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Victimes ou Criminelles: A Historical and Comparative Analysis of Sex Work Policy in France

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Victimes ou Criminelles?

A Historical and Comparative Analysis of Sex Work Policy in France

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Honors in the Departments of International Relations and French

Abstract

This research examines the evolution of sex work policy in France from a regulatory regime during the nineteenth century to an abolitionist stance after World War II to the 2016 adoption of the Nordic model penalizing the purchase of sex. I investigate the ongoing debate between preservationists and abolitionists and examine the arguments raised by each side, making the case that abolitionism has adverse consequences for sex workers. I look at the nineteenth century's regulatory regime of controlling prostitution through a chapter written in French. I then shift into an analysis of the state's transition to abolitionism over the course of the twentieth century, highlighting the role of a coalition of religious and feminist activists who successfully united on behalf of a common goal: complete abolition of prostitution. I discuss the "law and order" policy at the beginning of the twenty-first century and examine the reasons why it was replaced by the Nordic model in 2016, arguing that this model enjoyed widespread support from the same abolitionist coalition, as opposed to the Dutch model of legalizing voluntary sex work. I conclude this research by arguing that France's continued abolitionist approach fails to protect or help sex workers, and only by abandoning this framework can France truly claim to help sex workers.

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Introduction

“There’s a huge conflation between forced, coerced sex trafficking and sex work. The biggest difference is choice. Those of us that choose to enter the industry do so of our own volition and freedom. We retain ownership of our bodies, we set our own prices, we say no when we want to” (Padron Robles). This is a quote from a sex worker in Nevada, the only state in America where brothels are legal, speaking about her experience and the difference between sex trafficking and sex work. More generally in the United States, prostitution is not recognized as a legitimate form of labor and is equated with trafficking, which is not the reality for most. However, there are other countries where sex work is acknowledged as a legitimate form of labor, which raises an interesting question about why attitudes and laws surrounding prostitution vary significantly from one country to the next. Although countries vary in their positions, certain nations play a prominent role in the way other states regulate sex work. France is a particularly interesting case, as it has been looked to as a model in its policy. Compared to the United States, European policies are often assumed to be more open and progressive, but in fact through the study of France, one can see how prevailing policies harm sex workers instead of help them.

Countries have “widely diverging ‘prostitution regimes,’ sets of laws and practices governing prostitution that shape prostitution in their respective jurisdictions in distinctive ways and make for more or less repression of the women selling sexual services and the possible prosecution of other involved parties, such as clients, entrepreneurs of sex work facilities or pimps” (Outshoorn Introduction 6). In some cases, governments have seen prostitution as a law-and-order problem associated with drunken debauchery and public disturbance, and to combat this “[a]uthorities usually undertook measures to control and contain prostitution by limiting it to

certain areas, registering the women providing sexual services as prostitutes, and clamping down on the taverns, pubs and brothels when affairs got out of hand” (Outshoorn Introduction 6-7).

Alternatively, prostitution has been seen as a moral issue. Religious campaigners held that prostitution was a sin, and that prostitutes – “fallen women” – needed to be saved. They were joined by women’s organizations that “fought against the double standard of sexual morality, which allowed men sexual freedom at the expense of women, a form of sexual domination to be ended by making men just as chaste as women” (Outshoorn Introduction 7). To the extent that the state regulated and permitted prostitution, moral critics viewed the government as a pimp, and called for the complete abolition of prostitution.

In the 1970s, a variety of factors led to renewed debate over prostitution and sex trafficking. Travel and migration increased during this time, and public health threats heightened concerns and fears concerning sex work. The presence of HIV/AIDS prompted governments to look at their existing policies to protect the public against rapid disease spread, and sexuality became a more widely accepted topic of conversation. In advanced industrial countries, new discourses emerged that defined “prostitution as work, or sexual service, an activity that women can take on to earn a living and therefore should be regulated in the same way as other types of labour. Moreover, probably for the first time, women in prostitution started to articulate a new public voice and formed their own interest groups, giving rise to a prostitutes’ movement in many countries (Outshoorn Introduction 9). Feminists defending this view have sought to disconnect trafficking from prostitution, arguing that sex trafficking should be regarded as forced labor or slavery and distinguished from voluntary sex work (Outshoorn Introduction 10). This paper does not intend to neglect the pervasive reality of sex trafficking, but instead showcases that the horrors of sex trafficking, such as abuse, non-consent, and illegal transportation, are not

universal experiences for consenting sex workers. Sex work is not inherently exploitative when sex workers and their clients participate consensually.

During my time studying abroad in Strasbourg, France, I interned at *Mouvement du Nid*, a well-known association that calls for the abolition of prostitution. The association seeks to rehabilitate former sex workers, helping them with asylum and other legal protections, along with “legitimate” job searching. However, the women who worked there made loaded comments about sex workers, and some of these comments were rooted in racist beliefs regarding sexuality and humanity. The association worked mostly with Nigerian immigrants who had either been trafficked into France or ended up in France as sex workers on their own, and the comments reflected a particular view of African women as less capable of acting for themselves and thus in need of saving by more knowledgeable, even more civilized, others. Comments like these made me wonder more generally about the beliefs espoused by this organization and others like it.

France has a long history of abolitionism rooted in deep religious values, and Catholic organizations often worked to get sex workers to see the errors of their ways and pursue a more morally upright way of making a living. However, before adopting an abolitionist prostitution regime in the early twentieth century, France implemented regulatory policies in the nineteenth century, viewing prostitution as a “necessary evil”. This is a controversial topic that has caused deep rifts in the fabric of society, both socially and politically, since the nineteenth century in France. France has continued to prefer abolitionism rather than preservationism because it draws support from both right and left, religious conservatives and liberal feminists. Politicians and the public stigmatize sex work and treat sex workers – especially when they are poor and/or migrants – as either helpless victims or dangerous threats. Although religious and feminist

activists disagree on many issues, they agree on a rescue narrative that denies agency to the supposed victims of sex trafficking. Through a coalition of activists in differing fields, both religious and feminist affiliated, abolitionism continues to succeed in France.

Chapter 1 begins by analyzing the debate between abolitionists and preservationists. This chapter examines the contemporary moral debate surrounding sex work. I analyze both sides of the ongoing debate, the abolitionism and the preservationism. Abolitionists believe that all forms of sex work, not just the cases that are involuntary or coerced, should be considered as violence against women due to their oppressive nature. By contrast, preservationists disagree with this argument, instead advocating for more rights for sex workers because they believe sex work is legitimate work when consensual and allows women agency over their economic freedom and sexual autonomy.

Chapter 2 presents work prepared for departmental honors in French, which draws on scholarly work in French and is written in French. In this chapter, I focus on the historical nature of sex work, focusing on the case of France in the nineteenth century. I will examine the rise and fall of the regulatory system, the policies of Alexandre Parent-Duchâtelet, an eminent physician who played an integral role in the shift toward an abolitionist state, and Josephine Butler's role in France's prostitution policy. This chapter will provide a historical context of the evolution of sex work in France, exploring ideas of masculinity and gender expectations in the nineteenth century. The chapter also focuses on organized campaigns to abolish prostitution. These campaigns gained strength in the nineteenth century, and "by the first decade of the twentieth century, most European states and the USA had done away with regulation, shutting down the 'maisons closes', the brothels of the time, so the state no longer was an accomplice to 'vice'"

(Outshoorn Introduction 7). In nineteenth century France, sex work through brothels, or *maisons closes*, was a legal form of labor for women in a time when women had few options. However, this is a mere coincidence of the regulatory system, as regulating prostitution was purely for the sake of wealthy men in order to protect the bourgeoisie and the familial lineage of the wealthy. While things have certainly changed since this time period, understanding the nineteenth century is vital for understanding current policies; in both cases French policy does not always allow labor and sexual liberation for sex workers.

Chapter 3 examines the transitional period in France's history regarding sex work policy, from the beginning of the twentieth century to the end of World War II, along with an overview of the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, a key international document. This chapter focus on international efforts to eliminate prostitution, for example through international conventions to end what was labeled as "white slave traffic" in the first part of the twentieth century. Subsequent agreements aimed at combatting trafficking of women and children and reflected an abolitionist perspective, calling on "all states to suppress trafficking as well as prostitution, regardless of the consent of the woman involved" (Outshoorn Introduction 8).

Chapters 4 and 5 provide a deeper understanding of international policies regarding sex work by focusing on the Nordic and Dutch models. The Nordic Model decriminalizes sex work while criminalizing the buyers, so the providers are left without business. This differs from the Dutch model, which is a conditional regulatory system that works to provide more agency to recognize sex work as a legitimate form of labor. National policies in modern-day France are certainly influenced by the Nordic model. In France as in Sweden, the ultimate goal is to

eliminate prostitution, but this paper will conclude that the approach adopted by France and Sweden is controversial since it has not eliminated prostitution and it has arguably made conditions worse for sex workers. The Dutch model raises problems of its own, indicating that any approach that refuses to accept the possibility that undocumented migrants may be “voluntary” sex workers is likely to make conditions worse.

This debate touches on the prevailing gender order through attitudes toward and regulation of sexuality. In doing so, it raises the larger issue of whether governments have actually improved women’s status, promoted women’s rights and reduced gender-hierarchies that are at the basis of the inequalities between women and men (Outshoorn Introduction 1). This thesis addresses this debate by analyzing the evolution of sex work policy in France from the nineteenth century to the present, arguing that growing support for abolitionism stemmed from the fact that this position reflected the preferences of religious associations, who objected to the immorality of prostitution, and feminists, who were concerned over the treatment of women.

Chapter 1: Current Debates on Prostitution, Sex Work, and Trafficking

To understand France's abolitionist standpoint, it is crucial to acknowledging key differences between abolitionism, preservationism, sex trafficking, and sex work. The terms 'human trafficking' and 'sex trafficking' are often conflated with one another. Even though the term trafficking usually connotes exploitation and criminal activity, it can also refer to the "movement of people, either across international borders or within a country" (Bertone 203) or the "consensual facilitation of illegal migration" (Simm). Under international law, trafficking is defined as coerced or forced movement, while trafficking does not necessarily involve movement but arises out of an exploitative situation (Bertone 203). Anti-Slavery International states that human trafficking has roots in exploitation, and "involves recruitment, harboring or transporting people into a situation of exploitation through the use of violence, deception or coercion and forced to work against their will" ("What is Human Trafficking"). This can manifest in many different types of exploitation, such as "forced prostitution, forced labor, forced begging, forced criminality, domestic servitude, forced marriage, and forced organ removal" ("What is Human Trafficking"). Human trafficking does not always involve sex work, but can in the form of sex trafficking, which primarily involves forced prostitution and exploitation via sexual coercion. Sex trafficking is more specific than human trafficking, as it concerns forced sexual labor, whereas human trafficking encompasses all forced labor in a broader lens. This paper will use sex worker and prostitute interchangeably, though I recognize the negative connotation affixed to the term "prostitute". In French, and in France, "prostitute" is more commonly used as a term, and while there is still a connotation, it is not quite as pronounced as it is in the English language and in the United States.

More definitional confusion arises out of the fact that sex trafficking is often used interchangeably with sex work and prostitution, although many policymakers and advocates insist that there are significant differences between them. Positions vary even among those who consider themselves feminists, ranging from liberal feminists who insist that most women should have the right to work as prostitutes, to radical feminists who argue that prostitution is equivalent to sexual slavery (Simm).

These differences are reflected in debates over the proper approach to take toward sex trafficking. According to abolitionists, sex trafficking objectifies women and girls, and victims are enslaved and exploited by their traffickers, who are almost always men who have tricked and coerced them into dangerous situations by promise of a money or a better life. Ranita Ray, author of “Sex Trafficking: In Our Backyard?” writes that sex trafficking is “arguably a form of slave trade – [which] essentially treats women and children as objects or commodities to be traded and sold” (Ray 214). Sex trafficking is a form of modern-day slavery, where women and girls are forced to submit to acts of sexual violence with no means of escape, which is a clear violation of human rights. While Ray does make the claim that women and children are treated as objects to be sold and even refers to it as a “slave trade”, it’s important to clearly distinguish between trafficking and voluntary sex work, and human rights are certainly violated when trafficking occurs.

Abolitionism, on one end of the spectrum, is focused on the complete eradication of the exchange of sex or sexual favors in all cases, including sex trafficking, prostitution, and sex work. Gill Allwood, author of “Prostitution in France”, states that debates surrounding prostitution are “highly polarized” with two contrasting perspectives. Abolitionists see prostitution, which include those who are trafficked and those who choose to engage in sex

work, as “an inherent act of violence towards women, an attack on their human dignity and right to bodily integrity” (Allwood 47). Abolitionists often hold the majority within the debate over prostitution and are made up primarily of a “powerful coalition of Catholics, advocates of traditional family structures, many feminists and large sections of the left” (Allwood 47). While some abolitionists are motivated by a commitment to gender equality and a desire to fight patriarchal structures, more traditional, religious advocates of abolitionism are determined to fight prostitution because they believe in defending traditional values that align with a patriarchal system. One traditional value that sex work threatens is the presence of sex in non-nuclear family situations, which ultimately threatens family values and undermines the patriarchy, institutions that these conservative, religious supporters commend and seek to protect (Raphael 4). In France, this directly stems from bourgeois concerns about maintaining purity in the blood line, and this argument will be more fully unpacked later. Despite these differences, abolitionists share the belief that the very existence of prostitution, whether it be forced or voluntary, is oppressive and violent towards women. Since abolitionists view “all prostitution as an inherent act of violence and violation of human rights”, they adopt a particular perspective on prostitutes and have “a tendency to construct prostitutes as victims who need to be saved and reintegrated into society” (Allwood 48).

Abolitionists often cite *Le Livre Noir de la prostitution*, a French book published by La Fondation Scelles, an abolitionist NGO. This foundation insists that prostitution is “not an expression of women’s freedom, but of their profound misery, the tragedy of destiny, a descent into hell” (Allwood). Prostitution, according to abolitionists, is: “the alienation and destruction of women, men and children reduced to the state of sexual objects, of commodities in a global

market, an attack on the integrity and the dignity of the human being, a negation and violation of human rights, neither ‘inevitable’ nor a ‘necessary evil’” (Coquart and Huet 9).

This strong stance towards the eradication of sex work in any context is clearly intended to liberate women and devictimize them, but not all women engaged in prostitution consider themselves victims. This is a key argument that preservationists, on the other side of the aisle, hold. Preservationists distinguish key differences between prostitution and trafficking. Along with that, preservationists also see prostitution as a woman’s choice and argue that “what is wrong with prostitution is the stigma attached to it and the poor living and working conditions that women in prostitution endure” (Allwood 47). Preservationists criticize abolitionists for limiting women’s autonomy under the guise of protection. Preservationist-leaning Laura Agustín, author of “Snake Oil”, details the elitist attitudes that many abolitionists seem to hold. In contrast to her experience observing how sex workers “try to take control of their lives, others were denying them any part in their fate. In the process of defining women who sell sex as victims, all differences in experience were being erased” (Agustín 222). Not all those who sell sex self-identify as victims, and the majority of sex workers choose to provide sexual services as their preferred form of labor. This belief system often works against instead of for women who sell sex, eliminating their ability to exercise autonomy over their own lives.

While sex workers in France were historically women, that is no longer the most accurate narrative today. Men, women, and gender-nonconforming or transgender individuals are sex workers as well. The same can be said for trafficked individuals. Even though most sex trafficking victims are female, males are sex victims as well. Samuel Vincent Jones argues that “on a global scale, 90% of the individuals trafficked in some countries are boys”, and “males account[ed] for nearly half of all missing persons in the United States, at least 16% of the male

population in the United States is known to have been sexually abused, there are approximately 300,000 boy prostitutes in this country and in most large U.S. cities, the number of male and female child prostitutes is essentially equal” (Jones 1144-1151). While women are most often the recognized victims of trafficking, men also experience victimhood at high rates. Male sex workers deserve the same rights and protections that advocates ask for for women, and sex work is not confined to a single-gender labor force.

Preservationists typically advocate for more protections, rights, and social services for sex workers instead of full abolition of prostitution. Preservationists (who are sometimes referred to as libertarians) take the position that “the majority of those in the sex-trade industry are there voluntarily”, and their positions “rest on a benign view of the sex-trade industry, focusing as they do on the rights of the sellers”, rather than the complete abolition of all sex-trade related work (Raphael 3–4). Preservationists believe in the human right to sell sex, arguing that “individuals have the right to enter an occupation of their own free choice”, and believe that while violence and trafficking does exist in modern-day France, it is nowhere near as relevant or severe as abolitionists argue (Raphael 4). A common analogy referenced is the carpet analogy: “Don’t eliminate demand for carpets in order to address forced labor in the carpet industry”, meaning that the idea that the entire sex industry is at fault for instances of trafficking is irrational, and one shouldn’t eliminate consensual and voluntary sex work because trafficking exists within that industry (Raphael 4). This foundational idea for preservationists is rooted in a human rights argument, with the example that “anti-prostitution measures are a violation of individuals’ human rights and civil liberties to enter an occupation of their own free choice”, with two leading assumptions: “that trafficking for sexual exploitation is not a large part of the sex-trade and is not an indispensable practice for the industry” which is a direct rebuttal to the abolitionist

claim that the majority of sex work is violent and non-consensual, and that “trafficking for sexual exploitation needs to be addressed but the idea that the entire commercial sex market should be eradicated in order to tackle the problem of trafficking for prostitution is as draconian and wrong-headed as the idea it is necessary to eliminate demand for carpets in order to address the problem of forced and child labor in the carpet industry” (Raphael 5). This intentional differentiation of trafficking versus voluntary sex work is integral to the platform of preservationists, as well as the way these advocates claim there is an overrepresentation of violence and trafficking within the sex industry.

Additionally, preservationists advocate for a new view of sex, one that can easily be found in the sex trade. According to preservationists, abolitionists focus on the traditional family structure, and condemn this new form of contemporary sex, described as “a new and positive recreational sexual ethic — sex without commitment, anonymous, and promiscuous”, and instead are in favor of “formerly bedrock ideas of marriage and monogamy” (Raphael 5). The more personal, values-based agenda that abolitionists stand by clearly shows that they advocate for the elimination of prostitution as an industry due to a particular conception of women’s rights that sees prostitution as a threat to the “normal” fabric of society and traditional values. These attempts by abolitionists to “criminalize or regulate prostitution are viewed as the exercise of the state’s powers to control and punish those who do not ascribe to conventional ideas of love, relationships, and family” (Raphael 5). This emotion-based reaction to an insubordination of family values is one of abolitionists’ key platforms. The opposing viewpoint, which is the freedom to define sex and relationships in a modern context, is one of preservationists’ agendas in a parallel debate of traditionalism versus modernism.

Another concern of preservationists is the existence of anti-trafficking campaigns themselves. These campaigns that focus on the 'rescue industry' are seen as "targeting women and girls of color who need 'rescue' from the sex-trade industry" (Raphael 6). This is highly problematic because these rescue efforts have "generated more laws and the criminalization of greater areas of human life and an intensification of policing and surveillance, including more prosecutions, detentions, and incarcerations" while the "system that generates such inequality, servitude, and exploitation remains untouched" (Raphael 6). Essentially, this means that women and girls of color are more often the target of more severe consequences put in place by the state, such as an augmentation of "policing and surveillance", which infringes on personal liberties and rights. This all occurs within the system which causes these ideas of rescue to continue.

Preservationists thus criticize anti-trafficking campaigns for assuming that "slavery can be eliminated without fundamentally changing how our societies and economies are organized, including a radical shift in the distribution and exercise of economic and political power" (Raphael 6). This ignorance of how the global economy and individual states' economies and societies are set up and profit from exploitation is naïve at best. The idea that trafficking can be eliminated without the structural change in societies that would encourage and support the end of trafficking and violence is unreasonable. Preservationists tend to focus on the structural factors and socio-economic issues that lead individuals to engage in sex work and create demand for human trafficking, when it is appropriate and applicable. They therefore advocate for structural changes that help sex workers rather than supporting policies such as criminalization of the buying or selling of sex.

Debates over Sex Work and Sex Trafficking in the Palermo Protocol

This debate has influenced the way in which political leaders, activists and academics have sought to frame national and international policy on sex trafficking, beginning with a late-nineteenth century movement in the United States and Western Europe against “white slavery” – a term used to describe the abduction of white women and girls who were forced into prostitution (Bertone 205). Though the problem was sensationalized and exaggerated, it led to several international conferences and agreements. The first international conference related to trafficking in women was in 1895, with the first international convention following in 1904, aptly titled as the “International Agreement for the Suppression of the White Slave Traffic” (Bertone 206). A series of conventions followed, some of which “regarded prostitution as a human rights violation only when it involved overt coercion or exploitation,” and others which reflected an abolitionist perspective by making an explicit connection between traffic in women and all forms of prostitution (Bertone 207). In 1949, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others consolidated earlier treaties and equated prostitution with trafficking, as in the opening paragraph to the Preamble:

Prostitution and the accompanying evil of the traffic in persons for the purposes of prostitution are incompatible with the rights and dignity of the human person and endanger the welfare of the individual, the family and the community.

With increasing global support for women’s rights as human rights in the 1980s and 1990s, international negotiations began to review and strengthen previous efforts to combat trafficking for sexual exploitation, culminating in the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, more colloquially referred to as the Palermo Protocol. Negotiations leading up to the Palermo Protocol reflected some entrenched debates and disagreements within the anti-trafficking and women’s rights movements. During

the discussions on the Palermo Protocol, “unresolved issues about the relationship between trafficking and prostitution that had been percolating since the late 1970s finally came to a head” and the resulting compromise reflected “only a weak international consensus on this transnational problem,” with much of the much-debated topics resulting in a dissatisfactory compromise (Bertone 209).

Critics argue that the Palermo Protocol has been used to focus narrowly on people forcibly trafficked and forced into prostitution, justifying in turn an emphasis on cracking down on criminal traffickers rather than on the human rights of those who are trafficked. As such:

The Trafficking Protocol risks being used as a tool of anti-immigration policies of rich countries attempting to prevent migration flows under the rubric of border protection, rather than protecting the human rights of would-be migrants by facilitating labour migration, and making it legal and safer, thereby reducing the demand for the services of human traffickers (Simm).

Agustín writes that after the Palermo Protocol was published, “trafficking became a big-time crime issue not because of its truth but because it served governments’ purposes” (Agustín 223). Essentially this mandate allowed countries like the USA to “go after bad men of the world on the excuse of saving innocent women,” countries within the EU to strengthen their borders against migrants, and the UK to act like the “new leader of anti-slavery campaigning”, when its colonial empire had just fallen (Agustín 223).

During the process of debating what should be considered as trafficking and what should be considered as voluntary prostitution, one side adopted the abolitionist perspective that “viewed any distinction between forced and voluntary prostitution as morally unacceptable” and vehemently “opposed any definition of trafficking that would include a coercion requirement and argued that the definition should encompass all migration for sex work” (Bertone 209). This is consistent with the abolitionist desire to abolish all forms of sex work, whether associated with

trafficking or not, because of the belief that all sex work enables the existence of violence against women. Preservationists, conversely, opposed this viewpoint and made that clear during the deliberation over the definition of trafficking in the Palermo Protocol, advocating for the position that “including non-coerced migration for sex work would make the trafficking definition over-broad and divert scarce resources away from the real problem” (Bertone 209). This separation of sex trafficking with consensual, voluntary sex work is also consistent with the preservationist position that voluntary prostitution is sex work, not sexual slavery, and this belief is what continues to divide the two groups on this topic.

The text of the Palermo Protocol ultimately represented a compromise between the two positions. Abolitionists were able to secure specific mention of prostitution and the inclusion of the term “sexual exploitation” in the definition of trafficking, while preservationists were able to achieve a broader definition of exploitation that included non-sexual practices as well (Simm). The term sexual exploitation was left undefined since the lack of parameters allowed states to decide for themselves whether prostitution can be voluntary or is always exploitative (Simm). The very title of the convention also represented a compromise, insofar as preservationists were able to change the title from “Trafficking in Women and Children” to its final form of “Trafficking in Persons, Especially Women and Children.” As Simm explains, the final formulation avoided an effective equivalence between prostitution and trafficking, better reflecting the fact that men and transgender persons are also trafficked and people are trafficked into a wide range of occupations, not all of which are sexual. At the same time, the inclusion of the phrase “women and children” acknowledged the gendered reality that most trafficked persons are female (Simm). Robert Uy and Laura Shoaps agree with this analysis and criticize the image of the “perfect victim” popularized in dominant discourses on trafficking which evokes images

of vulnerable women and children, often from developing countries, who are exploited in sexual servitude. The problem, as both Uy and Shoaps explain, is that this image oversimplifies reality and fails to capture the full picture of victims who are trafficked or the complexity of their situations. As a result, male victims are much less likely to receive the help they need in the case of forced prostitution (Uy 205-211; Shoaps 937-943).

Preservationists criticize the tendency to associate adult women with children, suggesting that they both are vulnerable and need protection. This so-called protection of women is furthered in the Palermo Protocol through language which lumps together “womenandchildren ... as special victims in the trafficking protocol, while men exercised agency in the smuggling text” (Agustín 223). Agustín makes a clear choice here when labeling women and children as “womenandchildren” because she wants to denounce the conflation of consenting, adult women who are aware of the choices they make, with children, who often have no knowledge of how their choices will affect them in the future. This grouping of women and children as one single unit ultimately furthers the infantilization of women as incapable of thinking through and making decisions for themselves and their own lives.

By specifically highlighting women and children in the title of the protocol, for which abolitionists successfully advocated, the document encouraged the further infantilization of women, reinforcing the idea that women could not possibly know what they were getting themselves into, and that they must be rescued (even if the supposed rescue is against their will). This is often referred to as the “voice for the voiceless” school of thought, which certainly brings out a white savior complex in those who advocated for this (Kempadoo 2015; Baker 2019). Preservationists insisted that there is no true need to provide a voice for women, because consenting adult women are not voiceless; suggesting otherwise further infantilizes women and

strips them of their ability to make autonomous choices and to speak for themselves. Insofar as abolitionism encourages the idea that certain types of women are uninformed, even about things that permeate their everyday lives, and are incapable of making their own choices, it infantilizes them and prevents them from holding full agency over their own lives. However, those who disagree with the rescue point-of-view are often faced with hostility by abolitionists who insist that prostitution and sex trafficking place women into a position of vulnerability, whether they realize it or not.

Elżbieta M. Goźdiak and Kathleen M. Vogel argue that the Protocol was a product of years of disagreements between “religious and feminist organizations, on the one hand, and human rights advocates, on the other”, with negotiations as the target of their disagreements (Goźdiak and Vogel 109). The Human Rights Caucus represented preservationists, as they believed that prostitution was and is “legitimate labor”, whereas the Coalition Against Trafficking in Women (CATW), “representing religious and feminist activists, saw all prostitution as a violation of women’s human rights” (Goźdiak and Vogel 109). Part of their disagreement lay in what can and should be considered trafficking versus self-determining sex work. The CATW favored abolitionism and argued that “trafficking should include all forms of recruitment and transportation for prostitution, regardless of whether force or deception took place,” which was an attempt to abolish all forms of sex work, not just trafficking (Goźdiak and Vogel 109). In contrast, the Human Rights Caucus supported the view of “consensual prostitution as work and argued that force or deception was a necessary ingredient in the definition of human trafficking” and added that “the term ‘human trafficking’ should include trafficking of women, men, and children for different types of labor, including forced sweatshop labor, agriculture, and prostitution” (Goźdiak and Vogel 109). This broadening of terms allowed

for a more liberal understanding of trafficking without an underlying attempt to criminalize all forms of sex work. A third party in this debate during the formation of the Palermo Protocols, the Global Alliance Against Traffic in Women (GAATW), agreed that there should be a distinction between “forced prostitution and voluntary sex work,” also calling for decriminalization of sex work and arguing that “anti-trafficking efforts must focus on forced prostitution and other forms of abuse and exploitation,” rather than using an anti-trafficking stance to further a political agenda of total abolition (Goźdiak and Vogel 109).

Additionally, the CATW further attempted to infantilize women, arguing that “prostitution is never voluntary because women’s consent to sex work is meaningless because they do not realize the exploitation they will experience,” an assumption that the Human Rights Caucus firmly opposed (Goźdiak and Vogel 109). In the end, the Palermo Protocols did not favor the abolitionists’ definition of trafficking, and instead went with a slightly more preservationist stance, defining human trafficking as:

The recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” (UN Protocol 2000, 42).

The emphasis on force and coercion separates human trafficking from consensual, voluntary sex work, which conflicted greatly with the abolitionists’ point of view, and the significance of exploitation identifies the presence or absence of consent. This definition was modified to include children, and the Palermo Protocol “stated that the recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if no force or coercion was used,” thus eliminating the consent factor in those under the age of 18 (Goźdiak and Vogel 110). This definition goes against what the abolitionists

wanted and set a precedent for countries within the European Union to institute more policies that appear to be more preservationist-leaning.

To examine the evolution of policies on prostitution and sex work in greater detail, the following chapters will focus on the case of France, beginning with an analysis of policies on prostitution in the nineteenth and early twentieth centuries (in French), followed by an overview of French policies after World War II and a comparison of the contemporary French approach to other leading European models. These chapters will show that growing support for abolitionism stemmed from formal and informal coalitions of conservative and liberal, religious and feminist advocates of abolitionism. The thesis will also argue that abolitionism has failed to achieve its goals since it has neither eliminated prostitution nor protected those who are depicted as its victims.

Chapter 2: 19th Century Prostitution Policy in France: Que faire des (d)égouts de la prostitution?

I. De la femme-égout de Parent-Duchâtelet à l'abolitionnisme au 19^{ème} siècle : désirs et peurs

Introduction

Au 19^{ème} siècle, la « fonction » de la femme est clairement définie : être une épouse et une mère. Paradoxalement, son autre « fonction » semble être celle d'un objet sexuel dont les hommes peuvent disposer à loisir. Comment peut-on ainsi réconcilier ces deux extrêmes ? Imprégnés de cette dichotomie de la femme, les hommes voient en elle Madonne ou putain, soit privée de désirs tout à fait, soit débordante de désirs incontrôlés (et incontrôlables ?), frigide ou hyper sexualisée, « ogresse sexuelle » (Dottin-Orsini, 38).

L'anatomie et la sexualité féminines ont fait l'objet de nombreuses recherches, des sciences sociales aux sciences naturelles, et alimentent les fantasmes des hommes au 19^{ème} siècle. Source de fascination et d'angoisse, il devient nécessaire de contrôler ce « continent noir », de le légiférer, l'aseptiser. Une femme en particulier cristallise les peurs associées à cette sexualité féminine souvent considérée comme hystérique et pathologique : la prostituée. Le 19^{ème} siècle connaît alors une recrudescence de textes pseudo-scientifiques pour expliquer ce qui différencie la prostituée des autres femmes. Nous pensons en particulier aux travaux de Cesare Lombroso comme *La Femme criminelle et la prostituée*. Dans ce texte, Lombroso s'efforce de dresser le portrait de la prostituée, femme qui aurait « la criminalité innée » (XIII). Sur plus de 700 pages, il étudie ses « caractéristiques » : la taille de son cerveau, ses habitudes et délits sexuels, et la pudeur des femmes. Dans *La Femme criminelle*, Lombroso cristallise les peurs autour de la prostitution au

19^{ème} siècle, mais aussi des femmes et leur sexualité, et fait naître le sentiment de la nécessité de contrôler ces « criminelles ». Parent-Duchâtelet, spécialiste de l'« égout », va se faire un devoir d'ouvrir la voie.

2. Parent Duchâtelet, les déchets et les prostituées

Au 19^{ème} siècle en France, le discours sur la prostitution rejoint celui de la crise sanitaire sous la plume d'un homme en particulier, Alexandre Parent-Duchâtelet. Médecin hygiéniste, il a des idées pour contrôler les maux nécessaires de la société française. Parent-Duchâtelet croyait que la prostitution était une épidémie sanitaire qu'il fallait impérativement contrôler par la police, comme les autres crises sanitaires qu'il avait gérées dans sa vie. Vice-président du Conseil de salubrité, il se focalise sur les aspects dégoûtants de la vie, comme les égouts et la gestion des cadavres. Il était fasciné par les éléments nauséabonds de la vie. Charles Bernheimer, auteur de *Figures of Ill Repute: Representing Prostitution in 19th Century France*, affirme que « His [Parent-Duchâtelet] vocation thus involved a civilly responsible effort to channel and control his civilly subversive fascination with the rotten, corrupt, and disintegrating » (Bernheimer 10). En 1824, il publie *Essai sur les cloaques ou égouts de la ville de Paris*. Il étudie le lien entre les déchets et la santé de la population. Selon lui, il est impératif de protéger le public de cette exposition physiquement et moralement toxique.

Alexandre Parent-Duchâtelet s'est donc spécialisé sur l'égout sanitaire et l'élimination des déchets dangereux. Il « advis[ed] how best to unclog, clean, and disinfect the sewers, build efficient new ones, and protect the workers' health and safety » (Bernheimer 11). Il devient un homme respecté dans le domaine de la santé publique. Cette fascination pour l'égout a mené Parent-Duchâtelet à vouloir contrôler les risques associés à la prostitution et les crises sanitaires dans la

société française. Pour lui, la prostitution était un mal nécessaire que la société devait contrôler pour servir le public. Son but était de « regulate and sanitize prostitutes », comme son travail avec l'assainissement et la régulation de la saleté de la ville (Bernheimer 14). Il voyait la prostitution comme son travail précédent, et il considérait son travail d'utilité publique. Il croyait que la prostitution était un égout métaphorique, et les prostituées posaient un vrai risque pour la société à cause des maladies vénériennes. Son but était de contrôler la prostitution pour aider à éliminer les maladies, et non pas d'éliminer la prostitution. Alain Corbin dit que « dans l'esprit de l'auteur, la virulence de la maladie transmise par les cloaques féminins, par l'ordure vaginale des filles perdues, est naturellement liée à la boue et aux émanations excrémentielles » (Corbin 16). Il décide de proposer de réguler les filles publiques pour « assure the salubrity of the sexual canals used to drain the seminal excess of male desire » (Bernheimer 16). Il considère les prostituées comme des déchets, et non des êtres humains. Pour lui, les prostituées existent pour le seul objet d'assurer le plaisir sexuel des hommes. Il les voit dans leur travail de régulation, de fonction de la sexualité hygiénique. Il admet qu'elles sont essentielles pour le bien de la société, comme l'évacuation des eaux usées, et doivent donc elles aussi être maîtrisées, canalisées pour le bien de la société. Tout comme il est nécessaire de réguler les égouts et les cacher au regard du bon citoyen, il veut en faire de même pour la prostituée. En qualifiant les femmes de soupape d'évacuation de l'excès séminal masculin, Parent-Duchâtelet a effectivement réduit les prostituées au même niveau que les égouts sanitaires de la ville. Elles sont une autre « saleté » de la ville que les hommes doivent contrôler. Il propose ainsi le « réglementarisme ».

Pour expliquer le réglementarisme, il est important de comprendre le modèle bourgeois de l'époque. Alain Corbin, l'auteur de *Les filles de noce : misère sexuelle et prostitution aux 19^e et 20^e siècles*, a décrit les attentes d'une famille bourgeoise au 19^{ème} siècle. La famille bourgeoise

était intégrale au bon fonctionnement de la société, et la prostitution était une menace à son fondement. Corbin écrit que “La sexualité libérée, et l’on confond cette fois volontairement liberté de mœurs, débauche et prostitution, constitue une menace pour la famille, la fidélité des femmes, la virginité des filles, la pureté de sang et de la race” (Corbin 47). Il était important pour la survivance du bourgeois pour le sang de rester pure et pour la race bourgeoise d’être complète et intacte. Si on abandonne la régulation de la prostitution, cela signifie “la fin du contrôle sur la sexualité prolétarienne et [cela] augmenterait le risque de contagion qu’elle représente pour les familles bourgeoises” (Corbin 47). Mais il y a un paradoxe certain dans cette assertion car la prostitution est également perçue comme un « mal nécessaire » (Corbin 24). En effet, elle permet aussi l’équilibre des couples bourgeois en permettant au bourgeois de satisfaire ses besoins sexuels sans pervertir sa bonne et douce bourgeoise. En effet, la femme mariée doit être une épouse et une mère, comme une représentation de la Madone ou de la Vierge, pure et virgine, et non une putain. La femme mariée est perçue comme frigide, le sexe n’ayant pour seul but la continuation de la famille avec la procréation des enfants. Mais, les hommes sont considérés comme des êtres sexués et sexuels, et ils ont des désirs à assouvir. C’est là qu’entrent en scène des actrices, des chanteuses, de petites ouvrières tentant d’arrondir les fins de mois, mais aussi les professionnelles, prostituées ou courtisanes. Leur rôle : palier au problème d’avoir des hommes activement sexuels et des femmes mariées perçues comme asexuelles.

Si ce n’est pas possible de supprimer la prostitution, il faut donc la réglementer pour garantir que les hommes bourgeois se fassent plaisir en toute sécurité. Il faut contrôler la prostitution pour contrôler l’ordre moral ; de là « l’émergence de l’hyper-réglementarisme dont le but avoué n’est même plus de contrôler la prostitution publique ou clandestine mais bien toutes les activités sexuelles extra-conjugales » (Corbin 46). Si le mal de la prostitution est contrôlé, on peut

contrôler aussi l'impact de la prostitution sur le public. En effet, Parent-Duchâtelet, a travaillé pour contenir le manque de la droiture bourgeoise. La littérature réglementariste fait un effort d'assurer et comprendre que ces relations sexuelles extra-conjugales nécessaires devaient être sous le contrôle du gouvernement de la police et des médecins. Ces relations étaient nécessaires pour que les hommes bourgeois infidèles n'infectent pas leur femme et gardent leur famille respectable. Parent-Duchâtelet était le chef de cet effort, et Corbin décrit son but comme « simplement l'écho d'une entreprise globale de répression de la sexualité préconjugale » (Corbin 51) et extra-conjugale. Cette idée est basée sur la culture du 19^{ème} siècle, où les femmes doivent être protégées non pas pour leur bien mais pour le bien des bourgeois et de la société en général, et les filles et femmes n'ont pas l'agence de poursuivre leurs sexualités elles-mêmes. En effet, il est important de souligner que le réglementarisme tel qu'il a été conçu par Parent-Duchâtelet a pour but de s'assurer de la bonne santé du couple bourgeois, et ne se préoccupe pas des filles en dehors de ce cadre. Contrôler la prostitution était un aspect de contrôler la répression sexuelle en Europe, en dictant les paramètres selon lesquels la prostitution peut exister. L'homme détermine les paramètres selon lesquels les femmes peuvent être contrôlées. Les familles bourgeoises et les valeurs bourgeoises peuvent être protégées par les règles de Parent-Duchâtelet.

Parent-Duchâtelet a conçu le système réglementariste pour protéger les hommes, mais au détriment des prostituées. Il a vu les prostituées comme jetables, alors le traitement des prostituées n'est pas important. Elles doivent être contrôlées coûte que coûte. Chaque prostituée a deux choix : « décide[r] d'entrer en maison ou de pratiquer isolément son activité prostitutionnelle » (Corbin 55). Les femmes qui ont choisi d'être une « fille à numéro », dans le premier cas, et une « fille en carte » dans l'autre cas (Corbin 55). Les filles à numéro étaient les prostituées qui ont eu leurs noms dans un livre tenu par les tenancières, pour pratiquer la prostitution. Les filles en cartes ont

reçu des cartes et elles étaient considérées comme les prostituées officiellement par l'administration. Les filles à numéros étaient « en effet proportionnellement beaucoup moins nombreuses » que les filles en cartes (Corbin 86). Le régime réglementariste a préféré les prostituées qui travaillaient dans une maison de tolérance parce que le gouvernement a voulu cacher les prostituées autant que possible. Les maisons de tolérance étaient donc au cœur du projet réglementariste. La prostitution est un « mal nécessaire », parce qu'elle est cruciale pour la société bourgeoise, mais c'est un mal, alors il faut qu'on cache les prostituées. Les maisons de tolérances étaient une solution à ce problème – la prostitution a pu exister, mais pas sous les yeux du public.

Pour les prostituées qui ont choisi de travailler dans la maison de tolérance, les visites sanitaires étaient obligatoires. Les prostituées ont dû aller chez le médecin pour s'assurer qu'elles n'avaient pas la syphilis parce que la crise sanitaire était une inquiétude pour l'administration. Cependant, ces visites sanitaires étaient une opportunité pour les médecins et la police de les surveiller. Les filles sont sous la dictature de la police des mœurs qui fait parfois beaucoup de mal aux prostituées. Souvent, les administrateurs ont fait « de l'examen médical des organes sexuels féminins une atteinte à la pudeur, voire un véritable viol » (Corbin 135). Ceci est un autre exemple de la façon dont les hommes ont pu profiter des femmes qui étaient prostituées, en faisant violence à leur corps qu'ils percevaient comme un objet. Le système réglementariste de prostitution n'a pas été créé pour protéger les femmes, mais pour protéger les hommes, et a donné lieu à de nombreux abus.

Parent Duchâtelet voulait protéger les familles bourgeoises et l'institution bourgeoise, mais il ne souciait pas des femmes ou des prostituées. Comme les prostituées étaient des « égouts féminins » pour les hommes bourgeois, les prostituées étaient de simples objets pour les hommes, des bêtes à plaisir. Au lieu d'exister comme des humains dans la société, les femmes existaient

juste pour satisfaire les désirs des hommes bourgeois. Les actions de la société patriarcale ont autorisé le traitement des femmes comme des objets disponibles et jetables. Le réglementarisme a protégé la « bonne » société bourgeoise, tandis que les prostituées étaient laissées en souffrance.

Mais le réglementarisme ne plaît pas à tout le monde, et bientôt un nouveau mouvement naît en réaction à la philosophie de Parent-Duchâtelet. Cette nouvelle philosophie est l'abolitionnisme, et elle se développe essentiellement en Angleterre sous la direction de Joséphine Butler en particulier. Ce mouvement souhaitait aider les femmes et leur donner un certain contrôle et une autonomie. Mais peu à peu, les mentalités changent, et l'abolitionnisme, créé par les mouvements féministes, voit dans les prostituées des sujets et non des objets, et la France commence à faire une transition vers un système qui les traite comme des êtres humains et des sujets dans leur propre vie.

2. L'abolitionnisme : entre théorie et pratique

L'émergence de l'abolitionnisme à la fin du 19^{ème} et au début du 20^{ème} siècles peut être analysé comme une réponse anti-réglementariste. Une critique du système réglementariste était le manque de respect pour les femmes, et l'abolitionnisme a cherché à le changer. L'abolitionnisme a contesté le réglementarisme directement par l'affirmation du féminisme et la religion dans la forme du prohibitionnisme. Corbin décrit l'abolitionnisme comme « un courant évangéliste, imprégné d'un féminisme agressif, essentiellement suppressiste et prohibitionniste » (Corbin 316). En fait, l'abolitionnisme et le prohibitionnisme agissent pour protéger les femmes, tandis que le système réglementariste a protégé les hommes. Curieusement, les féministes et les femmes religieuses étaient d'accord les unes avec les autres pour mettre un terme à la prostitution. Les

protestants et les évangélistes étaient inquiets de l'immoralité de la prostitution, et les féministes étaient soucieuses du traitement des femmes.

Le réglementarisme était accepté dans les grandes villes en France, et cette politique a commencé à être acceptée en Angleterre. Mais, une proposition de « réglementation en créant dans certaines villes du pays une prostitution officiellement tolérée et contrôlée » est contestée par une femme en particulier, Joséphine Butler (Corbin 316). Elle écrit un manifeste en réponse à la nouvelle législation réglementariste, condamnant les politiques en faveur de la prostitution tolérée et légalisée. La campagne contre la prostitution devient populaire en France, mais finalement Butler et ses collègues lancent « une 'croisade' abolitionniste de portée internationale », et elles voyagent à travers la France pour promouvoir leur campagne anti-réglementariste (Corbin 317). Butler a voulu voir des changements dans le système français pour libérer les femmes des restrictions que la prostitution leur a imposées. Elle croit que le système français, le réglementarisme, était mauvais pour deux raisons : « il implique un esclavage de la femme et encourage le libertinage chez l'homme ; il constitue donc une atteinte simultanée à la liberté et à la moralité » (Corbin 319). La domination des femmes était un problème pour elle parce qu'elle a pensé que le traitement des femmes était comme l'esclavage et ce n'était pas acceptable pour elle. Elle a comparé la prostitution à l'esclavage parce qu'elle croyait que les prostituées étaient piégées dans le système prostitutionnel, sans possibilité d'en sortir. Mais aussi, elle critique le statut de la liberté sexuelle pour les hommes parce qu'elle le voit comme un manque de moralité et le rejet de la religion. Elle était protestante et évangéliste, alors suivre la Bible et les Écritures bibliques était une priorité pour elle. Son but était double : libérer les femmes de l'esclavage de la prostitution, et aider les hommes dans leur spiritualité et leur moralité pour suivre le christianisme plus

étroitement. Aux yeux de Butler, aider la libération des femmes est amener la moralité de la famille.

Joséphine Butler lutte contre la prostitution pour la moralité, mais elle lutte aussi contre les relations extra-conjugales en général. Elle croit que les relations sexuelles doivent être réservées au mariage parce que c'est moral et religieux. Butler et ses amis « refusent le postulat essentiel du réglementarisme qui consiste à reconnaître la normalité, voire la nécessité des relations sexuelles extra-conjugales de la part des jeunes et des célibataires encore verts » (Corbin 320). Elle croit que la santé de la société sera plus possible et réaliste sans l'existence de la prostitution, parce que la santé est connectée à la moralité. Son but d'avoir une société abolitionniste et prohibitionniste a inspiré le congrès de l'extrême-gauche française, la *Fédération britannique et continentale pour l'Abolition de la Prostitution*.

Ce congrès travaille pour libérer les femmes de la prostitution en changeant les points de vue des personnes françaises sur le sujet de la prostitution. Butler et ses alliés ont parlé de l'hypocrisie des hommes, parce qu'ils pensaient que les prostituées étaient immorales, mais Butler a pensé que les hommes étaient eux-mêmes immoraux aussi. Résolution VIII de la *Fédération britannique et continentale pour l'Abolition de la Prostitution* dit que « L'État sanctionne le préjugé immoral que la débauche est une nécessité pour l'homme » (Corbin 321). L'état affirme que la prostitution était nécessaire parce que les hommes ont dû avoir une opportunité pour soulager leurs désirs sexuels, mais il a dit aussi que les femmes étaient immorales pour avoir le désir sexuel. Voilà encore un exemple de deux poids, deux mesures où l'on fait l'éloge des hommes libérés, tandis que l'on dénigre les femmes libérées. Butler et ses amis « refusent le postulat essentiel du réglementarisme qui consiste à reconnaître la normalité, voire la nécessité des relations sexuelles extra-conjugales », et insistent plutôt sur le fait que les prostituées doivent être libérées

de la prostitution (Corbin 320). Elles proposent l'abolitionnisme au lieu du réglementarisme à la fin du 19^{ème} siècle comme une meilleure solution pour les femmes, et, par extension, pour les hommes et la société.

Butler a obtenu le soutien de l'opinion publique française, qui était constituée de l'extrême-gauche et des féministes. Un congrès en 1880 a réuni environ deux mille personnes dont la plupart étaient des femmes, et l'abolitionnisme est devenu de plus en plus populaire. Peu après cette réunion, une *Ligue française pour le relèvement de la moralité publique* a été fondée, et Butler a joué un très grand rôle dans la formation des conférences et des comités pour la continuation de l'abolitionnisme évangélique. À la fin de la décennie, la prostitution était une question considérée par le public français et, petit à petit, par le gouvernement français. Grâce à Joséphine Butler et ses collègues, « une branche française du comité abolitionniste international s'est concrétisée en la *Ligue française pour le relèvement de la moralité publique* », et les conversations pour changer le système prostitutionnel ont commencé à prendre forme (Corbin 324). On peut ainsi se demander si sans le soutien et la détermination des évangélistes et féministes radicaux, l'abolitionnisme aurait pu voir le jour.

3. Les bouleversements des deux guerres au 20^{ème} siècle : entre dangers et légèreté

Au début du 20^{ème} siècle, grâce au mouvement abolitionniste, le système prostitutionnel de Parent-Duchâtelet commençait ainsi à périlcliter. Le système abolitionniste, à ce stade, était une philosophie, il n'y avait pas de lois ou de système concret pour mettre en place cette nouvelle philosophie. Mais, avec l'émergence de la première guerre mondiale, la prostitution a resurgi. Butler et ses idées sont devenues secondaires au danger de la guerre, et à cause de ce danger permanent, les soldats optent pour une vie d'insouciance et de légèreté. A cause de la première guerre mondiale, « le conflit a suscité une forte aggravation de la misère sexuelle ; or, l'imminence

du danger avivait le désir de jouir de l'instant » (Corbin 486). Le soutien que Butler a eu avant la guerre était complètement hors de propos pendant le temps de la guerre. À la place du prohibitionnisme et de l'abolitionnisme, le système réglementariste a continué. La possibilité de mourir à la guerre pour les soldats devient une excuse pour vivre de manière imprudente, d'aller dans les maisons closes et de ne pas se soucier de la santé publique ou les maladies dont on avait souci avant la guerre. Aussi, « le relatif anonymat du soldat par rapport à son milieu d'origine, les multiples déplacements qu'on lui imposait favorisaient aussi le recours à l'amour vénal », sans soucis pour son avenir, pour sa santé ou sa famille (Corbin 486). Ce sentiment de vouloir vivre à fond le moment présent sans se préoccuper d'autres contingences s'est répété pendant la deuxième guerre mondiale, et l'état a continué d'organiser et surveiller les maisons closes. Après la deuxième guerre mondiale, les maisons ont continué à fonctionner, bien que l'abolitionnisme avait augmenté pendant cette période. Après la deuxième guerre mondiale, la France a voulu retourner à une société plus pure à cause des horreurs de la guerre. Pendant la guerre, les maisons closes étaient importantes pour les soldats, mais les soldats allemands ont abusé des prostituées qui ont donné une mauvaise image de la femme française. En réponse, le gouvernement français a travaillé pour calmer la société et renouveler l'image d'une France fière et avec des valeurs et une morale sûres. En 1946, nommée d'après un conseiller municipal de Paris, la loi « Marthe Richard » est devenue officielle. Cette loi a conduit l'état à commencer à criminaliser les prostituées après la fermeture des maisons closes dans un effort d'adopter un système abolitionniste. Cette loi a commencé la période d'abolitionnisme, qui se poursuit dans la politique française d'aujourd'hui. Si une prostituée était découverte, elle pouvait recevoir une amende et être pénalisée ou constituée prisonnière. Les clients des prostituées n'étaient pas pénalisés, et la responsabilité retombait sur les femmes, non pas les clients masculins. La loi « réclame, au conseil municipal de Paris, la

fermeture des établissements de prostitution » (Corbin 507). La fin du système réglementariste a enfin eu lieu, et la France est devenue un état abolitionniste après presque un siècle de réglementarisme et de la politique de Parent-Duchâtelet. Selon cette loi, « toutes les maisons de tolérance sont interdites sur l'ensemble du territoire national », quoique « la législation de 1946 ne changea guère la vie quotidienne des prostituées » (Corbin 510-511). La prostitution est devenue un problème de la loi et de l'ordre, mais elle a continué de fonctionner en secret. Si les lois changent, les mentalités prennent toujours beaucoup plus de temps, elles, à évoluer.

Conclusion

La prostitution et le système prostitutionnel n'étaient pas considérés par le gouvernement avant les années 1980, parce qu'il n'y a aucune nouvelle loi ou nouvelle règle depuis 1946. Au début des années 1980, le SIDA a menacé la santé publique en France, rappelant les peurs et angoisses liées à la syphilis au 19^{ème} siècle. Les législateurs ont pensé que la prostitution a contribué à la panique autour du VIH et du SIDA. Les comparaisons au système réglementariste ont fait naître des suggestions de réactualiser la politique de Parent-Duchâtelet. À la fin du 20^{ème} siècle, l'abolitionnisme a arrêté le projet d'un retour de la politique de Parent-Duchâtelet, et le gouvernement de Sarkozy s'est détourné du problème de la prostitution pour se concentrer sur une campagne de rejet des migrants et d'autres personnes perçues comme défavorables à la France et aux Français.

Dans la prochaine section en anglais, je parlerai de la politique prostitutionnelle de la France sous le gouvernement de Jospin, de Sarkozy, et de Hollande afin de mieux comprendre comment la politique du 19^{ème} siècle et la naissance de l'abolitionnisme ont contribué aux conversations contemporaines sur la prostitution. J'examinerai le modèle nordique, la loi d'avril 2016 qui emploie un nouveau type d'abolitionnisme par criminaliser les clients des prostituées au

lieu de criminaliser les prostituées elles-mêmes. Ce modèle semble progressif, mais en fait, il travaille pour éliminer la prostitution et continuer le but de l'abolitionnisme, et j'étudierai la connexion entre la politique française et les modèles néerlandais et nordique pour expliquer la politique future. Le modèle nordique se focalise sur l'action de criminaliser les clients, non pas les prostituées, dans un effort d'éliminer la prostitution en éliminant les affaires des prostituées. Ce système est abolitionniste, en opposition au système réglementariste de Parent-Duchâtelet. Par comparaison, le système néerlandais a des similarités au système réglementariste. A la fin du 20^{ème} siècle, les Pays-Bas ont adopté un système réglementariste conditionnel pour contrôler les maisons closes, réglementer les affaires de la prostitution, et surveiller la présence du trafic. Les nouveaux systèmes tentaient d'améliorer le problème de la prostitution en France : le modèle nordique en redonnant un élan à l'abolitionnisme, et le système néerlandais en revisitant les fondements du système réglementariste.

Chapter 3. France from the Nineteenth Century to the 1980s: From Regulationism to Abolitionism

In France, calls for the abolition of prostitution began at the end of the nineteenth century, but France retained a regulatory position on sex work until the end of World War II, allowing sex work to continue to happen, but under government control. In 1946, however, France decided to close its *maisons closes*, or state-run brothels (Allwood 2), paving the way to a government-mandated abolitionist stance that was formalized in 1960 with France's ratification of the UN *Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others*. Between 1946 and 1960, prostitution slowly began to be criminalized, and police continued to keep files on prostitutes for criminalization purposes even as abolitionism grew in popularity. Prior to this, the state managed government-controlled brothels to control and regulate prostitution and had done this since the nineteenth century. This regulatory stance was essentially a "mass of regulations developed" in order to control the "necessary evil" of prostitution (Corbin 209). The regulatory "French Model" was praised throughout Europe in the nineteenth and early twentieth centuries, and adopted by countries in Western Europe, most prominently in Great Britain. Regulation was adopted as the standard policy since the French government realized that prostitution had existed and would continue to exist in French society in the nineteenth and early twentieth centuries, so instead of aiming to abolish the practice, it sought to control and regulate it instead. In addition, the government's regulatory model aimed to achieve three broader goals: to protect public morality, to protect male prosperity, and to protect the population's health.

Protecting public morality was crucial to maintaining a tranquil and modest society. This argument emphasized the "importance of protecting young girls' innocence and feminine

modesty from the spectacle of vice” (Corbin 209). The state was primarily concerned with preventing exposure of prostitutes to young girls who they thought could be morally corrupted by the act of witnessing a prostitute on the street, further infantilizing women and girls. This refers to wealthy, upper class young girls, as the state was less concerned with “poor but honest women,” who would be more likely to become prostitutes due to financial need or class status. At the same time, the state aimed to protect young men from “precocious sexual contact,” wishing to shield adolescents from any knowledge of eroticism or sexual immorality (Corbin 209). Of course, this was not a matter of concern for those outside the bourgeois class, as the opinions and perspectives of the wealthy were the only ones that mattered to high society. This argument accentuated the importance of shielding the entire family from the unsavory or taboo sight of prostitutes in public life; thus regulation was one way to control the impact of prostitution on the unsuspecting passerby.

Elite male prosperity was also a focus of the French regulatory state in the nineteenth and early twentieth centuries. Commercial sex and sexuality were thought to “devastate patrimonies” and negatively affect social mobility in French society, which had been carefully curated (Corbin 209). Social mobility was the backbone of society, and if bourgeois men were having recreational sex with women who were not their wives, the issue of inheritance and bloodline would arise and harm the social order of rich versus poor. Lastly, prostitution was regulated in France due to hygienic concerns. The emergence of syphilis, especially among poorer groups, was a threat to the French population’s health. In fact, French officials like Parent-Duchâtelet believed so strongly that the outbreak of syphilis was due to the rise of prostitution that he compared female sex workers to sewers: “the privileged agent of transmission for the disease is the woman-sewer, the putrid woman, the *putain* [prostitute, whore]” (Corbin 212). The idea that

prostitutes could potentially affect the health of the morally upright population resulted in the emergence of government regulation, partly through state-run brothels.

In theory, regulation of sex work in France was about shielding the public from seeing prostitutes to protect morality. By regulating brothels, the state effectively worked to “drive her [the prostitute] back into an enclosed space, under the purifying light of power” (Corbin 215). In practice, however, the process of regulating brothels was much more administrative. Brothels were first inspected and investigated by local authorities, and after this happened, “tolerated” brothels were managed by a woman who had filed her request to run a prostitution house. Such women, or *madames*, became governmental agents, and were “directly responsible for the establishment, which is subject to regular inspection” (Corbin 216). Regulating brothels was a veiled method of hiding prostitutes from the public eye, categorically ‘cleaning up the dirty work’ of prostitution from society.

As state-run brothels were closed at the end of WWII, a shift toward abolitionism began. Abolitionists began to form close relationships with policymakers, and abolitionist perspectives on prostitution became the default within the government after the regulation of sex work ended in 1960, when France ratified the 1949 UN *Convention on the Elimination of the Traffic in Persons and of the Exploitation of the Prostitution of Others*. This meant an end to the requirement under the Marthe Richard Law that sex workers register with public health authorities and undergo regular gynecological exams. Although the state ended this regulatory role, it retained “the right to prevent the morally offensive public expression of prostitution” (Mathieu, *The Debate on Prostitution*, 154). This created a legally ambiguous situation in which prostitution was not considered a criminal offense, but soliciting and pimping were.

The *Office central pour la repression de la traite des êtres humains* (OCRETH, Central office for the suppression of trafficking in human beings) was created in 1958 to investigate human trafficking and procurement at the international level, while the *Brigades de répression du proxénétisme* (BRP, brigades for the suppression of procuring) were designed to investigate procurement at the local level. Whereas these organizations viewed sex workers as victims who must be protected from pimps, local police, including special units such as the *Unités de soutien aux investigations territoriales* (units in support for territorial investigations), seek to crack down against solicitation and view sex workers as threats to public order who must be punished (Mathieu, *An Ambiguous Compassion*, 204-205). Thus, despite the official position that prostitutes could not be arrested, prostitutes were threatened with large fines for “disturbing the peace” and engaging in solicitation (*racollage*), which gave “latitude to police and judges to fine prostitutes rather than clients” (Mazur 124).

Mathieu also points to contradictions between the moral condemnation of prostitution, described as a “blight on society,” and calls to care for and rehabilitate those involved, who are typically portrayed as “socially maladjusted, victims of psychological trauma in childhood, and for this reason, lacking autonomy over their thoughts and actions” (Mathieu, *The Debate on Prostitution*, 154). Mathieu describes the ways in which these contradictory impulses translated into different types of measures to control prostitution – through policy activity to prevent soliciting and pimping, subsidies to social work organizations that provide assistance to people engaged in sex work, and through community health organizations focused on providing health services to sex workers (Mathieu, *The Debate on Prostitution*, 154-155). Both moral condemners of prostitution and feminists have varying degrees of involvement in the abolitionist movement in France. Whether concerned with abolitionism from a moral standpoint or a feminist

standpoint, perhaps the most prominent goal of abolitionist organizations is encouraging sex workers to leave the industry by providing them with alternative jobs, mostly unskilled, as well as offering them shelters and other resources. Many of these prominent organizations also have political goals, and they “stand as experts on the issue and exert some influence over politicians, be they from the right or the left, and have developed close links with the feminist and the anti-globalization movements” (Mathieu, *An Ambiguous Compassion*, 205).

In the early 1970s, an issue came into prominence after head of the city of Lyons’ vice squad was fired for corruption and pimping, leading to a nationwide campaign against police corruption that also targeted prostitutes. This led prostitutes to demonstrate to protest against what they saw as unfair police harassment (Mazur 126-127). This movement by women prostitutes demanded that they should be respected as working women and should receive equal treatment from government, the police and society. They rejected state regulation of prostitution, stating that the maisons closes were “the best example of women’s slavery” (*Le Figaro* 12 June 1975, quoted in Mazur 128). This introduced women’s rights into the debate over prostitution but the movement of women prostitutes failed to win a change in government policy and did not gain traction in larger French women’s movements that mobilized during the 1970s to push for legalization of abortion and greater gender equality (Mazur 129-131).

Abolitionist voices in post-WWII years aided in the adoption of the Palermo Protocol, as described in Chapter 1, and set the scene for the policy changes to come in the early 2000s. From regulation in the nineteenth century to the rise of abolitionism in the early twentieth century, France’s dedication to abolitionism was reflected in the partnership between religious advocates arguing for the end of prostitution from a morality perspective and feminists who argue for the end of prostitution from a women’s rights perspective.

Chapter 4. Sex Work Policy in France: 1990 to 2002

While France embraced abolitionism after the end of World War II, things began to change starting in the 1990s and the introduction of the Palermo Protocol with a new framing of prostitution internationally and within France. This international document persuaded France to reexamine sex work policy, including how the debate between the two sides was framed. During the Jospin government (1997–2002), polarization between the two sides was at an all-time high, with “abolitionists, who formed a powerful coalition with access to policy-makers, in particular state feminists” who consistently viewed sex workers as “victims who needed to be saved”, while “sex workers’ rights’ advocates called for better living and working conditions for those in prostitution” (Allwood 1). The widening gap between these two groups continued to grow throughout the 1990s, exacerbated by the disputing opinions expressed during Palermo Protocol conversations. However, in 2002, the new government, which was much more rightwing than the Jospin government, reframed prostitution as a “law and order issue”, and included it as part of their security platform, deviating greatly from the way prostitution was spoken about in government in the late 1990s.

In the early 1990s, prostitution was not necessarily on the public agenda in France. However, when the former Minister of Health and Vice-Mayor of Paris, Michèle Barzach, made a controversial statement about prostitution policy in France, the public began to take notice. She stated in an interview with *Le Monde* in June of 1990 that “I think we must raise the question of re-opening state-run bordellos . . . we need to establish a real public health system and required public health checks” (*Le Monde* 8 June 1990). Michèle Barzach’s statement in this major newspaper caused huge waves, both in public opinion and in the government and in interest groups, as this was seen as “an unacceptable proposal in the national and regional media”,

according to abolitionist government officials, since regulatory prostitution policy had not been fully considered since Parent-Duchâtelet's policies in the nineteenth century (Mazur 131). However, public opinion disagreed with this stance: "Eighty per cent of those surveyed felt that 're-opening the state-run bordellos would reduce the risk of spreading AIDS through better medical supervisions' of prostituées' (feminine form). Also, 61 percent felt that closing the state-run bordellos had been a bad move and 64 per cent stated that they were in favour of re-opening (Hebdomadaire de Louis Harris/VSD12–19 May 1990)" (quoted in Mazur, p. 131). Barzach's stance on prostitution policy came from a public health perspective at the height of the AIDS epidemic in the late 1980s and early 1990s. She advocated for re-opening these bordellos because "prostitutes run a high risk of spreading disease," which was a sincere concern during the AIDS epidemic, along with the fact that "government-run bordellos would allow more systematic supervision of prostitutes in order to reduce the public health risk" (Mazur 131). While this sounds like a fair assessment, especially given the global health crisis at the time, prostitutes were the ones at risk of living under a "systematic supervision" arrangement, rather than the presumably male clients.

Mazur illustrates that even the French word for prostitute, *prostituée*—feminized regardless of the gender of the prostitute—indicates that women were to be the target of these mandatory health procedures and monitoring (Mazur 132). Furthermore, several studies conducted at the time of this potential policy proposal proved that there was no direct evidence suggesting that sex workers actually spread HIV/AIDS, but women were still beleaguered more than male clients, even when evidence was published that suggested male clients were endangering prostitutes more than prostitutes were endangering male clients from a public health standpoint (Mazur 132). Ultimately, right-wing and left-wing politicians alike opposed

Barzuch's proposal, along with many organizations citing the abolitionist standpoint of *maisons closes* as a tool to sexually enslave and oppress women. A strong voice in the abolitionist movement, Le Mouvement du Nid, also spoke out against this proposal, but strategically argued against it by using the inconclusive data of a link between AIDS and prostitutes, intentionally avoiding a feminist or women's rights angle, consistent with Catholic abolitionist organizations at the time. This brief but significant two weeks in the news cycle solidified the government's abolitionist stance, as well as successfully convincing the public that a return to regulatory prostitution policy was not only oppressive, but succinctly out of the question for the future of policy in France, even if public opinion expressed otherwise.

Now that it was clear that regulatory policies were no longer a concern for abolitionist groups, in the early 1990s the Penal Code was expanded to include prostitution reform and criminalization. The reform, which was officially put into effect in 1994, included a brief section on pimping and criminalized the act of pimping out prostitutes, perhaps a precursory policy to the 2000 Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children. Mathieu points out that the abolitionist approach that France adopted in 1960 holds that "prostitutes are free to pursue their activity, but this freedom is limited in several ways and it is recognized that these limitations are meant to discourage them" (Mathieu 204). He goes on to note that prostitutes have to pay taxes but are limited from the social security system since this is administered by professional groups that represent workers and employers in different economic sectors. Since prostitution is not considered a "real" profession, there is no professional group that would allow sex workers to access *Sécurité sociale*. Sex workers have to rely instead on welfare services (p. 204). The French Penal Code reform "occurred with little direct involvement of women or feminists," continuing the pattern of leaving women's voices, especially the voices

of sex workers themselves, out of the conversation surrounding policies that affect them directly (Mazur 139). Furthermore, all the reporters for the parliamentary commission were men and “only male members of parliament participated in the debates of prostitution reform,” which facilitated the continuation of elite men making decisions that personally affect mostly women. This unrepresentative commission recommended a policy that affected the lives and livelihoods of countless French sex workers, yet again infantilizing them by taking away their agency without consulting them or those who fight for their rights through preservationist sex workers’ rights’ groups.

The increase in conversations about trafficking and transnational crime brought prostitution to the forefront again after years of strict abolitionist policy was the norm. This in part manifested itself through the focus and notice of “the presence of East European and African prostitutes”, who appeared to be quite young, as well as “the initiatives of women’s policy agencies, which combined with powerful abolitionist lobbies to influence the policy agenda and stimulate public debate” (Allwood 2). With the help of these women’s policy initiatives, abolitionists began to dominate the platform when sex work was involved. At the time, France’s policy was abolitionist driven, and any other form of regulatory policy was swiftly struck down by those in power. However, in 1999 a Delegation for Women’s Rights was created and focused on prostitution as its first report, eventually finding that France’s model of policy was “inadequately implemented” (Allwood 2). France’s existing policy in 1999 was twofold: it “firstly condemns all forms of exploitation of prostitution (living off immoral earnings, pimping, brothel owning, renting rooms to prostitutes) - but not prostitution itself, which is a civil liberty. Secondly, it supports what it defines as the ‘victims’ of prostitution, the prostitutes themselves, by helping them to escape from it” (Allwood 2). This policy was harshly critiqued for neglecting

to provide aid or services to the so-called ‘victims’ of prostitution, leaving women to fend for themselves with virtually no protections, or rely heavily on non-profit associations who were overworked and underfunded. France doubled-down on its existing abolitionist-centered policy and “reaffirmed its commitment to the 1949 Convention which states that ‘prostitution and the accompanying evil of the traffic in persons’ are ‘incompatible with the dignity and worth of a human person’ and condemns any person who exploits the prostitution of another with or without their consent” (Allwood 3). French commitment to abolitionism was confirmed by many French governmental officials, and the prospect of a return to a regulatory regime was unlikely. Advocates for sex workers’ rights were displeased with this stance and continued to push for the government to make a clear distinction between voluntary and forced prostitution as other nations (such as the Netherlands, as discussed below) had recently done.

Nonetheless, sex work rights activists continued to push for more recognition and rights and were granted this in May of 2000. The activist and community health group Cabiria⁵ argued in favor of the distinction between voluntary and forced prostitution, stating that prostitution is not “an inherent violation of human rights,” but the true human rights violation was in the adverse working conditions that some experienced, and those should be condemned rather than the practice itself (Allwood 4). Cabiria and similar groups saw success when the European Parliament Resolution of 19 May 2000 referred to “forced prostitution,” which implies the existence of voluntary prostitution (Allwood 3–4). Abolitionists did not take well to this international recognition of voluntary prostitution. Because abolitionism was the default, any deviation from abolitionist policies was opposed, especially by staunch abolitionists themselves. The French government offered a “moralistic and paternalistic” approach to controlling sex workers and denied them agency and authority over their own body and labor decisions until

they agree to be rehabilitated and denounce any semblance of their previous life (Allwood 4). Anti-prostitution groups worked to deny sex workers any autonomy whatsoever, with one prominent abolitionist stating that “one day or another, all prostitutes aspire to a life away from prostitution, whatever they may say” (Allwood 4), and these comments were given at a “high-profile conference at UNESCO in Paris in 2000” (Allwood 4). The emphasis on “whatever they may say” is indicative of the larger issue of infantilization of rational decision-making adults, which voluntary sex workers are. It appears that abolitionists work to further their own agendas, not necessarily what is best for sex workers, but what they perceive to be best for them, regardless of the reality. Additionally, no matter what sex workers expressed or what policies they argued would best support them, abolitionists rarely consulted sex workers, the very people these policies impact.

Despite the state-sanctioned abolitionist policies that seemed to dominate, many sex-workers’ rights’ groups continued to push back and advocate for their own interests. Collectively, sex workers’ rights’ groups collaborated with community health groups and liberal feminists to call for “a removal of the stigma attached to prostitution” and outlined several grievances with abolitionism and abolitionist policies that were adopted in France (Allwood 5). This coalition of actors argued that abolitionism harms sex workers by ignoring the dangers and threats faced by sex workers daily and ignoring the problem does not mean that it does not exist. Likewise, sex workers are not and should not be seen as victims, but autonomous subjects and agents in their own lives. The UNESCO conference where the anti-sex work comments were initially publicized was met with criticism by preservationist groups, who argued that voluntary sex work and sexual slavery are not the same thing and should not be treated and stigmatized as

such. This conference, and the subsequent response, further polarized the two sides of the debate and split groups on the left as well as feminists, who disagreed on this hot-button issue.

By 2002, preservationists continued to fight for sex workers' rights, and abolitionists' response to these measures were harsher than sex workers anticipated. While preservationists advocated for better work conditions, abolitionists met these requests with a perhaps unrealistic solution: just leave prostitution. In response to the criticism that abolitionism leads to policy measures that jeopardize the health and safety of prostitutes, abolitionists responded with a not-so-subtle reply that if prostitutes do not like the conditions, they should just quit and government should avoid making conditions more comfortable and attractive to sex workers (Allwood 7). This back-and-forth argument was getting tiresome, and policymakers along with advocacy groups knew that the government needed to an official response to the 'problem' that was prostitution. An innovative approach was called for by politician Dinah Derycke, among others, who was interested in reframing the issue as one of law and order rather than fighting against the alleged oppression of women or gaining rights for sex workers. Before this new strategy was attempted, neither side had any interest in penalizing sex workers in any sense. The end goal for both parties was always helping sex workers, whether through total abolition or by securing rights and benefits for sex workers. This changed with the introduction of Nicolas Sarkozy's Domestic Security Bill, which effectively attacked not prostitution, but individual prostitutes themselves.

The Domestic Security Bill created many problems for both sides of the debate, since it reframed the issue of prostitution as an issue of security rather than one of human rights. This bill addressed multiple types of behaviors deemed unsavory and unacceptable by the state, which "caus[ed] increasing concern and legitimate exasperation amongst French citizens" (Allwood 9).

This apparent exasperation was brought up by public concerns of exposing their children to immoral scenes of sex workers loitering in the streets, though oddly enough male clients were never considered a threat to public decency and overall general morality. The bill specifically addressed behaviors that align with prostitution, though did not specifically address prostitution explicitly. The behaviors listed in the bill are: “soliciting, exploitation of begging, aggressive begging, occupying someone else’s land and assembling in the entrance or the stairwell of blocks of flats” (Allwood 9). The language used here was coded to designate the actions of the poor, as wealthy members of society do not typically solicit, beg, or assemble in the same ways that the poor do in order to survive. This bill was met with substantial amounts of criticism, mostly from parties of the left. The Sarkozy government justified the Domestic Security Bill, and the language used, through their argument that cracking down on these activities and behaviors would “improve the quality of life and especially the feeling of security of the poorest members of society who are most likely to become the victims of crime” (Allwood 9). This defense was seen by the bill’s (and the government’s) critics as yet another excuse to continue attacking the poor.

Those who pushed back against this bill mostly belonged to trade unions and other associations who were primarily motivated to address poverty, human rights, and other issues of social justice in France. The bill inspired “petitions, demonstrations, and calls for action” to not only protest this specific piece of legislation, but future attacks on the poor. Critics accused Sarkozy and his government of “exploiting the climate of insecurity” along with declining to criminalize those most in need of government assistance, namely “beggars, prostitutes, travelers, and young people” (Allwood 9). This bill effectively made sex work even more dangerous than it was before without protections for sex workers, as now not only were they not receiving

protections or rights within their industry, but now they were also treated as criminals. Claude Boucher from the *Bus des femmes*, which is an association that supports sex workers and is run by former sex workers, stated that “this is a law against those who are excluded, against the most vulnerable” and many women she worked with who were sex workers did so because government benefits and minimum wage were not enough to provide a standard of living (Allwood 9). Predictably, Sarkozy’s government responded to these criticisms and concerns. Sarkozy advocated for strong security in lieu of advantageous social policy and was adamant that this ‘tough-on-crime’ stance was both supported by the poor and was meant for the poor, not to target them, but to support them. His government claimed that this bill was supported by 80% of those making minimum wage support this bill (Allwood), and as a rightwing President with a rightwing parliamentary majority, this bill passed and was implemented by 2003.

The construction of prostitution and prostitutes as a women’s issue during the Jospin government which preceded the Sarkozy government was swiftly condemned and replaced by the framework of prostitution as a law-and-order issue. Instead of viewing prostitution as an act of violence towards prostitutes (women) by male clients, pimps, and traffickers (men), it was now viewed as a matter of public safety concern. Prostitutes were no longer seen as victims of violence, as they were under the Jospin government, but as “one of a number of groups that threaten public safety” (Allwood 12). Passive solicitation, in the original draft of the bill, was defined as “hanging around in the street in a way that was more likely to encourage vice”, and the vagueness of this definition was intentional and aimed at allowing police more freedom when making arrests (Allwood 10). Sarkozy committed to the argument that active solicitation rather than passive solicitation would be “inconvenient” for police to have to collect evidence before making arrests. Because of this, Sarkozy insisted on a new article in the Penal Code that

addressed passive solicitation, effectively creating “a serious offence of solicitation by any means including ‘dress or posture’” (Allwood 11). Not only did this allow police officers to legally arrest those simply suspected of passive solicitation, but it also encouraged harassment that could be sexually or racially motivated based on the solicitor's appearance. Furthermore, it created severe consequences for immigrant women, who were already more likely to engage in prostitution. If immigrant women were found guilty of passive solicitation, they could be deported. This aligned perfectly with Sarkozy's agenda, and he even admitted that his new prostitution policy targeted migrant women, and deportation was yet another aspect of his law-and-order platform that he initially ran on. Previously, the construction of prostitution was divided into two main categories: the “good” sex worker and the “bad” sex worker. Those “good” sex workers do not “disturb the peace” and cause immorality within public areas, while those considered “bad” sex workers were always foreigners who “undercut prices” as well as upset the public order, displaying indecency for all to see (Allwood 12). This newfound focus by Sarkozy of criminalizing sex workers walked a fine line between victims and criminals. Ultimately, the determining factor present in conversations about “good” and “bad” sex workers was nationality. Sarkozy focused almost exclusively on foreign prostitutes and saw them as criminals who must be caught and deported to protect France, but also for the good of the deported sex worker. He spoke positively about deportation, even going as far as to imply that he was helping them by deporting them so they can “resume their lives without degrading themselves” (Allwood 13). This commitment to an abolitionist perspective through the lens of law and order was not the stance that most traditional abolitionists took, as they wanted full liberation for women, not criminalization. Many critics took issue with the fact that much of the blame was consistently placed on the woman (sex worker) rather than the man (male client).

The criminalization of passive solicitation continues to target mostly women and allows mostly men to walk free of any culpability. This is hugely problematic, as it means that a woman standing on the street is a serious offender, while someone who pays for sex is an innocent bystander of a criminal act. Paying for sex in France at the time was seen as a civil liberty, while selling sex was seen as a criminal act according to the Domestic Security Law. This raises questions about victimization and responsibility. Are men the new “victims” of prostitution, while women are the illegal perpetrators of this crime? According to this bill, the answer is yes. This implies that women are asking for trouble if men do choose to exert their civil liberty to pay for sex while the woman is the one breaking the law, which has massive implications of men’s inability to control their sexual urges and go unscathed by the law for it. Clients who are overwhelmingly male are able to continue their transactional relationships with sex workers, who are overwhelmingly female until the introduction of the Nordic Model in 2016. However, the period between the Domestic Security Law and the 2016 legislation may have harmed countless women through the penalization of their actions. Meanwhile, men were able to exercise their own civil liberties with no consequential action taken for their sexual behaviors and presumably uncontrollable urges that only sex workers could satiate.

Chapter 5: Sex Work Policy in France 2002-2016: Choosing the Nordic over the Dutch Model

In order to understand recent changes in sex work policy in France and to show how France's allegiance to an abolitionist state, it is important to analyze the emergence of new discourses on prostitution and sex work in the mid-1980s that led to the adoption of different government responses by the turn of the twenty-first century. Although abolitionist sentiment remained strong in most countries, new feminist groups formed that advocated for the rights of sex workers and called for a variety of changes in prostitution laws, including criminalization of clients and the legalization of brothels. These proposed changes led to new divisions, with different organizations hailing opposing policies as the most appropriate means of improving sex workers' rights (Outshoorn Introduction 6). Although the Nordic model focused on punishing clients rather than sex workers, unlike France's law-and-order approach that penalized prostitutes, both approaches reflected abolitionist sentiments. The Dutch model, which legalizes free as opposed to forced prostitution, offers a contrasting approach that more closely reflects preservationist assumptions. This chapter will discuss the Nordic and Dutch models, analyzing their underlying assumptions and the impact that they have had. The chapter will then examine the reasons why France chose to follow the Nordic rather than the Dutch model, as France's continued commitment to complete abolition of sex work rather than encouraging protections for sex workers.

After the French "law-and-order"-centered policies of the 1990s and early 2000s, attitudes in Europe began to shift regarding the best method to address prostitution. Sweden led this movement in 1998 with the introduction of what is now known as the Nordic model, also

referred to as the Swedish model. Sweden amended its prostitution regime to extend criminalization of involvement in prostitution to include clients, although prostitutes themselves were not criminalized. This model was based on a new law, introduced in Sweden in 1999, which criminalized those who buy sex rather than sell sex. The Act Prohibiting the Purchase of Sexual Services, which went into effect in Sweden in 1999, overturned the traditional view of sex workers as manipulative and promiscuous women and changed the narrative to blame men who perpetuate the industry by purchasing sex (Svanström 67). This new law also aimed at reducing the level of prostitution and sex trafficking by criminalizing the purchaser and thereby reducing demand (Svanström 67).

When this law was first proposed, criminalizing the clients of prostitution was “on the basis of the principle that ‘treating a person as a commodity, with or without their consent, is a crime’” (Mathieu 159). While this seems revolutionary, in reality it continues to fall back on the abolitionist assumption that sex workers are victims, whether they realize it or not, further infantilizing sex workers. While one goal of this law is to “protect” sex workers from the supposed exploitation that prostitutes apparently face, an underlying goal was to decrease rates of sex work more generally. The punishment that a criminalized client may have faced in Sweden in 1998 was “a sentence of up to 6 months in prison, accompanied by psychological treatment aimed at making those convicted of this offence renounce all future use of prostitutes” (Mathieu 159). By combining a prison sentence with rehabilitation services, the Swedish government sought to end the business of sex work by deterring would-be clients from purchasing sexual services, thus depriving sex workers of income. Along with the rehabilitation services for clients, the law stipulates that sex workers will also be offered social rehabilitation

programs, enforcing the narrative that all sex workers are victims, whether they engage in forced prostitution or voluntary prostitution, regardless of how they ended up in sex work.

This law appears to keep the sex worker's best interests in mind by decriminalizing the selling of sex, but in reality, it continues to take away a sex worker's right to work autonomously. This law appeases abolitionists because the end goal is lowering prostitution overall, not just sex trafficking, by severely limiting buyers' access to the service provided. Despite criticism from some progressives, this model spread quickly among Western European nations, and France adopted this policy in 2016.

Economic historian Yvonne Svanström argues that Swedish feminists generally agreed that prostitution reflects patriarchal oppression of women, although they disagreed whether non-criminalization, criminalization of both prostitutes and clients or just criminalization of clients was the best response (Svanström 225). During earlier debates on prostitution in the early 1980s, a commission of government experts advised against criminalization, arguing that "it might have a deterrent effect on the clients, but it would risk further stigmatization of the women, and prostitution would go underground"; nonetheless, prostitution was deemed to be "incompatible with 'the ideas of individual freedom and equality among all that have prevailed in [Sweden] for a long time'" (Svanström 227-228). Legislation was passed to prohibit public pornographic shows and to support research and social projects that could dissuade young women from becoming prostitutes. Arguments were raised against prostitution, which was described as "an expression of contempt for women" that stood in contradiction to Sweden's commitment to gender equality and required a focus on both female prostitutes and male clients (Svanström 230). Combatting prostitution was seen to require a change in patriarchal society, "where women were subject to men's oppression economically, sexually and in the work

structure,” as well as resistance to the commercialization of sexuality which reduced sent a harmful message of human beings as “sexual merchandise” (Svanström 230).

More reports and legislative proposals followed, with an official recommendation to criminalize both sellers and clients. This triggered a strong backlash in the media, with critics arguing that few women chose to become prostitutes and that they should not be punished since they were victims: criminalizing “both parties obscured what prostitution was really about – men’s power and men’s sexuality” so that “to punish them [the women] is to punish the victims. If criminalization is seen as necessary to make a social ‘impact,’ it would be enough to penalize the purchase” (Svanström 234).

In February 1998, the Swedish government proposed a bill aimed at countering violence against women, preventing sexual harassment at work, and criminalizing purchasers of sexual services. While the measures to counter sexual harassment and violence against women enjoyed widespread consensus, Christian Democratic politicians supported criminalization of both parties in prostitution while other centrist politicians argued that the criminalization of clients would simply force prostitution underground and make it more difficult to control (Svanström 239). Supporters argued that “two-thirds of the current prostitution business was already carried out underground, and that the new law would decrease the demand for sexual services” (Svanström 239). Both sides brought in testimonies from sex workers to support their positions, although perspectives advocating for sex workers’ right to sell sexual services were generally limited to the media and did not find support in parliament (Svanström 241). Indeed, women parliamentarians highlighted “what could be attained when women held 50 per cent of the seats

in politics, and when ‘women issues’ became political questions in their own right” (Svanström 241).

Although legislators thought that this new model would curb prostitution and convince sex workers to leave the sex industry, this hasn’t happened entirely. Prostitution has not been eliminated, and ads for escort services have increased. Nonetheless, surveys suggest that the number of men buying sex has declined since the law was implemented. According to Simon Haggstrom, the detective inspector in charge of Stockholm’s prostitution unit, buying sex is now deemed so shameful that the overwhelming majority of those arrested plead guilty and pay a fine rather than go to trial (Bramham 2016). Reports vary as to whether the criminalization of buyers has increased stigma, discrimination and violence against sex workers. While one article noted that rape and domestic violence have not increased (Bramham 2016), another study documents “an increase in violence against women following the law's introduction, ascribable mostly to domestic violence rather than violence against sex workers” and suggests that “the lockdown on prostitution markets may have been one determinant of the surge in domestic violence observed during the Covid-19 crisis” (Immordino et. al. 2020).

While the Nordic model was certainly the most prevalent policy in Western Europe during the 2010s, another model was introduced in the Netherlands in 1999 with a radically different approach. This Dutch model aims to make a clear distinction between free and forced prostitution. Free prostitution is “accepted and recognized, on the grounds of the free use of one’s body (allowing its use as a source of income)” (Mathieu 158). This vocabulary distinction is inherently preservationist and was what the preservationists fought for during the Palermo Protocol discussions. The Dutch model also specifies that “prostitution is forbidden where it is

not based on the freely given consent of the person involved”, which is not sex work at all, but trafficking. Preservationists vehemently stand against coercion and any form of forced sex work, as that is sex trafficking and other forms of sexual violence and manipulation. The Dutch model seems to be most aligned with regulatory practices for free prostitution, whereas the Nordic model is still staunchly abolitionist.

In the late 1990s, the Netherlands changed from an abolitionist state to a conditional regulatory state. Brothels and trafficking are legal in the Netherlands so that the state can regulate this form of business. Furthermore, sex workers are allowed to benefit from traditional protections guaranteed to workers, such as contracts for employment and other rights like healthcare (Mathieu 157). In 1999, the Dutch government repealed the brothel ban, allowing for voluntary prostitution to be regulated as legal sex work, as opposed to forced prostitution, which is prosecuted as illegal through higher penalties for traffickers and temporary residency permits for trafficked women prepared to testify against traffickers. Since 2000, when the law went into effect, prostitutes are classified as “independent workers who must register with the Chamber of Commerce and pay income tax in order to legally perform their work” (Cruz and Iterson 2010). The new legislation replaced the Morality Acts of 1911, which outlawed brothels and criminalized pimping; other behaviors prohibited by the legislation such as contraceptives, homosexuality and abortion, had previously been repealed (Outshoorn ‘Realistic Approach’ 185-186). Additionally, there was a huge growth of sex industry beginning in late 1970s, with calls to repeal the Morality Acts bill in order to better protect vulnerable individuals (generally women and girls) from developing countries who were deceptively recruited into the sex industry.

Legislative debates over repealing the ban on prostitution in the 1980s pitted members of religious parties opposed to prostitution on moral grounds against secularists who “stressed

prostitution as the private affair of citizens; the state should only intervene to set standards on working conditions and fight forced prostitution” (Outshoorn ‘Realistic Approach’ 189).

Members of leftist parties were split, with some interpreting prostitution as a form of sexual violence and domination but others accepting a sex work frame that “allows for a modern sex worker who knows what she is doing” (Outshoorn ‘Realistic Approach’, 189). Leftists moved toward supporting legalization by emphasizing the distinction between voluntary and forced prostitution while secularists were in support of a repeal of this legislation. “The repeal was supported by the secular parties in parliament and opposed by the religious parties. Feminists in the Netherlands and the national women’s policy agency supported the repeal of the ban, arguing that it is an important step forward in improving prostitutes’ position” (Outshoorn ‘Realistic Approach’ 185). This marks an important distinction from Sweden and France, where feminists and religious groups generally agreed on abolitionism. Supporters argued that legalization of brothels would enable local authorities to “tailor regulation to local needs and set standards for health and safety of the prostitutes”, which would ensure officials’ ability to control the industry along with keeping the peace on the streets (Outshoorn ‘Realistic Approach’ 188). (Outshoorn ‘Realistic Approach’ 188). This overlapped with a distinction between Dutch prostitutes and prostitutes from developing countries, using “the (untranslatable) concept of the *mondige prostitué*”: the emancipated and assertive prostitute who identifies as a sex worker” to refer to Dutch prostitutes, as opposed to prostitutes from developing countries who were framed as docile, oppressed and exploited victims of forced prostitution (Outshoorn ‘Realistic Approach’ 188-189). Thus, victims of forced prostitution could still be viewed through the discourse of sexual domination, with traffickers cast as male guardians of an oppressive, sexist system while voluntary sex workers are seen as “competent sex-providers, the client a normal customer no

different to one looking for a doctor or hairdresser” (Outshoorn ‘Realistic Approach’ 190).

Outshoorn notes that Dutch feminists and the women’s movement in the Netherlands generally rejected the sexual domination frame and its depiction of prostitutes as “powerless victims on whose behalf feminists are supposed to act” – a narrative strongly challenged by “individual prostitutes speaking out and making the case for sex work” (Outshoorn ‘Realistic Approach’ 190).

In 1989, legislation on trafficking was proposed that would exempt women from non-European Union countries from qualifying as voluntary sex workers, casting them in broad terms as deceived victims. Through this differentiation, all non-EU sex workers are immediately categorized as victims rather than independent sex workers, thus preventing migrants from coming to the Netherlands by asserting anti-trafficking efforts. (Outshoorn ‘Realistic Approach’ 195). In doing so, trafficking was linked to illegal migration, with some politicians warning of an “uncontrollable stream of foreign prostitutes” while others insisted that “not all ‘Third World’ women were victims of trafficking”, highlighting the hypocrisy in distinguishing trafficking from independent voluntary sex work. Additionally, race was a challenging subject to discuss, as “nobody at this stage raised the race and ethnic aspects of migration: that it is about black and brown and Asian women catering for the sexual demands of predominantly white men.” (Outshoorn ‘Realistic Approach’ 195). Because of opposition to the blanket characterization of non-EU prostitutes as forced sex workers, language to this effect was dropped from the legislation passed in 1993, but this also meant that there was no allowance for the possibility of non-EU sex workers as voluntary migrant sex workers.

The legislation that ultimately repealed the 1911 Morality Act “advocated a ‘realistic approach without moralism’, limiting the role of the state to eliminating forced prostitution” (Outshoorn ‘Realistic Approach’ 198). Essentially, this approach encouraged regulation of exploitation of prostitution, to fight against prostitution and ‘protect’ sex workers from the evils of sex work itself. In turn, “turning voluntary prostitution into work would lead to the normalisation, control, cleansing and regulation of the sex business” (Outshoorn ‘Realistic Approach’ 198). However, this did not prohibit non-EU prostitutes from working in a brothel: “but brothel keepers –like all employers in the Netherlands – are not permitted to employ illegal workers”, which means that migrant workers who were residing in the Netherlands illegally are not able to be employed by brothel keepers, as is congruent with all other forms of labor. However, unlike other forms of labor, work permits to non-EU sex workers are not granted, and the cabinet also will not “legalise already present migrant prostitutes without papers” (Outshoorn ‘Realistic Approach’ 198). Because of the special nature of sex work, qualifications were added to the normal work frame. First, the legislation stipulates that sex workers cannot be required to deliver services if they choose not to do so: “a prostitute cannot be a ‘normal’ worker, as one cannot hold her to deliver her services. The moment she says ‘no’, her constitutional right to bodily integrity is invoked, and neither client nor employer can force her to comply” (Outshoorn ‘Realistic Approach’ 188). Second, while children in the Netherlands are allowed to work from the age of 15 and have consensual sex from the age of 16, engaging in paid sex work is legal beginning at age 18 and “employing a minor as a sex worker, or purchasing sex from a minor, was defined as forcing the minor into prostitution” (Outshoorn ‘Realistic Approach’ 199). Third, non-EU prostitutes were regarded no longer as victims, but as illegal workers. “By refusing these women work permits, the government can be seen to say that working was not what these illegal

migrants were doing, which contradicts the sex work frame” (Outshoorn ‘Realistic Approach’ 199). Thus, in addition to previous images of emancipated sex workers and (female) victims of trafficking, a “new image also emerged: that of the illegal immigrant who comes to the Netherlands only to earn money in a disreputable way. According to the majority in parliament, giving them work permits is not in the national interest” (Outshoorn ‘Realistic Approach’ 200).

The Dutch model seeks to give sex workers more autonomy, improve their health and working conditions and reduce criminal involvement in the sex industry, yet problems persist. A public health worker who worked closely with sex workers in Amsterdam reported that:

there are definitely positive aspects to the current policy. Legalizing prostitution increases safety by allowing a certain amount of control over the industry. One example is that prostitutes now work in secured surroundings where there are cameras in front of every window, and police, both in uniform or undercover, are always patrolling the area. In every brothel, there is an alarm system accessible at a moment’s notice and the press of a button, which can be heard from a considerable distance. Health and hygiene are also relatively well cared for. Clean linen and towels are provided, and the girls have access to unlimited free STD checks. They are encouraged to do a check-up every three months (quoted in Cruz and Iterson 2010).

Proponents of legalizing prostitution argue that by regulating the flesh trade, sex workers are better protected. If the trade is underground, academics have shown, prostitutes are more vulnerable to abuse, exploitation and trafficking. Because of continued and pervasive stigma, sex workers are underrepresented in policymaking discussions; some continue to see benefits in working illegally/not registering. Many sex workers in Amsterdam face safety issues, so they are not interested in registering as sex workers for fear of being publicly exposed as sex workers or losing income (Abdul 2019).

In a study of the effect of legal street prostitution zones on crime and sexual violence, economists Paul Bisschop, Steven Kastoryano and Bas van der Klaauw (2017) found that Dutch

cities with areas designated as *tippelzones* (from the Dutch word for solicitation), where soliciting and purchasing sex is legal during certain hours, have lower rates of rape and sexual assault. In contrast to concerns that these areas could become the focus of other kinds of delinquency and crime, the investigators found that “police monitoring is higher in *tippelzones* than in other areas of the city so criminals of all types – sex traffickers, pimps, drug dealers, violent clients – must trade off their willingness to operate in the *tippelzone* with the higher risk of apprehension” (Bisschop et. al. 2017, 29). In cities with both a *tippelzone* and a licensing requirement, the authors found a 25 percent reduction in drug-related crimes within two years (Bisschop et. al. 2017, 30). Moreover, opening a *tippelzone* led to a 30-40% reductions in sexual abuse and rape (Bisschop et. al. 2017, 30).

On the other hand, government restrictions on where sex workers can work, including a ban on booking customers online or working from home, have led to high rents and extreme pressures. In 2009, an urban development plan was adopted that limited sex work to two streets within the central Amsterdam neighborhood of De Wallen in an attempt to curb crime rates. As a result, many coffee shops and sex-worker windows were forced to close, “resulting in a sort of gentrification of the sex trade—pushing many sex workers towards illegal work or abroad” (Abdul 2019). Furthermore, “the ‘independent worker’ is a myth”, as it is nearly impossible to be an independent worker while simultaneously relegated to working in specific areas at specific times (Cruz and Iterson). Other occupations do not have the same requirements, so it seems as if the Netherlands commitment to recognizing sex work as work falls short. In addition, “with the influx of migrant workers from around the world . . . prostitutes are faced with heavy competition amongst each other”, which in turn forces sex workers to engage in acts they may not have felt comfortable engaging in otherwise (Cruz and Iterson). The Dutch model is one of the more

autonomous and comprehensive systems for sex workers in Europe, but certainly not without its own set of consequences and issues, especially for migrants and immigrants.

Both the Swedish and Dutch models appear to be radically different from the French policy adopted in 2002, which criminalized sex workers and not the clients. Because the Swedish policy focused on the criminalization of clients rather than sex workers, the behavior of the clients is “placed at the center of state intervention with the aim of highlighting the fact that they are both guilty and responsible” (Mathieu 159). Abolitionists backed this argument fervently, as criminalizing prostitutes was never what they wanted, but rather they wanted prostitution itself to end without harming the women who are sex workers. Within the Swedish model, “Prostitution is no longer defined as a social maladjustment, but as an expression of male domination, which requires action targeted at men” (Mathieu 159). Abolitionists had been arguing this for years, so to have the Swedish government take this as its official policy was not only validating but empowering to those who fought for this position. Prostitution was seen by abolitionists, and now the Swedish government, as an iteration of the patriarchy and male power and authority rather than a form of crime from the prostitutes’ perspective.

The Swedish approach appears to be a much more progressive approach to sex work policy than the French model of abolitionism and “law and order”, but in actuality, they work in similar ways to achieve the same goal of abolition. In the case of the French model, complete abolition of prostitution is clear, and done through the use of criminalizing sex workers, effectively making soliciting clients and selling sex illegal and punishable. The Swedish, or Nordic, approach works toward the same goal but is disguised as a method of ‘protecting’ sex workers through the criminalization of clients, when the true intent is to end prostitution

completely. Abolitionism is the shared goal of these two models, and France moved to the Swedish model in order to marginally appease preservationists and the critics of the “law and order” regime. Mathieu (Ambiguous Compassion) writes that the organization and composition of prostitution in France changed by the beginning of the twenty-first century: “new prostitutes appeared on the sidewalks of French cities. Most of them came from Eastern Europe (they were later followed by African and Chinese women), with the reputation of being under the strict control of mafia-type procuring networks” (Mathieu 206). According to the Central Office for the Suppression of Trafficking in Humans (OCRETH), “while during the 1990s, 30 % of street prostitutes in Paris were migrants; in 2010, they accounted for 90 % of street prostitutes (cited in Mathieu, Ambiguous Compassion, 206). This reinforced the ‘perfect victim’ image of young, naïve, uneducated girls who were manipulated and abused, trafficked illegally into France and violently forced to prostitute themselves. Catholic abolitionists joined with the women’s movement to revive the abolitionist coalition, now joined by anti-globalization activists who pointed to sex trafficking as a consequence of neoliberalism and its tendency to commodify human beings (Mathieu Ambiguous Compassion, 206).

The specific topic of prostitution was not addressed again in France until a few years later, in 2011, when two deputies “produced a detailed report on prostitution in France and presented it to the National Assembly for parliamentary debate”, where the report was positioned as a question of women’s rights (Calderaro and Giametta 157). The report was “grounded in a repressive stance on sex work that articulated the ‘fight against the prostitution system’”, supporting the abolitionists’ argument that all sex work should be eliminated because it is inherently oppressive against women (Calderaro and Giametta 157). This report became significant because of its defense of women’s rights as a key argument, and the

Nordic model was introduced as an option for policy in France (Calderaro and Giametta 157). The authors, Danielle Bosquet and Guy Geoffroy, argued that because the system of prostitution inherently oppresses women and infringes on women's rights, "sex workers should not be penalized but the onus should be placed on clients, as they must account for the fact that their demand for paid sexual services fostered exploitation and trafficking" (Calderaro and Giametta 157).

This proposal was enthusiastically welcomed by French policymakers and became law in April of 2016. This law, claiming to help women and sex workers, was instead quite harmful to those it aimed to assist, and "recent research shows that client penalization has been even more detrimental to sex workers than the previous anti-soliciting measures, which had already resulted in the deterioration of sex workers' living and working conditions" (Calderaro and Giametta 157). The detrimental effects of this new law impacted poorer communities much more than affluent communities, and the goal of advancing women's rights achieved the opposite for those most affected by the new policy, in part by taking away an autonomous method of work and income for women.

The implementation of restrictive laws, culminating in the 2016 law, also had serious ramifications for the religious and ethnic minorities who disproportionately lived in poor neighborhoods (*quartiers populaires*). It is important to note that "the construction of prostitution as a social problem ought to be seen in light of broader political anxieties over sexism in poor neighborhoods and immigration control", as those are the populations most affected by the restrictive law. This does not appear to be an accident either; for decades, tension rising in the *quartiers populaires* has given way to more restrictive policies which target poorer communities and neighborhoods (Calderaro and Giametta 158). Racial conflicts, Islamophobia

and negative attitudes towards “otherness” are directly related to anti-sex work arguments. French politics began focusing more on racial tension and sexism at the beginning of the twenty-first century, when gender and sexuality started to be explicitly linked to race” (Calderaro and Giametta 160). The political scene and the media began to emphasize a series of acts of sexual based violence against women perpetrated by “young men of North African origin”, all committed in the suburbs of Paris (*les banlieues*), populated almost exclusively by low-income residents, immigrants, or French people of color (Calderaro and Giametta 160). The government drew on racist and Islamophobic arguments to fight sexism, justifying a series of racist anti-Islam laws on the basis of women’s rights. Examples of this new platform included “the bans on passive soliciting and the hijab, as well as the focus on sexual violence in the banlieues”, thus targeting Muslim women, migrant sex and racialized non-migrants living in France” (Calderaro and Giametta 160). This direct attack on immigrants and communities of color in France created a deeper rift between the already divisive debate between abolitionists and preservationists, leading to tension and animosity.

The growing tension between racism and sexism resulted in the consolidation of a new form of “carceral feminism” or “femonationalism,” which “relies heavily on state forms of power, such as law enforcement and legal institutions, to fight patriarchy” and implement anti-immigrant policies. These types of feminists tend to only work towards equality for white women, not women of color or immigrant women, as they continuously “have promoted laws and attitudes stigmatizing the Muslim population in France, thus strengthening anti-Islam positions in the name of women’s rights” (Calderaro and Giametta 161). Femonationalists, or “femocrats” as they are also dubbed, believe that the real problems lie in particular demographics and certain geographic areas. Their argument is that “the problem of misogyny and patriarchal

domination is all too often relegated to specific (poor) areas in French cities where many racialized people live”, and so they target those “problem areas”, as they see fit (Calderaro and Giametta 161). Racialized minorities are targeted by these “women’s rights” laws, as the “poor and working-class clients of sex workers are pathologized as ‘bad’ sexual subjects who have no place in the civilized space of the Republic”, since they are presumed to have regressive views about women and gay men, whom they buy sex from, pimp or traffic (Calderaro and Giametta 161). Meanwhile, women from these communities are presumed to be helpless victims who need to be rescued, whether from prostitution or from being forced to wear a hijab. The absence of the minority women’s and sex workers’ voice in these debates and dialogue is not an accident or omission, but rather an intentional move to further infantilize women who are more than capable of making their own decisions, under the guise of acting for the rights of women while simultaneously taking them away from the communities that sexism and the patriarchy targets the most.

Although some of the abolitionists who supported laws aimed at ending prostitution were religious or conservative, others reflected a leftist, anti-capitalist perspective. Radical feminists on the left advocated for an end to prostitution not only to fight the patriarchal system but also to end the commodification of women’s bodies, as part of a necessary shift away from a capitalist mode of production (Calderaro and Giametta 165). More traditional, religious advocates of abolitionism aim to defend the patriarchy by fighting prostitution because they believe in defending traditional values that align with a patriarchal system. One traditional value that sex work threatens is the presence of sex in non-nuclear family situations, which ultimately threatens family values and undermines the patriarchy, which these conservative, religious supporters commend and seek to protect. Mathieu argues that the contemporary image of prostitutes as

victims of international sex trafficking represents a variation on earlier depictions of prostitutes as maladjusted, psychologically traumatized women who needed to be rescued by social workers. In contrast, the newer focus on criminal networks of human traffickers and abusive clients calls for a punitive approach but it retains a definition of sex workers as victims who are too weak to protect themselves. It is this definition that “unites feminists, abolitionists, and the government, and it is what makes their positions compatible despite their holding different views on prostitution. It legitimates policies that, despite targeting different populations (prostitutes or clients), produce the same results: making the presence of prostitutes in urban places illegitimate and allowing the expulsion of undocumented migrants” (Mathieu, *Ambiguous Compassion*, 210). Whether the policies target prostitutes or clients, the abolitionist approach denies the possibility that sex workers may actually know what is best for themselves, that they may have some agency in their migration decisions, or that they should have a voice in the debate.

Conclusion

In her comparative study, “Politics of Prostitution”, Outshoorn asks a valuable question: “Will recognising prostitution as work clean up the business, improve the position of prostitutes, and make the work healthy and safe? Or will it lead to new forms of state control and continued intervention by the underworld?” (Outshoorn ‘Realistic Approach’ 204). The seemingly never-ending pattern of shifting prostitution policies may make sex workers more vulnerable to abuse, even with the Dutch model, which allows significantly more autonomy for consensual sex workers than France’s current adoption of the Nordic model. Abolition strips sex workers of their agency as laborers and denies them their right to choose what to do with their bodies. So, will regulation evolve into an unhealthy balance of state control and toxic intervention, as was seen in the case of 19th century France and Parent-Duchâtelet’s regime? Or, is regulating sex work, as is done in the Dutch model, a way to enable and empower sex workers to make their own choices concerning their bodies, their labor, their safety, and their lives?

This is not to say that all sex work is good – it should be noted that sex trafficking does exist, and manipulation, coercion, and forced labor are all relevant issues both in France and on a global scale. That is to say, ~~that~~ trafficking is absolutely a real danger for some, and those people can very easily become ensnared in a cyclical system of abuse and coercion. However, that is not the only narrative when it comes to conversations about sex work. In their research on sex workers in Sangli, India, Aziza Ahmed and Meena Seshu (2012) found that abolitionist measures focused on raiding brothels to rescue and rehabilitate sex workers were actually harmful to the health of sex workers insofar as they stymied efforts to prevent the spread of AIDS. Ahmed and Seshu warn against the conflation of sex work and trafficking and call for greater inclusion of sex workers in projects and programs intended to help them (164). While trafficking does

happen, and it is a clear abuse of human rights, there are also voluntary sex workers who rely on sex work as a legitimate form of labor. Sex work, not trafficking, should be afforded the same benefits and protections as any other form of labor and sex workers should be treated not as children incapable of making their own decision, but as free agents who can and will choose to lead their lives however they wish.

Abolitionists contend that all sex work is trafficking, and all sex workers are victims, regardless of situation, regardless of the sex worker's own beliefs, convictions, and reality. Preservationists dispute this claim, instead advocating for autonomy and agency, along with a clear and specific distinction between trafficking, which is forced, and sex work, which is a voluntary form of labor, just like any other job or occupation.

Though now known as the gold standard for an abolitionist state when it comes to prostitution policy, France was first noticed for addressing the "problem of prostitution" through a regulatory regime. Alexandre Parent-Duchâtelet, a public health specialist, focused on removing unsightly "waste" from society, including sewage, corpses ... and prostitutes. He had such strong convictions about how to hide sex work from high-class society that he was able to draft and eventually institute various policies that worked to hide the truth of brothels, prostitutes, and infidelity from the bourgeois class. It was imperative to him that wealthy young women be shielded from the horrors of prostitution, and wealthy young men be kept in the dark for as long as possible, urging them not to succumb to sex workers in order to keep the family line pure. Along with the upsurge in syphilis cases, the French government decided it was in the nation's best interests to regulate and control prostitution. This system, which regulated prostitution through the use of mandatory registration, health checkups, and a 'morality police' force, was in place for most of the nineteenth century and until the end of World War II.

However, with the end of the war and a newfound commitment to the rise of abolitionism, spearheaded by Josephine Butler, France began to adopt more restrictive policies led by religious figures and radical feminists.

In the 1980s, prostitution emerged as a public health threat again with the rise of AIDS, and fears about this epidemic spiked in France and throughout the world. This led to Nicolas Sarkozy, as the Minister of the Interior in the 1990s, framing prostitution as an issue of “law and order”, which criminalized prostitutes themselves, opening them to punishments, such as deportations, hefty fines, and prison time, while their clients walked free. This focus coincided with growing concerns about immigration. Since the majority of sex workers at the time were migrants from Eastern Europe or Africa, this played into the anxieties of many native French citizens about the social and demographic changes occurring in the country.

Around the same time in the late 1990s, Sweden adopted a new approach to prostitution. The Swedish, or Nordic model, addresses prostitution not by criminalizing sex workers, but their clients. This is a thinly veiled attempt at total abolition of prostitution, aimed at ending the sale of sex and limiting the business of sex work. Abolitionists still have more control over policy than preservationists, which leads to abolitionist-leaning policies in Europe. Conversely, the Dutch take a vastly different approach to sex work policy, which parallels the original nineteenth century regime in France by means of regulating prostitution as part of the business sector in the Netherlands. This presents new challenges for illegal migrants, as they are unable to participate in the labor force as non-citizens.

Because sex work tends to impact migrants, people of color, transgender people, and low-income people the most, analysis of different identities in conjunction with sex work policy would be an important research path for future study of this topic. Intersectionality is a crucial

component to consider for future policies, policies that are hopefully more accessible for sex workers to continue engaging in their chosen form of labor, free of stigma and criminalization. The Dutch model is a good place to start for France, a country that has historically restricted sex workers' options, from the creation of *maisons closes* in the nineteenth century to the present system that embraces the Nordic model of criminalizing clients. Abolitionist policies which seek to completely eliminate prostitution fail in their goal and only serve to perpetuate the stigma that continuously harms sex workers.

In a joint statement with his Swedish counterpart, French Minister for Foreign Affairs Jean-Yves Le Drian claimed on the occasion of international women's day in March 2019 that both countries have committed themselves to the fight against trafficking, which they explicitly linked to prostitution:

prostitution always means that vulnerable people are forced to live under inhumane circumstances. France and Sweden have taken a clear position against normalizing prostitution as work. Our view is that prostitution is always exploitation of someone's vulnerability – thus prostitution can never be considered a job. We do not accept the use of the term sex work and will fight against its usage (Le Drian and Wallström).

Minister Le Drian praised the fact that both France and Sweden have adopted legislation to criminalize the buying of sex, citing its effectiveness in reducing the demand for prostitution and supporting victims so that they can exit prostitution (Le Drian and Wallström). The reality, however, is that the French government has decreased its assistance to victims of sex trafficking. In 2019, only 64 adult victims of sex and labor trafficking were offered victim assistance through a government-subsidized network of NGO-run shelters while the government estimates that a majority of the approximately 50,000 people are engaged in commercial sex in France, about 90 percent of whom are foreign, are trafficking victims (U.S. Department of State). France's unrealistic and harmful approach does not live up to claims to be a victim-centered approach and

creates more problems than solutions. An approach that truly protects the rights of women and others engaged in sex work, as well as those who are victims of sex trafficking, must include a true commitment to human rights rather than prioritizing prosecution. Only by doing away with this will *liberté, égalité, and fraternité* apply to everyone instead of a select few.

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