of age. About 2 million children, especially girls, are slaves of the sex trade, a business worth several billion dollars.

While the general estimates are alarming, the studies made within individual countries show an even more tragic situation. High-impact international events, for instance, are often tied to tales of exploitation, violence, and trafficking. Organisations fighting human trafficking issued a warning on the extraordinary import to Germany of women from Eastern Europe in the summer of 2006, in order to meet the demands of potential clients arriving for the Football World Championship. It is estimated that between 40,000 and 60,000 women were imported to perform sexual services.

The aim of this book is to shed greater light on the proportions of this phenomenon and to evaluate the international impact of prostitution by analysing the trade’s data and ruthless laws. Violence against women is a complex and tragic social phenomenon that occurs on several levels and victims of abuse

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and violence can be found in any social context; however, abuse and violence are undoubtedly one of the aspects of the exploitation of prostitution and women trafficking.

The Province of Milan is working on several fronts to fight gender violence: it supports women's associations and anti-violence centres for victims; it fosters exchanges among social workers; it deals with prevention; it fosters research and dissemination of material (videos and publications) in schools and youth centres. One of the activities we strongly support, in part through the publication of this book, is the *Forum on Prostitution*. This is a steering group promoted by various organisations involved in the defence of women's rights and dignity (the trade unions CGIL, CISL, and UIL, Caritas Ambrosiana, the Coordinamento nazionale delle comunità di accoglienza and Milan's Provincial Council) to debunk clichés and draw attention to all phenomena linked to prostitution and human trafficking. The Forum was founded in response to the proposal for reform of the Italian prostitution law (Legge Merlin), as a means to promote a cultural debate that would spread awareness on gender relations and on the relationship between money and power, and support the spreading of a concept of sexuality that preserves women's dignity.

The *Forum* is a workshop that takes an interdisciplinary and multicultural approach, enabling participants to share different types of knowledge and experience and provide a significant contribution to the debate on prostitution, with the aim of leaving a mark on political and social policies.

## Introduction

### The world of prostitution and its regulation

*Daniela Danna\**

This study set out with the aim of discovering how different models of prostitution policies work locally, giving particular attention to new models: “neo-regulationism”, “neo-prohibitionism” (criminalizing only the client), “decriminalisation.” The cases chosen were Amsterdam, Stockholm, and Madrid, each an example of the policies mentioned above, and then Paris, where prostitution has recently been banned from the streets on the basis of a law that is similar to Italy’s abolitionist law.

We refer to the new laws as “new models” of prostitution policy because they are very different both from traditional regulation of prostitution, based on the discrimination of prostitutes as second-class citizens, and abolitionism, which was the dominant policy in almost all of Western Europe (the only exceptions being Germany, Austria, and Greece) in the Twentieth Century. It was abolitionism that shaped the 1949 UN Convention for the Suppression of the Exploitation of the Prostitution of Others, which in turn inspired the Italian prostitution law (Legge Merlin), currently still in force in Italy – albeit many new measures have been taken and new interpretations of the law attempted even in Italy.

We will verify whether the new models are really applied, whether the various principles the legislators chose to follow – supporting them with heated debate, with France and Sweden siding against the Netherlands in the EU institutions - reflect equally strong differences in the concrete management of the phenomenon. Let us first clarify the terminology used.

The abolitionist model, currently in force in Italy, used to form the basis of the laws in all four countries examined, although the same was not true in practice. The abolitionist movement, founded in the UK during the Nineteenth Century and led by Josephine Butler, is called abolitionist because its aim was that of abolishing the laws that imposed a stigmatised legal and social status on prostitutes. These laws created serious limitations of civil freedom: a status truly comparable to slavery. The laws were indeed cancelled. Perhaps the more naive abolitionists thought that prostitution would disappear, as slavery disappeared with its abolition<sup>1</sup>, however, prostitution does not need any laws to exist. Those who seriously think of abolishing prostitution the way slavery was abolished, i.e., foremost by means

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<sup>1</sup> Naturally this happens where laws are enforced, not in situations where the strongest rules or where wars are raging.

of a law prohibiting it, do not bear in mind that slavery, the possession of one human being on the part of another, is a condition created by law, therefore it can disappear with a stroke of a pen cancelling the law that had created it. Prostitution, instead, is an exchange that takes place in private, whose actors do not want to be identified, and which in past centuries survived even the fiercest repression.

Abolitionism legally abolished prostitution insofar as it could, creating laws that aimed both at repressing any economic exploitation of the prostitution of others, and encouraging women who engaged in it to leave their profession. In practice, all sorts of activities have been considered economic exploitation of prostitution: the renting of rooms or flats where prostitution is performed, even when market prices are applied; providing help in organising encounters; accompanying the prostitute to the work place; selling or offering goods to prostitutes; even partners and adult children of prostitutes who live with them and cannot justify their living standards with their own income have been criminalized<sup>2</sup>.

Abolitionism, born to defend prostitutes as women and give them back their civil rights, is based on the freedom to exchange sexual services with money; however, it refuses to give legal guarantees to this contract. In Italy and in the other countries examined (except, of course, the Netherlands) this contract is void because it is contrary to morality.

Abolitionism was successful: in the abolitionist period there certainly was a reduction in visible prostitution, because the increase in the living standards and aspirations of an increasingly well-educated female population made prostitution due to poverty a residual phenomenon. At the same time, “luxury” prostitution never did cause social alarm, and therefore could continue undisturbed (save for periodic and sporadic scandals) – despite the fact that it consists of the same exchange of sex for money. As the situation of women in general improved in Western Europe, the situation of prostitutes improved as well. There was a decline in the presence of exploiters, i.e., pimps of “traditional” prostitution, and an increase in self-management. Motivated by earnings, young women – fewer in number than before - chose to enter the profession, without being forced nor exploited. These are the women who in the Seventies and the Eighties founded the movements and associations of prostitutes, many of which still exist today, such as the Comitato per i diritti civili delle prostitute (Committee for the civil rights of prostitutes) in Italy.

Then, as globalisation advanced, especially after 1989, and new prostitution laws were introduced in many European countries, abolitionism ceased to be the dominant social and political way of thinking. The abolitionist vision, which confines prostitution in a limbo that ends at the threshold of public life,

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<sup>2</sup> The latter situation occurs in France according to the literal interpretation of the Penal Code and in Sweden by jurisprudential interpretation, but not in Italy nor in Spain.

does not seem to be viable any longer. In recent years, political thought and public debate have been leading either in the direction of a transformation of policies into open repression (including the “neo-prohibitionist” criminalisation of the client, sparing the prostitute), or towards the acceptance in the public sphere of the exchange of sex for money, through approval of regulations that, unlike those of the Nineteenth Century, try not to be punitive towards prostitutes but to protect them by giving their profession the status of a real job (we call these “neo-regulationist models”).

The prostitution laws in Europe have been modified in an attempt to control one of the most controversial outcomes of globalisation: the increase in street prostitution due to the arrival of women from poor countries and the former Eastern block. It would be better to speak of repression, instead of control, because this is what has happened in most cases, including that of “neo-regulationism.” We will examine this in greater detail later on.

The situation in four European cities will be our proving grounds to observe these new proposals in practice. We will examine the evolution of the world, or worlds, of prostitution under the effect of laws that have recently changed, introducing new policy models from 1995 to 2000.

In the four case studies we present information on the following topics, with *ad hoc* updates from very recent studies carried out by experts in the field:

- the number of people who engage in prostitution and the number of their clients, depending on the various types and settings of prostitution;
- the legal aspect;
- the debate that led to the approval of the laws currently in force;
- how the laws are enforced and their results;
- the type and organisation of social services dealing with prostitution;
- judicial statistics.

The questions we sought to answer were, in particular:

- how is the law currently enforced, i.e., what is the role of the police and (in the case of the Dutch legalisation) of the appointed authorities?
- what are the most recent events, evolutions, and changes in the practice of prostitution in the cities?
- what are the effects on the way prostitution is practised, what connections exist between different locations – indoors or outdoors – where the exchange of sex for money takes place?

We also studied the important issue of human trafficking, the outcomes of police raids, and try to assess the prostitutes’ living conditions and the incidence of coercion and violence in their lives.



We evaluated the policies in relation to the aims declared by the legislators, and made more general evaluations on their impact on the people involved.

In order to concentrate the evaluation of national policies on concrete local cases we chose four capitals: Paris, Stockholm, Amsterdam, and Madrid.

Paris. In 2003, the new French law on internal security introduced measures of repression of street prostitutes and clients of underage prostitutes, establishing *street prohibition* in response to the increase in the presence of foreign women on the streets, the same problem encountered in Italy.

Stockholm. In 1999, a form of “neo-prohibitionism” was introduced, which consists of the criminalisation of the “purchase of sexual services,” but not the selling of sexual services. Stockholm is important because of the considerable ideological impact of the choice of criminalizing the client alone (taken as a model for law proposals by the Italian parliament and, in 2005, by an organ of the Vatican). However, street prostitution in Sweden is not really comparable to Italy, since it is limited and foreigners were few even before the introduction of the new law.

Amsterdam. In 2000, the Netherlands introduced “neo-regulationism” after a period of tolerance and experimentation with town-based rules. The new law recognises prostitution as a profession; however, to practise it is necessary to have Dutch or EU nationality, despite the sizeable presence of foreign women in the sector.

Madrid. A new criminal code was in force in Spain from 1995 to 2003; it was still of the abolitionist type, but it had ceased to criminalize prostitution that takes place indoors. This form of “decriminalisation” was in force for a few years. In 2003, a step back was taken, returning to the previous abolitionist law. In Spain, as in Italy, the percentage of foreign streetwalkers is very high.

Many of the proposals to revise the Italian prostitution law take inspiration from these models.

Let us therefore take a closer look at these case studies to see how they work in actual practice in the cities chosen to represent the selected models.

# Prostitution in Paris

*Janine Mossuz-Lavau*\*

Let's be clear about it: this title is reductive on two counts with respect to the topic. First of all, in the use of the singular: there is no *single* prostitution in France, there are *several* types of prostitution, very different one from the other. There is female prostitution, male prostitution, transgender prostitution, street prostitution, prostitution advertised on the Internet or on specialised magazines, prostitution solicited in bars or in massage parlours, and there are call girls that advertise by word of mouth and can only be reached by phone. There are "traditional" prostitutes, generally French, who claim they engage freely in their profession, without being forced by exploiters (although some of them have what is called a "support pimp"), there are prostitutes from Eastern Europe or Africa who came to France with the intermediation (or under the protection) of gangs, there are prostitutes from North Africa who practise prostitution in the homes of immigrant workers, there are drug-addicted prostitutes, men or women, who accept bargain rates so they can immediately get the dose they need at any cost, there are transsexual prostitutes who want to pay their future surgery and, as all the others, survive.

The title is just as reductive in its referring to Paris alone. Prostitution in Paris can only be understood by taking into consideration the nearby towns as well (to include the Bois de Boulogne and the Bois de Vincennes) and, nowadays, the large *banlieue*, because of the recent changes in the geography of prostitution.

## **1.1.**

### **Story of a survey**

Over the past three years, important changes have occurred concerning prostitution in France, with the Sarkozy law becoming effective on 18 March 2003. Up to that date, France could be considered an abolitionist country. Since then, the country appears to be prohibitionist, judging from article 225, 10, 1 of the Penal Code rewritten by the Sarkozy law:

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Public soliciting, by any means, including a passive attitude, with the aim of inciting to sexual exchange in return for remuneration or the promise of remuneration shall be punished with two months of imprisonment and a €3,750 fine.

How did we reach this point? At the beginning of the Twenty-first Century, very young girls from Eastern Europe and the Balkans appeared on the streets of Paris (but also in other large French cities). Girls who were sent to prostitution by networks/gangs and established themselves in well visible groups in various areas of Paris, mainly on the avenues of the Maréchaux, but also in neighbourhoods in the north-eastern part of the city. Citizen complaints soon reached the authorities. The people living in those neighbourhoods were exasperated by the noise, the condoms left on the pavements, the loud rows, the coming and going of cars, and what their children were exposed to when they walked to school. Associations of citizens were founded to try to fight these new disturbing factors. In the north-east of Paris one of these associations denounced the “presence of illegals” - of drug dealers, drug addicts, and prostitutes. They wrote to the Municipality of Paris, but had trouble solving their problem.

Caught between sinister street types and red tape, the citizens who live in the areas of prostitution must come up with new knowledge and skills they can't find anywhere. Their dismay springs foremost from the lack of an institution that can mediate between the citizens, the police, the politicians, and the prostitutes. The isolation of the citizens steps up citizen mobilisation, which ends up getting lost amid the fogs of bureaucracy and the police, whose responsibilities are fragmented and divided by sectors: the Municipality exerts pressure on the home owners, the latter organise surveillance for each building, and the police only intervenes for certain types of offence (Redoutey, 2005, p. 71).

In some French towns the mayors, facing the same type of protests, banned prostitutes from certain neighbourhoods. France's Interior Minister Nicolas Sarkozy reacted very promptly, promoting a bill on internal security which, among other measures, criminalizes passive soliciting. When the content of the bill was made public in 2002, a few months after the re-election of Jacques Chirac to the Presidency and the arrival of a right-wing majority in the National Assembly, some prostitutes began to protest against what they considered an unfair obstacle to the practice of their profession. They protested the first time on 9 October 2002 in place de l'Odéon, on the occasion of a gathering of feminists, gays and lesbians against the return to moral order (Deschamps, 2005). Then they organised another, larger gathering in front of the Senate on 5 November 2002. The many prostitutes present wore white masks so as not to be recognised by their families. The demonstration was given a lot of attention by the

media. Other demonstrations followed, various associations were created, but nothing stopped the National Assembly from voting in favour of this law which makes it much more difficult to engage in the practice of prostitution.

As mentioned above, several municipalities in France had anticipated the call to arms, banning prostitutes from certain neighbourhoods. The Municipality of Paris took a more intelligent approach. Before taking any measure, it asked a team of researchers, coordinated by myself together with anthropologist Marie-Élisabeth Handman, to provide a survey of the situation. In 2002-2003, therefore, we conducted a survey on prostitution, on clients, and on the public agencies dealing with this phenomenon. We delivered a report in October 2003, continuing our work in the field until September 2004, and in January 2005 we published a book entitled *La prostitution à Paris*<sup>3</sup>. At the beginning of 2006, I carried out further additional study for this article. The report delivered to the Municipality of Paris and ensuing book insisted on the stigma prostitutes are victims of and presented some suggestions to improve the fate of those who mean to continue in their profession and to help those who wish to leave it. Some of these suggestions were actually acted on, as authorities made greater effort with regards to lodgings and the spreading of literacy. But, in general, the Sarkozy law did not – to say the least - make it possible to improve the situation of people often in dire trouble.

So what have the effects of the law been, and what can be said about life in the world of prostitution today?

## 1.2.

### The law's effects

In 2004, according to the OCRTEH (Central office against human trafficking), there were 15,000 to 18,000 prostitutes in France. This number included all people prostituting themselves, women, men, transgenders (transvestites and transsexuals, having or not undergone surgery). It also includes all types of practice, i.e., streets, bars, and other forms of prostitution. As regards to Paris, the Bois de Boulogne, and the Bois de Vincennes, there were 7,000-7,500 prostitutes. These data are questionable, for how is it possible to count people who are in some cases totally invisible? For instance, how is it possible to take a census of call-girls who never go into the streets, have never encountered the police, and receive,

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<sup>3</sup> The following people were also part of the research group: Catherine Deschamps, Françoise Gil, Nasima Moujoud, Dolorès Pourette, Emmanuel Redoutey, Maria Teixeira, Johanne Vernier, and Fiammetta Venner; their work appears in the cited book.

in their own homes, clients who have obtained their number from other clients, a magazine, or the Internet? And how many women supplement their regular salary by turning a few tricks a week? It is evident that the data about the world of prostitution must be considered approximate. However, this is true of any country.

In January 2006, the direction of the OCRTEH said the data had not changed, although insisting on their being approximate. This would lead to believe that the Sarkozy law did not cause a reduction in the number of prostitutes, but instead changed its characteristics.

On the other hand, a decline in street prostitution was observed within the city of Paris. Up until October 2003, according to the Prefecture of Paris, between 1,800 and 2,000 prostitutes could be seen in a 24 hour period. In September 2004, there were no more than 650-700. At the end of 2005, there were 450-500. A sign that prostitution had moved elsewhere, away from the public streets, away from the inner city. We shall enlarge upon this aspect later on.

A further change was observed as a trend, although no data are yet available: a change in the composition of the prostitute population. According to the OCRTEH, 2,425 people had been tried for soliciting on the public street in 2003: 36% came from Eastern Europe or the Balkans, 31% from Sub-Saharan Africa, 8% from South America and the Caribbean, 5% from Northern Africa, 3% from Asia, 1% from Western Europe, only 16% were French. In 2004, 3,290 prostitutes were tried for solicitation, most of them (2,686) were foreigners. Women from Eastern Europe were less numerous (29%) because, considering the difficulties encountered in practising in France, their networks now prefer to send them to Belgium, Germany, or Spain. African women (27%) continue to be present. Of the prostitutes tried, 18% were French. The OCRTEH does not yet have any data for 2005. In 2004, between 7% and 10% of the accused were given a sentence, usually fines or prison terms (with or without probation), when – according to the OCRTEH – they had been found guilty of other crimes (such as the possession of false papers or false residence permits). The others were issued a “warning.” Recently, further changes have occurred in the geography of Paris prostitution, since the Sarkozy law drives prostitutes to be less and less “visible”, and therefore to leave certain locations and to appropriate others. Emmanuel Redoutey precisely mapped street prostitution in Paris for the year 2003 (Redoutey, 2005, p. 55). With regards to the city within the walls, he showed how prostitution was a sizeable phenomenon in the following areas: rue Saint-Denis and surroundings, the neighbourhood of Saint-Lazare (with rue Joubert) and Madeleine, the gare du Nord and the gare de l’Est, the boulevards known as des Maréchaux (north and east, more or less from the porte de Champerret to the porte Dorée), with the porte Dauphine above, opening on the Bois de Boulogne, and the Bois de Vincennes

(with place de la Nation as outpost within the city). These places were not frequented without distinction by the entire prostitution milieu. Groups tended to be divided especially by language. According to Emmanuel Redoutey, groupings

are found on the *boulevards* in the east between Africans and Eastern Europeans, but also at the northern gates, where Russians and Slavic-language Kosovars gather, without, however, mixing with the Romanians who speak their Latin language. The same occurs for English-speaking and French-speaking Africans. In the Bois de Boulogne, South American transvestites and transsexuals ally themselves or challenge each other based on their origins. In every prostitution site, competition or solidarity determine spatial segmentations between old and new prostitutes, French and foreign prostitutes, drug addicted and non-drug addicted prostitutes. (Redoutey, 2005, p. 53)

The first effect of the Sarkozy law was not that of making prostitution disappear, but of causing it to move and reorganise so as to elude police intervention as much as possible. Prostitutes therefore deserted some locations, such as the larger avenues, withdrawing to alleys, deserted spots like car parks, moving away from traditional centres of activity. More and more, they moved to the banlieues, in particular to the woods around Paris: Fontainebleau, Saint-Germain-en-Laye. In general, a shift could be observed towards Seine-et-Marne and the Oise, towards the main roads and the motorway car parks, i.e., from Paris proper to the region around it. Further changes also occurred. An ever growing number of prostitutes finds clients via the Internet or classified ads in the “Vie Parisienne.” In August 2002, there were only 108 Paris prostitution websites on the Internet. In 2003 there were 482, in June 2004 there were 816, and on 3 February 2006 there were 14,362. The scope of the phenomenon was such that on 5 February 2006 “Le Journal du Dimanche” entitled one of its articles *Prostitutes walk the cyberstreets* (Venner, 2005)<sup>4</sup>.

This does not mean, at least for women, that they work autonomously. According to those in charge of various associations, clients are solicited via the Internet and the encounter takes place in certain cases in flats bought by the gangs that continue to collect their share of the earnings undisturbed.

Another change: the number of young women from Eastern Europe is diminishing, because their networks prefer to send them to countries where police repression is less strong, such as Spain, Germany, and Belgium. On the contrary, Africans are very numerous; they live in Paris, but form the majority of the groups that go to the banlieue or the provincial towns where they practise at night and

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<sup>4</sup> A special thanks goes to Fiammetta Venner for having updated the data collected on the Internet for this work.

catch the train back to the capital in the morning. In the city, prostitution is concentrated in the area of rue Saint-Denis, in the Madeleine neighbourhood, usually in one-room flats (studios); in the area of avenue Foch and, still, near the stations, but it has become rare or even non-existent on the boulevards des Maréchaux. Prostitution persists, but much more discretely, in the Bois de Vincennes, and it continues to prosper in the Bois de Boulogne.

As to the aid that prostitutes had received prior to the Sarkozy law by associations that moved around the city at night with special buses, the consequence of this geographical redistribution has been disastrous. The associations offer condoms, lubricants, syringes, warm drinks and biscuits, as well as useful information to help prostitutes in case of trouble. Now it is much harder to reach prostitutes. For instance, the prevention of sexually transmitted diseases, particularly AIDS, which is one of the tasks of these associations, is seriously compromised. We therefore find ourselves faced with one of the contradictions generated by the law: the Municipality of Paris funds associations to carry out prevention, but the Sarkozy law prevents the associations from carrying out their task.

We worked with the following associations that circulate among the prostitutes of Paris: Aux captifs la libération, a Catholic association dedicated to rescuing women from prostitution; Charonne, which initially targeted drug-addicted prostitutes and subsequently provided concrete help to all prostitutes in the north-east of Paris; Intermède, whose bus circulates in the city between 10 pm and 2 am several times per week; PASTT (Prévention, action, santé et travail pour les transgenres), that works in the Bois de Boulogne and on some boulevards in the north of Paris; Aides, that is dedicated to homosexual prostitution and is active at porte Dauphine and in the Bois de Boulogne. The Bus des femmes, a community health association that includes some prostitutes among its members, did not welcome us. Other associations, such as Médecins du Monde, Sidaction, provide aid to prostitutes, even though it is not their primary aim. We must also mention some associations whose views are closer to those of prohibitionism than to those of abolitionism, such as Amicale du Nid or the Fondation Scelles. Most of the associations that go meet prostitutes at night complain about the difficulty they have in finding them and in carrying out the missions they had planned, whether or not they mean to invite the prostitutes to leave the prostitution scene. On 8 March 2005 several associations wrote an open letter to Jacques Chirac, the president of France, to “sound the same warning signal” with regards to the Sarkozy law. They wrote: «Since this law harasses prostitutes, making them even weaker, we request immediate abrogation of the articles of the Law on internal security concerning prostitution». The associations stressed the increased insecurity and the growth of violence, claiming that the law had not succeeded in repressing exploiters, instead, it falls on the prostitutes themselves.

Undoubtedly, the women who engage in prostitution in ever more secluded spots (alleys, car parks, woods, as mentioned above) are more exposed to possible violence than before. Prostitutes are known to be an attractive target for thieves, who know that prostitutes often carry large sums of cash. They are also the favourite victims of all sorts of perverts and people who deliberately single out prostitutes for violence in a similar manner to those who target Arabs and homosexuals. By contrast, prostitutes were less exposed to violence when in groups on the boulevards than in the woods or on the main roads of the outskirts of Paris.

The law was also supposed to favour the dismantlement of the slave networks. It does indeed establish that prostitutes who report their exploiters can obtain a temporary residence permit, but few dare to do it. They fear retaliation, against themselves or against their families who are still in their countries of origin. It is certainly not an easy road to take. In her study of the law on internal security, Johanne Vernier writes:

There is no organised physical protection currently available except for that provided by associations that take care of victims. Victims are taken in directly by the associations, or brought there by the police. Physical protection of the family members of prostitutes on which pressure or retaliation can be made, in France or abroad, is no better organised. Very many victims [...] refuse, for instance, to give names or other elements that could identify traffickers and/or exploiters (Vernier, 2005, p. 143).

But the law has made it possible to send foreign women home much more often than it has made it possible to lock up those responsible within the gangs. The OCRTEH reports that 47 networks were dismantled in 2004.

Another negative consequence of the law – perhaps the worst – is that women, who are often victims, are collectively transformed into potential criminals and individually transformed into actual criminals when they are arrested and sentenced to pay fines. All this strengthens the stigmatisation prostitutes have long suffered from and forces them to dissimulate even more the reality of their profession to the people around them. The prostitutes who took part in one of the demonstrations celebrating International Women’s Day in Paris on 6 March 2006, wore white masks and raised a large banner with a single word on it: “Respect.”

To escape repression, some traditional prostitutes even made a deal with the police in 2005. The deal was made by thirty prostitutes who engage in their trade in a part of the Bois de Boulogne. They undertook not to exceed the number of thirty, therefore they themselves send away other prostitutes who want to settle there. In exchange, the police lets them practise their trade undisturbed. Most of



them came from the Bois de Vincennes, where they had become undesirable because families go there on outings, and therefore were repeatedly harassed by the police (e.g., van confiscations, parking tickets, nights spent at the police station). Their new modus vivendi is convenient. And in a sense it proves that the aim of the Sarkozy law was not to eradicate prostitution, but to spare (voting) citizens of large cities an unpleasant cohabitation.

Against this backdrop, what is the experience of prostitutes?

### **1.3.**

#### **The life of prostitutes**

The survey commissioned by the Municipality of Paris allowed a team of ten people to be in the field from September 2002 to September 2004, from the moment therefore when the Sarkozy bill was made public until its actual effects started to be visible once the law on internal security was promulgated (18 March 2003).

All the people we met with (prostitutes, clients, public authorities) gave their opinion within the particular new context defined by this law. The team therefore had the possibility to make about sixty formal interviews to prostitutes (recorded either with an audio recording device or detailed note-taking) and about fifteen to clients (all audio recorded). The informal interviews to prostitutes taken over weeks, mostly on the buses that drove through Paris at night, were very important, because they allowed us to put the interviewees at ease and observe them openly. This required nights of presence in the field, and having to write down the observations made in an ethnographic notebook as soon as we got home. Some informal interviews turned into scheduled interviews that allowed us to record life stories. A few of these recordings lasted several hours - the longest was no less than nine hours long. The interviews were held in French, English, Portuguese, Arabic, Berber and – with the help of an interpreter – Chinese. Prostitution in Paris is therefore represented in its diverse nationalities and genders (men, women, transgenders). I shall concentrate here only on what we learned about the life of women prostitutes.

The questions we asked women prostitutes were the following: how did they get into prostitution? Were they independent or not? What are the risks and the advantages of their profession? Do they intend to continue with their profession or do they mean to leave it? And at what conditions might they choose to leave it? (see Mossuz-Lavau, Teixeira, 2005).

Various types of motivation or coercion lead women into the world of prostitution. The major factors that drive women to choose this profession are poverty and the hope for a better life. Many of the women interviewed started prostituting themselves after having separated from or lost their husband. It was poverty that drove several of the foreign women interviewed to leave their country of origin. Stella, 30, left Albania when she was 24. She says: «We have nothing there, no work, nothing to do. It's absolute poverty. Everyone is poor». Many women coming from the countries of Eastern Europe and the Balkans make similar comments. Young African women flee from poverty and war in countries where they have no future, where solidarity and family networks dissolve. As for the Chinese, 40 and over, who appeared on the Paris streets during the winter of 2000-2001, they were unemployed in their country, and usually divorced or separated, and they hoped, coming to France, to manage to give their children an education.

Drug addiction also leads to prostitution, which is a means to earn money to buy drugs. In France drug addicts can get methadone and buprenorphine under medical control, mainly at drug rehabilitation centres. But some prostitutes stress how difficult it is to go there. For instance, they say that some centres are open only in the morning, so since they work at night they can't always go.

Economic problems are therefore one of the factors that drive women to resort to prostitution in order to survive. Other women undoubtedly do not engage in prostitution by choice and they sell sexual services only because, finding themselves in a difficult situation, they accepted the proposal of pimps, networks, or gangs that painted a rosy future for them, and they didn't know what they were getting into. Others, this is the case of many foreigners, were beaten, starved, and raped when they tried to rebel once they had found out the truth. In other cases, the man the women were in love with promised them a better life together abroad, then put them on the streets as soon as they reached France.

Not all the women we met were forced and not all, according to what they say, were under the protection of a pimp. These women say they made a choice to earn much more money than before and sometimes they value their freedom most, for instance when comparing their situation to that of a factory worker.

Often, studies on prostitution stress the traumas and sexual violence suffered in childhood and adolescence by streetwalkers<sup>5</sup>. In our Paris survey, we found that a considerable number of prostitutes had suffered violence (abuse by their mothers, unwanted pregnancies, parents killed in war in the case of some African young women, marital violence in other cases). But it is not possible to establish a direct cause-effect link. Not all women who suffer violence become prostitutes, and we saw that

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<sup>5</sup> This is the highly criticised thesis of Judith Trinquart (2002).

economic trouble and the initiatives of pimps are what caused a great number of prostitutes to enter this profession.

Another sensitive issue is that of coercion and freedom. In fact, I believe today, even more than when we wrote the book on prostitution in Paris, that we should distinguish between populations. On one hand there are the slaves, those who are forced to prostitute themselves, forced to give most of their earnings to networks/gangs/pimps and who have never had the chance to leave the profession. On the other hand there are the “traditional” prostitutes, usually French, who say they engage in their profession keeping all their profits, although some of them started under the protection of a panderer. Some of them have a husband, a lover, a partner, who they may or may not support, others live alone. But many of them present themselves as totally independent women who chose this path because they earn much more than what they would earn doing another job, since they hold no diploma. One of them, who worked out of a van at the Bois de Vincennes, earned 8,000 euro per week. It could be said that some of them have a “support pimp”, if we consider that, according to French law, the men who live at their side cannot escape the definition of pimp. Article 225, 5 of the Penal Code, states that:

procuring, for anyone and in any way, consists of: 1. Aiding, assisting, or protecting someone else’s prostitution; 2. Profiting from someone else’s prostitution, sharing the earnings or receiving subsidies from a person who habitually prostitutes her/himself; 3. Recruiting, encouraging, or deceiving a person with the aim of prostitution or exerting pressure on a person to make that person engage in prostitution or continue to engage in it.

According to this article of law, we must consider the parents, adult child, husband, partner, lover, any person who lives with the prostitute out of affection and not only convenience, to be a pimp.

Between the two extremes of forced or voluntary prostitution, we observe a third ample category, perhaps a *continuum*, of women who are driven to prostitution by poverty. Many foreign women, for instance, knew what they would be doing before coming to France. They reimburse those who helped them immigrate, pay their debt somehow, keep enough money for themselves and their family (for those who send it to their country of origin). In the near future they mean to stay in France, they know it would not be easy to find another job and it takes time to set enough savings aside to be able to invest in their country, building a house, sometimes in partnership with their pimp-lover.

In a book published recently, ethnologist Catherine Deschamps, who for many years has done research in the world of prostitution, writes:

Some French women, referring to the current legislation, prefer not to call their dear ones pimps; on the contrary some of the Parisian streetwalkers reappropriate this term giving it a positive nuance. The former do not understand how men or women who guarantee them a place where they can practise their profession, ensure their physical security, or share their home must risk imprisonment; the latter see in those who enable them to cross borders or provide logistic support and are not violent, and who the law defines as exploiters, as simple mediators who remedy the closure of frontiers and the xenophobia these women encounter on the streets of the West (Deschamps, 2006, pp. 175-6).

We can examine the question of the freedom these prostitutes have. No freedom at all for the group of so-called slaves, a lot for “traditional” prostitutes. But the reasons that drove or forced the latter not to seek another job must also be investigated. Certainly it is not always possible to speak of a choice. But, on the other hand, one could ask oneself what sort of a choice people have who decide to work in a chemical factory that destroys one’s skin and lungs.

For those who are between the two extremes, the economic coercion is evident, sometimes reinforced by love coercion (the project of living together in the country of origin and having enough money to be self-employed and live well). There are foreign women who got rid of the gangs that brought them to France and continue to prostitute themselves because they earn sums that no job as an employee would earn them. But with no papers, no diploma, a broken French, do they really have any chance to do something else?

The concepts of choice and freedom therefore raise questions, but it would not be fair to limit them to the field of prostitution. Many other professions are not the result of a choice in the full sense of the word, and not even of total freedom. It must be acknowledged that prostitution is a rapid – not easy – way to make a lot of money and it is understandable that many may be attracted by this prospect.

What can women who sell sexual services look forward to today? Most interviewees hope to stop. Especially the foreigners. The project of leaving the life is less frequent among “traditional” prostitutes, except for the older ones who would gladly retire. But what can they do? Others are in a transition period. They have a poorly paid part-time job and they continue to prostitute themselves occasionally in order to make ends meet and pay their rent. Others who said they have completely abandoned prostitution have gained a residence permit and a small job. But, even in these cases, the ridiculously low salary makes it likely they may end up on the streets again. Others dream of marriage, of finding a husband that will be a means to get a residence permit and ensure some security. If their papers are in order they can receive the RMI (minimum integration income) which, from 1 January 2006, amounted to 433.06 euro per month. But how is it possible to give up the high sums prostitution can secure if a

person has no savings and, especially, must pay for lodgings? Institutions cannot provide further income besides the RMI for those who leave prostitution, because all the people who live solely on the RMI would have the right to say they cannot make ends meet and request the additional benefit provided to prostitutes. Would it not be possible therefore to think of some kind of social plan like the ones created for particularly strenuous jobs?

The oldest prostitutes receive the minimum old-age pension. At the time our survey ended, it amounted to 587.70 euro per month. Same problem, same questions. How can one live with so little when one has no other income to rely on? Here, too, requesting an additional benefit would be unfair and would lead those who live on this pension to demand the same additional benefit. The minimum old-age pension was increased on 1 January 2006 (to 7,328.48 euro per year), but the problem has not been solved. The creation of homes for old prostitutes should be supported, and the first steps have been taken in this direction in France. For instance, the association ANA (Avec nos aînées, “with our elder ones”), founded in 2005, is trying to renovate a building «where old and often ailing prostitutes can find decent lodgings and a moral and social support in their old age».

#### **1.4.**

##### **Feminist reactions**

These matters have deeply divided French feminists. Some of them consider prostitution an attack against the dignity of women, since they regard all prostitutes as victims of male domination but too alienated to be aware of it. Others admit that this profession should not be stigmatised if practised freely and that a prostitute does not sell her body but sexual services and can be defined as a “sex worker.” This debate is continuously raging. In January 2006, a petition drafted by the Coalition Against Trafficking in Women (CATW) circulated in France. It opposed prostitution in Germany on the occasion of the football World Cup in June-July 2006 (it was estimated 40,000 women would be imported to Germany for that date). It states:

Buying sex is not a sport. It is sexual exploitation in which women are physically and psychologically harmed, and women’s bodies are treated as commodities to be bought and sold. [...] Honourable men do not buy sex because they respect the dignity and integrity of all human beings.

We cannot end this overview without mentioning the customers of prostitutes. The fact that there is an offer implies that there is a demand. In France, unlike in Sweden, customers are not criminalized. They are free to buy sexual services. Clients are little known and are spoken of disparagingly by feminists who oppose prostitution. Florence Montreynaud calls them “viandards.” There are few studies focusing on clients. The first were made in Sweden and Norway. According to Swedish sociologist Sven-Axel Månsson, clients can be divided into two groups: on one hand those who have more or less regular relations with other women but are in search of something different; on the other hand those who have no other women and have trouble establishing relations (Månsson, 2001)<sup>6</sup>. Sven-Axel Månsson also analyses two studies by Norwegian sociologists who differentiate between two new kinds of customers: first of all, old men who have not accepted the change in relationships between men and women and who they term “traditionalists” and “losers.” These men find the old gender order restored in prostitution. The second category is made up of young men whose vision of gender and sexuality is mediated by pornography, advertisement, and TV reality shows. Sex thus becomes to them a commodity as any other, like a McDonald’s meal.

In the study carried out in Paris, I tried to find out more about clients, considering the poor data available. After a number of interviews, my opinion is that clients are not the monsters they are morbidly portrayed as, but instead common people: husbands, fathers, brothers, sons of our next-door neighbours. I have divided them into three categories: occasional customers who decide to look for a prostitute on an evening when they’re feeling dispirited, when they feel something is missing, but don’t make it a habit and don’t go back very soon. Then there are habitual customers who have a woman (wife, partner, girlfriend...) in their life. But these women do not provide the special acts they desire, or the men do not dare ask them to do this or that particular act. These men therefore seek out prostitutes mainly to get oral sex. Prostitutes say one out of two customers asks for fellatio. The third category is that of regular customers who live alone: bachelors, widowers, divorced men; they have organised their whole sentimental and sexual life around prostitutes. They do not expect only sexual services but a relationship, words, an exchange, affection.

Without bearing in mind this overall vision, it is not possible to understand what is taking place in the world of prostitution and it is difficult to make proposals to improve the condition of those who are at the heart of the system, i.e., the prostitutes themselves. They are more damaged by stigmatisation than by the fact of selling sexual services. The Sarkozy law does not go in this direction, and that’s the least

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<sup>6</sup> We mention, also with respect to France, a very controversial report by the association Le Mouvement du Nid, that declares it is “in favour of a society without prostitution” (see Bouamama, 2004).

we can say. It was important to give prostitutes their voice back and we have tried to do that with this study; it was just as important to give voice to clients, so that those who are directly involved could express their point of view. Otherwise, public opinion may be influenced only by certain elites that establish what good and evil are and, perhaps due to their lack of direct contact with the world of prostitution, neglect matters that are essential to understand this phenomenon.

### **Bibliographical references**

- DESCHAMPS C. (2005), *Mobilisations parisiennes des prostitué(e)s*, in M.-E. Handman, J. Mossuz-Lavau (éds.), *La prostitution à Paris*, Les Éditions de La Martinière, Paris, pp. 91-119.
- EAD. (2006), *Le sexe et l'argent des trottoirs*, Hachette Littératures, Paris.
- HANDMAN M.-E., MOSSUZ-LAVAU J. (éds.) (2005), *La prostitution à Paris*, Les Éditions de La Martinière, Paris.
- MÅNSSON S.-A. (2001), *Men's Practices in Prostitution: The Case of Sweden*, in B. Pease, K. Pringle (eds.), *Man's World? Changing Men's Practices in a Globalized World*, Zed Books, London-New York, pp. 135-148.
- MOSSUZ-LAVAU J., TEIXEIRA M. (2005), *Le vécu des femmes prostituées*, in M.-E. Handman, J. Mossuz-Lavau (éds.), *La prostitution à Paris*, Les Éditions de La Martinière, Paris, pp. 155-197.
- REDOUTEY E. (2005), *Trottoirs et territoires, les lieux de prostitution à Paris*, in M.-E. Handman, J. Mossuz-Lavau (éds.), *La prostitution à Paris*, Les Éditions de La Martinière, Paris, pp. 39-90.
- BOUAMAMA S. (2004), *L'homme en question. Le processus du devenir-client de la prostitution*, Report of the Mouvement du Nid, Mouvement du Nid-IFAR, Paris.
- TRINQUART J. (2002), *La décorporalisation dans la pratique prostitutionnelle: un obstacle majeur à l'accès aux soins*, doctoral thesis, General Medicine, Université de Bobigny.
- VENNER F. (2005), *La prostitution sur Internet: visibilité ou clandestinité*, in M.-E. Handman, J. Mossuz-Lavau (éds.), *La prostitution à Paris*, Les Éditions de La Martinière, Paris, pp. 235-248.
- VERNIER J. (2005), *La Loi pour la sécurité intérieure: punir les victimes du proxénétisme pour mieux les protéger?*, in M.-E. Handman, J. Mossuz-Lavau (éds.), *La prostitution à Paris*, Les Éditions de La Martinière, Paris, pp. 121-152.

# Report on the city of Stockholm

*Daniela Danna*

## 2.1.

### **The law against the purchase of sexual services**

Sweden wants to abolish prostitution, making it disappear, by repressing only prostitutes' clients. Offering sexual services is not prohibited and prostitutes do not commit any criminal offence. Prostitution is legally – but not socially – tolerated. Preventing prostitutes from earning money by their profession is a way to pressure them into abandoning the life.

Historically, clients have been the “sacred cow” of prostitution. Whereas “public women” have been held in contempt over the centuries for what they did, punished if they contravened the obligations and prohibitions they had to follow as prostitutes, banned from certain places, prevented from dressing in particular ways that would not immediately reveal their condition, their customers had always been regarded as normal men who made use of a service (which was state-run in Italy until 1958) boasting of their explosive virility. Sexual liberation in the West in the Sixties changed the way prostitution was considered: paying for a sexual act became attached to stigma in many environments (although certainly not everywhere), coming to symbolise the lack of virility of a man forced to buy sex because unable to prove otherwise attractive to women.

By choosing to ignore the prostitute and prosecute the client, the Swedish law on violence against women, in force since 1999, has turned upside down the old-fashioned view of clients, which had already ceased to be commonly accepted in the post-sexual revolution period. The client, as we shall see later on in detail when discussing the aims of the law, is prosecuted for causing direct harm to the person from whom he buys sexual services, and even to women in general, to women as a “gender.” The law on the prohibition to purchase sexual services (law no. 405, 1998), which is part of the anti-violence measures, states that:

Whoever procures himself an occasional sexual service in exchange for payment shall be sentenced – if punishment for the offence is not already regulated by the Penal Code – for purchase of sexual services to a fine or to imprisonment for up to six months.



In 1998, this law was proposed by the women of the Social Democratic Party. The Social Democratic Party, the Centre Party, the Leftist Party (liberal) and the Green Party voted in favour of it. It was approved with 181 votes in favour, 92 against, and 13 abstentions. The Christian Democrats, instead, opposed the measure against clients, and proposed an amendment that criminalized both the seller and the buyer, while the Moderates and the Liberals did not want to change the existing laws, declaring they did not understand why only the client should be punished.

In 2001, the parliamentary committee on sexual crimes proposed to amend the definition of this criminal offence, cancelling the limitation of punishment to clients who have occasional sexual relations, which excluded habitual clients, and extending punishment to those who procure sexual services for others, i.e., who pay the prostitute without directly making use of her service. The amendment was approved in 2005.

In the Penal Code, exploitation of prostitution, called “procuring”, was already punished. The article of law on procuring refers to «anyone who favours or unjustly profits from the fact that another person engages in occasional sexual relations in return for payment». Procuring, or exploitation of prostitution, is a criminal offence within which fall all actions of third parties<sup>1</sup>, from the management of a brothel to having exercised a psychological influence in the decision of another person to prostitute herself, to publishing non-profit advertisements (all other cases of facilitation do not necessarily require to be profit-making either).

Procuring also included trafficking, until in 2002 a specific law was introduced covering trafficking. Even a partner who lives with the earnings of a prostitute commits procuring, because the obligation married or cohabiting couples have to support each other<sup>7</sup> does not apply in the case of prostitutes. The prohibition of classified advertising for prostitution in the press is in force and is respected. As for the Internet, the situation is more complex, and we’ll discuss it later on.

Other laws that concern prostitution are no. 52, 1990, on extraordinary measures for the custody of young people, which rules that young people under 20 who prostitute themselves may be placed under guardianship; Law no. 1472, 1988, decrees the prohibition to prostitute themselves and buy sexual services for those who have an HIV infection, punished with internment. Even the law on the custody of drug addicts (Law no. 870, 1988), including alcoholics, rules that they must undergo forced therapy if they endanger their health, and trading sex is considered an at-risk behaviour.

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<sup>1</sup> We use this term to refer to those who are not directly implied in the exchange of sex for money that takes place between prostitute and client.

<sup>7</sup> According to Swedish law, couples do not need to be married to have reciprocal rights and duties when living together.

In short, Sweden is a state that strongly intervenes in the choices of individuals, showing a degree of paternalism unknown to Southern Europe, but unique even in Scandinavia. It is the other side of the coin of a State that wants to (unsuccessfully, as we'll see) guarantee its citizens "from the cradle to the grave" and therefore claims the right to proscribe certain individual actions.

## 2.2.

### The law's aims

The law on the purchase of sexual services has the explicit aim of decreasing prostitution until it disappears.

This law therefore prohibits prostitution, but why does it do so in such a peculiar way, making only one of the two parties that exchange sex for money liable to punishment? The reason is that prostitution is considered a physical abuse and even an expression of gender inequality, since almost all – or all, it is believed, in Sweden - demand for sexual services comes from men and most of the offer from women.

The view that has come to be established is that only the client is responsible for the existence of prostitution: it is demand that set in motion the offer and trade of women. A total cancellation of prostitution as a choice is thus operated, a cancellation of the will and choices of those who prostitute themselves. The arguments in favour of the criminalisation of clients draw their inspiration from feminism<sup>2</sup> but are based on the extreme stigma that is attached to prostitutes<sup>3</sup>, which according to historian Yvonne Svanström is probably associated to the great importance that participation in the working world has for Swedish women. The women (and some men) who in the public debate supported approval of the law declare that it is a matter of gender equality and of freedom for the entire female sex, and that until even a single woman will be forced to prostitute herself (since it is not conceivable that she might do it of her own free will), all other women won't be free.

The more recent quantitative data on men who seek out prostitutes in Sweden date back to 1995, when the Statens Folkehälsöinstitut carried out the last survey on sexual behaviour. The study found that 12.7% of men between the ages of 18 and 74 had paid for sex at least once in their lifetime. A third of

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<sup>2</sup> The premise is that of radical feminism that equates paying for a sexual act with rape – however, the law did not adopt this extreme interpretation of prostitution and speaks more generically of violence. According to Andrea Dworkin, Sheila Jeffreys, and other representatives of radical feminism, any heterosexual sexual act is an act of oppression by men over women.

<sup>3</sup> Louise Eek is a former stripper who wrote a book about her life, siding with the abolitionist movement. In a later work she complained that after publishing her memoirs she was not able to find work any more. (It must be said that the violent facts she reports in her memoirs and her habitual presence in the world of sex clubs have been contested by some of her supposed colleagues, who declare they don't know her).

them declared they did it only once. These men were usually not driven by solitude: compared to men who had not paid for sex<sup>4</sup> they had had a higher number of sexual partners, divorces, and interrupted cohabitations. Almost 80% of paid sexual relations occurred away from home, on business trips or on holiday. A higher proportion of clients belongs to the upper classes (Månsson, 1998).

A document by the Ministry of Industry, Employment, and Communication, states:

In Sweden, prostitution is considered an aspect of male violence against women and children. It is officially recognised as a form of exploitation of women and children, and it constitutes an important social problem, since it harms not only the person prostituting him/herself, but even society at large. The Swedish government has long given priority to the fight against prostitution and human trafficking for sexual purposes. This objective is an important part of Sweden's goal of achieving equality between men and women both nationally and internationally. Equality between genders will be impossible to achieve if men continue to buy, sell, and exploit women and children through prostitution.

The client, as we have seen, is considered the direct perpetrator of a crime against the prostitute; he is prosecuted for exerting a form of violence against women, that consists of taking advantage of his position of economic superiority towards a woman who is forced to place her body at other people's disposal for sexual acts she does not desire as part of her own sexuality. Women are coerced by one or more exploiters, by drug addiction or alcoholism, by mental conditions, by sexual traumas suffered from family members or others during childhood, by traffickers of women, or simply by a state of economic need.

The damage however does not imply a legal obligation to compensation on the part of the client to the prostitute<sup>5</sup>, but it amounts to a criminal offence. Homosexual prostitution is assimilated to this situation of gender violence because the buyer is older and wealthier, so he exploits the young prostitute. Transsexual prostitution – which usually involves a voluntary sexual component on the part of the person “selling” sex – is not discussed.

According to this vision, the prostitute always needs the aid of the state, since he or she expresses a deep psychological distress or suffers from economic hardships and adopts a self-destructive behaviour.

Psychological studies are cited to uphold this extreme thesis, that places those who prostitute themselves under guardianship and considers all clients guilty of an act of violence. According to the

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<sup>4</sup> Or by those who had had trouble admitting they had paid for sex.

<sup>5</sup> Exploiters, instead, can pay damages. In one case, compensation amounted to 300,000 Swedish crowns.

cited studies (usually focusing on street prostitution), prostitutes are primarily women who have suffered sexual traumas during childhood and are therefore driven to self-destructive behaviour, including prostitution. Socionomists (in Swedish *socionoma*)<sup>6</sup> Månsson and Hedin have analysed the process of abandoning prostitution applying the model of recovery from drug addiction, with the typical relapses and psychological addiction.

Finally, according to the legislators, this is a deliberately moral law, i.e., a law that wants to impose a particular norm of behaviour on citizens, without attaching too much importance to the law's concrete effectiveness. Inger Segelström, member of parliament and spokesperson for the women in the Social Democratic Party, says it is a law that sets a norm that must lead to a change in attitude: society no longer accepts the possibility that another human being may be "bought."

It is usually compared to the law which in the Seventies established the prohibition of corporal punishment of children, even one's own children. This law raised criticism as to its feasibility (how would it be possible to check whether children were beaten in the privacy of their homes?). Similar criticism points to the practical difficulty of demonstrating the crime of purchasing sexual services. The law protecting children from violence including physical punishment for educational purposes, was successful thanks to the diffusion of the principle that parents do not have the right to physically punish their children, and thanks to the awareness about their rights that children learned in school.

In this case, however, the prostitute population did not react as enthusiastically as the children had. In 1999, some prostitutes seized the opportunity to change life, but others gave out business cards to clients in the streets or took to the Internet. We shall soon see the quantitative estimates concerning prostitution and the changes it has undergone.

### **2.3.**

#### **Enforcement of the law against clients**

In Stockholm, a city of almost 900,000 people, prostitution on the streets had already been effectively confined within a few areas. In 1991, following complaints made by the people living there, Artillerigatan on the island of Östermalm was also closed to traffic, and prostitutes were forced to move to the only other allowed road, Malmskinnadsgatan, which is located in a business area where residents did not organise any collective protests about the stationing of prostitutes and clients close to their homes.

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<sup>6</sup> They apply sociology; the term "social engineers" might be used if this were not a negatively connotated term.

Since, according to the law, clients commit a criminal offence, let us start by examining police activity. The 1999 law ruled that the police would receive extraordinary funds amounting to 7,000,000 crowns a year<sup>8</sup> for the fight against prostitution and against human trafficking; this amount grew to 30,000,000 crowns for the three-year period 2004-2006. The funds were used to purchase infrared video cameras and other remote surveillance devices, mobile phones, computers to surf the Web in search of prostitution advertisements, and also to increase manning of the Malmskinnadsgatan, and monitor the flats where cases of “trafficked” women were reported.

Apart from cases where the crime of purchasing of sexual services is discovered by the police while they are investigating more serious crimes, such as human trafficking, the crime is considered a “surveillance” and not a “report” crime, because nobody is motivated to report the purchaser of sexual services – there is no doubt that the person selling the services, who is also the only witness, is not motivated to report the crime. Furthermore, surveillance must be particularly intense to prove this crime, and if definite proof is needed it is not possible to prevent it but buyer and seller must be caught in the act.

The presence of the police on Malmskinnadsgatan, however, is limited to sporadic patrolling by either uniform police or unmarked police cars. Police raids are also carried out in hotels and clubs, with squads intervening on tips-offs by citizens or hotels. If a client is caught in the act, as has occurred after irruptions into hotel rooms, he is fined. If, instead, he is only a suspect, it is more difficult to prove his crime. Nevertheless, in seven years the number of clients prosecuted has grown considerably, as can be seen in the following table.

	1999	2000	2001	2002	2003	2004	2005
Number of clients prosecuted in Sweden	94	92	86	110	300	154	156
Number of clients convicted in Sweden	5	22	20	14	23	*	66
Cases dismissed	5	7	18	21	49	*	*
Number of clients prosecuted in Stockholm	31	23	18	0	3	*	*
*Data not available (the official judicial statistics do not record the crime of purchase of sexual services).							
Source: Brottsförebyggande Rådet (www.bra.se) and Gripenlöv (2003).							

<sup>8</sup> A euro is worth a little less than ten Swedish crowns.

The actual rate of convictions compared to the number of indictments is of two tenths: out of 734 people accused up to April 2004, about 140 were found guilty, mostly because they pled guilty. The sentences go from 40 to 80 days of fine (every day of fine is equivalent to a third of the daily income, with some exemptions for low incomes) depending on whether the purchase was attempted or completed. After a winning appeal, the fine was lowered to 25 and 50 days, respectively. In one case, the accused was sentenced to prison (1 year), but for serious assault, in another case the accused was sentenced to 2 months of prison for having also offered the girl cocaine. The women called to witness have always denied the deed.

From 1999 to 2003, there were 371 accusations against 357 men in the Stockholm district. The context in 121 cases was street prostitution and in 233, almost double the cases, indoor prostitution (in 17 cases the location is unknown: Gripenlöv, 2003, p. 9); the latter cases were not discovered directly, but in the course of investigations on the exploitation of prostitution or on human trafficking. Among those who were fined, the average age was 44 years, the oldest man was 70 and the youngest was 16.

In 2003, a client register was found in a brothel in Solna, near Stockholm: more than 200 clients were Stockholm residents. This finding explains the peak of indictments that year. Some names on the list were of men with excellent social status: lawyers, businessmen, state officials, judges. These men were publicly pilloried in the media. In 2005, three judges were sentenced to fines (in one case the fine was of 42,250 crowns) and were publicly asked to resign by political representatives. Two of them were removed from jobs where they had to deal with the public.

By contrast, the only ones to really lose their job were prostitutes: a police recruit was forced to leave her post after her activity as escort came out, while another woman was dismissed by the social services after having publicly taken position against the law, on a newspaper, declaring she had worked as a stripper. In the latter case, a court then ruled that the woman's dismissal had been unfair.

Furthermore, various prevention campaigns were financed, with posters targeting clients.

In 2003-2004 the film *Lilja forever*<sup>9</sup> was shown in cinemas at special prices for students and soldiers. Screenings of the film followed by discussion were organised for the police, and together with the other training initiatives they seem to have achieved excellent results in motivating policemen to follow the spirit of the law without instinctively taking the clients' defences. The habit, now apparently ceased, of

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<sup>9</sup> Directed by Lucas Moddysson, it is inspired by a true story of a young Lithuanian who, suffering from the whore/stigma in her country for having been seen in a night club, emigrated to Sweden, where she was forced to prostitute herself. In reality she managed to escape her exploiter, but her desperate life ended with a suicide from a bridge on the motorway near Malmö.

sending summons and fines to the client's workplace, instead of to their home address, had been attributed to the instinctive siding of the policemen with clients. Criticism by the police of the Skåne region, that in 2001 published an extremely negative report on the effects of the law, was also attributed to this attitude. In fact, the regional capital of Skåne, Malmö, is very close to Copenhagen, and exports Swedish visitors – as well as Swedish prostitutes – who spend Saturday nights in the Danish capital. The Oslo Pro Sentret also declare they encounter more Swedish clients as well as more girls coming from Sweden.

## **2.4.**

### **Actual effects on street prostitution**

Sweden's climate in itself does not favour this form of prostitution. At the time of my visit (March 2006), Stockholm was covered in snow, and night temperatures went way down to  $-5^{\circ}$  C. In summer, according to what the prostitutes themselves say, it is much more crowded and lively, with dozens of women.

Street prostitution is the most visible form of prostitution, the one it is easiest to intervene on, and also the easiest to assess. However, according to the estimates of the Socialstyrelse (Direction of social services) only a quarter of the exchanges of sex for money takes place on the streets. Other estimates, that consider the number of adult prostitutes active in the Stockholm district to be about a thousand, indicate an even lower proportion of street prostitution, about an eighth.

The estimate of the Stockholm Prostitutionsgruppen in 1998 was of 280 women who alternated in the course of a year. This number decreased to 170 in 1999 and since then has remained stable. The Stockholm social services group on prostitution (Socialtjänstens prostitutionsgrupp i Stockholm) declared in 2003 that they knew about 180/200 women who prostitute themselves every year. It is estimated that in a given day there are between 25 and 30 prostitutes on the street, while before the law was approved there were about 50. The police, instead, reports that there are 5/7 women per night, and in total 50/60 women who practise street prostitution. According to a social worker of the Proscentrum<sup>10</sup>, the number of women decreased after the law became effective, but not by much.

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<sup>10</sup> The two services mentioned above have been unified in the Proscentrum, the only centre active at the time of my visit.

	1999	2000	2001	2002	2003
Number of prostitutes	101	112	112	77	104
Number of foreign prostitutes	13	5	5	1	7
Number of clients prosecuted	31	23	18	0	3
<i>Source:</i> Prostitution group of the Stockholm police (Gripenlöv, 2003).					

From personal observation at various times of the day and week, I can say I never saw more than ten women (and a transsexual), but street presence is obviously at its lowest in winter. The social services street unit, which goes out on the streets every day, declares it meets between 2 and 20 women, blended in with common people; they say half are drug addicts or alcoholics and half have mental problems. In my experience of contact with some of these women, a sort of casual sample of the night presences, I can affirm that there are women who take drugs and who probably have addiction problems, but also absolutely clear-headed women, who are on the streets with the aim of setting money aside to make large purchases<sup>11</sup>, and that I never met anyone with evident mental problems – unless it is taken for granted that these women would not walk the streets looking for clients unless they suffered from some psychological disorder.

The presence on the streets of foreign women who have not lived in Sweden for a long time appears negligible. The head of the prostitution unit of the Stockholm police, Anders Gripenlöv, wrote in his report in 1998 that they had received reports about Eastern European exploiters dividing the streets up amongst themselves, sending Swedish prostitutes away (Gripenlöv, 2003). A police raid in the streets led to the arrest of an exploiter together with six Russian women: the exploiter was sentenced and the women were deported, in compliance with the law on foreigners that sentences to deportation all foreigners without permit or at least two years of residence in Sweden who engage in immoral activities, including prostitution. On other occasions, too, the police checked papers and deported women from Eastern Europe who were found on the streets acting suspiciously. The highest numbers were reached in 1999. This surveillance no doubt contributes to the scarce presence of women from Eastern Europe, unlike in Finland, Norway, and Denmark, where they are numerous. Gripenlöv attributes the limited presence of foreign women to the information the women get through the grapevine about the frequent deportations.

<sup>11</sup> Or, as in the case of the women interviewed by Tanya Holm, simply to earn a living: for one of them prostitution meant being able to escape a domestic job she described as slavery.



Clients, according to Gripenlöv, markedly decreased: in 2003 there was only a tenth of the automobile traffic that could be observed in 1998.

As for male prostitution, in 2002 the same street unit had identified about fifteen men between 18 and 25. Even their behaviour is officially interpreted as self-destructive, as an expression of self-contempt. Their background, supposedly, invariably includes experiences of sexual abuse. Most of those who found themselves on the streets prostituting themselves were already known to the social services because they made use of drugs, were homeless, or had mental problems.

In 2003, the number of contacts with minors was higher than usual. An interesting study by Svedin and Priebe on a sample of 4,343 gymnasium students, published in 2004, asked both boys and girls whether they had exchanged sex for money or gifts. The study found that 1% of the girls and 1.8% of the boys had done so. However, for lack of data, it is not possible to make any direct comparison between the time before and after the law's approval with respect to young people and minors.

No definite data are available confirming whether violence against street prostitutes has increased after the new law was introduced, as was feared supposing that normal clients would be scared by the law while violent ones wouldn't, and that prostitutes would be forced to accept them to be able to earn money. The prostitutes' association, Rosea, states that there has been an increase in violence, both on the streets and elsewhere. Furthermore, they report an increase in thefts against clients carried out by prostitutes, who know that it is unlikely clients will report them since they themselves would be punished. An obstetrician who works with abused women, who was interviewed in 2003 in the course of a study commissioned by the Norwegian Ministry of Justice to assess the Swedish law, says there has been an increase in violence on the streets, in particular of sexual violence, since normal clients now seek offers on the Internet (Arbeidsgruppe, 2004). However there is no trace of this increase in the reports made to the police. In Petra Östergren's study, the fifteen women prostitutes she followed and interviewed said that clients on the streets are more scared and stressed, which makes it more difficult for the women to judge their reliability and dangerousness (Östergren, 2003). They also say that the relationship with the police has got worse. This, however, was not confirmed by the opinions of the women of Malmskinnadsgatan with whom I personally spoke.

Unlike other countries, such as Italy, there do not seem to be serious abuse of power by the police against streetwalkers. But this does not mean that when one of them needs the police, the police treat her with respect (interviews by Tanya Holm).

Prices have gone down (or have remained the same, which considering inflation means they have decreased) and the fall in demand has led women who prostitute themselves to get drugs to forgo the request to use a condom.

It is true that both supporters and detractors of the law can read the subsequent events from their perspective, especially since supporters invariably emphasise the normative-moral value of the law, which they believe should not be subject to assessment, «just like the law against rape is not evaluated». In fact, no official assessment is envisaged.

The study by the Socialstyrelse, *Prostitution in Sweden 2003*, can be on the streets as follows: there are fewer clients, fewer women, and fewer victims of trafficking on the streets. There is no doubt, however, that the offer of prostitution on the Internet has increased.

## 2.5.

### **Prostitution via the Internet**

Internet pages in Swedish offering sexual services are clearly on the rise. They use coded words, like the search for a “generous man”, or they are placed on servers abroad.

For instance, the offer of escorts in Sweden on the pages of the Academy of Secretaries, a website that coordinates them internationally, grew from a dozen in June 2002 to 106 in September 2003. In 2000, the newspaper “Aftonbladet” found 106 women who offered sexual services on the Internet. In 2003, a research by Sven-Axel Månsson and Peder Söderlind found between 80 and 100 women who placed ads on web pages. Men who looked for other men were not taken into consideration in this study. In November 2005, police investigations found 125 pages on servers hosted in the Netherlands and Belize, as well as in other countries. Other estimates mention a total number of 200-250 people. From previous investigations it is known that about half the women who place ads for Swedes live in Stockholm.

The Internet also offers many possibilities of contact via forums (in some of them prostitution is openly discussed) and chat rooms. There are also advertisements in which porno-clubs, swingers, and strippers look for contacts: it is possible to watch a strip-tease on the Internet, via web-cam, paying by credit card. This is completely legal since it does not imply direct contact with the purchaser. Journalists reported about a company that hired fifty girls to this purpose, even paying employers’ contributions.

According to the study by Månsson and Söderlind, 10% of men and 2% of women in the sample interviewed have answered sexual ads. Another interesting result is that pornographic pages are viewed by 60% of the men and 10% of the women in the sample.

Here we have another example of double interpretation of the effects of the law: supporters say, not without reason, that advertising for prostitution is moving to the Internet everywhere, so there is no direct cause-effect link to the approval of the law against the purchase of sexual services. But surely the existence of an expanding market on the Internet does not seem exactly to point to an achievement of the law's aims.

## **2.6.**

### **Other sites for prostitution**

There are a dozen strip-tease clubs in Sweden, called sex clubs; 5 or 6 of these are in Stockholm. According to the police, about 400 women work there. Besides strip-tease shows on the stage, these clubs offer rental or on-site viewing of pornographic movies and sell pornographic magazines and sex shop items. After stripping, the girls may have closer contact with clients for a session of "private posing" in booths where a Plexiglas screen separates them from the client, or they may dance at the table of the client. In some Stockholm clubs there are rooms for massage sessions and hot tubs. It is suspected that exchanges of sex and money also take place in solariums, massage parlours, or in pedicure parlours (the official estimate is of 20/25 brothels disguised as such).

Other means of contact for prostitution, documented especially by news reports, are casinos, ferries and cruise ships, but also restaurants, hotels, ballrooms, especially during congresses or private parties; and of course there are personal contacts, that are mentioned as the main means of contact for women from Eastern Europe, who work in flats. According to Gripenlöv (2003), the number of foreign women who worked in the brothels in the province of Stockholm was 50/100 per year.

Prostitution by foreign women, as we have mentioned, is completely illegal pursuant to the law on foreigners, that prohibits foreigners from earning a living "indecently." We shall discuss this later on, in the section on human trafficking.

Ads of pay-per-call erotic chat lines appear in the press; however, these do not usually lead to personal contact. The law on the press is particularly strict; for instance, only those who have a diploma in physiotherapy can advertise massage services.

Finally, prostitution also takes place in environments usually considered separate and even diametrically opposed to the world of prostitution. A prostitute with a university degree and work experience in a company, declared in an interview: «There's prostitution everywhere. I have a friend who has to have sex with her boss, they ask you for sex to give you a job. Is that not prostitution, too? There's plenty of it in companies».

## 2.7

### Social services

Social services are numerous in Stockholm, both public and private ones funded with public funds, and they are dedicated both to prostitutes (particularly drug addicts and homeless prostitutes) and clients. In my opinion, this is where the most controversial issues of the official Swedish position emerge.

The public service is the Prostitutionsenheten (Prostitution unit), which does not have any funds to give directly to prostitutes or to finance projects to support them (for instance vocational training courses), but can help them in their dealings with the town administration, that can provide income support. The recent changes in social policies, however, have made allocation of this allowance less certain and slower than before.

The Prostitutionsenheten offers therapy services both to prostitutes and clients. Currently they are taking care of about eighty people, 20/30 of whom are men. In a year the Prostitutionsenheten estimates they usually have contact with five hundred people. In 2000-2003 they had 130 users, of whom 60% left prostitution: many of these mentioned the new law as an important incentive to their seeking help.

But when people who do not wish to stop prostituting themselves go to the Prostitutionsenheten, they find they are not necessarily welcome. One interviewee was very critical even about the way prostitutes are “welcomed”: the strongly negative judgement passed on prostitutes is evident in the way they are treated even in this service expressly dedicated to them. The same negative judgement on the Prostitutionsenheten attitude is voiced by Tanya Holm, who interviewed several prostitutes. Officially, prostitutes are not criminals, but unofficially they are: if they do not accept to stop prostituting themselves, the official view on prostitution in Sweden does not allow them to be considered anything less than betrayers of the female gender. The Malmskinnadsgatan prostitutes I met reciprocate the public aversion, going so far as to accuse the social services of portraying them as needy women just to

defend their own assistance job. Even politicians are considered criminals: «Otherwise how would they have got where they are?».

A woman I interviewed who had sought advice from the Prostitutionsenheten at a moment when she was pondering possible life alternatives, was offered psychotherapy; as she discovered during the therapy sessions, it was aimed at uncovering the sexual violence she had suffered as a child. The problem was she had suffered none: «I felt very confused, I started to doubt what I knew... at the end I left therapy», she said. She said this also happened to other friends of hers. The rigidity in the official conception of prostitution does not therefore seem to help much in establishing a therapeutic dialogue. Even the gynaecological services of the Prostitutionsenheten are marked by an authoritarian approach: I heard of a permanent means of contraception (slow-release hormone) implanted without bothering about the woman's doubts and objections. There do not seem to be internal projects of evaluation of the Prostitutionsenheten, or at least they are not available to the public, and after an initial contact and two interviews, further requests of clarification on my part (on the issue of mental diseases, for instance) were left unanswered.

Another public service is the Spiralprojekt, a project specifically targeting drug addicts. Its offices are in the same building as the Prostitutionsenheten. Besides the rehabilitation centre for drug detoxification, therapy with methadone and buprenorphine is offered, but actually the Spiralprojekt does not take in all those who request these services. A woman I interviewed on Malmskinnadsgatan said that in her experience substitute therapies are practically inaccessible: «It takes a year to get buprenorphine. They don't give you enough money to live on. If they'd help me I wouldn't be here». Even in this case, the absolute goal of independence from any sort of drugs, refusing the approach of damage limitation, is not at all helpful in the relations of the social services with their target group.

The social services also oppose distribution of condoms as a particular aspect of the philosophy of damage limitation applied to prostitution: they do not want to be accomplices in an undesired activity.

A private social agency also has a team that goes out into the streets once a week at night: the Stadmission (City mission of the Protestant Church) brings coffee and other refreshments to Malmskinnadsgatan, initiating talks aimed at offering help.

Another agency that offers therapy is the RFSU (National union for sexual education), which primarily deals with sexual education and organises meetings in schools based on the dialogue method and not on traditional lectures. The RFSU does not speak directly about prostitution, but about the “whore's stigma,” trying to make kids think about the double moral they use in labelling girls and classifying them as either “easy girls” or “good girls.” In the past six years, the RFSU clinic took over for therapy

25 women who had experienced prostitution. These women especially lamented the problem of exposing themselves compulsively to risk-taking or not being able to keep a permanent relationship. The clinic also offered therapy to 30 clients of prostitutes, who recognised they had a sort of dependence from prostitution and pornography or who considered their consumption of paid sex a problem because they were married. Very often, however, therapy was interrupted - the RFSU report states - «when it started to become significant». In other cases, instead, the goal of reaching greater control over the sense of compulsion, both for prostitutes and clients, was achieved.

Finally, in this overview of social services, an important role is played by the “Kast” project at the Prostitutionsenheten. It exclusively targets clients, providing phone counselling that can lead to start therapy. The aim, therefore, is a replacement (albeit temporary) of prostitutes with therapists, which certainly may yield good results in many cases - but is it always necessary? I would like to pose another provocative question: how strenuous is the work of a therapist compared to that of a prostitute? Because in the same RFSU report, we read: «As psychotherapists, we run the risk of being overwhelmed on the job by impotence and desperation, feelings that can be considered a direct reflection of the experiences of our patients».

But according to the official Swedish view, the purchase of sexual services is always problematic. Men, according to the therapists, make a mistake in sexualising other feelings, like mourning, sadness, or anger. The alternative would be to deal with them for what they are. Horror is felt for the Danish and Dutch initiatives of contributing with public funds, within the framework of social security, to sexual contacts of handicapped people with prostitutes or volunteers, who in the Netherlands receive a repayment of expenses, so meagre that they cannot be motivated by it: they consider this activity a form of charity.

It can be interesting to give a brief description of clients written by Johannes Eriksson, who practises prostitution in the south of Sweden; this description was published in “Expressen” on 27 May 2005:

The reasons they come to me vary: it can be that they feel lonely or unsure of themselves, they need an adventure or they need to relax, or, more often, they come because they're excited and they don't want to waste time, energy, and money looking for someone on the free circuits. Of course, I've met some bad apples, just as I used to encounter them when I worked in an office, but most clients are absolutely, totally ordinary men, who would never dream of threatening or beating me or anyone else.

Johannes Eriksson also says he never met anyone who had stopped being a prostitute because of the new law - those who did stop did it for other reasons.

According to the already mentioned enquiry on sexual behaviour, 12.7% of Swedish men declared they had been with a prostitute at least once in their lifetime. The impressions of those we interviewed are that younger men have become convinced, thanks to the public debate and information campaigns, that prostitution is undesirable, but that older men do not heed the governmental position.

## 2.8

### **The debate on the law against the purchase of sexual services**

Although the law was approved despite the negative opinions of most of the agencies and authorities consulted<sup>12</sup>, including the police (except for the city of Stockholm where the police was in favour), the social services (again except for Stockholm), and even the judiciary, agreement on this model was debated very little in the political world. Even the Green Party, which in other European countries supports prostitutes' movements or prostitution decriminalisation, is a strong supporter in Sweden of greater repression.

Surveys show that the Swedish population mostly supports the law, although it must be said the last survey is not very recent: in 2002, a survey by Sifo found that 80% of the people interviewed were in favour of the law against clients (compared to 60% in favour when the bill was being discussed), with about 15% of people wishing it to be abrogated. The law's detractors point out that the population does not actually know much about what happens in the small world of prostitution, so it accepts the version that defines the question as a problem of gender equality, which all Swedes support – or at least say they do. Unlike other countries, where many more ordinary people have had contact with this world and know someone who has been part of it, in Sweden the tendency is to trust the official truth, for lack of direct experience.

In this debate – by contrast to the other countries examined - neighbourhood committees are entirely missing: the few residents of Malmskinnadsgatan do not complain about the situation, or at any rate they are not organised in committees. I did not find any traces of conflict between prostitutes and neighbourhood residents in newspaper articles or letters, either.

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<sup>12</sup> In Sweden it is mandatory to request the opinion of many public institutions when proposing new bills (11)

The voice of prostitutes themselves is not very strong in Sweden. Rosea, a group founded at the end of the 1990s by sex workers, is not active any longer: it only played a public role for a year, then its importance faded for lack of strength on the part of the few promoters (a dozen, including supporters) who did not find followers among the other prostitutes. It is very difficult to expose oneself publicly as a person practising a sexual trade, especially since most of them engage in it discreetly, for limited periods of time, and do not see any substantial advantages in becoming members of an association, since they manage to practise prostitution anyway.

The women who work on the streets believe they engage in exchanges between consenting adults, and therefore they don't understand why the sex trade is prohibited.

Cultural opposition to the law, which emerges in articles published by jurists, anthropologists, and other social scientists, is denigrated by law supporters, who call it a “pro-prostitution lobby” and accuse it of favouring the trafficking of sexual slaves. However, the virtual unanimity with which this bill was discussed in the 1990s has dissolved: there are different voices, not only those of the supporters of the law, in the book entitled *What does Lilja have to do with my life?*, inspired by the film *Lilja forever*.

In 2005, the Nordic Journal of Criminology published an article by an important jurist, Per Ole Träskman, who started by citing Danish researcher Jens Jersild, active in the Sixties: «It is difficult to understand what legal good one wishes to protect by punishing those who accept payment to undertake an action that would be legal without payment» (Träskman, 2005). Träskman, who teaches Penal Law at the University of Lund, speaks of irrational criminal policy due to paternalistic ideology, of a law contrary to individual freedom and, what's more, ineffective, since its actual application would require the police to employ too many resources.

The documentary *The war of the sexes*, made for a public television channel, showed the supporters of the law as dogmatic and totalitarian, based on their own declarations when the cameras were on or when they thought they were off<sup>13</sup>.

The popular newspapers “Aftonbladet” and “Expressen” often publish articles in which “unrepentant” prostitutes speak, along with frequent surveys on the environments where prostitution takes place.

As for international reactions, the evaluation made by the Norwegian Department of Justice in 2003 resulted in the proposal to introduce the law criminalizing clients of prostitutes in Norway being rejected by the Norwegian government. The Norwegian Minister of Justice Odd Einar Dørum declared:

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<sup>13</sup> Furthermore, in an article published on 20 June 2005 in “Expressen”, Petra Östergren, based on what she was told by people with direct knowledge of the facts, writes that Gunilla Ekberg, an official of the Ministry of Industry, Employment, and Communication, forced the RFSU to censure part of the report *Sex på köpet?* in which the prostitutes spoke of their sense of power over clients ([www.petraostergren.com/content/view/51/5](http://www.petraostergren.com/content/view/51/5)).



«We must prevent women from being on sale, but we cannot solve social problems through criminalisation». The committee's evaluation, which is available in full on the website of the Norwegian Ministry of Justice (<http://odin.dep.no/jd/>), was presented in Sweden with an article on the daily paper “Svenska Dagbladet” (14-02-2005) written by the spokesman of the Committee, sociologist of law Ulf Stridbeck. The Swedish minister for Equal Opportunities, Jens Orback, answered on the pages of the same newspaper, rejecting the results of the Norwegian study and calling Stridbeck and the other members of the committee «profoundly ignorant».

The opinion of a member of Rosea is that the law will not be modified, because the women in the Social Democratic Party acquired great visibility thanks to this law and having to withdraw it would be a political suicide for them.

The “neo-abolitionist” (actually prohibitionist) front is still strong and compact, and it sets the policies and promotes the view of prostitution and of pornography as violence against women in Sweden and around the world<sup>14</sup>. According to this vision, prohibiting both pornography and prostitution is a way to fight violence against women.

Since no prison sentence has ever been inflicted, harsher sentences are now being demanded by the women of the Socialist Party. Prohibitionism grows on itself: if initially the legislators' intent was morality, the symbolical and educational character of the law that defended equality between men and women as official policy of the State, now symbolical punishments are not enough any more.

## 2.9

### **The law against human trafficking**

The Swedish law defines human trafficking as any organisation of illegal movements of people across borders involving threats or deception, or in which minors are involved. Sentence range from a minimum of two years imprisonment to a maximum of ten years in particularly serious cases. In the first version of the law, in 2002, the only purpose of the crime of trafficking envisaged was the exploitation of occasional sexual relations or other sexual purposes. In 2004 an amendment added forced labour, trafficking of organs, and other types of exploitation.

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<sup>14</sup> European Parliament member Marianne Eriksson denounced to the European Parliament the awarding of EU AIDS funds to organisations of prostitutes or supportive of prostitutes, declaring that they are used to make prostitution acceptable.

	1999	2000	2001	2002	2003	2004	2005
Number of human trafficking offences prosecuted in Sweden	-	-	-	-	22	29	44
Number of sentences in Sweden	-	-	-	-	1	0	7
Number of crimes prosecuted in the district of Stockholm	-	-	-	-	6	13	12
Number of exploitation of prostitution offences prosecuted in Sweden	32	46	43	46	69	98	94
Number of sentences in Sweden	2	8	1	4	5	24	29

In 2005, 3 people were found guilty of human trafficking and 18 of exploitation of prostitution in the district of Stockholm. The police web pages state:

It is ascertained that human trafficking is a widespread crime throughout the country, having clear connections to other kinds of organised crime. In 2004, there were 29 indictments for human trafficking with sexual purposes in Sweden. No one was sentenced for the crime of human trafficking, but 20 people were sentenced for exploitation of prostitution, aggravated exploitation, abduction, sexual exploitation, and other acts similar to human trafficking. In the same year, women and girls were recruited for this trade especially in Estonia, Lithuania, Russia, and Poland. Most of the victims in 2004 were minors, usually 16/17 years old. The number of operations and sentences concerning the above crime greatly increased in 2004 ([www.polisen.se](http://www.polisen.se)).

The number of victims recorded depends, by their own admission, on the police's diligence, that varies from one district to the next and from one year to the next. Victims come especially from Estonia, Lithuania, Russia, and Poland, but also from Thailand, Hungary, Morocco, and Moldavia, while traffickers come from Estonia, Lithuania, Poland, Hungary, Thailand, Tunisia, and also Sweden. Some live in Sweden.

A policeman working in the unit against human trafficking in Stockholm says that: «The majority of foreign women we meet in prostitution is not forced, is not deceived. Instead, they have a very difficult situation in their country: they are unemployed, have young children, they have no other way of earning money».

We also notice a strong increase in the indictments for exploitation of prostitution: in the 1990s the number varied between 15 and 25 cases per year (with an exceptional 45 cases in 1993), then in the

past few years it had a mathematical progression, as can be seen in Table 3. The number of sentences remained low, up to the exceptional number of 2004. In Stockholm, the number of prosecutions rose from 52 in the period 1994-1998 to 91 in the period 1999-2003. In Gripenlöv's report (2003) we read that this increase is entirely due to the police's action: whereas before court summons were issued on the accusation of the women, with many clients acting as witnesses, now the police has also started to investigate on its own.

## 2.10

### **Enforcement of the law against human trafficking**

According to police sources, even after the amendment that extended the crime of trafficking to other cases besides exploitation for sexual purposes, in practice only the crime of trafficking for sexual exploitation is prosecuted, because only in this field it is possible to find women who were forced and who therefore will give testimony against traffickers, while other workers are usually not motivated to charge their employers or those through whom they gained employment with "trafficking." Temporary permits were issued to four Estonians and a Vietnamese that had been victims of trafficking to allow them to give testimony at a trial against traffickers, and a permanent residence permit was given to a woman for humanitarian reasons.

Not much is known about trafficking in other sectors, but the phenomenon seems to be limited, considering also the monitoring carried out by unions in workplaces and factories. Instead, it seems that the practice of hiring domestic help among women who are *sans papier* is gaining ground among families, especially for reasons of status. These environments, however, are not investigated by the police, just as small-scale trafficking is not investigated due to lack of resources. In 2003, 300 cases were reported to the police, but the police's actions were much fewer. If the investigators find out about one or two women in a flat (usually these places are watched by a man and the lease is in the name of a figurehead), they ignore it because the means with which they can prove the crime are surveillance, photographs, telephone tapping, all of which require an intensive use of police force. If the supposed victims are over 18, it is difficult to prove that they were not in consent, and the police, on the basis of past experience, do not expect them to cooperate. Clients do not want to give testimony either, since they run the risk of being punished for the purchase of sexual services. Therefore the proof of this crime is essentially based on the victim's being a minor.

Whereas prior to 1999 the police received information even from clients who suspected the situation of coercion of a woman they had met, the police cannot count on this source of information any more.

## 2.11

### **How prostitution of foreign women is organised**

In 1999, the number of foreign women who were prostitutes in Sweden was growing, although it had not reached levels comparable to Italy or Spain, nor those of France in the past few years. A factor that contributed to this growth was that as of 1997, citizens of the Baltic countries were no longer required to have a visa to enter Sweden. In 1998, 50/70 foreign women had been identified among streetwalkers in Stockholm; they remained in Sweden each time for one to twenty-one days. In 1999, after the law against clients became effective, there were only about thirty foreign prostitutes identified, and the police expelled two Estonians and one Russian because they supported themselves by prostitution.

Foreign women who practise prostitution, are sentenced to deportation and are not allowed to return to Sweden for two years. Many women from Eastern Europe are rejected at the borders on the basis of the mere suspicion that they enter Sweden to engage in prostitution. Even those who have a residence permit lose it, because they do not support themselves honourably - unless the permit has been held for at least three years: in this case this rule does not apply.

The main means for contact between prostitutes and clients is the Internet. Nowadays, those who organise prostitution of foreign women employ a high level of organisation: they even take the prostitute personally to the client. It is also necessary to invest considerable sums of money to rent the flats where the women live.

Trials uncover all sorts of stories, ranging from mutual agreement to the use of violence.

“Eva”, interviewed by Elisabeth Bernstein, is a prostitution go-between: she finds flats, clients, and deals with security. One or two girls at a time work for her, staying in Sweden from a week to three months. This is how she describes her earnings as an organiser:

A Swedish girl who works on her own usually earns 1,500 crowns. Sometimes, on the street, the client manages to lower the price to 1,000 crowns. Now that only drug addicts are left on the streets, the price has gone down a lot. Fellatio used to cost 500 crowns. So when I started to make Swedish girls work, the price I asked for was 1,500/3,000 for a half-hour or an hour, and I took half of that. Now if I want to

make the same profit with Estonian girls, I pay each girl 500 crowns, and I have 750 left for a half-hour date. The encounter costs the client 1,250 crowns. So for him it is a little cheaper and he finds a high quality girl. For an appointment of an hour, the price is 1,600/2,500. The girl gets 500 for a half-hour and 800 for an hour. But actually, I found that the girls are satisfied even with lower amounts, anything from 300 to 500 crowns is fine, so I started paying them that amount. [...] There's a lot of talk of "slave trade": in my case not only the girls want to come here to work, but they even pay their contact in Estonia for putting them in contact with me. Most of them have already done this job before.

According to the police, most of the foreign women who were found in situations of prostitution knew what job they were going to do, and they had made an agreement with the organisers about how to divide their earnings. Others put ads to find other jobs and were contacted with the proposal of prostituting themselves, while others yet were already prostitutes in their country.

About half the foreign women arrested in flats where they practised prostitution, talked with the police: none of them said they had been abused or raped by the organisers, only one declared she thought if she had wanted to break the agreement and go home she would have been threatened. However, many women report that agreements were not honoured. On the other hand, the women have no one to go to if they are tricked on the agreements.

## 2.12

### **Actual effects on human trafficking and prostitution of foreign women**

In the last police report on human trafficking (Rikskriminalpolisen no. 7, 2005), the police complained about a 19% decrease in information on human trafficking; this is attributed to the fact that many Eastern European countries have become part of the European Union, and therefore controls at the borders with the East diminished.

In report no. 5 of 2002 the Latvian police notes that organisers of prostitution in Sweden offered women better conditions, in the hope of not being denounced for the specific crime of human trafficking, which was introduced that year.

Clients of prostitutes in many cases (2/3 in Stockholm) were prosecuted within the framework of an investigation on the exploitation of prostitution or human trafficking. The opposite, however, is not true: no investigation on sexual purchasers has ever led to the discovery of more serious crimes.

In the national police report of 2000, based on notifications received it was estimated that there were between 200 and 500 women in Sweden who were supposedly victims of trafficking. In 2003, the estimate rose to 400/600; the police notes that this does not necessarily imply an increase in the number of victims, since estimates can be wrong (another example of possible double interpretation of the “data”: in favour or against the law). No official estimates are made today.

The Stockholm police, too, believes it is impossible to estimate the phenomenon, because it depends on the police forces used for the investigations, i.e., on the priority given to investigations on this crime.

The joint effect of the two laws against the purchase of sexual services and against human trafficking is, in any case, a relative immunity of Sweden compared to other countries of Western Europe as to the presence of foreign prostitutes on its territory, at least with respect to the visible presence of foreign prostitutes on the streets.

## **2.13**

### **The debate on the law against human trafficking**

The neo-abolitionist front, that is in favour of the law against the purchase of sex, protests against the fact that the crime of human trafficking is limited in cases in which the “victim” is over 18 and was not forced or deceived. They complain that in these cases the guilty parties are sentenced for exploitation of prostitution and not for trafficking, therefore receiving milder sentences.

The Parliament is discussing the possibility of granting victims a permanent residence permit. This decision is particularly supported by the Christian Democrats.

The other States of the Nordic Council, on the other hand, think that the Swedish legislation transferred the problem of human trafficking to them and consider the Swedish position as a breaking off from Nordic cooperation in the fight against human trafficking. The Swedish government, instead, is encouraging the other states to adopt the same measures. At every international encounter, Sweden promotes the idea that prostitution is an expression of violence against women that encourages human trafficking as a form of slavery, and presents the vision of a future elimination of the phenomenon thanks to prohibitionism.

## **2.14**

## **The law**

### 2.14.1. Penal Code. Chapter 6 on sexual crimes

#### *§ 11 - Purchase of sexual services*

Anyone who procures himself an occasional sexual act in return for money, in any case not previously considered in this chapter [rape], shall be found guilty of the purchase of sexual services and sentenced to a fine or to imprisonment for up to 6 months.

The first paragraph is valid even if the fee for the services has been promised or given to another person.

#### *§ 12 - Procuring*

Anyone who favours or unjustly profits from the fact that another person has occasional sexual relations in return for money, shall be found guilty of procuring and sentenced to imprisonment for up to 4 years.

If a person who has made premises available in exchange for money finds out that the premises are used entirely or in substantial part for occasional sexual relations in return for money, and does not do everything that may possibly be expected to make availability of the premises cease, shall be considered guilty, if the activity in the premises continues or reprises, of having favoured said activity and shall be sentenced under the first paragraph of this law.

If the crime described in the first or second paragraph is aggravated, the sentence for aggravated procuring shall be imprisonment for a minimum of 2 years and a maximum of 8 years. The large scope of the activity, its yielding considerable earnings, or the brutal exploitation of another person shall be considered foremost elements in judging whether the crime is aggravated.

### 2.14.2. Penal Code

#### Chapter 4 on crimes against freedom and integrity

#### *§ 1a - Human trafficking*

Anyone who, in cases different from those foreseen by §1 [unlawful restraint], recruits, transports, gives lodging to, takes in, or undertakes similar actions and therefore acquires control over a person, by

using force or deceit, taking advantage of a person's vulnerability or with other similar illegal means, with the aim that the person be:

- 1) exposed to a crime according to chapter 6, § 1, 2, 3, or 4 [rape], exploited for occasional sexual relations or exploited in other way for sexual purposes;
- 2) exploited for military service or forced labour or other situations of coercion;
- 3) exploited for organ transplant;
- 4) exploited in other ways that cause harm to the person;

will be sentenced to prison from 2 to 10 years for human trafficking.

The same goes for those who, to the purpose cited in the first paragraph:

- 1) gives another control over a person;
- 2) receives from another control over a person.

Anyone committing a crime mentioned under the first paragraph against a person that has not turned 18 shall be found guilty of human trafficking even if the person did not use any of the illegal means listed above.

If the crime cited under paragraphs 1, 2, 3 is less serious, the sentence shall be imprisonment for up to 4 years.



## Sources

*During my stay in Stockholm I interviewed the following people:*

- A historian.
- A researcher of the Brottsförebygganderadet, Council for crime prevention (public research agency).
- A policeman of the Stockholm unit for human trafficking investigation.
- A police official in charge of human trafficking investigation.
- A foreign university researcher, expert in human trafficking.
- The head of the Stockholm Prostitutionsenheten (Prostitution unit).
- A Prostitutionsenheten social worker, who deals with street prostitution.
- A former prostitute who had contact with the social services.
- A researcher who keeps contact with prostitutes.
- Members of the RFSU, an agency for sexual education.
- A member of Rosea (telephone interview).

I also had informal talks with prostitutes and clients on Malmskinnadsgatan.

E-mail correspondence with several privileged observers

## Bibliographical references

- ARBEIDSGRUPPE OM RETTSLIG REGULERING AV KJØP AV SEKSUELLE TJENESTER (2004), *Sexkjøp I Sverige og Nederland. Reguleringer og erfaringer*, JD Rapport.
- BERNSTEIN E. (2004), *Border Wars, Migration and the Regulation of Sex-Work in the New Europe*, in S.-L. Cheng, C. Vance (eds.), *Trafficking and its Discontents*, manuscript for publication.
- BRÅ (Brottsförebyggande rådet) (2000), *Förbud mot köp av sexuella tjänster. Tillämpningen av lagen under första året*, Rapport n. 4, Stockholm.
- BRYNGEMARK J. (2001), *Förbud mot köp av sexuella tjänster*, Juridisk fakultet, Universitet i Lund (graduation thesis).
- DODILLET S. (2003), *Kulturrock prostitution – om prostitutionsdebatten i Sverige och Tyskland*, in “Humanistdagboken”, 16, Göteborgs universitet.
- EEK L. (2001), *Spelat liv*, Atlas, Stockholm.
- EAD. (2005), *Att köpa eller köpas. Frihet och makt i sexindustrin*, Atlas, Stockholm.
- EAD. (2006), *Ingen hjälp genom ny lag*, in “Social Politik”, 1, pp. 42-44.
- EKBERG G. (2004), *The Swedish Law That Prohibits the Purchase of A Sexual Service, Best Practices for Prevention of Prostitution and Trafficking in Human Beings*, in “Violence against Women”, 10, pp. 1187-1218.

- GRIPENLÖV A. (2003), *Rapport över sexköplagens effekt på gatuprostitutionen inomhusprostitutionen i Stockholms Län 1999-2003*, Prostitutionsgruppen, Spaningsroteln, City Polismästardistrikt.
- HEDIN U.-K., MÅNSSON S.-A. (1998), *Vägen ut! Om kvinnors uppbrott ur prostitutionen*, Carlsson, Stockholm.
- HOLGERSSON C., SVANSTRÖM Y. (2004), *Lagliga och olagliga affärer – om sexköp och organisationer*, Norfa report.
- HOLM T. (2005), *Agens. Om konsten att se handling bortom det förväntade*, Södertörns Högskola (dissertation).
- MÅNSSON S.-A. (1998), *Den köpta sexualiteten*, in B. Lewin, K. Fugl-Meyer (eds.), *Sex i Sverige. Om sexuallivet i Sverige 1996*, Rapport n. 11, Statens Folkhälsoinstitutet, Stockholm, pp. 233-259.
- MÅNSSON S.-A., SÖDERLIND P. (2004), *Sexindustrin på nätet, aktörer, innehåll, relationer och ekonomiska flöden*, Egalité, Stockholm.
- MINISTRY OF INDUSTRY, EMPLOYMENT AND COMMUNICATIONS (2005), *Prostitution and Trafficking in Human Beings, Factsheet*.
- ÖSTERGREN P. (2003), *Synden ideologiserad. Modern svensk prostitutionspolicy som identitets- och trygghetskapare*, Stockholms universitet (degree thesis).
- POLISMYNDIGHETEN I SKÅNE (2001), *Rapport – Lag (1998,408) om förbud mot köp av sexuella tjänster. Metodutveckling avseende åtgärder mot prostitution*, Malmö.
- RFSU (2003), *Prostitution på Internet*, Stockholm.
- ID. (2004), *Sex på köpet?*, Stockholm.
- RIKSKRIMINALPOLISEN-KRIMINALUNDERRÄTTERLSETJÄNSTEN (1999-2005), *Handel med kvinnor* (Reports 1-7 on the trafficking of human beings), Rkp Kut Rapport, Stockholm [also available in English: National Criminal Investigation Department, National Criminal Intelligence Service, Illegal Immigration Unit, *Trafficking in Women. Situation report (1-7)*].
- SOCIALSTYRELSE (2000), *Kännedom om prostitution 1998-1999*, Stockholm (also available in English).
- ID. (2004), *Kännedom om prostitution 2003*, Stockholm.
- SVANSTRÖM Y. (2004a), *Criminalizing the John, a Swedish Gender Model?*, in J. Outshoorn (ed.), *The Politics of Prostitution: Women's Movements, Democratic States, and the Globalization of Sex Commerce*, Cambridge University press, Cambridge.
- EAD. (2004b), *Handel med kvinnor. Debatten i Sverige och Nederländerna om prostitution och trafficking*, in C. Florin, C. Bergqvist (eds.), *Framtiden i samtiden*, Institute för framtidsstudier, Stockholm, pp. 290-323.
- SVEDIN C.-G., PRIEBE G. (2004), *Ungdomars sexualitet – attityder och erfarenheter* (chapter: *Sexuell exploatering. Att sälja sex mot ersättning/pengar*), Lunds universitet.
- SVENSKA FILMINSTITUTET (2004), *Vad har mitt liv med Lilja att göra?*, Stockholm.
- TRÄSKMAN P. O. (2005), *“Dem som betalar för sex är en brottsling”. Om den svenska kriminalisering av sexköp som ett medel för att motverka prostitutionen*, in “Nordisk tidskrift för kriminalvetenskap”, pp. 73-95.
- TYLDUM G., TVEIT M., BRUNOVSKIS A. (2005), *Taking Stock. A Review of the Existing Research on Trafficking for Sexual Exploitation*, Fafo-report 493, Oslo.

Press review of the main newspapers on the topic of prostitution in the period from January 2002 to March 2006.

# Notes on Amsterdam

*Jan Visser\**

In this report I would like to give a brief picture of the developments in the Dutch policy on prostitution from October 2000 until March 2006. First of all, we must ask ourselves whether it is possible to describe the changes that legalisation brought about, and whether it is possible to assess the relevance of the factors that play a role in shaping the new prostitution landscape in the Netherlands. It may still be too early to draw exact conclusions, as we are in the middle of a historic process. It would be like gazing into a crystal ball just to try to understand what is really happening, let alone predict where we are going. This report draws heavily on anecdotic information since the second series of scientific evaluation studies is currently in progress and the results will be published in December 2006.

But on the basis of the experiences of the many participants in this study, we can come up with some tentative conclusions to contribute to the ongoing European discussion on how to deal with the prostitution issue.

## 3.1.

### **The “neo-regulationist” law and its aims**

On October 1<sup>st</sup>, 2005, the Penal Code on the exploitation of prostitution was changed. It was no longer a crime to organise the prostitution of somebody else. Brothel owners became business people. Although legalisation of the organisation of voluntary prostitution was accepted in principle as far back as 1985, the law was not changed until 2000. Before 2000, prostitution businesses like the famous shop windows of Amsterdam’s Red Light District, sex clubs, and other forms of indoor prostitution were tolerated by the judiciary as long as they were not linked to other criminal activities like the prostitution of minors, violence, or trafficking of drugs. The reform did not cause serious disturbance in the Dutch world of prostitution, because legal reform was the next logical step in bringing the prostitution economy under administrative control. The reasons behind the reform were practical: prostitution is simply a part of our society and by tolerating its less harmful forms, real criminal situations may be better fought. The other argument was that if two adults freely decide to exchange sex for money it is

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\* Researcher, Amsterdam.

not up to the state to forbid the exchange. Unlike other political systems, where moral behaviour is the basis for punitive laws, the Dutch legislators do not focus on the behaviour itself but consider whether violence against people is employed. This view was supported by the vast majority of the members of Parliament.

During the late 1980s, the debate over prostitution became increasingly influenced by the growing phenomenon of trafficking of women. Politicians had to integrate this new reality into their legal reform. That is one of the main reasons why this legal reform took so long. The law of 2000 had two main tiers: the legalisation of voluntary prostitution and an improvement in the prosecution of violence, fraud, and exploitation tied to prostitution. The government did not merely change the law. It took great pains in providing models and blueprints for rules and regulations that needed to be developed in the new situation.

The law has six explicit goals:

1. to control and regulate organisation of voluntary prostitution
2. to improve the position of prostitutes
3. to better fight forced prostitution
4. to protect minors against sexual exploitation
5. to lower the number of illegal aliens in prostitution
6. to detangle criminality and prostitution

Achievement of the first goal, the regulation of voluntary prostitution, was handed over to the municipalities; they were regarded as best suited to design a locally appropriate licensing system. This was the logical solution, since prostitution varied greatly within the Netherlands. In cities there were shop windows, sex clubs, massage parlours, private homes, escort services, street prostitution, and so on. In small towns there were perhaps only a few clubs or private homes. This meant that although the Ministry of Justice and the Association of Dutch Cities had created a model for a municipal licence, local governments were not obliged to adopt this new model. Some smaller towns with a majority of religious conservatives tried to avoid the implementation of a licensing system and were successful. However, the majority of Dutch towns adopted the model adapting it to their local situation. In fact, one of the reasons for changing the law in the first place was to give municipalities an instrument to bring this tolerated sex industry under administrative control.

Under the new law, municipalities may prescribe the construction and sanitary conditions of prostitution businesses. Following disturbances or non-compliance with the rules, mayors may close

brothels. The majority of the municipalities decided on a maximum number of prostitution businesses, as part of the licensing system. This number was often identical to the number of already existing brothels. This means that newcomers on this market are not welcome. Even if an establishment is shut down, it does not mean that a new one may open. Usually, applications for new licenses are turned down. Paradoxically: the legal reform was meant to improve the situation of prostitutes, but in many circumstances working independently at home is a right denied by the municipality. Thus the only option is to work for a boss in a club where the balance of power is still as uneven as it was before.

In sum, legalisation has brought the municipalities the benefit of a solid instrument to control the number and the modus operandi of prostitution establishments. On the other hand, the system is quite rigid and is designed to suit the interests of the municipality. It is practically impossible to set up innovative new businesses. There seems to be a tendency, not yet thoroughly documented, for persons who want to start new businesses to do so outside the legalised system, thus becoming illegal entrepreneurs. Legalisation has reinforced the shift away from fully visible prostitution towards new forms of prostitution (i.e., via the Internet and mobile phones) and new forms of commercial sexual entertainment (swinger clubs, kinky sex parties, lap dances in discotheques). In some major cities the number of “traditional” prostitution enterprises has declined rapidly in the past few years. We anticipate a shift to these other forms of sex entertainment that will loosen the municipalities’ grip on prostitution. The licensing model is meant for a building with an address: an escort agency may not have any and can evade municipality control.

### **3.2.**

#### **The prostitutes’ situation**

The second aim of the legal reform was the improvement of the prostitutes’ situation. This aim garnered a lot of sympathy from the general public and the Dutch women’s movement. The Red Thread (De Rode Draad) is the prostitutes’ rights organisation, subsidised by the government to give prostitutes a place in the debate.

The new law meant that prostitution became a profession, with all the rights and obligations connected to legal work. Prostitutes (sex workers did not replace that term) and brothel owners were supposed to negotiate working conditions and labour relations. In the beginning there was hope that roundtable meetings and expert panels would provide contract models for employed and self-employed prostitutes and large-scale regularisation would occur. But unfortunately, thanks to various causes, a dramatic

stagnation occurred. One of the main causes was the lack of expertise and organisation amongst prostitutes and brothel owners. Coming from an illegal economy, both categories were used to hide from authorities and the bureaucracy. Given the fact that they did not see the immediate advantages of working under the legal framework and paying taxes, and so forth, the vast majority tried to remain relatively invisible. But perhaps just as important were the policies and the attitudes of agencies (like the tax office and the social security system) that had to develop and carry out new rules for this new economic and social position of prostitutes and their employers. These agencies and the government as a whole have failed to design transparent and clear procedures for the sex industry. Some of the unresolved issues: what are the criteria for self employment, what are fair labour relations, what health insurance exemptions are applicable. It must be said that the trade unions did not show much interest in concrete support for the development of prostitutes labour rights<sup>1</sup>. At the moment there is a standstill in the development of operational schemes and a lack of national coordination with respect to implementation of these kinds of policies. The fact that both the Minister of Justice and the Minister of Labour are members of the Christian Democrat party might have something to do with that.

Apart from the financial gain that persons in the sex industry have by staying out of the legal picture, they fear public exposure would harm their private lives and contacts with agencies. The legal reform did not automatically end the social stigma attached to prostitution. For instance, this can be observed in the financial sector, where banks are very reluctant to loan to sex industry workers.

### 3.3.

#### **The fight against violence**

The third, fourth, and fifth goal of the legal reform concern violence and exploitation against adults and children in the sex industry. The legal reform of 2000 was exclusively aimed at the sex industry. On 1 January 2005, an extension was added to include other work and services and to include the removal and traffic of organs.

There are no exact data but there is a general agreement that the majority of sex workers in the Netherlands come from abroad. Since the late 1990s they have come primarily from Central and Eastern European countries and West Africa, and in lesser numbers from Latin America and Asia. The

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<sup>1</sup> De Rode Draad belongs to the FNV union, but the people that are direct members of the union are very few (*Editor's note*).

total number of sex workers is calculated at about 20,000. Only persons with an EU passport are free to work in the Dutch sex industry, as in all other sectors of Dutch economy. Citizens of Romania and Bulgaria, as Associate countries, can apply for special working permits. All other nationalities are excluded. Until 2000, The 25 police regions in the Netherlands had a lot of leeway to make their own policies, which often meant tolerating foreign women, regardless of their nationality. Some regions kept a close eye on foreigners, while some did not make a priority of policing them. It took some years and the repeated criticism of the National Rapporteur on Trafficking before a national policy took shape. All regions have a specialised squad for prostitution and trafficking and they cooperate on the national level. They are well instructed on procedures to protect victims of trafficking and organise support and shelter when they come forward to the police.

In 2003, 257 trafficked women were officially counted, but the true figure is considered to be at least tenfold. Human trafficking has become high on the political agenda during the last few years. This concept also includes Dutch women and girls who are being brought into prostitution against their will. The definition problem is obvious: violence, force and exploitation is hard to prove if some young or foreign girl is under the influence of dominant men. The police can act upon indications like “not having the possession of your own passport, not having money, not knowing where you are working”, but to develop a case in court it remains vital to get the testimony and cooperation of the victim.

Victims and witnesses are offered a protection scheme and a temporary residence permit for the duration of the trial against their traffickers. This model is not working satisfactorily, however, because the women must return to their country of origin when the trial is over. There they might be subject to revenge from the criminal organisation that brought them to the Netherlands. And their stay in the Netherlands might stretch for years as the trials often take that long<sup>2</sup>. During that time they are not encouraged to integrate into Dutch society.

The government has launched a National Action Plan on Trafficking as a result of the growing concern of public opinion. This plan includes an expert centre of the national police and an awareness campaign in the media to draw attention of – among others – prostitutes’ clients to the fact that they might encounter victims of trafficking. There is a special anonymous telephone number to report these cases. There is not much attention given to the sixth goal of the legal reform, detangling criminality and prostitution. In Amsterdam, there is a special municipal bureau that follows the laundering of prostitution and drug money into real estate. The city can cancel purchases or take the place of the

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<sup>2</sup> In 2006 it was decided to grant residence permits to those who had lived in the Netherlands for the last three years.

buyer if these transactions are suspicious. However, there is not much evidence that brothel owners themselves are traffickers of women or trade drugs.

### **3.4.**

#### **Final remarks**

The overall picture of prostitution in the Netherlands is complicated.

The process of legalisation is stagnating. Municipalities know the official locations of the brothels and keep these buildings under control, but they do not pay much attention to the fringes of the sex market; thus leaving open the possibility for prostitution to be practised in these unregulated areas, as well.

The government and its agencies are not developing rules and regulations nor are they giving direction to the normalisation and integration of the sex industry into mainstream society.

Prostitutes and brothel owners themselves see no advantages to becoming part of the official economy.

Many prefer to stay underground for as long as the state allows them.

Prostitution itself is changing rapidly, because of technological innovations: the Internet, mobile telephones, and so on. The current mechanisms and tools of the state are not equipped to control these developments.

We also see a change in public opinion: in the 1980s and 1990s there was a lot of sympathy for the emancipation of prostitutes; nowadays there is much more attention to the negative aspects of prostitution, which is regarded as oppression of women. Customers are regarded as dirty or even criminal men; the prostitute as a victim.

These are confusing and disturbing times.



### 3.5.

#### The law

3.5.1. Law modifying the Penal Code, other Codes and some laws (abrogation of the general prohibition to establish brothels), 1999<sup>3</sup>.

##### *Article 7*

The following article (151a) was inserted in the law on municipalities after article 151:

– The council can establish a set of rules for entrepreneurially providing the possibility of engaging in sexual acts with a third party in exchange for payment.

3.5.2. Penal Code in force from 1 October 2000 to 31 December 2004

##### *Section: Crimes against mores. Article 250a*

1. A prison term of up to 6 years or a 5<sup>th</sup> category fine shall be the sentence for:

a) anyone who, with physical coercion or other act of violence or with the threat of physical coercion or other act of violence, forces another person to make herself or himself available to engage in sexual acts with a third party in return for payment, or in other way, abusing of the authority that comes from an existing relation or by deception, induces another person to make herself or himself available to engage in sexual acts with a third party in return for payment, or who otherwise, in the above-mentioned circumstances undertakes any action that he or she knows or must reasonably suppose will induce the other person to undertake such activities;

b) anyone who recruits, transports, or abducts another person with the purpose of inducing that person to make herself or himself available in another country to engage in sexual acts with a third party in return for payment;

c) anyone who induces another person to make herself or himself available to engage in sexual acts with a third party in return for payment, or who otherwise undertakes any action that he or she knows or must reasonably suppose will induce the other person to undertake such activities if the other person is a minor;

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<sup>3</sup> It came into force in 2000.

d) anyone who deliberately profits from paid sexual acts engaged in by another person with a third party, if he or she knows or may reasonably suppose that the other person makes herself or himself available to undertake these activities in the conditions mentioned in *a*);

e) anyone who profits from paid sexual acts engaged in by another person with a third party, if the other person is a minor.

2. The guilty party shall be sentenced to imprisonment for up to 8 years or with a 5<sup>th</sup> category fine if:

a) the crime defined in the first paragraph is committed by one or more people in agreement;

b) the minor is not yet 16 years old;

c) serious bodily harm was caused by the physical coercion or by any other act of violence as mentioned in the first paragraph.

3. The offence defined in the first paragraph committed by two or more people in agreement as under the second paragraph under *b*) and *c*) shall be punished with a prison term of up to 10 years or a 5<sup>th</sup> category fine.

### 3.5.3. Penal Code currently in force

On 1 January 2005, article 273a became effective, replacing previous article 250a. The new article addresses the changes brought on by the Palermo Convention<sup>4</sup>, that includes sexual exploitation, forced labour, and organ trafficking. Sentences range from a fine to a maximum of 15 years imprisonment. The following are the sentences pertaining to prostitution-related crimes.

Other relevant articles of the Penal Code which may be used to prosecute traffickers include Article 242 (sexual violence and rape), Articles 282 and 283 (deprivation of freedom), Article 284 (coercion), Article 285a (threats/intimidation) and Article 300 (abuse).

#### *Article 273a Section 1*

A fine or up to 6 years imprisonment to:

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<sup>4</sup> Additional protocol of the UN Convention Against Transnational Organised Crime to prevent, repress, and punish human trafficking, particularly the trafficking of women and children, signed during the Palermo Convention (12-15 December 2000).

- anyone who, through the use or threat of violence or other forms of coercion, abduction, fraud, deception, or abuse of a situation of power or of a position of vulnerability of the victim or by giving or receiving payment or benefits in order to obtain the consent of a person who has authority over another, transports, transfers, gives lodging, or takes in another person with a view to exploiting said person or removing said person's organs;
- anyone who recruits, transports, or abducts another person with a view to bringing said person to another country and making her or him available for sexual services with one of the means described above;
- anyone who forces or induces another person to do forced labour or make her or his organs available;
- anyone who intentionally profits from the exploitation of another, or from the removal of organs if the organs were removed under the circumstances listed under section 1.

*Article 273a, Section 3*

A fine or up to 8 years imprisonment:

- if the offences listed under section 1 were committed by two or more people in agreement;
- if the person that is the victim of the offences has not reached the age of 16.

*Article 273a, Section 5*

A fine or up to 12 years imprisonment:

- if one of the above-mentioned offences results in severe bodily harm or it is feared that a person's life may be in jeopardy.

*Article 273a, Section 6*

A fine and up to 15 years imprisonment:

- if the offences described above result in death.

Sentences vary as follows if the victim is a child or a minor or has not reached the age of sexual consent:

*Article 273a, Section 1*

A fine or up to 6 years imprisonment to:

- anyone who recruits, transports, delivers, gives lodging, or accompanies another person with the purpose of exploitation or organ removal if that person has not yet reached 18 years of age;
- anyone who makes said person available for sexual services to a third party in return for payment or makes that person's organs available in return for payment if that person has not yet reached 18 years of age;
- anyone who engages in activities that he or she knows or must reasonably suppose will lead another person to make himself or herself available for sexual services or make his or her organs available in return for payment if that person has not yet reached 18 years of age;
- anyone who intentionally profits from the exploitation of another, from the removal of organs of another or from the sexual services of another with or on behalf of a third person in return for payment, or the removal of said person's organs in return for payment while said person has not reached the age of 18.

*Article 273a, Section 3 § 2*

A fine or up to 8 years imprisonment:

- if the person who is the victim of the offences listed under section 1 has not yet reached the age of 16.

*Article 273a, Section 4*

A fine or up to 10 years imprisonment:

- if the offences described under section 1 are committed by two or more associated people in the circumstances referred to in section 3 § 2.

# The situation in Madrid

*Daniela Danna, Silvia García* \*

## 4.1

### **The Spanish Penal Code and the law about foreigners**

In Spain, prostitution is dealt with both in the Penal Code and, to all intents and purposes, in the law about foreigners, since most prostitutes are foreign women and a large percentage of them does not have a residence permit. We shall now give a brief summary of the changes concerning prostitution made in the Penal Code<sup>1</sup>.

The Penal Code of 1995 – approved under the government of the Socialist Party with the abstention of the Popular Party – treated criminal offences related to prostitution as crimes against sexual freedom and prohibited actual exploitation while legalising agreements with third parties made with the consent of all parties involved. There was no great discussion in Parliament: the measures taken formalised a situation of *de facto* tolerance of prostitution even indoors, in clubs. The entire reform called for decriminalisation of offences having no injured parties, according to the principle of minimal penal involvement on the part of the state, adopted to free Spanish society from the authoritarian constriction of the Franco regime. Therefore, Spain used to be abolitionist, but with the introduction of the new Penal Code in 1995 it ceased to punish the abetment of prostitution and to consider economic agreements for the purpose of prostitution, such as the letting of rooms, allowing solicitation in bars and clubs, providing services useful for prostitution (fixing appointments, advertising, and similar acts) to be exploitation of prostitution. Therefore many activities that “aid and abet” prostitution, carried out with the consent of prostitutes, and, after all, to their advantage, were decriminalised. The feminists of the Association for the investigation of abuse against women strongly opposed this decriminalisation; they presented a report (published in “Mujeres”, 18, 1995) and tried in vain to persuade the socialist members of Parliament not to pass the law.

In 1999, the Penal Code was amended after the Common Action of the Council of the European Union against human trafficking and sexual exploitation of children became effective in 1997, and the crime of human trafficking was introduced.

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<sup>1</sup> We thank Daniela Gaddi for her help.

The Penal Code reform introduced by LOE no. 8 of 2000 (law on foreigners) made sentences for crimes relating to human trafficking harsher. Promoting or facilitating illegal immigration by means of a fake contract or any other means entails a sentence that goes from 6 months to 3 years of imprisonment (article 313). If the crime was committed by a network of organised trafficking (articles 515 and 517), sentences range from 2 to 4 years of imprisonment and fines from 12 to 24 months for organisers, slightly less for collaborators. Furthermore, the reform introduced the possibility of granting temporary residence permits for the duration of the trial, and then (if appropriate) humanitarian permits, to victims who report a trafficking crime. The Guardia Civil received instructions to perform regular inspections in the establishments where prostitution is practised, in search for minors and victims of trafficking and also to inform the women who are there of the possibility of reporting their exploiters and obtaining temporary residence permits<sup>2</sup>.

In 2003, a new reform, the last to date on the subject of prostitution, was approved by the Popular Party government led by Aznar within the framework of a comprehensive law<sup>3</sup>. Actually, this law is quite vague in its themes and its purposes are, on one hand, to fight against immigration, and, on the other, to defend women from violence. The Socialists criticised the law, declaring in Parliament that the measures taken are not enough to remedy two failures: the failure in controlling irregular immigration and the failure in ensuring security in the cities. The reform cancelled the decriminalisation introduced in 1995: it was argued that the episodes of human trafficking and the trafficking of women forced into prostitution were facilitated by a code that had ceased to punish the incidental crimes related to trafficking. A 2001 report of the Guardia Civil is the source of the following assessment:

These [criminal organised] groups have managed to draw advantage from the void caused by the great reform of the Penal Code of 1995, that decriminalised conducts favouring prostitution, which prior to that reform could be prosecuted; since then, only coercion and conducts favouring the prostitution of minors are punishable.

And further:

The reform [...] contributed significantly to the development of the sex industry in our country, mainly with the incorporation of immigrants<sup>4</sup>.

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<sup>2</sup> Policy guideline no. 3, Subdirección General de Operaciones de la Guardia Civil, year 2000. The female units of the Equipos Mujer Menor were entrusted with the interviews. The permits were granted pursuant to article 59 of LO no. 4, 2000 (law on foreigners) and of law no. 19 of 1994 (law on the protection of witnesses and experts).

<sup>3</sup> LO no. 11 of 2003, on the concrete means with reference to town security, violence in the family and integration.

<sup>4</sup> Cited by Carracedo Bullido (2004). The same words were repeated in Unidad técnica Policía Judicial Guardia Civil (2005, pp. 7 and 19; 2006, p. 21).

In other sections, the last report of the Guardia Civil is softer in its judgement and, by contrast, points out the problems arising from the absence of rules. It describes

a new scenario that has favoured the rapid development of an industry around the trade of sex. But it is clear that the lack of administrative regulation of the profession has led to the establishment of an ambiguous sector of “submerged” economic activity, which in the past few years has grown more complicated because large contingents of immigrant women have joined this industry. Many of these women are irregular aliens and many of them are brought from their countries of origin by organised crime groups that introduce them into the sex industry to exploit them (Unidad tecnica Policia Judicial Guardia Civil, 2006, p. 10).

The new law, inspired by international agreements such as the Additional Protocol against human trafficking<sup>5</sup>, adds to the criminalisation of the coercion to prostitution with violence, threat, or deceit, the criminalisation of those who take advantage of a situation of need or vulnerability of the victim (article 188, paragraph 1) – a fairly vague new kind of criminal offence, whose definition is therefore left to the courts of justice. Furthermore, with an amendment introduced by the Catalan Catholic party *Convergència i Unió* with the declared intent of protecting the victims, the prohibition of profiting from others’ prostitution is reintroduced. The end of the decriminalisation introduced in 1995 did not spark particular debate in the press: the Spanish juridical situation, frankly, appears quite confused, both because of the autonomy of regional governments (which elsewhere, for instance in Catalonia, are taking steps towards a regulation of indoor prostitution to prohibit street prostitution, despite the new Penal Code) and of international treaties that are often referred to in debates between jurists.

The Guardia Civil’s reports provide a concrete indication that defines profiting: an exaggeratedly high or disproportionate rent. In the debate between jurists, however, it is pointed out that the amendment is in conflict with the general purpose of the law, i.e., protecting victims of trafficking. Rey Martínez, Mata Martín, and Serrano Argüello (2004) find it excessive, since it might be used to punish insignificant conduct, violating the principle of minimal involvement based on which the Spanish Penal Code was rewritten. Their interpretation, which agrees with that of other experts such as Diez Ripollés, is that such behaviour must be habitual in order to be punished, since even the pre-1995 jurisprudence excluded transitory or occasional behaviour and the passive behaviour of those who simply are supported by a prostitute but take no part in the organisation of prostitution.

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<sup>5</sup> Additional protocol of the UN Convention Against Transnational Organised Crime to prevent, repress, and punish human trafficking, 2000.

Article 188 paragraph 2 punishes those who favour the entrance, stay, or exit from Spanish territory of people with the aim of sexually exploiting them, using violence, threat, or deceit – but, according to the interpretation of the Supreme Court of 1 October 2004, the aim of introducing people to prostitution is sufficient.

Policies against foreigners, instead, are not just aimed at limiting legal access routes to the country, but also at making it impossible to regularise the position of people who are already on Spanish territory, even if they have a job. In 2005, the current government (PSOE) completed a last extraordinary regularisation and at the moment no new occasions are planned. To live as an irregular alien, i.e., without permit, implies the possibility of being detained in a reclusion centre for foreigners until the order of deportation is carried out. Foreign women who are victims of trafficking can obtain a residence permit if they denounce their exploiters.

At the moment, according to the declaration released in October 2005 by Secretary for Equality Soledad Murillo, the government rejects the possibility of taking any measures against clients, because in a country like Spain «there is an enormous tolerance towards prostitution». It also rejects the possibility of regularising prostitution as a working profession. Soledad Murillo declared this at the International congress on sexual exploitation and trafficking of women and children organised by the association Somaly Man-AFESIP Spain. She said the government's maximum priority with regards to prostitution is the initiation of a plan against trafficking, since «95% of the prostitutes working in Spain are foreigners and are victims of some criminal network»<sup>6</sup>. This estimate of the percentage of victims has often been repeated in the current debate<sup>7</sup>, but, after it was published in March in an editorial on “El País” it was challenged, and the “reader’s champion” of El País declared it false: there is no study confirming it.

In the spring of 2006, the Chamber of Deputies set up a committee<sup>8</sup> whose final objective is to provide guidelines concerning the regulation of prostitution. The government, as we mentioned, is also drafting a Plan against trafficking of women and children, since it believes that before discussing the nature of voluntary prostitution it is necessary to fight forced prostitution.

Human trafficking – including that aimed at sexual exploitation, which actually is aimed at economic exploitation (Unidad tecnica Policia Judicial Guardia Civil, 2006, p. 21) – is a crime for which very few people are prosecuted (see Table 1). This crime is reported only in minimal part by those who are its victims according to the legal definition, that includes even the “exploiters” of consenting people.

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<sup>6</sup> Newspapers of 27 October 2005. The Congress was held on 26-28 October.

<sup>7</sup> What is surprising is that the same percentage of presumed and not proven victims is circulated in France.

<sup>8</sup> Comisión Mixta de los Derechos de la Mujer y de Igualdad de Oportunidades del Congreso.



The increase, in 2004, in cases of exploitation of prostitution following the end of decriminalisation was negligible, and the next year figures went back down to a level just slightly below that of 2002 and 2003.

	1999	2000	2001	2002	2003	2004	2005
Coercion to prostitution or profit (since 2004)	79	107	143	139	134	168	126
Trafficking with sexual aims	-	-	-	-	-	11	13

*Source:* Unidad tecnica Policia Judicial Guardia Civil (various reports).

The data of the Guardia Civil for 2005 indicate the presence of 45 clubs in the Autonomous Community of Madrid (i.e., the province), of 632 “places,”<sup>15</sup> of 926 “victims”, and of 1 “criminal” (data higher than those of the previous years)<sup>16</sup> (Unidad tecnica Policia Judicial Guardia Civil, 2006, p. 11). Those defined as victims are women who were exploited by organised networks or that had a “working relation” with third parties, who, according to the law, commit a crime. Altogether, the estimate of the Guardia Civil is of almost 20,300 women in these conditions throughout Spain, of whom 249 are Spanish (this number is decreasing). The subdivision by nationality shows that 60% of foreigners come from Latin America, 32% from Europe (two thirds from Romania, the others mainly from Eastern European countries; only 15 Italians), and 7% from Africa (almost half from Nigeria, followed by Morocco). These numbers are estimates taken from inspections in public establishments.

	1999	2000	2001	2002	2003	2004	2005
Operations against human trafficking for sexual exploitation	51	236	176	251	248	202	221
Operations against organised groups	20	37	23	18	32	30	24
Victims prosecuting (all offences)	157	173	202	236	186	225	149
Criminals detained	196	204	329	299	278	294	244

*Source:* Unidad tecnica Policia Judicial Guardia Civil (2005, p. 8; 2006, p. 13)

<sup>15</sup> See later on, at the paragraph *Indoor prostitution*.

<sup>16</sup> In the table of 2003 there were 1,233 “victims”, of whom only 165 were Spanish women, and 117 “criminals”, or presumed such, all foreigners (Unidad tecnica Policia Judicial Guardia Civil, 2005, pp. 9-10).

In 2004, only 210 foreign women and 15 Spanish women pressed charges (for various crimes, not only exploitation of prostitution or human trafficking). In 2005, 140 foreign women and 9 Spanish women pressed charges. Only 12 of those reporting a crime in 2005 were minors (1 Spanish and 11 foreign, mostly from Romania).

About 60% of reports to the police come from women from Eastern Europe (almost all from Romania), 20-30% from women from Latin America, about 10% from Spain, very few from Africa.

Sixty per cent of those indicted are Spanish. Most of them are not in prison: only a tenth of the Spaniards indicted and a third of the foreigners are in prison. The foreigners indicted also come mostly from Europe, particularly from Romania (210 out of a total of 679 prosecuted in 2004).

The 2005 report on human trafficking of the Guardia Civil accurately describes the trends that have ensued from the recent changes in legislation:

Up to a few years ago, women were totally deceived in their countries and told they would be working as waitresses or maids (for instance), then once in Spain they would be shut in clubs and forced to have sexual relations against their will. Now, instead, many women are found (or they themselves offer themselves to the organisations) and they know right from the beginning that they will be working as prostitutes (Unidad tecnica Policia Judicial Guardia Civil, 2006, p. 21).

The report goes on to say that the reform that newly criminalises exploitation taking place with the consent of the victim

does not seem to have had any significant impact on the shutting down of establishments, nor on the number of police operations. If prior to the reform it was easier to document almost “contract-based” relations between the women and those in charge of the establishments – this was visible, among other things, by the working hours, the penalties they had to pay when they did not follow the rules of the job (which in some cases were hung at the entrance or in the corridors), and the rates for the sexual services offered in the rooms. Now there are hardly any hints of this in clubs, so the cooperation of victims is essential in providing proof that they give third parties the money they earn (*ibid.*).

The report also says that foreign women: «Once in these establishments consent to the “work terms”, even though they know that they rapidly enrich the organisations [...], while their earnings are “satisfactory”» (*ibid.*, p. 18). They can't get out of it in the absence of alternatives that let them earn as much, since they must support themselves, pay the “traffickers”, and send money to their families:

A large part of the money they earn is destined to pay back the debt they made with the organisation, another part to pay the rent for the room and the services of the hotel, and they save the rest and send it to their families through agencies, or they keep it to go back as soon as they can to their country of origin, or to settle down permanently in our country (ibid., p. 21).

## 4.2.

### Prostitution in Madrid

Madrid is a city of three million people and in recent years it has experienced large-scale immigration. The presence of foreign women who practise prostitution has also greatly increased, starting with the first arrivals, around 1994, of women from Nigeria, Liberia, Sudan, and Sierra Leone, while women from Eastern Europe and Latin America began to arrive in 1998-1999.

According to the INE (Spanish national statistics agency), in Spain 25.6% of men between 18 and 49 made use of prostitute services in their lifetime (data from 2005); the figure for men living in the Madrid Autonomous Community is 25%. The proportion rises to a third for men between 40 and 49, and falls to less than a fifth for those between 18 and 29.

Prices of services are decreasing and earning possibilities are diminishing, not only on the streets, but also in establishments. An interviewee, V., says:

Currently, many brothels and clubs have low prices, almost as low as those on the streets; this is awful exploitation... For example in Legazpi [a low-income neighbourhood] they pay 20/25 euro, which is what is paid on the streets, but here [in brothels and clubs] that means 12.50 for the girl and 12.50 for the owner. So there is no possible competition for those of us on the streets.

The continuous inflow of foreign prostitutes has also greatly hindered the attempts to social mediation made in some areas of the city, as we shall describe in detail at the end of this chapter.

The distribution of the women and the turnover for the entire province of Madrid has been estimated by the Guardia Civil to be divided between the 80% of the *clubes de carretera*, the public establishments that are found on the roads that lead to the city, while only 20% of the business is in massage parlours, pubs, bars, private or self-owned flats, escort services, or street prostitution, where the most disadvantaged prostitutes are concentrated (Unidad tecnica Policia Judicial Guardia Civil, 2006, p. 10).

This evaluation was made extrapolating the data from a 1999 study on female prostitution in the region of Castilla y León.

The first thing that is evident about street prostitution in Madrid is the high percentage of foreign women. According to the data provided by Hetaira, which agrees with the data of the other associations that work on this issue, foreign prostitutes are almost 90% of the total number of prostitutes. The women who practise prostitution come from different places (Africa, Latin America, Eastern Europe, Spain). Some come to Spain directly from their country of origin, others from European cities where they lived for a time, others from rural areas; there are women with no certified education as well as highly educated women coming from urban areas. According to the data of Médecins du Monde, confirmed by other studies, a high percentage of streetwalkers in Madrid has a high school diploma, but it is of no use to them either because it is not recognised in Spain or because there is a lot of competition on the job market with the Spanish population, as in the case of Ecuadorians.

Some women already were prostitutes in their own country, while others had never prostituted themselves and started to do so in Spain. There are single mothers, girls without children; young women who mean to go back to their countries as soon as they can, others who arrive with the intention of settling down; some emigrate on their own, others with their partners; sometimes they use pre-existing networks, other times they act through family and community links... There are huge differences.

They are grouped in Madrid's areas of prostitution according to their country of origin, and their behaviour usually varies with cultural traits. With respect to their origin we can find:

– *Sub-Saharan Africans*: most claim they come from Nigeria and Sierra Leone. Their average age is 22.

– *Latin Americans*: especially from Ecuador, but also from Colombia, Brazil, Peru, Panama, and Argentina. They are the most receptive to information offered them and it is easy to talk with them. Normally they are very close to their families. In this group the transsexuals stand out; they are generally very extrovert. There are women of all ages in the Latin American group, from very young girls to mature women.

– *Eastern Europeans*: they come primarily from Romania, but also from Albania, Bulgaria, and Russia. Eastern European women have arrived in great numbers in the past three years. Like African women, they have trouble speaking Spanish, but they look Western, and this facilitates their integration. Generally their physical appearance is similar to the stereotype of ideal beauty promoted by the mass media, therefore they have considerable success with clients. Since their group has only been in Spain for a short time, and since they have trouble speaking Spanish, they are initially more diffident towards

services offered by associations. In the course of this study, it was possible to demonstrate that this attitude is caused by the control of their pimps, who are almost always from the same country as the women. It seems that most of them has a pimp upon their arrival in Spain. The women are very young, usually not over 23. Very often they have left children in their countries.

– *Spanish women*: there are fewer and fewer on the streets. Generally they are women over 60. We think that, in general, they are less visible because they are better located socially and they practise high-class prostitution. They have better conditions because they are citizens of Spain and thus have health coverage, social benefits, ease in finding a home, better information on the services they can have access to, besides more ample and solid social networks. Despite this, they live much below the conditions of an average citizen, and it is common to encounter in their stories (though not in all) cases of drug addiction, poverty, social rejection, illiteracy. Many came from poor areas (Extremadura, Andalusia) in the second half of the Eighties, often together with a pimp-lover. Many declare they refused a domestic job because of the extreme precariousness of this type of job and the abuses employers subjected them to (Comisión para la investigación de malos tratos a mujeres, 2002, p. 60). Naturally, there are also some drug addicts.

We will now describe where and how prostitution is practised in Madrid.

### 4.3.

#### Street prostitution

The organisation Médecins du Monde estimates that there are more than 1,500 prostitutes working in the streets of Madrid<sup>17</sup>. Street prostitution is the type of prostitution that causes the most problems and raises the most conflicts. Since the late 1990s, and especially since 2000, traffic has been interrupted in the park Casa del Campo periodically, first by order of mayor Álvarez del Manzano, then by Ruiz-Gallardón (both of the Popular Party), who was elected mayor in 2004.

According to the data of Médecins du Monde, 58% of prostitutes assisted in 2004 were African, 20% were Latin American, 13% were Eastern European, and 2% came from other European countries. The women workers of the NGO were not able to verify the nationality of the remaining 7%. According to these data, 47% of prostitutes had no papers.

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<sup>17</sup> 11 See the article *Más de 1.500 prostitutas siguen ejerciendo en las calles de la capital* by Susana Hidalgo, published on 7 February 2005 in “El País.”

Hetaira's data for the past few years (1999-2005) also show that most women assisted were Africans, followed by a large percentage of Latin American women. Starting in 2002, there has been a strong increase in the percentage of women coming from Eastern Europe; this increase was especially marked in 2003-2004. The number of Spanish women has decreased, together with that of women coming from Western Europe.

According to the assessments of the mobile unit of Hetaira, 85% of women who are on the streets chose to be there. Only 5% are forced by mob networks that check on them continuously and don't let them talk with anyone except clients. The remaining 10% have "friends protecting them" who probably coerce them, since the women are scared and worried about the reaction of these men.

The places where street prostitution is practised in Madrid are:

– *Casa de Campo*. The park at the outskirts of Madrid called Casa de Campo is the largest area of street prostitution in the city. The women normally prostitute themselves along the sides of the streets where cars circulate. The Municipality closed the streets around Casa de Campo various times in the past years, trying to make access difficult. Because of these measures, the groups of prostitutes have changed and increasingly mixed. Since 2004, the police's hostility towards prostitutes has been added to traffic interruptions; this hostility has been effective, and it has increased the women's problems.

The scene changes a lot depending on the time of day. The study carried out in 2002, requested by the Province of Madrid, to draw a profile of the type of clients (García, Corbalán, 2004) counted 110/125 women working during the day. At night time there are more, 205/230. The larger contingent, both during the day and at night time, is represented by women from Sub-Saharan Africa, followed by Eastern Europeans, Latin Americans, and, finally, Spanish women.

During the day, the prostitutes share the space with cars, pedestrians, people doing sports. In summer, every prostitute usually stands under a tree, generally near a car park. At night this space seems to belong only to the sex workers and their clients; it is also possible to meet people from the same countries as the prostitutes, police cars, and mobile units of the associations assisting prostitutes (Médecins du Monde, Hetaira, APRAMP, and the Municipality). These associations have coordinated their activities in Casa de Campo so as to be present in different days of the week. Since darkness helps them work with greater freedom, prostitutes are stationed further away from one another and not only in the car parks, unlike during the day.

Although there are huge differences between the women, in general they are more undressed in Casa de Campo than in other places, even in the coldest days of winter. At night, and sometimes even during the day (especially in summer), some women opt for partial or total nudity. For instance, in winter it is

common for them to have on only a coat over attractive lingerie, or sometimes only a coat with no lingerie.

– *Parque del Oeste*. The women settle at night in the Paseo de Camoens, an area where traffic is often blocked by the Municipality. This is mainly an area of women from Sub-Saharan Africa (the NGO Médecins du Monde identifies two groups of them) and of a group of Argentinian transsexuals. There are no more than thirty women altogether, and probably the total number has decreased. In winter, one of the characteristics of this area is that the African women light fires to warm up. This place has been the setting for some tragic and symbolic events, such as the attack by clients who threw acid at two women in May 2003; this is also the area that Edith Napoleon belonged to – a prostitute murdered by an entrepreneur of Boadilla del Monte, whose remains were found in various dustbins of the area in the summer of 2003.

– *Centre of the city*. Principally calle Montera and the area around it: calle del Desengaño, Ballesta, Plaza de la Luna, Plaza de Jacinto Benavente, and so on. The women are there both during the day and at night and they share the space with car traffic, shops, residents, and pedestrians (calle Montera was closed to traffic in the spring of 2006 as part of the Plan against sexual slavery, see below). In 2004, the most numerous group here was that of Latin American women, especially from Ecuador, but there were also a lot of African women. In 2005, very large groups of women coming from Eastern Europe arrived in calle Montera. This caused conflict between the sex workers, who must now compete for space and are forced to lower the price of their services. Furthermore, there was trouble with residents and shop owners of the area.

– *Polígono de Villaverde*. In the industrial area of Villaverde to the south of Madrid, the women spread out under the lampposts and along asphalt roads when it is dark. There is considerable traffic (usually men seeking fun), many cars, some trucks, and a few men on foot. Here there are transsexuals coming from all over the world, but especially from Sub-Saharan Africa and Latin America.

– *La Castellana/Capitán Haya*. In the neighbourhood of Rubén Darío and Cuzco. It used to be the area of street prostitution *par excellence*, but over the past few years, the police's siege has reduced it so much that it has become level with the other areas. Transsexual Spanish prostitutes and Latin Americans with high standing or who conquered the space because they've been in Spain for more time can be found here.

– *Méndez Álvaro*. It is near the South bus station, in a small square. There is a group of Africans who prostitute themselves at the side of the street.

#### 4.4.

#### Indoor prostitution

According to an article published in “El País” on 26 September 2005 and according to police sources, there are about 11,000 *plazas*, establishments where prostitution is practised in Spain outside the cities. City establishments and flats must be added to this sizeable offer. In 1,070 establishments inspected by the Guardia Civil, 18,655 foreign women and 374 Spanish women were counted. In the region of Madrid, according to a report by the Province, there are over 700 establishments: clubs, where a dozen to seventy women work, and self-owned or rented flats, where one to half a dozen prostitutes work. The *clubes de carretera*, as they used to be called, have in the past few years turned into something like sex clubs, with shows and meals, thanks to the renovation and embellishment of the establishments: the *ocio* aspect is emphasised instead of the *vicio* aspect: leisure instead of vice.

The relations between the prostitutes and owners of establishments can be of very different kinds:

- in hotels, *meublés*, *bares de copas* (like in Ballesta), the relation with the owners of the establishments may be limited to payment for rooms or drinks. These places are the most targeted when the police “clears out” establishments;
- “work in a place” (*en plaza*): a prostitute asks a club or a brothel a place to work for a set number of days (usually 21). The duration is decided by the owners and cannot be prolonged because clients want the turnover of girls to be frequent. During these days the workers sleep, eat, and remain shut in the place they work without having the possibility of going out. Earnings are split, 50% to them and 50% to the owners, and they are paid at the end of the set time period to prevent the women from leaving; in addition, they must pay about 55 euro per day for food and lodging. There are no working hours, there must be total availability when a client requests their services, and prostitutes can be dismissed at any moment if they do not produce enough business. We are not sure if there are other ways the work is organised: at the moment and as far as we know, this is the most widespread;
- “work for services”: the entrepreneurs provide the infrastructure: they prepare the flats, take the phone calls, distribute clients among the women, ensure security for them by requesting landline numbers from clients instead of mobile numbers, and so on. They keep a percentage of what the women earn; this percentage varies and is often high.

#### 4.5



## **The association of establishment owners**

In 2001 a national association of entertainment establishments (also called *clubes de alterne*) was founded: the Asociación nacional de locales de alterne (ANELA), i.e., those where prostitution takes place: «We proved to society that these establishments, which used to be regarded with fear and suspicion, do normal business, are managed by normal people who want to regularise their situation and have every right to do it», the association's chairman Pablo Mayo said, asking for the regularisation of prostitution.

It is estimated that there are between 1,000 and 2,000 clubs in Spain, and the association groups 200 of them. Five Madrid clubs are members and display a sort of “quality stamp” of the association, assuring that the following rules are followed in their clubs: no minors, no forced people, good hygiene and health control – rules that are very similar to those in force as town rules in most Dutch towns, from which ANELA draws its inspiration. They are in favour of regulation (effective in Bilbao since 1999 and in Barcelona since 2002), which entails the disappearance of a part of competition thanks to the prohibition of street prostitution.

The association finds very worrisome the last version of the Penal Code (2003) under which they risk prosecution. ANELA admits that the reform raises doubts about the legal nature of their activity, but argues that even if the law were taken literally, it would not punish them, since it is clearly aimed at punishing procurers or pimps, while their associates are owners of clubs that make earnings on leases and drinks.

Right after the reform was approved, ANELA asked the Public Prosecutor's Office for indications about how they meant to enforce it, since punishing those who profit even indirectly from prostitution with the prostitutes' consent would imply having to punish a huge number of business concerns and people, from the newspapers who print classified ads to the shops where prostitutes spend their earnings – practically anyone could be accused of this offence. Although they received no direct answer, in mid 2004 the Prosecutor's Office published in the press a circular for local branches of the office, interpreting the law so as to exclude that such “abetment” should be prosecuted if there is no direct coercion to prostitution nor direct benefit from the same. According to ANELA, «they realised that too many people would have to be incriminated for having “economically benefited” from prostitution if a literal interpretation of the law were taken». The advice ANELA gives to its associates in order not to break the law is to clearly define relations with women who work in their establishments: relations must be limited to the renting of a room, while the payment the client makes

for sexual services should not pass through their hands but be entirely in the hands of the women. José Luis Roberto, the association's attorney, declared that no associates of ANELA are currently being prosecuted.

Another risk, more likely since there have been many trials since 2001, is that pursuant to the law on foreigners and following an inspection by the Employment Inspectorate, the owners be accused of being employers of the foreign women who rent rooms on their property.

ANELA is upset by the fact that no prostitutes and no establishment owners were included in the panel of 41 experts that will be heard by the Congress Committee that is dealing with prostitution, and the association has protested against this exclusion. ANELA says this is the only committee where nobody from the world that is being regulated is represented:

It is the first case where all parties are heard except those involved. If something needs to be regulated, the parties involved need to be heard, this is plain common sense. There is too much hypocrisy on prostitution. The autonomous regions try to regulate it, but they don't go to the bottom of the matter, and since 2000 nothing has been done. Now Catalonia is about to have early elections, and if the government changes everything will start from scratch again ([www.anela.es](http://www.anela.es)).

## 4.6

### **The Municipality of Madrid's Plan against sexual exploitation**

When Ruiz-Gallardón was elected mayor, he named deputy mayor Ana Botella (wife of former Prime Minister Aznar), who belongs to the right wing of the Popular Party and sympathises with the Legionaries of Christ. Thus, one of the first measures taken on prostitution in Madrid was a Plan against sexual exploitation<sup>12</sup>, coordinated by the Municipal Councillor's Office for Social Services led by Ana Botella. This document is not available to the public, and a general outline has only been released to the public in the course of interviews<sup>13</sup>. In theory, the plan was not meant to be against prostitutes, but against exploiters; one of its main objectives was to discourage clients, since

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<sup>12</sup> So called in the document from which we took the objectives and programme, but it was publicised in the press as Plan against sexual slavery.

<sup>13</sup> In the following description we refer to the document published on the website of the Municipality of Madrid written by García-Casarrubios, Marcos De León (Jefa de la Unidad técnica de Estudios y Programas Dirección General de Igualdad de Oportunidades): *Día 28 de octubre de 2004. Mesa redonda: Perspectiva de género en la intervención social con mujeres*, [www.munimadrid.es/Principal/ayuntamiento/ServMuni/servsociales/publicaciones/Plan.pdf](http://www.munimadrid.es/Principal/ayuntamiento/ServMuni/servsociales/publicaciones/Plan.pdf)

prostitution, as then minister for work and social affairs Eduardo Zaplana (Popular Party) declared in January 2004 at the seminar on “Human trafficking and prostitution”<sup>14</sup>, is a form of violence against women.

The Plan has four objectives:

- making Madrid a place where it is difficult for exploitation networks of “trafficked” women to grow;
- making clients aware of the negative aspects of prostitution;
- offering information, support, attention, and alternatives to women who wish to leave prostitution;
- creating campaigns targeting especially the young portion of the population, to educate it to the values of gender equality and to prevent violent male behaviour (whether physical, psychological, or sexual).

The primary objective was to control the activity taking place in certain streets of the city, as a reaction to the numerous complaints of citizens and shopkeepers (who also tend to blame their increasingly meagre business on the presence of prostitutes).

Five different projects are designed to achieve these objectives:

- total attention towards the prostitutes (through active research and not passive waiting);
- project of reduction/elimination of demand, targeting clients;
- project of social awareness, targeting society at large;
- training programme for professionals who, directly or indirectly, work against sexual exploitation;
- research programme and evaluation of the “Plan contra la explotación sexual” itself<sup>15</sup>.

The Plan was first implemented in March 2004 in the centre of the city, in the area of calle Montera. Between 14 and 16 police patrols were stationed just in this road, with the purpose of giving a greater sense of security to citizens. The first day, there was a huge raid in calle Montera and the surrounding area; the prostitutes ran away; 40 policemen took part in the raid, and there was an invasion of journalists. Harassment on the part of the police was observed: insistent requests for residence permits, insults, and threats. The police not only wrote down names and personal details of the prostitutes, but also of potential clients, identifying 8,000 people. These identifications were criticised by many, including the Sindicato Unión de Policía Municipal, that denounced the fact that the policemen were forced to adopt illegal behaviour. A citizen reported the Municipal Police to the Agency for data

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<sup>14</sup> Mona Sahlin, Socialist Swedish Minister for Gender Equality, also took part in the seminar. The organiser of the seminar was Ana Botella, who on this occasion told the press: «More than 90% of prostitutes are immigrants and are forced to be prostitutes by illegal networks and organised crime».

See. C. Serna, *Ana Botella tiene un plan de choque*, in “El Mundo”, 30 January 2004, p. 2.

<sup>15</sup> Entrusted to a professor of the Universidad Complutense who contributed to its development.

protection of the Province of Madrid for violation of the law on the protection of personal data. The Municipal Police command told the Agency that none of the data provided by the identified people had been archived, processed, or managed. The Agency, however, said that the use and processing of the personal data collected was not clarified nor was their final destination revealed, i.e., it was not known whether or not they had been destroyed.

The Plan is clearly based on repression. As for social policies, APRAMP (Association for the reintegration and attention to women prostitutes), a women's association that has been active for two decades, kept a mobile unit on the spot for months, where they gave advice to prostitutes on how to leave the profession. It was then replaced by a mobile unit of the Municipality itself, run by another association: APROSEC. The offer, already well-established before the Plan, was that of various vocational courses and a benefit of 300 euro per month as minimum integration income. Foreigners without residence permits, however, cannot access benefits such as the minimum integration income; the Municipality offers them to pay their ticket back to their country, without taking deportation measures. The first day on calle Montera, three women out of the fifty contacted said they wanted to go home.

We cannot provide more recent data because the Municipal Councillor's Office for Social Services was not willing to grant us an interview.

Distribution of condoms has been prohibited and the reason given is that it has contributed to the practice of prostitution. A municipal centre has been opened on Caritas premises following an agreement between Caritas and the Municipality of Madrid. Caritas Madrid, a Catholic association, has been working with women prostitutes since the 1980s, offering them training courses.

Other measures taken concern car traffic: the industrial area of Villaverde is now closed to the traffic to all non residents from 11 pm, along with all the other repressive measures taken in the other prostitution areas. As of August 2003, car access to Casa de Campo had also been limited.

Prostitutes try anyway to elude the constant control of the police and the traffic interruptions, seeking new areas where to attract their clients, for instance the entrance to the M-30 road and the car parks at the end of park lanes or towards the Teleferica.

According to Médecins du Monde, an association that offers medical assistance to sex workers in their mobile units and in their centre, the number of people who prostitute themselves on the streets has increased instead of diminishing: in 2002 there were 1,350, in 2003 there were 1,403, and in 2004 there were 1,445. In 2005, Médecins du Monde directly contacted 1,079 women; their estimate, as we saw before, is of over 1,500 women on the streets. Even for calle Montera the papers published the figure of

300 prostitutes still there in the evening and at night (about fifty during the day), less than two years after the Plan was launched, despite the fact that the street was turned into a pedestrian area.

Within the framework of the Plan, the police, according to the decisions taken by the City Council, were supposed, starting in November 2005, to keep under special surveillance the bars on calle Capitán Haya that use prostitutes as a decoy to lure customers. “Preventive controls” were announced in this area, where it is suspected – although the owners of the establishments deny it – that a work relation is established between the bars and the prostitutes on the streets: it is thought that the prostitutes are hired under the pretence of their being cleaning women; this is illegal because the cause of the contract in this case would be legal but false. The names of the prostitutes will now be compared with the data held by the INEM, to see whether anyone has given them work contracts giving a false occupation. Furthermore, working hours, capacity, and hygiene and health conditions in the establishments will be checked. At the weekends, the police has set up alcohol testing, here as well as in Casa de Campo. The aim is to disturb the clients of prostitutes, since a close link between alcohol consumption and the consumption of sexual services is surmised.

As for the second objective, the advertising campaign with the slogan “Prostitution exists because you pay” was meant to diminish the demand for this activity. The campaign cost 80,000 euro. For two weeks, citizens of Madrid and tourists read this slogan on 100,000 leaflets, 40,000 postcards, and 2,000 posters on buses, buildings, at underground stops, and in public centres. The leaflet distributed by the Municipality assured that, every day «900,000 men use trafficked or prostituted women» in Spain, that prostitutes are already over 300,000, and that this «sexual consumption» yields «over €3,000 million in yearly profits» to exploiters. Furthermore, it stressed the fact that 85% of these women are foreign. «When you buy sexual services, regardless of the excuse you hide behind, you are an accomplice in the situation in which million of women find themselves. With your action you are practising a form of violence against women», was the final message.

#### 4.7

#### **The effects of the Plan against sexual exploitation**

In 2004, the APRAMP mobile unit assisted 300 prostitutes, in 2005 they assisted 500; of these, 184 left prostitution. In the streets of the centre (especially calle Montera) it is still frequent to meet Ecuadorian and Colombian women, but undoubtedly fewer than before. The Latin Americans have opted for

working in clubs rather than out in the streets. The reduction in number is partly compensated by further arrivals of women from Eastern Europe.

According to APRAMP, the initial reaction of the prostitutes in the centre of the city was bewilderment, they thought the police would always remain to guard the neighbourhood, so they looked for other ways of prostituting themselves: moving to other places, looking for a flat, posting classified ads. The Madrid street unit of Médecins du Monde also has observed an increase in the presence of the police, more movement of women from one area to another, and the search for other ways to contact men. Clashes among prostitutes regarding locations have also increased, since there is more mobility and more competition to get clients. In more peripheral areas, furthermore, it is more difficult for street unit workers to reach and contact prostitutes.

APRAMP assesses the recent legislative and administrative measures very positively; however, the organisation does not say that the number of women on the streets has diminished, and it, too, has observed an increased mobility and marginalisation.

Since the Plan started to be implemented, therefore, women have continued to work on the streets but earning less than prior to the Plan, both because clients go to safer “places” or establishments to preserve their anonymity, and because prices have long been falling due to the crowding on the streets. In all the areas where street prostitution is practised, insecurity and the risk of deportation by the police and of problems caused by clients have increased, because negotiation must take place more quickly due to police surveillance, and the women accept to go off with anyone without having the time to establish a relation with the person to gather clues on his possible dangerousness. Furthermore, stigmatisation has certainly not diminished: prostitutes must be particularly strong and capable to bear this social stigma, since they are very often singled out and even attacked for this. Even the Service for victims of family violence (SAVD) in Madrid discriminates against women who practise prostitution, since to be assisted by SAVD they must leave prostitution. This service is dependent on the Municipal Councillor’s Office for Employment and Citizen Services. The Municipality therefore does not do anything against the situation of violence some prostitutes may encounter, since it directs them to an organisation (APRAMP) whose main objective is to have them leave prostitution and not to assist victims of abuse. Furthermore, with this behaviour, the Municipality places blame on prostitutes who are victims of violence, basically telling them that they deserve what they get if they don’t leave their profession.

As a consequence of the Plan against sexual slavery, speed and clandestinity in sexual services are favoured, sometimes leading prostitutes to accept not to use a condom, as often requested by clients.

Clients' ignorance about AIDS makes campaigns to promote awareness on this issue among the entire population essential. Generally, however, the women's risky practices are decreasing: a lower incidence of AIDS and other STDs has been observed in this group over time. This change is due to the extensive use of the condom in the practice of prostitution, although not enough importance is attached to it in the private life of these women.

Prostitutes often want to make a change for the better and move to countries where, from what they have heard or seen, they can make more money (France, Belgium, Germany) or where they think it is possible to work in better conditions (Netherlands).

## 4.8

### Opinions of NGOs

APRAMP is totally in favour of the Plan, it is one of the associations that signed it. To APRAMP, prostitution is a violation of women's human rights; the association's views are clearly abolitionist. The Plan focuses on trafficking, but there are also other situations in which it is necessary to intervene, not just calle Montera: with transsexuals, with men. A concrete alternative must be provided: the key to drawing prostitutes out of their situation of social marginality is social work, street units, information that the NGOs spread on the possibilities of leaving prostitution. This is regarded as the side of the Plan that needs to be strengthened, since the resources the Municipality made available are not sufficient. Furthermore, pressure should not be made on the women's decision to leave the life:

Every woman knows when she will leave prostitution, no repressive measures are needed, but it is a very long process; in the meantime, health education should be provided so the women won't lose their health, it is necessary to make them aware of the services and how to use them, teach health education, and then concretely the way to put on condoms without the clients noticing, and so on.

Forty-seven women were housed in the safehouse in 2005 and pressed charges against their exploiters. These women were mostly from Romania and other Eastern European countries; African prostitutes do not denounce their exploiters. An example of the greater attention that should be given to the requests of the women is that there should be other lodgings besides the mandatory safehouse for those who

wish to press charges, providing “lower threshold” support and acknowledging that these women need to keep working to send money home.

APRAMP also works with clients, spreading information on sexually transmitted diseases to convince them to use condoms, and making them aware they might encounter victims of trafficking – who, according to this NGO, make up 95% of women who prostitute themselves.

The national leadership of Médecins du Monde took an abolitionist stance in 2004 and supported the Plan. At the end of 2005, however, Concha Colomo, co-founder of Médecins du Monde, became chairman once again of the local Madrid branch; a specialist in sexually transmitted diseases, she has worked for over twenty years with prostitutes and disagrees with the Plan and with token abolitionism:

According to the abolitionist theory, the client is punished because the prostitute is his victim, but the attitude of the Municipality of Madrid is to harass the prostitutes on the streets, especially in the city centre. What they really want is that they leave the streets where they create disturbance. In Catalonia, where there is a regulation policy, they are doing the same things: they chase the women away from the streets making work possible only in brothels. A new policy must be sought, that will make it possible to respect the rights of these people. Most of them have no papers and they are harassed to make them leave and threatened with imprisonment.

The Plan declares it fights prostitution adopting an abolitionist policy by fighting clients and exploiters, but what it really does is press prostitutes, sending them to more marginal spaces in situations of greater vulnerability.

Furthermore, the Plan does not intervene in the large brothels and in flats, where it is more likely to find women who have been abducted or “trafficked.” More could be done even within the framework of the current law, more investigations could be made on trafficking, but bearing in mind that a significant part of the women were not brought to Spain against their will: they want to buy a home, a small business in their country, they want to escape from poverty. For those who are coerced, the current conditions do not make it easy for them to accuse their exploiters. The cases that the mobile unit encounters are very rare («Per month? None. Normally the women deny they are trafficked victims»), nor do the mobile unit workers know of any women who have accepted the offer of the Municipality to pay their ticket back to their country. Every week the mobile unit goes out four times, meeting between 200 and 250 women, with whom they have excellent relations, carrying out work of cultural mediation and introduction to social services. Since there are no people living in the areas



where Médecins du Monde work (Casa de Campo, industrial zones), no need for social mediation was encountered.

Médecins du Monde considers the campaigns against clients superficial (even APRAMP does not consider them very effective). What Concha Colomo suggests is a general education to gender equality and respect in the schools and the spreading of sexual education that may fight the stigma of the whore that is attached to girls who get to be known as being “easy”– while the boys are admired if they have multiple relations. Colomo concludes by saying:

There is work to do so that no person will be forced by third parties nor by circumstances of poverty, we must fight against poverty in the world and we cannot threaten the freedom and rights of adult and responsible people who decide to have sexual relations for money, just as we don't do it when they decide to marry for money or for other reasons of interest.

The opinion on the Penal Code reform of 2003 is that, actually, no important change was made.

The association Hetaira, which has been defending prostitution as a profession worthy of respect since 1995<sup>16</sup>, also opposes the Plan. They have collected signatures among the people they call “sex workers” to demand that the Municipality stop this persecution: «There are fewer and fewer places where prostitution can be practised, and this causes a shift from one area to another». They accuse the Municipality of driving prostitutes to work in clubs or brothels. Instead of this, they ask that tolerance zones or red light neighbourhoods be created to enable prostitutes to work in conditions of safety, security, and hygiene.

Before the Plan was implemented, sex workers had already demonstrated in November 2003, complaining about the police's persecution and requesting a safer work zone. Subsequently, among the actions carried out in response to the Municipality's Plan, a *cacerolada* stands out, organised with the same objectives as the 2003 demonstration, by the sex workers of Casa de Campo, Villaverde, and of the centre of the city in June 2004. In November 2005, there was a new demonstration against the persecution by the police and against the humiliation of sex workers, who, together with their clients, suffered almost military police controls. No great changes in the Municipality's policies were achieved, the police's operations were simply curbed for a brief period of time, at the end of which they resumed, with greater violence than before.

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<sup>16</sup> It was founded by feminists who meant to organise the prostitutes (who in effect did then join the collective), listening to their needs and questions.

Hetaira tries to develop solidarity among prostitutes, since this is a very individualistic profession. It tries to make them visible and to promote prostitutes as active social actors, with the goal of cancelling the traditional division between good women and harlots. They say prostitutes are normal people who do this job because it is the best they could find and it gives them earnings that they consider necessary to live as they want. They are neither repentant nor do they want to be forgiven for what they do. The Ecuadorians take more part in these actions than other groups; they have very strong characters, some of them were already organised in unions in Ecuador and they have considerable organisational experience. It was the Ecuadorian collective that proposed the organisation of the first and second demonstrations of prostitutes in Spain, as well as other actions that Hetaira organised with them.

Hetaira also demands that foreign sex workers be regularised and that consensual conducts be decriminalised once again. Hetaira also opposes prohibition on the streets with regulation only indoors: while many prostitutes prefer to work indoors because they feel safer, others prefer to attract clients on the street; although they run greater risks, this type of prostitution offers a greater autonomy. Furthermore, generalising and forcing all prostitution to develop indoors means increasing the problems encountered by older prostitutes or those whose physical appearance does not fit in with what establishment owners ask for: they would be discriminated. A spokesperson for Hetaira says:

Any policy that develops with regards to prostitution must consider and include the opinion of prostitutes. Their voice is not a single one, but it is multifaceted, because the situations in which prostitution is practised are different. We believe it is important that social measures be created or increased to help those who want to leave prostitution to have access to a job that will allow them to live independently and not be dependent on charity, as often happens. It is equally necessary to develop policies that will gain respect for prostitutes, fighting against the contempt that many sectors of society show towards them today.

On the abolitionist front, which considers prostitution as violence against women and defends the 2003 Penal Code reform, are the Commission for the investigation on abuse of women, the high ranks of Médecins du Monde, and APROSEC and APRAMP, the two organisations that organise the street units. The positions of those who work in close contact with prostitutes tend to be less clear-cut; these people are unlikely to adopt the interpretation of prostitution as violence against women.

Among the problems listed in a report of the Commission for the investigation on abuse against women were also the irregular hours, the general inability to manage money, the severing of relations with

family, in sum, the loss of «a healthy life style based on regular hours [...]. The psychological deterioration and craving for wealth of the world of prostitution wears people out».

#### 4.9.

#### Opinions of politicians

According to the declarations of Ruiz-Gallardón himself: «Women trafficking is one of the most abominable crimes, the second most important activity of organised crime, between drugs trafficking and arms trafficking», and the Plan represents a defence of woman, her dignity and her freedom, attributing blame, responsibility, even to the people who go to prostitutes because they contribute to a new form of slavery; the campaign carried out in 2006 has the purpose of «tear the veil of hypocrisy with which society morally condemns thousands of prostitutes while sparing their clients»<sup>18</sup>.

In November 2005, Municipal Councillor for Social Services Ana Botella said that the initiative of the Barcelona council punishing street prostitution (law limiting paid sexual services, in force since the beginning of 2006 with fines going from 1,500 to 3,000 euro for prostitutes) means to

take the prostitutes off the streets and put them in clubs, but I am against prostitution on principle, because I believe that giving in exchange for money such an intimate part of a human being as sexuality implies, from the start, a situation of inequality and violence. [...] Therefore I'm not interested in cleaning up the streets, what we want to do is make the city inconvenient for the client and at the same time try to offer prostitutes a way out that begins with information, health assistance, training courses... this does not imply that they will immediately leave prostitution, but that they soon will<sup>19</sup>.

The political opposition in the Municipal Council believes that the measures taken by Ruiz-Gallardón to fight sexual slavery have been a total failure so far: «It's nothing but propaganda» said Socialist councillor Pedro Zerolo, according to whom «Ana Botella wastes a lot of energy in advertising and very little in finding solutions [...]. With the police repression that Gallardón is conducting in calle de Montera, in Casa de Campo, in Colonia Marconi [Villaverde] or in plaza de Cuzco, the only thing obtained is to make prostitution change location»<sup>20</sup>.

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<sup>18</sup> Statement made to EFE, 12 November 2005.

<sup>19</sup> Statement made to Servimedia, 6 November 2005.

<sup>20</sup> These statements were published in "El País" on 8 November 2005.

Another Socialist representative, Matilde Fernández, said: «There will always be people who live in a way neither Mrs. Botella nor I like, but this is no problem of ours»<sup>21</sup>.

A more favourable opinion was voiced by the municipal spokesperson of Izquierda Unida, Inés Sabanés, who appreciated the decision to look for the source of the problem in clients, but underlined the fact that solutions cannot come from politics made for show, from «publicity measures, but rather from investments: allocating more resources. I have yet to see any results from the campaigns carried out in calle Montera, Marconi, or Casa de Campo»<sup>22</sup>. Instead, Milagros Hernández, coordinator of the Foro Social de Madrid and member of the group of Izquierda Unida, denounced the Plan as an act of outright aggression to the more vulnerable segment of prostitution.

#### 4.10

#### Experiences of social mediation

When a conflict broke out between prostitutes and residents in the area of Méndez Álvaro around 1996, the Hetaira collective took the prostitutes' side, demanding that their right to be on the streets be respected, because in the streets the women were free, did not have to depend on anyone, nor share their earnings with anyone, therefore they should be free to practise on the streets they chose. Cristina Garaizabal, psychologist, founder and leader of Hetaira says:

We didn't think about mediating, then, but when we saw the reaction of the people in the neighbourhood to our positions, we realised we were too one-sided, that even the people who lived in that area had legitimate requests. Since then we have taken on a role of mediation – not professional, very plain. We don't theorise anything of what we do, but we try to be there concretely in situations of conflict to make the two parts talk and exchange views.

Hetaira took on a role of mediation on several occasions, the first time about ten years ago in the centre of the city. The problems in calle Montera, that has always been an area where street prostitutes have concentrated ever since the times of the Spanish Republic, started about ten years ago, in 1996-1997, because of the growing presence of women, especially South Americans. The authorities only listened to the residents of the neighbourhood and started sending the police there to discourage the presence of prostitutes. Hetaira was contacted by an association of shopkeepers. Recognising that the presence of

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<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

prostitutes did indeed create considerable problems in the area, such as noise, litter (condoms and tissues left around), the invasion of spaces like those in front of shop windows and doors to residential buildings, Hetaira for the first time took on the role of social mediator between the two parties involved: the people of the neighbourhood, organised mainly in the association of shopkeepers of the street, and the group of prostitutes, led by some Ecuadorian women who had already been organised in a sort of union before emigrating; these women with their authoritativeness and skills managed to organise the others and make sure the agreement was honoured. The agreement reached was the following: in exchange for tolerance of their presence on the part of the people of the neighbourhood, who would stop calling the police, the prostitutes promised to keep the number of women per street constant, persuading new women who wanted to settle in the same area not to do so, and to adopt more decent behaviour both in terms of clothing and street cleaning, showing greater respect for the use of the street space on the part of the residents.

This first experience of mediation worked for a few years, up to 2002, when the same conflict broke out again in the area, which has undergone progressive degradation, with a growing concentration of social rejects. The prostitutes again had grown and their presence became more visible: clothing again became scantier and again shop windows and home entrances were invaded. The residents attacked the women even physically to send them away, organised demonstrations against the rampant barbarism of the neighbourhood, throwing objects and rubbish from the windows. Many crimes are committed in the area, but, a shopkeeper told the press: «More than thefts, the problem is the feeling of insecurity, the degradation, the terrible spectacle». In February 2002, prostitutes also set up a protest. There was another negotiation: the shopkeepers asked and obtained the promise that women would not attract so much attention, using more sober clothing, and that they would not lean on shop windows. The prostitutes also presented a list of claims to the Municipal Council, demanding that, if they could not work in the streets of the centre, a protected, well-lighted place be provided for their work, with dust bins, water, and toilets, that might be reached with public transportation. The group of the Popular Party of then Mayor Álvarez del Manzano proposed the area of the Cerro Garabitas, without, however, the necessary infrastructures. Furthermore, the environmentalists defended that area, where protected bird species live, and the PSOE accused the local (PP) government, of procuring, of transforming a park into a brothel. There were no further proposals on the part of the council, which maintained the repressive policies, sending more police to the area, checking papers, deporting the most active prostitutes, basically depriving the prostitutes' movement of their leadership, that was made up of irregular migrants.

The women who practised prostitution in calle Montera tried in any case to keep their part of the agreement with the shopkeepers (as we saw, the agreement was the same as the previous time) and to instruct the new arrivals in the area on the type of behaviour tolerated. However, new problems arose with the mass arrival, starting in 2003, of Romanian women controlled by protectors, who not only didn't listen to the others' requests, but did all they could to send them away from the area. The residents again saw the number of prostitutes increase greatly, along with their bothersome behaviour. The conflict has not been resolved yet – the role played by the Municipality, governed by the Popular Party, has been passive, when not of outright sabotage of the attempts to mediation, while the police has been destructive, without being able to solve the problem of the exploitation of the Romanian women.

The park of Casa de Campo is another place where Hetaira played a role of social mediation. In the area there are never conflicts during the winter, but as soon as spring comes and families start to use the park for outings, picnics, visits to the zoo, jogging, and other sports, the conflicts break out. In 2000, the Municipality decided to move the prostitutes to a very secluded area. Using Hetaira to voice their requests, prostitutes asked for better work conditions: that the area where they would be allowed to practise be well-lighted, not too difficult to access, that there be toilet facilities so that they could wash and use the toilet. The left-wing members of the Madrid Municipal Council propose that the requests be discussed in a forum, with the participation both of the Madrid administration and of prostitutes, but the right was impervious to this request and did not attend the first meeting called, making the initiative fail. Following two other public demonstrations of prostitutes, Hetaira was received by Ana Botella, but the organisation left the meeting because of what they deemed to be contempt and offensive remarks made by the Councillor with regards to prostitutes. For instance, she stated that the women were all controlled by exploiters even if they didn't know it.

In Villaverde, too, Hetaira intervened to mediate within the conflict with residents. Villaverde is a new residential area with houses built in what used to be an exclusively industrial area. In this case, the mediation was successful: the prostitutes, who are much more disorganised than in the other areas and come from different places, accepted to move to the industrial zone leaving the inhabited area. This was a way of meeting halfway the joint requests of three neighbourhood committees. As in the case of the shopkeepers of calle Montera, the three committees do not represent political parties or movements, but take different attitudes towards the phenomenon of prostitution: one is strongly against prostitution, one does not take a stance, the third is in favour of the rights of prostitutes and the legalisation of

prostitution. Despite these differences, all three committees were worried about the litter in the streets, the noise during the night, and the presence of men in search of prostitutes.

Here, too, it is difficult to keep the agreement, because the prostitutes who move closer to the residential area reach clients first, and since they are only weakly organised, many try to take advantage of this situation and go back to staying among the houses. The Municipality, furthermore, does not do anything, not even place dust bins in the industrial zone, where there continue therefore to be problems of street cleanliness. The fight for the different use of the same public urban spaces continues.

**4.11**  
**Penal Code**

*Article 187*

1. Anyone who induces, promotes, favours, or facilitates the prostitution of a minor or a legally incompetent person will be sentenced to between one to four years imprisonment and a fine from twelve to twenty-four months.
2. All those who commit the deeds described above by taking advantage of their condition of authority, being public agents or officials, shall incur the higher half of the above sentence, and furthermore shall be incapacitated from six to twelve years.
3. Stricter sentences than those above shall apply if the guilty person is a member of a organisation or association, be it even transitory in nature, whose aim is the realisation of this type of activity.

*Article 188*

1. Anyone who, using violence, threat, or deception, or abusing of a situation of superiority or necessity or vulnerability of the victim, forces an adult person to practise prostitution or to continue such practice, shall be sentenced to a term of imprisonment from two to four years, and a fine from twelve to twenty-four months.
2. The same sentence shall apply to anyone who directly or indirectly facilitates the entrance, permanence, or exit of people from Spain for the purpose of sexual exploitation by using violence, threat, or deception, or taking advantage of a position of superiority or of the victim's need or vulnerability.
3. All those who commit the deeds described above by taking advantage of their condition of authority, being public agents or officials, shall incur the higher half of the above sentence, and furthermore shall be incapacitated from six to twelve years.
4. If the above-mentioned conduct is held towards a minor or legally incompetent person, to initiate or keep the person in a situation of prostitution, the guilty person shall incur the higher half of the above sentences under the previous paragraphs.
5. The above sentences shall apply in their respective cases with no prejudice to the corresponding sentences for aggression or sexual abuse committed on the prostituted person.



### *Article 189*

1. Anyone who:

a) uses minors or legally incompetent persons for exhibition or pornography or in exhibitionist or pornographic shows, whether public or private, or to produce any type of pornographic material, or to finance any of these activities;

b) produces, sells, distributes, exhibits, or facilitates the production, sale, distribution, or exhibition by any means of pornographic material that has used minors or legally incompetent persons in its production, even if the material originated in a foreign country or if its origin is unknown shall be sentenced to imprisonment for one to three years.

Anyone who possesses such material for the performance of any of the conducts described above shall be punished with the inferior half of the sentence.

2. Stricter sentences than those above shall apply if the guilty person is a member of a organisation or association, be it even transitory in nature, whose aim is the realisation of this type of activity.

3. Anyone who makes a minor or legally incompetent person take part in a sexual situation that harms the evolution or development of this person will be punished with prison from six months to one year or a fine from six to twelve months.

4. Anyone entrusted with parental authority, guardianship, custody, or fostering of a minor or legally incompetent person and, knowing of his or her state of prostitution or corruption does not do everything possible to prevent the continuation of this state, or does not contact the competent authority to that purpose if lacking the means to protect the minor or legally incompetent person, shall be punished with a fine from six to twelve months.

5. The Ministry of Justice will promote action with the aim of depriving of parental authority, guardianship, or foster care any person who commits any of the conducts described in the previous paragraph.

### *Article 190*

The sentence of a foreign judge or court, imposed for offences included in this chapter, shall be equated to sentences of Spanish judges or courts with regards to the application of recidivism as aggravating circumstance.

*Law on foreigners. Article 59*

Foreign people who have entered the country illegally and are working without permit shall be exempted from administrative responsibility and will not be deported if they have been victims or witnesses or have been harmed by an illegal act of human trafficking [...] for sexual exploitation, abuse of a situation of need, if they report the perpetrators and collaborators of the trafficking to the competent authorities, offering essential information or acting as witnesses.

## Bibliographical references

- AGUSTÍN L. M. (2005), *Trabajar en la industria del sexo, y otros tópicos migratorios*, Gakoa, Donostia-San Sebastian.
- BARAHONA GOMARIZ M<sup>a</sup> J., GARCÍA VICENTE L. M. (2003), *Una aproximación al perfil del cliente de prostitución femenina en la Comunidad de Madrid*, Comunidad de Madrid, Consejería de Trabajo, Dirección General de la Mujer, Madrid.
- IDD. (2004), *Manual para la intervención social con mujeres prostituídas*, Comunidad de Madrid, Consejería de Empleo y Mujer, Dirección General de la Mujer, Madrid.
- CARRACEDO BULLIDO R. (2004), *La prostitución en el contexto europeo. Situación en España*, in Dirección General de Igualdad de Oportunidades, *Congreso internacional Las ciudades y la prostitución*, Ayuntamiento de Madrid, Area de Gobierno de Empleo y Servicios a la Ciudadanía, Madrid.
- COMISIÓN PARA LA INVESTIGACIÓN DE MALOS TRATOS A MUJERES (2002), *Informe sobre el tráfico de mujeres y la prostitución en la Comunidad de Madrid*, Madrid.
- DIRECCIÓN GENERAL DE IGUALDAD DE OPORTUNIDADES (2004), *Congreso internacional Las ciudades y la prostitución*, Ayuntamiento de Madrid, Area de Gobierno de Empleo y Servicios a la Ciudadanía, Madrid.
- DIRECCIÓN GENERAL DE LA MUJER (2001), *La prostitución desde un punto de vista feminista. Forum de Política Feminista*, Consejería de Servicios Sociales de la CAM, Madrid.
- GARCÍA S., CORBALÁN F. (2004), *El proyecto migratorio de las trabajadoras del sexo ecuatorianas en las calles de Madrid*, Fundación Alternativas, Madrid.
- GREGORIO GIL C. (1998), *Migración femenina*, Narcea, Madrid.
- OSBORNE R. (1991), *Las prostitutas, una voz propia (crónica de un encuentro)*, Editoria Icaria, Barcelona.
- EAD. (1993), *La construcción sexual de la realidad*, Ediciones Cátedra, Madrid.
- EAD. (comp.) (2004), *Trabajador@s del sexo. Derechos, migraciones y tráfico en el siglo XXI*, Edicions Bellaterra, Barcelona.
- REY MARTÍNEZ F., MATA MARTÍN R., SERRANO ARGÜELLO N. (2004), *Prostitución y derecho*, Aranzadi, Junta de Castilla y Leon.
- UNIDAD TÉCNICA POLICIA JUDICIAL GUARDIA CIVIL (2005), *Informe criminológico. Tráfico de seres humanos con fines de explotación sexual, años 2003-2004*
- ID. (2006), *Informe criminológico. Tráfico de seres humanos con fines de explotación sexual, año 2005*.
- VALIENTE C. (2004), *The Politics of Prostitution, the Women's Movement, State Feminism and Parliamentary Debates in Post-Authoritarian Spain*, in J. Outshoorn (ed.), *The Politics of Prostitution: Women's Movements, Democratic States, and the Globalization of Sex Commerce*, Cambridge University Press, Cambridge.
- Press review from "El País", "El Mundo", and other daily papers and magazines in the period from January 2002 to March 2006.

# Conclusions

## Dealing with complexity

*Daniela Danna*

The issue of prostitution has been brought forcefully back to public attention. The reason for this is proof that the problem did not arise from the demand for prostitution, from clients. It was the offer of migrants, their presence on the streets of the various countries<sup>1</sup> and the return to forms of ignoble procuring and brutal exploitation of prostitution that caused social alarm. Sometimes, on close observation, the issue was not really that of social alarm, but the disturbance caused to residents by prostitution in public spaces. The problems street prostitution poses to residents are also relatively trivial, such as the litter left on the streets and noise caused by the presence of prostitutes and clients. In many cases, these problems can be reduced or solved (more or less temporarily) thanks to a mediation among the parties involved; each party makes concessions in the common use of a public urban space. This happened in Italy in Mestre and Rimini: in the 1990s the administrations of these towns asked the Committee for the civil rights of prostitutes to take on a role of mediation. The same happened in Madrid (industrial area of Villaverde and calle Montera), as we described above.

The crime rate has been on the rise everywhere, as is evident from the judicial statistics of the countries we have spoken about (and also Italy's<sup>2</sup>). One type of response on the part of legislators has been to increase the types of criminal offence, as in Sweden and France; another type of response, by contrast, has been that of opening up greater spaces of legality for consensual prostitution, on the basis of the principle of decriminalisation of sexual conduct carried out by two consenting adults, as in the Netherlands and Spain. The latter solution has the aim of concentrating the limited "repressive resources" to deal with cases in which the victims of crime recognise themselves as such, or cases of

<sup>1</sup> As we have seen, this happened at different times and the ethnic composition of new prostitution in the four cities examined is different. However, political reaction was especially sparked by their presence. In France the increase in foreign presence came later, and the debate started only a few years ago, with minister Nicolas Sarkozy openly declaring: «Our main target are the foreigners» in "Le Monde" of 16 January 2003.

<sup>2</sup> Prosecutions for exploitation and abetment of prostitution (police data)

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Crimes Italy	1,192	2,123	2,158	2,724	2,761	2,756	3,566	2,714	2,893	2,519	3,511	3,004	3,174
per 100,000	2.1	3.7	3.8	4.8	4.8	4.8	6.2	4.7	5.0	4.4	6.0	5.1	5.4

Source: ISTAT, Yearbook of judicial statistics (vol. 1992-2005)

prostitution of minors, since minors are legally unable to express consent for sexual acts in return for payment.

The authors of this study agree with the latter “enlightened” view of the exchange of sex for money between two consenting adults as an act that should remain legal. This is something even abolitionism has traditionally affirmed. This enlightened position is certainly not the position of the majority in almost all the countries we considered, and even the Netherlands are experiencing trouble in coherently implementing the principle of lawfulness of prostitution (see for instance the *de facto* restrictions to the granting of new licenses). The Spanish situation is paradigmatic: in Spain, the Aznar government sought a solution to the problem of trafficking by re-criminalising conducts that had been removed from the Penal Code of 1995 (room leasing and other profit-earning acts), which finally rewrote the Penal Code erasing the authoritarian approach of the Franco regime. The existence of “human trafficking” has been attributed to exceedingly lax laws: the Italian case and the French case, instead, showed that it was certainly not the lack of laws or their scarce application that caused the arrival of foreign prostitutes. Some, as we have seen in the chapters about Stockholm and Madrid, always describe these women as victims of trafficking.

The empirical data settle the question: the illegal passage or permanence of the women is not organised by all-powerful mobs, in most cases small organisations make agreements with the women, and only when these agreements are not respected can abuses and coercion be spoken of, or when the agreements are clearly unfair and exploitative. Even if situations of serious violence have occurred in all countries, to speak of “trafficking” to describe the general migration phenomenon is highly misleading<sup>3</sup>.

Nevertheless, the cases of brutality and the trade of women as slaves raise great interest in the press, whose sensationalism and prudishness favour the stigma surrounding the world of prostitution: the enlightened position that considers prostitution an exchange between consenting adults is made weak by a propaganda that portrays prostitution in itself as an intolerable phenomenon.

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<sup>3</sup> And it corresponds to a paternalistic view contrary to women’s freedom. Laura Agustín writes, with regards to migrants: «Routinely they are denied the faculty to decide to migrate. Thus a pathetic picture is created that portrays innocent women dragged away from their homes, women forced to migrate, and sometimes even kidnapped and sold in slavery. This is the imaginary that is nowadays connected to those who migrate to places where the only paid professions they have access to are housework or sex work. The viewpoint of there being a “trade” is based on the assumption that it is better for the women to stay home rather than leave and end up in trouble. The “trouble” is seen as something that will irreparably damage the women (who are grouped with the children) while men are expected to normally face it and overcome it» (L. M. Agustín, *Challenging “Place”: Leaving Home for Sex*, in “Development”, 45, 1, Spring 2002, pp. 110-117, quote from page 111).

## 5.1

### The alliance against clients

The Swedish move was welcomed with much favour from the Pontifical Council for the Pastoral Care of Migrants and Itinerant People. The new problems posed by trafficking have been reinterpreted to try to “give a solution” to the question of prostitution in its entirety. In perfect consonance with the positions of the Swedish parliamentary women and of Roks, a radical feminist group that manages shelters for abused women (the main supporters of the criminalisation of clients) this international group of study has recently published a document, which concludes with the following: «The “client” must receive something more than condemnation from society and face the full rigour of the law». The concept of prostitution as a consensual act between two adults is rejected: «It is the case of a human being, who in many cases is shouting to receive help, because selling one’s body on the streets is not what that person would voluntarily choose to do. The women are torn, psychologically and spiritually dead»<sup>4</sup>. Very heavy words, that multiply the social stigma of prostitutes.

As regards the client, the document continues as follows: «He, too, must be helped to solve his deepest problems and to find other ways of managing his personal issues. Buying sex from a prostitute does not solve the problems that arise from solitude, frustration, or lack of authentic relationships». The therapeutic model that views both prostitutes and clients as diseased or at least in need of help is not at all convincing, as we discussed above in the Swedish case. Furthermore, up to what point is it possible to “educate” the demand for paid sex? Although it is true that the cultural component of sexuality is huge, sexual gratification is simply the greatest physical pleasure that human beings can experience, and even women approach this way of experiencing sexuality: in the spring of 2006 the project of opening brothels for female clients in Madrid and other Spanish cities was announced. I doubt people may be persuaded to give up pleasure in obeisance to a view that ideologically equates a sexual act involving a person principally motivated by profit with an act of violence towards that person.

Nevertheless, these positions, reported by the papers in July 2005<sup>5</sup>, were welcomed with great favour by the Italian parliamentary right, which was in power at the time. One of the Members of Parliament, observing an increase (presumed, though it seems likely) of men resorting to prostitution, proposed

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<sup>4</sup> Pontifical Council for the Pastoral Care of Migrants and Itinerant People, *1<sup>st</sup> international pastoral encounter for the liberation of street women. Final document* (Rome, 20-21 June 2005, [http://www.vatican.va/roman\\_curia/pontifical\\_councils/migrants/](http://www.vatican.va/roman_curia/pontifical_councils/migrants/)).

<sup>5</sup> Newspapers of 11 and 12 July 2005.

mass criminalisation in response. This is an authoritarian political reflex that has already been observed in many other fields concerning people's self-determination.

In the other countries, the tightening of penal laws were supported by other political groups, as well: a common action of radical feminists (Roks) and especially of members of the Social Democrat and Green parties led to the 1998 change in Sweden, while in 2003 the new Penal Code reform in Spain was made with an amendment of *Convergencia i Unió* with arguments which, however, were shared even by feminists (*Comisión para la investigación de malos tratos a mujeres*) and women politicians of various other parties. Madrid now follows Stockholm's lead, thanks to innumerable initiatives sponsored by the *Instituto de la mujer*, the *Dirección General de la Mujer*, and other agencies (such as UNESCO) whose think tanks lead the field, along with women politicians from Sweden and other countries who are in favour of the criminalisation of clients and who tried to shape public opinion, with the approval and involvement of segments of the Catholic Popular Party. In France, too, a strange alliance prevails between feminists (*Association against violence on women*, led by Marie-Victoire Louis), right- and left-wing women politicians and Catholic associations (*Mouvement du Nid*, *Federation for the disappearance of prostitution*). All agreed on including prostitution among the themes of violence against women – even though none of them was in favour of the Sarkozy law<sup>6</sup>. In May 2006, some Paris prostitutes even occupied the Women's House to protest against these positions of the feminists.

Thus we find this alliance supporting the idea that prostitution is identical with violence against women in different countries, upheld by different groups. In particular, the convergence of the positions taken by a part<sup>7</sup> of the Catholic Church, that is certainly not in favour of equality and self-determination of women, and the women of the Swedish Social Democrat and Green parties is striking.

After all, both positions are based on extremely negative views of sexuality: for the Church sex outside of marriage is a sin (and Catholic priests are bound to chastity so as not to lower themselves to practise something they consider dirty), while for separatist radical feminism all relations between men and women are expression of the oppression of women<sup>8</sup> – a position that women politicians adopted only in part, applying it only to prostitution.

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<sup>6</sup> On 6 July 2006, two Socialist Members of Parliament, Christophe Caresche and Danielle Bousquet, proposed a bill for the criminalisation of clients to the French Parliament.

<sup>7</sup> This is not official doctrine. While Caritas is against the criminalisation of clients, don Benzi's Association *Papa Giovanni XXIII* is.

<sup>8</sup> This position is found in the writings of Americans Andrea Dworkin and Kathleen Barry and of British feminist Sheila Jeffreys, all supporters of the criminalisation of clients.

Young feminists dissent (Pro-choix in France, Hetaira in Spain), like many NGOs and sexual services active in supporting prostitutes in the various countries (STV – foundation against women trafficking – in the Netherlands, part of the RFSU in Sweden, Bus des femmes in Paris), and many researchers, too. Even in Sweden, some feminists and many scholars are against proposing a state moral<sup>9</sup>. Those who affirm they are defending women by prohibiting prostitution are actually deaf to the voice of those who decide to prostitute themselves: they don't listen to the women and men within prostitution who declare their will to do it, uphold their role, see many positive sides to it. It is not a question of being brutally exploited, but of offering a service and having a relation on many levels - not exclusively the sexual one - with men who seek sex and human contact<sup>10</sup>. A state moral discriminates prostitutes even more than society already does.

The Swedish decision to prohibit prostitution by criminalising only the client was the arrival point of a very rigid abolitionism<sup>11</sup>, and follows a path already taken in the past decades of harsher laws and intensification of police action against an extremely limited street prostitution. Although the prohibition to purchase sexual services implies the impossibility of selling them, and therefore is actually a prohibition against the market of sex in general, the declared objective of the law has remained the abolitionist goal of cancelling prostitution so as to diminish violence against women, and express a refusal of the reduction of women to sexual objects for male use and consumption, in a country that is very proud of being among the best in the world for the indicators of gender equality. The gradual fading of the guarantees of the welfare state led to the need to find another area of excellence for Sweden, to keep up the pride of being Swedish towards the rest of the world. This other sector is gender equality, that has taken the place of welfare in the talks of politicians who want to encourage and gratify Swedish nationalism<sup>12</sup>. Even the passage to a hitherto unprecedented model of policy on prostitution is a reason of national pride, with great efforts made to export it.

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<sup>9</sup> Only a part of the world of research: important scholars like Sven-Axel Månsson and his co-workers were the first to propose the criminalisation of clients.

<sup>10</sup> Many things are very difficult to accept applying absolute criteria of justice in the relations between men and women: let us think about the voluntary work women do by doing the housework, caring for children, husband, and needy relatives, and how the load is not equally distributed among partners even when the women have the same working hours as men. But what would a law that prohibits this inequality achieve?

<sup>11</sup> In which the partner and children over 18 who lived with the prostitute and benefited from her earnings were accused of exploitation of prostitution. The same applied to flat owners who were aware that prostitution was practised on the rented premises.

<sup>12</sup> I owe these observations to Petra Östergren, who is to publish them in Sweden in a book on this topic. Similar considerations can also be found in A. Gould, *Sweden's Law on Prostitution: Feminism, Drugs and the Foreign Threat*, in S. Thorbek, B. Pattanaik (eds.), *Transnational Prostitution. Changing Patterns in a Global Context*, Zed Books, London-New York 2002, pp. 201-215.



According to the latest news, the Municipality of Stockholm will also enact a plan against sexual slavery (meaning, by this expression, prostitution) – this time following Madrid, after the very intense international contacts had succeeded in exporting, if not the Swedish laws, at least the ideology they are based on, which considers prostitution a form of violence against women, and the client a culprit.

## 5.2

### **From models to practice**

What are the concrete results of the different policies? Our study brought to light more similarities than differences among the various local situations, so that we doubt whether it still makes sense to classify countries as if the grand principles affirmed by their national laws really mould “models” that are then put into practice. The clear separation of the “models,” both in the declarations of the politicians who propose them and in the work of the scholars who study the differences and compare the policies of the various states, is the first “casualty” resulting from an in-depth local study. The flexibility in the application of very different laws shows a single dimension underlying them: the greater or lesser tolerance towards the practice of prostitution.

The cultural diversities between the various countries are significant, but they do not prevent a comparison: these, too, are traceable to the dimension of tolerance/intolerance. The common view of prostitution as an undesirable activity, to be marginalized, to fight in particular when it becomes a channel for immigration, is shared by all these States, which in the concrete application of very different laws show they are not that distant after all. The concrete will to oppose prostitution is well present in the Netherlands, beyond the (both Dutch and Swedish) purely rhetorical assurance that prostitution is accepted as a profession in the Netherlands. Secularisation, which should take away the idea of sin from the “profession,” is either not advanced enough or is taking some steps backwards.

*All* the countries resorted to restrictive laws, in part due to the electoral victories of parties that oppose immigration, yet everywhere there are areas of tolerance, at the outskirts of the cities, or in green areas, industrial areas, or business areas, where there are no residents who complain. Sometimes, as in Paris (and Milan) this creates problems in neighbouring towns. In the same way, between Sweden and the neighbouring countries there are international movements of the trafficking networks, while the bordering countries see an inflow of Swedish men for short-range “sexual tourism”, resulting in complaints on the part of the other Scandinavian countries towards which Sweden has moved their share of foreign prostitution. There are also – brief – periods of great deployment of police force, but

then – though, certainly, at slightly inferior levels – the situation reprises: if there is no continuous surveillance the phenomenon persists.

Prohibitionism, too, must face problems of regulation: in Stockholm there is a street where prostitutes are concentrated and basically tolerated. The candour of the common man and especially of the common woman (because she, unlike the man, does not make use of prostitution) sees an easy solution in the proposal of a repressive policy, which usually gives spectacular results at the beginning, when it is under the media's spotlights, diminishing then in effectiveness as time goes by and as those who intend to exploit the possibility of high earnings secured by prostitution reorganise.

Therefore, what are the policies that can govern prostitution?

The authors of this work believe it is necessary to be far-sighted and try to fight the stigmatisation that derives, basically, from a traditionally negative judgment of women's extramarital sexual activity. This change in vision would benefit not only prostitutes but women in general. As proof that this is a battle over women's self-determination regarding their bodies, the supporters of clients' criminalisation conceive male prostitution as less problematic: men are not regarded as being exploited by other men and are not automatically considered victims.

The first step to modify stigmatisation – as the Dutch experience of municipal rules, based on decades of tolerance, shows – is public debate and serious reflection on the phenomenon. It is necessary to listen to those who are directly involved in the matter: prostitutes themselves. However, it is difficult for prostitutes to make their voice heard, for fear of the stigma attached to prostitution, and/or because they are foreigners usually without residence permit.

In the Netherlands, decentralisation of decisions has proved important. Local administrations have mostly been in favour of a regulation of prostitution, except for small towns governed by religious conservative parties (even if there are problems in licensing, as shown in the chapter about Amsterdam).

Furthermore, criminal exploitation needs to be prosecuted, and it is expedient to leave legal grounds to voluntary prostitution, concentrating investigations on cases of coercion. The capacity to distinguish between problematic situations and voluntary agreements is required, as well as greater availability of alternative professions to offer those who wish to cease to prostitute themselves.

We have spoken little of sexuality. Are we perhaps defending a supposed right of the client to purchase the body of others, particularly women? No, prostitution is a consensual act, it is the result of a negotiation. Furthermore, the demonisation of clients makes it more difficult to help true victims,

because their help is lost to investigations. In the Netherlands this is recognised, in Sweden this has become anathema.

We spoke at the beginning of a “world of prostitution”, and this expression seems to refer to a closed, hidden world, separate from the rest of society. It is an image that is well suited to Sweden, where repression of prostitution since 1999 has grown from a profound stigmatisation, accompanied by a decrease in demand on the part of men<sup>13</sup>. In other countries this “world” is not at all closed: in Paris and Madrid there is a consistent population of prostitutes who have been working for a long time; even among immigrants there is social interaction between people engaged in various professions, including prostitution. However, native-born prostitutes seem headed towards progressive extinction, as happened in the streets of Italy. An exception is represented by drug addicts, whose problems are different and require solutions mainly targeting the “drug issue”. It must be said, however, that the level of severity shown by countries and political parties towards consumers of prohibited substances reflects very well the degree of severity with which they treat the world of consensual prostitution.

We have not spoken much of public health. Prostitutes are not asked to provide certificates regarding sexually transmitted diseases in any of the countries examined. This is mainly because certificates of good health are deceiving (there are window periods between infection and the possibility of detecting it) and because they encourage clients not to use condoms. The Netherlands are the only country that has openly dealt with the problem: the only obligation owners of brothels have is to guarantee that health workers may speak with the prostitutes who work there.

In conclusion, we have seen that all the countries taken in consideration have tried changing their policy model and have had poor success. What these countries have in common is an intensive search for a legislative solution to a social problem. Currently, the focus is on finding political solutions to new problems, essentially the problems of globalisation, i.e., the growth of immigration to rich countries, which is due to growing inequalities, the ease of travel nowadays and also the increased attraction of the Western lifestyle that is publicised by the ubiquitous media. This is why law must be given the place it should have and “repressive resources” should be used mainly to solve situations of violence and abuse of power. We must do this wisely, without imposing a totalitarian ideology, without deluding ourselves that we will build a prostitution-free world – prohibitions are destined to fail, just as

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<sup>13</sup> Demand is different from country to country. National surveys have shown the following percentages of men who have paid a prostitute at least once in their lifetime: 8.7% in Italy (according to CENSIS, 2000), 12.7% in Sweden (1996), 16% in France (2000), 21.6% in the Netherlands (1995), 25% in Spain (2004), with an estimate of 606,000 men who had sex in return for payment in the past year. We report these data in a note because it is difficult to make an international comparison: the answer – besides being referred to different age groups – also, and perhaps above all, indicates the degree of stigma attached to the question.

abolitionism failed. Alongside the demand for prostitution – and clients are now at the centre of research and political debate in all the countries considered (except for the Netherlands) – there is an offer of prostitution. Poor women are attracted to this profession: they are not just coerced and deceived, not only bought or sold. Many women, of their own free will, actively seek contacts that will allow them to move to Western countries in search of a new life, and for many of them this means accepting a phase in which they support themselves with prostitution.

The alternative we are faced with, quite simply, is between social acceptance of the existence of prostitutes and a return to authoritarianism.