

CONCLUDING REMARKS: REFLECTING ON THE DIFFERENCES AND SIMILARITIES OF PROSTITUTION POLICIES AND PRACTICES IN CROATIA AND SLOVENIA

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The purpose of this pilot study was to explore the differences and similarities of the Croatian and Slovenian prostitution regimes, in particular, how they are reflected in legal practices and narratives of sex workers. This task has, however, not been easy. Different policy regimes and the specific structures that shape sex work markets in the two countries have affected our field work as well as the composition of our samples. Though both studies reflect on legal practices, the methodology was adapted to the different contexts. In Croatia we analysed the case law of the misdemeanour and municipal criminal courts in the two main cities of Zagreb and Split for the period 2015-2016. In Slovenia no available case law exists for the analysed period, so the team relied on statistical data and expert interviews. An expert interview with a police officer was also relied upon in assessing sex workers' relationship with the police in the Slovenian context (there were fewer accounts on the topic from the sex workers), which was not the case in the Croatian study. Moreover, the sample of sex workers differed in the two countries (also) in terms of their routes and pathways into prostitution, which influenced their experiences in prostitution. However, some themes were common for both samples, and narratives in both cases included both positive and negative experiences. Sex work is a complex phenomenon, which cannot be discussed in a dichotomous manner. Indeed, this study has challenged the dichotomous theoretical framework (voluntary-involuntary, work-violence, agents-victims) and has laid the groundwork for further empirical studies in the two countries.

As was shown in the chapters on policy and practice, there is little data on prostitution and prostitution markets in both countries. Moreover, there has been little interest in research on this marginalised topic and almost no interest from potential funders in both countries. In Croatia, specifically, prostitution is an under-theorised and under-researched topic. This is the first qualitative research study with sex workers. In Slovenia, similar methodologies were previously used (Pajnik, 2008), but this research brings insight into the field as it is currently shaped, by distinctly focusing on the implications of the policy-legal framework and analysis of sex workers' voices

and needs. Further, this is the first study that has compared sex work in both of the post-socialist countries.

We have shown how prostitution policy and legal framings differ. In Croatia, sex workers are criminalised according to the Act on Misdemeanours against Public Order and Peace, while in Slovenia “engaging in prostitution” was decriminalised in 2003. However, in 2006 an article was reintroduced to the Protection of Public Order Act which penalises the offering of sexual services in public spaces “if it is done in an intrusive way” as an act of indecent behaviour. Even though the fact that there was no case law on this provision in the period 2015 – 2016 may be interpreted as a positive sign of tolerance, the provision itself is problematic as it marginalises (street) prostitution, and reproduces the stereotypical presentation of prostitution as an immoral activity, which deepens the stigma for sex workers. Indeed, as a Croatian provision, it is based on the understanding of prostitution as a “danger” to the well-being of the public. In Croatia, the discourse of “social evil” is the dominant framework of discussing prostitution.

Further, our analysis pointed to both the similarities and differences in criminal law frameworks of regulating prostitution. What is similar in both countries is that the use of sexual services is not considered an offence, except in cases when clients use the services of minors, victims of trafficking (or otherwise compelled in Croatia), though the standards of responsibility differ (in Slovenia, clients are criminalised only if they knew of these circumstances, while in Croatia the standards is “know or should have known”). Secondly, in both countries exploitation of prostitution is criminalised. However, Croatian criminal law regulation of prostitution is more extensive – any form of organising or aiding and abetting prostitution, even without exploitation, is an offence. As shown in the first chapter of the Croatian study, women who work together can be criminalised under this provision. Not only does this not respect the agency of sex workers, it might also undermine sex workers’ health and safety by pushing them into other more exploitative forms of organisation. Hence, we consider this provision problematic.

While the Slovenian criminal code provision focuses on exploitation, a concern was expressed whether the legal framework and practice is attentive enough to differentiate between consensual engagement in prostitution, including its organisational aspects, and cases of abuse and trafficking in human beings. Indeed, it was questioned whether these two articles (abuse of prostitution, trafficking in human beings) are different enough to enable distinct case law. We have pointed to the need to reconsider the thin borderline between consent and abuse and its effects on police and legal practice. We have argued that sex workers should be included in policy making in both Croatia

and Slovenia. This would be made easier if sex workers would get organised, which is lacking in both countries.

After discussing policy framework, we presented the sex workers' experiences in the industry: their pathways into prostitution, ways of organising work, likes and dislikes and some common problems. Neither individual country data nor their comparison is representative and does not allow for generalisation to the whole population of sex workers across the two countries. Differences in samples and legal frameworks were reflected in the narratives of sex workers. In the Slovenian study, which mostly included women who organise their own work by themselves or with other co-workers, the sex work narrative was more prominent and focus was placed on exploring sex workers' organisation practices to assess the effects of decriminalisation. In the Croatian study, which included mostly women in situations of vulnerability in a criminalised context, violence was a prominent topic, and focus was placed on investigating what resources sex workers had to overcome marginalisation and violence. However, both samples included people who find the work stressful and do not feel comfortable with it, as well as those who find pleasure in it, and in both samples, both positive and negative experiences of working were discussed. Moreover, both samples had some commonalities – as reasons for prostitution, the interviewees mostly mentioned being able to earn a living or improving their precarious financial and social status, and all mentioned experiencing stigmatisation.

Sex workers' narratives on clients in both studies have shown that the profiles of clients differ, as do their reasons for buying sexual services. Experiences of sex workers with clients also differ and include positive experiences, such as feeling valued and socialising, as well as negative, such as clients crossing boundaries, treating sex workers in a disrespectful manner, attempting to re-negotiate services or prices or, in some instances, not paying the agreed price, as well as cases of serious physical, sexual and economic violence. The common problem in both studies was the non-reporting of violence, exacerbated in the Croatian context by the criminalisation of engaging in prostitution.

Experiences with intermediaries also differed slightly in the two samples, though some commonalities were found as well. None of the interviewed sex workers worked in exploitative third party arrangements at the moment of the interview: all the Croatian sex workers worked alone, while in the Slovenian sample, one of our interviewees worked under an intermediary. In the Croatian sample, many women had very negative experiences with pimps in the past. Incidents of violence included constant control, sexual violence, physical violence and economic violence. In the Slovenian sample, women did not suffer such instances of violence themselves, but had heard of similar cases from other colleagues, and some experienced economic exploitation when they

worked under the supervision of intermediaries. Furthermore, sex workers in the Slovenian sample also pointed to the arrangements with non-exploitative intermediaries who provide premises and safety for a reasonable provision. In the Croatian study, an example of non-exploitative financial arrangements was presented by a former intermediary. In addition, two minders shared their experiences. The findings of the study thus confirmed that while profiles of intermediaries and their reasons differ, pimp control and violence present significant problems, particularly in the lives of sex workers in vulnerable situations (for example, drug addiction, youth). Moreover, in both countries sex workers were reluctant to report violence because of the perceived and/or experienced discriminatory police attitudes.

The chapters on sex workers' relationship with the police show the differences in sex workers' relationships with the police in the two countries, which are due, at least in part, to different legal frameworks: the role of the police in the Croatian context includes apprehending sex workers, while in Slovenia it is focused on detecting cases of abuse. Only a few sex workers from the Slovenian sample had contact with the police. In the Croatian sample, all sex workers had contact with the police, and all but one were apprehended by the police for prostitution at least once. But sex workers working in Slovenia also reported problems with the police, primarily lack of protection due to discriminatory attitudes of (some of) the police officers towards sex work and sex workers. In Croatia, in addition to this problem, some women reported harassment during arrest and detention, as well as extortion of free sexual services and police corruption. On the other hand, a positive example of police protection was given by one sex worker.

Sex workers in both countries gave recommendations for addressing the problems they face. In both countries this included suggestions for law reform. In Croatia, they advocated decriminalisation and / or legalisation, and in Slovenia, legalisation and/or the need for further regulation that would foremost enable sex workers to enjoy social rights. Moreover, in both countries a need to address stigmatisation was mentioned, as well as the need to improve their relationship with the police, which was particularly emphasised by the sex workers in Croatia. In addition, many sex workers expressed the wish for organisation, learning about rights and improving health. Furthermore, a need for targeted services, particularly for those in situations of vulnerability, arose particularly from the Croatian study. Examples of good practices and international standards on the issues discussed by the sex workers were given in these chapters.

While generalised conclusions about sex workers' experiences of prostitution policies in Croatia and Slovenia and about their differences and similarities cannot conclusively be made on the basis of this study, some recommendations can certainly

be proposed. The study shows some of the problems that some sex workers face under the two policy frameworks and indicates the need to address them. For these policies to be respectful of the human rights of sex workers, as well as feasible and effective, sex workers need to be given a voice in policy-making and implementation. Moreover, further research needs to be undertaken with the sex workers. We hope that this study initiates changes in prostitution policy and research in the two countries, contributes to a more complex understanding of prostitution, challenges the stigmatisation and marginalisation of sex workers and enhances their human rights.