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CRIMINALISATION, LEGALISATION, AND DECRIMINALISATION: HUMAN
RIGHTS IMPLICATIONS FOR SEX WORKERS

Bakalaureusetöö

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Annotatsioon

Käesolev bakalaureusetöö analüüsib, kuidas erinevad seksitöö regulatsioonimudelid mõjutavad seksitöötajate inimõiguste tegelikku olukorda Euroopas ja Ladina-Ameerikas. Töö keskne uurimisküsimus on, millisel viisil kujundavad riiklikud õigusraamistikud ja nende rakendamine seksitöötajate õigusi, eeskätt seoses turvalisuse, tervise, õiguskaitse ning diskrimineerimisvabadusega. Analüüs keskendub neljale juhtumile: Saksamaa ja Madalmaad Euroopas ning Brasiilia ja Argentina Ladina-Ameerikas, mis esindavad erinevaid seksitöö reguleerimise mudeleid ja institutsionaalseid kontekste.

Metoodiliselt kasutab töö kvalitatiivset võrdlevat analüüsi, mis põhineb sekundaarallikatel, sealhulgas eelretsenseeritud teadusartiklidel, rahvusvaheliste organisatsioonide raportitel, valitsuslikel dokumentidel ja vabaühenduste uurimustel.

Töö peamised järeldused näitavad, et seksitöö formaalne seaduslik staatus ei ole iseenesest piisav inimõiguste kaitse tagamiseks. Otsustavat rolli mängivad regulatsioonide rakendamise viisid, eeskätt politsei tegevus, ligipääs tervishoiuteenustele ning administratiivsed kaasamis- või tõrjumismehhanismid. Töö panus seisneb eri regulatsioonimodelite võrdlevas analüüsis inimõiguste raamistikus, tuues esile mehhanismid, mille kaudu riiklikud poliitikad kujundavad seksitöötajate tegelikke elutingimusi.

Abstract

This bachelor's thesis analyzes how different models of sex work regulation affect the actual human rights situation of sex workers in Europe and Latin America. The central research question of the thesis is how national legal frameworks and their implementation shape the rights of sex workers, particularly in relation to safety, health, legal protection, and freedom from discrimination. The analysis focuses on four cases: Germany and the Netherlands in Europe, and Brazil and Argentina in Latin America, which represent different models of sex work regulation and institutional contexts.

Methodologically, the study uses qualitative comparative analysis based on secondary sources, including peer-reviewed scientific articles, reports by international organizations, government documents, and studies by non-governmental organizations.

The main findings of the study show that the formal legal status of sex work is not in itself sufficient to guarantee the protection of human rights. The ways in which regulations are implemented, particularly police action, access to health services, and administrative mechanisms of inclusion or exclusion, play a decisive role. The contribution of this work lies in its comparative analysis of different regulatory models within a human rights framework, highlighting the mechanisms through which state policies shape the actual living conditions of sex workers.

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Glebs Pogostins 06.12.2025

1.Introduction

1.1 Background and Context: The Global Debate on Sex Work, Law and Human Rights

Sex work, the consensual exchange of sexual services for money or goods, is a global phenomenon occurring in many different settings influenced by many national and cultural variables, from internet-based platforms and escort agencies to third-party owned venues like brothels and public spaces (Krüsi, D’Adamo, & Sernick, 2021). Despite its widespread nature, sex work is still highly stigmatized and frowned upon worldwide and the most common choice for legislative approach to it has historically been and still is that of criminalization and antagonistic police enforcement (Krüsi et al., 2021; Decker, Crago, Chu, Sherman, Seshu, Buthelezi, Dhaliwal, & Beyrer, 2015). This approach persists despite a great amount of social and healthcare research demonstrating credible and overwhelmingly negative effect of criminalization on sex workers' human rights, health and safety (Krüsi et al., 2021; Oliveira, Lemos, Mota, et al., 2023; Platt, Grenfell, Meiksin, Elmes, Sherman, Sanders, Mwangi, & Crago, 2018).

Arguably, in recent decades, the international discourse surrounding sex work has increased, with many countries considering or even undergoing legislative shifts. However, these shifts have often been explained by moral or ideological opinions rather than a solid base of objective evidence regarding their impact on sex workers (Oliveira et al., 2023).

This contrasts with obvious moral need of protecting citizens and residents despite their occupation and national benefit of reducing crime and negative health outcomes which ,together, call for the full decriminalization of sex work as a necessary measure to promote and protect the health and human rights of sex workers (Krüsi et al., 2021; Oliveira et al., 2023; Burckley, Jeanis, & Fox, 2023; Murray, Brigeiro & Monteiro, 2021). As early as 2012, the WHO recommended the decriminalization of sex work as its primary good practice in guidelines for HIV prevention among sex workers, underscoring the connection between punitive laws and increased HIV vulnerability (Murray et al., 2021).

The regulation of sex work and prostitution can be broadly categorized into several major approaches. **Criminalization**, in its full or partial forms, often prohibits various critical aspects of selling, buying, or organizing sex work (Krüsi et al., 2021). A popular variant of it is **end-demand criminalization** (often termed the Nordic or Equality model), which criminalizes the only the purchase of sex and often third-party involvement, while typically

not criminalizing individuals who sell sex services (Krüsi et al., 2021; Burckley et al., 2023). **Legalization** models offer sex work a limited legal status, often contingent on adherence to specific regulations, such as mandatory registration, health testing, and operation within designated zones (Krüsi et al., 2021; Harcourt, Egger, & Donovan, 2005). Finally, **decriminalization** entails the removal of criminal penalties for adult consensual sex work, with the industry potentially regulated under standard labor, health, and safety laws (Krüsi et al., 2021; Harcourt et al., 2005).

The ongoing debate reflects disagreements about the nature of sex work itself - whether it is flawed inherently and, no matter what, represents a form of violence, exploitation and moral decline that must be abolished or a valid form of legitimate labor for which rights and protections should be given (Overs & Hawkins, 2011; Burckley et al., 2023).

Often research suggests that many harms met in the industry of sex work are not necessary or inherent to the work itself, but are linked to prohibitive legal frameworks, excessive and punishing policing, stigma, poverty, restrictive immigration policies and gender inequity (Krüsi et al., 2021). These factors are structural and constrain sex workers' options on employment and various forms of security, often denying them the ability to fully utilize their human rights, including access to occupational health and safety, police protection, and legal recourse (Krüsi et al., 2021).

1.2 Problem Statement and Rationale for Research

Despite international advocacy for decriminalization and other less restrictive legal frameworks and substantial evidence connecting prohibitory legal frameworks to human rights abuses and negative health outcomes for sex workers (Decker et al., 2012; Platt et al., 2018; Overs & Hawkins, 2011), the criminalization of sex work to different extents remains one of the most common approaches globally. Such uninterrupted continuity in legal trends creates disconnection between recommendations based on vast amounts of evidence and actual ways of how law is implemented. Different legal approaches adopted by different nations result in diverse experiences and human rights conditions for sex workers, all while these must stay at similar levels globally.

Human rights violations against sex workers, including physical and sexual violence from law enforcement, clients and perpetrators (organizers) of forced prostitution, unlawful arrest and detention, extortion, discrimination in accessing health and safety services as well as forced HIV testing, are well-documented, particularly in settings where prostitution is criminalized (Decker et al., 2012; Platt et al., 2018; Krüsi et al., 2021). These violations directly and indirectly increase national HIV and other STD vulnerability and undermine efforts of prevention and intervention (Reeves et al., 2017; Decker et al., 2012). However, the exact ways how legal approaches to sex work interact with local enforcement practices and broader societal factors to shape these human rights outcomes are complex and may differ significantly despite the similar letter of the law.

This work addresses the need for an understanding of how distinct national legal approaches to sex work in selected countries transition into real, observable human rights conditions for sex workers. The justification for the choice of countries doesn't necessarily cover the strictness of an approach to sex work on paper but also the extent of official governmental intervention on practice and the extent to which sex work is recognized or rejected.

By comparatively analyzing the documented cases and experiences in Germany, the Netherlands, Brazil, and Argentina, countries representing different legal models and socio-regional contexts, this research aims to contribute to a more nuanced, evidence-based discussion. Such an analysis is crucial for informing policy debates and advocating for legal reforms that genuinely prioritize the health, safety and human rights of people on the forefront of sex work.

1.3 Research Question

The central research question guiding this thesis is:

How do the legal approaches to sex work in Germany, Netherlands, Brazil, and Argentina affect the human rights conditions of sex workers in these countries?

1.4 Working Hypothesis

Based on preliminary research of the existing literature, the following working hypothesis has been created:

Legal frameworks that criminalize or significantly prohibit aspects of sex work (as seen in varying degrees in Brazil, Argentina, and for certain populations in the Netherlands) will be associated with a visibly and significantly higher prevalence and severity of human rights violations, including increased violence, police abuse, barriers to healthcare, and compromised access to justice for sex workers, compared to legal frameworks that adopt more permissive and rights-affirming approaches (such as the one in Germany). Furthermore, the nature and inclusivity of regulatory measures and the effectiveness of the broader rule of law within each country will significantly mediate these outcomes.

1.5 Justification for Country Selection: Comparing Diverse Models and Contexts

While acknowledging the different historical, cultural and socio-economic contexts of Germany, the Netherlands, Brazil and Argentina, the selection of these four countries is justified by their representation of distinct legal approaches to sex work, creating a detailed comparative analysis. Germany offers a case of broad legalization where selling, buying, and brothels are legal under regulation (Reeves et al., 2017; Siegel, 2009). The Netherlands presents a variation of legalization characterized by significant exclusions, particularly impacting non-EU migrant sex workers, thereby highlighting the critical impact of the inclusivity of regulatory measures (Siegel, 2009; Oliveira et al., 2023). This comparison allows for an examination of nuances *within* legalization models.

Brazil and Argentina provide key South American examples of what is functionally partial criminalization, with legal frameworks influenced by an abolitionist philosophy. This approach typically does not directly criminalize the individual for selling sex in all instances but prohibits and penalizes organized aspects of sex work, such as brothel-keeping and third-party involvement (Decker et al., 2012 for Brazil; general characterizations from Krüsi et al., 2021). These frameworks create environments where significant activities surrounding sex work remain illegal, subjecting sex workers to risks often seen in other partially criminalized systems.

This cross-regional comparison (Europe vs. South America) and the distinct legal archetypes allow for testing whether the impacts of specific legal frameworks transcend national specificity. Crucially, this selection gives possibility for an analysis not only of the laws themselves but also of their interaction with enforcement practices ("law on the books" versus "law on the streets" as highlighted by Overs & Hawkins, 2011) and the broader "Rule

of Law," a factor identified as significantly mediating health outcomes such as HIV prevalence (Reeves et al., 2017).

The state apparatus overseeing sex work uses similar mechanisms to control, regulate or influence sex work throughout every of the chosen countries and mainly through: police surveillance of sex work spaces; identity checks and document verification; discretionary enforcement of public order or law; sanction like fines, detention or closure of venues.

These shared mechanisms create analytical ground for comparison. They allow the analysis to assess whether differences in formal legal regimes produce different human rights outcomes when similar enforcement practices are applied across Germany, the Netherlands, Brazil and Argentina.

1.6 Aims and Objectives of the Thesis

The primary aim of this thesis is to comparatively analyze how the legal approaches to sex work in Germany, Netherlands, Brazil, and Argentina affect the human rights conditions of sex workers within these nations, based exclusively on a defined corpus of existing scholarly literature.

To achieve this aim, the following objectives have been set:

1. To describe the primary legal frameworks governing sex work in Germany, Netherlands, Brazil, and Argentina using the selected literature and legislative documents.
2. To identify and categorize the types of human rights violations and adverse conditions experienced by sex workers in these four countries, as seen in the selected literature.
3. To analyze the explicit and implicit connections made within the selected literature between the specific legal approaches in each country and the documented human rights conditions of sex workers.
4. To examine the role of mediating factors, such as the nature and inclusivity of regulatory measures and the effectiveness of the broader rule of law, in shaping these human rights outcomes, as discussed in the selected literature.
5. To synthesize comparative insights regarding the differential impacts of these varying legal strategies on sex workers' human rights.

1.7 Methodology Overview

This thesis uses a literature-based qualitative comparative analysis methodology. The primary data sources consist of a body of peer-reviewed academic articles and reports focused on sex work, law, human rights, and health in the selected countries or relevant global/regional contexts. The analysis involves systematically extracting, interpreting, and synthesizing information from these texts to address the research question and hypothesis. No new empirical data has been collected - the study relies entirely on the interpretation and comparative analysis of the provided existing research.

1.8 Thesis Outline

This thesis is structured into eight main chapters.

Chapter 1 (this chapter) has introduced the research, outlining the background and context, problem statement, research question, hypothesis, justification for country selection, aims and objectives, a brief methodological overview and this roadmap.

Chapter 2 will present a comprehensive literature review and theoretical framework, discussing dominant legal approaches to sex work globally and their general impacts, key dimensions of sex workers' human rights conditions, and initial insights from the literature regarding the four case study countries.

Chapter 3 will detail the methodology, elaborating on the research design, data sources, data extraction and analysis procedures and the scope and limitations of the study.

Chapters 4, 5, and 6 will form the core analytical section, presenting a Thematic Analysis of the findings. These chapters will comparatively examine the impact of legal frameworks on specific dimensions of human rights, such as policing and violence (Chapter 4), health and working conditions (Chapter 5), and the role of mediating factors and specific vulnerabilities (Chapter 6), drawing evidence across Germany, Netherlands, Brazil, and Argentina.

Chapter 7 will provide a discussion of the synthesized findings, revisiting the hypothesis, exploring the significance of mediating factors, and comparing findings with the broader literature.

Chapter 8 will offer the Conclusion, summarizing the main arguments and contributions of the thesis, discussing the broader implications, acknowledging limitations and suggesting potential opportunities for future research.

A **Bibliography** adhering to APA style will conclude the thesis.

2.Literature Review: How Legal Approaches to Sex Work in Germany, Netherlands, Brazil, and Argentina impact the Human Rights Conditions of Sex Workers

2.1. Introduction

This literature review combines findings from a number of research papers to observe and understand the impact of how varying legal approaches to sex work can impact the human rights conditions of sex workers in Germany, the Netherlands, Brazil and Argentina.

The review focuses on identifying and listing the dominant legal models, the documented human rights violations experienced by sex workers and how those violations are related to specific legislative frameworks.

The research demonstrates connections between the different approaches to, in this case, mostly the decriminalization, and also the partial criminalization (both in different forms).

2.2. Legal and Human Rights Frameworks Overview

The reviewed articles present an inclusive spectrum of legal approaches to sex work across the four countries. The categorization is based on legal distinctions made on national scales, however also stressing that these, through practices of different kind (enforcements being the clearest example), may be significantly different on national scale:

Germany: German laws create a legalized model. Selling, buying and procuring sex (including brothels) are legal and regulated (Reeves et al., 2017; Siegel, 2009). This places Germany at one end of the spectrum with other "legal" countries, distinguished from those that legalize selling but criminalize the act of buying (Reeves et al., 2017).

Netherlands: The Netherlands is also using the legalization model, treating sex work as a legitimate profession with rights and duties (Siegel, 2009). The lifting of the ban on brothels in 2000 was intended to help curb exploitation and improve working conditions (Siegel, 2009; Overs & Hawkins, 2011). However, a crucial aspect is the exclusion non-EU sex from this legal framework, rendering many migrants at risk of many mentioned harms (Siegel, 2009). Additionally, there is local control and variations of municipal implementations, causing differences in reality from policy (Platt, 2018).

Brazil: Brazil represents a case of partial criminalization. While individual sex work itself is not legally permitted, brothel-keeping and other forms of profiting from sex work are (Decker et al., 2012). This creates an environment where individual sex work self-employment is allowed, while organization of it is illegal which may put sex workers safety in jeopardy.

Argentina: Argentina also features a form of partial criminalization. "Ever-arrest" (an indicator, reflecting whether the questioned was ever arrested) and similar indicators are frequently referred to, meaning laws are applied, on practice, on activities and cases of, for example, sex work environments and brothel managing. (Pando, 2013)

It's important to notice, as the literature points out, that such a broad and straightforward type of categorization like "legalization," "partial criminalization," or "criminalization" can hide considerable variation within countries (Reeves et al., 2017). Laws are also socially interpreted and factors such as marginalization will affect how specific individuals may be treated in practice (Decker et al., 2012). Even when laws are well-intentioned, enforcement practices, local bylaws and measures that interpret law at will can dramatically alter the reality for sex workers. The unobserved law is in noticeable contrast with the law as it is written (Overs et al., 2011). The intent of these approaches may not correspond to realities, specially when it comes to effects to individual well being and to "public order" (Overs, Platt). This work uses a human rights framework based on international human rights law, particularly the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). These turn human rights into legally recognized entitlements of each person and they impose obligations on states and each state institution to respect, protect and fulfil those rights, including rights of those engaged in sex work.

In the context of sex work, several rights, the infringement of which is at the most risk, can be identified. These rights include the right to the highest attainable standard of health (ICESCR, Article 12), the right to security of person and freedom from violence (ICCPR, Article 9), the right to privacy (ICCPR, Article 17) and the right to equality and non-discrimination (ICCPR, Article 2; CEDAW). These and other rights must not be dependent on the legal status of sex work and must apply regardless of moral views or policy positions regarding prostitution and other forms of sex work.

This study does not aim to assess whether sex work itself may constitute a human rights violation but rather analyzes as to what extent do legal and regulatory practices undermine or realize and support the mentioned rights on practice.

2.3. Human Rights Violations: A Recurring Pattern

Across the articles, a consistent theme appears: human rights violations against sex workers are widespread and often severe. These violations, although manifesting themselves in different ways, are directly and indirectly linked to increased HIV vulnerability and significantly undermine prevention and treatment efforts (Decker et al., 2012; Overs & Hawkins, 2011; Platt et al., 2018). The most commonly reported violations fall into these broad categories:

Violence: Physical and sexual violence is widespread, committed by law enforcement officers (police), clients and intimate partners (Decker et al., 2012; Platt et al., 2018). In contexts of criminalization, police violence is particularly alarming, often including forced unprotected sex, beatings and gang rape (Decker et al., 2012). Quantitative studies often showed links between repressive policing (including arrest, violence, and condom confiscation) and increased risk of experiencing violence from clients and others (Platt et al., 2018). The rate of homicide for sex workers is considerably high (Decker).

Unlawful arrest, detention and extortion: Arbitrary arrest and detention are a common occurrence, often masked under the guise of anti-trafficking laws or vagrancy laws (Decker et al., 2012; Overs & Hawkins, 2011). These arrests provide contexts and base for police harassment, abuse and extortion, including demands for money and services like sexual favors in exchange for release (Decker et al., 2012; Platt et al., 2018). Detention facilities

often have inappropriate conditions, with limited access to healthcare, including HIV medication (Decker et al., 2012). Forced "rehabilitation centers" and forced labor have also been documented (Overs, Decker).

Condom Confiscation: The confiscation of condoms by police, treating them as evidence of sex work, is a recurrent issue (Decker et al., 2012; Platt et al., 2018). This practice directly impedes HIV prevention efforts and leaves sex workers with few options but to engage in unprotected sex for the lack of other options to make a living (Platt et al., 2018).

Discrimination and Stigma: Institutionalized (committed by official state structures) discrimination is prevalent, manifesting itself as denial of healthcare services, discriminatory treatment by law enforcement and decreased access to justice (Decker et al., 2012; Overs & Hawkins, 2011; Platt et al., 2018). Sex workers report experiencing feeling unrepresented by the law and justice system and feeling that, when sex workers are in a position of victim, the law will not be of any relevant assistance, preventing and discouraging any possible future attempts at seeking help of official state authorities to report the cases that are often upheld and committed by the same authorities. (Decker). Stigma associated with sex work contributes to vulnerabilities related to poverty, gender, ethnicity, migration status, sexual orientation and drug use (Decker et al., 2012; Overs & Hawkins, 2011; Platt et al., 2018).

Forced medical practices: A trend frequently observed in different contexts are practices related to mandatory, testing and even, the forcing of taking drugs, being reported to authorities or similar.(Overs, Decker)

Disruption of safe working environments and safety networks: A key element of police practices highlighted by the articles are related to sex work policies concerning specific places: where activities related to sex work (buying/selling, offering or performing) are restricted, permitted, regulated and criminalized. Repressive strategies have shown to increase harm significantly, through factors like breaking down the communication networks or causing pressures like financial or safety ones.(Decker, Overs, Platt)

2.4. The Impact of Legal Approaches

The used articles make it evident that there is a strong link between legal approaches and the prevalence and severity of human rights violations:

Criminalization (full or partial): The literature demonstrates that criminalization (both full and partial) can potentially foster the most severe and systematic human rights violations (Decker et al., 2012; Platt et al., 2018; Reeves et al., 2017). Criminal laws, even when made with intent to protect, can create and foster hostile types of relationship between sex workers and law enforcement and the general public, supporting an atmosphere of perceived lack of punishment, fear and stigma (Decker et al., 2012; Platt et al., 2018). Partial criminalization, by targeting aspects of sex work like brothel-keeping or soliciting, aspects that could potentially make sex work safer, drives sex work underground, increasing risks (Decker et al., 2012; Overs & Hawkins, 2011; Platt et al., 2018). Such "migration" will not help sex workers get rid of the structural elements that contribute to such practices (Platt, Overs). This correlation of human right abuses and the regime of full or partial criminalization can be seen both quantitatively and qualitatively, indicating an indirect and direct impact on individual factors (physical abuse) but, as importantly, structural components (work-environment) (Platt, Overs, Decker, Reeves). Even efforts supposedly done for helping (raids, testing) are observed to worsen (through displacement or forced measures) said conditions in the long-term (Overs).

Legalization (with Regulation): While the legalization enacted in Germany and the Netherlands was intended to improve conditions, the evidence presents a slightly more nuanced picture. Legalization, when accompanied by strict regulation processes, can create a two-tiered system. Germany is an outlier, in which its total legalization policy is observed, through ecological factors (meaning country-level statistical comparisons), to decrease risks, in particular, risk of contracting HIV. Sex workers within the legal, regulated sector may experience more favorable, better working conditions and some degree of protection, but those outside the system (often migrants in the Netherlands) face continued or even increased

risks (Siegel, 2009; Overs & Hawkins, 2011). The Netherlands' exclusion of non-EU sex workers from the legal framework drove many into the illegal contexts, increasing vulnerability and decreasing their potential protection (Siegel, 2009). Compulsory registration and health checks, common in regulated systems, can also be discriminatory and a barrier to healthcare access (Decker et al., 2012; Overs & Hawkins, 2011). These are the “tools” used as discriminatory factors, even against stated or true intentions (Decker). It is observed to also create harm in social relationships, work access, but what’s also important, trust in police (Overs).

Legalisation and "Rule of law" (as an indicator) context: The relation between a specific place's legal system "rule of law" to the actual practice done by legal instances and enforcers is described to significantly increase (where strong and "positive") or decrease (where ineffective) said risk of unstable working conditions, particularly through ecological risk of HIV.

Decriminalization: Decriminalization and its connections to better work standards and law protection is linked, indirectly through arguments presented by Overs et al. , with decreased rates of HIV. Still, it has to be considered as connected to a wider factor as rule-of-law context, meaning it will not be able decrease harmful conditions and factors without a solid working justice system that might offer support to people affected by this (Overs).

2.5. Country-Specific Findings

Germany: The fully legalized model in Germany, especially when combined with a strong rule of law, is associated with lower HIV prevalence among sex workers compared to countries with more restrictive and punitive laws (Reeves et al., 2017). This suggests that the combination of legal protection and effective, fair, indiscriminate enforcement practices can contribute to improved health outcomes. However, it is an outlier compared to the majority of approaches and findings regarding similar policies.

Netherlands: The legalization in the Netherlands, which is meant to improve conditions and reduce exploitation, has had mixed results. The exclusion of migrant sex workers created significant problems, driving many into illegal and more dangerous forms of sex work (Siegel, 2009) thus increasing risks of harm from the side of buyers and organizers or, although legal, prosecution from the law. Even within the legal sector, regulation and used practices of enforcers are relevant and might cause a decrease in worker conditions quality (Overs). There is an underlying uncertainty. On one hand the country holds a narrative of tolerance or even acceptance regarding this topic, through a formal and legal approach of regulation. But through enforcement practices, through "law in the street"(Overs), this may change considerably in local and municipal settings (Platt).

Brazil: Partial criminalization, where brothel-keeping is illegal but individual sex work isn't, contributes to the uncertain conditions of many sex workers, particularly those trying to work in more organized settings that could bring more clients or safety (Decker et al., 2012). The lack of safe legal protection, that doesn't come with prosecution of the victim itself, for these workers makes them vulnerable to exploitation and abuse, including those perpetrated by the state representatives (Overs).

Argentina: In Argentina, there is a two-faced situation of a de facto (meaning regarding street-practices by, mainly, police officers) approach of restriction of location of sex work offering (including ever-arrest practices) (Pando, Overs, Decker). There is limited information about the "de jure" context and legality. There are signs of, through proxies ("ever arrest" indicators, meaning laws are being de facto used in the streets), an approach that limits to zones of toleration through police and enforcement practices (Platt).

Even if fully legalized regimes might contribute to reducing harm for individuals, there needs to be considerations regarding these, needing strong judicial and state infrastructure and a broad and all-including enforcement to provide beneficial changes (Reeves). A more detailed understanding about the enforcement on a practice level, context-focused and grounded on real-life sex work and its impacts and factors concerning their human rights would better contribute for improving public-policies. While complete, well executed, with strong state-organization support and infrastructure, decriminalization policies (like in Germany) may have reduced violence, human trafficking and sexual transmission cases, criminalization policies were still observed, frequently, worsening said conditions. The legalization might

significantly decrease risk for those engaging in sex-work, particularly on structural factors. This approach may provide some beneficial structural factors for health services access, police and public opinion, if said society also accepts commercial selling and buying of sex as a legitimated activity.

2.6. Dominant Legal Approaches to Sex Work and Their General Impacts: A Global and European Overview

The global and European background of sex work legislation is diverse and very argued about, with policies often tilting towards morally and ideologically motivated stances rather than those motivated by consistent, evidence-based approach to the health, safety, and human rights of sex workers (Oliveira et al., 2023). Krüsi et al. (2021) categorize the judicial regulation of sex work globally into three broad approaches: Criminalization (including End-Demand), Legalization, and Decriminalization. Despite a growing amount of credible epidemiological and social science research and data, alongside clear, understandable international guidelines from bodies like the World Health Organization (WHO), NSWP, UNAIDS, UNDP, UNFPA, and Amnesty International calling for the full decriminalization of sex work (Krüsi et al., 2021; Oliveira et al., 2023; Burckley, Jeanis, & Fox, 2023), the criminalization of certain or all aspects of sex work remains widespread worldwide (Krüsi et al., 2021; Decker et al., 2012).

2.6.1 Criminalization: The Prevailing Model and its Documented Harms

Full or partial criminalization, where some or all aspects of selling sex, buying sex, or organizing sex work are restricted, is the most common policy reaction to sex work (Krüsi et al., 2021; Burckley, Jeanis, & Fox, 2023). This includes "end-demand" criminalization (often called the Nordic model), which specifically targets the purchase of sex and often third parties, while not having the intent or creating an incentive for criminalizing the seller (Krüsi et al., 2021).

The literature consistently documents the detrimental effects of criminalization. It perpetuates poor labor conditions, increases sex workers' risk of violence and increases health risks,

including HIV/STI vulnerability, while denying access to occupational health, safety, police protection and legal defense (Krüsi et al., 2021; Decker et al., 2012; Platt et al., 2018). Policing strategies in criminalized settings often involve surveillance, raids, arrests (or threats of it), intimidation and even direct physical and sexual violence by police, which frequently go unreported (Krüsi et al., 2021; Overs & Hawkins, 2011). This creates an environment of lack of punishment for perpetrators targeting sex workers (Krüsi et al., 2021; Oliveira et al., 2023).

To avoid police detection under criminalization, sex workers often move to secluded, isolated and less safe areas, limiting their ability to screen clients, negotiate favorable terms of work or the act of sex itself (including condom use) due to not having any leverage or ways to defend oneself or their rights, or work with other sex workers for increased safety or at least social comfort, thereby increasing their vulnerability to violence and other risks (Krüsi et al., 2021; Platt et al., 2018; Decker et al., 2012). The confiscation of condoms by police as evidence further undermines HIV prevention efforts and right to health and security (Platt et al., 2018; Decker et al., 2012).

The "end-demand" model, despite its stated intention to protect sex workers by targeting only clients, is increasingly shown to potentially mimic harms similar to those of broader criminalization. Evidence from Canada, Sweden, and France indicates it heightens risks of violence, contributes to uncertainty in terms of labor and the ability to fend for oneself as well as fails to eradicate sex work, while it continues risking to violate sex workers' human rights and limit their access to safe working conditions (Krüsi et al., 2021; Burckley, Jeanis, & Fox, 2023). If the state recognises sex-workers as holders of human rights and legitimate labourers (since they are not criminalized as such) but criminalizes their main economic relations required for their livelihood then the state risks violating sex workers' right to not be discriminated against. Even if such a lenient or tolerant legal system doesn't allow for sex work to be organized in a stable, safe and predictable manner then it produces exclusion rather than protection or support.

This includes European countries including Sweden and Norway (which use this model), where criminalizing the purchase of sex correlates with lower reported sex-buying, potentially influenced by both fear of punishment and increased social stigma against buyers. However, it can be argued that such laws may distribute sex work to underground sectors rather than eliminate it, and can worsen conditions for those who still continue to sell sex by

making client interactions more rushed (potentially hindering the ability to choose clients) and secretive (Krüsi et al., 2021).

The negative effects of all forms of criminalization are amplified for sex workers facing complex marginalizations due to race, im/migration status, poverty, illicit drug use, outdoor work venues, and gender identity (Krüsi et al., 2021; Oliveira et al., 2023; Decker et al., 2012). Burckley, Jeanis, & Fox (2023) note the disproportionate impact of criminalization and arrest rates on poor and minority sex workers, particularly those street-based and transgender individuals, who are thrust into cycles of criminal justice contact.

2.6.2 Legalization and Regulatory Models

Legalization models, where sex work is offered limited legal status often dependent on adherence to specific regulations (registration, mandatory health testing, designated zones), exist in countries like the Netherlands and Germany. While supporters suggest legalization can take prostitution "out of the shadows," enabling regulation for health and safety and potentially deterring trafficking (Burckley, Jeanis, & Fox, 2023), the evidence doesn't present a crystal clear picture.

These models often can keep undermining sex workers' human rights and health by restricting occupational autonomy (where and when they can work) and can create a two-tiered system (Krüsi et al., 2021; Oliveira et al., 2023; Harcourt et al., 2005). Sex workers who cannot or will not comply with regulations (often those wishing to avoid stigma associated with registration or detection) remain effectively criminalized, vulnerable and excluded from safer working conditions (Oliveira et al., 2023; Siegel, 2009). Mandatory HIV/STI testing, a common feature, is identified as a human rights violation that can undermine voluntary prevention, privacy and exacerbate stigma and lead to the criminalization of those sex workers unwilling to go through such procedures (Krüsi et al., 2021; Decker et al., 2012; Overs & Hawkins, 2011). Even in regulated environments, stigma persists, impacting mental health and access to social services (Oliveira et al., 2023).

The conflation of sex work with trafficking often drives restrictive aspects of legalization, particularly concerning migrant sex workers who may be barred from the legal sector and face heightened vulnerability (Krüsi et al., 2021; Siegel, 2009). Oliveira et al. (2023)

highlight that even within EU countries with regulation, policies impacting migrant sex workers (especially those from outside the EU) are key predictors of their vulnerability, affecting access to healthcare and legal protection. Burckley, Jeanis, & Fox (2023) note the empirical relationship between legalized sex work and sex trafficking rates remains unclear and highly debated, with some studies suggesting an increase (the "scale effect") and others no effect or even a decrease if resources are better targeted.

2.6.3 Decriminalization: The Advocated Standard

Decriminalization involves the removal of criminal penalties for adult consensual sex work, treating it like it would treat any other forms of legal, legitimate and morally acceptable labor, regulated under standard employment, health and safety laws rather than exceptional criminal measures (Krüsi et al., 2021). This model is consistently reinforced by numerous global human rights and policy bodies as the best out of all available practices to promote sex workers' health and human rights along with the health and well-being of those who purchase such services (Krüsi et al., 2021; Oliveira et al., 2023; Burckley, Jeanis, & Fox, 2023; Murray et al., 2021).

Evidence from decriminalized settings like New Zealand (though often termed "partial decriminalization" due to the exclusion of migrants) suggests improved working conditions, increased ability and likeliness to report violence to police, better access to health and safety resources and established avenues for employment complaints (Krüsi et al., 2021; Harcourt et al., 2005). Decriminalization is estimated to have a substantial potential impact on reducing HIV infections (Krüsi et al., 2021, citing Shannon et al.). Much of what is identified as harmful in sex work is observed not as inherent to the work itself, but as a product of restrictive and punitive social and structural factors like criminalization, unjustified policing, stigma, poverty and gender inequality (Krüsi et al., 2021). Decriminalization aims to dismantle these structural barriers.

It's crucial that policies are genuinely based on evidence and involve sex workers in their design and implementation, moving away from moralistic approaches to truly address the human rights, health and safety of individuals in the sex industry.

3.Methodology

This study uses a literature-based qualitative comparative analysis to examine how national legal frameworks concerning sex work relate to observable human-rights conditions for sex workers in Germany, the Netherlands, Brazil and Argentina. The body comprises peer-reviewed empirical studies, legal texts, official government reports and NGO investigations (Amnesty International, Open Society) published between 2000 and 2024. Selection criteria were focused on (a) sources that directly discuss legal frameworks or enforcement practices; (b) empirical studies and systematic reviews; and (c) primary legal documents and government evaluations. Limitations include heavy reliance on secondary sources, (no primary fieldwork was done), also, where possible, the analysis emphasizes combining findings across multiple independent sources rather than relying on isolated reports.

The sources were not treated descriptively - the analysis involved systematic identification of themes that re-appear and patterns related to the relationship between forms of legal frameworks controlling sex work and human rights conditions.

The process focused on identifying repeated mechanisms of how legal regimes form sex workers' lived experiences when it comes to their line of work and interactions directly linked to it.

These mechanisms were then grouped into analytical categories like exposure to violence, healthcare access, interaction with law enforcement, legal recognition and documentation and capacity for organization. Sources were reviewed iteratively and themes were collected when they appeared consistently across different national contexts and types of regulation.

Such an approach allowed for a structured comparison of how human rights outcomes are conditioned and influenced throughout various legal models but without generating any new primary data.

The originality of the analysis comes from the systematic synthesis and interpretation of existing empirical findings across diverse political and legal contexts.

4.Thematic Analysis - Policing, Violence, and Access to Justice Across Legal Models

Legal frameworks on paper create and structure the incentives, background and practices of how law is interpreted and practiced by enforcers and others and thereby shape the exposure to violence, the degree and existence of discrimination and barriers to justice and health services for sex-workers. Previous research shows that countries that use the criminalization model, whether in regards to activities surrounding sex work or sex work as a whole, show

higher rates of police harassment, reduced reporting of violent crimes and heightened vulnerability of sex workers (Platt et al., 2018; Decker et al., 2015).

This chapter analyzes how policing practices operate within the case countries and how legal on-paper frameworks manifest themselves in real life.

4.1 Germany

Germany operates under a legalized framework where sex work is formally recognized as legitimate labour. The Prostitution Act (2002) and its subsequent reform, the Prostitutes Protection Act (ProstSchG) of 2017, aim to regulate the sector through mandatory registration, health counselling and licensing of commercial establishments. These provisions theoretically could improve transparency and safety. However, implementation can vary across different administrative states and evidence indicates that many sex workers - especially migrants - avoid registration due to privacy concerns, fear of data sharing, or stigma (Siegel, 2009). Workers operating outside the registered system may be reluctant to approach police or report violence, resulting in selective vulnerability despite a legal framework that is nominally protective. Although Germany does not show the severe forms and patterns of police violence documented in punitive regimes, regulatory compliance mechanisms can still deter access to justice for unregistered or marginalized workers although this leads to a question regarding other legal systems and mechanisms that aren't directly governing sex work and its aspects.

4.2 Netherlands

The Netherlands legalized brothels in 2000 and implemented a licensing and municipal regulatory system. The intention was to professionalize the sector, combat exploitation and improve working conditions. Yet evaluations by the WODC (Daalder, 2007) show that many

intended benefits did not fully materialize. Strict licensing criteria and municipal discretion, although perceived as adequate safety mechanisms, have led to a reduction in legal window spaces and the exclusion of non-EU migrant workers from licensed employment. As a result, a large informal sector persists outside regulatory protection. For these workers, interactions with police may resemble those found in criminalized contexts, including displacement, fines, and reduced willingness to report abuse (Siegel, 2009). Thus, while police violence is less severe than in punitive systems, regulatory exclusion produces a caste system when it comes to access to justice.

4.3 Brazil

Brazil represents a partial criminalization regime. Selling sex is not illegal, but brothel-keeping, third-party sex work organizing and profiting from prostitution remain criminalized under the Penal Code. This fragmented framework leads to inconsistent enforcement across states. Empirical evidence documents police raids, harassment, extortion and the forced closure of indoor venues in some municipalities, increasing vulnerability for sex workers operating outside recognized and permitted spaces (Decker et al., 2015). Because when a third-party organization is criminalized, sex workers often work alone or in unsafe locations, reducing collective safety measures of those involved in such work. The threat of police interference also discourages reporting of violence, mirroring patterns seen in fully criminalized settings.

4.4 Argentina

Argentina is a de facto criminalization regime despite the absence of a coherent national prohibition. Municipal codes and police practices often punish sex work functionally, particularly when it comes to street-based and migrant workers. Amnesty International's (2016) fieldwork in Buenos Aires reveals systematic confiscation of condoms, arbitrary detention, raids on workplaces and extortion. These practices create a basis for distrust in law enforcement and disincentivize reporting of violence undermining the right to be recognized before the law. The country's fragmented legal environment produces zones of "toleration"

and “punitive control”, where police actions are discretionary and often have more real authority than formal legal provisions.

4.5 Cross-country synthesis

Across all four cases, several patterns emerge:

Criminalizing elements consistently increases risk of exposure to violence and human rights violations. Whether full criminalization or partial prohibitions on brothel-keeping, the result is often displacement to riskier environments and reduced access to protection (Decker et al., 2015; Platt et al., 2018).

Legalization alone does not guarantee safety. In Germany and the Netherlands, exclusionary regulatory mechanisms create vulnerable unregistered or migrant subsectors where police protection can be uneven or even lacking.

Trust in law enforcement remains closely linked to legal status. The more punitive or discretionary the system or those meant to uphold it, the lower the likelihood of reporting violence or accessing justice.

Municipal discretion is a major determinant of outcomes. Local territory control, licensing and enforcement practices frequently got more leverage in the lives of sex workers than national-level legislation.

De facto criminalization produces effects similar to formal criminalization. Argentina and parts of Brazil demonstrate this most clearly.

5. Health Outcomes, Well-Being, and Working Conditions

Health outcomes for sex workers are shaped by three interacting factors: (1) the legal context, which can determine protection and health service accessibility; (2) the nature of workplace environments; and (3) broader structural factors like social stigma, migration status and economic well-being. Public health institutions, including WHO and UNAIDS, consistently

emphasise that criminalization and punitive enforcement practices undermine HIV prevention and exacerbate health risks by driving sex workers away from essential services (WHO, 2012; UNAIDS, 2014). At the same time, legalization or regulation can produce health benefits only if regulatory frameworks include all types of workers and do not impose burdens that deter participation and increase vulnerability to various risks (Platt et al., 2018). This chapter assesses the relationship between legal frameworks and health outcomes in the four case countries, focusing on HIV prevalence, access to healthcare and the impact of working conditions.

5.1 Germany

Germany's legalization framework theoretically ensures broad access to health services. Under the ProstSchG (2017), sex workers must attend mandatory health counselling as part of the registration process. While intended to facilitate information sharing and access to services, the system has mixed results. Many sex workers, migrants in particular, avoid registration due to privacy concerns, fear of data exposure or mistrust of authorities(). Those who remain outside the registered system may have irregular contact with health services or rely on NGO-run clinics.

Comparative cross-country research suggests that countries with legalization often have lower HIV prevalence among sex workers than those with punitive regimes (Reeves et al., 2017). Germany fits this pattern at the national level. However, the benefits are unevenly distributed: migrant sex workers, workers in unlicensed venues and those fearing bureaucratic oversight may struggle to access care. Moreover, workplace safety standards vary significantly across brothels and clubs, with testimonies of coercive workplace rules or unsafe working conditions documented by NGOs (Siegel, 2009). These findings indicate that legalization improves health outcomes only when implementation is inclusive and when regulatory burdens do not push workers into informal sectors.

5.2 Netherlands

The Netherlands offers publicly funded healthcare with broad accessibility and the country's legalized framework theoretically integrates sex workers into mainstream health services.

Evaluations of the brothel legalization reform show that licensed venues generally comply with occupational health and safety standards (Daalder, 2007). Workers in these settings often benefit from access to regular STI testing, contraceptives and HIV prevention programs. However, this protective effect is significantly weakened by the exclusion of non-EU migrant sex workers from the formal sector.

Because non-EU migrants cannot legally work in prostitution, many operate in unlicensed and unregulated settings. This exclusion creates high risk of decreased access to health services, increased stigma, and greater exposure to unsafe working environments (Siegel, 2009). Additionally, municipal “clean-up” policies have reduced the number of window workplaces, pushing workers into less regulated environments. Consequently, health outcomes are bifurcated: legal workers generally enjoy good access to health services, while undocumented, migrant, and unlicensed workers face barriers that resemble those in criminalized regimes.

The Dutch case underscores that legalization does not automatically translate into improved health conditions if immigration policy and municipal enforcement undermine inclusivity.

5.3 Brazil

Brazil's public health environment is diverse. The criminalization of third-party involvement and brothel-keeping restricts the operation of indoor venues and discourages collective working arrangements that could improve safety and health, even though individual sex work is not illegal. Sex workers are forced into clandestine or street-based settings with little access to medical care in cities where police conduct raids or vigorously enforce anti-pimping laws, closing indoor workplaces that could have better sanitary control and more positive surveillance (Decker et al., 2015).

HIV treatment and STI testing are free under Brazil's universal healthcare system. However, sex workers frequently experience bias in public clinics, uneven service delivery across states and anxiety about police surveillance in the vicinity of well-known sex work locations. According to UNAIDS country data, access to preventive services is still unequal, with marginalized groups, like transgender sex workers, facing significantly higher risks which can be seen throughout various legal frameworks (UNAIDS, 2024).

Importantly, criminalization of organizing practices prevents sex workers from creating safer indoor workplaces, forming collectives or employing third-party safety personnel. This increases occupational hazards, including exposure to violence, unprotected sex and exploitative working conditions which cannot be overseen and influenced by legal authorities or colleagues/organizers

5.4 Argentina

Argentina's fragmented regulatory legal background produces health risks that are similar to those found in partially criminalized systems. Amnesty International's (2016) work documents regular confiscation of condoms by police officers, a practice that directly undermines HIV prevention. Fear of arrest or harassment discourages sex workers from carrying condoms or seeking health services.

Access to healthcare varies across provinces, and stigma in public clinics remains a major barrier. Transgender sex workers face significantly higher health risks, including increased HIV prevalence and reduced access to gender-affirming care. While Argentina has progressive national health policies in other domains, inconsistent local-level enforcement and discriminatory policing practices significantly undermine their potential benefits for sex workers.

5.5 Cross-country synthesis

Three major patterns emerge:

- Criminalization undermines HIV prevention and increases health risks.
Punitive enforcement - such as condom confiscation, raids, and harassment - drives sex workers away from services (Amnesty International, 2016; WHO, 2012).
- Legalization improves health outcomes only when inclusive.
Germany and the Netherlands demonstrate that health benefits materialize for those inside the regulated sector but exclude migrants and unregistered workers.
- Working conditions are central to health.
When indoor workplaces are legal and regulated, access to health services improves and occupational hazards decline. Conversely, the criminalization of third-party organizing in Brazil or punitive municipal enforcement in Argentina forces workers into unsafe settings.

Overall, health outcomes depend not only on the national legal model but on whether the regulatory and enforcement environment enables or obstructs access to essential services.

6. Mediating Factors and Specific Vulnerabilities

Laws do not exist in a vacuum. Their material effects are mediated, but not limited to, migration policy, municipal governance, rule-of-law conditions, and structural inequalities. These intermediaries often make the difference between whether rights on paper translate into rights in practice. This chapter seeks to understand what are the key determinants that have an impact on results in each of the four countries and how and why some groups experience these processes in different ways.

6.1 Migration policy

Migration is one of the most powerful predictors of vulnerability for sex workers globally (Platt et al., 2018). In the Netherlands, non-EU migrants can't get a work permit for sex work is forcing them to illegalised venues despite the Dutch legalization (Siegel 2009). These workers are more likely to have limited access to justice and healthcare and higher exposure to violence. The same is true in Germany: sex work is legal, but migrant workers, even more so those outside the EU, are deterred by bureaucracy and the fear of deportation and other forms of punishment linked to their migration status and find it challenging to gain access to systems of registration which makes them disproportionately represented among unregistered sectors.

6.2 Municipal enforcement and zoning

Municipalities often have a bigger influence on how sex workers' live their daily lives than national laws. In the Netherlands, municipalities maintain discretion over licensing and zoning, which may result in the reduction of window workplaces and increased policing of unlicensed venues (Daalder, 2007). In Argentina, municipalities frequently function as de facto criminalization tools, allowing police to conduct raids, confiscate condoms or detain workers under the guise of public order demands (Amnesty International, 2016). In Brazil, municipal variation in enforcement determines whether sex workers can operate in indoor venues or are displaced to the streets and other outside point of service exchanges.

6.3 Rule of law and corruption

Weak rule of law increases the harms of criminalization. In Brazil and Argentina, reports document bribery, extortion, arbitrary detention, and violence committed by police officers (Amnesty International, 2016; Decker et al., 2015). Where police accountability is low, legal ambiguities and enforcement discretion create conditions in which sex workers cannot safely report violence or seek protection. Even in legalized contexts, enforcement actors may selectively target migrant or unregistered workers, limiting the reach of formal protections.

6.4 Intersectionality

Certain groups face compounded vulnerabilities due to intersecting identities. Transgender sex workers experience disproportionately high rates of violence, discrimination, and HIV prevalence across all four countries (UNAIDS, 2024). Migrant workers, especially those without legal residency, face barriers arising from both immigration enforcement and punitive policing. Individuals experiencing poverty, homelessness, or drug use may rely on street-based work, exposing them to heightened risks even in legalized regimes (Platt et al., 2018).

6.5 Cross-country synthesis

Across countries, the same legal model can yield widely divergent outcomes depending on structural conditions. Legalization offers limited protection when paired with exclusionary migration policies or restrictive municipal regulations. Conversely, even partial criminalization can produce less severe harms when implemented in contexts with strong rule of law and effective public services - though this is rarely observed in practice. Overall, mediating factors determine whether the law's protective or punitive potential is realised.

7. Discussion

This thesis set out to examine how different legal approaches to sex work - legalization, partial criminalization, and fragmented de facto criminalization - shape the human rights conditions of sex workers in Germany, the Netherlands, Brazil, and Argentina. The findings show that legal models alone are insufficient to predict outcomes; rather, the interaction between formal laws, municipal enforcement practices, migration policy, and structural inequalities determines whether sex workers experience protection or harm.

7.1 Criminalizing elements consistently produce harmful outcomes

Across all four case countries, the presence of criminalizing provisions - whether against third-party organizing (Brazil), street work (municipal ordinances in Argentina), or unlicensed work (Netherlands) - correlates strongly with increased exposure to violence, barriers to healthcare, and mistrust of police. These findings align with global systematic reviews showing that criminalization of any aspect of sex work increases risks of HIV,

violence, and exploitation (Platt et al., 2018). In Brazil and Argentina, punitive municipal enforcement and police corruption exacerbate these harms, demonstrating that partial or de facto criminalization often produces outcomes similar to full criminalization.

7.2 Legalization improves outcomes but often selectively

The German and Dutch models illustrate that legalization can reduce certain risks, particularly for workers operating within licensed or registered sectors. In these regulated environments, sex workers generally experience improved access to healthcare, safer indoor workplaces, and reduced direct police harassment. This aligns with public health evidence linking legal environments to lower HIV prevalence and increased service access (Reeves et al., 2017).

However, both countries reveal significant limitations:

- Migrant sex workers are often excluded from legal protections due to restrictive immigration rules (Netherlands) or bureaucratic barriers and fears of registration (Germany).
- Municipal discretion can limit the number of legal workplaces or impose burdensome requirements.
- Workers outside the regulated sector - especially street-based or unregistered workers - face conditions similar to those in criminalized regimes.

Legalization thus creates a stratified environment in which benefits accrue to those who can meet regulatory criteria, while others remain vulnerable.

7.3 Municipal governance and rule of law shape outcomes more than national laws

A core finding is that local enforcement practices often have greater practical impact than national legislation. In the Netherlands, municipal licensing systems determine whether workers have access to legal window workplaces. In Argentina and parts of Brazil, local police enforce municipal decrees that function as de facto criminalization. In Germany,

Länder vary widely in enforcement intensity, affecting whether registration is experienced as supportive or coercive.

This reinforces a central theme in the literature: law “on the books” frequently diverges from law “in practice,” meaning that policy analysis must account for the agencies and institutions that enact the law (Amnesty International, 2016).

7.4 Intersectional vulnerabilities exacerbate disparities

Across all countries, transgender sex workers, undocumented migrants, and street-based workers face compounded risks due to intersecting social stigmas and structural inequalities. These groups are more likely to experience police harassment, violence, and barriers to healthcare (UNAIDS, 2024). This pattern emerges even in legalized settings, demonstrating that legalization alone cannot eliminate vulnerabilities rooted in discrimination, xenophobia, or socio-economic marginality.

7.5 Synthesis: the limits of legal models

The comparative analysis shows that:

- Legalization reduces harm, but only when implemented inclusively.
- Partial criminalization and de facto criminalization consistently undermine human rights.
- Structural conditions like migration policy, municipal governance, rule of law, condition the outcomes of any legal model.

Thus, the core determinant of sex workers' rights and well-being is not simply whether sex work is legal or illegal, but whether the broader institutional environment enables autonomy, safety, and access to justice.

8. Conclusions and Policy Recommendations

8.1 Conclusions

This thesis demonstrates that legal frameworks play an important but limited role in shaping the human rights conditions of sex workers. Legalization can provide important protections like safer workplaces, improved health access and reduced police harassment but these benefits are contingent upon inclusive regulatory design and equal enforcement. Partial or de facto criminalization, as observed in Brazil and Argentina, consistently contributes to heightened vulnerability, pushing sex workers into unsafe environments and undermining access to justice and healthcare.

A central conclusion is that effective protection of sex workers' rights depends on the alignment of law, enforcement and social policy. Legalization without migrant inclusion, legalization without municipal consistency or legalization without addressing stigma cannot achieve its intended outcomes. Conversely, criminalizing any aspect of sex work consistently creates conditions of harm, exploitation and exclusion.

8.2 Policy recommendations

Based on the cross-country evidence and aligned with global public health guidelines, the following policy recommendations emerge:

1. Remove criminal penalties for consensual adult sex work and all activities associated with it. International evidence indicates that decriminalization of sex work, when combined with labour protections, best supports health, safety, and human rights (WHO, 2012; Amnesty International, 2016).
2. Ensure regulatory frameworks are inclusive and accessible to all.
Mandatory registration, stringent licensing regimes, or exclusionary immigration rules may contribute to creating secondary informal sectors with heightened risks of

vulnerability. Regulations should avoid creating administrative barriers or exposing sex workers to privacy risks.

3. Strengthen municipal accountability and standardize enforcement.

Uniform national guidelines should limit discretion that leads to discriminatory or discretionary policing. Independent oversight bodies should monitor compliance with national law and address and punish abuses.

4. Expand access to health services tailored to sex workers' needs.

Confidential STI testing, HIV prevention, contraceptives and other forms of harm reduction services should be accessible without fear of police interference or leaks of data. Trained healthcare workers are also important to reduce stigma and thus improve health outcomes

5. Promote labour rights and safe working conditions.

Sex workers should be able to work collectively, hire third-party safety personnel and operate in safe, private indoor environments without facing criminal penalties or heightened risks.

Taken together, these reforms aim to create a legal and institutional environment that supports sex workers' autonomy, safety and dignity. The comparative analysis presented in this thesis provides robust evidence that any approach retaining criminalization - whether full, partial, or de facto - fails to protect sex workers' rights. Inclusive and rights-based legal frameworks offer a more effective and ethical alternative.

Together, these measures must not only support the bodily safety of sex workers but also their dignity. This analysis has brought up many occasions of how, directly and indirectly, criminalization fails to protect and sometimes violates the rights of sex workers that must not be denied their entitlement to human rights despite the state or societal view on the nature of their line of work.

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