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Prostitution and Sex Work: Situating Ireland's New Law on Prostitution in the Radical and Liberal Feminist Paradigms

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Abstract

Several distinct ideologies have emerged from feminist theory. However, insofar as feminist ideologies differ, they agree in their recognition that women are essentially oppressed. It is in their explanation as to why oppression occurs and how they propose to combat it that differences arise. Competing ideological perspectives and consequent views on issues such as prostitution and sex work have splintered feminist thinking for decades. This paper discusses the two dominant feminist positions, liberal feminism and radical feminism and reviews their differing perspectives which are especially influential in the Irish prostitution and sex work debate. In exploring these perspectives, we will address defining positions in the debate, such as prostitution is a form of violence in and of itself versus the proposition that prostitution is a form of paid work freely entered into and chosen like any other career. In this paper we will also briefly touch on the ideas of survival and the personal agency of women and the relationship between prostitution and sex trafficking. Finally, we will give a brief outline of the Irish Government's recent legislation on prostitution, passed on 14th February 2017, in the context of the 'Nordic Model' on which it is based.

Key words: Liberal feminism, radical feminism, prostitution, sex work, violence against women, Nordic Model, Ireland, legislative change.

Introduction

Feminism, according to bell hooks (2000, p. 1) is, "a movement to end sexism, sexist exploitation, and oppression". There is no singular definition of "feminism" (Considine & Dukelow, 2009) and feminist ideologies differ but they do agree that women are essentially oppressed. It is in their explanation as to why oppression occurs and how they propose to combat it that differences arise (Williams, 1989). Competing ideologies and consequent political positions on issues such as prostitution and sex work have splintered feminist thinking for decades (Kesler, 2002). We acknowledge the breadth of feminist perspectives, outlined in Table 1, but the focus of this paper is on the two dominant positions, namely radical and liberal feminism. We will review these two perspectives which are especially influential in the current Irish prostitution and sex work debate. In surveying these perspectives, we will address a number of issues related to the debate. These include the opposing perspectives which view prostitution as either male violence or as a form of paid work freely entered into and chosen like any other form of work. In our paper we will also briefly touch on the ideas of survival and agency of women and the relationship between prostitution and sex trafficking. Finally, we will outline the Irish Government's recent legislation on prostitution, the *Criminal Law (Sexual Offences) Act 2017*, which was passed into law on 14th February 2017, in the context of the 'Nordic Model' on which this legislation is based.

Table 1: Varieties of feminism and their response to prostitution

Types of feminism	Source of women’s oppression	Role of individual choice	Solution to prostitution	Role of women as prostitute	Degrading effects	Legal preferences
Radical	Male supremacy or patriarchy – prostitution is the most oppressive form of male sexual supremacy.	No choice – women are coerced.	Eradication of male oppression and patriarchy.	The prostituted is a victim. Prostitution harms the person and all women.	Prostitution is rape and slavery, and harmful to all women not just the prostituted.	The Nordic Model To abolish or eradicate prostitution as a social practice. Penalise male demand for paid sex of prostitution and decriminalise the prostituted person.
Liberal	Women are oppressed, but this inequality stems from lack of social freedom.	The individual acts on free choice and can chose to enter, without coercion into the transaction she chooses.	The need for education and promoting equality between men and woman.	The “sex worker” is an entrepreneur and is free, as her right, to enter into a private contractual business transaction.	Like other forms of business where woman are oppressed, prostitution is no different.	Decriminalisation. To seek for the decriminalisation of the sex trade, the prostitute and the buyer.
Socialist	Seek to analyse economic, cultural oppression with an emphasis on economic inequality and social conditions and analyse patriarchy as secondary.	Because of capitalism women are coerced into prostitution by the construction of social class system and poverty.	When capitalism ends so will prostitution.	People are categorised into classes and are objectified.	The prostitute is a victim of the capitalist system.	Non-legal route that transcends politics.
Black	State is the source of women’s oppression and is multiple across race, gender and class.	Women are forced due to war, poverty, conflict, discrimination and repression and monetary gain.	Re-organisation of the “division of labour”.	Exploitation of female sexuality by profiteers, also the objectification of women’s dignity.	The prostituted are seen as the victim: An unnatural act and a violation of instincts.	End to international racial divisions.

Table 1 (contd.): Varieties of feminism and their response to prostitution

Types of feminism	Source of women's oppression	Role of individual choice	Solution to prostitution	Role of women as prostitute	Degrading effects	Legal preferences
Post-Modern Feminism	Limited access to material resources and the weight of structural forces. Women and men are not always victims of prostitution but victims of a restrictive system that criminalises their work.	Views prostitution and sex work as an individual choice. The "otherness" of the person [prostitute] reinforces a status that is unacceptable which has denied the sex worker her/his human rights.	Focus on "a multiplicity of subject" experiences- men, women transgender etc.- calls for full protection of women and men in prostitution.	No experience can be the same as another-not just a female issue and analyses both men and women experience.	Prostitution is neither inherently oppressive, exploitive or empowering. Each individual experience is unique.	Decriminalisation of the sex trade and focus on labour/work conditions, rather than the inequalities that exist between men and women.

The Radical Perspective: Prostitution as a Condition of Patriarchy and Gendered Oppression

Radical feminists are critical of gender itself and argue that it must be abolished. In *Gender Hurts* (2014, pp. 1-2) for example, Sheila Jeffreys outlines that the idea of gender "is the foundation of the political system of male domination. "Gender" in traditional patriarchal thinking, ascribes skirts, high heels and a love of unpaid domestic labour to those with female biology, and comfortable clothing, enterprise and initiative to those with male biology". In relation to prostitution Coy (2012, pp. 4-5) also argues that prostitution reflects and reproduces unequal gender orders which are "both individual and systematic: prostitution as a gender regime reproduces gender as a hierarchy and thus undermines movements towards gender equality".

Radical feminists and feminist "abolitionists", (who want to abolish the regulation of prostitution) such as Janice Raymond (2013), Kathleen Barry (1995) and Sheila Jeffreys (1997) regard prostitution as sexual exploitation, in the same way they view rape and domestic violence: all terrorism of women by men. Prostitution is a predominately female experience (Belser et al., 2005) leading radical feminists to argue that prostitution is a gendered, misogynist construction, inseparable from all women's experience of sexual exploitation (Barry, 1995). From a radical feminist perspective, the sex of prostitution is the most oppressive act of male supremacy (Jeffreys, 1997; 2009; 2010) and the cornerstone of sexual exploitation (Barry, 1979; 1995). The system of domination of women is a by-product of patriarchy and the public recognition of men's mastery (MacKinnon, 1993). Exploitation of women is seen, not just in pornography or when it is "against our will", but rather "the foundation of women's subordination and the base from which discrimination against women is constructed and enacted" (Barry, 1995, p. 11). In this radical perspective, men are the main beneficiaries of

women's subordination in areas not traditionally considered by social science. From this perspective male domination of women occurs across a range of social roles and in every day interactions such as in the matter of who does the housework, and males interrupting women in conversation (Walby, 1990). In this view, male domination is not just confined to a woman's

private world but also to her public world, hence the expression "the personal is political" (Walby, 1990). As Barry (1995, p. 88) argues, feminist ideology cannot replace political consciousness, and must "confront dominant ideologies not only in the state but also in the home, not only in the public but also in the bed".

Radical feminists assert that prostitution must be confronted as a condition of oppression (Barry, 1995) the root of which is biological and exercised through the medium of sexuality (Scoular, 2004). Williams (1989, p. 52) points out that women are oppressed, "as a group or class, by men as a group or class". When prostitution is examined from a human rights perspective

the determination of harm must rest on the act, not only individually but collectively in women's class condition. If the act exploits, it is in itself destructive of human life, well-being, integrity, and dignity. That is violation. And when it is gendered, repeated over and over in and on woman after woman, that is oppression (Barry, 1995, p. 70).

A central part of this analysis is that gender is a tool of women's oppression, not women's liberation. Radical feminists are of the view that gender is a constructed power arrangement that relegates women to a social status that is secondary to men. In critiquing this stance Scoular (2004) argues that the radical perspective is essentialist, reducing women's identity down to one single trait. The radical perspective is thus challenged and accused of contributing to the myth of "potent men and submissive women, rather than transforming them" (Scoular, 2004, p. 345). Similarly, Kesler (2002) finds it ironic that a feminist analysis would reduce a woman down to her body and objectify her in this way. From Kesler's (2002) liberal perspective women's biology has no place in determining their inequality. However, the body of a woman is central to the radical analysis, because "women's experience of the world starts from the body" (Jeffreys, 2009, p. 317). A woman may own her body, but it is not always under her control, and prostitution, pornography, sexual harassment and violence towards women turns women's bodies into instruments of sexual objectification (Jeffreys, 2009).

The Liberal Perspective: Sex Work as a Choice

Jeffreys (2009) characterises the liberal feminist position on prostitution as sex work, a legitimate form of paid work and an expression of choice and agency. The right to choose or consent to prostitution is seen as progressive by liberal feminists and they have become reluctant to view prostitution as sexual violence (Jeffreys, 1997). The liberal sex work position began to gain momentum from the 1980s, when it rejected the notion that prostitution or pornography was abusive to women. Instead, prostitution is viewed by some sex workers' rights organisations as a form of women's liberation, sexual freedom and sex positive. Proponents of the sex work proposition, such as Vanwesenbeeck (2013, p. 11) suggest that sex work is a "rational, financially motivated choice by adult women in a context of limited (other) career possibilities". Prostitution is seen as "natural" and determined by a rationale whereby the individual is merely maximizing her or his profit (Van der Veen, 2001). This belief stems

from “contract theory” where like in a contract, there is free exchange “for a given period in exchange for money” (Pateman, 2006, p. 52). The contract theory then postulates that the sex worker does not sell “*herself*”, per se, or even her sexual parts, but contracts her sexual services” (Pateman, 2006, p. 52, emphasis in original).

Weitzer (2005; 2006), a sex work advocate, suggests that rather than view women as victims, puerile and incapable of making a decision, prostitution can also be viewed as a form of resistance to social sexual norms. From this perspective prostitution can combat poverty when used by a woman to support herself and her family (Dorfman, 2011). It can also be seen as a choice (Vanweeenbeck, 2013) and it can promote self-efficacy (Weitzer, 2006). Many sex workers, argues Weitzer (2006), do not see themselves as prostituted or victims, but rather as working women. In research on prostitution by Wilson and Butler (2013), Cobbina and Oselin (2011) and Tomura (2009), women do not describe themselves as prostitutes but redefine their position as work. Similarly, Sanders’ (2005) research on English prostitutes reveal stories about how they believe that they provide a legitimate service and help society by preventing adulterous relationships. Van der Veen (2001) notes that prostitution rights’ advocates maintain that there is considerable skill, dedication and technique involved in the work of a prostitute. COYOTE (Call Off Your Tired Ethics), an American prostitutes’ rights organisation, has called for the complete decriminalisation of prostitution. Their main argument is that selling sex is the same as other types of work women do, such as, dancing, modelling, art or practising law (Thio and Taylor, 2012).

The radical feminist perspective argues that this prostitution construction of sexuality is “sex negative” where women are eroticized by male subordination and domination within the sex industry (Jeffreys, 2009, p. 316). Barry (1995) notes that in the period since the emergence of feminism in the 1960s the feminist catchphrase of the “personal is political” has been substituted with apolitical liberation. Many feminists have disassociated themselves from the very conditions that have produced crises such as teenage pregnancy, sexual exploitation and pornography. The movement has been replaced with political correctness and has elevated personal choice and consent as a condition of freedom “above *any* concept of a common good or collective well-being” (Barry, 1995, p. 83, emphasis in original). The question of how women came to “choose” and what they had to “choose” from was avoided. This ultimately put the responsibility of prostitution on the prostituted woman separating her from other women, obscuring male culpability and ignoring the idea “that prostitution is not about or for women, but for men” (Jeffreys 1997, p. 135).

Kesler (2002), a former prostitute and now an academic and feminist, asks what of women who freely choose prostitution? She argues that to tell a woman that her choice is an illusion, forces victimisation. However, she also acknowledges the complexity of this statement because, as one woman in prostitution explains: “I like to believe I have some kind of free choice. Some choice in my life. That I choose the lesser evil” (Kesler, 2002, p. 223). MacKinnon (1993, p. 27) argues most, if not all, of prostitution is forced and “not something a woman, absent force, would choose to do”. Often ignored is the fact that it is mostly women who have the fewest options who are the ones most likely to be found prostituted. The liberal approach when applied to prostitution essentially means liberal access to women by men, and entails that all women can be prostituted (MacKinnon, 1993). The idea that liberation of women can be gained through prostitution has become a popular marketing strategy in the liberal discourse and is designed to glamorise slavery, according to MacKinnon (1993). However, “to be a slave is to be deprived of liberty, not to exercise it” and prostitution exposes the limitations of freedom

that prostituted women face, denying women's humanity and personal security (MacKinnon, 1993, p. 14).

Those who have survived prostitution explain that choice was more explicitly used when they left as opposed to entering it (Jeffreys, 1997). Choice implies a rational choice or, as Rachel

Moran, an Irish survivor of prostitution, puts it, "if a woman has no viable choice then she may as well have no choice at all" (Moran, 2013, p. 161). In essence, if we are to believe that women freely choose to enter prostitution we ally ourselves with "a patriarchal culture of blaming women who make their own beds and therefore must lie in them" (Raymond, 2013, p. 34). It is understandable, considering the extent of the stigma, abuse and violence that surrounds prostitution and how it impacts on women's lives that sex workers would want to reconstruct prostitution as an honourable profession (O'Connell Davidson, 2002). As Jeffreys (1997) notes:

The skills that all prostituted women must develop are those which allow them to *survive*, such as disassociation, being alert to danger, and limiting the activities that the customer's request to those the prostituted woman is prepared to accept without too much damage to her health and sense of self (Jeffreys 1997, p. 168, emphasis in original).

O'Connell Davidson (2002) makes the point that performing the tasks required of the prostitute in order to satisfy their male clients' "sexual needs" and redefine it as work or choice is a difficult argument to sustain.

Survivors and Agency

Sex industry advocates reject the notion that all prostitutes are victims and draw a sharp distinction between victimhood and agency. As Sheila Jeffries (2009, p. 318) argues "If prostitutes were 'victims', they could not possibly exude sexuality". Weitzer (2005; 2006) and Elena Jeffreys (2005) explain that radical feminists tend to use a victim narrative with words such as prostituted women, sex slave or survivors which deprives women of agency. However, Raymond (2013) argues that agency under oppression is usually found in resistance whereas sex industry advocates only locate women's agency when she conforms to the sex industry, not when she resists it. Furthermore, neither agency nor victimhood can be separated out in this way for "women who suffer violence are victimised by men who abuse them, but this does not mean they are deprived of agency" (Jeffreys, 2009, p. 318).

Radical feminists recognise that many women use prostitution as an active strategy to survive (Barry, 1979). Therefore, both victimhood and agency are not separate but rather coexist (Miriam, 2005, cited in Jeffreys, 2009). Watson (2011) describes, for example, how survival sex is commonly associated with young women (18-25-years-old) who are experiencing homelessness. Because they have limited resources they use sex and intimate relationships, often the only resources at their disposal, and use sex "as a form of capital to manage structural inequality" (Watson, 2011, p. 640). However, intimate relationships can also be abusive and sexual abuse, violence and rape were common among many of the participants in Watson's study. One woman articulated that her risk of sexual violence increased when she did not have an intimate partner (Watson, 2011). Other women described the use of "agency" in their

“choice” of having “consensual” survival sex and often engaged in sex to stop sexual assaults from occurring. Women use their agency by applying survival sex as a strategy for protection from men. However, for many it is “considered as part of a risk management plan or the best prospect among the dearth of available options” (Watson, 2011, p. 649). Thus, as Raymond (2013) articulates, agency under patriarchal oppression is hard to achieve. Furthermore, “passivity might be chosen as a strategy, and perhaps a misguided one, but is likely to be the result of a determination to survive” (Jeffreys, 1997, p. 115).

Prostitution as Violence Against Women

Elena Jeffreys (2005, p. 20), a sex work advocate, rejects the notion that prostitution is exploitative and seeks to redefine prostitution as a form of work and an “act of liberation from the shackles of the family”. Weitzer (2006, p. 33) also notes that the “outlandish claims” made by radical feminists against prostitution are exaggerated and dubious. By constantly repeating the mantra that prostitution is violence by definition, Weitzer (2006) insists the radical feminists gain endorsements from political leaders in the hope of gathering support for its eradication. Weitzer (2005) critiques the ‘prostitution is male violence’ radical perspective as it views prostitution along an oppression paradigm. After all, Weitzer (2006, p. 34) adds, “Who can endorse prostitution if it is all about violence against women?” Weitzer (2006) argues that violence is not as prevalent as many anti-prostitution activists claim and is experienced more by street workers rather than indoor workers. However, he also notes in the same article “having said that, the research does indicate that violence is more of an occupational hazard” (Weitzer, 2006, p. 35).

Indeed, research shows us that prostitution causes great psychological (Farley, 2004), physical (Potterat et al., 2004) and emotional harm (Farley et al., 1998) to many women. Jeffreys (2010) has argued that as prostitution has become normalised and so too have the harms that are intrinsic to it. Sex traders, especially women, experience post-traumatic stress disorder as an outcome of being prostituted (Farley et al., 1998) and in many cases it involves a “lifelong continuum of sexual exploitation and violence” (Farley and Kelly, 2000, p. 2). The full extent of violence that is present in prostitution is beyond the scope of this article, but as Farley and Kelly highlight that:

for the vast majority of the world’s prostituted women, prostitution is the experience of being hunted, dominated, harassed, assaulted, and battered. Intrinsic to prostitution are numerous violations of human rights: sexual harassment, economic servitude, educational deprivation, job discrimination, domestic violence, racism, classism, vulnerability to frequent physical and sexual assault, and being subjected to body invasions which are equivalent to torture (Farley and Kelly, 2000, p. 29).

Ugly Mugs Ireland (2014), a pro-sex work scheme that aims to improve the safety of sex workers, explains most male clients are “good”, but many sex workers in Ireland have reported incidences of abuse from male clients, including, attempted rape, assault, robbery, vaginal rape, forced oral sex and anal rape. Due to workplace violence prostituted women face considerable stressors. As one woman frames her experience, “I wonder why I keep going to therapists and telling them I can’t sleep, and I have nightmares. They pass right over the fact that I was a prostitute and I was beaten with 2 x 4 boards” (Farley and Barkan, 1998, p. 46). Jeffreys (2009) notes that a sex work agency in Australia, where escort and brothel prostitution is legalised, warns women “to be careful when using anaesthetic in the vagina against the ordinary pain of

being penetrated, because this can mask more serious injuries” (RhED, n.d. cited in Jeffreys 2009, p. 319). As Jeffreys (2009) observes blood, pain, anal and vaginal penetration, pregnancy, abortion, rape, sexually transmitted diseases and abuse make up a large part of what women experience in prostitution, quite unlike other forms of “work”.

Regardless of physical location, violence is prevalent in prostitution and despite sex work advocates, such as Weitzer (2006), insisting that off-street prostitution is safer, this is not the case (Raymond, 2013; Farley et al., 2003). One pro sex-work group, Sex Workers Project (SWP, 2005) produced a report to assess the indoor sex trade in New York. Their report *Behind Closed Doors* shows how forty-six percent of respondents have been forced by a client to do something he or she did not want to do. Forty-two percent of respondents have been threatened or beaten. Thirty-one percent of the respondents have been robbed (SWP, 2005). To deny that violence in prostitution exists and not to consider prostitution as a human rights violation “is a clinical denial of harm” (Farley and Kelly, 2000, p. 12).

The Language of Trafficking and Prostitution

One common argument in the bitter divide between radical and liberal feminists is that trafficking and prostitution are separate issues and according to liberal feminism should not be concerned with trafficking (Weitzer, 2006). Just as globalisation has increased so has the trafficking of poor women to richer countries, in what Jeffreys (2009, p. 316) calls, “the outsourcing of women’s subordination”. Vanwesenbeeck (2013, p. 12) offers an alternative position, arguing that large groups of women simply “‘follow the money’ and travel or migrate to wherever large groups of men with money can be found”. He also argues that the anti-trafficking lobby have systematically blurred the lines between prostitution and sex trafficking. He notes that whilst deceit, violence and coercion of “female migrant sex workers” is prevalent it also varies widely, and he adds, “Because there is so much money to be made by female sex workers in a predominantly heterosexual sex business, they are often and more violently targeted by organised crime than male sex workers” (Vanwesenbeeck, 2013, p. 14).

According to Weitzer (2006) the unverified global numbers of trafficked victims are inflated and the horrific stories of a few are used to represent all. Raymond (2013, p. 4) argues that sex worker “apologists”, such as Weitzer (2010) and others who support the sex trade, trivialise the lack of statistics which have led to trafficking victims to be viewed with suspicion (see also *P. v The Chief Superintendent*, 2015). Raymond (2013, p. 6) asks, are we supposed to feel “proportional revulsion” to a few more or a few less trafficked human beings before we take action? On the other hand, Weitzer (2006, p. 37) argues that most trafficked women are not victims but complicit in their “choices to migrate in search of work”. Furthermore, he also notes that many women who were sex workers in their country of origin knew that they would engage in sex work once they arrived at their destination (Weitzer, 2006). *The Behind Closed Doors Report* (SWP, 2005) also shows how trafficked women who worked as prostitutes in their country of origin may have known that they were to continue as sex workers in the U.S. However, “they did not realize that they would be beaten or threatened, and have their money taken from them” (SWP, 2005, p. 52). Farley et al. (2003, p. 65) argue that prostitution and sex trafficking are “not in reality a free choice made from a range of options”. Additionally, according to Farley & Lynne (2003, p. 63), “the triple force of race, sex and class inequality” effects First Nations women and aboriginal women in countries such as Canada and Australia who are trafficked, either within or across international borders, into prostitution (see also Farley and Lynne, 2008).

Weitzer (2006, p. 37) refers to a study of Vietnamese migrants in Cambodia, the vast majority of whom were “assisted by intermediaries” and out of 100 women “only six have been tricked into sex work”. The rest knew that they would be working in the sex trade and did so because of the economic and social hardship they faced in their country of origin. The United Nations Organisation on Drugs and Crime (2014), which administers the 2000 Palermo Protocol on Trafficking in Persons (TIP), shows that parents and women and girls from impoverished families are especially vulnerable to the practice of trafficking and exploitation. In Cambodia, for example there is a high male demand for child prostitution and men from Asian countries, the United States and Europe travel to Cambodia to engage in child sex tourism (US Department of State, 2014).

Weitzer (2006) also argues that grandiose claims and the language used by radical feminists are strategies to alarm, outrage and horrify members of the public. Furthermore, according to Weitzer (2006, p. 37), “the linkage of women and children” to the prostitution and sex trafficking debate contributes to the increase in the moral panic on sex trafficking. Weitzer (2006, p. 36) claims that the yearly reports produced by TIP have become infamous, filled with “shocking pronouncements” and could have been written by any radical or religious conservative activist. He cites William McDonald (2004) who argued that anti-trafficking campaigners have “exploited anecdotal horror stories” of the “innocent, young girl dragged off against her will to distant lands to satisfy the insatiable sexual cravings of wanton men” (Weitzer, 2006, p. 38).

However, as Andrea Dworkin wrote (1989, n.p.), “we cannot afford to overlook the real power and the real meaning of words or the real uses to which words are put”. Discourse used by the pro-prostitution lobbyists have transformed prostitution into sex work, pimps into third-party business agents or sex work service licensees, brothels are safe places, and victims of trafficking are migrant sex workers facilitated by helpful people movers (Raymond, 2013, p. xiii). This discourse sanitises what is an inherently dangerous industry where women are held in check, controlled and exploited and it also characterises “sex work” as a chic and safe activity (Raymond, 2013, p. xiii). The discourse used by the pro-prostitution lobby does not accord with the reality of the experience of being sexually used by many men daily, unable to refuse any practice or any male, whilst under the control of overseers and receiving no payment until a putative debt, made by the trafficker and added to daily for personal items, is paid off (Jeffreys, 2009, p. 319).

Skilbrei and Holmström (2015, p. 500) agree that there are no reliable estimates that can establish the size of “such markets” and this poses a challenge as numbers can become distorted. A minority of men are trafficked and sold for exploitation but prostitution is predominantly a female experience. Men and women who engage in prostitution as sellers also experience it differently. However, both have one thing in common: “the customers are overwhelmingly male” and exist to serve men exclusively (Jeffreys, 1997, p. 103). Skilbrei and Holmström (2015) further argue that prioritising gender in the debate ignores factors such as poverty as a cause for the existence of prostitution. Similarly, Weitzer (2006, p. 37) argues that the anti-trafficking movement has failed to recognise that poverty is a barrier to women’s equality and calls for an approach that tackles this rather than attacking prostitution or individuals who “migrate in the search for work”. Poverty has been widely cited as a cause of

prostitution. However, as Jeffreys (2009) notes, men experience poverty too but there is no ready market for their bodies. This is because according to Jeffreys (2009, p. 317) “male

domination constructs prostitution". Whilst poverty is a significant factor in prostitution and makes women particularly vulnerable to sexual exploitation, poverty does not cause prostitution or inequality and prostitution is not a solution to ending it (Jeffreys, 2009). The cause of prostitution is society's attitude towards women. This attitude may lead to the normalisation of prostitution through legalisation, as is the case in some jurisdictions, and men's sense of entitlement to own or gain access to a woman's body through force or payment (Jeffreys, 2009). As Farley et al. (2003, p. 65) note "the institution of prostitution is carefully constructed and promoted"; prostitution and sex trafficking, "exist only in an atmosphere of public, professional and academic indifference". The fact remains that the majority of humans trafficked and prostituted worldwide, 98 per cent, are women and girls (Belser et al., 2005, p. 6). They are trafficked for the purposes of sexual exploitation and sold in the market to meet the demands of male buyers (Jeffreys, 2009).

Legal Remedies – Legalised Sex Work Versus the Criminalisation of the Purchase of Sex Laws

Laws concerning prostitution vary significantly and no legislation can fully protect women from exploitation and abuse. Barry (1995, p. 220) outlines the radical perspective, "each patriarchal state system in its own way locks women into prostitution". On the other hand, Skilbrei and Holmström (2015) write that countries which have regularised or legalised prostitution, ensure the rights of women and men who are sellers of sex, reduce harm and frame prostitution ideologically as work which can be protected by labour rights. The legalisation of sex work has led to the introduction of tolerance zones in some countries (Raymond, 2013). Raymond (2013) explains tolerance zones are a normal practice where prostitution is legalised but these zones are not created to help the women. Instead they are used to "dump them somewhere away from respectable 'folk'" (2013, p. 4). In spite of legislation and even a police presence in prostitution tolerance zones, organised crime has infiltrated many Dutch cities according to former mayor John Cohen, who admits "It appears impossible to create a safe and controllable zone for women that was not open to abuse from organised crime" (Raymond, 2013, p. 88).

Decriminalisation is another legal harm reduction approach to prostitution that has been advocated by some pro-sex work campaigners as it is assumed that it will ease the stigma and increase public tolerance (Sex Workers Alliance Ireland, 2015; Farley and Kelly, 2000). Decriminalisation consists of repealing all laws or provisions against prostitution, as was done in the state of New-South Wales in Australia (1995) and in New Zealand (2003). Mossman (2007, p. 12) explains that the intention of decriminalisation is to turn prostitution into a legitimate business and "remove the social exclusion which makes sex workers vulnerable to exploitation and difficult for them to move out of the industry". However, decriminalisation of the sex trade has not lessened the violence or the stigma that is experienced by women in prostitution (New Zealand Ministry of Justice Report, 2008; Parliament of Victoria Report, 2010). Women and girls continue to be exploited in brothels and on the street in Australia (Reilly and Davies, 2011) and since the introduction of the *Prostitution Reform Act 2003* in New Zealand the Law Review Committee (2008) have declared that indigenous Maori children are at the highest risk of prostitution (New Zealand Ministry of Justice Report, 2008). Despite decriminalisation, they continue to experience violence and harassment by the public and buyers but are *not* more likely to report these incidences to the police in New Zealand (New Zealand Ministry of Justice Report, 2008). Men, on the other hand, are the only winners of the

Prostitution Reform Act and men who buy sex from minors receive lighter sentences since the law was enacted (Stuff.co.nz, n.d.). As Farley and Kelly (2000) note, decriminalisation only serves the interests of the buyer, normalizes the sex industry and does not decrease the violence, stigma, abuse, trauma and humiliation that prostituted women continue to experience. The interest of the buyer is served by removing his stigma (Farley and Kelly, 2000) and in the process directs contempt away from the perpetrator on to the prostituted women who receive denigration and blame (Jeffreys, 1997).

There are alternative solutions. Countries such as Finland (2006) Norway (2009) and Iceland (2009) have introduced a partial ban by criminalising the buying of sex from victims, trafficked persons and pimp-organised prostitution (Skilbrei and Holmström, 2015). Sweden was the first country to confront demand for prostitution by criminalising the purchase of sex (Raymond, 2013). The *Act, Prohibiting the Purchase of Sexual Service*, was introduced in Sweden in 1998 and defines “prostitution [as] a form – a serious form – of male violence against women” (Windberg, 2003, cited in Hinde et al., 2008, p. 68). Under this legislation the demand for prostitution is penalised but it does not penalise the prostituted person and it provides assistance for those wishing to exit prostitution. The Swedish Model was introduced in Norway in 2009, and became known as the Nordic Model. In 2014 the Nordic Model was accepted by the Canadian parliament with the passing of *Bill C36* (Government of Canada, 2014). The British Parliament also began a debate on implementing similar laws (United Kingdom Parliament, 2014). The Home Affairs Select Committee has launched an inquiry into prostitution laws and will focus on whether the burden of responsibility should focus on the buyer rather than those who sell (United Kingdom Parliament, 2015). The Stormont Parliament in Northern Ireland passed Clause 6 of the *Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill*, which criminalises sex buyers, decriminalises the seller, and provides victim assistance (Northern Ireland Assembly, 2015). More recently, in April 2016, the French National Assembly (lower house) has voted to adopt the principles of the Nordic Model in which it recognises prostitution as a form of violence and an obstacle to gender equality (Assemblée Nationale, 2016).

Skilbrei and Holmström (2015) argue that the criminalisation of the purchase of sexual services in the Nordic countries form the basis of a Nordic prostitution regime. They assert that this neo-abolitionist approach works towards banishing prostitution. However, the Nordic Model does more than attend to the “problem of prostitution” (Skilbrei and Holmström, 2015, p. 508). This model recognises a number of vital issues: the majority of women in prostitution globally are victims and not the perpetrators of harm (Day, 2008); prostitution is male violence against women (Farley, 2004; Raymond, 2013); prostitution is a human rights violation (Barry, 1995); prostitution is a barrier to gender equality (Mossman, 2007); and that the Nordic Model challenges male exploitation and violence against women (Raymond, 2013).

The Norwegian Ministry of Justice and Public Security (2014) commissioned research to evaluate the effects of the law. The report shows that by implementing a sex buyer ban, they: (1) changed and challenged attitudes towards buying sex, in particular of young men; (2) reduced the Norwegian sex market; (3) reduced supply by preventing entry into prostitution and the possible sexual exploitation of both men and women in prostitution; (4) protected people in prostitution and supported them to exit; (5) reduced human trafficking for the purposes of sexual exploitation; (6) have concluded that there has been no evidence of more violence against women since the introduction of the law (The Norwegian Ministry of Justice and Public Security, 2014).

Legislative change in Ireland

The Nordic Model became the focus of legislative change in Ireland as an alternative to the *Criminal Law (Sexual Offences) Act 1993*. This Act was gender-neutral as the offences of soliciting and loitering for the purposes of prostitution, permitted prosecution of both prostitutes and their clients. Whilst prostitution was not illegal per se under the legislation, related activities such as pimping, earning a living from a prostitute and brothel keeping were prohibited. It is estimated that there are between 800-1000 “indoor” prostitutes [women] in Ireland at any one time (Kelleher et al., 2009), with one in fifteen men buying sex (Layte et al., 2006). Men dominate and control this industry. It is, therefore a “gender issue” and one of significant unequal power relations (Moran, 2013) in Ireland and across the globe. Prostitution is a global phenomenon and Ward (2010, p. 58) notes that as a consequences of globalisation there has been an increase in “the migration of women to work as prostitutes” and Ireland, she explains “is not immune from this global pattern”. Available data and official reports from the Department of Justice and Equality (2015) provide an overview of the numbers of people suspected of being trafficked for the purposes of sexual exploitation into Ireland since 2009.

Table 2: Trafficking into Ireland 2009-2013

Year	Total Trafficked	M	F	Sexual Exploitation	Minor	Adult
2013	44	11	33	29	16	28
2012	48	17	31	39	23	25
2011	57	9	48	37	7	30
2010	78	5	51	56	15	41
2009	66	8	58	66	17	49

Source: Department of Justice and Equality (2015)

In June 2012 the Department of Justice and Equality initiated a review of the law relating to prostitution by publishing a Discussion Document that outlines different possible legislative approaches to prostitution and arguments for and against them (Department of Justice and Equality, 2012). The Discussion Document was issued to assist a public consultation process on the future direction of legislation on prostitution. The decision to begin this process was based on the knowledge that prostitution was changing in Ireland, becoming more sophisticated and moving away from a predominantly street based activity. A conference was also held in October 2012 by the Department in which international and Irish experts were invited: to submit factual evidence concerning the prevalence of prostitution in Ireland; to profile and outline the experience of those who are affected by prostitution; and to obtain views from contributors as to how legal reform might be achieved. Acting on a request from the then Minister for Justice, Equality and Defence, Alan Shatter TD, The Joint Oireachtas Committee on Justice, Defence and Equality (the Joint Oireachtas Committee) was established and held four public hearings between 12 December 2012 and 6 February 2013. Presentations were made by 26 organisations and individuals and over 800 written submissions were considered for review (Houses of the Oireachtas, 2013a). The material presented was treated as written submissions and was also forwarded to the Committee for review (Houses of the Oireachtas, 2013a). As part of this review members of the Joint Oireachtas Committee also visited Sweden in 2012 to meet those involved with the Nordic Model. These meetings were with senior

politicians, officials and police who worked in the area of prostitution and human trafficking (Houses of the Oireachtas, 2013a). As a result of this review, the Joint Oireachtas Committee recommended that laws banning the purchase of sexual services be introduced in Ireland and that *no* offence would be indicted by a person who sells sexual services (Houses of the Oireachtas, 2013a). The Committee was also of the view that the ban of purchasing sexual services, such as occurred in Sweden, can significantly reduce demand thus reducing the harms associated with prostitution (Houses of the Oireachtas, 2013b).

In September 2015 Frances Fitzgerald, TD, Ireland's Minister for Justice and Equality published the *Criminal Law (Sexual Offences) Bill 2015* (Department of Justice and Equality 2015a). The Bill proposed wide ranging reforms of the law, including stronger sanctions aimed at protecting children from sexual exploitation, child pornography, online grooming and the law on prostitution. It proposed an amendment to the *Criminal Law (Sexual Offences) Act 1993* where it becomes an offence to solicit or pay for the purpose of sexually exploiting a "vulnerable" person. In the Bill, two new offences were to be introduced which "criminalise paying for sexual activity with a prostitute". The first is a general offence of paying to engage in sexual activity with a prostitute and the second is the more serious offence of paying to engage in such sexual activity with a person who has been trafficked. In both cases, the person providing the sexual service does not commit an offence (Department of Justice and Equality, 2015b). The Bill, Minister Fitzgerald explained, "will provide a more effective response to sexual offending within our criminal justice system" and "sends a clear message that purchasing sexual services contributes to exploitation" (Department of Justice and Equality 2014a, n.p.). The position taken by the Irish government was based on the evidence gathered from hearings and submissions to the Joint Oireachtas Committee review. However, there is undoubtedly a leaning towards the radical feminist/abolitionist perspective in this decision as it favours the development of the Nordic Model as an intervention to combat the exploitation of women in the sex-trade.

The Bill completed all stages in Seanad Éireann (the upper house) on 21st January 2016 and Second Stage commenced in the Dáil (lower house) on 28th January 2016 (Department of Justice and Equality, 2016). However, with the dissolution of Dáil Éireann on 3rd February 2016, the Bill did not become law. There was a political commitment from the outgoing government to re-introduce the legislation if re-elected and all major parties also supported the passing of the legislation. The *Criminal Law (Sexual Offences) Bill 2015* was reintroduced in October 2016 and completed all stages of the legislative process in both Houses of the Oireachtas and signed into law by the President in February 2017.

Conclusion

In this review we have shown that there is considerable divergence in thinking between the radical and liberal positions on the prostitution/sex work debate. Radical feminists insist that prostitution must be confronted as a condition of gendered oppression (Barry, 1995). If the act of prostitution exploits and harms, if it is destructive of human life, wellbeing, integrity and dignity, it is a violation, and when it is gendered and repeated on women it is oppression (Barry, 1995). Liberal feminists usually view prostitution as sex work, a legitimate work and an expression of choice and agency. Weitzer (2006, p. 37) argues that victim language, such as "sex slavery" have been used by the anti-prostitution lobby to falsely exaggerate claims about trafficking and to deprive agency to women who choose "to migrate in search of work".

However, the liberal approach has elevated personal choice and consent as a condition of freedom “above *any* concept of a common good or collective well-being” (Barry, 1995, p. 83, emphasis in original). The liberal feminist view and discourse used by the pro-prostitution lobbyists has transformed the trafficking of women for sexual exploitation into “migration of labour” (Jeffreys, 2009) where large groups of women simply “follow the money” and travel or migrate to wherever large groups of men with money can be found” (Vanwesenbeeck, 2013, p. 12).

The fact remains that prostitution is a global male dominated industry and that prostitution causes psychological, physical and emotional harm to women (Farley, 2004; Potterat et al., 2004; Dempsey 2010). Regardless of physical location prostitution is inherently dangerous (Raymond, 2013) and defining it in another way not only discounts women who are prostituted but hinders the development and status of all women (Jeffreys, 2010). Normalising prostitution through legalisation and decriminalisation regimes creates men's sense of entitlement to own or gain access to a woman's body through force or payment (Jeffreys, 2009). The Nordic Model addresses its anonymous perpetrators and challenges male exploitation and violence against women (Raymond, 2013). Ireland's new law, decriminalising the prostituted person and criminalising the buyer, targets demand, challenges society's attitudes to men's violence against women and sends a clear message that the body cannot be sold, bought or violated.

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