

Abstract

Prostitution is present in every part of the world and is one of the oldest professions. Data on the issue shows, that it is predominately women who are involved in prostitution and men who are buyers of these sexual services. In this context, the question of whether prostitution should be abolished or legalized has been debated throughout international arenas for decades. While the issue of prostitution has been discussed and addressed in many ways, as being violence against women, subordination of women, liberation of women and empowerment of women. It has made it difficult to conclude any right way to address the issue, and to come up with a broad long term research, to answer the question of prostitution. Often policies on prostitution have been developed in the fight against trafficking, for the purpose of sexual exploitation, as the assumption of either legalizing or abolishment of prostitution should decrease trafficking of women. In fact studies have shown that prostitution is connected with human trafficking to some extent, as different legislations on prostitution have had different outcomes on the issue of trafficking.

Moreover, different approaches on prostitution will evidently have different effects on the women involved in prostitution. Thus this research carries out a comparative analysis of two countries – Sweden and the Netherlands focusing on cases with different legislations on prostitution. By applying Carol Lee Bacchi's approach 'rethinking social problems' and 'what it the problem represented to be?' and further two feminist approaches, the neo-abolitionist and the sex work, I answer my research question "*Which policy on prostitution has the best outcome for the women involved in prostitution?*". I can conclude that the both polices on prostitution has pro and cons. Moreover, the two policies differ greatly when addressing prostitution. Furthermore, I can conclude that the Dutch policy on prostitution goes beyond the victimization of the prostitutes, while still addressing the vulnerability. Therefore it appears to be the best policy on prostitution when addressing the best outcome for the women involved in prostitution. Lastly, I can conclude that prostitution is a complex phenomena, which needs to address the women involved and moreover the states in Europe would need to finance a long termed research to finally answer the question of prostitution.

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1. Introduction:

Prostitution has through history been discussed widely and with different focuses in politics and by social and feminist organizations. The essential question which has

been raised is whether a difference between voluntary and forced prostitution can be made (Raymond, 2003). The regulation of prostitution within Europe is a competence of national parliament, however some regulations are directed to regional or local authorities, such as within certain districts where street prostitution is allowed (European Parliament, 2014). Some may perceive prostitution as a form of labor, whereas others may perceive prostitution as violence against women. Since the mid-1980s, the debate on how to address prostitution within legal frames has become a subject of legislative action. Countries such as the Netherlands and Germany among others have legalized prostitution. This includes the decriminalizing of pimps, brothels and buyers, who is known as ‘customers or johns’ (Raymond, 2003). Another country such as Sweden, has taken a whole other legal approach on prostitution. In Sweden the buyers of sexual services are criminalized while the prostitutes are decriminalized, pressuring the buyers to end the demand of prostitution (Raymond, 2003).

I take as my starting point that countries’ different legislations on prostitution have different impacts on the prostitutes and the buyers of sexual services; this can for example be observed in the case studies of Sweden and the Netherlands. These countries have very different views on whom and what the problem is with prostitution. The different representations create problems for both the prostitutes and the buyers, in forms of discrimination, criminalization, victimization, lack of protection etc. While the Swedish approach focus on the criminalization of the buyers and that prostitution is violence against women (VAW), the Dutch approach focus on prostitution as work instead of a form of violence. Hence, the two prostitution policies will have different effects. Therefore, my research question will be: *which policy on prostitution has the best outcome for the women involved in prostitution?* The best outcomes could be addressing the need for protection and empowerment of the prostitute, and working on changing the norms within society, when it comes to the purchase of sexual services. Moreover, a good outcome could also be going beyond the victimization of the prostitutes while still addressing the vulnerability.

With these distinctive laws on prostitution I wish to examine and answer my research question as mentioned above: “*Which policy on prostitution has*

the best outcome for the women involved in prostitution?” by conducting a case study of Sweden, where the buying of sex is criminalized and of the Netherlands where prostitution is legal. I intend to investigate these cases by using ‘*What is the problem represented to be?*’ by Carol Lee Bacchi along with the method of comparative analysis. Further, Bacchi’s approach will be used to investigate how policies include particular issues while silencing others. Thus, Bacchi’s approach will be used to address these issues by focusing on the problematization of prostitution, rather than the problem. Further, Bacchi’s approach on ‘rethinking social problems’ will be used to examine, how prostitution has become a social problem, within these societies and therefore have become a ‘problem’ that have to be dealt with by regulations. In addition, by applying two contrasting feminists’ views in the comparative analysis, the sex work and the neo-abolitionist I will be able to determine which legal framework on prostitution has the best outcome for the prostitutes.

2. Explanation of research question:

Furthermore, I have to clarify why I have chosen to focus on policies on prostitution. Essentially, I have to highlight that I am aware of that prostitution is a complex phenomenon all over the world. However, I find it interesting to look at Sweden and the Netherlands as they have very different approaches to the issue. I therefore find it essential to examine how these policies and if they have an effect on the women involved in prostitution. Moreover, I find it important to look upon if the outcomes of the policies will have a positive or negative effect on the prostitutes. Furthermore, I find it interesting that there are several different approaches on the issue of prostitution, such as criminalizing all parties – the prostitutes, they buyers and the third parties or criminalizing the third parties, criminalizing the buyers, or legalizing prostitution. I therefore, argue that it is essential to look upon some of these approaches, as I do, in the cases of Sweden and the Netherlands, as the policies differs so much in their way to deal with prostitution. Further, I have chosen Sweden and the Netherlands as they have such different approaches on prostitution, but at the same time they both strive towards gender equality. However, they way they look upon equality differs greatly, as Sweden is working toward a society where violence against women will is non-existing. Thus as the Swedish policy on prostitution looks upon prostitution as a violence against women, the demand of prostitution will have

to end in order to obtain equality. On the other hand, the Netherlands is working toward a gender equal society where prostitution is seen as any other job. Thus, by promoting a woman's right to control what she wants to do with her body, gender equality will be obtained. Additionally, I find it very fascinating to examine how two countries within Europe, and as members of the European Union (EU MS), can have such different approach to prostitution. Moreover, I find it interesting that Sweden and the Netherlands contain similar views in many policy areas, including human rights. The Netherlands for example follows Sweden's lead in public debates on the welfare state and women's rights. On the other hand, the two countries differ radically on issues such as drugs and prostitution. Thus, while being similar in some areas, the countries still have different views on how to approach prostitution (Government of the Netherlands , 2014).

3. Methodology:

In this chapter, the approaches which are used throughout my paper will be represented. I will start by talking about the method by Carol Lee Bacchi *'What is the problem represented to be'* and further I will explain how the comparative method is an important approach to my paper. When focusing on the methodology, I find it important to explain, why methodologies matter and further, as Malin Rönnblom explains it, how it has political implications. According to Rönnblom methodology is related to the concept and idea of *Ontological politics* (Rönnblom, 2012). *Ontological politics* is a compounded term, explained by Annemarie Mol. Ontology defines: "[w]hat belong to the real, the conditions of possibility we live with" (Mol 1999, in Rönnblom, 2012, p.122). Furthermore, when combined with politics it means: [t]hat the conditions of possibility are not given. That the reality does not precede the mundane practices in which we interact with it, but is rather shaped within these practices" (Mol 1999, in Rönnblom, 2012, p. 122). Thus, when focusing on methodology, *ontological politics* indicate how we as researches are shaping the reality we study and further how this reality will have political consequences (Rönnblom, 2012). Moreover, the term *politics* signals how the form of reality we address is produced when researching, therefore I and as Rönnblom does, find this interesting when focusing on the comparison of politics (Rönnblom, 2012).

3.1 Carol Lee Bacchi: What is the problem represented to be?

In this paper, I will use ‘*What is the problem represented to be?*’ (WPR) approach by Carol Lee Bacchi as my method in order to be able to do a broader analysis of my research question. In ‘*Women, Policy and Politics: The Construction of Policy Problems*’ Bacchi describes how the approach is developed and how it is essential to a policy analysis. The approach focuses on the way policies represent *problems* within society and which effect these policies have on the problematics which is addressed. The method allows us to reflect upon how we perceive or think of issues we are confronted with and if and how this will affect how we approach them (Bacchi, Carol Lee, 1999). The aim with this approach is to understand policy better than policy makers do, by examine the unexamined assumptions within implicit problem representations. Moreover, policy according to Bacchi, is not the governments’ best effort to solve any problems, policies will rather address problems from a perspective that renders any solutions meaningless at the onset, because of the way the problems are formulated or perceived (Bacchi, Introducing the ‘What’s the Problem Represented to be?’ approach, 2012). Further, a crucial part of a policy analysis is that there has to be *identification* and an evaluation of *problem representations*, this is the way in which problems get represented within a certain policy. I will use this method to investigate how policies often lay out as if there is only one possible solution to the ‘*problem*’, in my paper, this solution will be either to legalize or to criminalize the buying of sexual services. Here it is essential to look upon how Bacchi suggests that we need to shift the analysis from looking upon possible solutions to looking at the problem. Thus, we should rather examine policies as constituting competing interpretations or representations of political issues. In other words, it means to focus on the discourse in which both the problems and the possible solutions are created (Bacchi, Carol Lee, 1999). Thus, the ‘*What is the problem approach*’ encourages us as policy analysts to reflect upon the interconnections between policy areas, and further to take the issues which have not been reflected upon onto the agenda. Lastly, how certain problems are represented within policies and how these problems get into consideration (Bacchi, Carol Lee, 1999).

The WPR approach is not about making us, the analysts, better to analyze, it is rather to make us understand how policy decisions close off the space for normative debate, as these decisions are portrayed to be the best solution to a certain problem

(Bacchi, Carol Lee, 1999). Furthermore, the task is not to identify how to define a problem, but rather to reveal the assumptions about the nature of the problem. This is more useful because it will allow us to see what is at stake in postulated solutions. Thus, persons talking about problem definition think that something can be done to better the situation and therefore to better the solutions to the problem. The WPR is a complete contrast to this (Bacchi, Carol Lee, 1999). Bacchi refers to *problem representations* in her approach, being about how the 'problem' is represented within a certain policy, as the policy on prostitution, which will be addressed in this paper. In addition, Bacchi argues that every postulated solution is built into a particular representation of what the *problem* is represented to be. Further it is these representation and their implications we need to address when analyzing policies. Additionally, the approach emphasizes the importance of drawing attention to what is left out when problems are being defined (Bacchi, Carol Lee, 1999).

3.2 Problem representation:

To Bacchi, *problem representation* is essential for the WPR approach as it is meant to capture the interest in how problems are described, implied causations and the implication which can follow. Deborah A. Stone defines problem definition in her book '*Policy Paradox and Political Reason*' (1988) as being constructed to win over the most people to one's side and the most leverage over to one's opponents' side (Stone 1988, in Bacchi 1999, p. 36). In any definition of policy problems, we need to ask how that definition also defines interest within parties, how it allocates the roles of the bully and the underdog and moreover, how a different definition could change the power relations. Nevertheless, the representations of those issues, that reach the political agenda and what is recommended and what goes unproblematized is essential in this method (Bacchi, Carol Lee, 1999). Bacchi looks upon Linda Gordon (1988) and her perception of *deviant behavior*. According to Gordon *deviant behavior* becomes a social problem when policymakers perceive it as something threatening to social order and convince society that social action is necessary to control it (Gordon 1988, in Bacchi 1999, p. 37). Prostitution will be addressed as *deviant behavior* in this paper, as it has become a social problem in Sweden and the Netherlands as it is seen as a disruption of social order. Further prostitution has been a debated topic on the political agenda all over the world for a long period of time, as it is seen as something that needs to be controlled within societies. Furthermore, this

approach is important in order to be able to reflect upon which representations dominate and why. Thus, we need a theory that will allow us to consider who become the problem representatives, whose representations get taken up, and whose voices remain unheard (Bacchi, Carol Lee, 1999).

3.3 Policy as Discourse:

The approach takes a shift in focus from the role of values in policy making to the production of meaning. The attention is here not only to the limitations in policy making but also to the role of all experts, this is including theorists, in the production of meaning in policy processes (Bacchi, Carol Lee, 1999). Bacchi's approach calls for problematizations have to be of central focus in an analysis. Thus, the approach turns the attention toward the ways in which problems get constituted in language. The goal is then to examine the language, the concepts, the assumptions and the way they construct the case discursively in a definite way. Hence, the effects of the language used to frame an issue means attending to its rhetoric and this is an important aspect of the approach (Bacchi, Carol Lee, 1999). In addition, the approach focuses on how groups are constituted in policy discourses, these groups will be represented to be the women working within sexual services and the buyers (men) that purchase these sexual services. Rob Watts (1993/1994) tells us how problems or issues only come to be that way when they have become a part of a discourse. Here the possibility of debate and contest about what is being defined as a problem of interest of the State or becoming an object of State policy is highlighted (Watts 1993/1994 in Bacchi 1999, pp. 46-47). Bacchi emphasizes the importance of examining those conditions which are deemed unworthy of this interest. The approach focuses on the discursive construction of policy problems and on the effects, including the lived effects, of the policies with particular constructions.

Lastly *'What is the problem approach'* is criticizing other approaches to policy studies. As Bacchi states other approaches take the material for the analysis as given. An example of this is the analysis of legislations or directives that have been passed already. Here, the approach encourages us to create a more in-depth reflection of a particular policy discussion. Moreover, we also need to reflect upon why and how some issues made it to the political agenda and why others do not. The problems are not given but they are rather a result of social constructions. Therefore this method focuses on the problematics, rather

than on the problems themselves, this helps to demonstrate the role the problems play within the governing processes (Bacchi, Carol Lee, 1999).

Therefore in this paper, the WPR approach will serve as a form of interruption to the presumption that problems are fixed starting points for policy development by using problem-questions as a form of critical practice. Thus, the WPR approach is a resource and a tool for a critical interrogation of public policies. Moreover, this kind of approach will examine how policy proposals contain an implicit representation of what is considered to be the problem representations (Bacchi, Introducing the ‘What’s the Problem Represented to be?’ approach, 2012). This as I will investigate can be the policies on prostitution and how these two different policies in Sweden and in the Netherlands both seem to have an interest in improving the conditions for women involved in prostitution. This is either by eliminating prostitution, as in Sweden or to improve the working conditions for the women currently working in the sex industry, as in the Netherlands. The problem is the question whether prostitution is a form of abuse or is it the just another form of labor. Therefore the task with this approach will be to read these specific policies on prostitution and thereby investigating how the *‘problem’* (prostitution) is represented within them and further to look upon the *problem representations*. (Bacchi, Introducing the ‘What’s the Problem Represented to be?’ approach, 2012). This will be done by using Bacchi’s six questions to identify the effects of these *problem representations*:

1. What is the problem of (e.g. domestic violence, abortion, etc) represented to be, either in a specific policy debate or in a specific policy proposal?
2. What presuppositions or assumptions underlie this representation?
3. What effects are produced by this representation? How are subjects constituted within it? What is likely to change? What is likely to stay the same? What is likely to benefit from this representation?
4. What is left unproblematic in this representation?
5. How would ‘responses’ differ if the ‘problem’ were thought about or represented differently? (Bacchi, Carol Lee, 1999, pp. 12-13)

In Bacchi’s later book *‘Analysing Policy: What is the problem represented to be?’* (2009), how to use these six question within a policy analysis is illustrated (Goodwin, 2012). *Question 1* will be used to examine policies on prostitution in Sweden and in the

Netherlands and how the “*problem*” (*prostitution*) should be addressed. *Question 2* has the objective to access the presumptions and presuppositions that lay within the problem representations. In other words, I will examine what policy makers in Sweden and in the Netherlands may believe should be done to address prostitution. *Question 3* will explore how the particular representation of prostitution has come about, and here I will investigate how key concepts in the policies have become legitimate, for example by looking at why prostitution should be legal or if it should be the buyers of prostitution who should be criminalized. *Question 4* will be used to investigate what has been left unproblematic in the *problem representations* and further, I will be looking at the issues which are silenced in the identified *problem representations*. With *question 5*, I will examine the effects of *problem representations*; this includes both symbolic and material effects of the policies. Finally, *question 6* will highlight how and where these representations of the problem have been produced, disseminated and defended. The aim is therefore to observe how some *problem representations* become dominant as well as how dominant representations can be questioned, disputed and disrupted (Bacchi, 2009 in Goodwin 2012, pp. 25-36).

I will apply these questions to identify the effect of *problem representation* within policies on prostitution in Sweden and in the Netherlands, namely the ‘*The Ban against the Purchase of Sexual Services, 1999*’ and the lift of ‘*The ban on brothels, 2000*’. Moreover, these questions will be used as a structure to my analysis.

4. Comparative method & case study:

Furthermore, I have chosen to use the classical comparative method as a subsequent part of my method which will be used in the comparative analysis of the two country cases. The classical comparative method is explained by Arend Lijphart in his paper ‘*Comparative Politics and the Comparative Method*’ where he defines comparative method as a single basic method in addition to the experimental, statistical and case study method (Lijphart, 1971). Furthermore, it is essential to look upon the difference between method and technique; meaning that a comparative method is a basic method, whereas on the other side technique is a certain and specialized method. Moreover, the comparative method is such a general and simple approach that no methodology of comparative political analysis exists (Lijphart, 1971). However, Lijphart has chosen to perceive comparison as a method of

political enquiry, which is also how I have chosen to look upon it. Being aware of the critiques of comparison, I have selected to compare Sweden and the Netherlands, by using the comparative method and thereby being able to discover the empirical relationships among these variables. The comparative method is usable when general empirical relationships between a few numbers of cases (at least two) are being investigated (Lijphart, 1971). I will use the above mentioned understanding of the comparative method, being examining the general empirical relations between a few number of cases. However, as Lijphart, states there are two main drawback of the comparative method, such as the many variables and the small number of cases (Lijphart, 1971). Nevertheless, despite my awareness about the weaknesses of the comparative method, I have chosen to prioritize the benefits and the strength of this method. Lastly, I find it essential to state that I am aware of the more recent studies on comparative methods which have been made throughout the years. However, not much has changed since Lijphart's studies in 1971. In fact more recent studies on the comparative method still draw upon this classical method (Rönblom, 2012).

I have moreover, chosen to use case study as a part of my research to be able to conduct empirical data on the two countries, namely Sweden and the Netherlands. These two countries are the cases that I have chosen to be able to answer my research question: *Which policy on prostitution has the best outcome for women involved in prostitution?* A case study is an empirical study that focuses on the contemporary phenomenon in-depth and within its real-life context; this is especially when the boundaries between phenomenon and context are not clearly evident. Moreover, the study is suitable for the study of complex social phenomena, which inarguably prostitution is, as discussion thereof must cross the boundaries of multiple disciplines and in general, it is a social issue that is seen as controversial. As case study research includes both single and multiple case studies, I have decided to do a comparative case study, as I consider it highly relevant to examining my problem formulation (Yin, 2009). Regarding my paper it will be identifiable that prostitution is a very complex topic, which can be understood and dealt with in many different ways as it will be shown by the use of two completely different policies on prostitution. Moreover, prostitution is a topic that both influences and is influenced by different aspects, as for example how a certain society perceive prostitution. This could be either as violence against women as it is in Sweden or as a form of liberation for women as

it is in the Netherlands. Thus, case studies appear to be the right choice for the purpose of my research study. As I will be able to analyze two different approaches to prostitution and afterward compare these cases, in order to examine which policy on prostitution has the best outcome for the prostitutes.

5. Research outline:

In my paper I have two cases, namely Sweden and the Netherlands, in order to be able to perform a more in-depth comparison. Additionally, further in this paper I will examine a number of variables in relation to Sweden and the Netherlands. Firstly, the policy on prostitution and then how the policy has affected those involved in prostitution will be studied in each country. Secondly, I will look upon forms of prostitution practiced within the countries. Thirdly, human trafficking will be studied shortly, as both countries have applied regulations on prostitution, to be able to combat the issue of trafficking. Finally, I will present how the above-mentioned indicators affect prostitution and more importantly for this research, those involved in prostitution. These specific variables were chosen, because I believe that by investigating them, I can give a clear answer to my research question.

5.1 Choice of data:

Further, I have chosen to focus primarily on women involved in prostitution, as it is mostly women who are selling sex and men who buy sexual services. However, I find it important to acknowledge that it is not only women, who are involved in prostitution, but it can also be men and people from the lesbian, gay, transsexual and transgender (LGTB) community. I think that it would be a great fallacy not to acknowledge them as a part of the industry of prostitution. Moreover, I am also aware of even though data shows, that it is mostly men who buys sexual services; women and people from the LGTB community are also potential buyers of these services.

5.2 Choice of theory and methodology:

Regarding theories and methodology, I have chosen to use Carol Lee Bacchi, both as a part of my theory and as a part of my methodology. Her approach on 'rethinking social' problems is used as my main theory in the paper, in order to look upon how prostitution may be represented, in policies in Sweden and in the Netherlands as a social problem. Additionally, I also find it essential to examine how these policies effects those involved in prostitution. Further, Carol Lee Bacchi's approach on 'rethinking social problems' will be used to address how prostitution can be portrayed as a social problem within policies on prostitution. In addition, the 'What is the problem represented to be?' (WPR) approach developed by Bacchi is used throughout my comparative analysis, as a structural part while applying Bachhi's six questions along with the use of comparative case analysis This is to give an more in-depth analysis of the policies. Further, the WRP approach's six questions are used to examine what the 'problem' of prostitution is represented to be in Sweden and in the Netherlands. This is to read these policies with a critical eye on how 'prostitution' is represented within the two countries and being able to subject this certain problem representation of the issue. I have chosen Bacchi's work from 1999 as lot of the essential work of her approach, still applies to policy analysis today. However, I have had a look at her more recent work (2009) in order to insure that the use of her theory and method is updated. The most recent addition to the WPR approach includes two questions (Question 3 and 6). The main goal, with these two added questions, is to develop a sharpened awareness of the forms of powers involved in the shaping of problem representations. Additionally, I have chosen to include two feminist approaches as a part of my theory, namely neo-abolishment and the sex work approach, to give an idea on how and from which perception these policies have been developed.

6. Theory:

6.1 Carol Lee Bacchi – Rethinking 'Social Problems'

In *'Women, Policy and Politics: the construction of policy problems'*, Carol Lee Bacchi addresses the sociological literature as an essential part to the construction and representation of policy problems, which assembles her, *'What is the problem represented to be?'* approach. However, Bacchi wishes to underline that she agrees with much of the

criticism made of the representation of the social construction of social problems approaches. As Bacchi notes, her book is referring to the construction of policy problems and not to the construction of social problems. Thus, she wants to distance herself from the dominant sociology of social problems. Moreover, Bacchi's approach focuses on the deconstruction of social problems, rather than on the processes or rhetoric of social problem constructions (Bacchi, 1999). In this chapter I will look upon why Bacchi think it is important to rethink social problems and how she has used different social construction theorists and their arguments, as a part of the construction of her own approach, namely the '*What is the problem?*' approach.

It is important to learn about the nature and meaning of the social problems approach, which can be done by looking at the historical conditions and the emergence of it, rather than examining its arguments, as Bacchi outlines (Bacchi, 1999). Thus, as it is fundamental to examine the history of the social problem approach; I will start by mentioning the social theories that seem to be the most important, according to Bacchi. Lee Rainwater was one of the early sociologists, who used the '*social pathology approach*¹: (Lee Rainwater, 1974 in Bacchi, 1999, p. 51). Rainwater (1974), tended to see social problems as manifestations of one or another departure from what was seen as "*normal*" in society. Moreover, Rainwater (1974) described society as an organism with '*sick*' people who were seen as the source of the social disruptions within society. Further, the social disruptions were described by sociologists, as social problems (Rainwater, 1974 in Bacchi, 1999, p. 51). Further, some sociologists have argued that the problems which may occur in society do not occur because things fall apart socially, but rather because different groups within society have different interests. What someone might view as something outright as a problem, hence very concrete, others might just see it as challenge, hence not yet a problem, and therefore as something that can be addressed before it becomes a problem (Bacchi, 1999). We can here see the origin of a social constructionist perspective, which suggests what we see as a social problem depends on how we perceive the world, thus what we see as normal (Bacchi, 1999).

¹ A study of social problems (such as crime or alcoholism) that views them as diseased conditions of the social organism (Merriam-Webster, 2015).

Thomas Sullivan and Kenrick Thompson (1994) are two authors, who Bacchi uses throughout her approach to rethinking social problems, and who illustrated how face to face contact constructs peoples own realities. In addition, Sullivan and Thompson argue: “Because of our abilities to use symbols, we live in a world that we create ourselves, through the meaning we attach to phenomena” (Sullivan & Thompson, 1994 in Bacchi, 1999, p. 52). Moreover, Bacchi argues that *‘integrationists’*², as she also considers Sullivan and Thompson to be, look upon the effect of labeling people as *‘deviants’*, the interactions with them and how those being labeled might accept being labeled. The desirability of social order encourages the creation of *‘new consensus’* with different meanings and expectations when disagreements take place (Bacchi, 1999).

During the 1960’s the social problem theory was in the same category as *‘deviance behavior’*³, which as Bacchi states, captures the aim of many social problems theorists, namely *‘normalization’*. Rainwater (1974) argues, that *‘deviant behavior’* is seen as a product of strains put on the society, and according to Rainwater strains are something that a group of people adhering to a certain set of beliefs see as desirable and what the general social structure is able to offer them. So basically strains result from a specific group of people believing in something that society does not or does not yet believe in. So as an example, if women believe in their right to be free of violence, but they live in a society where the general consensus is that women should just accept violence as belonging to their gender, it will create a strain in what women think is right and what the society think is right. Thus, a strain is in a way a gap between what a person want and to what extent society agrees with what the person wants. (Lee Rainwater, 1974 in Bacchi, 1999, p. 52). Further, Bacchi states that those wishing to decrease *‘deviance’* have to increase the opportunities for the *‘deviants’* to be perceived as somewhat “normal” this is also seen as equal opportunity (Bacchi, 1999). Furthermore, Bacchi discusses *‘labeling theory’* which was developed as a response to the previous approach. Labeling theorists are interested in the process of labeling individuals or groups as *‘deviant’*, rather than the behaviors of those people (Bacchi, 1999). In addition, Bacchi examine the perspectives of those who see certain behaviors as problematic. Thus, the problem is not to be identified,

² A person who believes in, advocates, or practices social integration integrationist adjective (Merriam-Webster, Integrationist, 2015).

³ Different from what is considered to be normal or morally correct. (Merriam-Webster, Merriam-Webster, Incorporated, 2015)

but rather it is looking upon who we are and what our social goals are. Hence, this will affect who we are and what we consider to be problematic. Therefore, as Bacchi argues: “Problems are, in this view, very much in the eye of the beholder” (Bacchi, 1999, p. 53). Through the historical literature on social constructivism, we have seen how the main focus has been on maintaining social order within society (Bacchi, 1999).

Bacchi further moves onto the beginning when social constructionism became a sociological approach. Here Bacchi suggests Malcom Spector and John Kitsuse’s version of social constructivism and their attention to social problems, which according to them produces no political agenda and thus support the status quo (Spector and Kitsuse, 1987 in Bacchi, 1999, p. 54). Furthermore, Spector and Kitsuse (1987) argue that all interpretations are simply constructions which lead to the view that one interpretation is as good as any other interpretation (Spector and Kitsuse, 1987 in Bacchi, 1999). The position which Spector and Kitsuse (1987) developed was a response to the structural functionalist approach which perceived social problems as easily identifiable and in a need of resolution. Accordingly, to Spector and Kitsuse social problems are not objective conditions that can be studied and corrected, but rather social problems like crime, poverty or homelessness are symptoms of oppressive and unjust conditions (Spector and Kitsuse, 1987 in Bacchi, 1999). Moreover, Spector and Kitsuse put attention on the role of sociologists as claims-makers in the way they portray ‘*real*’ problems (Spector and Kitsuse, 1987 in Bacchi, 1999). Nevertheless, as Bacchi states, Spector and Kitsuse insisted that: “[c]onstructionist provides a distinctively sociological approach that focuses on the social processes through which social problems are constructed” (Spector and Kitsuse, 1987 in Bacchi, 1999, p. 55). Thus, according to Spector and Kitsuse, sociology would have to examine different claims-making group activities, and further it would have to avoid its own claims-making activities (Spector and Kitsuse, 1987 in Bacchi, 1999). Moreover, Bacchi examines Joel Best and his perspective on social constructivism (Best, 1989 in Bacchi, 1999, p. 56). Best (1989) does not perceive himself as a strict constructionist, which he identifies Spector and Kitsuse to be. However, Best identifies himself as a contextual constructionist. Contextual constructionists’ stay focused on the claims-making process, while acknowledging that such a process involves the making of assumptions about social conditions. To Best, these assumptions are essential to locate claims-making within social context (Best, 1989 in Bacchi, 1999, p. 56). Bacchi notes how

Best (1989) underlines that claims can and must be evaluated against evidence (Best, 1989 in Bacchi, 1999, pp. 56-57).

6.2 `What is the problem?` approach:

According to Bacchi her *'What is the problem?'* approach resembles contextual constructivism. Furthermore, contextual constructionists believe that it is important to point out who has control over who get to make claims and who gets their claims addressed (Bacchi, 1999). Furthermore, Bacchi looks upon how Joseph R. Gusfield (1989) and Patricia Morgan (1989) have commented upon the conception of the *'troubled persons'*. Gusfield and Morgan examine the way in which certain groups become locked into a social problem's frame. Thus, when something is called a social problem, it becomes difficult to shift or relocate the frame. In other words, this means that when something is called a social problem it is difficult to see it as anything other than a problem. So if the frame within which all social problems are seen as having roots in the individual then it is difficult to see a social problem as a manifestation of social injustice or something external, and only focus on it as a problem of the individual that the individual has to resolve (Gusfield, 1989, Morgan, 1980 in Bacchi, 1999, p. 58). Bacchi moreover explains how Gillian Fulcher illustrates the links between those who study policy as discourse and contextual constructionism (Fulcher, 1989 in Bacchi, 1999, p. 58). Fulcher (1989) draws attention to the individualistic discourse which generally characterizes encounters between professionals and people called *'disabled'*. Here the discourse of *'disability'* is perceived as personal trouble, rather than a public concern. Moreover, it shows how labeling people *'disabled'* draws attention away from the *'disabling'* structures which constrain them (Fulcher, 1989 in Bacchi, 1999, p. 58). However, Bacchi distance her approach from contextual constructivism in the way in which her approach distance itself from social problems in generally. That is, as Bacchi states, in the way contextual constructivism sees serious implications in the limitations forced by an agenda of social problems, which further on becomes the focus of analysis, because somebody has made claims about them (Bacchi, 1999). The starting point for the social constructionist perspective on social problems was made by Murray Edelman (1988) who argues that: "[a] whole range of troubling social conditions fail to achieve the status of a *'social problem'*, or only achieve this status at particular times" (Edelman, 1988 in Bacchi, 1999, p. 58). This is further what directed Spector and Kitsuse's (1987) attention to the factors which enable the recognition of a social problem. Nonetheless, they concluded that a global recognition was

inappropriate to explain this process as those working to achieving recognition of a particular social problem would put their local perspective on it. (Bacchi, 1999). Thus, this is the position argued for in Bacchi's approach.

Moreover, Bacchi's approach argues, that all we have access to are disputed claims about the existence and nature of social problems. Thus, to: "(1) [r]eflect upon the shape of claims made about social problems; (2) [c]onsider the implications which flow from the shape of these claims; and (3) [r]eflect upon what is missing from the shape of some claims and what implications follow from this" (Bacchi, 1999, p. 59). Hence, the '*What is the Problem?*' approach is meant to deconstruct the social constructions which are offered rather than describing them. Therefore, the starting point for an analysis should not be about obtaining a social problem status and further it should not be about how it is recognized. Bacchi's approach is rather to questioning the assumption that the material for analysis should be restricted to claims, which have already been recognized (Bacchi, 1999). Bacchi, states that a number of other authors also share this specific concern, she mentions Jaber F. Gubrium (1993) who argues that where there is little attention to a social problem, the social problem is not visible, in the way, that it would require someone's attention to address it (Gubrium, 1993, in Bacchi, 1999, p. 59). Furthermore, Bacchi states that limitations of current policy approaches are that they are limited to what the governments do or refuse to do. Hence, these policy approaches are preventing some issues from being analyzed or the policy approaches' method of analysis prevents certain issues from being investigated by the governments (Bacchi, 1999). The goal then with Bacchi's approach, is to start by asking about what does not get problematized, to be able to draw attention to the silences which exists in political agendas. Thus it is referring to the silences about power relations, gender relations, the exigencies of intimate life, of which Bacchi gives as a few examples. Moreover, she calls for a reflection on how the way attention to social problems is drawn can make problems appear or be perceived as social diseases (Bacchi, 1999).

" If we accept that our world is socially constructed, then it can be changed by challenging – deconstructing – constructions which have effects we wish to reduce or eliminate" (Bacchi, 1999, p. 62). This is the agenda of '*What is the problem?*' approach. The question then becomes: "[w]hat is the ground of one's challenge? What follows once we recognize the impossibility of creating objective analysis of either 'social problems' or

the claims about ‘social problems’?” (Bacchi, 1999, p. 62). Here Bacchi suggests recognizing how competing social visions lie behind competing representations/constructions of social problems, and further behind the evaluations which have been offered of and by claims-makers (Bacchi, 1999). Therefore we need to examine the competing social visions and to discuss how certain problem representations can add or weaken to the visions we might support, and thereby admitting the impossibility of being objective (Bacchi, 1999).

Moreover, Bacchi argues how the sociology of social problems intertwines with several questions raised by ‘*What is the problem?*’ approach. Bacchi explains how it illustrates and underlines the constructions of social problems, while drawing attention to the roles of the claim-makers when achieving social problem status for certain issues (Bacchi, 1999). Nevertheless, we need to pay more attention to the effects of focusing on social problems. In other words we need to examine how some include particular issues while silencing others and further, how the language of social problems involves responses to conditions without analyzing the nature of the responses⁴. (Bacchi, 1999). Bacchi’s approach deals with these issues by focusing on the problematization rather than the problems. Furthermore, it encourages reflecting upon the policy initiatives – with looking at what they include and what they leave out. Nevertheless, the approach examines the implications of different representations by looking at the interest within claims-making and the language used to make these (Bacchi, 1999).

Lastly, I will shortly examine later work by Nancy Fraser (2000) to explain how her approach on ‘*Rethinking Recognition*’ can supplement Bacchi’s approach. However, I will use Bacchi’s approach as the main theory throughout the paper. I have chosen to look upon ‘*Misrecognition as status subordination*’ as this can complement Bacchi’s ‘*What is the problem?*’ approach. Fraser proposes an alternative approach toward social status within society. In this approach what or who requires recognition is not a group-specific identity, however it is the status of individual group-members as full partners in social interaction (Fraser, 2000). Further, Fraser uses the term ‘*misrecognition*’ to look upon social subordination – in the way of being prevented from participating, as an equal in social life. Moreover, to redress this injustice, as Fraser refers ‘*misrecognition*’ to be, there must be a

⁴ Nature of the responses is meant that the people responding to social problems have their own agenda, hence the solutions to social problems might actually be a method to just further one’s own goals and not to actually solve a social problem.

political recognition. Thus, politics should aim at overcoming subordination by including the *'misrecognized'* party as full members of society (Fraser, 2000). Recognition as a matter of status is according to Fraser: “[e]xamining institutionalized patterns of cultural value for their effects on the relative standing of social actors” (Fraser, 2000, p. 113). Hence, if and when those patterns include actors as being equal, we can then speak of mutual recognition and of a status of equality. However, when some actors are appointed as inferior and thereby excluded, as full partners in social interaction, this would lead to *'misrecognition'* and subordinate status (Fraser, 2000). To be *'misrecognized'* is to be denied the status of being included in social interaction, and is a consequence of the institutionalized culture that appoints certain actors as unworthy of respect or deference (Fraser, 2000). Moreover, *'misrecognition'* is committed through institutionalized patterns, in other words as Fraser puts it, *'misrecognition'* is committed through social institutions which regulate interaction according to cultural norms (Fraser, 2000). Fraser gives marriage laws that exclude same-sex partnerships by considering such partnerships to be illegitimate and perverse, as an example. Here, the interaction is somewhat regulated by an institutionalized pattern of cultural value, which puts certain social actors as normative and other as inferior, as in the example with same-sex partnership, where *'straight'* is *'normal'* and *'gay'* is perverse. Cases where actors are *'misrecognized'* deny them to become equally included within society (Fraser, 2000). As Fraser states, in some cases *'misrecognition'* can be built into formal law, within institutionalized government policies or within social practices of civil society. To redress *'misrecognition'*, accordingly to Fraser, one must change social institutions. Furthermore, how this should be done depends on the mode in which *'misrecognition'* is institutionalized. Hence, if it is within policy-entrenched forms, change of policy is required (Fraser, 2000).

7. Feminist approaches to prostitution:

This chapter will explain the two very different feminist approaches on the subject of prostitution, namely the sex work approach and the neo-abolitionist approach. The two approaches are very different in their view of prostitution and how prostitution should be dealt with. Thus, these approaches can be seen as each other's opposites on the subject. Furthermore, these two approaches will be used to give a completely different view on women involved in prostitution. Therefore, I have chosen to look upon Martha Nussbaum's approach, which is the *'sex work approach'* and Kathleen Barry's approach which will be used to explain neo-abolishment.

7.1 The sex work approach:

The sex work approach has its roots in classical liberalism and liberal feminism (Carson & Kathy, 2014). Liberal feminism's historical roots can be traced back to the 17th and 18th centuries, back to the classical liberal tradition, where the importance of social justice and the creation of a good society built on human rights and social justice was essential (Davies, 2010). According to Martha C. Nussbaum liberalism derives from the idea that all human beings possess equal worth and possess abilities for choice and reasoning (Nussbaum, *Sex and Social Justice*, 1999). However, looking at liberal feminism the essential goal is the achievement of equality between women and men, while arguing that women are as capable and as rational as men (Davies, 2010). Furthermore, the political objectives of liberals are, according to Nussbaum, freedom of choice, where people are put into a position of agency and choice (Nussbaum, *Sex and Social Justice*, 1999). Liberal feminists argue that sex work should be decriminalized and prostitution should be treated as any other business transaction. Thus, a sex worker should not be seen as selling her body, as neo-abolitionist believes, she should rather be seen as selling a service, a bodily service, as Nussbaum refers prostitution to be (Sloan & Wahab, 2000).

In *'Whether from reason or prejudice: Taking money for bodily services'*, which is a part of Nussbaum's book *'Sex and Social Justice'*, Nussbaum argues that we all take money for the work we do, using our bodies, whether it is as lawyers, opera singers, factory workers or prostitutes (Nussbaum, "Whether from reason or prejudice": Taking money for bodily services, 1999). As Nussbaum states, some get good wages while others do not, some have a relatively high degree of control over their working conditions, and some have little control. Nevertheless, some people have many employment options, some have very few and some are socially stigmatized while some are not (Nussbaum, "Whether from reason or prejudice": Taking money for bodily services, 1999). Nussbaum states, that stigmatization of certain occupations might be well founded, based on whether it is argued for convincingly and if it is well-reasoned. However, she also states that it might also be based on class prejudice or stereotypes of race and gender.

As mentioned, Nussbaum argues that prostitution should be seen as any other form of work. Furthermore, she also argues that by considering similarities and differences between the prostitute and other bodily actors, such as the factory worker, a progress toward perceiving prostitution as a form a bodily service can be started. Nussbaum puts the

prostitutes up against the factory worker, arguing that both workers are low paid. However, Nussbaum states that a prostitute could probably earn more, if she the conditions allowed this (Nussbaum, "Whether from reason or prejudice": Taking money for bodily services, 1999). Further, she argues that this would probably be more true if prostitution was legalized and the role of the pimps thereby restricted. Moreover, Nussbaum continues with stating that both workers face health risks, however the health risks in prostitution could be reduced by legalization and regulations. As Nussbaum notes: "The prostitute may well have better working hours and conditions than the factory worker; especially in a legalized regime, she may have much more control over her clients she accepts and what activities she performs" (Nussbaum, "Whether from reason or prejudice": Taking money for bodily services, 1999, p. 701). However, the factory worker is less likely to be a target for violence, whereas prostitutes do not always get the protection they need. Nevertheless, Nussbaum argues that this can be reduced by legalization, such as in The Netherlands where prostitutes have a call button which goes directly to the police (Nussbaum, "Whether from reason or prejudice": Taking money for bodily services, 1999). Lastly, Nussbaum argues that the problem of health risks and risks of violence is made much worse when prostitution is made illegal. The illegality of prostitution prevents sufficient supervision, encourages the control of pimps, and discourages health checking. As long as women is seen as taking part in legal work and hence perceive as having the right to protection by the police, rather than being considered as taking part in illegal activity, and hence subject to law enforcement (Nussbaum, "Whether from reason or prejudice": Taking money for bodily services, 1999). Thus, when laws on prostitution is adopted, Nussbaum argues that it is perceived right to adopt laws which protect the prostitutes from assault, protect their rights to their incomes, protect poor women in developing countries from forced trafficking and fraudulent offers. Further, to assure their full civil rights in the countries where they end up (Nussbaum, "Whether from reason or prejudice": Taking money for bodily services, 1999).

7.2 Neo-abolishment:

Neo-abolitionism is an approach that grew as a counter approach to the liberal sex work approach. Theoretical and political neo-abolishment derives from radical feminism, thus it focuses on gendered differences, structures, power and inequalities between women and men (Carson & Kathy, 2014). Radical feminism is a theoretical and political perspective that focuses on the domination of women by men. Further, the domination of women is

according to radical feminists the most fundamental form of human oppression and moreover, it occurs in all societies. Furthermore, radical feminism is a political approach with strategies and an ideology that calls for change and reconstruction of society (Davies, "Radical Feminism", 2010). Radical feminism emerged in the 1960's along with the U.S civil rights movement; later on it became ideologically diverse through the 1970's, after it gained support in the UK and Australia (Davies, "Radical Feminism", 2010). An important aspect of radical feminism is the patriarchal gender relation, where male supremacy and female oppression is produced. Patriarchy is defined by Annette Davies, as a relationship of dominance. Thus, according to Davies, freedom for women can only be attained when women break out from the patriarchal system and thereby discover their own "true" consciousness and their own voice (Davies, "Radical Feminism", 2010).

As stated, I am going to use Kathleen Barry's radical approach, to explain how neo-abolitionist' perceive prostitution. According to Barry, prostitution is in the same category as rape, sexual harassment, sexual abuse, thus Barry argues that prostitution should be seen as a form of sexual exploitation (Barry, 1997). Barry argues that sexual exploitation is not confined to any socioeconomic, ethnic, or racial group within society (Barry, 1997). Furthermore, Barry argues that sexual exploitation is: "[a]n objective harm, a specific crime, a human rights violation, and a gendered class condition of female subordination" (Barry, 1997, p. 30). Hence, when objective harm has occurred, in this case objective harm toward women, human rights have been violated, not only to an individual human being, however to the entire class that they represent. Therefore, Barry states that institutionalized sexual exploitation is gendered in particular. Thus, Barry argues that the consumers of prostitution are mostly men. Further, the men might buy sex from children, women or other men, but Barry argues that it is men who buy it and thereby gain power and control. Hence, as according to Barry, the men achieve the subordination of the other (the women) through buying sexual services (Barry, 1997). Nevertheless, Barry states that class condition of sexual subordination of women is enhanced by the consumers of prostitution. However, Barry states that it is built from the sexual abuse women have experienced before entering prostitution such as trafficking in women, the operations of gangs, networks and the global "free" market that marginalize women from the labor force (Barry, 1997). Furthermore, Barry states that in any kind of oppression, some people will fight

back, while others will accommodate, whereas some will even actively participate to their own oppression and thereby promote it (Barry, 1997).

Moreover, Kathleen Barry proposed the 'Convention against Sexual Exploitation', in 1994 (Barry, Appendix: Proposed Convention Against Sexual Exploitation, 1995). Barry developed the new Convention in collaboration with the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Conventions approach toward prostitution is that it is a human rights violation, whether or not the prostitutes consent, whether or not they think of prostitution as 'sex work' or as sexual abuse. Furthermore, the law makes sexual exploitation a violation of human right was later adopted as state law on prostitution in Sweden among other countries (Barry, About the Author, No Year). Article 6 in the 'Convention against Sexual Exploitation', states that parties should refuse any policy or law that legitimates prostitution of any person, female or male, adult or child. Moreover, the Convention states that countries should adopt a legislation, which perceives prostitution as a form of sexual exploitation. Besides this, the Convention emphasizes that the customers should be recognized as perpetrators and criminalized, whereas the prostitutes should be decriminalized and free of any form of penalizations (Barry, Appendix: Proposed Convention Against Sexual Exploitation, 1995).

8. Empirical and historical contextualization:

In this section, I will present additional knowledge on the topic, in order to provide a better understanding on what prostitution is and how it can be practiced and addressed in many different ways. Therefore, I will look upon the explanation of prostitution, European Union (EU) regulations, the sex industry, and trafficking in human beings for the purpose of sexual exploitation. This is to provide the relevant knowledge surrounding prostitution to enable the reader to better understand prostitution, as it is a complex issue. I moreover, find it important to include a section on how the EU addresses prostitution, along with how Member States of the EU (EU MS) regulate prostitution by using different approaches, as there is no overarching EU regulation toward prostitution.

8.1 Prostitution:

The term 'prostitution' historically refers to the practice of a woman waiting for clients in front of her residence, and originates from the Latin word '*prostituere*' "to put in front, to expose" (Danna, 2014). Further, the definition in the Oxford Dictionaries refers to prostitution as "[t]he practice or occupation of engaging in sexual activity with someone for payment" (Oxford Dictionaries, 2016). In this paper 'prostitution' is understood as the exchange of sexual services among presuming consenting adults against payment or the promise of payment. In the 1970s Carol Leigh invented the term '*sex works*' as a reference to prostitution, which may also be used by the prostitutes themselves. 'Sex work' has a broader meaning than prostitution does, as the sexual content of the work does not have to involve direct bodily contact with the clients. This can for example be in the work of phone sex lines, websites, stripping and pornography (Danna, 2014). Other terms used in approaches on prostitution in more recent time are the '*prostituted women*'. This term is especially used by the abolitionists. The abolitionists used this to express their belief that no act of prostitution can be consented to by any woman, since she is inferior both in social and economic relation to her clients. Moreover, the abolitionists refer to the clients/buyers as '*johms*' which is slang used by the prostitutes, to indicate that the client/buyers could be just about any man (Danna, 2014). The terms 'prostitution' and 'sex work' are the terms used throughout this paper without any value judgment attached to the terms.

8.2 EU legislations on prostitution:

International regulations and EU regulations do not take any specific position on the treatment of prostitution. This leaves the decision on how to address prostitution up to the individual countries. Prostitution has been and still is a highly sensitive and controversial subject within EU Member States. However, efforts to regulate prostitution have been motivated by various factors such as the concern for morality, law and order, public health, efforts to counter gender discrimination and to empower persons engaged in the profession of prostitution. Policies to regulate prostitution are often developed without any public discussion and without input of the people involved in prostitution (International Centre for Migration Policy Development (ICMPD), 2009). Moreover, parts of regulations on prostitution have

been criticized for (1) “[f]ailing to address effectively negative phenomena associated with prostitution such as forced prostitution, pimping, prostitution in public places, organized crime, including trafficking in human beings for sexual exploitation: (2) failing to empower persons involved in prostitution and to increase their ability to effectively uphold their rights including access to social and health insurance, and (3) failing to address public health concerns” (International Centre for Migration Policy Development (ICMPD), 2009, p. 12). However, each, Member States of the EU shall decide whether the demand for sexual services is criminalized (the purchase of sexual services) or if prostitution is either legalized or illegalized, to prioritize the rights of persons in prostitution should be addressed (International Centre for Migration Policy Development (ICMPD), 2009).

8.3 Regulations on prostitution:

Countries within the EU have very different policies on prostitution and often regulations are made for the purpose to combat trafficking in human beings. It is possible to group them into different models depending on the approach toward prostitution adopted by each State. In this paper, I will focus on the regulatory (the sex work) and the neo- abolitionist approach. Since the late 1990s, some Member States such as the Netherlands and Germany introduced new legislations to legalize prostitution and to enable prostitutes to work as service providers, this is also known as the regulatory approach. The access of prostitutes to social security systems and their registration as tax payers is thought to improve the social recognition of ‘sex workers’ leading to reducing prostitutes’ vulnerability to exploitation (European Parliament , 2014). However, government reports made in recent years, suggest that legislations on prostitution increases the flow of trafficking for sexual exploitation, while the working conditions of prostitutes and the level of violence have do not improve. Another approach to prostitution is the abolitionist approach, which criminalizes all activities related to prostitution; this approach has been adopted in Spain and in Sweden. Nevertheless, Sweden has taken a different focus on this approach, by targeting the buyers, which are mostly men, and thereby criminalizing the men instead of the women involved in prostitution. This approach according to official evaluations seems to be effective in reducing the demand and thereby combating trafficking in human beings (European Parliament , 2014).

8.4 The sex industry:

The sex industry is not only limited to prostitution it also includes pornography, internet sex, phone sex, strip clubs and other such services is considered to be of sexual nature. Nonetheless, pornography and prostitution are the most profitable businesses within the sex industry. Regarding pornography, the internet has enabled the market to expand significantly. Moreover, the average age of first exposure to pornography on the internet is 11 years old (European Parliament , 2014). Furthermore, prostitution can be put into two categories namely outdoor prostitution and indoor prostitution. Outdoor prostitution, also known as street prostitution is characterized by the customer picking up the prostitute in an outdoor place. Those who have a positive view of street prostitution argue that there are several advantages for both prostitutes and the clients. The price service is decided on the spot, and often takes lesser amount of time, limiting the interaction between the prostitute and the client. Street prostitution is not without risk however, the most obvious disadvantages for street prostitutes include conducting activities in isolated places while engaging in bodily contact with the client. The prostitutes also risk exposure to violence or may be denied payment for the service performed especially if the prostitute is forced to perform services not negotiated (Danna, 2014). While street prostitution puts the women into dangerous situations, indoor prostitution is argued to be a safer choice regarded exchanges with strangers. Indoor prostitution includes all cases where the prostitute waits for the customer. This can be in an authorized brothel, an apartment, an Eros centre where women have leased a room, a massage parlor, a sauna, a nightclub, a bar, the lobby of a hotel, a restaurant, a shop window, or a camper van. However, the owners of these properties may demand some form of payment for the use of their premises resulting in less profit for the prostitute in comparison to street prostitution. In addition the risk of violence could be lower by working indoors, due to the presence of other persons. With this said there are also cases of violence in indoor locations. Furthermore, indoor prostitution also means being able to wait for clients in a more comfortable environment as opposed to outdoors (Danna, 2014). Although, if a prostitute works as dependent for organized businesses it may be impossible for her to refuse a customer or his particular wishes. Due to competition within the sex industry saying no to a customer or any specific requests can result in the prostitute losing her position. Moreover, the practice of

using condoms is higher within indoor prostitution than within outdoor services as regulations by organizers may have been established (Danna, 2014).

8.5 Forced prostitution and trafficking in human beings:

Trafficking in human beings is defined as a crime and an abuse of an individual's fundamental rights and dignity. Trafficking involves the exploitation of vulnerable persons traded by criminals as commodities for the purpose of economic gain. Trafficking is often transnational, the victims are of all genders and age, and it is often hard to discover and investigate cases of this crime. Human trafficking is a major problem within broader Europe and the EU and has for a long time been a priority for Member States to combat (Europol, 2016). On international level, the Palermo Protocol (2000) has provided an agreed definition of the term trafficking and initiated a number of further activities to combat trafficking, like the Council of Europe Convention against trafficking in human beings (2005) and most recently Directive 2011/36/EU, which sets minimum legal standers for the crime of trafficking, defines what constitute a trafficker and as well as a minimum support measure for the victims (Europol, 2016). Statistics on human trafficking for the purpose of sexual exploitation suggest that 1 in 7 prostitutes in Europe are victims of trafficking, while some Member States estimate that between 60% and 90% of the prostitutes have been trafficked. Moreover, data shows that most trafficking in Europe is for the purposes of sexual exploitation, and the people being trafficked for this purpose are often women and girls (European Parliament , 2014).

9. Case studies of Sweden and the Netherlands:

In this chapter, I will focus on prostitution in Sweden and in the Netherlands and present their approaches on the issues by examining their policies on prostitution. Furthermore, I will highlight how the policies addresses the women involved in prostitution. The policy on prostitution in Sweden can be seen as a radical approach to gender equality. The issue of prostitution is seen as a violation against women and having its roots within male dominance in society. Further, Sweden links prostitution with trafficking in human beings and thereby argues that to end human trafficking, a country has to deal with the issue of prostitution. Thus, the work against prostitution and trafficking in human beings has been a political priority in Sweden, as it is

considered an essential part of the creation of a contemporary and democratic society where full gender equality is the norm (Ekberg, 2004).

9.1 Sweden: 'The Ban against the Purchase of Sexual Services':

In 1999 the law that prohibits the purchase of sexual services came into force on 1 January, in Sweden, which means that it is illegal to pay for casual sexual relations. The penalty is a fine or imprisonment for a maximum of one year. This applies to those who pay for sexual services but also for those who take advantage of casual sexual relations paid by another person (The Government of Sweden, 2011). This made Sweden the first country in the world to introduce a legislation that criminalizes the purchase, but not the sale of sexual services. The penal provision – the prohibition of the purchase of sexual services is found in Chapter 6, section 11 of the Penal Code of Sweden: “A person who, otherwise than as previously provided in this Chapter, obtains a casual sexual relation in return for payment, shall be sentenced for the purchase of sexual service to a fine or imprisonment for at most one year” (Government of Sweden , 2014). Moreover, the first paragraph also applies to a payment promised by or given by another person (Government of Sweden , 2014). ‘The ban on the purchase of sexual services’ was introduced to fight prostitution, which is seen as a social concern within the Swedish society. Furthermore, the text of the legislation states that prostitution is shameful and unacceptable within a gender equal society. By introducing the ban on purchasing sexual services, Sweden has sent what is a message regarding their view on the purchase of sexual services and prostitution to other countries. It underlines that prostitution will and still does cause serious harm to both individuals and to society (Swedish Institute, 2010). Additionally, the law states that prostitution commonly is associated with human trafficking for sexual purposes, assault, procuring and drug-dealing (The Government of Sweden, 2011). It is essential to note the fact that the Swedish legislation is gender-neutral, i.e. the law states that both buyer and seller can be male or female. However, in this paper I will focus on the women involved in prostitution, as it is in fact mostly women who sell sex and men who buy sex (The Government of Sweden, 2011).

The proposal to criminalize the purchase of sexual services in Sweden was a part of the Government Bill on Violence against Women. The bill proposed different

measures in different social sectors to combat violence against women (VAW), prostitution, and sexual harassment within the labor market. The bill stated that VAW and a lack of gender equality is related to prostitution and results from the demand created by men who purchase sexual services from women (Swedish Institute, 2010). In addition, to the law on 'the purchase of sexual services', the Swedish Government presented Government Communication 2007/2008 which was a National Action Plan (NAP) against prostitution and human trafficking for sexual purposes. The NAP emphasized that prostitution and trafficking are not acceptable within the Swedish society. Furthermore, the NAP highlighted the reasons for people to be involved in prostitution differs, however the NAP noted that the primary factor which fuels trafficking and prostitution is the demand, and therefore the buyers should be criminalized as means of decreasing demand. Further, the NAP showed that the Swedish Government puts a link between the existence of prostitution and human trafficking for the purpose of sexual exploitation (Swedish Institute, 2010). Nevertheless, despite the official position on prostitution in Sweden, there are still people who defend prostitution and argue that it is possible to differentiate between forced and voluntary prostitution and moreover, that adults should have the right to freely sell and freely purchase sex. Further, the opponents of the law argue that 'the ban on the purchase of sexual services' shows an outdated stance on sexual morality (Swedish Institute, 2010).

It has proven difficult to evaluate the effects of 'the ban on the purchase of sexual services' as prostitution and human trafficking for sexual purpose are complex social phenomena which occur partly in secret. Additionally, globalization and the internet as a new arena for prostitution, makes it difficult to assess its spread. Although, even if many reports, articles and essays have addressed this phenomena, the knowledge on prostitution and human trafficking for sexual purpose is limited. This applies particularly to the knowledge about individuals who are working as prostitutes in indoor and outdoor prostitution or via the internet, as well as prostitution that takes place outside of urban areas (Swedish Institute, 2010). The evaluation on 'the ban against the Purchase of Sexual Services' in Sweden, which will be used in this paper, is from 1999-2008. A new evaluation will be presented in June 2016, and the inquiry will evaluate, among other things, the amendments on

maximum penalty for the purchase of sexual services, which entered into force in 2011⁵ (The Government of Sweden, 2011).

The ‘ban on the purchase of sexual services’ was adopted with the intention of being an important instrument in preventing and combating prostitution. In addition, to combating prostitution and human trafficking for sexual purposes, it is necessary to ensure continued and sustained social work as a prevention tool. Thus, it is important according to the Swedish Government, to decrease the demand for sexual services. Moreover, it is important to give support to children and young people who are at risk of ending up in prostitution (Swedish Institute, 2010).

9.2 Street prostitution:

Since the introduction of ‘the ban on the purchase of sexual services’, data shows that street prostitution has been reduced by half; this may be a direct result of the criminalization of sex purchase. In 1998, Swedish social services prostitution groups⁶, stated that they were aware of about 730 women involved in prostitution in the country (Swedish Institute, 2010). Further, in 1999, at the beginning when, the sex purchase law was adapted, street prostitution nearly disappeared. However, data did show an increase in street prostitution the year after, although the number of people involved was notably lower than before. Moreover, since the law has come into effect, street prostitution has appeared only to take place in bigger cities like Stockholm, Gothenburg and Malmö. The number of street prostitutes has varied between 300 and 430 per year, according to the social services prostitution groups in Sweden (Swedish Institute, 2010).

9.3 The internet:

In 1993 most contact regarding prostitution was made via ads in the press, however today contacts are rather made via internet. A large number of websites specifically

⁵ [t]he maximum penalty for the purchase of sexual services is raised from imprisonment for six months to imprisonment for one year. The purpose of the amendment is to make possible a more nuanced assessment of the penal value in serious cases of purchase of sexual services (Government of Sweden , 2011).

⁶ Extensive work aimed directly at individuals who are exploited in prostitution is being carried out in Stockholm, Gothenburg and Malmö. People with experience of prostitution have complex needs, and special knowledge and skills are required when implementing initiatives that target these individuals. Work in the prostitution groups involves a number of different components, including outreach activities, motivational interviews, different forms of therapy and psychosocial support (Swedish Institute, 2010).

focused on prostitution offering sexual services to buyers' can be found all over the internet. Data from social services prostitution groups and other sources have shown that people involved in street prostitution have turned to the internet as a new or alternative method of getting in contact with the buyers. Further, information suggests that the criminalization of sex purchases had led many street prostitutes to abandon the streets for one reason or another (Swedish Institute, 2010). The National Board of Health and Welfare conducted a national survey in 2007, which registered 299 websites where 301 people were offering sexual services for money. (Swedish Institute, 2010).

9.4 Indoor prostitution:

Since there are barely any data on indoor prostitution in Sweden it makes it hard to say whether or not 'the ban on the purchase of sexual services' has had a direct effect in this area. However, some studies have been made by a 1993 prostitution inquiry; this is six years before the law came into force. The investigation estimated that the number of women in indoor prostitution in Sweden was twice as large as the number of women in street prostitution. There are no data available which indicates that the estimates made by the 1993 prostitution inquiry were incorrect, however, nor are there later investigations that confirm that the number of women in indoor prostitution is twice as large as the number of women in street prostitution (Swedish Institute, 2010). On the other hand, there is nothing that indicates that indoor prostitution, which is not marketed through advertisement in magazines and on the Internet, has increased in recent years. Neither is there any information that suggests that prostitutes previously involved in outdoor prostitution are now involved in indoor prostitution. The overall picture which have been obtained through studies on prostitution after the 'ban on the purchase of sexual services', have shown that prostitution in Sweden has not increased since the law came into force (Swedish Institute, 2010).

9.5 How the ban has affected those involved in prostitution:

As stated before the Bill on Violence against Women, declared that in an equal society it is undignified and unacceptable that men purchase sexual services from women. Regarding the issue of prostitution the bill stated that prostitution causes

serious harm both to individuals and society. Further, the bill states that prostitution is a hindrance to the right to live a dignified life and an obstacle to gain equality between the sexes within a society. Thus, the Swedish society argues that a ban against the purchase of sexual services would highlight the Swedish society's attitude toward prostitution (Swedish Institute, 2010). Moreover, the Swedish Government has in its report on 'the ban against the purchase of sexual services' (1999-2008), conducted data collection on how the ban has affected people involved in prostitution. However, data on the buyers and the people being exploited in prostitution can only be found in this recent report from 1999-2008. Nonetheless, I will present the data, while keeping in mind that there are more aspects to prostitution, as it is a multifaceted phenomenon.

9.6 The sex buyers:

Police and social workers in Sweden, have described sex buyers as more cautious than before the ban entered into force, and further that the demand, at least in street prostitution, has decreased as a direct result of the criminalization. Prostitutes and former prostitutes have stated that since the ban went into force, buyers are more nervous and afraid of being discovered. While on the other hand, others have stated that the criminalization has not affected the buyers because so few of them get caught and moreover, the sentence is too mild. In 'Prostitution in the Nordic Countries', a conference report from 2008, Jari Kuosmanen addresses attitudes and opinions about the ban on sexual services and experiences of prostitution (Holmström & Skilbrei, 2008). In the report, Kuosmanen writes about the decrease of men buying sexual services after the law was adopted. Data show that 8 percent of the men, who had answered the questionnaires, had bought some form of sexual services in 2008, while past studies had shown that that 13,6 percent had bought sex in 1996, years before the law was adopted. Furthermore, the surveys showed that it was more common to buy sexual services abroad, than in Sweden. Several of those who answered the questionnaire in 2008 survey, stated that the ban had affected their choices on buying sexual services, resulting in the men quitting the purchase of sex or at least to cut back on their purchases of sexual services. Nonetheless, the 2008 study showed that less than half of the men who responded, who had paid for sex, had done it after the ban went into effect (Holmström & Skilbrei, 2008).

9.7 The people involved in prostitution:

When the ban against the purchase of sexual services went into force, the Bill on Violence against Women also presented a great amount of arguments against the criminalization of the buyers, and argued that the law would affect the prostitutes in a harmful way. The bill argued that criminalization would risk pushing prostitution underground, which therefore would make it harder to reach out to vulnerable people with social assistance. Further, another fear was that the ban would increase the risk of physical abuse and worsen the conditions for the prostitutes. However, the Swedish Government has dismissed these concerns, as written material and their contacts with authorities, and people with experience with prostitution have proven otherwise (Swedish Institute, 2010). Regarding assaults against prostitutes, Sweden has no statistics about cases reported to the police and criminal proceedings. Yet, the Gothenburg police conducted a special review of violence against women in street prostitution and found no increase in violence since the ban was adopted. Moreover, the Stockholm police did also provide information regarding violence against women in street prostitution, and they found no evidence that the violence had risen. However, the National Board of Health and Welfare, in its 2003 report, stated that assaults against prostitutes in Malmö increased in the early 21st century. In addition, the report however stated that it was not possible to draw any conclusion on whether or not the violence in the world of prostitution has risen since the ban went into effect. Some information from the report indicated that prostitutes were put into more risky situations, although few felt that the actual violence had increased. Additionally, the report stated that both researchers and people with experience with prostitution speak of the close relationship between violence and prostitution; this is regardless of the legislation on prostitution. Further, many of the women exploited in prostitution have experienced violence from men other than their clients; this is for example from the men whom they live with (Swedish Institute, 2010). Regarding street prostitution, the 2003 report, indicated that it had become more risky and difficult to work in the streets. The argument presented here is that with fewer sex buyers, competition became larger between prostitutes and the buyers began to demand more kinds of different sexual services than before. However, the Swedish Government argues in the report that both police working in the field and women who have left prostitution have stated, that it is a myth that clients have become more

dangerous and violent since the ban went into effect. Although, they agree that violence has always existed in prostitution and that some men “buy the right” to use violence against prostitutes (Swedish Institute, 2010). Critics of the criminalization of buying sex, according to the government report, believes that the law would affect the prostitutes’ attitude toward contact with authorities or to not dare to seek help. However, many people in street prostitution have regular contact with social services, medical services and volunteer organization, according to the report. Moreover, prostitution groups state that seeking contact with authorities and seeking help have not changed since the law was adapted. Thus, the report shows that for people being exploited in prostitution, contacting authorities and help seeking have not decreased since the criminalization of buying sex (Swedish Institute, 2010). The report has further investigated the view of exploited individuals regarding to the criminalization of the buyers. The investigation has been done with help from Rose Alliance⁷ in Sweden. People currently working in prostitution stated that the criminalization has intensified the social stigma of selling sex. Moreover, they argued that they have chosen to prostitute themselves and do not consider themselves as victims of sexual exploitation. In addition, even if selling sex is not criminalized, the prostitutes answering the inquiry, felt hunted by the police. The prostitutes feel as if they are treated as incapacitated persons because of their choice to work as prostitutes and moreover, they do not feel as their choice of work is respected. Besides, they state that there is a difference between voluntary and forced prostitution. However, on the other side, those who have left prostitution state that the criminalization of the buyers has made them stronger. This is in the sense that they were able to stop blaming themselves and instead blaming the buyers who should, according to them, be the ones to be targeted. Further, the prostitutes who have left the sex industry argue that it is the buyers who lure young people into prostitution and that there are not such things as voluntary prostitution. In particular they point out that it is always the buyers who have the power and the people selling their bodies are always being exploited, even though no one wants to see it that way as long as they are being exploited. Therefore, prostitutes who have left prostitution think that the ban has had a positive effect, because of it rightfully criminalize those responsible (Swedish Institute, 2010).

⁷ Rose Alliance is a Swedish organization fighting for the rights of prostitutes.

9.8 Trafficking in human beings for the purpose of sexual exploitation:

The Swedish Government states that the effort to combat human trafficking for sexual purposes must include all elements of the criminal activity, from the buyers of sexual services, to the human trafficking organizers within and outside of Sweden. Thus, the ban against the purchase of sexual services may possibly contribute to a reduction in the establishment of crime organization in Sweden by reducing the demand (Swedish Institute, 2010). Exact data on human trafficking is difficult to assess, although some data indicate that trafficking has been impacted by ‘the ban against the purchase of sexual services’. Police in the field and social workers working with these issues state that criminal groups that sell women for sexual purposes view Sweden as “a poor market” and have chosen not to establish criminal businesses in Sweden because of the ban (Swedish Institute, 2010).

10. The Netherlands: ‘The ban of the brothels’:

In 1911, brothels were banned in the Netherlands to protect prostitutes from exploitation; however this ban has not been enforced for the past 50 years. Action toward brothels and sex clubs was only enforced if they were engaged in criminal activities or disturbed public order. Nevertheless, the Netherlands decided to change the law and thereby end abuse within the sex industry or at least trying to end the abuse (the Dutch Ministry of Foreign Affairs, 2012). In 1999, the Netherlands became one of the first countries to legalize prostitution, it lifted the ban on the brothels and thereby recognized prostitution as sex work and further delegated the regulation of the sex industry to local authorities in the Netherlands. Moreover, the people working in the sex industry were to become entitled to social rights as any other “normal” worker. The new act went into force in 2000 (Outshoorn, 2012). The basic aim of the new act was the distinction between voluntary and forced prostitution, further its aims were to control and regulate prostitution and to protect minors from sexual abuse. Therefore, the age of consent was raised from 16 to 18 years of age. Moreover, it also was aimed to prevent criminal activities within sex businesses by introducing licensing of brothels and sex clubs (Outshoorn, 2012). Furthermore, the lift of the ban on brothels means that the operation of a prostitution business is legal, unless it is prohibited by municipal rules through a General

Municipal By-Law⁸ (*Algemenn Platselijke Verordening; APV*) (Daalder, 2015). In addition, the ban was lifted for two reasons, firstly to improve the sector as a whole and the position of sex workers by introducing licenses and secondly to tackle abuses by taking action against businesses operating without licenses (the Dutch Ministry of Foreign Affairs, 2012). At the same time a new legislative Article 250a a so-called human trafficking article, came into force in the Dutch Criminal Code. This legislation makes all forms of exploitation in prostitution punishable (Daalder, 2015). Through Article 151a of the Local Governance Act (*Gemeentewet*): “[m]unicipalities are able to adopt a regulation which prescribes criteria for the commercial arrangement of the opportunity to perform sexual acts with or for a third person against payment, can thereby pursue a local licensing policy with respect to sex businesses” (Daalder, 2015, p. 11). An important aim of the policy is to put an end to the exploitation of people for the purposes of prostitution. Trafficking was already illegal before the ban on brothels was lifted (the Dutch Ministry of Foreign Affairs, 2012). Furthermore, sex workers were said to benefit from the new act by getting additional rights as the right to do work of their own choosing, to get social insurance and lastly to get the recognition of their right to sexual self-determination. The law also created obligations for the sex workers to pay taxes and to contribute to social security (Outshoorn, 2012).

In 2009 a legislative proposal was submitted on the *‘Rules concerning the regulation of prostitution and the fight against abuses in the sex industry’/law regulating prostitution and combating abuse in the sex industry’*, abbreviated in Dutch as WRP (Daalder, 2015). The core of the proposal is a tighter regulation of the sex industry regulated by a national framework for prostitution policy. According to the WRP, prostitution is prohibited unless the municipality has issued a license. Moreover, another element of the proposal was to introduce a minimum age of 21 years for workers. In addition, operators within the sex industry must make their business administration available to regulators; this includes the data they have about the prostitutes they employ. Furthermore, operators will be obligated to inform

⁸ In Dutch municipalities, you will have to observe the General Municipal By-Law (*Algemene Plaatselijke Verordening, APV*). It lays down the municipal regulations with respect to public order and safety. Every municipal authority has its own APV, which is often made available via the municipal website. The APV applies to everyone who resides in the municipality (Public order and safety (General Municipal By-law), No Year).

prostitutes about their rights and about available forms of care and support. Lastly, the proposal also includes a mandatory registration for prostitutes and a verification obligation for customers, who are also obligated to check whether the prostitute is registered or not (Daalder, 2015). The legislative proposal was adopted in 2011, although with some changes made to it. The mandatory registration and verification obligation was a controversial topic and there was a lot of resistance from the prostitution sector and care organizations. In 2013 a strike-motion was adopted, calling for an amendment with the effect of removing the legislative proposal regarding the mandatory registration for prostitutes and the verification obligation for the customer. The strike-motion was adopted because of concerns of prostitutes 'privacy' and moreover, that the customer's verification obligation would not be practical nor enforceable. The legislative proposal to amend the WPR was submitted to the House of Representatives in 2014⁹ (Daalder, 2015).

10.1 National policy:

Since the ban on brothels was lifted in 2000, municipalities have become the main shapers of prostitution policy. However, prostitution related policy is still made at the national level as well. An important issue for national policy in the Netherlands is human trafficking. Regarding trafficking, the Human Trafficking Task Force is an important actor. Moreover, the national prostitution programme, in which the Ministry of Security and Justice and the municipalities are represented also has an essential role within the Dutch national policy. The programme was launched to stimulate cooperation and coordination's between the municipalities. Further, the premise of the programme is to improve the fight against human trafficking and other improper treatments within the sex industry. In addition national policy includes support of 'quitting programmes' for prostitutes (Daalder, 2015).

10.2 Municipal policy:

Out of the 75 percent of the municipal authorities who responded to a survey in 2014, the respondents indicated that they have developed a prostitution policy within their municipality. Moreover, 23 percent of the municipalities have not developed a policy on prostitution, at that time the survey was conducted. Of the municipalities not having a prostitution policy, around 50 percent said that the reason for not having

⁹ The legislative proposal has been put on hold awaiting a proposal to amend the bill (the Minister of Security and Justice, 2015).

a policy on the issue was, as far as they know, that prostitution does not occur or barely occurs within their municipalities (Daalder, 2015). Other municipalities responded that prostitution has no or little priority, or that the policy is still under development. Furthermore, the survey provided numbers of existing prostitution establishments. Many of the municipalities with a policy on prostitution applied an upper limit to the number of prostitution businesses which are allowed to set up operations within the municipality or the region. Additionally, a so-called zero-policy is pursued in 24 percent of the municipalities. This can be formal policy meaning that a municipality does not permit the establishment of prostitution businesses or a zero policy, meaning that the conditions for establishment of prostitution businesses are practically impossible (Daalder, 2015). Lastly, the survey showed that more than half of the municipalities paid attention to the health and working conditions of the prostitutes, the fight against human trafficking and the reducing of crime. Further, a minority of municipalities focused attention on the prevention of prostitution. Generally though, the empowerment of prostitutes and 'quitting programmes' received the least attention (Daalder, 2015).

10.3 Legal Prostitution:

In the Netherlands, there is a great diversity of sex businesses and manifestations of prostitution. Moreover some of these sex businesses have existed for centuries such as sex clubs and brothels. Other sex businesses are fairly new, such as swinger clubs where prostitution takes place and erotic saunas. However, the digitalization of the world has had a great impact on prostitution and how it is being practiced, as contact via internet and paid webcam sex (Daalder, 2015). I will discuss the legal forms of prostitution and then the non-legal forms of prostitution in the Netherlands. Legal prostitution in the Netherlands can be divided into two categories, the first consists of licensed businesses and the second consist of non-licensed businesses which are located in municipalities that do not require a license for certain sex businesses, such as an escort agency. Licensed legal prostitution often occurs in window brothels, sex clubs, private homes and escort agencies. Window brothels are the most visible and therefore also the most noticeable businesses, customers are recruited from behind the windows, as the prostitutes are visible from the public street. Moreover, it is possible for prostitution businesses to operate legally without possessing a

prostitution license¹⁰ (Daalder, 2015). This situation occurs if the business operates in a municipality that does not require a prostitution license for that type of business. However, it seems to be more difficult to provide and have an overlook at how many sex businesses operates in a municipality if the business is legally considered to be non-licensed. The 2014 survey on the numbers of sex businesses in the Netherlands shows that almost half of the municipalities did not know the number of non-licensed sex businesses and moreover, that it is very difficult to estimate this number. Nevertheless, a small minority of the municipalities stated that they knew the exact number of businesses here the main businesses operating were in form of commercial home prostitution (Daalder, 2015).

10.4 Non-legal prostitution:

There are various different forms of non-legal prostitution in the Netherlands and I will in this section address non-licensed non-legal operations, non-legal labor, underage prostitution and exploitation as forms of non-legal prostitution. In the section with legal prostitution, non-licensed legal operations was addressed, however it is important to highlight that most of the businesses without a license are not operating legally. Thus, if a business operates without a license within a municipality where licenses are required, the business is operating illegally. A study conducted by Nijkamp, Sijstra, Snippe, and Bieleman in 2014 is used in the report on 'Prostitution in the Netherlands 2014' and will be used in this paper, as the study is only available in English, in a short summary of the study (Nijkamp, Sijstra, Snippe, & Bieleman, 2014). The study showed various forms of illegal non-licensed forms of prostitution, such as commercial home prostitution, escort services, erotic massage parlors, and street prostitution outside the designated zones. Non-licensed commercial home prostitution occurs in many places; the researchers encountered this in all regions during their investigation. Moreover, the study gave a general reason for why home workers worked illegally, some of the reasons were that they do not want to pay taxes; they want to work independently such as being able to decide their own working hours. Additional, the workers did not want to conform to the rules set by club or escort agencies and further they do not want to pay the expensive rent for a hired window. Furthermore, non-legal non-licensed escort agencies occur when

¹⁰ However, this will no longer be possible once the WRP is enacted. The operation of prostitution will then be prohibited unless a license has been granted (Daalder, 2015).

prostitutes work as home prostitutes but also provide escort services (Daalder, 2015). It sometimes happens that escort agencies are registered in a city where they do not need a license. Street prostitution outside the designated areas is also recognized as a form of non-legal prostitution. However, according to the study conducted by Nijkamp, Sijstra, Snippe and Bieleman (2014), illegal street prostitution barely occurs partly because of the prostitutes being afraid of being caught on surveillance cameras or by police controls, and hence getting a fine (Daalder, 2015). The research also showed that prostitutes working in non-licensed prostitution are mainly of Dutch and Central and East European nationalities. Further, the largest groups of street prostitutes, was showed to consist of Dutch women, suffering from addictions. Additionally, women mainly seek to the work in non-licensed prostitution because of financial reasons (Daalder, 2015). Nonetheless, a prostitute is said to perform a non-legal labor if she originates from outside the European Economic Area (EEA)¹¹ and is not in the possession of a valid residence permit that permits the performance of work (Daalder, 2015). Further, as mentioned before underage prostitution is illegal, this means that the legal age for prostitution is currently 18 there are considerations to raise it to the age of 21. Clients will be punished if they engage in the services of a prostitute under this age, and further business owners will be punished if they employ prostitutes under the legal age. However, underage prostitutes themselves will not be punished. With this said underage prostitution does not seem to occur in licensed businesses (Government of the Netherlands, No Year). Lastly, exploitation of prostitutes is viewed as a form of human trafficking and is therefore punishable under Article 237f of the Dutch Criminal Code. Yet, this non-legal form of prostitution is the most difficult to investigate as some victims of exploitation do not see themselves as such, because the people being exploited may come from even worse conditions and therefore they may believe that they are better off in the Netherlands than in their country of origin (Daalder, 2015).

10.5 How the lift on the ban on brothels has affected those involved in prostitution:

The lift on the ban on brothels was intended to prevent and tackle abuses within the sex industry. By mandatory licensing, prostitution businesses will only be allowed to

¹¹ The European Economic Area (EEA) unites the EU Member States and the three EEA EFTA States (Iceland, Liechtenstein, and Norway) into an Internal Market governed by the same basic rules. These rules aim to enable goods, services, capital, and persons to move freely about the EEA in an open and competitive environment, a concept referred to as the four freedoms (EFTA Secretariat, 2014).

operate with a license from the municipal authorities, as mentioned in section 10.3. These conditions should improve the conditions for the sex workers, as well as their health and safety. Before the lift of the general ban on brothels, prostitutes were working illegally. Whereas after the lift, they are considered to be working legally in a sector where checks are made to assure that legally licensed or legal non-licensed businesses are complying with the legislation and regulations. In 2014, a study was conducted of the social position of prostitutes as perceived by the prostitutes themselves by Drs. Yannick Bleeker, Drs. Lars Heuts, Dr. Maartje Timmermans and Drs. Ger Homburg¹² (Bleeker, Heuts, Timmermans, & Homburg, 2014). I will again refer to the study being addresses in the report 'Prostitution in the Netherlands in 2014' as there is only a summary of their study available in English (Daalder, 2015).

10.6 Working conditions:

One of the topics addressed in the study (2014) was the working conditions for the prostitutes. The study showed that the average number of hours that prostitutes work per week varies according to what sector they work in. Prostitutes working in window prostitution work 43 hours on average while escort prostitutes work on average 11 hours a week. Most of the prostitutes who participated in the study preferred working under an employer or operator who has a license; this is primarily for safety reasons. Moreover, the choice of a working place played a major role to the interviewed prostitutes, as a better and a more attractive work place might have a higher income and the employer or operator might be better than elsewhere. Further, the majority was content with their work activities and reasons for this were a good relationship with fellow prostitutes and a good relationship with the employer/operator. Nonetheless, reasons for discontent with the working conditions were low income and few customers. Furthermore, almost all the interviewed women said they knew where they could find assistance in case of problems with their employers/operators (Daalder, 2015).

10.7 Well-being:

The life style of prostitutes is on average less healthy than compared to the average Dutch Person, as prostitutes tend to use more drugs and to drink more alcohol¹³

¹²The study conducted more than 360 interviews, with prostitutes with 34 different ethnical backgrounds.

¹³ Statistics Netherlands and the National Drug Monitor were used as sources for national figures; see (Bleeker, Heuts, Timmermans, & Homburg, 2014)

(Daalder, 2015). Further, a number of the survey respondents indicated that they have experienced tension, depression and loneliness and nearly a half of the prostitutes stated that they perceive their work as emotionally difficult. Moreover, most of the respondents felt that they have been treated well in the past years by different organizations such as the Municipal Health Service, their family doctors, the Chamber of Commerce, and banks. However, they felt less well treated by the Tax and Customer Administration, the Employee Insurance Agency and social services. Although, even when most interviewed prostitutes felt treated well by most organizations, they still highlighted the need for improvements on how authorities should treat prostitutes (Daalder, 2015). Moreover, almost all respondents wished an improvement in securing of the workplace and an improvement in the area of hygiene, further they also wished for greater healthcare within the sex industry. Lastly, the majority also asked for placing greater importance on the tackling of the illegal industry, forced prostitution and trafficking in women for sexual purposes (Daalder, 2015)

10.8 Human trafficking:

According to the Dutch Government, prostitution is not a synonym for trafficking in human beings. However, the Government notes that prostitutes are more vulnerable to become victims of human trafficking. Moreover, the new prostitution act WRP will be a positive step toward a consistent policy, although this will depend on each municipality (Government of the Netherlands, 2013). Furthermore, the Netherlands is a source, destination and transit country for women, men and children subjected to trafficking, especially forced prostitution (U.S Department of State, 2014). Nevertheless, the lifting of the general ban on brothels has reduced the cases of trafficking in the legal sector of prostitution, due to the increased police controls. However, it seems to have worsened the status of the migrant sex workers as they are seen both as irregular aliens and illegal prostitutes. Nonetheless, numbers of people being trafficked is difficult to estimate and even if the Dutch law has provided more transparency into the prostitution sector this is only regarding the legal sector of the business (European Parliament, 2005).

11. Comparative analysis:

As mentioned in my methodology, I am doing a comparative analysis of two case studies, Sweden and the Netherlands. I will look upon and compare the laws on prostitution within the two countries and discuss which effects they seem to have on the women involved in prostitution. I will further, apply Carol Lee Bacchi's ' *What is the problem represented to be?* approach, as a structural element throughout the comparative analysis, by using the six questions, represented in her approach. However, the main use of her approach in the section will be her rethinking of social problems. Moreover, the two feminist approaches on prostitution will be utilized to see how the countries look upon the phenomenon. Sweden was the first country in the world to criminalize the buying of sexual services in 1999 (Swedish Institute, 2010). Whereas the Netherlands in 2000 was one of the first countries to legalize the business of prostitution, it allowed sex businesses to operate according to municipal regulations. Moreover, both the selling and the buying of sexual services are legal (Outshoorn, 2012). The two countries have very different perspectives on the subject of prostitution. The Swedish legislation highlights with ' the ban on the purchase of sexual services ' that fighting prostitution is an urgent social concern, and moreover, the ban is intended to help fight prostitution and its harmful consequences (Swedish Institute, 2010). The Dutch legislation, on the other hand, underlines the importance of protecting the sex workers by identifying abuses within the sex industry, to control and regulate the employment of sex workers and moreover to protect people from being forced into prostitution (the Dutch Ministry of Foreign Affairs, 2012). Furthermore, both countries apply by the Council of Europe Convention on Action against Trafficking in Human Beings. Hence, both countries are looking upon sex trafficking as a violation of human rights. Nevertheless, as their approaches on its prevention differ, I find it important to mention that Sweden and the Netherlands look at prostitution as being interconnected in some way or another with human trafficking. With the two countries like Sweden and the Netherlands, which differ so much in their approach toward prostitution, I find it interesting to investigate which policy appears to have the best outcome for the prostitutes. The best outcomes could be addressing the need for protection and empowerment of the sex workers or helping prostitutes to exit the sex industry. Moreover, a good outcome could also be going beyond the victimization of the prostitutes

while still addressing the vulnerability. Nonetheless, I will compare and discuss the two cases with the intention to find which policy has the best outcome for the prostitutes.

11.1 What is the 'problem' of prostitution represented to be in the Swedish and Dutch policy on prostitution?

As presented in the two case studies of Sweden and the Netherlands, the 'problem' of prostitution is represented very differently. In relation to prostitution policies, it is clear that Sweden and the Netherlands take on complete opposite positions. In the case of Sweden it is clear that its approach on prostitution is based on radical principles whereas in the Netherlands indications of liberal principals are evident. By decriminalizing prostitution and criminalizing the buyers, Sweden makes a strong statement about the status of women within the sex industry. The Swedish policy on prostitution frames women as victims and men as perpetrators of abuse. Moreover, it is the men who should be punished for buying sexual services, as it contributes to social inequality, which according to the Swedish Government; goes against Swedish standards on gender equality (Swedish Institute, 2010). Further, the Swedish policy meets the radical approach that all prostitution equals a violation of women's rights, regardless of the existence or absence of women's consent. Moreover, Sweden underlines how prostitution causes serious harm to both individuals and to the society wherein it occurs. In addition, the policy states that prostitution is associated with human trafficking, assault, procuring and drug-dealing. As Kathleen Barry puts it, prostitution can be categorized in the same category as rape, sexual harassment and sexual abuse, and it should therefore be seen as sexual exploitation. The Swedish policy's choice of words regarding the description of its policy on prostitution is very similar to those of Barry and the radical approach; I will therefore argue that the Swedish policy on prostitution can be put into the category of having a radical feminist approach on the subject. Thus, the 'problem' of prostitution which is represented within the Swedish policy on this subject is the 'problem' of inequality and how the demand of sexual services works against a gender equal society, and should therefore be criminalized as it is not to be socially accepted. Further, according to the Swedish government the problem of prostitution is often linked with human trafficking.

By contrast, the Netherlands have a completely different way of representing the 'problem' of prostitution within their policy. The lifting of the ban on brothels does not only legalize prostitution but also legalizes sex businesses with the requirement of a license. The policy further recognizes prostitution as sex work, giving the women working in the sex

industry the entitlement to social rights as in any other labor field within the Netherlands. The Dutch policy on prostitution is aimed to look upon the distinction between voluntary and forced prostitution and further its aim is to be able to control and regulate prostitution and to protect minors from sexual abuse. Moreover, the policy aims to provide additional rights to the sex workers as the right to do work of their own choosing, to get social insurance and to show the recognition of the sex worker's right to sexual self-determination. The Dutch policy on prostitution may also be said to reflect Martha Nussbaum's liberal feminist view that people should have the freedom of choice where sex workers are put into the position of agency. Further, buying sex should be seen as a bodily service instead merely being seen as a transaction between a client and a sex worker. Furthermore, the liberal feminists argue that sex work should be decriminalized and prostitution should be treated as any other business transaction. Thus, the Dutch policy can be said to reflect the liberal view on prostitution. Nonetheless, normalizing the act of buying sex, as it happens in the Netherlands, and given the fact that most prostitutes are women and buyers are men, evidently classifies prostitution as a gendered issue. Hence, the 'problem' of prostitution which is represented within the Dutch policy is the 'problem' that prostitution should be seen as sex work and not as violence against women as in the case of Sweden.

Thus, the problem representation regarding prostitution clearly differs in the two country cases. In Sweden the 'problem' of prostitution is evidently a social concern about gender equality and the subordination of women within prostitution. Between the neo-abolitionist approach and the Swedish policy there is an evident resemblance, and I therefore call the policy in Sweden a neo-abolitionist approach to prostitution. In addition, the 'problem' of prostitution in the Netherlands seems to be more about regulation of sex businesses and to provide protection and equal opportunities for the sex workers within the Dutch society. Thus, I argue that the Dutch approach on prostitution resembles the liberal, sex work approach.

11.2 What presuppositions and assumptions (epistemological) underlie this representation of prostitution?

The Swedish policy on prostitution stems from the assumption that prostitution is a form of violence against women and that no woman has entered prostitution voluntarily. Moreover, the Swedish policy recommends fighting prostitution in order to gain gender equality and ending the subordination of women within the Swedish society. Thus for "solving" the 'problem' of

prostitution, it should be recognized as a social problem. However, as Bacchi states a Government's attempt to solve a 'problem', may address the 'problem' from a certain perspective which will only make any solutions meaningless at the beginning, because of the way the 'problem' is formulated. This can be seen in the Swedish policy, as it is perceived, that prostitution is a violation against women and further all women are deemed to be perceived as victims of sexual exploitation. In this case, the policy is failing to address prostitution seen from the perspective of women who have stated that they entered prostitution voluntarily. Moreover, the demand of sexual services is seen as being socially unacceptable in Sweden, as it subordinates the women involved. The fact that a man can buy sex from a woman can be seen as a form of discrimination toward women, as it may in someone's perspective, turn women into sexual objects, as the neo-abolitionist argues. Moreover, Sweden along with other countries had the assumption that prostitution is a gender equality issue and a social problem. As Rainwater described in Bacchi (1999), society is an organism with 'sick' people who are seen as the source of social disruptions within society. These social disruptions were later described as being social problems. When the Swedish policy on prostitution states that prostitution is a social concern and that it has to be solved by criminalizing the buyers it makes both the prostitutes and the buyers "sick" people within society. Both the prostitutes and buyers are seen as creating social disruptions by degrading women and turning them into sexual objects. This further disrupts the idea of a gender equal society, according to the Swedish policy, as gender equality cannot be achieved in the presence of prostitution. The policy was further intended to combat trafficking in human beings for the purpose of sexual exploitation, as criminalizing the buyer should end the demand. In other words, no buyers ought to result in fewer prostitutes. The case study conducted on Sweden showed that prostitution at least in the streets has decreased after the ban was implemented. Moreover, Sweden has become a transit country rather than a destination country for human trafficking, which only "solves" the problem of trafficking nationally.

The Dutch policy on prostitution has emerged from the assumption that by making prostitution legal in all aspects such as, legalizing the selling of sexual services, the buying of sexual services and further legalizing sex businesses, the sex market will become more transparent. Furthermore, the lift on the ban on brothels in 2000 was done in order to enable control and regulation of the business of prostitution and to make it possible to distinguish

between voluntary and forced prostitution. Further, the lift of the ban was assumed to improve the sector of prostitution as a whole and the position of sex workers by tackling the abuse of sex workers which often occurs within the sex industry. Additionally, the presumption of the policy was that the sex workers would get the recognition of their right to sexual self-determination. Moreover, the Netherlands, as Sweden, assumed that by adopting a certain policy on prostitution, as in this case the legalization; it would be possible to 'solve' the social problem (Outshoorn, 2012). Thus, by calling prostitution a social concern the Dutch Government indicated that prostitution is something that should be dealt with by applying a policy which will regulate prostitution. Nevertheless, even if the Dutch policy tries to include prostitution as "normal" work, forms of social stigma of sex workers still occur. As stated in section 10.7, well being, sex workers still felt somewhat badly treated by the Tax and Customer Administration, the Employee Insurance Agency, and social services. As Gusfield (1989) and Morgan (1989) state, when a certain group, in this case the sex workers, become locked into a social problem's frame as '*troubled persons*' it can be difficult to be perceived as something else. In other words, if prostitution is to be perceived as socially unacceptable or as a degrading, it can be hard to break out of this stigma.

Hence, the Swedish policy and the Dutch policy on prostitution have very different assumptions about prostitution and how the countries policy should deal with the issue in order to address the 'problem' of prostitution. The Swedish policy assumed that all prostitution is a form of violence against women, and moreover that no woman has entered this sector voluntary. While the Dutch policy came from the assumption that by making prostitution legal in all aspects will make the sex market more transparent in order to combat human trafficking. And further, to tackle the violence experienced by the women within the sex industry.

11.3 How has this representation of prostitution come to be?

The issue of prostitution was raised in Sweden in the 1970's and was linked to social changes and a different view of sexuality. In 1977 a Swedish inquiry highlighted that prostitution is not a woman's issue but rather a general social problem (Swedish Institute, 2010). Moreover the inquiry expanded the concept and definition of prostitution: "[p]rostitution occurs when at least two parties purchase and sell sexual services in return for (usually) financial compensation, which represents a condition for the sexual service" (Swedish Institute, 2010, p. 5). In a Prostitution Inquiry in 1993, it was proposed that prostitution should be

criminalized by introducing a ban on both purchasing and selling sexual services. The inquiry stated that the criminalization of prostitution was an essential step toward making it clear that prostitution was not accepted within the Swedish society. It was proposed that all aspects of prostitution should be criminalized; this included the criminalization of the prostitute. However, the criminalization of the person selling sex was not implemented as it met extensive criticism. This proposal led to the introduction of the Act Prohibiting the Purchase of Sexual Services in 2000 (Swedish Institute, 2010). Furthermore, the ban was implemented as an important instrument to combat the crime of human trafficking. ‘The ban on the purchase of sexual services’ was further for the protection of those people who are, or those who are at risk for becoming involved in prostitution. The ban was also introduced to highlight that extensive work should be aimed directly at individuals who are exploited and moreover to include different measures to help prevent individuals from ending up in prostitution. The people at risk are identified as children and young people (Swedish Institute, 2010). All this shows how prostitution in a matter of fact is a social problem in Sweden as the Government has drawn attention to prostitution being a ‘*social disease*’ as Bacchi puts it. Thus, this is what we need to reflect upon. Moreover I find it essential to comment upon Fraser’s (2000) concept of being ‘*misrecognized*’ as the prostitutes in Sweden are put into a status of being denied to fully integrate into the Swedish society because of the state’s policy on prostitution. I therefore, argue that even if it is only the buyers who are targeted as criminals, the prostitutes are being portrayed as victims. Hence, the prostitutes are bound to meet discrimination in form of social stigma because their work is not being recognized but is rather seen as a form of exploitation against women, and therefore they are seen as victims.

The Netherlands had a system of regulation of prostitution which allowed brothels in the nineteenth century. However, as mentioned in section 10, the practice of brothels; pimps and others who lived off the earnings of prostitution was criminalized in 1911. However, this did not include the prostitutes who were seen as women in need of redemption (Outshoorn, 2012). This practice was run under the Morality Law; the law symbolized the new parliamentary majority of religious parties in the early 1900’s. Nonetheless, the abolitionist regime was very ineffective as policy unofficially turned back to regulation, where local authorities regulated prostitution which was unofficially “allowed” in certain areas. However, as long as public order was not threatened, the authorities turned a blind eye to what was happening in the country. Prostitution was never criminalized under Dutch law, even though old discourses,

throughout the 1950's and the 1960's, generally portrayed prostitutes as victims of poverty or as "fallen" or "sinful" women (Outshoorn, 2012). The Morality Law went unchallenged until the late 1970's as municipal authorities could not deal with the consequences of the development within the new globalizing sex industry. This development meant spreading of prostitution beyond the unofficial areas for prostitution and moreover the first sign of women being trafficked from abroad was seen. In the 1980's the political parties in the Netherlands put prostitution onto the agenda and reconsidered the current law on prostitution. The current law as we know it today is mainly developed with feminist ideas that stressed the importance of lifting the ban on brothels to recognize prostitution as work, prostitutes' rights and to fight the stigma of being a prostitute. The use of feminist discourse stressing the agency of women, the importance of the pro-sex work position and rejecting the idea that legal prostitution would fuel trafficking, the ban on brothels and residence permits for women, was achieved in 1988. Thus, the feminist discourse was an important factor to why the prostitution policy changed in 2000 (Outshoorn, 2012).

I therefore argue that historical effects, culture, religion and further globalization has had an effect on both the Dutch and Swedish legislation on prostitution, as through time their perspectives in prostitution has changed. In the case of Sweden the proposal in 1993 was first to criminalize both the selling and buying of sexual services, however this proposal was withdrawn because of a lot of criticism. It therefore only criminalized the purchase of sexual services and highlighted that the women involved or those at risk become involved in prostitution, should rather be helped than criminalized. In the case of the Netherlands, the selling of sex has never been criminalized, however the ban on brothels made the conditions of working as a prostitute difficult. The ban was lifted in 2000, after control and regulation of prostitution became difficult. Moreover both laws on prostitution came to be, as sex trafficking became a problem.

11.4 What is left unproblematic in this problem representation?

As Bacchi states in her theory on 'rethinking social problems' we need to examine how some policies include particular issues while silencing others. Thus we have to focus on the problematization which comes from the policies rather than looking at the actual problems. Therefore, I will look upon and discuss how the two cases of Sweden and the Netherlands have silences within their policies. The Swedish policy seems to leave out the fact that not all prostitutes can said to be forced into prostitution, as it does not allow for the differentiation

between voluntary and forced prostitution. According to the policy all women involved in prostitution are sexually exploited. However, the evaluation report on 'the ban against the purchase of sexual services' (1999-2008) does talk about the women currently involved in prostitution. The women working as prostitutes stated, in an inquiry made for the purpose, that the criminalization has intensified the social stigma of selling sex. Furthermore, the women argued that they have chosen to become prostitutes themselves, as they do not see themselves as victims of sexual exploitation. Additionally, even if the selling of sex is not criminalized the prostitutes felt hunted by the police. Likewise, the prostitutes felt like they are treated as incapacitated persons because of their choice of work.

The Swedish case further leaves out that by criminalizing the buyers the prostitutes will evidently earn less. As many customers may chose to stop buying sexual services as they risk getting a fine or even risk going to jail. In the 2008 survey, several of those men answering the questionnaire, stated that the ban had affected their choice on buying sexual services. Thus making them quit buying sex or at least to cut back on their purchase of sexual services. Hence, fewer sex buyers, means competition between the prostitutes and as a result of this, buyers can begin to demand more kind of different sexual services, as prostitutes will have to compete for their customers and thereby expanding their sexual services to increase the number of customers. As another result the prostitutes may retreat to other more isolated premises, where the possibilities of the buyers getting caught are less likely. This I argue makes it more dangerous for the prostitutes, as selling sex in an isolated location, may lead to more violence, as the prostitutes are more vulnerable in these situations. In the most recent evaluation on the ban there are no overall statistics regarding prostitutes reporting assaults to the police in Sweden. However, police in bigger cities as Gothenburg has conducted a special review of violence against women in street prostitution and did not find an increase in violence since the ban was adopted. Although, the existence of the law itself, may stifled reporting. Additionally, the report stated that it is not possible to draw to any conclusion on whether or not violence within prostitution has risen since the ban went into effect. Some information did however indicate that prostitutes were put into more risky situations.

In the Dutch policy on prostitution, legal non-licensed prostitution appears to be an understated problem of the policy, as it has proven to be more difficult to have an overview of how many sex businesses operate within the municipality with this approach. The municipalities that participated in the 2014 survey stated that most municipalities with this

approach did not know how many sex businesses were operating within their municipality, at least the legal-non-licensed kind. This is kind of contradicting as the ban on brothels was lifted to make the sex businesses more transparent and thereby being able to control illegal prostitution or women who are victims of trafficking. Moreover, the fact that sex businesses are required to be licensed may actually result in more prostitutes working illegally. Especially, if the women do not want to pay taxes and further, they might want to work independently, so they can have a say themselves on how many hours they will work every day. Further, the ban has had the outcome that street prostitution only can be practiced if it is within legal premises, allowing prostitutes to stand on the streets and sell sex. This can lead to competition between the street prostitutes, as in the Swedish case, and the prostitutes may therefore seek other premises, where there is lesser competition. Working in an illegal area in street prostitution means a risk of getting caught by the police and moreover to risk a fine. The Dutch report conducted in 2014 showed that prostitutes working in illegal non-licensed prostitution are mainly from the Netherlands and East European countries. Further, the study conducted showed that the largest groups of street prostitutes were Dutch women who were addicted to drugs. The fact is that women mainly seek the work in non-licensed prostitution, because of financial reasons. Moreover, the reality is that some of the women working as prostitutes are suffering from addictions and may not be able to obtain work in a legal sex business and therefore work in the streets to earn money for their addiction. They might even have to work beyond the sectors of where it is legal, because of competition. The possibility of getting a fine may seem reasonable, but the truth may be that it hurts the people working illegally on the streets more than it benefits society. They may have to work even more to cover the expenses of the fine and therefore maybe have to work in even more dangerous situations than before. Moreover, even if the lift of the ban on brothels has reduced cases of trafficking in the legal sector of prostitution, the policy has yet to improve the status of the migrant sex workers. They now are seen as both irregulars' aliens according to the law on human trafficking and further as illegal prostitutes within the country if they originate from outside the European Economic Area.

Both policies have silenced certain issues which occur within the prostitution industry and which have occurred because of how the policy is formulated. The Swedish policy has ignored the fact that not all prostitutes can said to be forced into prostitution, as it does not allow the differentiation between voluntary and forced prostitution. Moreover, the

policy leaves out that by criminalizing the buyers the prostitutes will evidently earn less money. The Dutch policy barely notes the fact that as sex businesses are required to be licensed, this actually result in women choosing to work illegally, as they may not want to pay taxes or may even not be fit to comply with the rules set by legal sex businesses. Furthermore, the policy fails to improve the status of the other marginalized groups of women as; women suffering from addiction and migrant women, as it is in fact mostly these women who work in the non-legal sector.

11.5 What effects are produced by the representation of prostitution?

As stated earlier, prostitutes who are currently working in Sweden have stated that the criminalization has intensified the social stigma of selling sex. Further, prostitutes have underlined that they have chosen to work within this sector themselves and do not consider themselves as victims. I will therefore argue that ‘the ban against the purchase of sexual services’ has worsened the effect of social stigma. To highlight this argument, I have selected this quote by a sex worker activist: “I’m used to being treated badly and I always expect to be attacked if I talk in front of people ... I don’t understand how people can say that they care about sex workers when they, at the same time, use a language which oppresses me and diminishes all my experiences” (Hardy, 2015, p. 320). This quote shows prostitutes may feel oppressed by the Swedish law, as it portrays all prostitutes, as victims of sexual exploitation, as it does not allow for the differentiation between forced and voluntarily prostitution. As in Bacchi 1999, Fulcher, looked at the discourse on ‘*disability*’ as being perceived as personal trouble, rather than a public concern, this shows how labeling people as being ‘*disabled*’ draws the attention away from the ‘*disabling*’ structures which constrain them. In the case of Sweden it is clearly that the policy on prostitution labels prostitutes as being ‘*disabled*’. This is in the sense that the policy portrays the prostitutes as victims and the attention is therefore drawn away from the policy which restrains them for breaking free of this social stigma, as being seen as victims.

On the other hand, when it is seen as “normal” to buy sexual services the Dutch policy has the effect of somewhat normalizing the act of buying sex. The given fact is that, as mentioned before, prostitutes are mostly women and the buyers are mostly men. Thus, this clearly classifies prostitution as a gendered issue, as prostitution is also often looked at as being a heterosexual phenomenon. This may categorize prostitution as a sign of male dominance and the subordination of women by reducing them to mere bodies or objects to satisfy men’s

sexual desires. I am by no means implying here that women themselves do not have sexual desires or pleasures and further that some prostitutes, at some point may have experienced pleasure while being with a client. However, by ignoring the fact that it is mostly women who are selling their bodies and men who are buying these sexual services would be a great mistake. Many opponents of the sex work approach may therefore have some truth in their statements, when they state, that women in prostitution are being exploited. However looking at it from both the Dutch and Swedish approach on prostitution, I will argue, that it is essential to include the opinions of people involved in prostitution. Since not all prostitutes feel oppressed, some prostitutes might even feel empowered by the fact that they can use their bodies to earn money.

The effect of the two different representations of prostitution includes stigmatization of the prostitutes and normalization of the buying of sexual services. It is needless to say that these effects differ greatly and have different effects on the women involved in prostitution.

11.6 How and where has this representation of prostitution been produced, disseminated and defended? How can it be questioned, disrupted and replaced?

In both Sweden and in the Netherlands the focal point for the production and dissemination of the problem representation has been the government, through policy processes. In both cases the government has played an important role in either criminalizing the buyers of prostitution or regulation of prostitution. The approaches to prostitution offered by Sweden and the Netherlands are challenging each other, as showed throughout the comparative analysis. I will now examine how each problem representation could be questioned, disrupted and replaced. The different discourses underlying the Swedish and the Dutch approaches are:

- Neo- abolitionism / sex work
- Prostitution as sexual exploitation / prostitution as work
- Harmful / limited harm
- Forced / voluntary
- Male demand is challenged and criminalized / male demand is assumed and accepted
- Gender equality as an “outcome” / gender equality as “input”

The Swedish discourse is closely connected with the state’s emphasis on producing gender equality as an outcome of ‘the ban against the purchase of sexual services’. This frames prostitution as being violence against women and as an obstacle to obtain gender equality within society. This is of the assumption that a society which allows trade in sexual services

cannot obtain gender equality, as prostitution is a subordination of women. The kind of equality the Swedish policy portrays emphasized the outcome for the women involved in prostitution, as being free from violence, which is caused by the men buying sex. Thus, this leads to the conclusion that prostitution is the exact opposite to equality. Here the state becomes a protector of women, in the sense, it stands between them and the men who wish to exploit them through prostitution. In contrast the Dutch sex approach discourse, which is also linked closely with the state, is made possible within the liberal Dutch state. The Dutch discourse emphasizes that it is liberating women and empowering them through agency. This perspective is defended, as prostitution is profitable, seen as a right to choice occupation and further the right to sell and buy sexual services. However, the state must still protect and minimize the harm experienced by prostitutes, which in reality occurs within the prostitution sector. Moreover, according to the Dutch discourse women can obtain equality in the form of the right to be recognized as sex workers.

The Swedish representation of prostitution, as discussed, underlines the importance of gender equality. The state has become somewhat of a protector of women, protecting them from the harm of prostitution. Nevertheless, the women are seen as victims of sexual exploitation. The victimization of women constructs a certain statement of women being in the need of protection, even if this is not the case. Thus, the state put the women into the category of being vulnerable creatures who cannot think for themselves; this certainly contradicts with the feminist ideals of women being equal to men in that respect. In the Dutch discourse, the disruption lays within the acceptance of prostitution. Prostitution is accepted as inevitable and to some extent normal within the Dutch policy. Moreover, as discussed earlier in the comparative analysis, by normalizing prostitution, it rather ignores the fact that prostitution is a gendered issue, as it is mostly women who are the sellers and the men who buy sex.

12. Conclusion:

I will follow by briefly summarizing each section of my paper and make some concluding comments. I will finalize by answering my research question: “*Which policy on prostitution has the best outcome for the women involved in prostitution?*”

In the methodology I introduced Carol Lee Bacchi’s ‘*What is the problem represented to be?*’ approach, along with the comparative method and case study explained by Arend Lijphart. Moreover, I explained how I was going to use the two represented methods throughout my paper, as an analytical tool.

In the section on choice of data, I explained why I have chosen to examine policies on prostitution in Sweden and in the Netherlands, and moreover how I mainly focus on women involved in prostitution. Furthermore, I explained my choice of methodology and theories used throughout the paper.

The chapter on the theories was aimed to introduce Carol Lee Bacchi’s approach on rethinking social problems and briefly introduce the two distinct feminist approaches on prostitution, namely the neo-abolitionist and the sex work approach. In this context, I started by examine the history of the social problem approach and further discussed the ‘*What is the problem approach*’ by Bacchi. Bacchi argues that we as researchers have to focus on the problematization, rather than the problems. Furthermore, her approach encourages us to reflect upon the policy initiatives – with looking at what they include and what they leave out, when developing a policy. Additionally, I discussed Nancy Fraser’s theory on ‘*rethinking recognition*’ as it complements Bacchi’s approach. Lastly, I included the two feminist approaches on prostitution, to be able to clarify from which perspective Sweden and the Netherlands have developed their approaches on prostitution.

On the empirical and historical chapter I presented a general definition of the term prostitution. Furthermore, I explained the EU legislations on prostitution, the sex industry and lastly forced prostitution and trafficking in human beings for the purpose of sexual exploitation.

Moreover, in the country case section, I presented the legal frameworks on prostitution in Sweden and the Netherlands. I showed that in Sweden the buying of sex is criminalized and that prostitution is seen, as violence against women. On the

contrary, in the Netherlands the lifting on the ban on brothels, has made sex businesses legal again in 2000, and moreover that prostitution is not seen as violence against women, but rather as any other “normal” job.

In the comparative analysis I distinguished between the two different approaches on prostitution in Sweden and in the Netherlands and further reflected upon them. I applied Bacchi’s six questions from her approach to be able to examine, how the policies in the two countries, have come to be in very different ways. I firstly investigated what the ‘problem’ of prostitution is represented to be in the Swedish and in the Dutch policy on prostitution. The problem representation clearly differs in the two country cases. In Sweden the ‘problem’ of prostitution is a social concern about gender equality and the subordination of women within prostitution. In Addition, the ‘problem’ of prostitution in the Netherlands is more about regulations of sex businesses and to provide protection and equal opportunities for the sex workers, within the Dutch society. Further, I looked at what presuppositions and assumptions underlie these representations of prostitution. The Swedish policy assumed that all prostitution is a form of violence against women and that no woman has entered this sector voluntary. Whereas the Dutch policy assumed, that by making prostitution legal in all aspects ,it will make the sex market more transparent, in order to be able to combat human trafficking and further to tackle the abuse, experienced by the women within the sex industry. Moreover, I investigated how these representations of prostitution, have come to be in Sweden and in the Netherlands. In both cases historical effects, culture, religion and further globalization have had a greatly effect on the development of the legislations on prostitution. Furthermore, what is left unproblematic in the two cases and further which effects have been produced by these representations, was discussed. Lastly, how and where this representation of prostitution has been produced, disseminated and defended was considered. The Swedish representation of prostitution, underlines the importance of gender equality and the Swedish state has become a protector of women, protecting them from the harm of prostitution. The victimization of women constructs a certain state of women being in the need of protection, even if this is not the case. In the Dutch discourse, the disruption lay within the acceptance of prostitution, normalizing it and thereby ignoring the fact that prostitution is a gendered issue.

The aim of this paper was to answer the question: “*Which policy on prostitution has the best outcome for the women involved in prostitution?*”. By the analysis of my country cases I can conclude, that both policies on prostitution seems to have positive and negative effects on the women involved in prostitution. The Swedish policy highlights the need for a gender equal society, where no one should be targeted by sexual exploitation. Thus, no women should be involved in prostitution, as it is a form of violence. Moreover, the Swedish policy has declared prostitution a social problem, which needs to be addressed. Nonetheless, the Swedish policy tend to victimize the women involved in prostitution, as it leave out the fact, that not all prostitutes, can be said to be forced into prostitution. On the other hand, the Dutch policy seems to be more effective when addressing abuses experienced within the sex industry, as by legalizing the prostitution industry it has become more transparent to some extent. However, this only includes the sectors where sex businesses are legal and have licenses. Nevertheless, even if the Netherlands also addresses gender equality within their policy, the policy has yet to acknowledge the fact, that prostitution is a gendered issue and that it is mostly women who are involved in this industry. Thus, by normalizing prostitution the Dutch policy seems to ignore, that prostitution is a gendered issue, as mentioned earlier.

In this context, it seems difficult to conclude which policy on prostitution has the best outcome for the women involved in prostitution, as both approaches have pro and cons. However, when looking at how I have described the best outcomes, as being the need for protection and empowerment and/or going beyond the victimization of the prostitutes while still addressing the vulnerability. The Dutch policy addresses these outcomes best, as the policy is working toward making prostitution a normal job and therefore working toward to end the social stigmatization, which is experienced by prostitutes. Moreover, the Dutch policy addresses the prostitutes as sex workers and not as victims, while still addressing the violence experienced by the prostitutes. Hence, the policy goes beyond the victimization of the prostitutes while still addressing the vulnerability of the prostitutes.

I wish to emphasize, that despite the Dutch policy seems to have the best outcome for the women involved in prostitution the issue of prostitution is not solved, as there

is a need for more attention to the women involved in prostitution. This could be done, with including the prostitutes even more in the development of policies of the issue. Moreover European states would have to establish a really broad long term research to answer the question of prostitution, as it is a complex social phenomenon.

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