

Female Prostitution and Women's Status: An Integrated Debate

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~ Abstract ~

Our paper discusses the political aspects of prostitution as a reflection of gender power relations. In particular, we seek to illuminate one aspect of the phenomenon: its *simultaneous* implications on the lives of prostitutes and on the construction of women's image in society. Our hypothesis is that different policies have inverted practical implications on the lives of prostitutes and on the status of women. A policy that improves the lives of prostitutes inevitably deteriorates women's image in society because it legitimizes the chauvinist image of women as "sex-providers" and the commoditization of sex. Conversely, when a state criminalizes prostitution it signals an opposite message, that women are not to be treated as providers of sex and that sex is not a legitimate commodity. Nonetheless, this policy in turn worsens the lives of prostitutes. Methodologically, we propose a theoretical model that examines the impact of different kinds of policies on prostitutes on the one hand, and on the status of women on the other. Using a dataset that includes legislation on prostitution in 17 democratic countries, we show that the legislation clusters into three groups: *Abolition*, *Regulation* and *Legalization*, which translates to different policy implications. In the final section of this paper we provide evidence to support the theoretical model's compatibility with the empirical world.

~ Introduction ~

This paper will focus on the political facets of female prostitution as a reflection of gender power relations. Our work seeks to illuminate the legal aspect of the phenomenon and its impact on the lives of all women. The question we wish to ask is whether there is a connection between legislation regarding prostitution (and therefore the status of prostitutes) and women's social image, and if so, what is its nature? Our hypothesis is that there is a tension between how policies affect prostitutes and the way they impact the Status of Women. We will wish to show that prostitution as a phenomenon affects not only the women who are the workers in this industry, but rather a much larger group which constitutes half of the human population. Furthermore, policies regarding prostitution consist of a trade-off between the two.¹

Methodologically, we would like to propose a theoretical model that examines the impact of prostitution policies on the lives of prostitutes on the one hand, and the social image of women on the other. For this end, we have constructed a typology of three different kinds of policies based on legislation in 17 democratic countries. Based on that typology, we would like to offer a theoretical rationale of each policy's *different* impact on women, prostitutes and non-prostitutes. Finally, we will present illustrations to support our argument. Before we go on, however, it is important to draw the limits of our argument. First, this paper only deals with female prostitution, and is less relevant for (though not entirely disconnected from) male-prostitutes. Second, even though our claims may prevail for the sex industry as a whole, this paper is limited in scope and cannot explore the different aspects in that industry. Therefore, the trafficking of women, pornography and strip-clubs are not discussed here.

This paper holds two main motivations. The first is to better understand the relationship between policy, the status of prostitutes and the status of women, and hopefully to offer new ways of thinking about them. We hope that rethinking the issue will emphasize the need for a new legislative solution. Our second motivation is to examine the conflict between liberal and radical feminist arguments. While most attempts to explain the conflict have examined the difference in terms of

¹ It is important to note that this is a conceptual research, and for the purpose of this paper we are not offering a normative view.

choice/coercion,² we argue that a different issue lies at the heart of this conflict: the *priority* each approach gives to promoting prostitutes' *or* women's status.

The accusation commonly articulated by liberal-feminists against the radical-feminists is that in their attempts to promote women's agenda, they result in harming the very same women they wish to defend.³ The abolition of prostitution that is advocated by the radical feminists, argue the liberal feminists, worsens the lives of prostitutes which constitute the weakest of all women. While this is true, we wish to show that the legalization of prostitution, as promoted by the liberal-feminists, has a different price: a lower status of women. Thus, each of these policies goes against some interest of the feminist agenda.

This conflict weakens the feminist call to promote women. As Jody Freeman wrote, if feminists wish to truly influence current policies regarding prostitution, they must hold a unified front. While she believes that the radicals ought to align themselves with the liberals, thus putting the actual lives of prostitutes before the status of women,⁴ we argue no such claim. We only wish to outline the problem of committing to either option, since both, to some degree, hurt women. Therefore, some compromise between the status of prostitutes and the status of women must be reached if feminists are to address the issue of prostitution with one voice.

~ Theoretical Background ~

The Literature on prostitution is widespread and varied both in methodology and in terms of discipline. There are sociological, psychological, economic, historical, theological, legal and political studies that examine the issue from different perspectives.

² The liberals claim that prostitution is a choice to benefit from what most women are expected to give for free. The radicals, on the other hand, argue that prostitution is the result of an oppressive gender hierarchy and that no women would freely choose such a profession. Prostitutes are victims of current social realities. See: Elizabeth Bernstein, "What's wrong with Prostitution? What's Right with Sex Work? Comparing Markets in Female Sexual Labor", *Hastings Women's Law Journal*, Vol. 10, (1999), pp. 95-98.

³ The most prominent advocates of these accusations are the working women organization such as COYOTE and ISWFACE. See: Norma Jean Almodovar, "For Their Own Good: The Results of the Prostitution Laws as Enforced by cops, Politicians and Judges", *Hastings Women's Law Journal*, Vol. 10, (1999), pp. 119-133.

⁴ Jody Freeman, "The Feminist Debate Over Prostitution Reform: Prostitutes' Rights Groups, Radical Feminists, and the (Im)possibility of Consent", *Berkeley Woman's Law Journal*, Vol. 5, (1989-1990), p. 109.

Most of the political literature on the subject focuses on one of two key issues. The first is the moral status of the prostitute and the ethical implications of prostitution. These articles examine the dynamics between prostitution and the relevant moral concepts such as human rights, autonomy, freedom, etc., and often present feminist arguments. These arguments, however, are varied and either promote the legalization of prostitution as a liberal act and women empowerment (the liberal argument)⁵ or disqualify such legislation as preserving the oppressive status-quo (the radical argument).⁶ Of note is that this point focuses mainly on the connection between prostitutes and women and it regards prostitutes *as* women and not as a separate conceptual group. It does not examine the role the law plays in creating these relations.⁷ The law, from this point of view, plays no significant part.

The second key issue is the relationship between the state, society and the prostitute. This perspective examines how legislation and policy affect the prostitutes in terms of their life quality and the number of women engaged in this profession.⁸ Issues of police enforcement, wage flexibility and pimping fall under this category. However, the status of women, or any other moral question for that fact, is missing from this perspective. Our paper aims to synthesize the two key points and examine the way formal laws affect both prostitutes and all women and to apply this understanding towards a morally better legislation.

⁵ A most extreme articulation of such a claim can be found in Lars O. Ericsson, "Charges Against Prostitution: An Attempt at a Philosophical Assessment", *Ethics*, Vol. 90(3), (April, 1980), pp. 335-366. Similar arguments, with more or less conviction can be found in: Jean Hampton, "Feminist Contractarianism", in *A mind of One's Own: Feminist Essay On Reason and Objectivity* (Boulder, CO: Westview, 1993), pp. 227-255; Laurie Sharge, "Prostitution and the cast for Decriminalization", *dissent*, (Spring 1996), pp. 41-45; and Susan E. Thompson, "Prostitution – A Choice Ignored", *Women's Rights Law Reporter*, Vol. 21(3), (Summer 2000), pp. 217-247.

⁶ A partial list of such claims, addressing wider issues of sexual labor, would refer to the following: Carole Pateman, "Defending Prostitution: Charges Against Ericsson", *Ethics*, Vol. 93(3), (April, 1983), pp. 561-565; Elizabeth Anderson, "Is Women Labor a Commodity?", *Philosophy and Public Affairs*, Vol. 19, (1990), pp. 71-92; Andrea Dworkin and Catharine Mackinnon, *Pornography and Civil Rights: A New Day for Women's Equality*, (Minneapolis, MN: Organizing Against Pornography, 1988); And Catharine MacKinnon, "Sexuality, Pornography, and Method: Pleasure Under Patriarchy" *Ethics*, Vol. 99(2), (1989), pp. 314-346.

⁷ Annette Jolin, "On the Backs of Working Prostitutes: Feminist Theory and Prostitution Policy", *Crime & Delinquency*, Vol. 40(1), (January 1994), p. 81.

⁸ See, for example: Scott Cunningham and Todd D. Kendall, "Prostitution, Technology, and the Law: New Data and Directions", <http://www.toddkendall.net/ProsTechLaw.pdf> (July, 2009); Lena Edlund and Evelyn Korn, "A Theory of Prostitution", *Journal of Political Economy*, Vol. 110(1), (2002), pp. 181-214; Steven D. Levitt and Sudhir Alladi Venkatesh, "An Empirical Analysis of Street-Level Prostitution", http://www.international.ucla.edu/media/files/levitt_venkatesh.pdf (September, 2007); and Teela Sanders, "The Risks of Street Prostitution: Punters, Police and Protesters", *Urban Studies*, Vol. 41(9), (August 2004), pp. 1703-1717.

In her ground-breaking book "Only Words" Catharine MacKinnon synthesizes two similar perspectives in regards to pornography. She asks both of the influences certain laws have on specific persons and of the moral consequences of pornography in regards to both porn-actresses and women in general. She then combines the two in order to show the moral flaws that the current policy creates. MacKinnon argues that pornography harms women in three different aspects. First, pornography hurts women personally in the sense that it is physically and mentally harmful to them. This harm is solely relevant to those who participate in the making of such materials.⁹ Second, pornography encourages violence against women and mutates sexual perceptions, when men react to the violence of pornography and simulate it. This leads to a rise in the number of rapes and the further humiliation of women.¹⁰ The third aspect, however, is general. It suggests that the legitimacy the pornography industry enjoys affects the overall status of women because it encourages chauvinism and portrays women and feminine sexuality as a commodity.

MacKinnon's argument holds a two-fold relevance for our paper. First, we wish to synthesize the two perspectives, personal and general, in a similar way, and follow her footsteps in this regard. Second, MacKinnon's analysis treats women status as a separate, abstract, issue, one that is not reducible to the actual status of specific women. Thus, it can be claimed that pornography harms both actual women **and** the feminine social image. Our model will assume that this gap exists, and that it is exactly this gap that is most relevant to the articulation of a consistent feminist approach. We should note, however, that MacKinnon's stand is also under review here, as a one-sided argument that ignores the gap she herself illuminated. Before we go on to explain this point and suggest our theoretical model, we would first like to turn to real world legislation and look for empirical grounds to support our theoretical arguments.

~ An Empirical Inquiry ~

We have compiled a dataset that includes different aspects of legislation on prostitution in 17 democratic countries that effectively enforce their laws:¹¹ Austria,

⁹ קתירין מקינאן, פמיניזם משפטי בתיאוריה ובפרקטיקה (ת"א: רסלינג, 2005), ע' 95.

¹⁰ שם, ע' 96.

¹¹ By stressing this principle we wanted to exclude countries like Thailand, which hold a policy that favors the complete abolishment of prostitution, but does not enforce it in practice and even constitutes one of the largest sex industries in the world.

Canada, Denmark, Finland,¹² France, Germany, Israel, Italy, the Netherlands, the state of Nevada, Norway, Queensland (Australia), Spain, Sweden, Switzerland, the UK and the USA (all states but Nevada).

Each set of legislation (i.e., legislation per country) was coded according to 11 indicators that focus on three core issues: the law's attitude towards prostitutes, towards the clients and towards brothels. We only included legislation on female (or both sexes) prostitutes as sole operators. We excluded legislation on pimps, in order to avoid legislation on human trafficking, which is fought against in almost all the countries we included in our analysis. In all cases in the analysis, procuring or earning a living from sex services given by another person is criminalized, and therefore we excluded this indicator. The complete dataset can be found in Appendix A.

The dataset consists of several indicators. The first indicator refers to whether or not the legislation referred to the issue of prostitution, i.e., was it mentioned in the country's penal code or in a variant of a "Prostitution Act", which either criminalizes or decriminalizes prostitution. The next set of indicators refers solely to the prostitute: Does the law refer to the prostitute herself? Does it criminalize or decriminalize her activity? Or, in case she is not mentioned, does it regard the issue of practicing prostitution as a non-criminal act? The next two indicators concern governmental monitoring of prostitution. They answer two questions: must prostitutes undergo periodically health checks by the state authorities or representatives? And must they pay income taxes?

The next three questions concern limitations put on prostitutes while engaging in prostitution. These indicators include questions of whether soliciting clients in public is considered legal; whether street prostitution is legal (as opposed to prostitution that is limited to brothels or to the prostitute's private home), and whether prostitutes are allowed to advertise their services in the media, e.g., in newspaper ads. The next indicator examines how the legislation refers to the client. We have coded two values for this indicator: a criminal and not a criminal. The last indicator refers to private brothels that are managed by a third party that does not practice prostitution himself/herself, but who benefits from the prostitutes' work. In all the countries we included in the analysis there are no public brothels and all private brothels are either

¹² By Finland we mean Helsinki, which has slightly different legislation from the rest of Finland. It was chosen to be included in the analysis because it is home to majority of the finish population.

decriminalized or criminalized. Our numerical emphasis on indicators concerning prostitutes (9 of 11) was intentional, and its purpose was to give those indicators a larger weight in the analysis.

Because our aim in the empirical analysis was to check whether there are in fact distinct types of legislation, we used a hierarchical cluster analysis to analyze our data. Cluster analysis is used to identify sub-and homogenous groups within a population. The observations are ordered into clusters according to their similarity to one another, which is determined by their Euclidean distance from one another.¹³ The full results can be found in the proximity matrix in Appendix B and the clusters are presented in Figure 1 on page 7.

The results show a convergence into three main clusters. In the first cluster we find Finland, France, the UK, Canada, the USA and oddly, Queensland. All those countries criminalized prostitution to some extent. Finland and France are similar in all aspects and though all prostitution activities are considered criminal, they do not arrest prostitutes. The Anglo-Saxon countries share similarities because they all regard prostitution as a public nuisance and limit the prostitutes' activity: they arrest street prostitutions, criminalize brothels and ban prostitutes from soliciting clients.

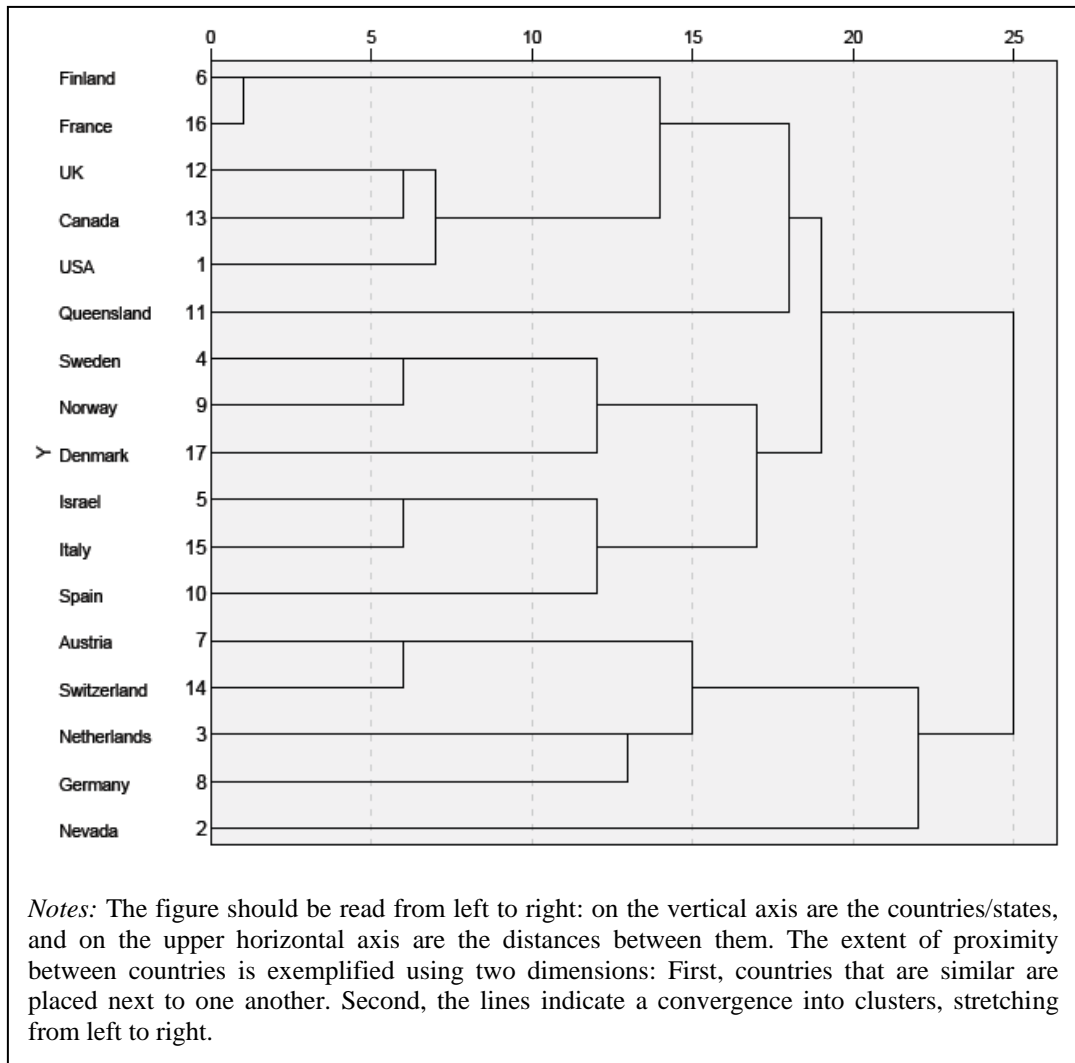
The USA joins the cluster later than the UK and Canada, probably because it criminalizes *all* aspects of prostitution and persecutes even the prostitutes that work far from public sight. Queensland joins on a much later cluster (and can almost be considered an outlier), because although it has decriminalized prostitution in brothels, it demands that all prostitutes be licensed and persecutes the ones who are not. It also forbids street prostitution and self-advertising.

The second cluster consists of two sub-groups: Sweden, Norway and Denmark, and Israel, Italy and Spain. Though none of them criminalizes prostitution per se, the first sub-group wishes to abolish prostitution but places no restrictions on the actions of prostitutes: Sweden and Norway criminalized the client as well as the brothels, and Denmark banned brothels but ignores street prostitution, and therefore joins on a later cluster. Israel, Italy and Spain have no clear legislation on prostitution:

¹³ The hierarchical cluster analysis was conducted using SPSS 19. Indicators 1-2 and 4-6 were given a binary coding (yes=1, no=0). The other indicators were given numeric values according to their theoretical proximity: Criminalized=.3; Not criminal=.6; Decriminalized=.9. The distance between each country was measured using the Euclidean distance.

Israel and Italy only criminalized pimps, while Italy places some restrictions on street prostitution, and Spain mostly ignores the phenomenon and joins the two on a later cluster.

Figure 1: A Dendrogram showing Linkage between Countries

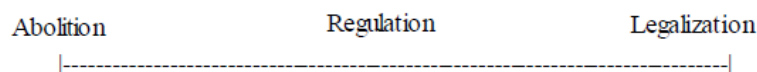


In the third cluster we find countries that have decriminalized prostitution: Austria, Switzerland, the Netherlands, Germany and Nevada (which also almost constitutes an outlier). Austria and Switzerland have decriminalized every aspect of prostitution and monitor prostitutes in periodical health checks. Germany and the Netherlands, which have both decriminalized prostitution, regularly monitor brothels, the prostitutes must pay income taxes and undergo periodically health inspections. The state of Nevada had decriminalized brothels but criminalized any other practice of prostitution, including street prostitution and self advertisement. It joins the four

countries on a later cluster because it monitors the status of legal prostitutes through health inspections in brothels and income taxes.

To conclude, the empirical analysis shows a convergence into three main clusters that indicate three different policies: the first group of legislation persecutes prostitutes and can be referred to as *Abolition*. The second bodies two sub-groups but can generally be regarded as *Regulation*; it does not act to eradicate prostitution by criminalizing all parties that are involved in the act itself, or simply ignores the phenomenon. The third cluster can be titled *Legalization* and it consists of countries that have decriminalized prostitution. The policies can be ordered on a scale, ranging from complete Abolition to Legalization, as depicted is Figure 2.

Figure 2: policies



~ The Theoretical Model ~

Our main hypothesis is that each type of policy, according to the scale we established, has a different effect on the lives of prostitutes and the lives of women in general. Following MacKinnon's footsteps, we assume that the law can affect women in a particular as well as a general fashion. First we will draw out the rationale concerning the status of prostitutes. Then we will address the issue of women's status and explain the dynamics between these two matters. Before we try to analyze the entire typology, let us start by examining the two poles: Abolition and Legalization.

When prostitution is considered illegal, the lives of prostitutes become more difficult. Persecution, prison sentences and fines become inseparable elements of the prostitute's life, accompanied by shame, poor social capital, significantly greater exposure to crime and violence, poverty and drug abuse. In order to avoid incarceration, the prostitutes must work in poorly-enforced areas and cannot sue or testify against any wrongdoer without incriminating themselves.¹⁴

¹⁴ Rosemary Tong, *Women, Sex, and the Law*, (Totowa, NJ: Rowman and Allanheld, 1984); Edwin M. Schur, *Labeling women Deviant: Gender, Stigma and Social control*, (Philadelphia: Temple University Press, 1984); and Vanessa Jenness, *Making it Work: The Prostitutes' rights Movement in Perspective*, (New York: de Gruyter, 1993). Compare with Levitt and Venkatesh, pp. 4-5.

The story is altogether different when prostitutes are considered to be legal. The matter of legality will be addressed separately, but meanwhile it is enough for our purpose to define legalization as all policies that do not prohibit prostitution. In this case prostitutes can work openly, in better parts of the city, sue for any violation of their rights and testify in court. They can purchase a suitable health insurance (private or state sponsored) and perhaps even receive subsidies for condoms.¹⁵

But each of these policies affects not only prostitutes but also women in general. The status of women is an obscure term with a wide range of meanings. For the purpose of this paper, women's status refers to the popular conceptions of gender. According to MacKinnon, related issues such as wage-equality and political rights are reflections of such conceptions.¹⁶ Such conceptions, so is commonly argued, are determined by many various elements.¹⁷ We will not try to portray the entire picture. Instead, we will follow the MacKinnon's claim that legislation can actively affect such conceptions. More specifically, legislation regarding women affects the general image of women.

Therefore, when a state legalizes prostitution, it has wider implications than solely on the lives of prostitutes. The claim that prostitution is legitimate means that sex can be treated *legitimately* as a service to be sold and bought. This encourages the chauvinist image of women as "sex-providers" and the commodification of sex. Such a policy will worsen the popular conception of women. Conversely, when a state criminalizes prostitution it sends out the opposite message: women are not to be treated as providers of sex and sex is not a legitimate commodity. This type of policy will improve the status of women.

From these claims a certain trade-off is evident. When the state prohibits women to work as prostitutes the quality of lives of the prostitutes will decline but the status of women in general will improve, because such a policy will de-legitimize objectification of women as sex-providers. Respectfully, policies that would give legitimacy to prostitution, and improve the quality of life of the prostitutes will harm

¹⁵ This is true only for prostitutes within the system, not for unauthorized sex workers. See: Judith Kilvington, Sophie Day and Helen Ward, "Prostitution Policy in Europe: A Time of Change?", *Feminist Review*, Vol. 67, (Spring, 2001), p. 80.

¹⁶ Catharine MacKinnon, *Toward a Feminist Theory of the State*, (Cambridge, Massachusetts: Harvard University Press, 1989), p. 162.

¹⁷ An excellent review of most major theories in regards to what determines women's status can be found in: Naomi Quinn, "Anthropological Studies on Women's Status", *Annual Review of Anthropology*, Vol. 6, (1977), pp. 181-225.

the broader status of women and weaken women's image, legitimizing them as sexual objects.¹⁸ The more a state legitimizes prostitution the better is the status of prostitutes and the worse is the status of women in general. In other words, the more restrictions on the practice of prostitution, the better is the status of women, but then the quality of lives of prostitutes declines. The dynamics can perhaps be made clearer by looking at table 1.

Table 1: Model dynamics

	Abolition	Regulation	Legalization*
Prostitute	↓	↑	↑↑
Women's Status	↑	↓	↓↓

* *Note:* compared to Abolition and Regulation, Legalization has a larger effect in magnitude on the status of prostitutes and women

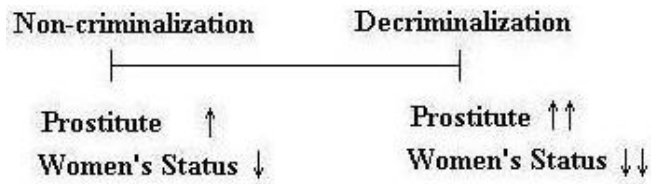
Some may object to the apparent dichotomy drawn here between "women" and "prostitutes" - after all, prostitutes *are* women. This point is indisputable. However, we should note, nothing in this model has contradicted it. The trade-off we describe is between the status of specific women and a general notion. The "status of women" is not a group of people, but a concept, an idea about a group of people. Also, we do not argue that prostitutes are not affected by the general status of women. We do argue, however, that the status of women has an indirect affect on the lives of prostitutes, one that is lesser than the direct affect of the legislation regarding prostitution.

The ideal-abolition policy is total negation of any prostitution-related actor or activity, articulated in specific well-known laws and thoroughly enforced. The ideal-legalization is the complete lack of prohibiting laws. This can either mean actual affirmation of prostitution in laws (Decriminalization) or the total lack of reference in laws (non-criminalization). This is consistent with the democratic perception of the law, so that all that is not banned is allowed. While we believe that both of these types have a similar affect on both prostitutes and women's status, there may be a difference of degree. While decriminalization affirms sex as a legitimate commodity in a positive sense by actually announcing it as such, non-criminalization does this

¹⁸ Freeman, p. 76.

negatively: it does not condemn nor praise sex sellers and buyers. The negative form may therefore have less of an impact on the status of women. Also, while theoretically the prostitute's situation should be similar in both cases, perhaps the decriminalization has greater affects in terms of the prostitute's health via sex-protection subsidies. This logic is illustrated in Figure 3.

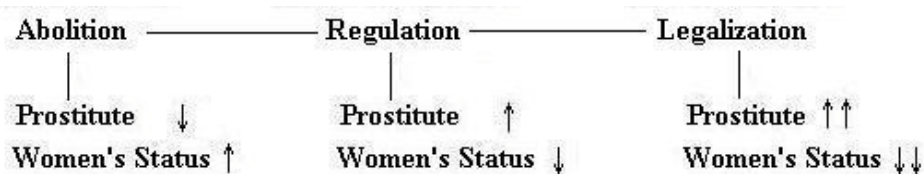
Figure 3: Two Forms of Legalization



The ideal-regulation offers restrictions and conditions for the practice of prostitution and enforces these effectively. Typically in such a policy, prostitutes will be required to undergo medical examinations, issue a state-license to practice prostitution and perhaps be limited to certain areas of the city or by the hours of the day in which they can openly sell sex.

In fact, very few states fit these ideal types. For example, in Finland (i.e., Helsinki) selling sex is legal while buying sex is not. The client, in this scenario, is a criminal. This sort of policy is a hybrid: part regulation, since prostitutes are decriminalized but still heavily restricted,¹⁹ part abolition, since the sexual trade is still frowned upon and is considered illegal. This type of policy should therefore be located between these two policies. The point here is that the typology we offer should be considered as a scale with three ideal reference points. Table 1 can be therefore converted to scale, as can be seen in figure 4.

Figure 4: Model Dynamics in Scale



¹⁹ For example, they are banned from selling sex in the street or any other public location (such as restaurants and business premises).

Before we move on to examine the empirical compatibility of this model to other states, one further addendum must be addressed. The dynamics described above are relative in the sense that they do not speak of the prostitute's status or women's status in absolute terms (good/bad) but in relative ones (better/worse). We must, therefore, answer the obvious question: relative to what? Since we wish to offer a general model, the state's previous legislation is not a valid starting point: it would mean that abolition is worse for some than for others. While this may be true due to exogenous reasons, we still claim that all prostitutes suffer from a policy of abolition. Similarly, all policies affect the status of women *in a certain way*. This, we believe, is not the outcome of any specific change of policy in a particular state, but a general rule. Also, it would be unwise to try and find a neutral starting point. As was argued above, the lack of prohibition is not a neutral situation: if the model is correct, lack of prohibition has a clear affect. Any other starting-off policy would similarly have an influence according to the model.

Therefore, we suggest as a starting-off point a new sort of policy: the *unenforced-abolition*. We offer this for two reasons. First, in order to try and neutralize as best we can the starting-off point, un-enforcement seems to go a long way. The would-be impact of the law is practically non-existent without enforcement. This does not mean that some sort of status-quo is not reached, but it would vary from state to state and be determined by matters exogenous to the model. Therefore, whether we start from abolition, regulation of legalization, it would still be best to start with an unenforced version of the policy. We should note that this is not true when it comes to the difference between decriminalization and non-criminalization since the latter does not assume enforcement to begin with. Second, this policy of unenforced-abolition is currently, we believe, most wide-spread.²⁰

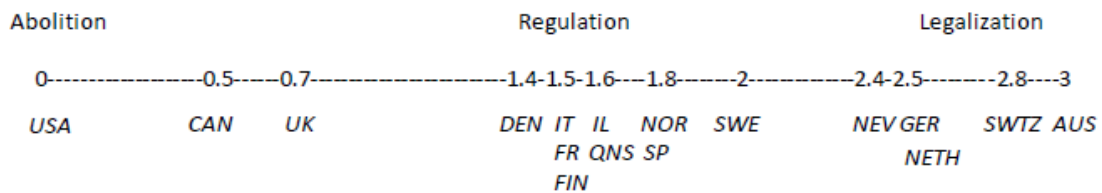
~ Illustrations and Empirical Compatibility ~

In this section we will provide illustrations of empirical compatibility to our model dynamics. In order to do that, we *recoded* our data. In terms of the democratic

²⁰ Even though that for methodological reasons we chose to examine only states with high enforcement rates, large portions of the world, including many African and south-Asian countries, are suffering from weak or even non-existent enforcement. Thailand would be an obvious example: formally, prostitution is totally banned, but in practice the Thai sex market is flourishing and is currently a tourist attraction. See: C. Van Kerkwijk, "Sex tourism in Thailand", *Journal of the International AIDS Society*, Vol. 4(1), (Oct-Nov, 1992), pp. 6-7.

imperatives of the law, non-Criminalization and Decriminalization have the same meaning. Therefore, we have recoded them into one category. We then recalculated the Euclidean distances between the countries and have arranged them on a two-dimensional scale, according to their similarity to an ideal policy – the USA’s abolition policy.

Figure 5: An Empirical Illustration of the Model’s Dynamics-from Abolition to Legalization



As shown in figure 5, most countries are located between regulation and legalization. Of note is the shared position of Israel and Queensland, the latter legalized some aspects of prostitution and criminalized others, while the former mostly ignores the issue. Another interesting outcome is that of Italy and Finland, for similar reasons. The UK and Canada are located closer to the USA than Denmark, Italy, Finland and France, because they actively persecute clients and prostitutes that trade sex in public.

According to our model’s logic, we should be able to observe a trade-off between the status of prostitutes and that of women in general where the policies are being implemented. Within the limited scope of this paper, we will offer a few illustrations of the compatibility of empirical and accessible evidence with the model, while further longitudinal research on this matter would be needed in order to test for causality. In order to examine empirical compatibility, we will first present data that support our claim that when prostitution is considered illegal, the lives of prostitutes get harder, and that the story is altogether different when prostitution is legal. The second part will provide empirical support for establishing association between prostitution policies and women’s social image. It aims to show that our clusters not only show different patterns of state (non-)intervention, but correlate with other patterns of gender stratification as will be shown through a selected set of proxies of women’s status in our example democracies.

There are no benefits to criminalising prostitution in terms of the quality of life of prostitutes. In Sweden, for example, which criminalized one aspect of prostitution and regulates another,²¹ sex workers became more apprehensive about seeking help from the police when they have problems with an abusive customer. On the other hand, as one prostitute said, on the whole she feels that “life on the streets has deteriorated”.²² Prostitutes have reported that the provisions on clients drove the industry underground. Lower prices on the streets (compared to those in brothels) condemn them to engage in unsafe sex and sexual activity they usually would not perform which in turn leads to exposure to diseases and violence.²³ Women working on the streets claim that there is now a greater percentage of dangerous customers and that the “nice and kind” customers have disappeared.²⁴ Furthermore, other prostitutes said that “[h]arrassment by the police has increased and the clients no longer provide tip-off about pimps, for fear of being arrested themselves”. In addition, social workers assigned to working in the streets have trouble reaching prostitutes. Similar claims were made in countries that have abolition policies: the UK,²⁵ the USA²⁶ and Canada.²⁷

Legalization, on the other hand, improves the life quality of prostitutes. In Nevada, the legalization of prostitution in brothels has bettered the prostitutes’ quality of life because it provides them protection from violence and sexual transmitted diseases.²⁸ In the Netherlands, prostitutes now enjoy health services and receive full employment rights. They can access a designated information centre,

²¹ A summary of the prostitution regulations in the EU member states
http://www.europarl.europa.eu/hearings/20040119/femm/document1_en.pdf

²² A report by a working group, "Purchasing Sexual Services in Sweden and the Netherlands: Legal Regulation and Experiences", p. 19

http://www.regjeringen.no/upload/kilde/jd/rap/2004/0034/ddd/pdfv/232216-purchasing_sexual_services_in_sweden_and_the_nederlands.pdf

²³ *Ibid*, *Ibid*.

²⁴ Petra Östergren, "Sexworkers Critique of Swedish Prostitution policy"

http://www.petraostergren.com/pages.aspx?r_id=40716

²⁵ In July 2004, the Home Office published “Paying the Price”, a consultation paper on prostitution in Britain which provided information and opinions on problems associated with prostitution. See: Home Office, *Paying the price: a consultation paper on prostitution*, (London: Home Office, 2004).

http://webarchive.nationalarchives.gov.uk/+http://www.homeoffice.gov.uk/documents/paying_the_price.pdf?view=Binary

²⁶ Gregg Aronson, "Seeking a Consolidated Feminist Voice for Prostitutions in the US", *Rutgers Journal of Law & Urban Policy*, Vol. 3(3), (2006), pp. 374-376.

²⁷ John Lowman, "Violence and the Outlaw Status of Street Prostitution in Canada", *Violence Against Women*, Vol. 6(9), (2000). pp. 987-1011.

²⁸ Barbara G. Brents and Kathryn Hausbeck, "Violence and Legalized Brothel Prostitution in Nevada Examining Safety, Risk, and Prostitution Policy", *Journal of Interpers Violenc.*, Vol. 20(3), (2005), pp. 270-295.

where they learn how to register themselves as independent workers. They can also press charges against molesters, work in public and be take part in the social life.²⁹

Our model is not only consistent with actual reports of the affect of certain policies on the lives of prostitutes, but it is also supported with empirical evidence of compatibility between the status of women and the policy towards prostitution. Hadas Mandel³⁰ uses Esping-Anderson's typology of welfare regimes³¹ to show how countries that share similar welfare regimes are likely to resemble each other in their patterns of gender stratification. Interestingly, the clusters we received in our analysis correlate Mandel's clusters³², which indicate that there may be an association between legislation on gender stratification and policy on prostitution.

While we conceive of the status of women as an idea, a perception, Mandel defined it in terms of economic inequality. Therefore, they will be used as mere proxies of the image of women. Using three of Mandel's indicators (See table in Appendix C) we find that as our model indicated, in countries with regulatory policies women's status was lower than that of women in countries that promote abolition, and so did the countries that adopted a legalizing stand. A comparison between the averages of each cluster, reveals that in countries that aim to abolish prostitution, women have the highest access to managerial positions in comparison to men (the coefficient of the probability is .53 compared with .47 and .37); the occupational segregation is the smallest (53% compared with 54% and 61%) and the proportion of women's representation in the upper quintile of income distribution compared with their relative share in the population is ordered second (13% compared with 16% in countries that legalized prostitution and 11% in regulatory countries).³³

²⁹ Kilvington, Day and Ward, pp. 78-93.

³⁰ Hadas Mandel, "Configurations of gender inequality: the consequences of ideology and public policy", *The British Journal of Sociology*, Vol. 60(4), (2009), pp.693-719.

³¹ Gösta Esping-Andersen, *The Three Worlds of Welfare Capitalism* (Princeton: Princeton University Press, 1990)

³² Apart from Switzerland and Israel, which were not included in Mandel's analysis. Surprisingly, Switzerland shares a cluster with the conservative countries that have legalized prostitution, and not with the Anglo-Saxon countries, which try to abolish it although Esping-Anderson characterized it a having a liberal welfare regime.

³³ A possible explanation is the countries that legalized prostitution are characterized with a conservative welfare regime, which focuses on the family unit as the object of welfare. In these countries, the threshold for accessing the work market is higher- and women's representation in high status jobs does not reflect occupational patterns across social classes.

~ Conclusions ~

This paper offered a new way to conceptualize the conflict between the liberal and the radical feminism in regards to prostitution and the proper policy towards it. While most previous analyses referred to it as a gap between prostitution as a choice and prostitution as coercion, we claim that the main difference between the two attitudes can be understood in terms of priorities. The liberal feminism places the wellbeing of actual prostitutes before the social image of women. The radical feminists reverse this order. Both sides accuse the other of hurting that which they should protect. As was shown above, both are right. The trade off between the status of prostitutes and the status of women in general is unavoidable within the existing policies.

Some conclusions can now be drawn. First, if we wish to avoid this trade-off, new ways of addressing this phenomenon must be offered. Perhaps a fourth type of policy, say "rehabilitation", will be able to offer some solutions. Unfortunately we cannot pursue this suggestion further in this paper. Second, both the liberal and the radical feminists will profit from acknowledging this trade off. A unified feminist front could be reached and together try to promote different policies than the ones currently applied. Third, while this study wished to redefine the conflict, further research is needed in order to affirm our model. As prostitution is still, as much as ever, a controversial and important issue, we hope its further study will help promote the wellbeing of women, be them prostitutes or not.

Appendix A: The Data Set

Country	Is there a Law that refers to prostitution in General?	Prostitutes as "sole operators"								Clients How is the client viewed?	Brothels Are brothels allowed? (managed by a third party)
		Does the law refer to prostitutes? (as sole operators)	How is being a prostitute viewed?	Is the prostitutes' health is monitored?	Are the prostitutes regulated (meaning, do they pay taxes)?	Do they need to register with the police/other formal institution in order to be licensed?	How does soliciting in public viewed?	How does street work viewed?	Is self advertising services allowed?		
USA (w/o Nevada)	Yes	yes	Criminalized	no	no	no	Criminalized	Criminalized	Criminalized	Criminalized	Criminalized
Nevada	yes	yes	Decriminalized-	yes	yes	yes	Criminalized	Criminalized	Criminalized	Decriminalized	Decriminalized
The Netherlands	yes	yes	Not Criminal	yes	yes	no	Decriminalized	Decriminalized,	Decriminalized	Not Criminal.	Decriminalized
Sweden	yes	yes	Decriminalized	no	no	no	Decriminalized	Decriminalized	Decriminalized	Criminalized	Criminalized
Israel	yes	no	Not Criminal	no	no	no	Not Criminal	Not Criminal	Not Criminal	Not Criminal	Not Criminal
Finland	yes	yes	Decriminalized	yes	no	no	Criminalized	Criminalized	Criminalized	Not Criminal	Criminalized
Austria	yes	yes	Decriminalized	yes	yes	yes	Decriminalized	Decriminalized	Decriminalized	Decriminalized,	Decriminalized
Germany	yes	yes	Decriminalized	no	yes	no	Decriminalized	Decriminalized	Decriminalized	Not Criminal	Decriminalized
Norway	yes	yes	Not Criminal	no	no	no	Decriminalized	Decriminalized	Decriminalized	Criminalized	Criminalized
Spain	no	no	Not Criminal	no	no	no	Not Criminal	Not Criminal	Not Criminal	Not Criminal	Criminalized
Queensland	yes	yes	Not Criminal	no	no	no	Criminalized	Criminalized	Decriminalized	Not Criminal	Decriminalized
UK	yes	no	Not Criminal	no	no	no	Criminalized	Criminalized	Criminalized	Criminalized	Criminalized
Canada	yes	yes	Not Criminal	no	no	no	Criminalized	Criminalized	Criminalized	Not Criminal	Criminalized
Switzerland	yes	yes	Decriminalized	yes	yes	yes	Decriminalized	Decriminalized	Decriminalized	Not Criminal	Decriminalized
Italy	yes	no	Not Criminal	no	no	no	Not Criminal	Not Criminal	Not Criminal	Not Criminal	Criminalized
France	yes	yes	Not Criminal	yes	no	no	Criminalized	Criminalized	Criminalized	Not Criminal	Criminalized
Denmark	yes	yes	Decriminalized	no	no	no	Not Criminal	Not Criminal	Not Criminal	Not Criminal	Criminalized

Sources of Information on legislation: **Austria:** Birgit Saue. 2004. Taxes, rights and regimentation: discourses on prostitution in Austria. in Joyce Outshoor, ed. *The Politics of Prostitution Women's Movements, Democratic States and the Globalization of Sex Commerce* (New York: Cambridge University Press). pp. 41-61.
Canada : <http://laws-lois.justice.gc.ca/eng/acts/C-46/page-149.html#h-72>;
http://www.flarenetwork.org/learn/europe/article/uk_metropolitan_police_to_crack_down_on_newspapers_sex_ads.htm
Denmark: <http://www.kvinfo.dk/side/676/article/55/> ; **Germany:** <http://www.cahrvi.uni-osnabrueck.de/reddot/BroschuereProstGenglich.pdf>
Finland (Helsinki): http://tampep.eu/documents/Sexworkmigrationhealth_final.pdf ;
France: http://www.legifrance.gouv.fr/html/codes_traduits/code_penal_textan.htm; **Italy:** Daniela Danna. 2004. Italy: the never-ending debate. in Joyce Outshoor, ed. *The Politics of Prostitution Women's Movements, Democratic States and the Globalization of Sex Commerce* (New York: Cambridge University Press). pp. 165-184. **Israel:** Ram A. Cnaan. 1982. Notes on Prostitution in Israel. *Sociological Inquiry*. vol. 52. 2. pp. 114–121; **Nevada (a few rural counties in Nevada, not including Clark County):** <http://prostitution.procon.org/view.background-resource.php?resourceID=749>;
the Netherlands: <http://www.minbuza.nl/dsresource?objectid=buzabeheer:58805&type=org>
Norway: http://tampep.eu/documents/Sexworkmigrationhealth_final.pdf; **Queensland:** <http://www.pla.qld.gov.au/theLaw/act.htm>; **Spain :** <http://www.taipeitimes.com/News/world/archives/2009/09/06/2003452868>; **Sweden:** <http://www.sweden.gov.se/content/1/c6/02/77/77/cb79a8a3.pdf>
http://noticias.juridicas.com/base_datos/Penal/lo10-1995.12t8.html#c2; **Switzerland:** <http://www.isyours.com/e/swiss-business-guide/prostitution.html>; **UK:** http://www.legislation.gov.uk/ukpga/2003/42/pdfs/ukpga_20030042_en.pdf; **USA (w/o Nevada):** Kate DeCou. 1998. US Social Policy in Prostitution: Whose Welfare is Served? *New England Journal on Crim. and Civ. Confinement*. vol. 24. pp. 427-454.

Appendix B: The Proximity Matrix (SPSS Output)

	USA	Nevada	Netherlands	Sweden	Israel	Finland	Austria	Germany	Norway	Spain	Queensland	UK	Canada	Switzerland	Italy	France	Denmark
USA	.000	2.449	2.550	2.000	1.581	1.500	3.000	2.500	1.803	1.803	1.581	.707	.500	2.872	1.500	1.500	1.414
Nevada	2.449	.000	2.121	2.828	2.345	1.803	1.732	2.291	2.872	2.693	2.121	2.121	2.291	1.803	2.500	1.803	2.236
Netherlands	2.550	2.121	.000	1.871	2.000	2.291	1.225	1.118	1.803	2.398	2.000	2.449	2.500	1.118	2.179	2.291	2.000
Sweden	2.000	2.828	1.871	.000	1.581	2.062	2.236	1.500	.500	1.803	1.871	1.871	1.803	2.062	1.500	2.062	1.000
Israel	1.581	2.345	2.000	1.581	.000	1.803	2.345	1.803	1.500	1.118	1.414	1.414	1.500	2.291	.500	1.803	1.225
Finland	1.500	1.803	2.291	2.062	1.803	.000	2.500	2.449	2.121	2.000	1.803	1.118	1.225	2.449	1.732	.000	1.323
Austria	3.000	1.732	1.225	2.236	2.345	2.500	.000	1.500	2.291	2.693	2.345	2.739	2.872	.500	2.500	2.500	2.236
Germany	2.500	2.291	1.118	1.500	1.803	2.449	1.500	.000	1.581	2.236	1.803	2.291	2.345	1.414	2.000	2.449	1.658
Norway	1.803	2.872	1.803	.500	1.500	2.121	2.291	1.581	.000	1.732	1.803	1.803	1.732	2.121	1.414	2.121	1.118
Spain	1.803	2.693	2.398	1.803	1.118	2.000	2.693	2.236	1.732	.000	1.936	1.658	1.732	2.646	1.000	2.000	1.500
Queensland	1.581	2.121	2.000	1.871	1.414	1.803	2.345	1.803	1.803	1.936	.000	1.414	1.500	2.291	1.658	1.803	1.414
UK	.707	2.121	2.449	1.871	1.414	1.118	2.739	2.291	1.803	1.658	1.414	.000	.500	2.693	1.323	1.118	1.000
Canada	.500	2.291	2.500	1.803	1.500	1.225	2.872	2.345	1.732	1.732	1.500	.500	.000	2.739	1.414	1.225	1.118
Switzerland	2.872	1.803	1.118	2.062	2.291	2.449	.500	1.414	2.121	2.646	2.291	2.693	2.739	.000	2.449	2.449	2.179
Italy	1.500	2.500	2.179	1.500	.500	1.732	2.500	2.000	1.414	1.000	1.658	1.323	1.414	2.449	.000	1.732	1.118
France	1.500	1.803	2.291	2.062	1.803	.000	2.500	2.449	2.121	2.000	1.803	1.118	1.225	2.449	1.732	.000	1.323
Denmark	1.414	2.236	2.000	1.000	1.225	1.323	2.236	1.658	1.118	1.500	1.414	1.000	1.118	2.179	1.118	1.323	.000

Appendix C: Means of Gender Inequality Factors, and Significance of Differences across Clusters.

Source: Mandel. 2009. Configurations of gender inequality: the consequences of ideology and public policy. p.700.*

Table I: Means of gender inequality factors, and significance of differences across clustersⁱ

Clusters:	Cluster 1: Social-Dem.	Cluster 2: Liberal	Cluster 3: Conservative ⁱⁱ	Anova F-test	p
Variables:					
1. LFPR – all women	80	71	56 (41)	9.48	0.00
2. LFPR – mothers of preschoolers	78	63	50 (42)	10.67	0.00
3. % dual-earner households	85	68	48 (28)	12.88	0.00
4. % male breadwinner households	9	21	39 (58)	9.73	0.00
5. % working mothers who work after birth and during the child-rearing period	75	56	52 (46)	2.94	0.09
6. Levels of women’s earning dependency	22	39	52 (66)	12.32	0.00
7. Accesses to managerial positions	37	73	47 (43)	6.27	0.02
8. Occupational segregation	61	53	54 (51)	5.12	0.03
9. Women’s representation in quintile 1	27	27	25 (25)	2.56	0.12
10. Women’s representation in quintile 5	11	13	16 (19)	10.49	0.00
11. Gender wage gap	16	20	11 (7)	7.07	0.01
12. Educational wage gap among women	29	58	38 (40)	10.69	0.00
13. Poverty rate among lone mothers	6	49	26 (23)	24.16	0.00

*The indicators that were presented in this paper are 7, 8, and 10.

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