

Prostitution vs Sex Work:

A 'What is the Problem Represented to be?' critical policy
analysis on the Cyprus Penal Code

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1. Introduction

Prostitution has been around for some time now and has long been an issue of controversy between feminists. Over the years, countries developed different approaches to prostitution; some criminalized ‘clients’ i.e. people purchasing sexual services and others criminalized the prostitute and the act of providing sexual services upon payment. The most recently new adopted approach is the neoabolitionism view that has been implemented first in Sweden “where every party is criminalized except from the prostitute.”¹ Feminists over the years argued about prostitution and whether it is an issue of female liberation and free choice or whether it is a patriarchal idea that victimizes women around the world. This debate has also ignited a dichotomy about the use of the word ‘prostitution’ and the use of the word ‘sex-work’. The concept of ‘sex-work’ derives from the classical liberalism and liberal feminism views that prostitution is like any other work and women working within this occupation should be referred to as ‘sex-workers’ instead of prostitutes. This argument is mainly made by “human rights advocates that believe that rights like freedom of speech, work, etc. should be extended to prostitutes; there has also been increasing emphasis on labor rights and conceptualizing ‘sex-work’ through this lens.”²

Most importantly, prostitution is clearly connected to human trafficking. Human trafficking has been characterized by the EU Commission as one of the “most gross violations of fundamental human rights”³ happening today and is often referred to as ‘modern-day slavery’.

Having the chance to work with the Office for Combating Human Trafficking in Cyprus, meant that I got an insight into human trafficking and prostitution on the island. I took part in police operations as well as interviews conducted by the police to determine ‘victim’ status for the women rescued during these operations. My experiences there, augmented my interest in the subject, and it got me wondering what the legislation says exactly about this. Researching the topic, I was shocked to find out that the law in Cyprus

¹ Lisa Carson and Kathy Edwards, ‘Prostitution and Sex Trafficking: What are the problems represented to be? A Discursive Analysis of Law and Policy in Sweden and Victoria, Australia’, *Australian Feminist Law Journal*, (34:1/ 2011), 72.

² Ibid. 65.

³ European Commission’s report, “Data Collection on trafficking in Human Beings in the EU” (2018), 19

fails to directly deem prostitution legal or illegal. Therefore, prostitution is completely unregulated on the island. Though Cyprus has a very strict approach to human trafficking, at first glance it seems like they failed to consider prostitution and its impact on women's lives. Therefore, I decided to write this paper with aim to further research Cyprus' approach to prostitution and conduct a critical analysis on the laws on prostitution in Cyprus.

Approaches vary between countries, and it is clear that prostitution may be more of an issue in some countries compared to others. For some time now, the Republic of Cyprus has been a destination country for trafficking victims and a location where prostitution and strip clubs seem to be very popular. Though there are numerous legislations around human trafficking and offences related to prostitution, this paper will focus on article 164(a) of the Cyprus Penal Code that deals with the offence of procurement. This study aims to use Carol Bacchi's 'What is the Problem Represented to be?' (WPR) approach to carry out a critical discourse analysis on article 164(a) and will attempt to answer the following problem formulation;

“What is the problem with the distinction between prostitution/sex work and human trafficking represented to be in article 164(a) of the Cyprus Penal Code?”

2. Overview

Cyprus has been a desired destination for prostitution for quite some time now. Growing up in Cyprus, I remember seeing cabarets and strip clubs every few meters in certain areas and this was a 'normal' sighting for anyone taking a walk around the capital. During an unofficial interview I had with the Head of the Office for Combating the Trafficking of Human Beings of the Cyprus Police, she mentioned that in the 80s there was a considerable rise in cabarets and strip clubs opening in Cyprus, where a lot of the women working at these places were brought in Cyprus on an 'artist visa'.

The 'artist visa' was issued to anyone that wanted to come to Cyprus and work in any entertainment or music/dancing industry. In the 80s, this was a very popular way to bring girls from other countries into Cyprus so that they work as dancers at strip clubs. In 1993, however, the Government showed its concern around the rise of cabarets on the island by "passing new legislation which reduced the number of licenses issued to female artists working at a single cabaret from 25 to 13."⁴ This was an attempt by the Cypriot government to limit the number of women prostituted in such places. However, it did not stop the rise of cabarets on the island. According to the European Commissioner of Human Rights in a report he issued in 2008, "over the 20-year period 1982-2002, there was a dramatic increase of 111% in the number of cabarets operating on the island."⁵ The question is, did this new legislation on limiting the amount of artist visas allowed per strip club, achieve what the legislators had in mind?

The answer is negative as can be seen clearly through the case of *Rantsev v Cyprus and Russia*⁶. The aforementioned case is one of the most fundamental cases the European Court of Justice had ever have to face and has been groundbreaking in initiating legislation change in Cyprus. Briefly, it involved a young woman that was in Cyprus on an artist visa and was forced into prostitution; she jumped off the balcony of a 5th floor apartment to escape. This case ignited an investigation on Cyprus, that was carried out by the European Commissioner of Human Rights. In 2008, the end report highlighted the fact that a lot of "victims

⁴ Allen R. Katherine and Andreas G. Philaretou, 2005, 'The Cabaret Sex Industry in The Republic of Cyprus: An Exploratory Investigation of Greek-Cypriot Male Cabaret Patronage', *Sexuality and Culture* 9, No. 1, (Winter), 54.

⁵ *Rantsev v Cyprus and Russia*, 2004, ECJ 25965

⁶ *Ibid.*

of trafficking are recruited to Cyprus mainly on three-month ‘artiste’ or ‘entertainment’ visas to work in the cabaret industry including night clubs and bars or on tourist visas to work in massage parlors disguised as private apartments.”⁷ This was proof to the government that cabaret owners were taking advantage of the so called ‘artist visas’ in order to recruit and traffick women into Cyprus. Consequently, the artist visa was cancelled in 2009 in an attempt to combat the trafficking of human beings and forced prostitution. Even though Cyprus cancelled the artist visa, they did not make any amendments to the penal code to tackle prostitution. The Cyprus Penal Code contains numerous articles illegalizing various acts connected to prostitution (for example procurement, solicitation, indecent exposure) but fails to tackle prostitution directly.

Moreover, the political situation that exists on the island impacts prostitution as a whole in Cyprus. “In 1974, Turkey invaded Cyprus and occupied the northern part; consequently, it proclaimed its independence in 1983.”⁸ This means that the laws of the Republic of Cyprus do not apply to the northern occupied side, which is governed by its own laws. Though, “prostitution on the Turkish occupied side is illegal”⁹, a member of the Turkish Cypriot Parliament mentioned in an interview that there are a lot of nightclubs on the occupied side that “are used as brothels. Women are used as sex slaves. Everybody knows it but no one does anything.”¹⁰ These girls come to the occupied side “on the basis of the ‘*konsomatris*’ visa (hostess visa)”¹¹ which is similar to the artist visa that Cyprus once had in place. The division of the island and consequently, the division of the laws on the island, gives way for illegal activities (in this case prostitution and human trafficking) to take place and thrive. Since the two sides do not have a common approach to the problem, this creates loopholes that can be easily discovered by pimps and traffickers and taken advantage of for their benefit. The fact that there is no cooperation between the two sides, further complicates the situation for Cypriot authorities. A lot of the girls I had a chance to interview during my work with the Office for Combating Human Trafficking in Cyprus, were first prostituted or trafficked in the Northern side of the

⁷ Rantsev v Cyprus and Russia, 2004, ECJ 25965

⁸ N. Kliot and Y. Mansfield, “The Political landscape of Partition: The case of Cyprus”, *The Journal of Political Geography* (Vol.16/1997), 495.

⁹ “‘Brothel’ cabarets Thrive in Turkish Cyprus: Report”, *Durriyet Daily News*, August 23, 2015. Accessed May 24th 2020. <
<https://www.easybib.com/guides/citation-guides/chicago-turabian/how-to-cite-a-newspaper-chicago-turabian/>>

¹⁰ Ibid.

¹¹ Ibid.

island and then came to the South side because of better economic opportunities. Therefore, the political situation of 'conflict' that exists on the island until today, has a significant negative impact on the tackling of forced prostitution and human trafficking on the island.

3. Methodology

This chapter deals with explaining the choice of methods used to collect and analyze the data used in analyzing article 164 of the Criminal Code of the Republic of Cyprus in an attempt to answer the problem question. This paper will adopt a qualitative approach in carrying out a critical policy analysis.

After reading through the Cyprus Penal Code and specifically all the articles associated with prostitution, it is clear that the law around this subject is a grey area. There are articles dealing with suppression of brothels (art.156), procuration (art.157), allowing a child or young person to frequent a brothel (art. 158), procuring defilement of woman by threats, or fraud, or administering drugs (art. 159), detention with intent to brothel (art. 162), procurement or persistently soliciting(art.164), woman aiding etc. for gains of prostitution of another woman (art.165), and obscene publications and exhibitions (art. 177). However, the law does not have a specific article stating if prostitution; forced or voluntary, is illegal. Therefore, this essay will specifically look at article 164 of the Cyprus penal code which deals with the illegal act of procurement(living off prostitution earnings).

This article will be considered using Carol Bacchi's 'What is the problem represented to be?' approach(WPR) in order to understand what the problem was and how it was thought of by authorities on the island. Although there are various policy analysis approaches, I found that Bacchi's was the best fit in acquiring a clear picture of what legislators thought the problem to be at the time and how they decided to 'solve' it. Other policy analysis approaches were considered; for example, the institutional theory approach¹² (as explained by scholars Edwin Amenta and Kelly M. Ramsey) as well as the systems theory approach(as explained by scholar David Easton)¹³. Amenta and Ramsey talked about three types of institutionalism; historical institutionalism, sociological institutionalism and political institutionalism. They explain that the similarity between these three is that they all agree that "something identified at a higher level is used to explain processes and outcomes at a lower level of analysis."¹⁴ Though at first this seemed as a very well

¹² Edwin Amenta and Kelly M. Ramsey, "Institutional Theory", *Handbook of Politics: State and Society in Global Perspective*, (2010), 15.

¹³ Adam A. Anyebe, "An Overview of Approaches to the Study of Public Policy", *International Journal of Political Science*, (Vol.4, Issue 1, 2018). 13.

¹⁴ Edwin Amenta and Kelly M. Ramsey, "Institutional Theory", *Handbook of Politics: State and Society in Global Perspective*, (2010), 15.

fitted theory for the analysis of this paper, after researching it more it seemed like it was not the right theory to use. This was mainly due to the fact that it is a theory that “is structurally biased and has problems in explaining social and political change.”¹⁵ Hence, this theory was deemed “risky” in that it may have limited the scope of the paper and Carol Bacchi’s WPR approach seemed more appropriate for the purposes of this thesis. On the other hand, systems theory as first developed by David Easton “views political life as a system of interrelated activities; these activities derive their relatedness or systematic ties from the fact that they all more or less influence the way in which authoritative decisions are formulated and executed for a society.”¹⁶ (Authoritative decisions meaning policies). To put it simply, systems theory as explained by Easton here, looks at how different institutions of the government work together, how they influence each other and how this affects the policies they enact. Easton gives a simple formula to his theory; “inputs(demand and support)- political system or processes- outputs(decision on policies)”¹⁷. As with the institutional theory, the systems theory at first glance seems like a fitting theory to the policy analysis of article 164(a) of the Cyprus Penal Code. Though systems theory would be appropriate to use for the purposes of this thesis, I chose to go with the Carol Bacchi’s WPR approach because it allows us to examine article 164(a) in a more well-rounded way; past the inputs.

To continue, the WPR approach seemed more appropriate since it allows us to closely look at a specific policy and analyze it in a way where we can acquire a great deal of information. Such as what was the problem thought to be, how the political system dealt with it, which groups were included/excluded, what is left ‘unsolved’, etc. Therefore, the explicit nature of the WPR approach and the questions it includes, allows us to narrow the focus of the paper and specifically look at prostitution policies in Cyprus.

Moreover, this paper will focus on the case of the Republic of Cyprus for various reasons. Firstly, as aforementioned, Cyprus has long been a destination country for women to be trafficked and prostitution is very apparent on the island. Due to Cyprus’ location and due to the artist visa that was once available,

¹⁵ Ibid.

¹⁶ David Easton, “An Approach to the Analysis of Political Systems,” *World Politics* 9, no. 3 (April 1957), 383,384.

¹⁷ Ibid. 384.

prostitution skyrocketed in the 80s and this caused the increase in cabarets and strip clubs. Some papers have been written on the subject; for example, scholars Katherine Allen and Andreas Philaretou's paper, "*The Cabaret Sex Industry in the Republic of Cyprus: An explanatory investigation of Greek-Cypriot Male Cabaret Patronage*" as well as Philaretou's paper "*Eastern-European Sex Workers in Greek-Cypriot Cabarets*". However, these papers do not concern a policy analysis and most importantly, they focus on cabarets instead of prostitution as a whole. Therefore, I hope that this paper can extend the research regarding prostitution policies in Cyprus and provide a different perspective.

Finally, I will be applying the theories of liberal feminism according to Jody Freeman and neo-abolitionism as explained by Alison M. Jagger, in understanding the contradicting perceptions of prostitution. These theories will be applied on article 164(a), in question 5 of the WPR in an attempt to examine the different subjectification effects created for sex workers and forced prostitutes by the problem representation. Liberal feminism also commonly referred to as the 'sex-work' approach, looks at prostitution as an ordinary job where women should have the freedom to choose it as their occupation freely and should be given the same rights as workers of any other occupation do. Neo-abolitionism, however, is a stricter approach to prostitution that falls under the radical feminism umbrella. Neo-abolitionists believe that prostitution is a patriarchal idea that looks at women as sexual objects to satisfy male sexual drive. The use of these two theories allows this paper to examine two opposite positions around prostitution in an attempt to understand how the policy makers in Cyprus and consequently Cypriot society thinks of prostitutes. Both theories will be explained in more detail in the following chapter.

4. Theoretical Approach

Feminist perspectives have been very apparent in the literature concerning prostitution. Since prostitution is an act that primarily deals with women providing sexual services, it is only logical that it would ignite a feminist debate around the idea of gender. This chapter will deal with explaining the two main feminist theoretical perspectives on prostitution; the liberal feminist approach and the neoabolitionism approach.

4a . 'Liberal Feminism' - The 'Sex-work' Approach

The first approach is one that prefers to replace the word 'prostitution' with the term 'sex-work'. It derives from liberal feminism which looks at prostitution through the gender-neutral lens. Liberal feminism will be used in this essay in the way it was explained by Jody Freeman in her paper "The Feminist Debate over Prostitution Reform: Prostitutes' Rights Groups, Radical Feminists and the (Im)possibility of Consent." Liberal feminism according to Freeman, "is traceable to liberalism, (as it too) accepts the notion of a pre-social autonomous individual capable of consent and choice."¹⁸ This approach argues that all women are capable of using reasoning to freely choose their occupation even if this means that they chose to provide sex in exchange of money. It reflects the ideas of "individualism, equality of opportunity, and the free market to sexual life."¹⁹ Freeman explains that because "liberal feminism is committed to maximizing autonomy and individual choice, (it) presumptively sees individual expressions of sexuality as implicitly consensual, liberating, and empowering."²⁰ Therefore, , "liberal feminists see sexual free choice as the bottom line, noting that the separation of sex and love has the capacity to contribute to gender equality by liberating women."²¹ Hence, Freeman argues that for liberal feminists, "it is up to the individual woman to decide if she wants to use her body in a way that brings her money and satisfaction, even if that means

¹⁸ Jody Freeman, "The Feminist Debate over Prostitution Reform: Prostitutes' Rights Groups, Radical Feminists and the (Im)possibility of Consent," in *Applications of Feminist Legal Theory*, ed. D.Kelly Weisberg (Temple University Press, 1960), 238.

¹⁹ Katie Beran, "ARTICLE: Revisiting the Prostitution Debate: Uniting Liberal and Radical Feminism in Pursuit of Policy Reform," *Law & Inequality*, 30, 19 (Winter, 2012). <https://advance-lexis-com.zorac.aub.aau.dk/api/document?collection=analytical-materials&id=urn:contentItem:5537-M0H0-00CV-702C-00000-00&context=1516831>.

²⁰ Ibid.

²¹ Jody Freeman, "The Feminist Debate over Prostitution Reform: Prostitutes' Rights Groups, Radical Feminists and the (Im)possibility of Consent," in *Applications of Feminist Legal Theory*, ed. D.Kelly Weisberg (Temple University Press, 1960), 239.

trading in sex.” Therefore, Liberal feminism views prostitution as a form of female empowerment and ‘taking matters into their own hands’ by choosing to benefit from their sexuality.

Freeman, however, explains that this approach comes with limitations in that it assumes consent. “That is, in the absence of clear evidence to the contrary, a woman who says "yes" consents, regardless of the social context, the woman's past experience, or the constraints of ascribing meaning to language.”²² Therefore, the liberal feminism approach, does not look back at the reasons a woman may be indirectly ‘forced’ to consent to being a sex worker.

Evidently, liberal feminism looks at prostitution in the way it views any other occupation. They believe that any woman is capable of reasoning and free choice and if they choose to be a ‘sex-worker’, it is a form of female empowerment. As a result of this view, liberal feminists choose to use the words ‘sex-work’ instead of ‘prostitution’ to further show that when a woman decides to provide sexual services for money, she does so consciously as any woman in any other occupation does. However, the liberal feminism view is restricted as it “has traditionally advocated formal equality, without attempting to significantly restructure society or question the assumption of choice and consent that informs liberal theory .”²³

4b. ‘Neoabolitionism’- The Radical Feminism Approach

On the other end of the scale, there is a stricter approach to ‘prostitution’ and that is the theory of neoabolitionism which derives from radical feminist ideas. Radical feminists oppose prostitution all together and believe in the criminalization of all parties involved apart from the prostitute; hence why they are called ‘neoabolitionists’. This paper will use the definition given by Scholar Alison M. Jagger. She gave a clear definition of the ideas of radical feminism towards prostitution in her paper ‘Contemporary Western Feminist Perspectives on Prostitution’.²⁴

²² Ibid.

²³ Ibid.

²⁴ Alison M. Jagger, “Contemporary Western Feminist Perspectives on Prostitution”, *Asian Journal of Women’s Studies*,(3.2, 1997) <https://doi.org/10.1080/12259276.1997.11665794>

Jagger argues that radical feminists “believe that women do not enter prostitution voluntarily but are forced into it; more obviously by economic need.”²⁵ Therefore, radical feminist opinion is that no woman would voluntarily enter prostitution if she wasn’t forced by other reasons like the need for money. Jagger states that this economic need exists as a “consequence of (women’s) limited opportunities for other types of work; limits that are imposed by gender discrimination.”²⁶ Therefore, radical feminism looks at prostitution through the gender discrimination lens and believes that because women do not have equal opportunities to work, they are forced to enter prostitution to support themselves. To continue, Jagger argues that “women are sexualized by society their whole lives and are ‘trained’ to satisfy men’s sexual desires.”²⁷ Therefore, prostitution according to neoabolitionism is a form of gender-based violence as women are forced to be ‘subordinated’ to men.

Finally, Jagger explains that the radical feminism view “regards prostitutes as controlled by male pimps who exploit their labor and sometimes literally enslave them.”²⁸ Hence, this is another form of gender inequality happening within prostitution since men are often the ones controlling prostitutes’ lives. They repeatedly use violence in an attempt to control prostitutes’ lives further. “This view is also gendered since it presents prostitution as a distinctively feminized form of exploitation reflecting male-dominance.”²⁹

Therefore, the neoabolitionism view opposes the idea that prostitution can be like any other form of work and that it is a form of empowerment for women. Instead, it argues that prostitution is a gender based violent act against women and a way for men to control women and exercise their power. It feeds the notion that men have uncontrollable sexual desire and women are to satisfy that desire selflessly. Finally, neoabolitionism believes that women are forced into prostitution as a result of the unequal job opportunities that exist for women in today’s society; hence, they are driven by economic need.

25 Ibid. 12
26 Ibid. 12
27 Ibid. 13
28 Ibid. 12
29 Ibid. 12

5. WPR Approach: Questions 1-3

1. What is the problem represented to be in article 164(a) of the Cyprus Penal Code?

The first question of Carol Bacchi's WPR approach tries to discover what the 'problem' is thought to be; what is the policy trying to fix? According to Bacchi, the argument for the first question is: "since how you feel about something determines what you suggest doing about it, it is equally true to say that looking at what is proposed as a policy intervention will reveal how the issue is being thought about."³⁰

Before applying the first question to the specific policy in Cyprus, it is vital that we read the article we will analyze. Article 164(a) of the Cypriot Penal Code deals with the offence of procurement. Procurement is generally defined as "obtaining someone as a prostitute for another person."³¹ Specifically, the article states;

"Whoever,

(a) knowingly lives entirely or partially from prostitution profits, which are exercised between persons of either the same or different sex;

(...)

*is guilty of misconduct and is subject to imprisonment not exceeding five years."*³²

Reading through this article it looks like it is clear what this policy is trying to 'fix'. The first part of this article which is the one we will focus on, suggests that the problem is not as such prostitution but 'procurement'; profiting from someone who is selling sex for money.

Therefore, the article tries to 'fix' the problem of procurement. Though more obviously the article here portrays the problem to be 'procurement', it can be seen that the problem represented to be is the

³⁰ Carol Bacchi, "Introducing a 'what's the problem represented to be?' approach to policy analysis" in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012). 3.

³¹ Lexico Dictionary, accessed at <https://www.lexico.com/definition/procure>

³² Cyprus Penal Code

exploitation of prostitutes by someone else. This idea will be explored in the next section that is concerned with the assumptions that underly a problem representation.

2. What presuppositions or assumptions underlie these representations of the problem?

Moving on to the second question of the WPR approach, Carol Bacchi deals with understanding what this specific policy assumes or presupposes. She explains that presuppositions and assumptions refer to “background knowledge that is taken for granted.”³³ Therefore, “the goal of this question is to identify and analyze the conceptual logics that underpin specific problem representations.”³⁴

Looking at question 2 of the WPR approach, it can be seen that article 164(a) assumes that prostitution itself is okay but it becomes a problem when someone else benefits from it. Therefore, there is an underlying assumption that prostitution is like any other work where exploitation should not be happening. Take for instance the scenario of an employee who works long hours at a cement factory and is paid below national minimum wage. This is a form of labor exploitation and the law prescribes that it is illegal. On the one hand, working at a factory is not illegal; on the other hand, forcing someone to work for very little pay, is. The law in Cyprus looks at prostitution in a similar way through article 164. Though prostitution is not illegal as such, the exploitation of a prostitute is. Therefore, within this article there is an assumption that prostitution as an act is acceptable as any other work.

Consequently, this representation of the problem lies closely with the liberal feminist view that women can prostitute themselves if they wish to since it is a form of female empowerment. However, when someone else is profiting from this act, it becomes a problem of exploitation of that woman who decided to become a ‘sex-worker’. Here, it is vital to distinguish between procurement and human trafficking. Human trafficking is the recruitment, transportation and exploitation of people for various purposes (sexual exploitation, labor exploitation, etc.). Therefore, procurement does not fall under human trafficking since it only involves sexual exploitation but not the two other factors needed for human trafficking to be recognized legally ; recruitment and transportation. Procurement in article 164(a) of the Cyprus Penal Code, involves people that are taking advantage of women that have consciously made the choice to become prostitutes. Therefore, this

³³ Carol Bacchi, “Introducing a ‘what’s the problem represented to be?’ approach to policy analysis” in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012). 5.

³⁴ *Ibid.* 5.

article assumes that prostitution and its procurement are a different offence from human trafficking that should be dealt differently.

Moving on, Carol Bacchi explains that question 2 of the WPR approach is important in “thinking about discourse as meaning systems; where discourse means more than language.”³⁵ In identifying discourse, she explores three classifications within question two that can be used to examine a policy and its assumptions; binaries, key concepts and categories.

In relation to binaries she explains that “they assume an A-not A relationship and that what is on one side of a binary is considered to be excluded from the other.”³⁶ She provides different examples; male/female, legal/illegal, public/private, national/international, etc. Furthermore, she explains that binaries are important in “revealing the operation of conceptual logics that may act to constrain or limit our understanding of an issue.”³⁷ Within article 164(a) we can identify a voluntary/involuntary binary. This article assumes that if someone lives off profits from a prostitute, it is done so by force or it automatically means that this person is exploiting the prostitute. It assumes that any profits given to someone else other than the prostitute herself, are doing so involuntarily. This comes into clash with the idea we mentioned before that the policy shows that women are capable to freely and consciously choose their occupation even if it means sex work. Yet the binaries assumed in this policy show the exact opposite; that prostitutes are not capable to knowingly and voluntarily giving some of their profits from prostitution to someone else. Which raises the issue of how women are constructed within the specific policy. Does it therefore assume that women are not capable of voluntarily sharing some of their profits with someone else? Do women have the capacity to choose to prostitute themselves but not the capacity to choose with who they will share their profits? This is a very serious assumption that arises from looking at the binaries assumed within this particular policy and it is contradicting the initial assumption that women who choose to work in prostitution have the freedom and maturity to choose whatever they want.

³⁵ Carol Bacchi, “Introducing a ‘what’s the problem represented to be?’ approach to policy analysis” in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012). 7.

³⁶ Carol Bacchi, “Introducing a ‘what’s the problem represented to be?’ approach to policy analysis” in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012). 7.

³⁷ *Ibid.*

To continue, Bacchi explains that it is important to identify the key concepts that exist within a policy because although key concepts are open ended, they facilitate in understanding the problem representations within a policy. Though key concepts are not always clear cut, it can be identified that the key concept in article 164(a) is freedom. More specifically, the prostitutes' freedom to choose how to spend their profits and resources. There is an assumption that prostitutes that share their profits with someone else are doing so because they are 'forced' or taken advantage of. Therefore, prostitutes are portrayed to be 'incapable' of choosing how to spend their profits. Consequently, there is a strong assumption in the way the problem is represented in this policy; that there is an incapability to choose that exists within women and hence, every scenario where they share their profits is considered procurement by the person benefitting from their profits.

Finally, Bacchi explains that the third classification, "categories, are concepts that play a central role in how governing takes place."³⁸ She explains that the "task here is not to accept these categories as given but to see how they function to give particular meanings to problem representations."³⁹ Within the Cyprus Penal Code generally, the most obvious category is 'prostitute'. Though the article refers to people from the both sexes, the law in general very often, uses the word "prostitute" (in Greek πόρνη/ πο-ρνη) which is a word used to describe females. Within the Greek language it cannot be used to describe a man and it is explicitly a word that grammatically has female connotations. Therefore, the category created here is prostitutes and a sub-category could be women because of the use of language within the article. Moreover, article 164(a) specifically starts by saying 'whoever..'. In English, the word 'whoever' could mean both men and women. In Greek however, ο-πι-ος ('όποιος') is referring to a male. Hence, once again it is clearly making an assumption that prostitutes are always women and if they were to be exploited, they would always be exploited by men. So, this feeds into the assumption that men are this strong figure that will use their power to take advantage of a woman who is clearly portrayed (in article 164(a)) as a helpless victim in need of protection.

³⁸ Carol Bacchi, "Introducing a 'what's the problem represented to be?' approach to policy analysis" in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012). 9.

³⁹ Ibid.

All in all, question 2 of the WPR is very important in understanding how the problem is being thought of. Assumptions are very frequently taken for granted and hence, identifying these assumptions helps us analyze the policy thoroughly and facilitates us in comprehending what the problem is and how it is thought of. Clearly, article 164(a) makes a lot of assumptions about women and men as well as the capacity of prostitutes to choose freely how to spend their profits. Though at first glance the problem this policy is trying to fix seems to be the exploitation of prostitutes, these assumptions show that the real problem addressed within article 164(a) is the 'inability' of prostitutes to have consent in their own economic affairs. Therefore, this article constructs genders by portraying prostitutes as powerless victims; and men that take advantage of them as manipulative and controlling.

3. How has this representation of the problem come about?

Since we have discovered what the problem has been represented to be in article 164(a) and have examined the assumptions that underly within this problem representation, we can now move to question 3 of the WPR approach which deals with the genealogy. Question 3 tries to uncover the background reasons that led to this problem representation. Bacchi explains that the purpose of question 3 “is to highlight the conditions that allow a particular problem representation to take shape and to assume dominance.”⁴⁰ Therefore, in this section, we will try to explore the motives that resulted in this representation of the problem.

Firstly, it is important to note that article 164(a) of the Cyprus Penal Code, has been part of the legislation on the island since Cyprus was a British colony. Therefore, procurement was an offence under Cypriot Law since before Cyprus got its independence from the British in 1960. Since then and until today there has only been one amendment to this article. Up to 2002, article 164(a) was written as follows:

“ whoever, knowingly lives off profits from prostitution,

....

*Is guilty of misconduct and is subject to imprisonment that does not exceed 5 years.”*⁴¹

In 2002 though, an amendment has been made to this article to include the phrase: “*which are exercised between persons of either the same or different sex.*” Though looking at parliamentary discussions from the time, it can be seen that there is no clear justification as to what brought this amendment, the background of Cypriot politics seems promising in providing an answer. In 2004, Cyprus became a member of the European Union after years of long talks. In 2002, Cyprus was at the center of EU talks since it was

⁴⁰ Carol Bacchi, “Introducing a ‘what’s the problem represented to be?’ approach to policy analysis” in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012). 11

⁴¹ Cyprus Criminal Code, article 164(a)

desperately trying to join the EU. An important part of EU accession discussions was that for countries to join the EU they need to show that they share the same values and ideas; this includes the idea of gender equality and inclusivity that the EU is known to be promoting for the past decades. It should be noted that in Cyprus, “the promotion of gender equality through policy and legislation is a relatively recent phenomenon.”⁴² Cyprus has only started doing amendments to its legislation to be more gender inclusive in the 2000s. According to the European Institute of Gender Equality,

*“Cyprus has passed significant number of legislative measures related to gender equality in the last decade, covering the areas of equal treatment in employment, equal pay, maternity protection, parental leave and violence in the family, among others, as a result of Cyprus’s harmonization with the EU acquis Communautaire.”*⁴³

Therefore, it could be argued that Cyprus’ attempt to join the EU, ignited the amendment of article 164(a) to be more gender inclusive. Meaning that now, it did not only cover the procurement of women but also the procurement of men. Though we lack significant evidence to support the statement that it was EU accession that directly ignited the amendment of article 164(a) of the Cyprus Penal Code, the European Institute of Gender Equality provides us with enough indication that it is nonetheless an important point to consider.

As mentioned in the Overview section of this thesis, in 2004 Cyprus had to face a European Court of Human Rights case against them; the case of *Rantsev v Cyprus and Russia*.⁴⁴ This case acted as a reminder for the Cypriot Government that forced prostitution should be taken as serious as human trafficking. In summary, this case involved a girl that was in Cyprus on an artist visa, left her work at the cabaret, and a few days later was found dead (she fell from a building). What is significant about this case is that the woman was at a police station the day before her death and was asking to be sent home; the police however “returned her to the cabaret manager as they considered that he was responsible for her, and asked him to take her to

⁴² European Union. European Institute of Gender Equality. *Gender Mainstreaming in Cyprus*. Accessed on May 26th 2020. < <https://eige.europa.eu/gender-mainstreaming/countries/cyprus>>

⁴³ Ibid.

⁴⁴ *Rantsev v Cyprus and Russia*, 2004, ECJ 25965

immigration services the next morning.”⁴⁵ She died a few hours before the meeting. Cyprus was found in breach of various EU articles and was given recommendations by the European Court of Human Rights. This case was fundamental because it ignited a European investigation into Cyprus⁴⁶ and the policies that the Cypriot government has in place in dealing with these matters. Moreover, it highlighted the fact that forced prostitution and human trafficking could no longer be ignored and should be tackled through similar means. Finally, it emphasized the extent to which the artist visa was being abused for purposes other than the ones intended by the government.

To continue, the Cypriot Parliamentary Committee published a report/national action plan in 2005 around the subjects of prostitution and human trafficking. Throughout their numerous discussions that took place between 2003 and 2005 around the subject, they mentioned that an immediate problem they had to deal with, was the so-called ‘artist visa’. As mentioned in the overview of this thesis, the artist visa was taken advantage of by cabaret and strip club owners that used it to employ (mostly Eastern European) women as dancers and used their strip club as a cover to prostitute them against their will. This report stressed the urgency of the forced prostitution problem that arose because of the artist visa and consistently mentioned that something had to be done to protect these young women from being prostituted against their will. In the report, they mention that at the time there were “1,602 women from countries other than Cyprus working at these kinds of bars on the artist visa.”⁴⁷ They also mentioned that by 2004, the Cypriot Police examined around 100 cases that concerned the issue of forced prostitution within these bars.”⁴⁸ Undoubtedly, forced prostitution was an issue that worried the government to a great extent at the time.

As a result of this action plan, the parliamentary committee proposed to the parliament various ways to deal with the problem. They proposed for more often checks at these bars to be carried out by the police in an attempt to ensure that these women work as barmaids or as dancers and are not forced into prostitution.

⁴⁵ European Union. European Court of Human Rights. Information note on the Court’s Case law No. 126, *Rantsev v Cyprus and Russia*, 2004, ECJ25965.

⁴⁶ *Rantsev v Cyprus and Russia*, 2004, ECJ 25965

⁴⁷ Report of the Parliamentary Committee on Crime on the issue entitled "Prostitution-trafficking" (2000), 7.

⁴⁸ *Ibid.*

They also purposed amongst other solutions, to increase investigations into the finances of these bars and the women working there in order to make sure that they were getting paid and not exploited. Consequently, the artist visa was cancelled altogether in 2009 as a measure to prevent women coming into Cyprus so easily to work at these places in an attempt to minimize forced prostitution. Therefore, though this is not directly connected to article 164(a), forced prostitution is a problem that has concerned the Cypriot government and is continuing to concern them today. It is not surprising then, that article 164(a) of the Cyprus penal code represents the problem to be procurement. It is logical that it tries to tackle this problem by assuming that women that share their profits or resources from prostitution with others are victims of men that take advantage of them. These abovementioned statistics along with the report of the parliamentary committee, stress the gravity of the problem of forced prostitution on the island and therefore, it is seen that this article assumes that prostitutes are victims and men gaining from their prostitution are the perpetrators.

Moreover, as mentioned earlier, Cypriot law makes a distinction between prostitution and human trafficking. It is vital to note that there is a separate Cypriot law that deals with the issue of human trafficking. Hence, the Cypriot Government looks at human trafficking as a separate matter. The law on the Prevention of Trafficking in Persons and the Protection of Victims⁴⁹ is one of the stricter legislations in Cypriot Law and prohibits any form of human trafficking. The seriousness of the offence of human trafficking is evident from the recent amendments made to the law regarding sentences and criminal liability. In July 2019, the Parliament made two very significant amendments to the human trafficking law. The first amendment brought changes regarding who is criminally liable. Though before the amendment, people purchasing services from a trafficking victim had no criminal liability, with the new amendment, now all “people purchasing services from a trafficking victim are criminally liable.”⁵⁰ The sentence for a person purchasing services from a trafficking victim is 10 years imprisonment. The second amendment, brought changes to the sentencing of traffickers. What was previously a 25-year imprisonment sentence, is now life imprisonment with the new amendments from July 2019.⁵¹

⁴⁹ Prevention of Trafficking in Persons and the Protection of Victims (60(I)/2014)

⁵⁰ Prevention of Trafficking in Persons and the Protection of Victims (60(I)/2014), article 2.

⁵¹ Prevention of Trafficking in Persons and the Protection of Victims (60(I)/2014), articles 7,8,10,11.

To summarize, forced prostitution is an issue that has been concerning the Cypriot government for years now. They have had to deal with numerous human trafficking and forced prostitution cases over the years. Within human trafficking and prostitution, the majority of victims usually is women. Hence, the problem representation of article 164(a) is understandably a result of these cases where women are forced to sell themselves or where women are taken advantage of by men. The extent of involuntary prostitution on the island is what helped shape this problem representation within the government and consequently, this is the problem reflected within the policies of Cyprus.

6. WPR Approach: Questions 4-6

4. What is left unproblematic in these problem representations? What are the silences? Can the problem be thought about differently?

Next in Bacchi's WPR approach, is the fourth question which looks at how the problem can be thought about differently as well as what the problem failed to consider. "The goal of question four is to raise for reflection and consideration issues and perspectives silenced in identified problem representations."⁵² So, this question tries to discover what is not mentioned or covered in the representation of the problem; what has not but could have been considered. Through this question, we will consider the silences that exist within this problem representation and the significance of the Cypriot government not making a clear distinction about sex-work and prostitution and whether it is legal.

Looking generally at the Cyprus Penal Code, it is shocking to see that there is no article explicitly stating whether prostitution is legal or not in Cyprus. Moreover, there is no other law that covers this subject. Though there are a lot of articles dealing with offences related to prostitution (as aforementioned in the methodology section) and this gives the impression that prostitution is illegal, in reality it is confusing to see that the law doesn't directly prescribe prostitution's legality. Therefore, the Cyprus Penal Code fails to consider the issues that may arise with not explicitly making prostitution legal or illegal and hence, the legislation lacks a lot. This creates a huge gray area, and this means two things; firstly, there is a lot of confusion as to what is allowed, meaning that women who choose to become prostitutes are left confused by the unclear legislation and secondly, this gives way for traffickers and or pimps to escape consequences. We will now expand upon these issues below.

⁵² Carol Bacchi, "Introducing a 'what's the problem represented to be?' approach to policy analysis" in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012). 13.

Taking into consideration article 164(a) specifically, it can be determined which silences exist as well as what the problem representation failed to consider. To begin with, it implies that voluntary prostitution is legal; however, this comes with certain limitations. If prostitution is legal, there are no articles in the Cyprus Penal Code (or in any other legislation) that explains how this will be regulated. This means that the state does not get involved in prostitution affairs and this creates a lot of uncertainty. Considering that there are numerous labor laws; for example, the Minimum Wage Law⁵³, the Hourly Employment Law⁵⁴, the Labor Relations Act,⁵⁵ etc., it raises a question as to why there are no such laws around prostitution. All these labor laws aim to help protect worker's rights and give guidance on how 'business' must be conducted within society. There is no such thing for prostitution however, meaning that if the law is indirectly legalizing prostitution, there is no protection for the prostitutes involved and there are no guidelines to help ensure that prostitutes get the same protection of their rights as workers in any other line of work. This allows for perpetrators to take advantage of the situation; meaning that since it is not regulated, they can more easily escape consequences for forcing women into prostitution or taking advantage of women that prostitute themselves. Hence, the law fails to consider the issues that may arise with the non-interference of the state in prostitution affairs. If the law indirectly implies that prostitution is legal, there should be some way of regulating prostitution in order to ensure the rights of prostitutes as well as protect women on a more general scale.

Moreover, Cyprus Law has been unsuccessful in addressing the issue of consent. The issue with this, is that it does not portray women as capable and responsible human beings that could consciously and voluntarily consent to sharing their profits or resources from prostitution with someone else. Though article 164(a) (or the legislation generally) doesn't criminalize the prostitute, it does not portray the idea that any woman can empower herself and use her sexuality to benefit financially from prostitution. It does not clearly view prostitution as any other occupation, and it does not look like prostitution is seen as empowering. I remember when I was working with the Office for Combating Human Trafficking in Cyprus last year, that all cases where the police carried out operations and found women to be prostituted willingly or not, these

⁵³ Chapter 183

⁵⁴ Chapter 182, 1967.

⁵⁵ 100 (I) / 2000

women were always treated like human trafficking victims. They were never asked if they chose prostitution or if someone else was coercing them to do it. Therefore, the police worked on the assumption that prostitution is illegal all together and they treated women like victims in need of their protection. Hence, it did not seem to matter to authorities if these women knowingly and responsibly chose prostitution as their occupation. Therefore, though at first glance it looks like the article encompasses the idea of a strong empowered female as the liberal feminist view, in practice, the silences created by this article are portraying the exact opposite image of an empowered woman.

On the other hand, from the neoabolitionism feminist view, the Cyprus Penal Code failed to take into consideration the consequences of not clearly making prostitution illegal. Though there are numerous articles that forbid a lot of other acts closely related to prostitution, the Cyprus Penal Code fails to provide clarity on the legality of prostitution. This could mean that there is an assumption that prostitution is illegal since so many other actions related to it are deemed illegal. However, this is just a mere assumption. This creates confusion and gives way for traffickers and pimps to take advantage of the law's uncertainty. Furthermore, it does not prescribe the criminal liability of each person involved, further complicating that uncertainty.

On another note, take into consideration the language used in the article and what is left unsolved because of the choice of language. Though the article refers to both men and women, as aforementioned, the use of language portrays the woman as a victim and the man as the perpetrator. Gender is constructed in a way where gender inequality is very apparent. The representation of the problem feeds into the idea that women are mere sexual objects that exist to satisfy men's uncontrollable sexual desire. Hence, from the neoabolitionism view, it can be argued that the law constructs gender in a way that is unfair towards women. Consequently, the Cyprus Penal Code fails to deal with issues that may arise by constructing gender in this way.

5. What Discursive, Subjectification and Lived effects are produced by these representations of the problem?

Moving on, the fifth question looks at the different difficulties that may be produced as a result of specific problem representations. Bacchi explains that “the WPR approach to policy analysis starts from the presumption that some problem representations create difficulties for members of some social groups more so than for members of other groups.”⁵⁶ She aims to look at the different types of effects this problem representation may have on specific groups of people within the society. Specifically, Bacchi explains that

“it is adequate to identify three interconnected and overlapping kinds of effects; discursive effects which follow from the limits imposed on what can be thought and said, subjectification effects which are the ways in which subjects and subjectivities are constituted in discourse, and lived effects which are the impact on life and dead.”⁵⁷

To begin with, discursive effects according to Carol Bacchi are “linked to questions 2,3 and 4 (of the WPR approach), which identify deep-seated assumptions and presuppositions within problem representations.”⁵⁸ This part of question 5 basically looks at what limits are imposed by certain problem representations on the way they are thought of. She explains that “if some options for social intervention are closed off by the way in which a ‘problem’ is represented, this can have devastating effects for certain people.”⁵⁹ To put it simply, the way some problems are represented through a policy, makes it difficult for the problems to be thought of in a different way. As above mentioned, the problem represented in article 164(a), is procurement. In question 2 we have discussed what assumptions underly the representation of the problem. These

⁵⁶ Carol Bacchi, “Introducing a ‘what’s the problem represented to be?’ approach to policy analysis” in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012).15.

⁵⁷ Ibid.

⁵⁸ Carol Bacchi, “Introducing a ‘what’s the problem represented to be?’ approach to policy analysis” in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012). 16.

⁵⁹ Ibid.

assumptions or things taken for granted, makes it difficult for us to think about the problem in a different way. By representing the problem to be procurement and assuming that all women that share their profits from prostitution are being procured, article 164(a) of the Cyprus Penal Code makes it difficult for us to view the problem otherwise. We are being ‘blinded’ in a way by this problem representation and we fail to think about the women that consciously and voluntarily choose to be prostitutes. Merely, article 164(a) of the Cyprus penal code creates such a strong assumption on the ‘involuntary’ element, that we fail to consider the ‘voluntary’ element and consequently, this can have overwhelming effects on prostitutes that chose this as their occupation. Moreover, the language used as explained in question 2 creates certain assumptions in discourse. The use of language assumes that women are always the victims and men are always the perpetrators. This creates a very strong assumption of the portrayal of roles in our minds. Hence, we are unknowingly biased into thinking of women being weak and unprotected and men as strong and manipulative. Subsequently, we are so blinded by this representation that we fail to consider the scenario where it may be a man that is actually the victim of procurement. Therefore, this could create harmful effects for men that are going through this scenario, but the law failed to consider in its representation of the problem.

Secondly, subjectification effects according to Bacchi, incorporate the “idea that we become subjects of a particular kind partly through the ways in which policies set up social relationships and our place within them.”⁶⁰ Therefore, there are certain social relationships created by policies and in the way they represent the problem. She continues by saying that “problem representations within policies often set groups of people in opposition to each other”⁶¹ and give examples like employed/unemployed, binge drinkers/socially responsible drinkers, etc. In the case of article 164(a) of the Cyprus Penal Code, the problem representation creates opposition between prostitutes that chose prostitution and those that were forced into it. On the one hand, it could be argued that article 164(a) creates positive subjectification effects for women that are forced into prostitution. Meaning that the way article 164(a) is drafted, it protects women that end up being

⁶⁰ Carol Bacchi, “Introducing a ‘what’s the problem represented to be?’ approach to policy analysis” in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012).16.

⁶¹ *Ibid.*

prostitutes involuntarily. On the other hand, though, it can be argued that its failure to consider women that chose to work as prostitutes, creates a certain opposition between the two groups; forced prostitutes and ‘sex workers’.

This is where the theories of liberal feminism(the ‘sex-work’ approach) and neoabolitionism(the radical feminist approach) come into place. Liberal feminism would condemn article 164(a) on the grounds that it fails to consider women that choose to become sex workers. According to the liberal feminism view, ‘sex-work’ is seen as a form of empowerment for women because they are recognized as conscious beings that use their own rationality to choose freely their occupation. Therefore, article 164(a) of the Cyprus Penal Code, could be viewed as ‘taking away’ this empowerment from these women. It assumes that all women that share their profits with someone else are victims of procurement and hence, the whole point of female empowerment and female capability is being completely disregarded. This is in clear opposition of the liberal feminism view.

On the other hand, article 164(a) and its assumptions favor in great part the neoabolitionism view. As mentioned in the theory section, neoabolitionism views prostitution as a way to feed into the idea that men have this uncontrollable sexual desire and women are victimized in order to satisfy men’s desires. In a similar way, article 164(a) portrays women as victims and men as the perpetrators. This article makes it illegal to procure a woman and hence, the state is presented as the protector of these women. Therefore, neoabolitionism is quite evident in article 164(a), since this article portrays the idea that men take advantage of women.

All in all, though this article aims to protect women that are forced into prostitution, it fails to consider women that have voluntarily chose to work as prostitutes. Take into consideration Bacchi’s example of binge drinkers and socially responsible drinkers; if we were to illegalize alcohol altogether in an attempt to save binge drinkers, we are failing to consider the socially responsible drinkers that will be stripped of their

right to consume alcohol. Similarly, this article fails to consider prostitutes that chose to become ‘sex workers’, (opposing the liberal feminism view) in an attempt to save women that are being forced into prostitution (supporting the neoabolitionism view). Since article 164(a) portrays women as victims and in need of the protection of the state, it creates a negative subjectification effect on women that chose prostitution as their line of work and most probably do not wish to be seen as victims since they chose this occupation for themselves.

Finally, Bacchi mentions the importance of the lived effects that are created by certain problem representations within a policy. She explains that the lived effects include the “material impact on people’s lives that these problem representations have.”⁶² It is important here, to take into consideration the fact that the Cyprus Penal Code does not explicitly state if prostitution is legal or not. Quite obviously, this could also create certain lived effects. There is a negative effect on the safety of women that choose to be prostitutes since the law does not regulate their occupation like it does with others, and they are offered no protection of their rights by the state. For example, the Occupational Safety and Health Law of Cyprus⁶³ ensures the protection of the psychological, mental as well as the physical well-being of workers. There is no equivalent law in Cyprus however, to ensure that prostitutes’ mental and physical health is protected. Since the legislation of Cyprus does not regulate prostitution and does not look like it treats it like any other work, prostitutes are left unprotected and vulnerable. In Germany for example, prostitution is legal and regulated under the Prostitution Act of 2002⁶⁴ which recognizes prostitutes as sex workers. This Act “offers sex workers the right to access health insurance and obtain social benefits such as unemployment benefits and pension.”⁶⁵ Evidently, in Germany where prostitution is seen through the liberal feminist lens, prostitutes and their rights are protected by the state. In Cyprus on the other hand, prostitutes are not offered the same support from the government that workers in other occupations do and this creates certain lived effects.

⁶² Carol Bacchi, “Introducing a ‘what’s the problem represented to be?’ approach to policy analysis” in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012). 17.

⁶³ *Occupational Safety and Health Laws. (N.89(I)/1996)*.

⁶⁴ The Act Regulating the Legal Situation of Prostitutes (Prostitution Act), 2002.

⁶⁵ Viviane Bremer, Karin Haar, Martyna Gassowski, Osamah Hamouda and Stine Nielsen, “STI tests and proportion of positive tests in female sex workers attending local public health departments in Germany in 2010/11”, *BMC Public Health*, (2016), 2.

Another possible lived effect of the Cyprus Penal Code failing to legalize or legalize prostitution could be the impacts that this has on the health of these women. Take the example of the Netherlands where prostitution is also legal and regulated. In the Netherlands, the government pays for clinics to test female sex workers for free. “Though it is not mandatory for prostitutes to undergo STI(Sexually Transmitted Infection) checks, if they wish, they can take the test for free.”⁶⁶ Therefore, the government of the Netherlands’ involvement in regulating prostitution, means that these women are offered some services or protection. Since there is no law regulating prostitution in Cyprus however, it means that prostitutes in Cyprus are not offered this kind of support. This could create certain lived effects on the health of these women since they will have to pay to get an STI check. Taking into consideration the stigma that exists around prostitutes on the island, it is logical to assume that not a lot of these women would actually go to get tested. Consequently, there are serious lived effects on the lives of these women, created by this problem representation.

This problem representation does not only leave these women unsupported in terms of health issues but also in terms of their safety. Because of the deficiency of the law in Cyprus around prostitution, many of these women are forced to look for protection through other mediums; most commonly from the mafia which often takes advantage of these women’s vulnerable position. Consequently, this could mean that even sex workers can be taken advantage of and exploited. Hence, there are very serious negative lived effects created by the law’s abstinence in prostitution affairs.

In Sweden on the other hand, they have adopted a very different approach. “In 1999 they enacted the Act Prohibiting the Purchase of Sexual Services, which criminalized only the ‘buyers’ of prostitution.”⁶⁷ This was a significant change in approach for human trafficking and prostitution policies. Sweden adopted an abolitionism approach to prostitution and their rationale behind it shows that they supported the idea that prostitution is a form of gender-based violence. Specifically,

⁶⁶ Maud M. A. Verscheijden, Petra J. Woestenberg, Hannelore M. Götz, Maaïke G. Van Veen, Femke D. H. Koedijk, Brigit H.B. Van Benthem, “Sexually transmitted infections among female workers tested at STI clinics in the Netherlands 2006-2013”, *Emerging Themes in Epidemiology*, (Vol2./2015), 1.

⁶⁷ Gangoli Geetanjali and Westmarland Nicole, *International Approaches to Prostitution: Law and Policy in Europe and Asia*, Policy Press, 2006. 67.

“the Swedish government explicitly noted that the female body cannot be looked upon as merchandise which can be bought or sold...All trade is biased on the fact that there are customers and demand. Hence, if there were no customers looking upon women’s bodies as objects, there would be no market where the victims for this trade could be offered and exploited.”⁶⁸

Through this legislation, Sweden tried to “‘send a message’ or ‘mark a stance’ that society did not accept prostitution.”⁶⁹ Therefore, though this approach was absolute, its aim was to show that by criminalizing the ‘client’, societal norms and thoughts could be challenged and changed in an attempt to achieve greater gender equality. Consequently, on one hand this representation of the problem in the Swedish law has certain negative lived effects on women that want to become sex-workers in Sweden; on the other hand, it creates only positive lived effects on women that are forced into prostitution. Cyprus, however, has stayed ‘outside’ prostitution affairs by not prescribing its legality within the Cyprus Penal Code. This could be criticized to a great extent, taking into consideration the Swedish model and the rationale that drives it. Cyprus’ absence from stating prostitution’s legality, means that prostitutes are left unprotected and vulnerable. Evidently, this absence creates numerous negative effects on both sex workers and forced prostitutes. It also means that a lot of these ‘clients’ of prostitution can escape the law and continue to exploit women. Consequently, this means more negative lived effects on these women.

Finally, the Swedish model deals with prostitution in the same way that it deals with human trafficking; as an unacceptable form of gender-based violence and infringement of basic human rights. Cyprus instead, looks at prostitution and human trafficking as separate issues. As mentioned before under question 3, the recent amendments of the Prevention of Trafficking in Persons and the Protection of Victims Act,⁷⁰ have managed to prove how seriously human trafficking is taken by the government due to the strict legislation that they put in a place. Therefore, when it comes to trafficking of human beings, Cyprus has a very strict

⁶⁸ Margaretha Winberg, Ministry of Gender Equality of Sweden, Riksdagsprotokoll (2000/01:67, February 15th), section 1.

⁶⁹ Niklas Jakobsson and Andreas Kotsadam, “Gender Equality and Prostitution: An Investigation of Attitudes in Norway and Sweden”, *Feminist Economics*, (17:1/2011), 33.

⁷⁰ (60(I)/2014)

approach and there are limited lived effects of this problem representation on women forced into prostitution, since they are protected by the law. To put it in perspective, the fact that Cyprus does not prescribe prostitution to be illegal like it does with human trafficking, creates certain norms and ideas within society that these two are different. Policies a lot of the time shape society and the way it thinks of certain groups. Hence, this distinction between prostitution and human trafficking, could mean that women forced into this are seen by society as ‘wanting’ this or ‘bringing it upon themselves’ since they are treated by the law differently compared to human trafficking victims.

In conclusion, question 5 is very important in the critical analysis of a specific policy as it facilitates us to look at the ‘bigger picture’. Article 164(a) creates opposition between women that were forced into prostitution and those that chose it as an occupation since it considers the first but fails to take into account the latter. Moreover, the fact that it fails to consider voluntary prostitutes creates various negative effects on these women and more generally, on their lives and their safety. This is quite evident when we compare prostitution in Cyprus and ‘sex-work’ in the Netherlands and Germany where prostitution is clearly made legal by the law and the state has an active role in prostitution affairs. Moreover, the law’s different approaches to prostitution and human trafficking creates certain norms and thoughts within society which subsequently affects the women involved in prostitution involuntarily. Clearly, question 5 provides us with guidance in understanding what effects a specific problem representation could create as well as how a problem representation could construct roles and put them in opposition to each other. Therefore, question 5 has allowed us to critically consider article 164(a) and the Cyprus Penal Code more generally, and better understand the effects it creates by representing the problem to be procurement.

6. How/where is this representation of the ‘problem’ within article 164(a) of the Cyprus Penal Code produced, disseminated and defended? How could it be questioned, disrupted and replaced?

Finally, the aim of the last question of Bacchi’s approach is to “pay attention both to the means through which some problem representations become dominant, and to the possibility of challenging problem representations that are judged to be harmful.”⁷¹ Therefore, question 6 allows us to challenge certain problem representations within policies and possibly replace them with a more suitable problem representation.

To begin with, article 164(a) reflects the worries of the state very clearly. It deals with the act of procurement which has been an issue on the island for decades now. As explained above in the overview section, the artist visa that was once available in Cyprus, gave way for a lot of women to be procured and taken advantage of. As the European High Commissioner for Human Rights mentioned in his report about Cyprus in 2003, “the number of young women migrating to Cyprus as nightclub artistes is well out of proportion to the population on the island.”⁷² There were a lot of women that came to Cyprus on the artist visa to work as barmaids or dancers at strip clubs and the owners of these bars took advantage of them and procured them. The fact that within a “20-year period(1992-2002) there was an increase of 111% in the numbers of cabarets in Cyprus”⁷³, shows that this is an issue that was obvious on the island for a lot of years. Therefore, the problem representation of article 164(a) reflects the reality that Cypriot officials had to deal with. Procurement was seen as one of the main problems that concerned authorities. Evidently, article 164(a) manages to clearly represent this problem.

⁷¹ Carol Bacchi, “Introducing a ‘what’s the problem represented to be?’ approach to policy analysis” in *Engaging with Carol Bacchi: Strategic Interventions and Exchanges*, ed. A. Bletsas, C. Beasley, (2012). 19.

⁷² Report on Cyprus by the EU High Commission for Human Rights, Mr. Alvaro Gil-Robles (CommDH(2004)2), 8.

⁷³ *Rantsev v Cyprus and Russia*, 2004, ECJ 25965

Nonetheless, article 164(a) can be questioned in that it fails to consider the limitations within this problem representation. Article's 164(a) of the Cyprus Penal Code aim is to protect women that are prostitutes from the men(or women) that aim to take advantage of them and procure them. However, it portrays prostitutes as victims and the people that procure them as the perpetrators. Therefore, it constructs an image of women being victims in need of protection of the state. What article 164(a) has failed to consider though, is that women are not always victims and a lot of the times it is women that procure other women. In most cases I have worked with while working at the Office for Combating the Trafficking of Human Beings of the Cyprus Police, there was a woman involved as a 'madam'(the female word for pimp) or as a facilitator for pimps to recruit and deceive women into prostitution. Therefore, article 164(a) can be challenged in that it fails to consider the fact that women can be perpetrators as well as victims.

To continue, if the Cyprus Penal Code was clearer on the legality of prostitution, it would have made the problem representation within the law much clearer. It lacks in clarity and this gives way for criticism. There should be an article within the law that would clearly state that prostitution is legal or illegal. This could mean that there is more protection for women that are forced into prostitution as well as women that choose to be prostitutes. If the state becomes a more involved actor within prostitution like in the Netherlands for example, then the liberal feminist view will be more dominant within Cypriot policies and it means that prostitution will be seen as any other type of work. If the law follows neoabolitionism and makes prostitution completely illegal, (hence, not differentiating it with human trafficking) like in Sweden, then this could possibly mean that there will be less women forced into prostitution. Prostitution will be regarded as a violent crime against women and hence, greater gender equality will be the ultimate goal.

In summary, taking into consideration the fact that procurement was the most evident problem in Cyprus for a long period of time, it can be said that article 164(a) successfully achieves to represent this problem clearly. However, this comes with some limitations that gives us the chance to challenge and question this problem representation. It is absolute in its representations of women being 'weak' and victims as well as in its representations of men being the perpetrators waiting to take advantage of these women. Therefore, the

way it constructs the two roles of perpetrator and victim can be criticized. Finally, the Cyprus Penal Code's failure to directly deem prostitution legal or illegal altogether, causes confusion and allows for open interpretation; this consequently carries its own cost.

7. Discussion

This research paper, as expected, has had to face a few limitations. Henceforth, this section will provide a few of the limitations that were faced during the research in answering the problem formulation as well as some suggestions for further study.

. To begin with, since the law around procurement and more generally prostitution is the same one that was in place since before Cyprus acquired its independence, this means that there were complications in understanding what exactly triggered this problem representation. Therefore, question 3 of the WPR approach focused on the general situation in Cyprus and how procurement has always been an issue on the island. Consequently, it was difficult to find a clear connection between a specific event or a change in politics that ignited the enactment of this public policy.

Though we have managed to identify Cyprus' ascension to the EU as fundamental in amending article 164(a) of the Cyprus Penal Code, we have not accomplished to find a similar connection for the initial enactment of this article. The politics of the island have always been very complicated due to its location and resources. Cyprus was a part of the Ottoman Empire, then a British Colony and today half of the island is still occupied after Turkey's invasion in 1974. Perhaps, we could have found a connection between an event or a political change and the initial enactment of article 164(a) of the Cyprus Penal Code if we had the time to research the politics of the Republic of Cyprus to a greater extent. We could have possibly discovered this connection by looking at the politics and history of the United Kingdom(then Great Britain) specifically. This is the case as the Cyprus Penal Code was drafted on the basis of British law since Cyprus was a British Colony before it gained its independence. However, for the purposes of this essay, we would have been moving past the scope of the thesis if we had researched the United Kingdom's politics and policies.

If a similar study was to be conducted in the future, it could focus on interviews with women in prostitution in Cyprus in order to better understand the reality that exists on the island. Though we have identified numerous gaps in the law that could create negative effects on these women, in practice there could be a lot more left undiscovered. Additionally, if we were to conduct interviews with officials from the police, public policy officers and NGOs that work with this matter, we could better understand the rationale behind the Cypriot government's absence from prostitution affairs and the effects this has on society as a whole.

All things considered, this essay attempted to answer the problem formulation and take into consideration as many factors as it could, given the time frame provided for this thesis. There is always room for improvement and this essay is no exception. Since there is very little research done specifically on the prostitution laws of Cyprus, any contribution would expand our understanding of the situation. Finally, future research could expand on this study and provide for a different perspective; hoping that the government of Cyprus will identify the problem of being absent from prostitution affairs and decide on a head-on approach in the near future.

8. Conclusion

In conclusion, this paper's aim was to use the WPR approach in a critical analysis of article 164(a) of the Cyprus Penal Code, in order to better understand the issue of prostitution through the offence of procurement and how it is thought of by the state of Cyprus. It can be stated that the Cyprus Penal Code Article 164(a) manages to tackle the problem of procurement. Carol Bacchi's WPR approach allowed us to examine the assumptions that exist within this problem representation along with the background events that caused the enactment of this public policy. Though there are a lot of things that this article fails to consider, it at least managed to deal with one aspect of prostitution. However, there are a lot of questions left unanswered in regard to the legality of prostitution. If the state's sole aim was to protect women that are forced into prostitution, then it can be argued that this aim has been achieved to some extent. On the other hand, the state will need to consider its role in prostitution altogether and decide on an approach to this issue. Is it going to support the liberal feminism view that looks at prostitutes as 'sex-workers' entitled to the same rights and access to the economic market as other workers? Is it going to support the neoabolitionism view that prostitution is a gender based violent act where women are always considered to be forced into this? These are only a few of the questions that Cyprus will have to consider for the future. Furthermore, the models that exist in the Netherlands and Germany where prostitution is legal and regulated, and Sweden's model where the purchase of prostitution services is illegal altogether, can act as an example to the Cypriot government to decide which approach it wants to adopt to combat this phenomenon. This will clearly depend on the politics of the island and where its views stand; with liberal feminism or with neoabolitionism? In order to fully be able to protect women from procurement, prostitution as a whole and the state's approach to it must be considered and rethought.

Finally, there is a fine line between prostitution and human trafficking. The state must act fast in regulating prostitution or illegalizing it altogether. Dealing with prostitution head on, is the only way to ensure the protection of all these women and young girls that are forced into prostitution every day.

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Appendix A

Article 164(a) of the Cyprus Penal Code

Original Text:

164.-(1) Όποιος που-

(α) εν γνώσει του ζει εξ' ολοκλήρου ή μερικώς από κέρδη πορνείας, που ασκείται μεταξύ προσώπων είτε του ιδίου ή διαφορετικού φύλου·

~~(β) επιδίδεται σε άγρα πελατών είτε του ιδίου είτε άλλου φύλου σε δημόσιο χώρο επίμονα ή παρενοχλεί φορτικά για ανήθικους σκοπούς, οποιοδήποτε πρόσωπο, είτε του ιδίου είτε του άλλου φύλου,~~

είναι ένοχος πλημμελήματος και υπόκειται σε φυλάκιση που δεν υπερβαίνει τα πέντε έτη.

Translated Text:

“Whoever,

(a) knowingly lives entirely or partially from prostitution profits, which are exercised between persons of either the same or different sex;

(...)

is guilty of misconduct and is subject to imprisonment not exceeding five years.”