Research Square

Preprints are preliminary reports that have not undergone peer review.
They should not be considered conclusive, used to inform clinical practice,
or referenced by the media as validated information.

The case of M.A. v. France: Sex workers' capacity to self-determination and dignity as coercion

Marjan Wijers

m.wijers@hetnet.nl

University of Essex

Research Article

Keywords: Sex work, sex workers rights, human rights, dignity, European Court of Human Rights, France

Posted Date: September 3rd, 2026

DOI: https://doi.org/10.21203/rs.3.rs-10608274/v1

License: This work is licensed under a Creative Commons Attribution 4.0 International License.
Read Full License

Additional Declarations: No competing interests reported.

THE CASE OF M.A. V. FRANCE: SEX WORKERS' CAPACITY TO SELF-DETERMINATION AND DIGNITY AS COERCION

Abstract

Introduction

The article discusses the case of M.A. vs France in which 261 sex workers contested the criminalisation of the purchase of sexual services. It examines how the French courts and the European Court of Human Rights (ECtHR) dealt with the competing abolitionist and sex worker rights claims with a focus on the tension between the principles of dignity and self-determinisation, and the use of 'human dignity' to justify repressive laws and policies against sex work.

Methods

The article builds on existing literature on the use of dignity in legal and political discourses. It employs a qualitative mixed methods approach, combining legal analysis, documentary analysis, and semi structured interviews with sex worker rights activists and allies.

Results

The analysis shows that, while human rights have given sex workers a tool to fight the systemic abuses they face, they also lead to violations in their name, turning human rights into a tool of both empowerment and repression. Through the gateway of human dignity and female victimhood human rights are used to create a hierarchy of 'human-ness' to exclude and silence sex workers, and to relieve states and the ECtHR of their accountability for the protection of sex workers' human rights.

Conclusions

Like agency as the capacity to make one's own decisions over one's life, dignity can be considered as a key indicator of contemporary understandings of what it is to be a human being. By denying sex workers agency, subjectivity and dignity and consequently human-ness, they are stripped of their entitlement to human rights protections, as demonstrated by the ruling of the ECtHR.

Policy Implications

Despite its inherent tensions human rights remain radical tools for those who never had them. This makes it worth to keep investing in them, even if it is a long and challenging process. It also underscores the need

for the ECtHR to adopt a more inclusive, evidence-led and rights-based approach, that recognises and respects the agency, dignity and lived realities of all individuals, including sex workers.

Key words: Sex work, sex workers rights, human rights, dignity, European Court of Human Rights, France

Introduction

In July 2024, the European Court of Human Rights (ECtHR) delivered its judgment in the case of *M.A. and others v France* (ECtHR, 2024). The case was initiated by 261 sex workers who argued that the 2016 French law that criminalised the purchase of sexual services (the so-called 'End Demand' or 'Swedish' model, aimed at abolishing sex work through criminalising buying rather than selling of sex) violated their rights under Article 2, 3 and 8 of the European Convention on Human Rights (ECHR). They held that the law forced them into clandestine and unsafe ways of meeting clients, increased their exposure to violence, jeopardised their right to health, and infringed on their personal autonomy and sexual freedom. According to France, though, "Loi N° 2016-444" was necessary to ensure the safeguarding of human dignity and public order, arguing that the majority of sex workers were victims of traffickers or pimps, enabled by the demand for sexual services. After examining the case solely under Article 8 (the right to privacy and sexual and bodily autonomy), the Court concluded that France had not exceeded its margin of appreciation, referring to the lack of European consensus on sex work policies and the "highly sensitive moral and ethical questions" prostitution raised, in particular the question of whether sex work can be consensual (§ 149) (Van Leeuwen & Wijers, 2024).

In this article, I discuss how the French courts and the European Court of Human Rights dealt with the competing abolitionist and sex worker rights claims. Building on existing literature, I focus particularly on the use of 'human dignity' to justify repressive laws and policies against sex work. Both the sex worker rights and the anti-prostitution movement draw on human rights arguments. However, while human rights provide sex workers and other marginalised groups with a tool to fight the systemic and everyday abuses they face, they also lead to violations in their name. This turns human rights into a tool of both empowerment and repression (Wijers, 2022, 2024).

I start by sketching the context in which repressive measures against sex work should be situated. I then move to the French case. After describing the background of Law N° 2016-444, I discuss the tension between the concepts of self-determination and human dignity, and the problems attached to the use of dignity as justification for repressive measures against a particular group of citizens. This is followed by an analysis of the case before the French courts and the role of dignity. I conclude with a discussion of the European Court of Human Rights' decision to disregard the actual effects of the law on sex workers' human rights by putting into question their capacity to self-determination and bodily autonomy.

Methodology

The article is based on a larger study which explored the role of human rights in the public, political, and legal debate on sex work laws and policies in Europe, as mobilised by the sex worker movement and other actors, including the anti-prostitution movement, law makers and the courts (Wijers, 2024). For the French case study I interviewed two of the sex worker-applicants and the legal advisor of Médecins du Monde, who acted as intermediary between the sex worker organisations and the case lawyers. Furthermore, I was personally involved as the author of a Third-Party Intervention in the ECtHR case on behalf of 25 Dutch NGOs (SekswerkExpertise, 2021). In my work – and the article - I explicitly choose the perspective of the sex worker rights movement. I use the word sex worker as that is the preferred term by sex workers, except when I refer to laws, policy approaches, or rulings that use the word prostitution (Leigh, 1997).[1]

Background

Since the 1970s sex workers across the world have been challenging stereotypes as victims or deviants, claiming civil and labour rights with the slogan 'sex workers' rights are human rights' (Mgbako, 2020; Pheterson, 1996). A key demand is the full decriminalisation of sex work, which is considered a prerequisite for the protection of sex workers' human rights (ICRSE, 2005; NSWP, 2016). Their claim is supported by a growing number of UN bodies and international human rights and anti-trafficking organisations, building on compelling evidence that the high risk of violence and ill-health sex workers face are directly linked to the criminalisation of their work (e.g. Amnesty International, 2016a; CoE Commissioner for Human Rights,

[1] The term sex work was coined in 1979 by sex worker and activist Carol Leigh, because, as she writes, it "acknowledges the work we do rather than defines us by our status" (Leigh, 1997).

2024; GAATW, 2015; Human Rights Watch, 2019; International Commission of Jurists (ICJ), 2023; Special Rapporteur on the right to health et al., 2024; UNAIDS, 2023). However, fed by the dominant anti-trafficking discourse, sex workers' human rights are under attack by an increasingly influential abolitionist coalition[2] of so-called 'radical' or 'carceral' feminists, as Elizabeth Bernstein coined them (Bernstein, 2012, 2018), fundamentalist Christians, and a new generation of socialists, who claim that sex work is violence against women and a violation of human dignity, and advocate for its further criminalisation (Wijers, 2022) .

For a better understanding of the criminalisation of sex workers' clients, it is important to realise that the contemporary anti-prostitution campaign forms part of a larger, well-funded anti-gender or 'pro-family' movement, uniting the Christian Right, right wing populist parties and parts of the feminist movement (see e.g. Hofstetter & Grundell, 2023; Rubio Grundell & Hofstetter, 2026). Sometimes also called 'anti-rights movement', it targets sexual and reproductive health and rights (SRHR), LGBTIQ+ rights, children's rights, and gender and sexual equality (Datta, 2018, 2021, 2025; McEwen & Narayanaswamy, 2023). Their common project is to restore the so-called 'natural order' and 'family values'. This includes the reinforcement of particular sexual norms, or more particular, the re-establishment of the white middle-class heteronormative and monogamous model of 'good' sexuality, based on the conviction that sexuality should be kept within the confines of the romantic couple, while excluding and punishing those who transgress them (Wijers, 2022). Underlying are essentialist definitions of gender, femininity, masculinity, the family and sexuality. As worded by Sophie, one of the German sex workers in my research:

> *We all know that women only have sex for love and for free - which is patriarchy, the purest patriarchy ever* (Wijers, 2024: 130).

In Sweden, for example, which was the first state to criminalise clients of sex workers in 1999, 'frisky sexualitet', 'good sex', is an official term used in government documents, associated with self-confidence and psychological well-being (Wagenaar & Altink, 2012).

Secondly, the criminalisation of clients in Sweden and other countries should be viewed in light of the

[2] The term 'abolitionist' refers to the fight for the abolition of slavery and compares the abolition of prostitution to the abolition of slavery. This is a somewhat skewed comparison, since the abolition of slavery was not about abolishing a particular kind of labour, but about abolishing a particular kind of power relationship (Wijers & Lap-Chew, 1999). A leaflet by the French abolitionist organisation *Le Nid*, for example, describes the abolition of prostitution as "a conquest for freedom" and compares prostitutes to slaves, who "with the help of 'alert' and 'bright' non-slaves […] became aware of their oppression" (Le Nid, 1993: 30 & 25).

growing visibility of migrant sex workers, as well as broader political concerns about immigration control and the perceived loss of national identity (Bernal Solano et al., 2018; Kulick, 2003; Wijers, 2022). In France, too, the debate on the 'sex purchase ban' is embedded in discourses on the French identity, migration control and public order, particularly in relation to poor neighbourhoods where migrant communities are overrepresented (Billaud & Castro, 2013a; Calderaro & Giametta, 2019).

THE CASE OF FRANCE

In April 2016 the French Parliament adopted the criminalisation of the "purchase of a sexual act", aimed to "strengthen the fight against the prostitution system and assist prostituted persons" (Loi N° 2016-444 Du 13 Avril 2016). The criminalisation of clients was added to the existing criminalisation of any third-party involvement in sex work, regardless of conditions of coercion or consent. In exchange the offence of soliciting was repealed, which had been introduced by Sarkozy in his 2003 law on domestic security (Loi Sécurité Intérieure) as part of his security and anti-immigration agenda. The latter directly targeted (migrant) sex workers, who were assumed to be connected to trafficking networks, which legitimised framing (migrant) sex work as a security issue (Allwood, 2014; Calderaro & Giametta, 2019; Darley et al., 2018).

According to France, the criminalisation of clients – framed as sexual predators - was necessary to ensure the safeguarding of human dignity and public order. This was justified by the argument that the vast majority of sex workers were victims of traffickers or pimps, "criminal activities based on coercion and the enslavement of human beings" (ECtHR, 2024: 141) and that if there were no demand, criminal networks would not be able to profit (Béguin & Dupont, 2013; Darley et al., 2018). The protection of human dignity was a key argument, as I will discuss below, in particular the use of human dignity as an element of public order.

Common elements in the debate leading to the law were the conflation of sex work and trafficking; the framing of sex workers as damaged or untrustworthy; and the use of inflated statistics about the number of trafficking victims, incest rates among sex workers, and profits of pimping. By framing sex work as male violence against women and the ultimate capitalist commodification of women's bodies, the fight against the 'prostitution system' was framed as both a women's rights issue and anti-capitalist struggle by the socialist government (Calderaro & Giametta, 2019; Wijers, 2022, 2024). According to the abolitionist paradigm, 'prostitutes' or 'prostituted women' (as they are referred to) were to be considered victims rather than

delinquents, based on the argument that no woman can voluntarily consent to prostitution.

In the political debate, sex workers were categorically silenced as either victims of traffickers or pimps, damaged persons caused by child abuse or prostitution itself, agents of the 'pimp lobby' and thus untrustworthy, or a negligible 'white minority', in contrast to the majority of (migrant) victims who were consistently portrayed as young, innocent, naïve and 'culturally vulnerable' (Darley et al., 2018). As worded by Thierry, one of the sex worker-applicants in the French case:

> *[W]e have this old story that everyone is trafficked and we were all raped in our childhood and the like. Now it's the official narrative and if you oppose it you are the negationist, you are the one who is denying the truth. Because the state has already said what the truth is, and it's not for sex workers to say it* (Wijers, 2024: 141).

Specific to France was the delegitimization of sex workers as victims of 'symbolic violence'. This notion was used by politicians in both the debate on the criminalisation of clients and the ban on the hijab and refers to "violence exercised upon a social agent with their complicity" (Calderaro & Giametta, 2019: 167). This allowed policymakers to claim that "dominated people, in this case veiled women and sex workers, unconsciously accept being dominated and even claim the right to be so" (Ibid: 167). This effectively invalidated any possibility of consent or claim to rights by Muslim women or sex workers.

Several authors draw parallels between the French debate on the ban on the hijab – defended by an appeal on the principle of laïcité[3] - and sex work, highlighting how women's heads and bodies became a battleground as symbols of the French identity (Billaud & Castro, 2013; Calderaro & Giametta, 2019; Darley et al., 2018). According to Calderaro and Giametta (2019), the French construction of the 'problem of prostitution' should be seen in light of broader political anxieties over sexism in the poor 'black' suburbs (*banlieues*) which were explicitly identified as sites of sexual violence and oppression of women, and in need of immigration control. They describe how, in the name of women's rights, moral and racist arguments came together in the debate on sex work. Poor, 'black' and working-class clients of sex workers were pathologised as 'bad' sexual subjects "who have no place in the civilised space of the Republic", while at the same time they were

[3] The official justification for the ban on Islamic clothing (including head scarfs, burkinis and the abaya) is the protection of France's strict form of secularism ('laïcité').

racialised "as 'regressive' sexual subjects who do not know how to treat a woman with respect and who are very likely to exploit [their] women by buying sex from them, pimping or trafficking them" (Ibid: 161). In both cases, as Billaud and Castro (2013) note, the bodies of veiled women and sex workers, either too covered or too revealed, are supposed to represent a threat to the nation and its values, requiring state intervention. In their words: "As non-permissible bodies, prostitutes and veiled Muslim women have come to determine the inner boundaries of French citizenship" (Ibid.: 82).

OPPOSITION TO THE LAW

The law met strong opposition of sex worker organisations, social, health, and human rights organisations and pro-sex worker rights feminist activists (Médecins du Monde, 2015; Médecins du Monde & Act-up et al, 2016; STRASS & signatories, 2013; STRASS, 2015a, 2015b, 2016; STRASS et al, 2013), as well as from the French Commission Nationale Consultative des Droit de l'Homme (CNCDH) and Le Défenseur des Droits. All opponents pointed out that the law would push sex workers into more remote and dangerous locations, increase their vulnerability to violence, exploitation and HIV/STIs, reduce their bargaining power, cut them off from prevention, health and social care and prevent them from turning to the police when becoming victim of an offence. In addition, sex workers argued that treating sex workers as minors incapable of giving consent put them in a separate category of citizens, fostering stigma and discrimination (STRASS & signatories, 2013).

The National Advisory Commission on Human Rights (CNCDH) particularly questioned the legislator's decision to base the fight against prostitution on the violation of the principle of dignity, given its divisive and ambivalent nature. It supported its view by referring to an earlier study by the Conseil d'État on the legal options for banning the full-face veil,[4] in which it observed

> *"two conceptions of dignity that may potentially oppose or limit each other: that of the collective moral obligation to safeguard dignity, if necessary at the expense of the individual's free will […] and that of the protection of free will as an inherent part of the human person",* while noting that "*the assessment of what does or does not infringe a person's dignity is, at least potentially, relatively*

[4] Conseil d'Etat, *Etude relative aux possibilités juridiques d'interdiction du voile intégral*, 2010, p. 19.

subjective" (CNCDH, 2014: para 20 & foot note 34).

Furthermore, it pointed to the diversity of sex workers (including women, men, and transgender people), which made it difficult to invoke the principle of equality, and the negative repercussions of penalising clients for the prostitute (CNCDH, 2014). Similarly, Le Défenseur des droits (2015) emphasised the heterogeneous and complex character of sex work, stating that

> *By arbitrarily considering that prostitutes are predominantly 'victims', "vulnerable" and 'exploited', the legislator remains deaf to the various reports demonstrating the lack of reliable figures and to the observations made by associations.*

He questioned the bill for its failure to reflect this multifaceted reality and its tendency to conflate prostitution and trafficking. In addition, he drew attention to the highly controversial character of the 'Swedish model' and the lack of reliable figures, noting that while the expected impact on the extent of prostitution was likely to be limited or even non-existent, the detrimental effects of client criminalisation on the health and safety of sex workers and their access to fundamental rights had been well documented by both national and international institutions, including UNAIDS (2014), UNDP (2012) and the WHO (2013).

DIGNITY VERSUS SELF-DETERMINATION

Both the sex worker rights and the anti-prostitution movement draw on human rights arguments to support their views. While abolitionists claim that sex work constitutes a violation of gender equality and human dignity, arguing that no woman can voluntarily consent to sex work, sex workers and their allies call upon the principle of self-determination and the right to personal and bodily autonomy, defined by the European Court of Human Rights as "the ability to conduct one's life in a manner of one's own choosing" and "the right to make choices about one's own body" (*Pretty v. the United Kingdom*, ECtHR, 2002: § 62 & 66).[5] According to them, not sex work itself, but conditions of coercion, abuse, and deceit can make sex work a violation of human rights. Instead of lumping all sex work together, they stress the diversity of motivations, conditions, and experiences of female, male, and transgender, domestic and migrant sex workers (ICRSE,

[5] In several cases the European Court of Human Rights (ECtHR) has held that the right to self-determination is part of Article 8 (the right to respect for private and family life), arguing that it is a fundamental principle underlying all other rights: "The very essence of the Convention is respect for human dignity and human freedom and the notions of self-determination and personal autonomy are important principles underlying the interpretation of its guarantees" (Jehovah's Witnesses of Moscow v. Russia, ECtHR, 2010: § 135).

2005).

Both principles, dignity and self-determination, have deep roots in the history of human rights thinking and can be seen as the foundation of human rights. Yet, as worded by De Blois (1998), they come from different worldviews and can lead to very different outcomes. Whereas the liberal principle of self-determination takes the 'self' as the foundation of human rights, the principle of human dignity is based on the idea that "the value of the human being is in the last instance derived from their status in the (metaphysical) order of the cosmos" (Ibid.: 526). This view has its roots in (classical) natural law theories and Judaeo-Christian heritage, in which the dignity of human beings is derived from their being created in the image and likeness of God. From this perspective, law may impose measures for the benefit of the person concerned, even if the person concerned does not agree (De Blois 1998).

REPRESSION IN THE NAME OF HUMAN DIGNITY

There are, however, several problems with using the concept of 'dignity' as a justification for repressive measures against a group who themselves do not feel their dignity is violated. One of the main problems is the lack of a definition: what exactly is meant by 'dignity', whose dignity is at stake and why, and, most importantly, who decides whose dignity is violated or not? (Wijers, 2024)

In his study on how dignity is used in legal and political discourses, Cunningham distinguishes three main types of dignity: "intrinsic dignity", "dignity as substantive conditions", and "dignity as recognition" (Cunningham, 2018: 105-108). Intrinsic dignity refers to the type of dignity that exists "merely by virtue of a person's humanity". This is the type of dignity invoked in international human rights texts and is strongly connected to 'negative liberty', in the sense of respect for human autonomy and freedom from state interference. However, it is also used to enforce prohibitions of certain forms of behaviour as a manner to prevent harms. This is not a problem when it involves behaviour about which there is a high degree of consensus, like the prohibition on torture. But it becomes problematic when 'dignity' is used to justify prohibitions on behaviour about which there is no such consensus, especially when the citizens whose dignity is supposedly being violated do not feel that way themselves, as in the case of sex work (Haveman, 2000).

Cunningham refers to this type of dignity as 'dignity as substantive conditions'. Substantive conditions represent a particular moral view of how individuals must behave to maintain dignity. They seek to uphold community norms of appropriate behaviour and morality and often lead to prohibitions. In the context of prostitution, it is often used by courts to enforce particular sexual norms that reify emotional and relational intimacy. Because substantive conditions can be politically enforced, often against the will of the affected individuals, this form of dignity is also called ‘dignity as coercion’ (Cunningham, 2018). Used in this way, Haveman argues, 'dignity' is little more than ordinary “bourgeois decency", “whether or not it is interwoven with divine judgements”, as “it remains the dominant middle class that determines how people should behave, and what poses a threat to the family and society” (Haveman, 2000: 60). It is this type of dignity that France invokes to justify the criminalisation of clients when it argued that it was necessary ‘to safeguard the dignity of the person and public order’ (Béguin & Dupont, 2013; Darley et al., 2018). Significantly, the two are mentioned in one breath. While dignity is about protecting the individual, public order is about protecting the state in the form of society, which makes it a problematic combination, as I will argue.

The third form of dignity, ‘dignity as recognition’ recognises the importance for individuals and groups to be valued and respected by the community. Not only must one have the freedom to make one’s own decisions, but these must also be respected and validated by the community and the state. It is this type of dignity claims that are frequently made by the sex worker rights movement when it calls for the recognition of sex work and its value for society, and that is directly connected with stigma. For many sex workers in my study, recognition as workers was directly linked to recognition as equal members of humanity and the political community (Wijers, 2024: 81).

As discussed by Cunningham (Cunningham, 2016, 2018a)it is especially the connection between dignity and dehumanisation that impacts sex work, as reflected in the struggle of sex workers to be recognized as human beings with the same rights as other people. Whereas framing sex workers' rights as human rights affirms sex workers’ humanity and denounces their dehumanisation as ‘deviant others’, the representation of sex work as ‘beneath humanity’ has the opposite effect of dehumanising sex workers and reinforcing stigma: sex workers become non-persons. In radical feminist language this is reflected by the description of sex workers as “seminal spittoons” (Andrea Dworkin, 1993), “blow up sex dolls” (Leidholdt, 1993), or a “piece of meat”

(Barry, 1995; Bindel, 2019). “Empty vessels” as Freya, a Danish sex worker and participant in my research, so eloquently describes:

> *I feel like very often in public discussions and in the way politicians talk about it, [it sounds] as sex workers are empty vessels that are just being passed around by other people. And there is no point at which the sex worker has a mind of their own, or an ability to make a choice. And if they do make a choice, then it's just... they're manipulated into it by people who don't want what's right for them. And the way to save sex workers is to make sure they're manipulated by people who want what's right for them* (Wijers, 2024: 101).

GOING TO COURT: CONFLICTING HUMAN RIGHTS CLAIMS

In 2018 sex workers’ trade union STRASS, Médecins de Monde, and several other NGOs and individual sex workers filed a complaint with the French Council of State, arguing that criminalising the purchase of sexual services, even between consenting adults and taking place in a private space, violated their constitutional right to privacy and freedom of enterprise and contract, as well as the right to respect for private life, as enshrined in Art. 8 of the European Human Rights Convention. In addition, they held that the law violated their right to health by forcing them to work in isolated and clandestine ways, which exposed them to increased violence and health risks (Wijers, 2022). Their arguments were supported by a two-year study by Médecins du Monde which showed how the law had worsened their working and living conditions (Le Bail et al., 2018).

The Council of State forwarded the case to the Constitutional Court for a preliminary ruling on its constitutionality (QPC). In its ruling of February 1, 2019 the Court echoes the conflicting human rights claims of sex workers and the abolitionist movement (Conseil Constitutionel, 2019a, 2019b). Adopting the abolitionist argument that the majority of sex workers are victims of procuring or trafficking, enabled by the demand for paid sexual services, it did not consider the criminalisation of all recourse to prostitution - including, I quote, sexual acts which were “presented (sic) as freely entered in private between consenting adults” - a “manifestly inappropriate means” to reach the aims of the law, as by penalising clients the legislator had intended to combat pimping and trafficking for sexual exploitation:

> *It thus sought to safeguard the dignity of the human person against these forms of enslavement and to pursue the constitutional objective of safeguarding public order and preventing offences* (Conseil Constitutionel, 2019b:§ 11).

For the same reasons, it considered that the lawmaker had reconciled, on the one hand, the objective of maintaining public order, the prevention of offences and the protection of human dignity, and on the other, personal freedom in a manner that was not manifestly unbalanced (§ 13).

It further rejected the claim that the law violated the right to health of sex workers, stating that it was not for the Court to replace the legislature's assessment of the health consequences for sex workers with its own "since that assessment is not, in the state of knowledge, manifestly inadequate" (§ 16). This is a remarkable observation, given the availability of twenty years of research on the harmful effects of client criminalisation on the safety and health of sex workers (see e.g. Amnesty International, 2016c; Ellison et al., 2019; Fuckförbundet, 2019; Holmström & Skilbrei, 2017; Huschke & Ward, 2017; Levy & Jakobsson, 2014; Vuolajärvi, 2022).

Three things stand out in the Court's judgement. First the way in which the Court, without any critical question, accepts the conflation of trafficking and sex work with no regard to questions of consent and coercion, as well as the unsubstantiated assumption that the vast majority of sex workers are victims. Secondly, it fails to independently examine the impact of the law against the state's obligation to protect sex workers' right to health, simply ignoring evidence of its harmfulness. In essence, in the name of the protection of human rights, the court declares the protection of sex workers from actual violations of their health and safety irrelevant, or at least not worthy of further investigation. They are reduced to collateral damage in the name of 'the greater good' of the abolition of prostitution (Wijers, 2022). And finally, the problematic use of human dignity as a tool of repression as argued below.

The Council of State followed the judgment of the Constitutional Court in its ruling of 7 June 2019. Based on the argument that the vast majority of prostitutes were victims of trafficking or pimping and stating that "[P]rostitution, as soon as it is forced, is incompatible with human rights and dignity", it did not regard the contested provisions an excessive interference with the right to private life of Art. 8 ECHR, even "though they are likely of covering sexual acts which are purported to be freely performed between consenting adults

in a private space" (Conseil d'État, 2019: para 6). As STRASS commented:

> *The France Conseil d'État's decision was based on the assumption that only a minority of sex workers are not victims of human trafficking, and therefore, their human rights can be sacrificed to protect the 'vast majority' and the 'general interest'* (STRASS, 2023).

HUMAN RIGHTS AS A TOOL OF REPRESSION

The ruling exemplifies the problem of using human dignity in the name of protecting public order as a justification for repressive measures against a particular group of citizens, *in casu* sex workers, whose dignity one claims to protect, even when the activity is consensual and those citizens themselves do not feel violated in their dignity and cause no harm to others. Instead of protecting the individual from an intrusive state, the primary function of human rights, the defence of human rights is weaponized to protect the state from a particular group of 'undesirable' citizens, who are perceived as a threat to the nation and its values, be they sex workers or veiled women. In the words of Haveman (2000: 61) "violation and protection of human rights become the same". As aptly formulated by Thierry from STRASS, the law is not about protecting people, it is about protecting society:

> *[T]he penalisation of clients is a way to impose a society norm. […] We don't do it for sex workers, we do it for the society to maintain [this norm], for everyone to understand that prostitution is bad. As politicians, as lawmakers we have an obligation to say what are the society norms and good behaviour. […] So, it is not about protecting people* (Wijers, 2024: 146).

Whilst Ronald Dworkin (1977) argues that rights can be a way to protect individual or group interests which do not fit the interests of the majority – "a right to do something even when the majority thinks it would be wrong to do" –, the French courts take the opposite approach, prioritising the safeguarding of 'public order' over the protection of sex workers' rights.

The concept of dignity as a 'component of public order' can be traced back to the case of a tiny stuntman, Manuel Wackenheim, who protested the ban on so-called 'dwarf-throwing', which the French state claimed was against human dignity. Wackenheim, on the other hand, argued that the ban was discriminatory and deprived him of his income and social life, stating that there was no work for dwarves in France and that his

job did not constitute an affront to human dignity "*since dignity consists in having a job*" (Conseil d'État, 1995). He lost his case in both the French court and the Human Rights Committee (2002), which ruled that the ban was "*necessary for the protection of public order, which includes considerations of human dignity*", holding that dwarf-tossing was an attack not only on the dignity of Wackenheim but on the dignity of all dwarves (Maffesoli, 2013: 47).

Underlying is a particular view of human dignity, in which dignity is inherent to all human beings, but not something that individuals can decide for themselves, grounded in the Judaeo-Christian tradition as discussed by De Blois (1998). As pointed out by Thierry, despite France's assertion of the principle of 'laïcité', this view of dignity is closely related to the Catholic (and Kantian) idea that "your body does not belong to you but to God and you can't do what you want with it". As he says:

> *Officially we are secular, but in practice […] it's a completely Catholic morality behind all the secular laws. And sex work is a good example. Officially it is not about religion, except that in practice all the Catholic organizations, like Movement du Nid, are funded a lot of money to save us, which is what the church has done since the medieval time. It hasn't changed. It just replaced the church by the state, but they do exactly the same* (Wijers, 2024: 141).

Sarah Maffesoli calls this "dignity of humanity" as contrary to "dignity of the person". Whereby dignity as a personal attribute appears to protect against the intrusions of others, dignity attributed to 'humanity' does not so much protect the individual, but rather the part of humanity that they contain within themselves, "with the consequence that their freedom can be restricted in order to protect the human in him or her if the person behaves in a way that is deemed to be detrimental to humanity as a whole" (Maffesoli, 2013: 47). Cunningham (2018) calls this dignity as coercion, as discussed above, since it is often used to enforce particular community norms of appropriate behaviour and morality, often against the will of the individuals affected.

This is the kind of dignity that the French courts relied on and that underlies the argument that sex work violates the dignity not only of sex workers, but of all women. Consequently, by subordinating the human rights of sex workers to 'the greater good' in the form of the public interest and by failing to examine the effects of the law on their health the court reduced sex workers to collateral damage in the name of

protecting human rights. In the case before the ECtHR this is echoed in the observations of the French government, where it states that "the French legislature has chosen to make the purchase of any sexual act punishable on the grounds that […] prostitution is violence in itself and the body is not a commodity that can be bought with contempt for the 'dignity of the human person'" (ECtHR, 2023: recital 14).

THE BATTLE OVER DIGNITY'S SEX

Significantly, the appeal on dignity is all but new, and highly topical again these days, when it comes to debates over the regulation of female sexuality. In the fight for abortion and the recognition of same sex marriage, dignity similarly served, and still serves, as a battlefield with competing claims on 'dignity as life' at the one hand vs 'dignity as liberty and equality' at the other hand: the duty of women to carry a pregnancy to term – versus - the right of women to control over their own bodies and to decide themselves if and how many children they want (Siegel, 2012). To quote Betty Friedan (1969) speaking at a Chicago conference organized to seek the repeal of anti-abortion laws:

> *"[T]here is no freedom, no equality, no full human dignity and personhood possible for women until we assert and demand the control over our own bodies, over our own reproductive process...The real sexual revolution is the emergence of women from passivity, from 'thing-ness', to full self-determination, to full dignity"* (quoted in Siegel, 2012: 358).

According to Siegel the competing claims on dignity are part of a contest over social ordering. What is at stake in the fight over abortion, is not just the protection of life, but "the regulation of sexual expression and sex roles" within "a worldview that depicts procreation in marriage as the only sacred form of sexual expression" (Ibid.: 377). She concludes by saying that "today, as in the 1970s, dignity's meaning is being forged in cross-border conflict over dignity's sex" (Ibid: 379). The same can be concluded for today's fight of sex workers for the right to make decisions over their own body and life.

EUROPEAN HUMAN RIGHTS COURT: DO SEX WORKERS HAVE HUMAN RIGHTS?

After having lost their case before the French courts, in December 2019, 261 sex workers working in France, many of them migrants and/or gender minorities, brought their case to the European Court of Human Rights, supported by 19 community, health, and feminist organisations (STRASS et al, 2019).

They maintained that the law violated their rights under Art. 2 (the right to life and physical integrity) Art. 3 (the prohibition of torture and inhuman and degrading treatment) and Art. 8 (the right to respect for private life, which entails the right to personal autonomy and sexual freedom) (ECtHR, 2021a, 2021b). All sex worker applicants stressed that they were lawfully and voluntarily engaged in sex work.

According to the applicants the criminalisation of the use of sexual services, even between consenting adults acting in private, deprived them of the freedom to make choices about their own bodies which, as the Court held in *Pretty v. The United Kingdom* ECtHR, 2002: § 62) may also include "the opportunity to pursue activities perceived to be of a physically or morally harmful or dangerous nature for the individual concerned". The fact that the sexual relations in question take place in return for payment, they argued, is irrelevant since this freedom also applies to activities that may be regarded morally reprehensible, even by the majority of citizens. The only thing that matters is that they are freely consented to (e.g. *K.A. and A.D. v. Belgium, ECtHR, 2005)*. As they stipulated by their lawyers:

> *The very purpose of guaranteeing people's free will and their freedom to dispose of their bodies, particularly in the intimate and sexual sphere, is precisely to ensure that the protection of individual choices is not made conditional on the agreement of the majority (Spinosi & Sureau, 2019: §30).*

The consequence of criminalising the use of sexual relations for payment without any consideration for the consent of the persons involved, they stated, is "the irrefutable presumption that sex workers are legally incapable of making decisions about their own bodies" (Ibid.: § 30).

In April 2021, The ECtHR declared the case admissible (ECtHR, 2021b, 2021a). It confirmed its decision in 2023, recognising that the applicants could "claim to be victims […] of the violation of their rights under article 2, 3 and 8 of the Convention". It did so despite objections by the French government (2021) which claimed that the ban only targeted clients (ECtHR, 2023:§44). In its decision the Court cited the testimonies of several sex workers who described how the law had affected their dignity and ability to protect themselves, how it forced them to accept customers and practices they wouldn't have accepted before, and how it had made their work more dangerous. In the words of one of the sex worker-applicants:

> *(...) From an unconventional but autonomous, independent, and safe workplace - where there was a*

> *strong sense of mutual support, respectful clients, and the freedom to choose our practices and clients - we saw our working conditions gradually deteriorate and worsen until the law was passed. And they've only gotten worse since the law took effect. (…)*
>
> *The law has taken away my means of independence, my ability to plan my life and my pride as a mother who can give her child a good education. (...) This law is slowly destroying my autonomy, my safety and my life. (…) For me, the worst violation of human rights (...) is that the law considers the person who engages in prostitution to be mentally and morally incapacitated* (S.T., 16 novembre 2021 (requête no 63664/19), ECtHR, 2023: §6).

Although the decision did not prejudice the merits of the case, as the final judgment has made painfully clear, the recognition that the mere existence of the law had a negative impact on sex workers and that this was a case that deserved debate, was celebrated as a landmark victory (ESWA & Médecins du Monde, 2023). As expressed by Cybèle, one of the applicants:

> *That was a big deal in a way. Just knowing that we passed that filter means that it has been considered enough of a topic, enough difficult a situation to be examined* (Wijers, 2024: 148).

FINAL JUDGEMENT: DO SEX WORKERS HAVE HUMAN RIGHTS[6]

In July 2024, the ECHR delivered its final and disappointing judgement, in which it upheld the French law (ECtHR, 2024b, 2024a, 2024d)After examining the case solely under Article 8, the right to privacy and sexual and bodily autonomy, it concluded that France had struck a fair balance between competing interests and had not exceeded its margin of appreciation (§ 166). As justification it called upon the lack of European consensus on (the regulation of) sexwork and the "highly sensitive moral and ethical questions" prostitution raised, leading to often conflicting views, in particular as to "whether sex work as such can be consensual or whether […] it always results from a form of exploitation based on coercion" (§ 149).

Sex workers turned to the ECtHR hoping that for once it would be about their human rights and not about morality and ideology and whether sex workers are capable of self-determination. Instead, by confining

[6] A shorter version of this section has been published under the title "[redacted]" in the *Oxford Human Rights Hub* ([redacted], 2024).

itself to Article 8, the ECtHR reduced the case to the question of whether sex work can be consensual, thereby putting into question the capacity to self-determination and bodily autonomy of sex workers, including that of the 261 applicants, while disregarding the actual effects of the law on sex workers' human rights. This omission is critical, as the real issue is not whether sex workers have the capacity to give or withhold consent, but whether France's criminalisation of the purchase of sexual services endangers their life, health and freedom from inhuman treatment (Van Leeuwen & Wijers, 2024). On top, the Court indirectly labels the applicants' claim that they pursue sex work voluntarily and of their own free will as "false consciousness" (Greif, 2023). As exemplified by the Court's ruling, this not only strips sex workers - ánd the applicants – of agency and autonomy, but also of their human rights, while simultaneously relieving states – and the Court – of their responsibility to protect those rights.

Underlying is the Court's adoption of the abolitionist conflation of sex work and trafficking and its claim that the vast majority of sex workers are victims of pimping or trafficking (§ 83),[7] without questioning its empirical base,[8] or even checking the definition of pimping, which according to French law does not require the use of coercion and includes, for example, two sex workers working together for safety. This enabled it to reiterate its earlier distinction between prostitution as such and forced prostitution (V.T. v. France, ECtHR, 2007), deeming only the latter to be incompatible with human rights (§ 142), while at the same time going along with France's justification for criminalising clients as a necessary measure to safeguard human dignity.

Art the same time, it testifies to the problematic use of human dignity as a justification for repressive measures, even when the activity is consensual and the group itself does not feel its dignity has been violated. As noted by Greiff (2023), the applicants' testimonies rather show that their dignity is not so much affected by the nature of their work, as by the conditions under which the law forces them to pursue their work. This, again, raises the question of who decides whose dignity is violated or not, and what exactly dignity means.

[7] See for a critical discussion of this claim *Prostitution: facts and fictions* (Weitzer, 2007).
[8] See for a different approach *Bedford v. Canada*, in which sex workers sought to overturn the prohibitions on brothel keeping, living of the avails of prostitution and communication in public for prostitution. Here, the Court rigorously examined the evidence-base of the propositions made by the applicants and the respondent, including the academic quality of the expert evidence presented by the parties (Bedford v. Canada, 2010 ONSC 4264, Ontario Superior Court of Justice, 2010).

Although the Court acknowledged the possible harmful effects of the law (§ 138), this did not prompt it to require France to produce compelling evidence that the law did not cause further harm to sex workers. Instead, it questioned the causal relationship between the law and its effects, referring to “conflicting evidence” and arguing that sex workers were already exposed to “the difficulties and risks” the applicants described before the introduction of the law (§ 155). This approach either reflects the Court’s preconceived position that prostitution is inherently violent, in gross contempt of the 261 applicants; implies that sex work laws are irrelevant because they have no impact; or reduces the safety and health of sex workers to a non-issue: things were already bad, so a little worse makes no difference.

Similarly, the Court did not question the effectiveness of the law to achieve its stated aims as part of the necessity test despite the fact that both the National Human Rights Commission (2014) and the Défenseur des Droits (2015) had advised against the law for lack of evidence. It thus ignored not only the French studies on the law’s impact (Giametta et al., 2018; Le Bail et al., 2018b) but also the vast amount of research documenting the harmful impact of client criminalisation on the safety, health and human rights of sex workers in countries which had adopted the End Demand model, notably Sweden, Norway, Northern Ireland and Ireland (see e.g. Amnesty International, 2016b, 2016a; Fuckförbundet, 2019; Holmström & Skilbrei, 2017; Huschke & Ward, 2017; Levy & Jakobsson, 2014; The Lancet, 2023; Vuolajärvi, 2022). Nor is there any evidence that it leads to a reduction in sex work or trafficking as a study in Northern Ireland, for example, shows (Ellison et al., 2019).

The Court’s ruling is also questionable in other respects. As argued by Kagiaros & Thiemann (2024), the Court's decision to focus on the abstract question of whether there is a consensus in Europe on the regulation of sex work in general (§ 149), rather than on the specific question of whether there is a consensus on criminalising the buying or selling of sexual services, played a crucial role in the outcome of the case. Had the Court posed the latter question, it would have found that the 'Swedish model' remains a minority approach, having only been implemented by five states and Northen Ireland, out of the 46 Council of Europe member states. Moreover, had the Court given more weight to the voices of sex workers, it had found an overwhelming consensus that sex work is work and that criminalisation, directly or indirectly, restricts their civil and labour rights (Pinto, 2024).

Significantly, in its endorsement of the legislative process (§§ 158-159; 165-166) the Court did not give any thought to whether the process provided sufficient opportunities for the participation of the most affected group, ignoring evidence that sex workers were given significantly fewer opportunities to contribute to the debate and that their views were systematically disqualified because of "their alleged inability to speak for themselves" (Calderaro & Giametta, 2019: 168). The utter lack of interest for the voice of sex workers themselves is exemplified by the statement of Maud Olivier, the MP in charge of writing the preliminary report in preparation of the bill:

> *We did interview those who were against the law, of course – because we had to, you know – but they failed to convince us, just as we failed to convince them. Still, it's one of those steps we had to go through, because when you put together a bill of law, you're supposed to include all the stakeholders. We had to hear them so as to not appear biased, partisan, or lacking in objectivity* (Calderaro, 2018: 100, quoted by Le Bail & Giametta, 2022).

This is relevant not only to sex workers, but to any minority or other group traditionally excluded from political processes and with a limited political voice and should have prompted the Court to look more critically at the legislative process (Kagiaros & Thieman, 2024).

Furthermore, as Steininger (2024) highlights, the Court's ruling stands in stark contrast with the growing call for a human rights-based approach to sex work that is sensitive to the agency of sex workers and their lived experience, prioritising their safety, agency and bodily autonomy over stereotypes and misconceptions, as promoted (i.a.) by the CoE Commissioner for Human Rights (2024) and the UN Working Group on Discrimination against Women and Girls (2023).

Nonetheless, while sex worker organisations were unsuccessful in this instance, the Court's warning that the relevant authorities should keep this policy under constant review "so as to be able to nuance it in line with the evolution of societies, European and international standards in this field" (§ 167) suggests that this is not the final word on the End Demand model (Kagiaros & Thieman, 2024). However, the criteria for this review are not clear and the protection of sex workers' human rights is left to depend on shifting societal attitudes and domestic authorities' assessments. As formulated by Pinto (2024: 6): "By deciding not to decide whether criminalisation harms sex workers, the Court somehow suggests that sex workers'

human rights have yet to fully come into existence". Yet, it is encouraging that the Court acknowledged the potential harmful effects of the law and recognised sex workers as potential victims, as well as reiterated its earlier distinction between prostitution as such and forced prostitution,

In conclusion

In reducing the case to the question whether or not sex work can be consensual, the Court disregarded the agency of sex workers, put ideologically driven and unsubstantiated assumptions before the lived realities of sex workers and the well-documented detrimental effects of criminalisation on sex workers' health and safety, and reinforced harmful stereotypes of sex workers as disempowered victims. By failing to examine the impact of the law on sex workers' human rights, the Court reduced sex workers to collateral damage in the name of protecting human rights.

Evidently, human rights have a strong rhetorical value, both to support sex workers claims to recognition and rights, as well as to legitimate their exclusion from human rights. Human rights have given sex workers and other marginalised groups a tool to fight the abuses they face but also lead to violations in their name. Through the gateway of human dignity and female victimhood human rights are used to create a hierarchy of 'human-ness'[9] - who belongs and who not -, to exclude and silence sex workers, and to relieve states of their accountability for the protection of sex workers' human rights. This turns human rights into a double-edged sword: on the one hand they are an important tool of empowerment in sex workers' struggle for recognition of their humanity and the right - in the words of Ronald Dworkin (1977) - to be treated as full and equal members of society. On the other hand, they are used as a tool of repression to dehumanise sex workers and exclude them from those very rights. Like agency as the capacity to make one's own decisions over one's life, dignity can be considered as a key indicator of contemporary understandings of what it is to be a human being. By denying sex workers agency, subjectivity and dignity and consequently human-ness, they are stripped of their entitlement to human rights protections, as demonstrated by the ruling of the ECtHR (Wijers, 2024: 167). Yet, to speak with Radna Kapur (2018), a postcolonial feminist legal scholar, still rights are radical tools for those who never

[9] I use the concept of 'human-ness to refer to what Meyers calls 'attributions of humanity': "the ways in which the rights discourse ascribes variable humanity to certain categories of people" (Meyers, 2014).

had them. It is that potentially progressive and transformative power that makes it worth to keep investing in them, even if it is a long and challenging way.

Bibliography

Allwood, G. (2014, January 14). *How France is trying to fight prostitution*. InGenere Website. http://www.ingenere.it/en/articles/how-france-trying-fight-prostitution

Amnesty International (2016a). *Amnesty International Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers*. https://www.amnesty.org/download/Documents/POL3040622016ENGLISH.PDF

Amnesty International (2016b). *Amnesty International publishes policy and research on protection of sex workers' rights*. https://www.amnesty.org/en/latest/news/2016/05/amnesty-international-publishes-policy-and-research-on-protection-of-sex-workers-rights/

Amnesty International (2016c). *The human cost of "crushing" the market: criminalization of sex work in Norway*. https://www.amnesty.org/en/documents/eur36/4034/2016/en/

Barry, K. (1995). *The Prostitution of Sexuality: The Global Exploitation of Women*. New York University Press.

Bedford v. Canada, 2010 ONSC 4264, Ontario Superior Court of Justice (September 28, 2010). https://www.canlii.org/en/on/onsc/doc/2010/2010onsc4264/2010onsc4264.html

Béguin, F., & Dupont, G. (2013, September 18). Prostitution: "Quand on transgresse un interdit, il peut y avoir sanction." *Le Monde*. https://www.lemonde.fr/societe/article/2013/09/18/prostitution-quand-on-transgresse-un-interdit-il-peut-y-avoir-sanction_3479994_3224.html

Bernal Solano, M., Danet, A., & Carles March Cerdà, J. (2018). Spain. In S. Ø. Jahnsen & Hendrik. Wagenaar (Eds.), *Assessing prostitution policies in Europe* (19). Routledge.

Bernstein, E. (2012). Carceral politics as gender justice? The 'traffic in women' and neoliberal circuits of crime, sex, and rights. *Theory and Society*, *41*(3), 233–259. https://doi.org/10.1007/s11186-012-9165-9

Bernstein, E. (2018). *Brokered subjects: sex, trafficking, and the politics of freedom*. The University of Chicago Press.

Billaud, J., & Castro, J. (2013). Whores and Niqabeés: The Sexual Boundaries of French Nationalism. *French Politics, Culture & Society*, *31*(2). https://doi.org/10.3167/fpcs.2013.310205

Bindel, J. (2019, April 30). *Prostitution is not a job. The inside of a woman's body is not a workplace*. The Guardian. https://www.theguardian.com/commentisfree/2018/apr/30/new-zealand-sex-work-prostitution-migrants-julie-bindel

Calderaro, C. (2018). *La politique néo-abolitionniste à travers la loi du 13 avril 2016. Processus, conditions de production et enjeux en contexte néolibéral*. EHESS.

Calderaro, C., & Giametta, C. (2019). 'The Problem of Prostitution': Repressive policies in the name of migration control, public order, and women's rights in France. *Anti-Trafficking Review*, (12), 155–171. https://doi.org/10.14197/atr.20121771

Campbell, R., Smith, L., Leacy, B., & Ryan, M. (2015). *Not collateral damage: Trends in violence and hate crimes experienced by sex workers in the Republic of Ireland we highlight the various crimes sex workers experience, including incidents*. https://doi.org/10.1177/0791603520939794

CoE Commissioner for Human Rights. (2024). *Protecting the human rights of sex workers*. https://www.coe.int/en/web/commissioner/-/protecting-the-human-rights-of-sex-workers

Commission Nationale Consultative des Droits de l'Homme (CNCDH). (2014). *Avis sur la proposition de loi renforçant la lutte contre le système prostitutionnel*. https://www.cncdh.fr/publications/avis-sur-la-proposition-de-loi-renforcant-la-lutte-contre-le-systeme-prostitutionnel

Conseil Constitutionel. (2019a). *Press release. Décision n° 2018-761 QPC du 1er février 2019.*. https://www.conseil-constitutionnel.fr/actualites/communique/decision-n-2018-761-qpc-du-1er-fevrier-2019-communique-de-presse

Conseil Constitutionel. (2019b). *Décision No. 2018-761 QPC du 1er février 2019*. ECLI 423892: FR: CECHR: 2018: 423892.20181112. https://www.conseil-constitutionnel.fr/en/decision/2019/2018761QPC.htm

Conseil d'État. (1995). *Le respect de la dignité de la personne humaine est une composante de l'ordre public. Décision no. 136727, 27 octobre 1995*. ECLI:FR:CEASS:1995:136727.19951027. https://www.conseil-etat.fr/decisions-de-justice/jurisprudence/les-grandes-decisions-depuis-1873/conseil-d-etat-27-octobre-1995-commune-de-morsang-sur-orge-et-ville-d-aix-en-provence

Conseil d'État. (2019). *Décision No. 423892, 7 Juin 2019*. ECLI:FR:CECHR:2019:423892.20190607. https://www.legifrance.gouv.fr/ceta/id/CETATEXT000038566449/

Cunningham, S. (2016). Reinforcing or Challenging Stigma? The Risks and Benefits of 'Dignity Talk' in Sex Work Discourse. *International Journal for the Semiotics of Law*, *29*(1), 45–65. https://doi.org/10.1007/s11196-015-9434-9

Cunningham, S. (2018). *The concept of human dignity and its use in legal and political discourses on commercial sex (thesis)*. Law School, Strathclyde. https://pureportal.strath.ac.uk/en/studentTheses/the-concept-of-human-dignity-and-its-use-in-legal-and-political-d-2/

Darley, M., David, M., Guienne, V., Mainsant, G., & Mathieu, L. (2018). Prostitution Policies in France. In S. Ø. Jahnsen & H. Wagenaar (Eds.), *Assessing Prostitution Policies in Europe*. Routledge.

Datta, N. (2018). *Restoring the national order. An agenda for Europe. The religious extremists' vision to mobilize European societies against human rights on sexuality and reproduction*. European Parliamentary Forum on Population & Development (EPF).

Datta, N. (2021). *Tip of the Iceberg: Religious Extremist Funders against Human Rights for Sexuality & Reproductive Health in Europe*. https://www.epfweb.org/node/837

Datta, N. (2025). *The Next Wave. How Religious Extremism Is Reclaiming Power*. European Parliamentary Forum on Population & Development (EPF). https://www.epfweb.org/node/1147

De Blois, M. (1998). Self-determination or human dignity. Core Principles of Human Rights. In M. Bulterman, Aart. Hendriks, & J. Smith (Eds.), *To Baehr in our minds. Essays on human rights from the heart of the Netherlands* (p. 608). SIM Special No. 21.

Dodillet, S., & Östergren, P. (2011). *The Swedish Sex Purchase Act: Claimed Success and Documented Effects*. http://www.petraostergren.com/upl/files/54259.pdf

Dworkin, A. (1993). Prostitution and Male Supremacy. *Michigan Journal of Gender and Law*, *1*(1), 1–12. https://repository.law.umich.edu/mjgl/vol1/iss1/1/

Dworkin, R. (1977). *Taking rights seriously*. Duckworth.

ECtHR (2002). *Pretty v. the United Kingdom (Appl. No. 2346/02)*. https://hudoc.echr.coe.int/fre?i=001-60448

ECtHR (2005). *K.A. and A.D. v. Belgium (App. No. 42758/98 & 45558/99)*. https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22002-4010%22]}

ECtHR (2007). *V.T. v. France (Appl. no. 37194/02)*. https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-82240%22]}

ECtHR (2010). *Jehovah's Witnesses of Moscow v. Russia (Appl. No. 302/02)*.

ECtHR (2021a). *M.A. and others v. France (communicated case) (App. No. 63664/19, 64450/19, 24378/20 et al.) Information Note*.

ECtHR (2021b). *M.A. et 256 autres contre la France (Appl. No. 63664/19). Exposé des Faits*.

ECtHR (2023). *M. A. et autres c. France (Appl. No. 63664/19). Décision sur la recevabilité*. https://hudoc.echr.coe.int/#{%22fulltext%22:[%22M.%20A.%20et%20autres%20contre%20la%20France%22],%22itemid%22:[%22001-226443%22]}

ECtHR (2024a). *M.A. and others v France (Appl. Nos. 63664/19 and 4 others). Judgement (Merits)*. https://hudoc.echr.coe.int/eng?i=001-235426

ECtHR (2024b). *M.A. and other vs France (Appl. Nos. 63664/19 and 4 others). Legal summary, Judgment 25 July 2024. https://hudoc.echr.coe.int/eng?i=002-14363*

ECtHR (2024c). *Press release. Criminalisation of the purchase of sexual acts (Law no. 2016-444): no violation of Article 8 of the Convention. https://hudoc.echr.coe.int/eng-press?i=003-8007995-11178092*

Ellison, G., Ní Dhónaill, C., & Early, E. (2019). A Review of the Criminalisation of Paying for Sexual Services in Northern Ireland. In *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.3456633

ESWA, & Médecins du Monde (2023). *Milestone Victory at the European Court of Human Rights: Joint Statement Médecins du Monde and European Sex Workers' Rights Alliance*. https://www.eswalliance.org/milestone_victory_at_the_european_court_of_human_rights_joint_statement_with_mdm

Fuckförbundet (2019). *Twenty years of failing sex workers. A community report on the impact of the 1999 Swedish Sex Purchase Act*. https://www.nswp.org/resource/member-publications/twenty-years-failing-sex-workers-community-report-the-impact-the-1999

GAATW (2015, October 14). *GAATW-IS Comment: Amnesty International calls for the decriminalisation of sex work*. GAATW E-Bulletin. https://gaatw.org/resources/e-bulletin/2-uncategorised/819-gaatw-is-comment-amnesty-international-calls-for-the-decriminalisation-of-sex-work

Gaudy, T., & Le Bail, H. (2021). Comparative Summary of Evaluation Reports on France's 2016 Prostitution Act. In *HAL-0338161*. https://hal-sciencespo.archives-ouvertes.fr/hal-03389161

Giametta, C., & Le Bail, H. (2022). The national and moral borders of the 2016 French law on sex work: An analysis of the 'prostitution exit programme.' *Critical Social Policy*. https://doi.org/10.1177/02610183221101167

Giametta, C., Le Bail, H., & Mai, N. (2018). The impact of the "Swedish model" in France: chronicle of a disaster foretold. In *openDemocracy*. https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/impact-of-swedish-model-in-france-chronicl/

Gouvernement français. (2021). *Observations du Gouvernement de la Republique Française sur la recevabilité et le bien-fondé de la requête No. 63664/19 M.A. et 256 autres c. France et quatre autre requêtes*.

Greif, E. (2023). Sex Workers in Strassburg. *Verfassungsblog*. https://doi.org/10.17176/20230912-220903-0

Haveman, R. H. (2000). De grenzen van de repressieve samenleving. In R. H. Haveman, F. P. Ölger, T. A. de Roos, & A. J. L. van Strien (Eds.), *Seks, zeden en strafrecht* (pp. 57–62). Gouda Quint.

Hofstetter, J. L., & Grundell, L. R. (2023). Backlash and backsliding from within: democracy, feminism, and sex work. In *The Loop. ECPR's Political Science Blog*. ECPR's Blog. https://theloop.ecpr.eu/democracy-feminism-and-sex-work/

Holmström, C., & Skilbrei, M.-L. (2017). The Swedish Sex Purchase Act: Where Does it Stand? *Oslo Law Review*, *4*(2), 82–104. https://doi.org/10.18261/ISSN.2387-3299-2017-02-02

Human Rights Committee (2002, July 15). *Manuel Wackenheim v. France, Communication No 854/1999*. U.N. Doc. CCPR/C/75/D/854/1999. http://www.worldcourts.com/hrc/eng/decisions/2002.07.15_Wackenheim_v_France.htm

Human Rights Watch (2019). *Why Sex Work Should Be Decriminalized*. https://www.hrw.org/news/2019/08/07/why-sex-work-should-be-decriminalized

Huschke, S., & Ward, E. (2017). Stopping the Traffick? The problem of evidence and legislating for the "Swedish model" in Northern Ireland. *Anti-Trafficking Review* , (8), 16–33. https://doi.org/10.14197/atr.20121782

ICRSE (2005). *Sex Workers in Europe Manifesto*. https://walnet.org/csis/groups/icrse/brussels-2005/SWRights-Manifesto.pdf

International Commission of Jurists (ICJ) (2023). *The 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty*. https://www.icj.org/icj-publishes-a-new-set-of-legal-principles-to-address-the-harmful-human-rights-impact-of-unjustified-criminalization-of-individuals-and-entire-communities/

Kagiaros, D., & Thieman, I. (2024). M.A. and others v. France: The 'End Demand' model of Regulating Sex Work goes to Strasbourg. *Strasbourg Observers*. https://strasbourgobservers.com/2024/09/03/m-a-and-others-v-france-the-end-demand-model-of-regulating-sex-work-goes-to-strasbourg/

Kapur, R. (2018). *Gender, alterity and human rights. Freedom in a Fishbowl*. Edward Elgar Publishing.

Kulick, D. (2003). Sex in the new Europe. The criminalization of clients and Swedish fear of penetration. *Anthropological Theory*, *3*(2), 199–218. https://journals.sagepub.com/doi/pdf/10.1177/1463499603003002005

Le Bail, H., & Giametta, C. (2022). What sex workers think about victimhood, violence, and exploitation: Insights from a collaborative study prioritizing sex workers' voices. In *Trafficking and Sex Work: Gender, Race and Public Order* (pp. 132–148). Taylor and Francis. https://doi.org/10.4324/9781003188971-11

Le Bail, H., Giametta, C., & Rassouw, N. (2018). *What do sex workers think about the French Prostitution Act? A study on the Impact of the Law of 13 April 2016 against the "Prostitution System" in France*. https://sciencespo.hal.science/hal-02115877

Le Défenseur des droits (2015). *Avis 15-28 du 16 décembre 2015 relatif à la lutte contre le système prostitutionnel et à accompagner les personnes prostituées: proposition de loi n°3149 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées*. https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=16965

Le Nid (1993). Slavery and Prostitution. *Mouvement Du Nid*.

Leidholdt, D. (1993). Prostitution: A Violation of Women's Human Rights. *Cardozo Women's Law Journal*, *1*(1), 133–147.

Leigh, C. (1997). Inventing Sex Work. In J. Nagle (Ed.), *Whores and other Feminists* (pp. 225–231). Routledge.

Levy, J., & Jakobsson, P. (2014). Sweden's abolitionist discourse and law: Effects on the dynamics of Swedish sex work and on the lives of Sweden's sex workers. *Criminology and Criminal Justice*. https://doi.org/10.1177/1748895814528926

Loi N° 2016-444 Du 13 Avril 2016 Visant à Renforcer La Lutte Contre Le Système Prostitutionnel et à Accompagner Les Personnes Prostituées, Pub. L. 2016–444, Legifrance (2016). https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000032396046/

Maffesoli, S. M. (2013). Dignité de la femme et liberté des femmes. *Esprit*. https://doi.org/10.3917/espri.1310.0041

McEwen, H., & Narayanaswamy, L. (2023). *The International Anti-Gender Movement. Understanding the Rise of Anti-Gender Discourses in the Context of Development, Human Rights and Social Protection*. https://www.unrisd.org/en/library/publications/the-international-anti-gender-movement-understanding-the-rise-of-anti-gender-discourses-in-the-conte

Médecins du Monde (2015, December 6). *Témoignage. Des prostituées contre la pénalisation des clientes*. https://www.youtube.com/watch?v=KmpZYaJfVgQ&t=82s

Médecins du Monde & Act-up et al. (2016, April 5). *Prostitution: un volet social ou effet d'annonce?* Press Release. https://strass-syndicat.org/prostitution-un-volet-social-ou-effet-dannonce/

Meyers, D. T. (2014). Recovering the human in human rights. *Law, Culture and the Humanities*, *12*(3), 1–11. https://doi.org/10.1177/1743872114528440

Mgbako, C. (2020). The Mainstreaming of Sex Workers' Rights as Human Rights. *Harvard Journal of Law & Gender*, *43*(92), 92–136. https://apps.who.int/iris/bitstream/handle/10665/90000/9789241506182_eng.pdf

NSWP (2016). *The Decriminalisation of Third Parties. Policy Brief*. https://www.nswp.org/resource/nswp-policy-briefs/policy-brief-the-decriminalisation-third-parties

NSWP (2017). *Sex Work as Work. Policy Brief.* International Labour Office.

Pheterson, G. (1996). *The prostitution prism*. Amsterdam University Press.

Pinto, M. (2024). Do sex workers have a right to have rights? Let the state decide and criminalise, says the European Court of Human Rights. M.A. and Others v. France (App. Nos. 63644/19 and others). ECHR (5th Section): Judgment of 25 July 2024. *European Human Rights Law Review*, (6), 557–564.

Rubio Grundell, L., & Hofstetter, J. L. (2026). Extending the lens: how feminist anti-prostitution campaigning in Europe contributes to 'anti-gender' de-democratisation. *European Journal of Politics and Gender*, 1–26. https://doi.org/10.1332/25151088Y2026D000000150

SekswerkExpertise. (2021). *Third Party Intervention on the case of M. A. and 256 others against France and 4 other applications (Applications nos. 63664/19, 64450/19, 24387/20, 24391/20 and 24393/20)*. https://sekswerkexpertise.nl/third-party-intervention-in-de-zaak-van-franse-sekswerkers-voor-europees-mensenrechtenhof-28-sept-2021/

Siegel, R. B. (2012). Dignity and sexuality: Claims on dignity in transnational debates over abortion and same-sex marriage. *International Journal of Constitutional Law*, *10*(2), 355–379. https://doi.org/10.1093/icon/mos013

Special Rapporteur on the right to health, UN Working Group on discrimination against women and girls (WGDAWG), & Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (IE SOGI). (2024). *A Guide on the Human Rights of Sex Workers*.

Spinosi & Sureau. (2019). *Observations annexées au formulaire de requête, Affaire [M.A.] et autres c. France*.

Steininger, S. (2024). Sex Work Can't Buy Human Rights. *Verfassungsblog*. https://doi.org/10.59704/D90173BAF2156D26

STRASS (2015a). *Appel à manifestation contre la pénalisation des travailleurSEs du sexe et de leurs clients!*

STRASS (2015b, October 15). *Neither penalization of soliciting, nor penalization of customers: but when will there be rights for whores?* https://strass-syndicat.org/ni-penalisation-du-racolage-ni-penalisation-des-clients-mais-a-quand-des-droits-pour-les-putes/

STRASS (2016, April 4). *Rassemblement contre la pénalisation des clients des travailleurSEs du sexe*. https://strass-syndicat.org/rassemblement-contre-la-penalisation-des-clients-des-travailleurses-du-sexe/

STRASS & signatories (2013, September 16). *Manifesto against the penalization of prostitutes and their clients*. https://strass-syndicat.org/manifeste-contre-la-penalisation-des-prostituees-et-de-leurs-clients/

STRASS et al. (2013). *Les "abolitionnistes" l'ont fait! Analyse de la proposition de loi déposée par Maud Olivier et Catherine Coutelle visant à « renforcer la lutte contre le système prostitutionnel*.

STRASS et al (2019). Prostitution Law of 2016: 250 sex workers in France appeal to the European Court of Human Rights. In *Press release*.

The Lancet (2023). Protecting the health of sex workers in the EU, editorial. *The Lancet*, *401*.

UNAIDS (2023). *Save Lives. Decriminalise*. https://decriminalise.unaids.org/

Van der Burgh, R., Rotman, M., & van der Woude, A. (2024). Europartij ChristenUnie financierde radicaal-rechtse lobbygroep. In *Investico Onderzoeksjournalisten*. https://www.platform-investico.nl/onderzoeken/europartij-christenunie-financierde-radicaal-rechtse-lobbygroep

Van Leeuwen, F., & Wijers, M. (2024). When Ideology Trumps Rights: The ECtHR's Rejection of Sex Workers' Human Rights in M.A. and Others v. France. *Oxford Human Rights Hub*. https://ohrh.law.ox.ac.uk/when-ideology-trumps-rights-the-ecthrs-rejection-of-sex-workers-human-rights-in-m-a-and-others-v-france/

Vuolajärvi, N. (2022). *Criminalising the Sex Buyer: Experiences from the Nordic Region. Policy Brief 06/2022*.

Wagenaar, H., & Altink, S. (2012). Zweeds verbod op prostitutiebezoek werkt niet. *Sociale Vraagstukken*.

Weitzer, R. (2007). Prostitution: Facts and Fictions. *Contexts*, *6*(4), 28–33. https://journals.sagepub.com/doi/pdf/10.1525/ctx.2007.6.4.28?download=true

WHO (2013). *Implementing Comprehensive HIV/STI Programmes with Sex Workers. Practical approaches from collaborative interventions*.

Wijers, M. (2022). Sex Workers Rights Are Human Rights: Or Not? The Art of Stealing Back Human Rights. In T. Sanders, K. McGarry, & P. Ryan (Eds.), *Sex Work, Labour and Relations. New Directions and Reflections* (pp. 43–72). Springer International Publishing. https://doi.org/10.1007/978-3-031-04605-6

Wijers, M. (2024). *Sex Worker Rights and Human Rights: A Double-Edged Sword. Rights, Resistance and Mobilisations* (thesis), University of Essex. https://repository.essex.ac.uk/38493/

Wijers, M., & Lap-Chew, L. (1999). *Trafficking in Women Forced Labour and Slavery-like Practices in Marriage, Domestic Labour and Prostitution*. STV/GAATW.

Working Group on discrimination against women and girls. (2023). *Guidance document of the Working Group on discrimination againt women and girls: Eliminating discrimination against sex workers and securing their human rights. A/HRC/WG.11/39/1*. https://www.ohchr.org/en/documents/tools-and-resources/guidance-document-working-group-discrimination-against-women-and