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# Debates on Legal Models Regarding Prostitution, with a Focus on the Role of Terminology

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# Debates on Legal Models Regarding Prostitution, with a Focus on the Role of Terminology*

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**Abstract**

*The irreconcilability of clashing human rights principles in debates about the legal models regarding prostitution is widely known among policymakers and social activists in the field, worldwide. However, regulatory and public policy changes have taken place recently, or are taking place, in numerous countries, with relevant developments at the international/supranational level. Meanwhile, the discourse is characterised by a differentiation of terminology that is remarkably nuanced: the choice of words designates a speaker's position in the debate, a document's approach, and the intended impact of a measure. This study, which focuses on but is not limited to Europe, goes beyond exploring the implications and contexts of the terms "prostitution" and "sex work"; and the different interpretations of "dignity".*

## INTRODUCTION

In this paper, we claim that it is virtually impossible to discuss legal or policy issues relating to the sex trade in a neutral manner. The vocabulary used inevitably designates or reveals the speaker's position almost immediately; if not by the first sentence, then certainly by the second. Thus, we must begin with a positionality statement, which is not merely a gesture here, but an inevitable reflection given the concept of our endeavour. As for our perspectives, both our theoretical orientation and the conclusions drawn from our professional experiences have led us towards the abolitionist position (which will be explained below), and what is more, we have both been involved in relevant advocacy activities. What we can strive for while discussing our topic is intense reflexivity and introspection, given that total neutrality is, by the very nature of the topic, impossible both practically and conceptually. As for the title of the paper, we decided not to obscure our position on the subject at the expense of clarity, and we opted to include the term 'prostitution' (below, we will address the significance of this choice). Throughout the paper, we will use this term as a default option to refer to the "exchange of money for sex"[1] (noting that in certain situations, other forms of payment may also be involved instead of money). Moreover, we will use the term 'client' to refer to someone who buys sex, simply because it is widespread and comprehensible; however, by choosing this term we do not intend to imply that buying sex is a legitimate consumer behavior. (In fact, even the phrase we use for the transaction, 'buying sex,' may be considered non-neutral, as we will elaborate below, but we had to choose a commonly used phrasing.)

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[1] This is the wording of the entry on 'prostitution' in the Oxford Dictionary of Law (Law, 2022).

Today, questions related to prostitution are considered important human rights and social justice issues worldwide. Furthermore, the issue inevitably arises as a matter of women's human rights and social equality between women and men, considering the undeniable overrepresentation of women (and girls) among prostitutes, and men among clients.[2] However, much like several other issues that are framed in terms of human rights and social justice, they are surrounded by a lot of controversy. Our initial assertion is that the main questions regarding prostitution are essentially undecidable within the contemporary, secular human rights framework. We will briefly present our reasons for this in Section 1, "An Unresolvable Normative Dilemma".

Due partly to the divergence in normative perceptions of the phenomenon, and to a very significant extent to the different socio-economic and even geopolitical contexts of each country, different legal approaches to prostitution have emerged. In Section 2, "Legal Models Regarding Prostitution" we present and compare the main approaches, together with policy solutions linked to the legislative frameworks.

Chapter 3, "Terminologies of the Legal Models", brings us to the focus of the study: the introduction and comparative analysis of the terms (that we could not avoid using so far, anyway). We pay particular attention to the relevant terminology used in international law instruments, as well as in advocacy documents issued by international organisations. We claim that the differentiation of the vocabulary shows the elaboration of positions and at the same time keeps the debate on legal and policy alternatives in motion.

In order to relate our study to the field of legal anthropology, we will focus not only on the social context and linguistic embeddedness of law (Griffiths, 2017), but also aim to benefit from comparative aspects (Nafziger, 2017). A large proportion of the examples we provide are European, due to our background, namely that this is the context in which we are most familiar. However, our aim was not at all to limit our attention to Europe: as we emphasise throughout the paper, the issues at hand are significant on a global scale and feature on the agendas of intergovernmental organisations as well as international NGOs.

## 1 AN UNRESOLVABLE NORMATIVE DILEMMA

We start with an obvious claim that the issue of prostitution in the 21st century is framed as a human rights and social justice cause, practically on a global scale. At the same time, we also assert – based not only on theoretical literature and relevant human rights documents but also on our own overwhelming advocacy experiences – that debates surrounding prostitution cannot be resolved on the basis of (secular) normative arguments. Of course, it should also be noted that in real life – outside the chambers of constitutional courts – questions related to the legal approach to prostitution are virtually never considered purely on a normative (human rights or fundamental rights) basis. Empirical arguments almost always come into play, concerning the social impacts or effectiveness of the different legal and policy measures, expressed by various indicators, calculations, estimations and forecasts. Finally, no matter how much time is available for the debate, the parties stand up from the table feeling upset and leave the venue with bitter feelings – this is the typical scenario.

Two other issues come to mind that are also associated with frustrating debates and endless controversies in different parts of the world, and both are significantly related to women, just like the issue of prostitution: surrogacy and abortion. Notably, since 2022, when the US Supreme Court overturned Roe v. Wade, the latter topic has moved higher on the agenda

[2] Taking into account male clients of male prostitutes as well.

of global human rights discourse, and it so happened that a series of context-specific, empirical arguments have been exported from the USA to the international arena, which further complicates the situation (Balogh, 2023). However, a systematic comparison of the debates on abortion, surrogacy and prostitution would exceed the scope of this paper. One overlap is still worth highlighting: with the normative questions about these issues, the concept of human dignity inevitably comes up sooner or later. This is hardly a coincidence; rather, it reveals a key issue that must be outlined briefly.

The concept of human dignity is essential to human rights considerations; it is not just one of the human rights, but the foundation and source of all human rights. According to the Preamble of the UN International Covenant on Civil and Political Rights (ICCPR), State Parties considered that the *'recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*', and recognised '*that these rights derive from the inherent dignity of the human person*'.[3] However, as Louis Henkin points out in the introduction to his monograph, *The Age of Rights*, '*we are not told what theory justifies "human dignity" as the source of rights, or how human dignity is defined or its needs determine*d' (Henkin, 1990, p. 7.) Furthermore, Henkin applies this assessment to the expressions of the (international) human rights idea in general – elaborated by politicians and citizens rather than philosophers – by asserting that these expressions '*claim no philosophical foundations, nor do they reflect any clear philosophical assumptions, no particular moral principles, or any single, comprehensive theory of the relation of the individual to society*' (Henkin, 1990, p. 6).

If we take a further step back for an even broader perspective on the problem, Arthur Allen Leff's classic argument might be cited: it is essentially inconceivable how the notion of (equal) human dignity could be grounded on a secular basis. According to Leff, if we presume the existence of God, then the question about the source of human dignity may be answered simply by claiming that it is God who accords all people equal dignity. (Leff, 1979, p. 1248) From a secular perspective, however, if we do not consider the existence of God, every person becomes a "mini-God" (a "Godlet", as Leff puts it). In a situation like this, „[e]*veryone can declare what ought to be for himself, and no one can legitimately criticize anyone else's values* […] *because everyone has equal ethical dignity*", and there is no solution to the question: '*who validates the rules for interactions when there is a multiplicity of Gods, all of identical "rank"*'? (Leff, 1979, p. 1235) These questions raised in the 20th century have not been resolved in recent decades. Christopher McCrudden vividly argues that the different conceptions of human dignity have taken divergent directions: the conception of dignity based on autonomy tends towards individualism, while the conception of dignity that includes relationality, or the concept of interconnectedness, is built on the (abstract) essence of human beings (McCrudden, 2017).

This divergence mentioned above is often illustrated in human rights education by a classic example: the dilemma at the centre of the legal disputes about the practice of "dwarf-tossing"[4] at the end of the 20th century and at the beginning of the 21st century in several countries worldwide. In these events, which likely originated in Australia in the early 1980s, participants would throw "dwarfs" (people with dwarfism) dressed in protective gear onto an air mattress or against velcro-coated walls as a form of amusement. Legal developments surrounding the issue include a high-profile court decision in Germany,[5] a legislative proposal in Canada[6] and

[3] International Covenant on Civil and Political Rights. New York, 16 December 1966, UNTS Vol. 999 (1976) 171.
[4] Also known in English as 'dwarf throwing'; in German: 'Zwergenweitwurf', in French: 'lancer de main'.
[5] Neustadt Administrative Court, NVwZ 1993, 98, judgment of 21 May 1992.
[6] Legislative Assembly of Ontario, Bill 97, Dwarf Tossing Ban Act, 2003.

adopted laws in the USA[7] to ban the practice. A French case eventually reached the UN Human Rights Committee (HRC). The author of the individual complaint, Mr. Wackenheim, who suffered from dwarfism (a condition characterised by unusually short height), had previously participated, for a fee, in so-called "dwarf-tossing" events at a rural disco in France. The background of the case involved a decision of the French Council of State (*Conseil d'État*) from 1995 to ban such events on the principle that "dwarf-tossing" was incompatible with human dignity. According to the complaint submitted to the HRC, Mr. Wackenheim found it nearly impossible to find employment in France as a person living with dwarfism. He did not consider his involvement in dwarf-tossing events to be degrading, as having an income-generating occupation gave him a sense of dignity. He argued that the state (France) violated his rights to freedom, work, respect for private life, and an adequate standard of living, and also claimed he was a victim of discrimination. However, based on the facts presented, the HRC did not find a violation of the ICCPR.[8] In summary, in this case, the complainant raised the individualist, autonomy-based interpretation of dignity, but it did not overturn the interpretation applied by the French state, which considers dignity as an abstract and collective property of humankind.

Returning to the broader topic of the present paper, namely the sex trade, we can also recall a frequently cited German court decision on "peepshows". This serves as another classic example (besides the French dwarf-tossing case) of when a state acted in defence of human dignity "against the will" of the people directly affected (Foster & Sule, 2010, p. 238). In 1981, the German Federal Administrative Court (*Bundesverwaltungsgericht*) had to decide whether the state should shut down peep-show parlours (venues where live sex shows can be viewed for a fee, typically through a peephole or window) to protect the human dignity of the women who perform there, despite the fact that these women claimed they had chosen this occupation voluntarily. The court ultimately decided in favour of the ban, claiming that human dignity is an objective value '*which the individual cannot effectively waive*',[9] because, according to a 1977 decision of the German Constitutional Court (*Bundesverfassungsgericht*), '[t]*he dignity of the human being is something inalienable*'.[10]

The same question of whether dignity can be waived (McCrudden, 2008) arose in the context of prostitution a quarter-century later in South Africa, when the Constitutional Court of South Africa decided, in the *Jordan* case,[11] to uphold the criminalization of selling sexual services. The Court claimed (at para 74) to '*accept that prostitutes may have few alternatives to prostitution'* but asserted that '*the dignity of prostitutes is diminished', because the 'very character of the work they undertake devalues the respect that the Constitution regards as inherent in the human body*.' So, in this case as well, a viewpoint was articulated that dignity is something (collective) that the state must protect, even in opposition to the choices of the individuals involved.

As shown by the illustrations above, at least there is a tradition of conceptualising human dignity as something based on the interconnectedness of people and the objective value of human beings, rather than on autonomy and individual choices, in relation to prostitution and in morally similar situations. This may be related to the *Imago Dei* ("image of God") concept in Christianity and Judaism: the idea that all humans are created in the image and likeness of God. Or it may be

[7] Florida Administrative Code 61A-3.048: Exploitation of Dwarfs; New York State Alcoholic Beverages Control Law § 106. 6-b.
[8] *Manuel Wackenheim v France*. Communication No 854/1999, 15 July 2002, U.N. Doc. CCPR/C/75/D/854/1999, para 7.6.
[9] BVerwGE 64, 274 (15 December 1981): *'auf dessen Beachtung der einzelne nicht wirksam verzichten kann*'.
[10] BVerfGE 45, 187 (21 June 1977): '*Die Würde des Menschen ist etwas Unverfügbares*.'
[11] Jordan v. The State, 2002 (6) SA 642 (CC).

connected to Kant's well-known "Formula of Humanity", according to which we are supposed to treat humans always 'as an end, never merely as a means' (Kant, 1785). Nevertheless, we have also seen that another conceptualization of dignity, based on autonomy and individual choices, has long been present in certain human rights debates, as well as in legal measures and policies; we will explore this further in the sections below.

## 2 LEGAL MODELS REGARDING PROSTITUTION

In this section, given the framework of the paper, we cannot present a detailed chronology of the evolution of legal models regarding prostitution. While we will outline directions and types, we cannot provide an in-depth analysis of the individual legal models currently in operation, including their public policy aspects, due to the diversity of legal and socio-economic contexts in different countries. Furthermore, we do not attempt to draw a world map regarding the current prevalence of each model, although examining geographical and even geopolitical aspects of the trends could be very interesting and relevant, especially because of the mentioned diversity of local contexts. In reality, the approaches are not necessarily implemented in a pure form; even if we look at the main features, there are numerous "mixed model" cases. Additionally, the picture is not static: in many parts of the world, there are ongoing debates about the issue, resulting in plans and proposals to change the legislation regarding prostitution in one direction or another.

To better understand the situation in the third decade of the 21st century, we need to go back in time at least to the last quarter of the 20th century. Back then, on a global scale, the following three-part categorical system seemed to be useful for examining the legal approach concerning prostitution: criminalisation (prohibition), decriminalisation, and legalisation (Shaver, 1985). But at this point, we need to pause and review the concept of prostitution itself, focusing on the actors involved, in order to understand whose/what activities are being legalised, criminalised or decriminalised. In prostitution, by its very nature, at least two parties are involved: the one who buys sex (the client) and the one who provides it (the prostitute). However, in reality, there is often a third party: someone who facilitates the transaction (in a broad sense) or profits from it. This type of actor includes street pimps, brothel or "massage parlour" owners and operators, and those who provide advertising space or rent out rooms to prostitutes. As for the terms applied to the three main models, those can be understood in relation to the activities of these "third type of actors," as well as those of the prostitutes. These approaches can be briefly outlined as follows:

– Under the *criminalisation* model, brothel-keeping and the sale of sex (the activities of prostitutes themselves) are prohibited and subject to criminal sanctions.

– In the *decriminalisation* model, the sale of sex (that is, the activity of prostitutes) is not prohibited by criminal law, and potentially neither are the activities of the "third type of actors," such as pimps or brothel keepers. Decriminalisation does not necessarily mean that selling sex becomes permitted in the sense that it may not be sanctioned by the state. For instance, it may be conceptualized as "soliciting," a public order offense, addressed by administrative law instead of criminal law, and subject to fines instead of prison sentences.

– In the *legalisation* model, the sale of sex is legal, and consequently, the state asserts its claim for a certain level of control and tax revenue related to the market.

The above described categorization system, based on the three main models, was overturned, or placed to another dimension, in the late 1990s, due to developments in Sweden, where

eventually the Law that Prohibits the Purchase of Sexual Services[12] came into effect on 1st January 1999, after a decade-long intensive campaign and advocacy by feminists. This legislation, aimed at *abolishing* prostitution (Ekberg, 2004), proved to be pioneering due to its innovative approach of targeting and sanctioning those who buy sex (the clients). The "Swedish Model" can be considered a form of criminalisation, targeting clients as well as those who promote or profit from prostitution. At the same time, it can also be considered decriminalisation because it does not sanction the sale of sex, that is, the activities of the prostitutes themselves – this is an important element of this legal model. What this model does not do at all is legalisation, because its strategic aim is to eventually eliminate prostitution by turning down demand. Another key characteristic of this model is that, in addition to legal measures, it relies on public policy interventions such as victim assistance, reintegration programs, and soft measures like awareness raising through campaigns or education.

Although it would be unrealistic, or even naïve, to assume that the actual implementation of the above models in individual countries is based on solid and unambiguous normative grounds rather than on balancing various socio-political-economic interests and compromises between demands, the listed legal approaches to prostitution can still be analysed from moral or philosophical perspectives, with a special attention to human rights considerations. The results of our analysis can be summarized briefly as follows:

– The *criminalisation* model is based on the idea that prostitution is not only harmful in terms of its societal impacts but is inherently morally rejectable. Accordingly, those involved on the supply side, including the prostitutes themselves, are considered criminals. Regardless of what one thinks about the relationship between prostitution and human dignity, at the end of the day, this approach is hardly reconcilable with a human rights perspective (whether because we mean that respecting the dignity of prostitutes means recognizing their decision to engage in prostitution as an income-generating activity; or because we see prostitutes as victims deprived of dignity, coerced into prostitution by their circumstances or exploitative forces).

– The *decriminalization* model also tends to consider prostitution as harmful to the society. It adopts a pragmatic approach focusing on harm reduction (such as reducing the spread of sexually transmitted diseases) and increasing state control (such as combating organized crime); it waives strict sanctions against prostitutes in order to achieve these goals. From a human rights perspective, this arrangement is dubious, as it does not even try to address the question of dignity in a consistent, principled way.

– The *abolitionist* model considers prostitution morally rejectable and socially harmful. It primarily holds clients (the demand side of sex trade) responsible. Simultaneously, it aims to deter those who promote the supply side as facilitators or beneficiaries of prostitution, while never blaming the prostitutes themselves. The philosophical foundation of the latter feature is that the abolitionist approach considers prostitution incompatible with human dignity, particularly emphasizing the equality aspect of dignity: it posits prostitution as a product and perpetuator of social inequality between women and men.

– The *legalization* approach also operates within the concept of human dignity, but it applies a different, individualistic understanding. It does not see prostitution as inherently incompatible with human dignity; rather, it views it as a form of income-generating activity or work that individuals may freely choose. In fact, this approach considers it a violation of dignity (understood as autonomy) if someone is restricted in making this choice. In this

[12] Lag (1998:408) om förbud mot köp av sexuella tjänster.

perspective, it is not prostitution itself that is harmful (to the individual), but rather the social exclusion, lack of recognition, and the societal stigma surrounding it.

In addition to the various legal models concerning prostitution, it is essential to mention the concept of *human trafficking* (for the purpose of prostitution). This concept plays a crucial role both as a complementary element to the legislation regarding prostitution within individual countries (whether acknowledging or not the connection between prostitution and human trafficking) and as a "minimum agreement" at the international level among countries with possibly differing legal approaches to prostitution for cooperation to combat transnational organized crime. We may see a historical precursor to this solution if we look at the series of initiatives against "white slave traffic," which began as a social movement in Europe at the end of the 19th century and manifested in international legal documents at the beginning of the 20th century: behind these initiatives were actors with significantly differing views on the legal approach to prostitution (Lammasniemi, 2020). With regards of the 21st century evolution of the concept, the adoption of the UN Trafficking Protocol in 2000[13] means a milestone at the international level (Gallagher, 2001). It is important to note that the 21st-century understanding of the concept of trafficking does not necessarily refer to cross-border situations but rather focuses on exploitation and coercion. The usage of the concept of trafficking as a basis for compromise is about delineating situations within the realm of prostitution that all parties, who otherwise hold differing views on prostitution, agree are unacceptable and should be eliminated, even by sanctioning clients. The debate continues, however, on how exactly to define these situations and the circle of those who should be sanctioned.[14] For example, such a dogmatic debate is recorded in the European Parliament's 2024 decision on the issue of whether clients should be sanctioned only in cases of "knowing use" of sexual services by trafficking victims.[15] Moreover, both supporters of the legalisation and abolitionist models may have concerns with the trafficking framing of prostitution issues. The former may be uncomfortable with the "conflation of sex work and sex trafficking" (Raguparan & Raguparan, 2024). The latter may worry that the gendered issue of prostitution becomes less visible amidst other forms of trafficking, including the more gender-neutral phenomenon of labour force exploitation, but this is more of a concern from a public policy perspective (e.g., allocation of resources for victim assistance and prevention) rather than a legislative one.

## 3 TERMINOLOGIES OF THE LEGAL MODELS

Reviewing the fundamental philosophical questions, the main legal models and their philosophical foundations were essential to reach the focus of the paper, namely, to address the terminological issues. Below, we will overview the key terms associated with the presented legal model, compare them, and examine some additional relevant terms whose connotations are worth considering. It is important to note that when we speak of a term related to a legal model, the term does not necessarily appear in legislative texts but may be found in related policy documents, publications by civil society organisations supporting the model, or statements by politicians. Our aim is to highlight which approach is endorsed by the use of

[13] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, New York, 15 November 2000, United Nations, *Treaty Series*, vol. 2237, p. 319; A/55/383.

[14] As Catharine McKinnon puts it: '*No one defends trafficking. There is no pro-sex-trafficking position anymore than there is a public pro-slavery position for labor these days. The only issue is defining these terms so nothing anyone wants to defend is covered.*' (MacKinnon, 2011).

[15] Report on the regulation of prostitution in the EU: its cross-border implications and impact on gender equality and women's rights, 30.8.2023 (2022/2139(INI)), Committee on Women's Rights and Gender Equality, rapporteur: Maria Noichl, para. 15.

specific terms and to identify terms that supporters of certain approaches would never use, explaining the reasons for this. While this study does not allow for comprehensive discourse analysis, we aim to provide etymological and contextual information about the terms.

We will examine the English version of each term, which is relevant due to the international nature of the topic. Additionally, in non-English contexts known to us, the equivalents or literal translations of these English terms are used, with no significant differences in connotation.

*To start with: how are the different legal models referred to nowadays?*

As for the abolitionist model, proponents have, since the 2010s, started referring to it as the "Equality Model" instead of the previously used terms "Swedish Model" or "Nordic Model". The reason for changing the model's name is not a shift in perspective – this model has been based from the beginning on the philosophical approach that prostitution hinders social equality between men and women – but simply because, after Sweden, Norway, Iceland, and then Canada, several other countries, including France and Israel (i.e., countries beyond the Nordic region of the world), have also implemented this model.

There is a recent shift in self-designation also on the side of the legalization models' proponents. In the advocacy discourse of the 2020s, the main claim of this approach is termed as the "decriminalization" of the sex trade. This can be confusing, as the latter term was previously associated with another approach (discussed above) – namely the one that aimed to eliminate the criminal liability only of those who sell sex, and not of the other two parties: those who buy sex and those who facilitate the sex trade in various ways. The use of the term decriminalization by those who seek to remove the entire system of prostitution from illegality can be seen as a reaction to the trend in several countries toward a novel form of criminalization targeting the purchase of sex under the abolitionist model.

*What are we talking about: "prostitution" or "sex work"?*

As we mentioned in the introductory part of the paper, we opted to use as a default the term "prostitution" for selling sex. The term has been used for a long time[16] and is still widely used, making it a relatively neutral term in modern (international) legal language. Prominently, it is applied by the UN's 1950 Trafficking Convention, the full title of which is as follows: Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.[17] Its use, however, may have specific implications in certain situations.

As for the presented legal models, the use of the term prostitution is entirely organic and self-evident in the context of the criminalisation approach, and quite likely in the context of the decriminalisation approach as well. However, in the context of the likely irresolvable debate between the two "human rights-referenced" approaches – the legalisation and the abolitionist models – the term prostitution becomes politically charged. Those who will use it are typically supporters of the abolitionist approach, particularly radical feminists involved in related social movements.

[16] The word originates from late Latin, based on the verb *prostituere*, meaning to "to expose publicly"; according to the *Oxford English Dictionary*, the earliest known use of the noun is in from the mid-16th century.
[17] Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Lake Success, New York, 21 March 1950, United Nations, *Treaty Series*, vol. 96, p. 271.

On the other side, those who support the legalisation model – considering civil society activism, liberal feminists, and generally the LGBTQ movements – commit to the use of the term "sex work" as a default. In this choice, there may be an aversion to the loaded nature of the term prostitution, its stigmatising effect, and its broader negative connotation (e.g., we often use this term metaphorically to refer to a lack of integrity, such as in the phrase "intellectual prostitution"). But most importantly, it expresses the standpoint that the selling of sex should be recognised as work by both the law and society. At this point, it can be mentioned that this viewpoint is easily associated with the cliché that those who sell sex are practising the "oldest profession." However, this phrase may actually not be very old. It was likely first used by English author Rudyard Kipling in the late 19th century, in a short story set in the city of Lahore (then part of India) (Mattson, 2015). As for the emergence of the term "sex work" in the 2000s (and the popularisation of the concept of legalisation), initiatives associated with Hungarian-born US philanthropist George Soros[18] played a significant role in certain parts of the world, including the former Soviet sphere of interest in Eastern Europe.

Within the framework of the current human rights discourse, given the dichotomy of the abolitionist and the legalisation approach, it may be somewhat confusing when we encounter the term "forced prostitution" in some contexts, as this phrase does not fit into the logic of the binary system defined by the terms "prostitution" and "sex work." On the one hand, according to the legalisation approach, segments of the sex trade involving involuntary participation are categorised as "trafficking for sexual exploitation" (we will discuss the related terminology below). On the other hand, the abolitionist approach contends that there is virtually no such thing as "non-forced prostitution". Those who use nowadays the term "(en)forced prostitution", within a human-rights-based discourse, may not be familiar with contemporary terminology. It may also be a plausible explanation that in complex political situations terminological consistency must be sacrificed on the altar of compromise. Perhaps this was the case when the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee)[19] drafted a general recommendation in 2020 on trafficking in women and girls in the context of global migration;[20] this document also includes the term "enforced prostitution".

In the academic sphere, participants may not be as constrained by the rigidity of the "prostitution v. sex work" terminology.[21] However, for those operating in the political sphere with advocacy goals in this area, consistency in terminology is essential, indeed. Representatives of a "pro-sex-work" NGO, for example, the Global Network of Sex Work Project would only use the term "prostitution" with inverted commas; while the Coalition for the Abolition of Prostitution displays their preferred term in the organisation's name.

In the case of supranational organisations that theoretically do not have a centralised stance (at least beyond certain minimums) on the legal approach to prostitution, the terminology used in each document, sometimes already in the title, can help identify the perspective. For example, in the context of the European Union, the title of the (above already mentioned) 2023 "Report on the regulation of prostitution in the EU: its cross-border implications and impact on gender equality and women's rights" already suggests that the

[18] For example, a Hungarian sociologist Hungary included a disclaimer at the beginning of her paper: '*In this text I will refer to various feminist approaches of commercial sex, therefore I will be using both terms* [prostitution and sexwork] *here*.' (Katona, 2016, p. 89, fn 1).

[19] The CEDAW Committee is a body consisting of 23 independent experts, tasked with monitoring of the implementation of the CEDAW Convention (Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979, United Nations, *Treaty Series*, vol. 1249, p. 13).

[20] General recommendation No.38 (2020) on trafficking in women and girls in the context of global migration, 20 November 2020, CEDAW/C/GC/38.

[21] The Open Society Foundations (OSF), formerly the Open Society Institute (OSI), funded grants, supported policy advocacy, and promoted awareness-raising campaigns in this field.

drafter of the document shares the abolitionist viewpoint of the Swedish/Nordic Model (which is, as mentioned above, nowadays referred to as the Equality Model). The Council of Europe's Commissioner of Human Rights published an opinion piece in 2024 with the title "Protecting the human rights of sex workers".[22] As for the UN, in December 2023, Working Group on discrimination against women and girls issued a guidance on "Eliminating discrimination against sex workers and securing their human rights".[23] A few months earlier, in July 2023, Reem Alsalem, the Special Rapporteur on violence against women and girls released a report on the issue of nationality laws' impact on violence against women and girls.[24] On the cover page of the report, a corrigendum by the Special Rapporteur is displayed: "Paragraph 38: *For* sex work *read* prostitution".[25] One might speculate that a copy editor changed the phrasing without consulting the author. Nevertheless, another report by the same Special Rapporteur, issued in May 2024 with the title 'Prostitution and violence against women and girls',[26] includes an explicit section addressing the issue of terminology. Here, the author of the report acknowledges that '[t]*he concept of prostitution, and the associated terminology, are contentious and polarizing'*.[27] She then commits to not using the term "sex work" as it '*wrongly depicts prostitution as an activity as worthy and dignified as any other work*' and '*fails to take into account the serious human rights violations that characterize the prostitution system*'.[28]

The above cited UN report's section on terminology raises yet another question: what is sold and bought in prostitution transactions? According to the author, who advocates the abolitionist stance, the appropriate term is not "sex", but "sexual acts".[29] However, some abolitionists might not object to using the phrase "buying sex". On the other hand, the term "sexual services" is more commonly associated with the pro-sex work stance.[30] In some contexts, these terms are used interchangeably, possibly as a compromise. This can be illustrated by a 2024 judgment from the European Court of Human Rights (ECtHR) in a case where pro-sex work applicants challenged the abolitionist legislation in France: the inconsistent wording of the court's decision reflects the divergence in terminology preferred by the parties.[31]

*Who are we talking about: "prostitutes", "women in prostitution", or "sex workers"?*

[22] Dunja Mijatović: Protecting the human rights of sex workers, 15 February 2024, https://www.coe.int/en/web/commissioner/-/protecting-the-human-rights-of-sex-workers.
[23] Guidance document of the Working Group on discrimination against women and girls: Eliminating discrimination against sex workers and securing their human rights, 07 December 2023, A/HRC/WG.11/39/1, https://www.ohchr.org/en/documents/tools-and-resources/guidance-document-working-group-discrimination-against-women-and.
[24] Violence against women and girls, nationality laws and statelessness. Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, 28 July 2023, A/78/256, https://www.ohchr.org/en/documents/thematic-reports/a78256-report-special-rapporteur-violence-against-women-and-girls-its.
[25] Italics in the original.
[26] Prostitution and violence against women and girls. Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, 07 May 2024, A/HRC/56/48, https://www.ohchr.org/en/documents/thematic-reports/ahrc5648-prostitution-and-violence-against-women-and-girls-report.
[27] A/HRC/56/48, para. 3.
[28] A/HRC/56/48, para. 6.
[29] A/HRC/56/48, para. 6.
[30] See e.g. the webpage of a pro-sex work NGO, the Human Rights Campaign: Beyond the Stereotypes: A Deep Dive Into Sex Work, https://www.hrc.org/resources/beyond-the-stereotypes-a-deep-dive-into-sex-work.
[31] *M.A. and Others v. France* App. nos. 63664/19 and 4 others (25 July 2024). n this case, the European Court of Human Rights (ECtHR) found that French legislation criminalizing the purchase of sexual acts does not violate the European Convention on Human Rights' provision concerning the "right to respect for private life".

After reviewing the basic issues of using the terms "prostitution" and "sex work", there are still nuances to be addressed; specifically, those terms related to the individuals involved.

Based on grammatical (morphological) rules, in the case of the term "prostitution", we expect the term "prostitute". However, when this term enters the political sphere, it seems to acquire a specific connotation. Not everyone who uses the term "prostitution" also uses the term "prostitute". The latter is primarily associated with the criminalisation model and possibly the decriminalisation model. Those who support the abolitionist model – such as the member organisations of the previously mentioned Coalition for Abolition of Prostitution – are likely to avoid this term. Instead, they may use phrases like "women/persons (exploited) in prostitution;" this is similar to how, in disability activism, the term "person (living) with a disability" is preferred, with the aim of not equating the individual's condition with the individual themselves. The UN Special Rapporteur's above-mentioned thematic report intentionally uses the term "prostituted women and girls", also referring to them as "victims" of prostitution.[32] When talking about those who exited prostitution, abolitionists would use the term "survivors".[33]

In the case of "sex work", the phraseology generally seems straightforward: those who use this term, usually talk about "sex workers". However, there are situations where someone who otherwise uses the term "sex worker" out of principles might still use the term "prostitute"/"prostitution": when talking about children.[34] The reason for this is that even in countries where prostitution is legalised, there is often a minimum age limit (such as 18 years or possibly lower, aligned with the legal working age), below which a child automatically qualifies as a victim in the sex industry. However, in the media, we often encounter examples (from various countries) where journalists, driven perhaps by a misguided attempt at political correctness, use bizarre expressions such as "a 12-year-old sex worker."[35]

### *How do we call the other parties?*

Those who pay in a prostitution transaction are most commonly referred to as "clients", although this term may suggest a normal, legitimate business to some. An abolitionist might prefer a more neutral term, such as "buyer", or a derogatory one, like "john", which is used in US slang. The latter term, which also implies that these individuals are usually men, was used by a Canadian investigative journalist supporting the abolitionist stance in the title of his book about the demand side of the global sex trade (Malarek, 2010).

In the system of prostitution, we can also talk about so-called "third parties" – how we refer to them, however, depends on our standpoint. One well-known term for such a role is the derogatory "pimp" – or its national equivalent – likely used by those who would find the abolition of prostitution desirable. Advocates of this stance might even use the term in the phrase "pimp states", referring to countries with a legalized sex trade (such as the Netherlands, Belgium, Austria, or Switzerland in Europe) that 'profit from the exploitation of prostitution'.[36]

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[32] A/HRC/56/48, para. 6.

[33] For example, a US-based NGO in this field is called the Organization for Prostitution Survivors (OPS), https://www.seattleops.org/.

[34] This terminology approach is applied, for example, by Farvid and Glass in their article discussing the media portrayal of child prostitution in New Zeeland (Arvid & Glass, 2014).

[35] We tested this sentence with ChatGPT, which displayed the message "*This content may violate our content policy*," and then changed "child sex worker" to "child prostitute" – which means that artificial intelligence recognised the controversial nature of the former phrase, unlike many journalists.

[36] European Network of Migrant Women: European 'pimp states' oppose protecting vulnerable women from abuse of prostitution, June 2024, https://www.migrantwomennetwork.org/2024/06/27/unsrvawg-report/.

On the other hand, those who would favour the legalization of the sex industry prefer professional terms, such as "manager", even in the context of street prostitution. An academic publication representing this stance provides the following definitions, for example: '[s]*treet-based managers are* […] *individuals who organize, supervise, and/or coordinate the work of one or several sex workers (usually women) who solicit clients on the street*' (Corriveau & Parent, 2018, p. 56).

*Phrases with "trafficking" and "slavery"*

As mentioned above when presenting legal models, the concept of human trafficking, which would serve as the minimum common ground among those who have differing views on the issue of prostitution, remains subject to further debate regarding its definition and related measures. There is also, sometimes, disagreement regarding the core terminology. When discussing the concept of human trafficking in relation to the sex trade – and not other phenomena currently classified as trafficking (such as labour exploitation or the illegal trade in organs) – the "purpose of trafficking" is usually termed as "sexual exploitation" or "exploitation of prostitution" (Allain, 2020). The previous formulation may appear linguistically more fluent, stylistically more neutral, and, in terms of content, broader, as it includes cases of sex slavery.[37] However, supporters of the abolitionist model may find the use of this term counterproductive,[38] as it diverts attention from the connections between prostitution and human trafficking, as well as from the dynamics of prostitution itself. They may prefer the phrase "exploitation of prostitution (of others)" instead.[39]

Another term worth mentioning here, encountered in the context of (broadly defined) human trafficking, is "modern-day slavery" (or sometimes: "contemporary slavery"). It is not clear which of the approaches to prostitution is preferred by those who use the term, but there is a tendency for the term to be used in human rights campaigns (Bunting & Quirk, 2017) and educational materials. It appears in UN-related contexts, but it is also used by actors linked to the humanities, including history,[40] or cultural anthropology.[41] As for legal use, the Modern Slavery Act 2015 of the United Kingdom[42] may be mentioned, criticized by a feminists NGO supporting the abolitionist stance because, according to their assessment, its design and conceptualization do not make it an effective tool for combating sex trafficking.[43]

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[37] The latter refers to the phenomenon where someone buys a woman or a child for their own sexual use (rather than for selling the woman or the child).

[38] However, US legal scholar Catharine MacKinnon, who is known as a vocal critic of the "sexwork" approach, applies (2011) the term "sexual exploitation" to describe the stance she advocates, which is essentially the abolitionist approach.

[39] See for example the blog post of the Nordic Model Now!, a feminist group based in the United Kingdom: FACT: CEDAW requires countries to fight pimping, 29 April 2018, https://nordicmodelnow.org/facts-about-prostitution/fact-cedaw-requires-countries-to-fight-pimping/

[40] An UNESCO-sponsored teaching material with the title *Contemporary Slavery* was published by the International Slavery Museum (Liverpool) and the Wilberforce Institute for the Study of Slavery and Emancipation (Bard & Rosenberg, 2011).

[41] For example, the author of an essay published in an anthropology magazine with the title "The Very Modern Problem of Slavery" claims that: '*Ethnography and the anthropological method can also help document the concerns and experiences of trafficked people*' (Montgomery, 2019).

[42] Long title: *An Act to make provision about slavery, servitude and forced or compulsory labour and about human trafficking, including provision for the protection of victims; to make provision for an Independent Anti-slavery Commissioner; and for connected purposes*, 2015 c. 30.

[43] Nordic Model Now!: Response to the House of Lords Committee on the Modern Slavery Act 2015's call for evidence, June 2024, https://nordicmodelnow.org/wp-content/uploads/2024/06/NMN-Response-to-the-HoL-Committee-on-the-MSA-call-for-evidence.pdf.

The use of the term "slavery" in the context of human trafficking can evoke the (previously mentioned) historic term "white slavery," which was specifically coined at the end of the 19th century to refer to the international trafficking of white (European) women for prostitution. The issue gained attention in Europe in 1880-81, when it was discovered that underage girls, including foreigners (for example British), were being taken against their will to brothels in Brussels (Chaumont, 2016). The efforts aimed at combating this phenomenon were initiated by citizens' organisations, which subsequently led to the creation of two international legal documents, both signed in Paris, "for the Suppression of the White Slave Traffic" (Allain, 2017): an international agreement in 1904[44] and an international convention in 1910.[45] After World War I, the governance of international cooperation in this field was taken over by the League of Nations. In 1921, it was the League of Nations that organised the International Conference on White Slave Traffic. However, the term "white slavery" was left out of the title of the multilateral treaty adopted at this conference,[46] and from that point, the relevant international law terminology shifted to "trafficking (in women and children)."

## CONCLUSIONS

With this paper, we aimed to demonstrate that discussions on the topic of sex trade can hardly be conducted without the terminology already revealing one's stance. Moreover, inconsistent use of terminology not aligned with a particular viewpoint may indicate a lack of understanding of the stakes of the debate. Such inconsistency might also suggest that the speaker feels pressured in the midst of the debate and attempts, at least rhetorically, to gesture towards each of the debating parties who hold divergent views on the issue of prostitution.

By presenting the parties' adherence to one term or another in the debate, we do not intend to imply that the lack of common terminology itself is the problem, nor that it is merely a matter of shallow political correctness. On the contrary, terminologies are evidently deeply rooted in the internal logic of different positions. This is highlighted by the fact that supporters of the different legal models regarding prostitution may not even agree on the terminology related to the concept of human trafficking, which is intended to serve as common ground for setting standards. The real divide, not surprisingly, is between the two approaches whose proponents both frame their arguments within a human rights framework (and are very likely to characterise their own approach as feminist).

We claim that the two positions are irreconcilable because the concept of human dignity, referenced by both sides, is unable to serve as a common denominator due to the diverging traditions in its interpretation and the ambiguity regarding its justification. The situation could hardly be alleviated through terminological compromises. Our goal in comparing terminologies was to facilitate navigation in debates surrounding prostitution and offer perspectives for evaluating different positions. Although, as we have already indicated, solely assessing terminology is not a foolproof method to identify the position of an author or institution (if they have a consistent position at all), we still consider reflecting on terms to be constructive.

[44] International Agreement for the suppression of the "White Slave Traffic", Paris, 18 May 1904.
[45] International Convention for the Suppression of the White Slave Traffic, Paris, 4 May 1910.
[46] The International Convention for the Suppression of the Traffic in Women and Children, Geneva, 30 September 1921.

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