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"No Matter Which Socio-legal Regime is Put into Place, People Continue to Sell and to Buy Sex Wherever They Can"[1]: A Comparative Analysis of the Relationship Between Prostitution Laws and Discourse

Achinoam Zigel

Thesis Adviser: Adam Reich

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[1] Laura Agustín, "Sex and the Limits of Enlightenment: The Irrationality of Legal Regimes to Control Prostitution," 2008, p. 10.

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ABSTRACT

This research study explores how prostitution laws correspond with the discourse surrounding sex work by applying the terminology of the academic dispute and legal framing on the way it is socially discussed. The examination of the public discourse was conducted by analyzing the narratives and portrayals of prostitution as they appear in the news media in three cities, each of which is subjected to a different legal regime: New York (criminalization of prostitution), Tel Aviv (decriminalization of the sexual transaction), and Vancouver (criminalization of the purchase). The results of this research indicated that different legal approaches, and their degree of regulation, may influence the extent and sense of urgency demonstrated in the public discourse. However, highly limited congruence was identified between the notions that underlie two of the three examined cities. Consequently, this research recommends further investigation on the effect of prostitution laws on the applicable society in order to provide a deeper and broader groundwork for addressing the complexities and needs of this phenomenon.

CONTENTS

Introduction 1

Literature Review

The ambiguity about prostitution 4

Prostitution under the International Human Rights Law 6

Legal approaches to prostitution 7

Different laws, similar results? 9

The mutually constitutive relationship between law and society 9

Media and public discourse 11

Prostitution in the three examined cities: legal status and local context 12

Research Design 16

Procedures 17

Data analysis 19

Limitations 22

Results

Overview 23

The contexts in which the keywords appeared 24

Comparative analysis of the four indicators:

Indicator A: sex workers as passive/active in their engagement in prostitution 26

Indicator B: men who purchase sexual services as perpetrators/clients 27

Indicator C: prostitution as a form of violence/work 29

Indicator D: negative/positive view of the existing legislation 31

Discussion 33

The context in which prostitution was discussed 33

Analysis of the results:

The portrayal of sex workers 34

The portrayal of men who purchase sexual services 35

The conceptualization of prostitution 36

Social perceptions of the law 37

General Observations 38

Conclusion 41

References 44

INTRODUCTION

Prostitution is a phenomenon that has no legal definition under the International Human Rights Law. The question of its nature and the appropriate legal framework by which it should be regulated remains undetermined and is subjected to constant debates and interpretations. This undefined status led states to adopt different legal approaches in an attempt to address this phenomenon and to ensure the protection and rights of those who engage in prostitution or are affected by it.[2]

The feminist debate regarding this issue, which underlies this research as well as the various legislation regarding prostitution, is highly polarized. At the heart of this polarization is the vivid discussion regarding women's ability to execute their sexual agency – or to refuse to do so - in a patriarchal social structure.[3] Hence, it is the answer to the fundamental question of whether it is possible for a woman to genuinely choose to sell her body for sex - that forms the differentiated notions regarding sex work and the various legal approaches that address it.

Due to the lack of international legal standard, those who engage in prostitution are legally classified according to the legal regime they are subjected to. Hence, the same women might be considered criminals for engaging in prostitution, be viewed as sex workers who have the right to sell their bodies (whether it is regulated by law or not), or be viewed as victims who are trapped within prostitution as a result of their life circumstances or within a larger, unequal social structure.[4]

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[2] The various terminologies to discuss prostitution are often associated with different ideologies. However, in this paper, I use different terms interchangeably. When I cited or referred to other studies I adhered to the original terminology of the researcher.

[3] Shamir, 2016.

[4] Men, boys, and gender non-conforming people are all part of the sex industry and are subjected to and affected by the legislation of it. However, in this research study I focus on the women who engage in prostitution, who are the vast majority of the people who sell sexual services, because of the different social circumstances within prostitution of women takes place (Vanwesenbeeck, 2013). As a result, this research disregarded other manifestations and variations of this phenomenon.

In practice, the three main legal approaches adopted by states include the criminalization of sex work (both the selling and purchase of sexual services), the decriminalization of prostitution with a potential recognition of it as a form of work, and the criminalization of the purchase of sexual services.[5] These approaches reflect the various social perceptions of the sexual transaction that is prostitution and the role of government in response to it.

In addition to the ambiguity regarding prostitution as a concept, studies regarding the effectiveness and outcomes of the different legal approaches to it are inconsistent, contradictory, and fail to provide a straightforward answer. Policymakers, scholars, and sex workers heavily criticize the aforementioned legal frameworks, and "governments change (their) policies as social climates shift and as legal solutions inevitably fail to solve the perceived social problem."[6] Nonetheless, legislation is the main vehicle advocated for and adopted by governments to treat this phenomenon.[7]

While recognizing the mutually constitutive relationship between law and society and the various ways that one is being affected and shaped by the other, the mutual effect of that interaction is rarely examined. Although the efforts of advocates are focused on translating the various ideologies into legislation, and legislation is used to set moral standards and shape social perceptions regarding prostitution, the two are rarely examined on the same scale or with the same terminology. Furthermore, most of the existing studies examine how prostitution laws either affect the safety/risk of sex workers and the stigma around them, or the moral acceptance of prostitution in society. Therefore, by analyzing the public discourse about prostitution cross-nationally, under

[5] Halley, Kotiswaran, Shamir & Thomas, 2006. This is a generalization of the current discussion regarding the legal approaches to prostitution. It is important to note that each approach consists different complexities and is carried out differently in different circumstances.
[6] Agustín, 2005, p. 78.
[7] "The last decade has witnessed a flurry of regulatory controls across the globe. There have been significant changes in many countries' legislative frameworks for the control of commercial sex." (Scoular and Sanders, 2010, p. 3).

different legal regimes, this research wishes to examine and compare the notions that underlie the different legal frameworks with the parallel social notions regarding prostitution, and to explore how these two interact.

Thus, this research is focused on two aspects of this relationship. Firstly, it examines the congruence between the notion that underlies each legislation and the social notion as it appears in the public discourse. Secondly, it examines if and how the public discourse about prostitution relates and interacts with each legal approach. The application of comparative analysis research design across countries is encouraged by scholars for its potential "to produce broader generalizations and more sophisticated explanations" regarding the effect of legal prostitution systems.[8]

Thus, this research is built as a comparative analysis of the social representations and narratives around prostitution in the news media between three major cities that are subjected to different legal regimes: New York, United States (where both the selling and purchase of sexual services are criminalized), Tel Aviv, Israel (where the sexual transaction is decriminalized), and Vancouver, Canada (where the purchase of sexual services is criminalized). The analysis of the narratives was conducted by examining articles from popular daily newspapers regarding sex work. Then, similarities and inconsistencies were identified between the portrayal of prostitution, the women who engage in it, and the men who consume it across the three samples. Consequently, these findings were analyzed in an attempt to draw potential types of correlation between prostitution legislation and discourse.

This research aspires to contribute to the existing literature about prostitution, the social conceptualization of it, and the debates regarding its legal regulation. Its purpose is to point out

[8] Weitzer, 2015, p. 81.

and possibly unveil how the mutually constitutive relationship between legislation and public discourse about prostitution sustains or facilitates one another. Furthermore, this research wishes to challenge and add to the international study and discourse of the appropriate legal framework for prostitution, its effect, and the social trends that are intertwined with the phenomena. Consequently, this research aims to study the implications for the IHRL's lack of legal definition for it.

LITERATURE REVIEW

The ambiguity about prostitution

Prostitution is considered one of the oldest social phenomena and yet there is no unanimous agreement regarding its nature or how it should be addressed. This ambiguity is reflected in the inconclusive status of prostitution under the International Human Rights Law and in the various legal approaches adopted by states in an attempt to regulate it. Currently, the academic debates regarding prostitution and the way it should be legally regulated are polarized into two main ideas; the first advocates for the abolition of prostitution, seeing it as a manifestation of the patriarchal social structure, while the second calls for prostitution to be recognized as a form of work that women have the right to choose, even if it is from a limited set of options, to engage in.[9]

Those who advocate for sex workers' rights assert that prostitution is a valid contract that women have the agency to apply on their bodies.[10] The legal approaches that associate with this notion the most is the decriminalization of prostitution or the recognition of it as a form of employment. The supporters of such legislation argue that violence is not a necessary component of prostitution, but a result of "society's formal system of regulation (that) facilitates exploitation

[9] Shamir, 2016; Gruber, Cohen, and Mogulescu, 2016; Scoular, 2010.
[10] Nussbaum, 1999.

and victimization in sex industries."[11] On the other side of this debate are those who insists that prostitution cannot be viewed without considering the social structure and gender inequality when women's bodies are offered for sale as sexual objects. The legislation that associates with this notion advocate for the criminalization of the purchase of sexual services and the abolition of prostitution.[12]

These two stances demonstrate the essential question regarding prostitution: do the "body's sexual capacities constitute property in the person, or is it impossible to detach sex from personhood without moral harm?"[13] Thus, prostitution of women is considered to be a manifestation of the complexity to assign meaning in "the process of conceptualization of a problem."[14]

The difficulty to assess and determine the nature of prostitution also lies in the mass of contradicting studies regarding it. Researchers from both sides of the pole are accused of having "ideological blinders" and for presenting unreliable data.[15] McElroy notes: "within academia, a growing number of scholars are researching various dimensions of sex work, in different contexts, and their studies have documented substantial variation in how sex work is organized and experienced (…) there is a crying need to get beyond ideology to good data. The public discussion about prostitution has become an ideological brawl in which both sides bend research to promote political agendas and to slander opponents."[16] Furthermore, practical limitations hinder the production of reliable data due to the social stigma surrounded prostitution, which has pushed it

[11] O'Doherty, 2011, p. 219; Zarhin and Fox, 2017.
[12] Shamir, 2016.
[13] Davidson, 2002, p. 85.
[14] Álvarez and García, 2014, p. 82.
[15] Shamir, 2016; Weitzer, 2005.
[16] McElroy, 1999, p. 4.

underground and turned it into a phenomenon that is "nearly impossible to gather accurate information on."[17]

The different feminist approaches aspire to represent sex workers' voice. However, researchers note that sex workers are not a homogeneous group, and therefore should not be discussed nor treated as such.[18] Referring to the attempt to reach a broad conclusion regarding prostitution, Agustín asserts that "transactions involving both sex and money do not mean the same thing everywhere." Hence, sociocultural contexts change the meaning of prostitution in different societies.[19]

Prostitution under the International Human Rights Law

When examining the attitude of the International Human Rights Law toward adult prostitution, none of its instruments provide a coherent position. The UN Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others from 1949 determined that states should work toward the prevention of prostitution and the rehabilitation of its victims; however, it did not specify how that can be achieved.[20]

There is a clear distinction between what is considered to be a voluntary and forced prostitution. The United Nations Office on Drugs and Crimes (UNODC) report on the role of 'consent' in the context of trafficking stated that "with a liberal interpretation of more 'subtle' means such as 'abuse of a position of vulnerability' it becomes possible to charge, as trafficking, conduct that may elsewhere be considered pimping or profiting from prostitution."[21] The factors for such vulnerability include human rights violations, poverty, inequality, discrimination, and

[17] Venkatesh, 2006, p. 136.
[18] Shamir, 2016.
[19] Agustín, 2008, p. 80.
[20] The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949. Article 16.
[21] UNODC Issue, 'The Role of 'Consent' in the Trafficking in Persons Protocol', 2014, p. 87.

gender-based violence.[22] The latest report that directly refers to prostitution is the one written by the UN Special Rapporteur on Trafficking in 2015 that determined that "regulation of prostitution is to be left in the hands of individual states."[23]

Legal approaches to prostitution

The legal debate around prostitution constantly raises "the clash between values of liberty, privacy, and equality in the regulation of intimacy under the law."[24] What underlies this dispute is the premise that legal negotiations over prostitution "take their meaning from the longer-term social ties within which those transactions occur," and that the law has the capacity to reconstruct this "matrix of relations."[25] However, there are no consistent studies regarding the success of either of the approaches, and countries often "fluctuate from one solution to another."[26]

In countries where the prohibitionist approach is adopted, where both the selling and purchase of sexual services are criminalized, prostitution was observed to be driven underground, a trend that has resulted in the increasing of third parties' control and rates of violence experienced by women.[27] Both sides of the feminist debate agree that prostitution intervention "should not involve the state arresting, prosecuting or incarcerating (of) women," as punishment is an "ineffective deterrent" for women to cease their engagement in sex work due to the lack of better alternatives.[28] Yet, it is one of three main legal approaches adopted by states. [29]

[22] UNODC Issue, 'Abuse of a position of vulnerability and other "means" within the definition of trafficking in Persons, 2014.
[23] Gallagher and Ngozi, The UN Special Rapporteur on Trafficking: A Turbulent Decade in Review, 2015, p. 928.
[24] Cohen, 2002, p. 125.
[25] Zelizer, 2005, p. 27.
[26] Agustín, 2008, p. 77. This is argued in the literature regardless of how 'success' is defined (i.e. rates of the phenomenon, sex workers vulnerability for violence, women's ability to opt out from prostitution, etc.).
[27] Reanda, 1991.
[28] Gruber, Cohen, and Mogulescu, 2016, p. 1336; Shdaimah and Wiechelt, 2012, p. 27.
[29] The criminalization of the selling of sexual services often seems to be out of the academic discussion. Yet, it is one of the most common legal approaches adopted by states. There might be a gap between the academic discourse - in which the criminalization of women is denounced - and what happens in practice.

The decriminalization of prostitution can be formed in multiple ways and ranges from an absolute decriminalization of the sex industry to the legalization of prostitution as a form of employment. However, "freedom from law," argued by Scoular, "does not mean an absence of regulatory norms."[30] The decriminalization approach has recently gained public support and was recommended by Amnesty International as the most beneficial practice to ensure the human rights of women in the sex industry.[31]

In countries where prostitution is legalized, the regulation by states assumes to reduce the negative stigma surrounding sex workers, improve their access to benefits from health services, and promote their ability "to leave sex work if and when they choose."[32] Other studies argue against this notion, asserting that "the rights of sex workers had not improved," and that women did not become "independent workers."[33] Additional criticism was raised by the women themselves, arguing that "although legalization of prostitution was promoted as a way to improve (their) lives," states adopt it to primarily tax their earnings.[34]

The abolitionist approach, in which the purchase of sexual services is criminalized, relies on the premise that prostitution is a form of violence against women in its essence, and therefore those who need to be targeted are "the men who assume the right to purchase persons for prostitution purposes."[35] This legislation is highly criticized for underestimating women's agency to "exercised choices, even if these were severely limited."[36] It is also denounced for attributing

[30] Scoular, 2010, p. 6.
[31] Amnesty International Policy on State Obligation to Respect, Protect and Fulfill the Human Rights of Sex Workers, 2016.
[32] Ibid, p. 2. This legal framework has been implemented most notably in the Netherland, Germany, and parts of Nevada.
[33] Outshoorn, 2012, p. 239.
[34] Farley, 2004, p. 1089.
[35] Ekberg, 2004, p. 1184; Amnesty International, The Human Cost of 'Crushing' the Market, 2016; Farley, 2004.
[36] Shdaimah and Wiechelt, 2012, p. 32.

the responsibly solely to individuals while ignoring the social, political context within the demand for sexual services exists.[37] While some researchers argue that this legislation led to a decrease in the number of women in prostitution, others have found that the law has merely "achieved a restructuring between 'visible' street working and 'invisible' off-street work," and further compromised the safety of women who remain working on the streets.[38]

Different laws, similar results?

The clear distinction between the three legal approaches and their underlying ideologies obscures in practice. Studies suggest that legal approaches that seemed to be dichotomous in theory may result in similar outcomes, while violence and harm were found to be pervasive either if prostitution decriminalized or illegal.[39] Elizabeth Bernstein who examined prostitution in the United States concluded that "despite their differences, the common focus of state interventions has been on eliminating the visible manifestation of poverty and deviance (…) rather than the exchange of sex for money per se."[40] Thus, the ideologies behind these approaches, as suggested by Jane Scoular, reflect "general, political and social aspirations regarding how best to regulate commercial sex," but ignore that "considerable gaps inevitably exist between these objectives and the modes of intervention utilized to implement them."[41] This research wishes to further examine this gap by comparing these ideologies with their representations in the public discourse.

The mutually constitutive relationship between law and society

There are multiple perspectives through which the relationship between law and society can be viewed. The law is often seen as a practical tool to direct and shape the behaviors of

[37] Post, 2011.
[38] Scoular, 2010, p. 20; Post, 2011; Waltman, 2011; Amnesty International, The Human Cost of 'Crushing' the Market, 2016.
[39] Bernstein, 1999; Shamir, 2016; Scoular, 2010; Farley, 2004.
[40] Bernstein, 2007, p. 164.
[41] Scoular, 2010, p. 13.

individuals in society, "a way of organizing categories and concepts which, while providing spaces and opportunities, also constrains behavior and serves to legitimate authority."[42] This organization that Garth and Sarat refer to, can potentially be internalized and shape people perceptions of the society they live in. As explained by the legal historian Robert Gordon, "the power exerted by a legal regime consists less in the force that it can bring to bear against violators of its rules, than in its capacity to persuade people that the world described in its images and categories is the only attainable world in which a sane person would want to live."[43]

However, the law is formed, and constantly being shaped by, the same society it is applied to, and therefore is "a socially constructed system of action," that displays "the prevailing social norm in society."[44] According to the sociologist Emile Durkheim, the law is the physical symbol of society's social solidarity and the consideration of some acts as crimes derived primarily from their violation of the society's collective conscience.[45] Thus, there is a mutual relationship between the two; the law mirrors social perceptions, evolves in accordance with them, and reproduces individuals' views.[46]

Studies about the effect of different legal frameworks pertaining to prostitution are often focused on their implications on sex worker's safety, the stigma associated with them, or how sex work it is morally perceived in society. The studies that did investigate the relation between prostitution laws and social attitudes rarely used the same concepts as framed by the law, and there is no consensus among scholars on whether different policies and regulations of prostitution

[42] Garth and Sarat, 1998, p. 2.
[43] Gordon, 1984, p. 267.
[44] Ewick and Silbey, 1985 at Mellem and Levine, 2001, pp. 172-173; McAdams, 2000.
[45] Durkheim, 1893 at Lukes and Scull, 2013.
[46] Ibid.

associate with the way it is perceived in society.[47]

Two recent studies have found that if prostitution is legal or regulated, the social attitudes toward it tend to be more positive than if it is prohibited.[48] While studies have found that prohibitory laws reinforce stigma, research has also shown that "legislation effort often fail to reduce the stigma associated with sex work."[49] Paradoxically, these studies are considered flawed as well.[50] Jakobsson and Kotsadam, who could not find a significant change in the social attitudes under Norway and Sweden's new legislation, suggest that such effects need to be examined over a longer period of time in order to be captured.[51]

Media and public discourse

The interpretation of the public discourse about prostitution through the analysis of the coverage of the phenomenon in the news media relies on the dual effect media has: reflecting social conceptions and shaping the importance individuals assigns to them.[52] Thus, media reconstructs, and is socially constructed by, the frames of reference to interpret and discuss social events and phenomena.[53] This media-society relationship can also be used as a vehicle for the transmission of social knowledge and has the capacity to "create social understanding between spatially distanced and/or socially social segregated groups."[54] Therefore, any analysis of media practices, "should include interrogation of the structural relations in which media practices are embedded."[55]

[47] Studies examined the social tolerance toward prostitution and the extent to which it is justified in society (Immordino & Russo, 2015) or whether there are differences in the acceptance of it under different legal regimes (Jonsson and Jakobsson, 2017; Jakobsson and Kotsadam, 2011).
[48] Immordino & Russo, 2015; Jonsson and Jakobsson, 2017.
[49] Zarhin and Fox, 2017, p. 2; Immordino & Russo, 2015; Jonsson and Jakobsson, 2017; Begum, 2013; Foley, 2016.
[50] Weitzer, 2015.
[51] Jakobsson and Kotsadam, 2011.
[52] Özaşçılar and Ziyalar, 2015.
[53] Scheufele, 1999; Tuchman, 1978; Goffman, 1973; Hallgrimsdottir, Phillips and Benoit, 2006.
[54] Gitlin, 2003 at Hallgrimsdottir, Phillips and Benoit, 2006, p. 267.
[55] Hallgrimsdottir, Phillips and Benoit, 2006, p. 267.

Studies about the media representations of prostitution - and the sex industry in large - "constitute an important area of inquiry from both theoretical and harm reduction perspectives."[56] As those who engage in the sex industry are most often highly hidden, media narratives are almost the only sites at which most citizens interact with sex workers.[57] Thus, with the absences of lived interactions, the representation of prostitution in the media is what is consumed by the majority and these "characters and relationships created by media narratives (…) become relatively unassailable."[58]

Prostitution in the three examined cities: legal status and local context

New York, United States

In the United States, a total prohibition on and criminalization of prostitution and all related activities, exists in all 50 states with the exception of 11 counties in Nevada.[59] This legal approach is attributed to the social morality movement at the late nineteenth century.[60] However, while prostitution is considered immoral in each of the monotheistic religions, regardless of the social circumstance it occurs in, the moral element in the United States is intensified and "prostitution is being increasingly demonized, marginalized, and criminalized as a result of the efforts of a robust moral crusade."[61]

In addition, the discussion around prostitution in the United States is highly associated with sex trafficking.[62] This results in the attitude that "all sectors of the commercial sex industry should be targeted for repression" in order to fight it.[63] The lack of recognition of a possible difference

[56] Ibid, p. 266.
[57] Ibid, p. 267.
[58] Hallgrimsdottir, Phillips and Benoit, 2006.
[59] Altemimei, 2013.
[60] Ibid; Gruber, Cohen, and Mogulescu, 2016.
[61] Weitzer, 2010, p. 62; Shamir, 2016.
[62] Gruber, Cohen, and Mogulescu, 2016.
[63] Weitzer, 2010, p. 83.

between the two is also demonstrated in the targeting of clients, who are considered to be the driving force for sex trafficking.[64] This notion was manifested in the 2005 End Demand for Sex Trafficking bill that aimed to "combat commercial sexual activities," because "commercial sexual activities have a devastating impact on society (…) (with) dehumanizing effect on all involved."[65]

Both the selling and purchase of sexual services are illegal in New York and prostitution is classified as a "vice offense."[66] The prostitution policing in New York City used to aim to reduce "visible signs of prostitution in the neighborhoods" as part of an overarching attempt to reduce crime by eradicating visible offenses in the city.[67] In May 2017, a New York Police Department official reported that prostitution arrests have dropped by 47% in 2017 compared to the previous year, as a result of a pivot in their enforcement efforts to target the pimps.[68]

Tel Aviv, Israel

The legal status of prostitution in Tel Aviv combines various elements that do not entirely fit into one of the legal categories above. While the sexual transaction itself is decriminalized and therefore permitted, the law prohibits other related activities.[69] Those prohibitions are based on the premise that those who live on the avails of prostitution exploit the sex workers and therefore should be criminalized in an effort to protect the women who engage in it.[70] Nomi Levnkeon describes this notion, that is intertwined with the Israeli legal approach: "this trend sustained for

[64] Ibid. A lack of recognition of a possible difference between the two is also attributed to the abolitionist approach that perceives prostitution as inherently coercive and therefore as equal to sex trafficking.
[65] Ibid, p. 78.
[66] Gruber, Cohen, and Mogulescu, 2016.
[67] Ibid, p. 9; Thukral, Ditmore and Murphy, 2005; N.Y Penal Law § 230.00, available at http://ypdcrime.com/penal.law/article230.htm.
[68] Crane-Newman and Rayman. "NYPD arresting fewer prostitutes, more pimps: officials." New York Daily News, May 17, 2017.
[69] In Israel 'working under a roof,' 'soliciting clients,' 'leaving on the avails of prostitution', and the advertising of sexual services are illegal. (The Penal Law, 5737-1977, 864 L.S.I. 322 §§ 199-200, 204-205. (1977) (Isr.); Amir and Amir, 2004.; these prohibitions are criticized for having dichotomy effect; although their asserted purpose is to protect sex workers, they hinder their ability to protect themselves by screening clients, working in fixed places, and paying for protection services [Canada (Attorney General) v. Bedford [2013] 3S.C.R. 1101]; Waltman, 2014.
[70] Waltman, 2014; Levenkron, 2012.

years: the perception of the woman as a victim that has to be protected, and that the only way to do so is rescuing her from the world of prostitution, even by means that compromise her rights and safety," and added that "it is the striving to help her that hinders her ability to help herself."[71] There are no studies, however, about the scope or structure of the cultural stigma against sex workers in Israel.[72]

As of December 2017, Israel is on the verge of a new legislation. A professional committee on how to reduce sex work in Israel was appointed in 2017 by the Israeli Labor and Justice Ministers in order to examine the adoption of the criminalization of the purchase as a legal approach. The committee returned in the same year, stating that the matter cannot be determined "due to lack of evidence of the model's success."[73] Nonetheless, the Israeli Ministerial Committee on Legislation decided to promote it and the legislation is now pending a preliminary hearing in the Israeli parliament (Knesset).[74] Tel Aviv, which will be examined in this research, is the home for 62% of the brothels and 48% of the massage parlors in Israel.[75]

Vancouver, Canada

In 2014, Bill C-36, which is also known as the Protection of Communities and Exploited Persons Act, which recognizes the purchase of sexual services as a crime, was enacted by the Conservative government of Canada.[76] This new legislation was based on the premise that "exiting prostitution is the only way to truly protect prostitutes," and that "Canada's public policy should have as its objective the abolition of prostitution because it is inherently harmful." For this purpose,

[71] Levenkron, 2012, p. 176.
[72] Zarhin and Fox, 2017.
[73] Yaron. "The Commission for the Criminalization of Prostitution Clients was unable to decide whether to turn prostitution into a criminal offense." Haaretz, July 10, 2017.
[74] Bill 4138/20/פ (2017).
[75] The National Survey on Prostitution in Israel, 2016.
[76] Bill 36, the Protection of Communities and Exploited Persons Act (2014). Available at http://www.parl.ca/DocumentViewer/en/41-2/bill/C-36/first-reading#3.

the criminalization of the purchase was found by the Canadian government to be "the most compelling model."[77]

This change was a result of a 2013 Canadian Supreme Court decision in the case of *Canada (Attorney General) v. Bedford*, which nullified the previous prostitution laws.[78] The applicants, who identified themselves as sex workers, argued that the previous Canadian criminal code that criminalized prostitution-related activities compromised their ability to protect themselves and infringed their right to life, liberty, and security of the person.[79] The new legislation met with varied responses, and its opponents argued that the legislation "undermines sex workers' ability to screen potential clients, (...) negotiate terms of sexual transactions," and therefore "reproduces vulnerabilities for violence and poor health among street-based sex workers in Canada."[80]

A study that is similar to this research has been conducted in Canada in 2006. The study examined the media portrayals of people in Canada who worked in the sex industry between 1980 and 2005, and found that individuals who were engaged in sex work were presented as "morally lost and legally corrupt, and as vectors of social and physical malaise."[81] In Vancouver, however, a shift in the policing of prostitution seems to have occurred prior to the above-mentioned change of legislation.[82] In 2013, as a result of public pressure to better protect sex workers from violence, the Vancouver Police Department implemented a new policing strategy, asserting that "where there are nuisance complaints against survival-sex workers, alternative measures and assistance must be considered with enforcement as the last resort."[83]

[77] Perrin at the report of MLI, the institution for public policy in Canada, 2014.
[78] Canada (Attorney General) v. Bedford [2013] 3S.C.R. 1101.
[79] The Canadian Charter of Rights and Freedoms, Part I of *Constitution Act*, 1982, being Scheduled B to the Canada Act 1982 (U.K.), 1982, c.11 (s.7).
[80] Krüsi A, Pacey K, Bird L, et al, 2014, p. 6.
[81] Hallgrimsdottir, Phillips and Benoit, 2006, pp. 271-272.
[82] Krusi et al., 2016.
[83] Vancouver Police Department 2013 at Krusi et al., 2014, p. 2.

RESEARCH DESIGN

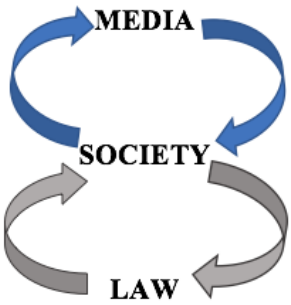
This research is aimed at exploring the possible association between the public discourse about prostitution and the various legal approaches to address it. By analyzing and comparing the way prostitution is framed in daily newspapers under different legal regimes, this research examines how the public discourse reacts to and interacts with the applied legislation in each sample.

Three major cities were chosen to be examined: New York (United States), Tel Aviv (Israel), and Vancouver (Canada). These cities represent three of the most debated legal approaches regarding prostitution: the criminalization of the sexual transaction (both the selling and purchasing of sexual services), the decriminalization of the sexual transaction, and the criminalization of the purchase of sexual services, respectively. [84] Based on the analysis of sex-work related articles that were published in the last year in daily newspapers, the framing and social narratives of four elements were examined. The four elements are as follows: the women who engage in sex work, the men who purchase sexual services, prostitution as a phenomenon, and the social view of the existing legislation.

The research method adopted for this study is a qualitative framing analysis of news coverage of prostitution in New York, Tel Aviv, and Vancouver. This method relies on the premise that the conceptualization of a phenomenon in news media is "part of the process by which individuals construct meaning," and therefore reconstructs social reality.[85] The analysis of the news coverage assumed that both the written and unwritten content, as well as the manner of its

[84] Halley, Kotiswaran, Shamir and Thomas, 2006.
[85] Scheufele, 1999; Tuchman, 1978.

appearance, are essential components of media representation analysis, and that those representations both create and reflect social attitudes and perceptions.[86]



Therefore, this research relies on the assumed mutually constitutive relationship between the framing of prostitution in newspaper articles (media) as a reflection of the public discourse about prostitution (society), and examines the association between that public discourse and the applied legislation in each of the samples (law).

Procedures

The top five online daily newspapers in each city were identified based on their rates of circulation. Given the national scale of the examined newspapers in each of the cases, their analysis may have yielded a broader picture that spills across city borders, and may imply on the public discourse about prostitution in a national scale.

Three criteria were set for the inclusion of online newspaper articles in each city: the publishing newspaper, the date of publication and the appearance of one of the defined three keywords. The time frame for the articles publication date was set to be one year, from October 1st, 2016 to September 30th, 2017. The three searched keywords that were "prostitution," "sex work," and "sexual services,"; only one of the words had to appear in order for an article to be included in the sample.

The keywords were chosen to encompass the existing terminology that is used to describe this phenomenon, in an effort to avoid and overcome ideology-based terminology barriers. The inclusion of "sexual services," as a more generic term was used to cover articles that did not explicitly mention "prostitution" or "sex work," but referred to the sexual transaction it entails.

[86] Heck, 1982; Gerbner, 1972; Ben Shahar 2011.

From the preliminary results of each samples, articles were classified into the following four categories, in accordance with the context in which prostitution was referred to or discussed: prostitution, trafficking, child prostitution, or other, unrelated context. Articles in which prostitution was referred to in the context of trafficking were excluded from the sample set based on the unanimous international prohibition of sexual trafficking under the IHRL, as well as the local legislation applicable in each of the examined cities.[87] Prostitution in cases of sexual trafficking is assumed to be forced and therefore not subjected to prostitution regulations.[88]

Articles in which prostitution was referred to in the context of child prostitution were also excluded giving the clear distinction that the IHRL does between the engagement in prostitution of a child, and that of an adult. Under the IHRL, as in the three sampled cities, prostitution of children is legally considered as a form of sexual exploitation and therefore is not recognized as prostitution nor subjected to prostitution regulations. Articles that referred to cases in which sexual services were offered to minors were excluded as well, for the same reason. Articles in which child prostitution was referred to in the context of trafficking were labeled under trafficking.

Articles in which one of the keywords was mentioned in the context of male prostitution, porn, in which prostitution was superficially referred to as an example of a criminal activity, vice, in an unrelated context, or in which prostitution and its elements were neither the discussed matter nor a substantive part of the article, were excluded from the sample and classified under "other."

[87] The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949; UNODC Issue. The Role of 'Consent' in the Trafficking in Persons Protocol, 2014.

[88] Not in all cases the application of trafficking and prostitution regulations are mutually exclusive. Gruber, Cohen, and Mogulescu wrote about the Human Trafficking Intervention Courts (HTICs) in New York that were created with the purpose of eradicating human trafficking and ended up prosecuting female defendants for prostitution offenses (2016).

Data Analysis

Each article has been qualitatively analyzed according to four indicators: (A) the representation of women who engage in prostitution as passive/active, (B) the representation of men who consume sexual services as perpetrators/clients, (C) the representation of prostitution as a form of violence/work, and (D) the negative/positive expressed view regarding the existing legislation in each city. The first three indicators were used to establish a comprehensive image of the way the constituting elements of prostitution (the seller, the buyer, and the sexual transaction itself) are portrayed and referred to. The fourth indicator was meant to provide a sense of the social attitudes toward each of the legal approaches and to further explore the mutually constitutive relationship between the two.

Each indicator in each article was graded on a nominal scale of 1 to 7 according to the criteria set below: a grade of 1 or 7 was given to an article that strongly supported one of the perspectives or explanations of the concerned issue and omitted/refuted other alternatives; a grade of 2 or 6 was given to an article that supported, even strongly, one of the perspectives or explanations of the concerned issue, but recognized other views and possibilities; a grade of 3 or 5 was given to an article that did not take a clear stance, but its narrative suggested one of the perspectives as an explanation for the concerned issue. The grade 4 was given to an article that did not take a clear stance or when both perspectives were equally represented. In the case of indicator (D), the grade 0 was added to the scale in order to represent articles that did not discuss the issue of legislation.

Limiting the grade 0 to the case of indicator (D) is based on the presumption that prostitution involves two parties [indicators (A) and (B)] who are engaged in a sexual transaction

[indicator (C)] and therefore it cannot be discussed without carrying some meaning in the way each of these three elements were referred, mentioned, and represented.

Indicator (A) measured the way that women who engage in prostitution were depicted and referred to as passive (1-3) or active (5-7) in their ability to exercise their agency and choose to engage in sex work. Articles, in which women were presented as passive in their actions, and in which their engagement in prostitution was portrayed as a result of their life circumstance, unequal social structure, or lack of other possibilities, were graded between 1-3 in accordance with the article's explicitness and consideration of other alternatives. Articles, in which women were presented as active in their actions, autonomously engaging in prostitution, or merely as workers who provide sexual services, were graded between 5-7 in accordance with the article's degree of explicitness. Articles that did not take a clear stance that fits this scale or equally represented both perspectives were given the grade 4.

Indicator (B) measured the way that men who purchase sexual services were depicted and referred to as perpetrators (1-3) or clients (5-7). Articles in which men were presented as sexual exploiters, whether it was depicted an outcome of the social structure or as a result of personal choice - were graded between 1-3 in accordance with the article's explicitness and consideration of other possibilities. Articles in which men who consume sexual services were portrayed as clients or their purchase of sexual services was presented as a result of a natural, inevitable sexual need - were graded between 5-7 in accordance with the article's level of explicitness. Articles that did not state anything in regard to men who purchase sexual services, did not take a clear stance that fits this scale, or equally represented both perspectives - were given the grade 4.

Indicator (C) measured the way prostitution was depicted and referred to as a form of violence (1-3) or as a form of work (5-7). Articles in which prostitution was portrayed as sexual

violence, a manifestation of gender inequality, or as a phenomenon that is inevitably harming for women were graded between 1-3 in accordance with the article's explicitness and consideration of other scenarios. Articles in which prostitution was portrayed as a legitimate form of work, or as an inevitable/natural phenomenon in societies - were graded between 5-7 in accordance with the article's level of explicitness. Articles that did not take a clear stance were not concerned with the nature of prostitution, or equally represented both perspectives - were given the grade 4.

Indicator (D) measured the way that the existing legislation was viewed negatively (1-3) or positively (5-7) in accordance with the article's level of explicitness. Articles that did not take a clear stance regarding the legislation, did not discuss its legitimacy or appropriateness, or equally represented both perspectives - were graded 4. Articles in which prostitution was discussed in a context that was not related to the legislation or the legal status of prostitution - were graded 0. Articles where the enforcement of the legislation was concerned were graded on this scale as well.[89] Social views regarding related legislation (i.e. living on the avails of prostitution by third parties, the prohibition of being in a bawdy house, advertising of sex services, etc.) were not considered or measured.

The four indicators were evaluated solely on the basis of the written content of the article, and were graded separately and independently (i.e. men were not assumed to be portrayed as perpetrators just because prostitution was depicted as a form of violence, but only if they were referred to as such; prostitution was not assumed to be a form of violence just because women were depicted as passive in their engagement in it, but only if it was referred to as such). After the articles in the three samples were graded, the result of each indicator in each sample was separately summed and converted into a percentage in order to allow a comparison between the cities. Each

[89] The enforcement of existing laws often considered as the manifestation of them (Jerome Frank, 1930 at Shamir, 2016).

indicator was then compared across the three samples in order to identify patterns, similarities, and potential associations between the public discourse about prostitution and the various legal approaches to it.

Limitations

Other social, cultural, political, and economic differences could have shaped or been translated into the framing of sexuality, gender, and the role of governments, and may have directly affected the way prostitution has been portrayed and discussed in the media.[90] These differences, which are entrenched in societies, could not be fully captured nor their effect could be fully assessed. Hence, this research recognizes that other forces may have contributed to and shaped the social attitudes toward prostitution as they appear in the new media, and that future consideration of these forces may yield different results.

The scope of this research is limited to a one-year time frame. Thus, this research did not attempt to detect trends and shifts in the way prostitution has been perceived, or to evaluate the effect of changes in the legislation, or to explore any causal relationship between the public discourse about prostitution and the legal regimes under which it occurs. In addition, as a result of the scope of this research, the evaluation and grading process of the newspaper articles according to the aforementioned design principles were conducted by a single person (the researcher), and may have been read in different ways by different readers.

Lastly, prostitution is a broad category that describes the exchange of sexual services for financial compensation. These sexual transactions occur and are negotiated in multiple platforms and can be divided into sub-categories (i.e. street prostitution, brothel prostitution, escort prostitution, prostitution on the internet, etc.). Each of these categories might have different

[90] "The exchange of sex for money (is) a complex social phenomenon firmly grounded in social, economic, political, criminal and sexual relations in which many actors play a role." (Vanwesenbeeck, 2013, p. 11).

characteristics (rates of violence, experiences of agency) and be experienced differently by those who engage in them.[91] In accordance with the examination of legislations and prominent academic discourse, no distinction was made or explored in the way different practices of prostitution were depicted.

RESULTS

Overview

New York

The top five daily newspapers in New York City were identified based on their circulation rates as recorded by Agility PR Solutions, and are applicable as of May 2016. The top five comprise *The New York Times*, *Wall Street Journal*, *New York Post*, *Newsday*, and *New York Daily News,* in the presented order.[92]

The three keywords appeared in 547 articles in the examined time frame. Out of the 547 articles, 92 were concerned with prostitution, or substantively discussed or referred to it. In the remained 455 articles, the keywords were mentioned in the context of trafficking (48), child prostitution (54) or in other, unrelated context (353) and therefore those articles were excluded from the examined sample.

Tel Aviv

There was no available data regarding daily newspapers' circulation in Tel Aviv exclusively and therefore the top five newspapers were identified based on their circulation rates in Israel as a whole. As recorded by TGI Israel on June 2017, the top five comprise *Israel Hayom*, *Yedioth Ahronoth*, *Maariv*, *Globes*, and *Haaretz,* in the presented order. [93] 171 articles appeared in

[91] Bernstein, 1999.
[92] Agility PR Solutions report, 2016. The report is available at https://www.agilitypr.com/resources/top-media-outlets/top-10-new-york-daily-newspapers-by-circulation.
[93] TGI Israel report, 2017. Available at https://img.wcdn.co.il/f_auto,w_1000/2/4/4/1/2441843-46.jpg.

the online search of the three keywords in Hebrew [prostitution (זנות), sex work (עבודת מין), and sex services (שירותי מין)] in the examined time frame.

Out of the 171 articles, 86 were concerned with prostitution or substantively discussed or referred to it. In the remained 85 articles, the keywords were mentioned in the context of trafficking (10), child prostitution (14), or in other, unrelated context (61) and therefore those articles were excluded from the examined sample.

Vancouver

There was no available data regarding daily newspapers' circulation in Vancouver exclusively and therefore the top five newspapers were identified based on their circulation rates in British Columbia and Canada as a whole. As recorded by Newspapers Canada (2015) and News Media Canada (2016), the top five comprise *The Globe and Mail*, *Vancouver Sun*, *National Post, The Province*, and *24 Hours Vancouver*.[94]

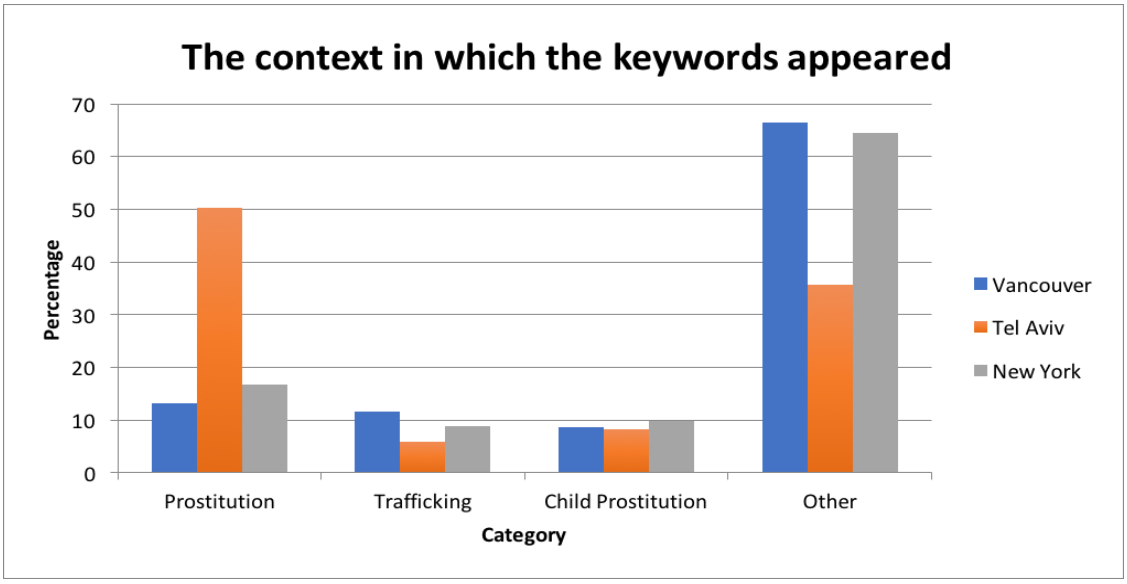
The three keywords appeared in 206 articles in the examined time frame. Out of the 206 articles, 27 articles were concerned with prostitution, or substantively discussed or referred to it. In the remained 179 articles, the keywords were mentioned in the context of trafficking (24), child prostitution (18), or in other, unrelated context (137) and therefore those articles were excluded from the sample.

The context in which the keywords appeared

In order to eliminate factors that may interfere with and influence the results of this research, a preliminary assessment of the context in which the keywords appeared in each city and

[94] Newspapers Canada, 2015; News Media Canada, 2016; The reports are available at https://nmc-mic.ca/about-newspapers/circulation/daily-newspapers and https://nmc-mic.ca/wp-content/uploads/2016/06/2015-Daily-Newspaper-Circulation-Report-REPORT_FINAL.pdf

the classification of the applicable articles had been conducted. The graph below shows the distribution of the results in each city.



A great similarity was identified between the sample of New York and Vancouver across all categories; in 17% and 13% of the articles the keywords appeared in the context of prostitution, 9% and 12% in the context of trafficking, 10% and 9% in the context of child prostitution, and in 64% and 66% in a context that was unrelated to the phenomenon itself, respectively. Thus, no significance was demonstrated in the context within prostitution was discussed under either of the two legal regimes.

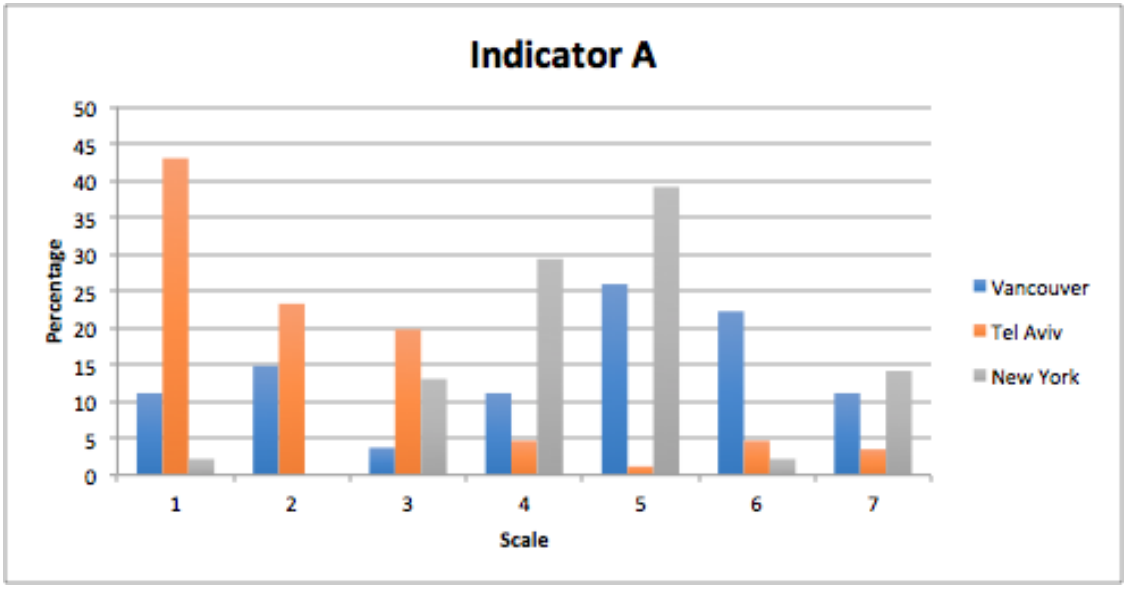
The percentage of articles that were concerned with trafficking and child prostitution in Tel Aviv were similar to those of New York and Vancouver (6% and 8%, respectively). However, the portion of articles where prostitution was substantively discussed compared to the portion in which the keywords appeared in an unrelated context (50% compared to 36%) was significantly distinguished from the results in the previous two samples. These differences may indicate a possible correlation between a legal regime that permits sexual transaction, or that does not clearly

regulate the status of those who engage in prostitution, and the intensity of the public discussion about it in the news media.

Comparative analysis of the four indicators

Indicator A: sex workers as passive/active in their engagement in prostitution

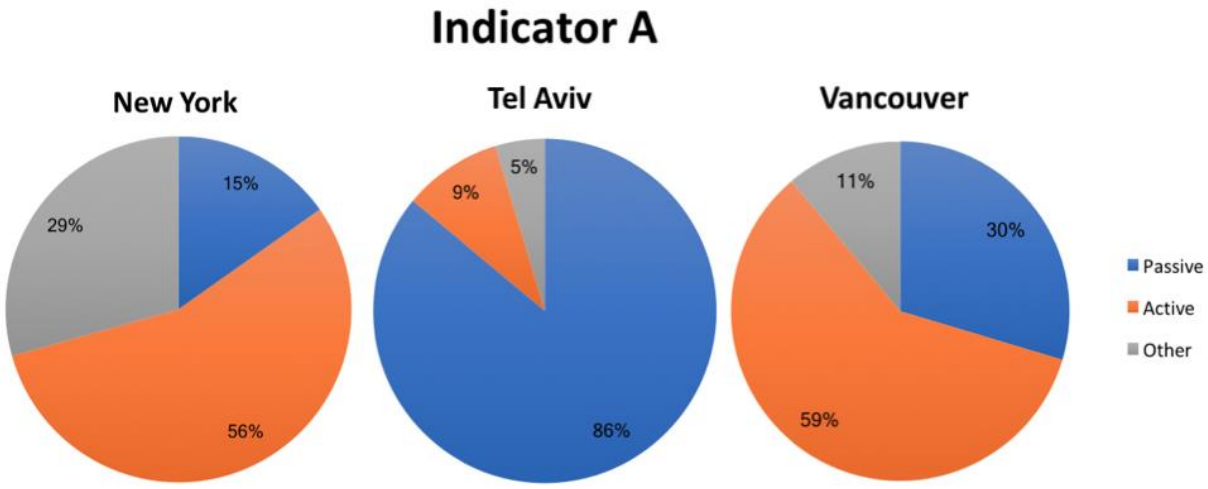
In order to examine how the public discourse about prostitution corresponds with different legal approaches, an analysis of the portrayal of women in the three cities' newspapers as passive/active in their engagement in prostitution has been conducted (referred to as indicator A). Below is the distribution of the results in each city on a scale of 1 (passive) to 7 (active).



In the sample of New York, where both the selling and the purchasing of sexual services are criminalized, 56% of the articles portrayed the women who engage in sex work as active in their decision to engage in it, while 39% of them merely implied this narrative. Similarly, in the sample of Vancouver, where the purchase of sexual services is criminalized, 59% of the articles portrayed women as active in that decision. Hence, in both cities, the majority of the articles referred to women as active in their engagement, regardless of their legal status. By contrast, in

Tel Aviv, where the sexual transaction is decriminalized, women were portrayed as active in that decision in only 9% of the articles.

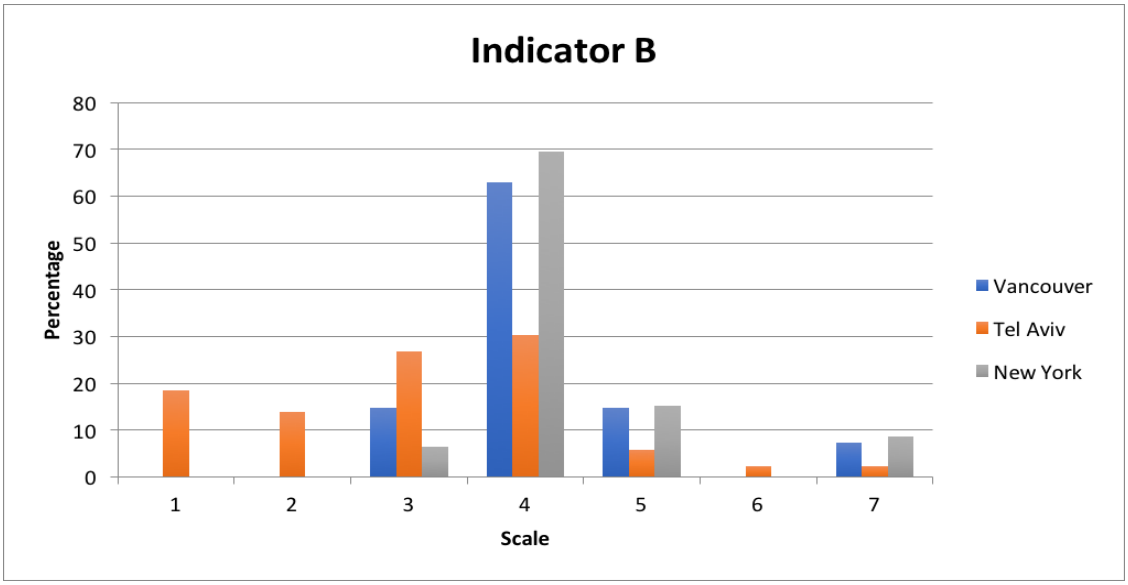
The analysis also showed that in 86% of the articles in Tel Aviv depicted sex workers in a way that implies that they are passive in their decision to engage in prostitution, while 43% of these articles refuted or omitted any alternative or other explanation for that narrative. This figure stands out in comparison to 15% and 30% of the articles in New York and Vancouver respectively and the proportion of the gap between them. Dissimilarity was also identified in the rates of articles in which no clear stance was taken regarding the issue; only 5% and 11% of the articles in Tel Aviv and Vancouver respectively remained neutral or did not refer to the women at all, compared to 29% of the articles in New York. This distinctive dissimilarity between the results and their distribution under each of the legal regime may indicate a high correlation between the two variables.



Indicator B: men who purchase sexual services as perpetrators/clients

In order to further examine the relationship between legislation and discourse of prostitution, an analysis of the portrayal of men who consume sexual services by the three cities'

newspapers as perpetrates/clients had been conducted (referred to as indicator B). The graph below shows the distribution of the results in each city on a scale of 1 (perpetrators) to 7 (clients).

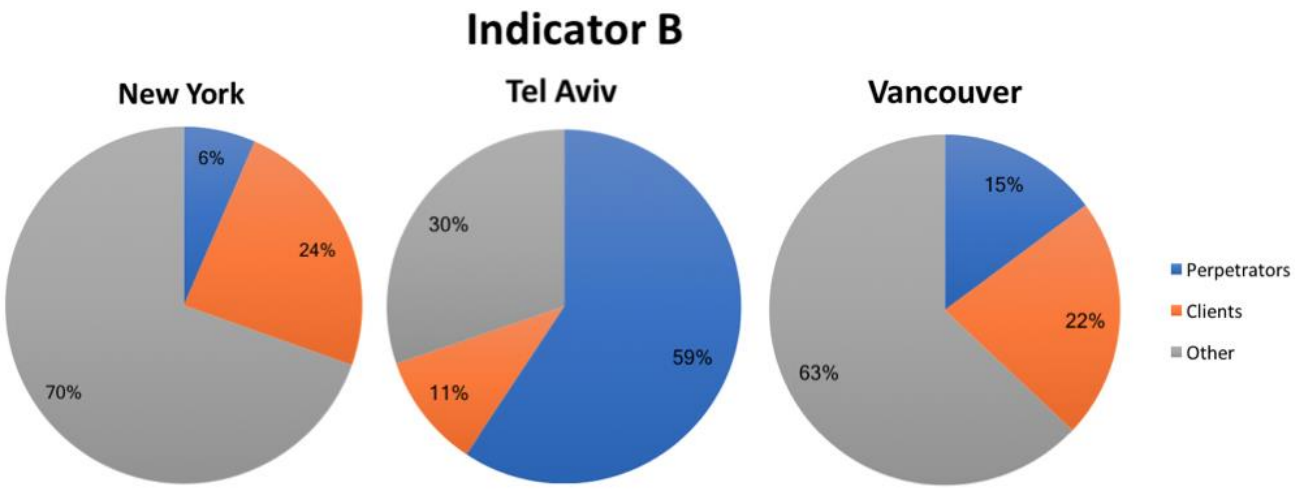


In the vast majority of the articles in New York (70%) and Vancouver (63%), little to nothing was written about the men who purchase sexual services beyond recognizing that their involvement in prostitution is illegal and therefore they are subjected to the punishment applicable in their countries. In both cities, the results indicated that when the men were mentioned or substantively referred to, the narratives around them were mostly vague and suggestive (grades 3 and 5; 30% and 22% in New York and Vancouver, respectively). Furthermore, a total of 24% of the articles in New York and 22% of the articles in Vancouver portrayed men in a way the implies that they who consume prostitution are clients. Thus, the analysis did not produce any differences between Vancouver and New York in the way that men who purchase sexual services were portrayed and discussed in newspapers.

In the sample of Tel Aviv, different views regarding the men were expressed in the articles. 59% of the articles portrayed men in a way that implies that men who consume prostitution are

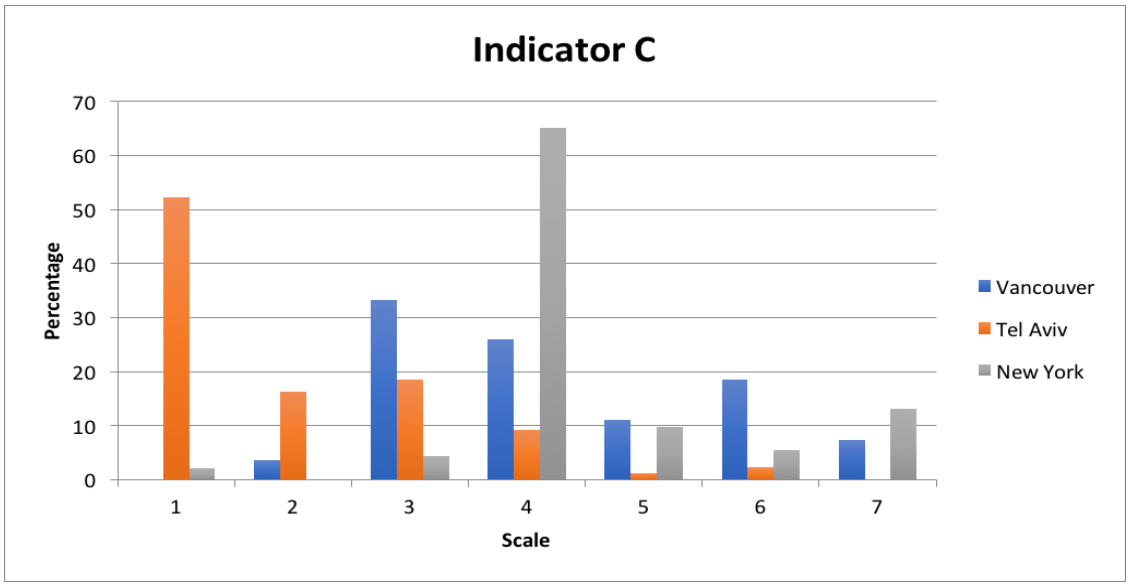
perpetrators, in contrast to the 11% that portrayed them as clients. A significant gap was also identified in the portion of articles that expressed any critical view regarding the men in Tel Aviv (70%), compared to New York (30%) and Vancouver (37%).

Thus, the analysis produced similar results under two of the legal regimes (New York and Vancouver) while the sample of Tel Aviv was distinctively differentiated from them. This difference may imply a possible correlation between the decriminalization of prostitution, or the absence of regulating legislation, or of the status of the men in particularly and the manner, as well as the extent to which men who purchase sexual services are discussed and referred to.



Indicator C: Prostitution as a form of violence/work

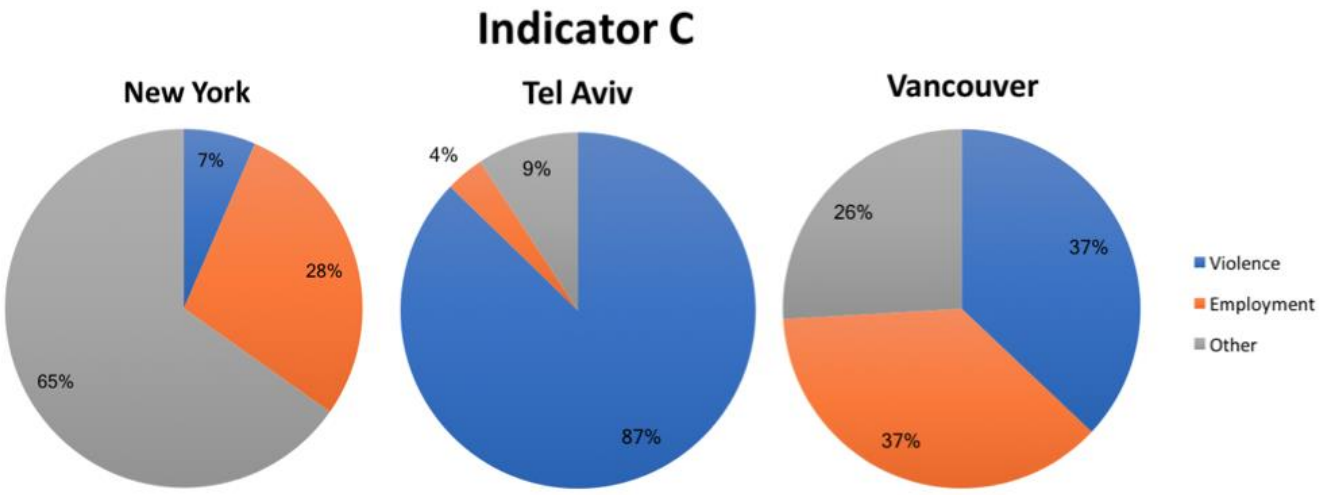
In order to examine how prostitution is framed in the public discourse compared to the way it is legally framed in each of the samples, an analysis of the way that prostitution is portrayed in the three cities' newspapers as a form of violence/work had been conducted (referred to as indicator C). The graph below shows the distribution of the results in each city on a scale of 1 (violence) to 7 (work).



The results show that 87% of the articles in Tel Aviv described, or referred to prostitution in a way that implies that prostitution is a form of violence, while 52% of them refuted or omitted any other alternatives to that narrative. This conclusive result stands in striking contrast to the sample of New York in which prostitution was depicted as a form of violence in only 7% of the articles. In a congruent manner, 28% of the articles in New York portrayed the women as active, comparing to merely 4% in Tel Aviv.

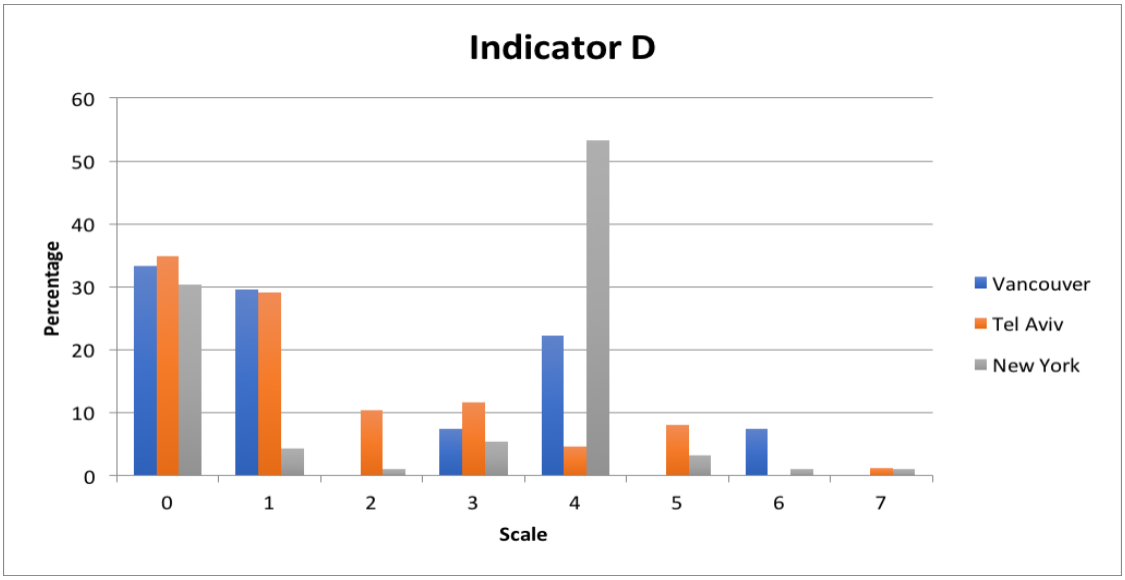
Additionally, an analysis of the public discussion in Vancouver produced inconclusive results where both views were equally represented in the sample (37% each). The portion of articles in each of the samples that remained neutral or disregarded the question of the nature of prostitution as a phenomenon varied and gradual differences were observed (65% of the articles in New York, 26% in Vancouver, and 9% in Tel Aviv).

The analysis yielded a wide range of results across the three samples. This dissimilarity may imply a high association between the legal approaches and the framing of prostitution in the public discourse as it appears in the news media.



Indicator D: Negative/positive view of the existing legislation

An analysis of the public discourse regarding the applied legislation in each of the three cities had been conducted in order to obtain a broader image of how each of the legal approaches is experienced by the society it is applied to (referred to as indicator D).

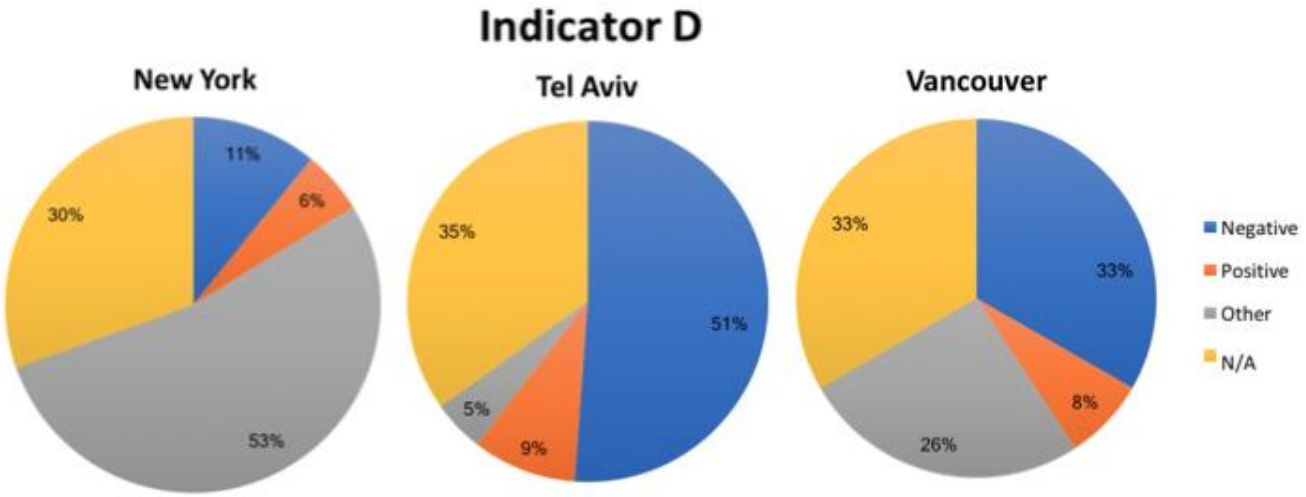


In all the three samples, less than 10% of the articles reflected positive views regarding the existing legislation (6%, 9%, and 8% in New York, Tel Aviv, and Vancouver, respectively). Similarity was also observed in the rates of articles in which the legislation was neither discussed nor referred to (30%, 35%, and 33%, respectively). In a congruent manner, a dissimilarity was

found in the rates of articles in which the legislation was portrayed negatively (11%, 51%, and 33%, in the aforementioned order).

Significant gaps between the three samples were identified in the rates of articles that had mentioned or referred to the legislation, but refrained from expressing either view (53%, 5%, and 26% in New York, Tel Aviv, and Vancouver, respectively). Consequently, only 17% of the New York articles, critically viewed or assessed the existing legislation. This stands in contrast to 60% of the articles in Tel Aviv and 41% of Vancouver's that had either positively or negatively reacted to the applied legislation or its manifestation.

The results of the three samples were similar in their sweeping dissatisfaction with the applicable legislation. Thus, no significant gaps were found that would imply an association between legislation and the positive/negative view of it in society. However, gradual differences were observed in the degree of criticism with which each legal approach was discussed in the newspapers.



DISCUSSION

This research study is aimed at exploring and identifying possible correlations between the way prostitution is framed in the public discourse and the applied legislation in each of the examined cities. The social narratives and conceptions of prostitution in each city were examined by analyzing their manifestation in popular newspapers.

The premise of this research and the following analysis is based on two principles: 1. media representations both reflect social attitudes as well as shape them, and 2. an applied law both reflects and shapes social attitudes and norms in society.[95] This research's focus is on the second relationship as it is established around prostitution.

The context in which prostitution was discussed

Prior to the analysis of the samples, the collected articles were classified into four groups according to the context in which the keywords were mentioned - prostitution, trafficking, child prostitution, and other, unrelated context. This in return revealed the division of the articles between the four categories and the prominent contexts in which prostitution was discussed in the news media.

Similar results were obtained in the samples of New York and Vancouver in all of the four categories. In the sample of Tel Aviv, two categories stood out; while the portion of trafficking and child prostitution-related articles resembled those of New York and Vancouver, the rates of articles that were concerned with the phenomenon of prostitution were distinctively higher (50% comparing to 17% and 13%, respectively). Accordingly, the rates of articles where prostitution was referred to in an unrelated context were distinctively lower (36% comparing to 64% and 67%, respectively).

[95] Jasperson, Shah, Watts, Faber and Fan, 1998; Jonsson and Jacobsson, 2016.

The legal prohibition of prostitution in the two cities yielded massive coverage of criminal related reports regarding the arrests of sex workers and clients. Thus, prostitution was repeatedly mentioned as an example of vice or of criminal activity, along with drugs, gambling, and pimping. The increased discussion regarding prostitution in Tel Aviv might be related to the lack of regulating legislation and the decriminalization of the sexual transaction in the country. It is possible that legislation that does not actively regulate prostitution and clearly define the relationship between women and men in this context enhances and encourages the public discourse about it, and vice versa. Similarly, it is possible to assume that it is the absence of men's liability under the legal regime in Tel Aviv that resulted in the increased attention to the phenomenon in the news media.

Analysis of the results

The portrayal of sex workers

An analysis of the way that sex workers were portrayed as passive or active in their decision to engage in prostitution (indicator A) produced the most mixed and polarized results among the four examined indicators. Indicator A was also the indicator wherein the smallest portion of articles refrained from expressing a clear view or addressing the matter across the four indicators. These figures reflect the prominence of the woman character in the public discourse about sex work, to the extent of a possible congruence between the two, regardless of the applied legislation.[96]

The explicitness of Tel Aviv results, in which 86% of the articles portrayed the women as passive, may suggest a consistency with the legal approach in the country. Assuming that women who sell sexual services do not make a conscious choice, the law does not attribute (legal) liability

[96] This finding coincides with the argument of Agustín in her article 'The Cultural Study of Commercial Sex': "with the academic, media and 'helping' gaze fixed almost exclusively on women who sell sex, the great majority of phenomena that make up the sex industry are ignored." (Agustín, 2005, p. 619).

to them. A possible correlation has also been identified in the sample of New York in which the majority of the articles (56%) portrayed the women as actively engaging in prostitution, while only 15% of them portrayed them as passive. As in the previous sample, the most prominent view associated with the legal regime in the country was consistent with the premise of this legislation that sex workers make conscious choices and therefore can be held accountable for them.

A less conclusive image emerged from the results of Vancouver sample. While in the majority of the articles (59%) women were depicted as active in that decision, in a substantive portion (30%) women were portrayed as passive in their engagement in prostitution. These results imply an inconsistency with the premise of the applied law that the involvement in prostitution cannot be freely chosen and therefore it should be abolished as a phenomenon. The difference in Vancouver's sample might potentially reflect the recent change in the legislation that had occurred in 2014, wherein the legal approach shifted from the decriminalization of the sexual transaction with the prohibition of related activities, to the criminalization of the purchase. In consideration of the gradual effect that that shift may have had on the way prostitution is framed and discussed in society, these results may have been shaped by, and reflect, both legal approaches.

The portrayal of men who purchase sexual services

An analysis of the media representation of men who purchase sexual services as perpetrates or clients produced similar results in two of the three samples. Both in New York and Vancouver, where the law criminalizes the purchase of prostitution, the majority of the articles did not refer to the men, or refrained from expressing a clear view regarding them (70% and 63%, respectively). This stands in contrast to the 30% in the sample of Tel Aviv, where the law permits the purchase of sexual services but does not regulate it. These results may suggest a possible correlation between

the criminalization of the men who purchase sexual services, or the application of a regulating legislation alone, and the level of public discourse regarding the men.

The similarity between the results of New York and Vancouver was also identified in the percentages of articles that depicted the men as clients (24% and 22% compared to 9% and 15% that portrayed them as perpetrators, respectively). In both cases, the most common view was inconsistent with the premise of the respective legislation, each of which considers them as offenders and their actions as crime. A possible explanation for this discrepancy relies on the previous hypothesis - when the law defines men who purchase sexual services as perpetrates, the social resentment against them subsides and other views emerge.

Another element that may support this hypothesis is the results in Tel Aviv, where prostitution is decriminalized. In 59% of the articles, those who consume sexual services were depicted as perpetrators, comparing to the 11% that referred to the men as clients. Again, a gap was identified between the portrayal of men as perpetrators in the media, and the law that does not consider them to be offenders. Thus, it is possible that when the law refrains from regulating prostitution – or from criminalizing the men alone - the matter generates critical attention that leads to a public denunciation of the men who consume prostitution.

The conceptualization of prostitution

The analysis of the way prostitution is portrayed as a form of violence in society versus as a form of work under the three legal regimes generated various results. Again, the percentage of articles that did not refer to, or refrained from, expressing a clear view regarding prostitution in the sample of New York were distinctly higher (65% compared to 9% in Tel Aviv and 26% in Vancouver). The gradual differences between these results (that is consistent with the equivalent results of indicator A and B), may support the hypothesis of a potential correlation between the

extent to which sex work is regulated under each legislation - that defines the status of both the seller and the buyer, only of the buyers, or of none of them - and the level at which prostitution is substantively discussed in the news media.

The sample of Tel Aviv produced unequivocal results with 85% of the articles that referred to prostitution or portrayed it as a form of violence. This suggest that a discrepancy exists between the public discourse and the legality of prostitution in the city. This result is also consistent with the results of the two previous indicators, in which women's decision to engage in prostitution was mostly perceived as passive, and men who purchase sexual services were mostly depicted as perpetrators. It is possible that when legislation does not clearly regulate the status of prostitution or those who engage in it, it induces a more cohesive response and a determined public discourse regarding it, with a possible inclination to view it as a form of violence.

An ambivalent image appeared from the analysis of the results in Vancouver. Both portrayals of prostitution, as a form of violence and as a form of employment, were equally represented in the examined articles. This ambiguity stands in contrast to the result of indicator A, which showed that the majority of articles portrayed women as active in their decision to engage in prostitution. It is possible that this ambiguity, as previously suggested, is a reflection of the continuous social changes that have occurred as a result of the changes in the legislation in 2014.

Social perceptions of the law

An analysis of the way each legislation is viewed positively or negatively produced various results among the three samples. In each of the three samples, the legislation was referred to in similar percentages (70%, 65%, and 67% in New York, Tel Aviv, and Vancouver, respectively). The most notable characteristic of these results was that in all three cities, less than 10% of the articles expressed positive views regarding the existing legislation (6%, 9%, and 8% in New York,

Tel Aviv, and Vancouver, respectively). This may complement the notion in the existing literature that neither of the current legislations are fully adequate to address the phenomenon of prostitution nor is one favorable over the others.

The contrast between the percentage of negative views of the legislation in New York and Tel Aviv (11% and 51%, respectively) as well as between the percentages of neutral articles in the two cities (53% and 5%, respectively) may support two of the aforementioned hypotheses - that it is possible that the absence of regulating legislation of prostitution results in a more critical public discourse about it, as well as a more coherent one.

In the case of Vancouver, while the examination of indicator C has found that the public discourse and views expressed regarding the nature of prostitution were ambivalent, 33% of the articles expressed negative views of the existing legislation in comparison to 8% that referred to it positively. Thus, it is possible that the existing legal approaches to prostitution are rejected by the societies they are applied to, regardless of the way prostitution as a phenomenon is conceptualized.

General Observations

Significant differences were identified in the way that the narratives around prostitution were framed and discussed. The most notable distinction was between the missing voice of the women in the articles of New York and the personalized tone of women's stories in the sample of Tel Aviv. In only 4 of the 92 articles examined for New York did the stories of the women who engaged in prostitution directly presented through statements or interviews. In 3 of these 4 articles, the sex workers have indicated being satisfied with their job and sex work was glamorously depicted.[97] With the results of indicator (A) implying that women were more likely to be perceived

[97] "Russian prostitute: Putin is right about us being the best." New York Post, January 18, 2017; Burns. "Escort dishes dirty details in juicy Q&A." New York Post, February 20, 2017; an example for that can be found in an interview with a sex worker in Nevada, who stated that "we all know that it's business (…) so far, it has been absolutely fantastic and

as active in their engagement in prostitution, the presented observation stands in line with previous studies that have found that the representation of prostitution emphasizes the free election of the women who exercise it and prostitution is "ingenuously idealized."[98]

Another trend that was identified in the articles of New York was the portrayal of sex workers as being ridiculous. Articles in New York referred to sex workers as "hookers," depicted them as engaging in prostitution for "dumb" compensations, and were titled "Woman agreed to trade sex for McNuggets;" "Woman was accused of soliciting sex in exchange for nachos and cash," reiterating that "the woman was very adamant about getting the nachos;" and "Million Dollar Ho," following by the sentence: "she's probably not feeling like a million bucks now."[99]

Conversely, the narratives around prostitution in the articles of Tel Aviv were focused on the personal, often tragic, stories of women who were or had been engaged in prostitution, who were then referred to as "survivors." [100] Women in the sample of Tel Aviv were portrayed as vulnerable and as victims that need to be saved while prostitution as a phenomenon was repeatedly compared to rape.[101] Hence, the results of Tel Aviv elucidate that the representation of prostitution as a form of violence was consistent and unequivocal throughout the articles.

Accordingly, a strong advocacy for the criminalization of the purchase of sexual services underlay these articles while other views regarding both prostitution and the appropriate legislation regarding it were mostly rejected. In one of the articles in Haaretz, a former judge asserted that

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I enjoy it very much." (Newton. "Sex worker reveals the dirty details of working at a love ranch." New York Post, September 21, 2017).

[98] Álvarez and García, 2014, p. 88.

[99] Associated press. "Woman agreed to trade sex for McNuggets: cops." New York Post, April 30, 2017; Salo. "'Million Dollar Ho' offers cop sex, gets busted in prostitution sting." New York Post. July 19, 2017; Schroeder. "Ohio woman accused of soliciting sex in exchange for nachos and cash." York Daily News. November 17, 2016.

[100] Lee. "From prostitution to freedom: the women who succeeded in breaking the circle of servitude." Haaretz, April 12, 2017.

[101] "Give to women in prostitution a lifeline." Israel Hayom, June 21, 2017; Kemer. "Fell into prostitution, fled and call for incriminating clients: "Rape on a daily basis." Ynet, June 10, 2017. Muaty. "When a reach man rapes a poor woman." Haaretz, February 5, 2017.

"legal, supervised prostitution is a better approach," arguing that the assumption that the criminalization of the purchase will prevent prostitution from happening has no basis.[102] His article met with backlash; "this is a misogynous, snobby article that lacks any substantiated evidence. It would have been better not to publish it at all," was written in response to the article; "Warm applause for the retired judge (…) that explains to us that criminalizing sex consumers is stupid and unnecessary," was stated in another article titled "women who engage in prostitution are not public toilets," and signed by a "survivor." [103]

In Vancouver, as in the case of New York, the illegality of prostitution produced a mass of articles that reported prostitution-related offences, or in which prostitution was mentioned as an example of a criminal activity. Noticeably, most of the public discussion that did refer to prostitution as a phenomenon, was communicated through the work of related organizations rather than the stories of the sex workers themselves. Additionally, and in accordance with the local context, the Supreme Court of Canada case in which the previous prostitution laws were nullified was mentioned repeatedly as an example of a groundbreaking decision.[104]

[102] Strassman. ""Legal, supervised prostitution is better," Haaretz, March 15, 2017.
[103] Deutsch. "Murder as well existed since the time of Cain and Abel." Haaretz, March 19, 2017; Emet. "Women who engage in prostitution are not public toilets." Haaretz, Match 19, 2017. Saar. "What motivates the opponents of the law to criminalize prostitution clients?" Haaretz, July 20, 2017.
[104] Canada v. Bedford, 2013.

CONCLUSION

The results of this research suggest that there are various ways to correlate legislation and discourse about prostitution. However, little to no congruence was identified between the two. This research follows the few studies that have examined the relationship between prostitution law and social attitudes across several countries that have similarly found that "attitudes toward prostitution may be reflected in, or may be due to, the different legal frameworks."[105] Therefore, this research wishes to serve as a continuation of these studies and as the groundwork for further study of this issue.

The distinctive rates of articles that were concerned with the women who engage in sex work, and/or represented one of the views regarding them, compared to the rates of articles that expressed a clear view regarding the other three indicators, may be a demonstration of the high association between prostitution as a phenomenon and the women who engage in it in the public discourse. Further strengthening this hypothesis is the relative absence of men who consume prostitution from the public discourse, as was found under two of the examined legal regimes (New York and Vancouver). These findings may indicate that although prostitution - the sexual transaction - constitutes both the woman who sells the sexual services and the man who purchases them - and neither of them can be considered engaged in prostitution without the other - in the public discourse, women who engage in prostitution represent and are equivalent to what prostitution is.[106]

Employing the concepts and terms used by the academic debates and the legal frameworks

[105] Jonsson and Jakobsson, 2017, p. 59. According to them, prior to their article in 2017 only three other studies have examined this matter cross-nationally (Immordino & Russo, 2015; Jakobsson and Kotsadam, 2011; Kotsadam and Jakobsson, 2014).

[106] This is compatible with a previous study that has been conducted in Cuba and examined the framing of prostitution in the news (Cabezas, 1998). This notion is also intertwined with the abolitionist approach that asserts that the coercion in prostitution is invisible because "prostitution is considered sex and sex is considered what women are for." (MacKinnon, 2005, p. 158).

on the way prostitution is socially conceptualized allowed the identification of gaps and inconsistencies between the two. Whether the legislation in each of the examined cities was a result of the dominant social attitudes or implemented in an attempt to shape them, little to no consistencies between the two were manifested in the results. The congruence that was identified between the two in this research was limited to the portrayal of women in New York (active) and Tel Aviv (passive). Speculating that the sample of Vancouver may have been affected by the recent change in legislation and therefore do not fully represent the existing legal regime, these results may support the aforementioned hypothesis regarding the equivalence between the women who engage in prostitution and sex work as a phenomenon. This overall discrepancy between prostitution laws and discourse raises the question of the effectiveness of these legislations, and undermines the significance that is attributed to the juristic means of prostitution.

The high volume of the public discourse around prostitution under a legal regime where it is decriminalized, as was appeared in the results of Tel Aviv, may indicate a correlation between the two variables. Thus, it is possible that when the law refrains from regulating the sexual transaction of prostitution and does not define how it should be interpreted or how those who engage in it should be treated, the public discourse and sense of urgency regarding it increase.

The results of New York and Vancouver samples reinforce this hypothesis; some degree of concurrence was identified between the extent of concern and critical discussion expressed in the newspapers, and the extent to which the law defines and regulates the status of prostitution and those who are engaged in it. Hence, it is possible that the social discourse shrinks as the legislation defines prostitution more comprehensively, and vice versa; from decriminalization (Tel Aviv) to the definition of the legal status of one of the parties (Vancouver), to the definition of the status of both parties (New York).

Forecasting potential shifts, both in the public discourse and the adopted legislation regarding prostitution, are beyond the scope of this research. However, this research wishes to flag the possible circular relationship between the two; the built-in flaws in and the disapproval of all three legal approaches, along with the observed inconsistencies between the social attitudes and the notion that underlies the legislation in each of the examined cities, may result in social resentment and sense of frustration. This could then be translated into shifts in the social discourse, which might lead to the adoption of new legislation, which may reshape the social discourse, and so forth.

A longer time frame will be needed in order to identify possible patterns in the mutually constitutive relationship between prostitution laws and social attitudes toward it. It is possible that a long-term research, which considers the effect of changes in legislation and identifies trends in the social response to them, will further support the presented hypothesis of a potential circular correlation between the two. A longer research may also be able to identify possible causality between them, and the ways that public discourse may contribute to and be influenced by shifts in the legislation. Thus, this research recommends further investigation into this mutually constitutive relationship in order to provide the ground for the development of more knowledgeable means - whether juristic or not - to address the complexity of prostitution and the needs of the women who engage in it.

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