How Sex Work Laws are Implemented on the Ground and Their Impact on Sex Workers

France Case Study
A Nordic Model in a Southern European Context

Sweden, Norway, Iceland and Ireland are smaller countries in Northern Europe that lack an outdoor sex work tradition—so the sex industry is largely invisible. In France, however, sex work has always been visible in big cities, and in the south of France (where the weather is warmer) there is still a culture of talking to people in public spaces.

In April 2016, sex work laws in France were changed and the so called ‘Nordic model’ was adopted, criminalising clients and third parties and repealing the law that criminalised solicitation. In France, third parties were already criminalised under pre-2016 laws. The model also includes an official ‘exit pathway’ for sex workers who want to stop doing sex work, which provides individuals with a residency permit and a small stipend. The ideology behind the Nordic model assumes that all sex work is violence against women; and all sex work is conflated with rape and human trafficking. This ideology translates into the belief that sex workers are victims of a crime, and therefore everything possible must be done to prevent sex work from happening except directly criminalising sex workers. Even if sex workers affirm that they choose to do sex work, they are considered victims who are not able to provide true consent, as providing sex for money is considered inherently different from other forms of labour in exchange for money.

Three years after the law was voted in, sex work has not disappeared; in fact, it may be more visible than ever as sex workers must often stay on the streets for longer hours to maintain the same level of income.

Overview of the Sex Work Laws

Currently, the laws regarding sex work in France criminalise clients and third parties. Brothel keeping, advertising and assisting someone’s ‘prostitution’ are illegal even when no exploitation or exchange of money occurs. The definition is so broad that sex workers can be charged just for sharing a work premises or helping each other at work.

After the repeal of the criminalisation of soliciting at the national level in 2016, many municipalities adopted local bylaws to effectively replace the repealed national law in order to maintain the policing of sex workers and their work spaces. During parliamentary debates, mayors and local politicians (who elect senators) were concerned that decriminalisation of soliciting would remove the power police have to chase away sex workers. This was the main reason the Senate opposed repealing the law at the National Assembly. In response, they were eventually told that they could adopt municipal bylaws which they have done increasingly since then.

It is often said that France no longer criminalises sex workers because it repealed the laws criminalising solicitation. This is false, as procurement, pimping and brothel-keeping laws have always targeted sex workers—both before and after the introduction of the Nordic model. In addition, sex workers continue to be criminalised under local municipal bylaws that target sex workers: parking bans for sex workers’ vehicles, bans on sex work taking place in public areas, bans on indecent clothing, bans on the possession of lighters near a forest (even if a sex worker is not using the lighter to smoke) and so on.

The claim that the 2016 changes ‘decriminalised’ sex workers is false. France’s current ‘Nordic model’ differs from those in Nordic countries without municipal bylaws that criminalise sex workers’ visibility in public spaces. This is likely due to the lack of a visible outdoor sex work tradition; such as exists in France.

Even though sex workers continue to be indirectly criminalised in many ways it is important to remember that the sale of sexual services in France is perfectly legal. Sex work is recognised
(albeit informally) as work and is subject to tax laws and national insurance mechanisms—although this often leads to additional opportunities for state harassment and further indirect criminalisation of sex workers, which will be discussed below.

How the Laws are Implemented?

**Sex work = (hidden/undeclared) work**

The police are often unsure of the laws around sex work. They are often tasked with removing sex workers from an area—as this remains the primary political preoccupation of the authorities, rather than opposing human trafficking or facilitating 'exit' programmes. Since the repeal of soliciting laws, they can no longer charge sex workers for simply existing in public spaces. As a result, they increasingly charge sex workers under tax laws with doing undeclared work\(^1\). They target the most precarious sex workers, including migrant sex workers who often don't know that they can, and must, legally declare their incomes to the national insurance system as independent workers.

When the police are asked to lead an anti-sex work operation, their actions do not ‘help’ sex workers. The police never (or very rarely) inform sex workers of their rights or of the ‘exit’ programmes that in theory provide a residency permit and stipend. At best, sex workers may be referred to anti-sex work abolitionist organisations where they are identified as victims.

Despite the claim that the Nordic Model decriminalises sex workers, in France sex workers are still frequently arrested and charged. In the process of targeting supposed ‘pimps’ or ‘traffickers’ sex workers are often charged as accomplices, especially if they refuse to identify as victims. This is often the case for sex workers in relationships—the sex worker will be charged with ‘undeclared work’ while their partner is charged with ‘pimping’.

Testimony by David (not real name):

“My partner knows I did sex work for a living for years and he accepts it. I suspect I was denounced by a client who was dissatisfied and one day the police knocked at the door and searched our whole flat. Thankfully, there was no drugs that day, but they found some cash that they confiscated, and they found evidence of my advert with clients’ messages. Later in court, I was condemned to reimburse all the benefits I claimed as being jobless and fined for ‘hidden work’. My partner was charged with pimping because he wasn’t working at that time and was obviously living on my earnings. Since then, I have had to take a job as a bartender, and I feel pimped by the state since all the money I earn from sex work is to pay back the debts and the fine.”

Testimony Andrea (not real name):

“I go to France to work during the winter and I go back to Romania to spend time with my family in the summer. I am not too interested in the rights in France because I know I won’t stay here. When the police arrested us, we said we were European citizens, but they said that we were working undeclared in France which was a criminal offence. And so, the police later said that we had been charged for ‘hidden work’ which was the reason for the deportation order. I am not sure that it was all legal, but that’s how it happened. We were not given lawyers nor translators—but we didn’t know we could complain about it.”

\(^1\) « Travail dissimulé » that translates as ‘hidden work’ or ‘undeclared work’ is an offence punishable in France by up to three years in prison and 45 000 euros fine.
When trafficking is an excuse to criminalise sex work and migration

On December 10th, 2013, while parliament was still debating the bill that would criminalise clients under the guise of ‘fighting trafficking’, twelve Chinese sex workers were arrested with their children in Paris. The police operation was presented by the media as an anti-trafficking raid, but there were no victims. The women who were undocumented were sent to detention centres, and the few with papers were charged with pimping— they were the legal leaseholders and had to collect money from the others to pay the rent. No exploitation was occurring; only migrants sharing apartments together to live and work. Their money was seized, and they were left without a place to sleep while the flat was under seal.

Because of pressure from the government the police must meet quotas for people arrested for ‘illegal stay’ on the territory. This means that from mid-November to New Year’s Eve each year, many raids occur in sex work locales to arrest undocumented migrants. This is particularly true before elections, as the government produces reports on the number of undocumented migrants deported on a yearly basis.

While the official discourse is that all migrant sex workers are victims of trafficking and that the government criminalises clients to protect workers; in practice, victims of trafficking are rarely believed when they do seek help as they are suspected of lying to obtain papers.

When the fight against ‘prostitution’ serves a different purpose from the law’s official aim

On the ground, the official aim of ‘protecting’ women from violence is not the police’s objective. After the law changed in 2016, police behaviour remained offensive. Police call trans women monsieur to humiliate them; harass sex workers; and confiscate sex workers’ belongings, using the informal pronoun tu to insult and demean them. Chinese sex workers report that the police have learned the Chinese word for ‘whores’ to insult them.

The police continue to arrest and harass sex workers despite the repeal of soliciting laws, because they have orders to police people they suspect of being undocumented migrants. Racial profiling is not illegal in France; the constitutional council has ruled it is a legitimate police practice. There are still municipal bylaws against sex work and even where no public order law exists, the police still receive pressure from the local authorities to ‘eliminate prostitution’ in an area. France is a centralised country with most political orders coming from Paris. If local politicians complain to the Interior Minister, he can write to the police regional prefectures— they will give orders to the local police commissioners, who are also under pressure from local politicians and concerned citizens who object to ‘prostitution’ and complain that ‘children can see prostitutes on the streets.’

In Toulouse, Olivier Arsac, a municipal politician in charge of security, sent an email to the local police chiefs that was leaked to the press in June 2019. In his email he asks the police to be ‘brutal’ towards sex workers, saying: ‘you must not hesitate to be brutal or to negotiate to obtain by any means their departure.’

The criminalisation of clients is never implemented to protect women, but as a police tool to push sex workers out of city centres. Many local residents complain about ‘prostitution’ because they have bought properties and believe that sex workers’ presence in a neighbourhood may damage property values. The police do what they can to scare sex workers away— including illegal

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2 LaPeche, July 2019, “Toulouse. Un élu toulousain demande à la police municipale d’être «brutale» envers les prostituées”.
practices such as falsely accusing them of soliciting, insulting and harassing them, destroying their IDs, and arresting them on false charges. The criminalisation of clients has shown to be the most efficient way to achieve this ‘moving on’ of sex workers, who can no longer make money by staying in one place due to a lack of clients. However, the law has not reduced the number of people selling sex, only changing the way they work, with more people using the internet to find clients. Even the police acknowledge that the change in law has not reduced sex work. Commissioner Jean-Paul Mégret, head of the Proxetism Repression Brigade (BRP), stated in Le Point (06/09/2018): ‘this law has promoted the development of prostitution on the internet with rates equivalent to those practiced in the street… this law did not have the desired effect. It mostly chased street girls to hotels and apartments, and now everything is happening via cyber prostitution.’

The criminalisation of clients to ‘protect’ sex workers

When sex workers resist the arrest of their clients, they are threatened by the police with arrest for lack of documentation, hidden work, or fines. Approximately one thousand clients per year receive a fine, but we no longer have figures for sex worker arrests. The offences used against sex workers are usually indirectly related to sex work, or they are prosecuted under local bylaws so that the effective criminalisation of sex workers does not show up in national statistics and officially no longer exists.

Testimony Soraya:

“My husband is unemployed, and my mother has a serious illness. I have to send money to Peru so she can have medical care. I need to go to the forest to earn some money. I always make sure to clean everything, never leave condoms or tissues, everything is clean. I made a tent that I hang between two trees to hide in case of passers-by, but I am in a part of the forest where nobody goes except the clients and sometimes people riding bikes. There are no bans to be in the forest and prostitution is legal in France. I told the police that I am member of STRASS and that I know my rights, but they continue to say I don’t have the right to be here and that I have to go. Sometimes they confiscate my goods and destroy my tent with cutters. Once, I was arrested but they released me with no charges. They always call me monsieur because they say my ID card indicates masculine sex. I asked them to respect my gender identity, but they continue. When STRASS called the journalists to expose the situation, the police answered that their presence in the forest was justified by the implementation of the law against clients, but they have never arrested any client so far. They only come to harass us because it’s easier to find us while the clients don’t stay when the police are around.”

One of the arguments made by abolitionists in favour of the law was that sex workers would have more power to defend themselves against clients if they were no longer criminalised—that clients would be the ones facing arrest. It was argued that sex workers would be able to report clients who misbehaved and threaten to call the police. Unfortunately, testimonies demonstrate that this isn’t the case.

Testimony Marcia:

“I had a problem with this client who was negotiating to stay longer and didn’t want to pay what was agreed so I pushed him out of my flat. I had to use pepper spray to get rid of him

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3 LePoint, September 2018, “Prostitution : enquête sur les nouveaux visages du proxénétisme en France”.
as he started to be violent. He became very angry and he screamed in my building that there was a whore living there and that I wasn’t a ‘real woman but a man living there’ so that all my neighbours could hear. He called the police who came to knock at my door. I was very surprised because when we call the police they never show up but for a client who is supposed to be criminalised, they came. He told them that I attacked him and stole his money, that I scammed him because he believed that I was a ‘woman’. The police (who were all men) took his version for granted when I actually specify on my adverts that I am a transwoman, and he knew perfectly well because he came for that. They arrested me for assault.”

**The Impact of the Law on Sex Workers**

The main consequence of the criminalisation of clients has been a loss of income for sex workers. The poorest sex workers struggle to pay their rent or for their hotel rooms, especially those working on the street, where the police arrests are most prevalent.

**Health**

As a result of the reduction in the number of clients, the clients who stay have more bargaining power, so the rates in some places have decreased by a half or a third. Now sex workers are forced not only to accept sex without condoms, but many must offer this kind of service to ensure any work at all.

Testimony Samantha:

“IT’s my second syphilis infection this year but I have no other choice. I am fed up.”

AcceptessT, a sex worker organisation by and for transgender migrant sex workers based in Paris, were interviewed as part of this case study and they reported a strong increase in HIV & STI infections. Of about 100 sex workers who came to their office regularly for testing, none contracted HIV during the five years’ prior the 2016 law reform. However, from these 100 sex workers, there were five new cases in late 2016 just after the law was enforced. Due to increased mobility, sex workers living with HIV also face increased difficulty accessing follow up treatment or continuing their medication regimes. Some sex workers gave up their treatment; when they returned to Paris their viral load was so high that their HIV had progressed to an AIDS diagnosis.

**Violence**

Because of the need to work in more remote areas and the reduced ability to be selective about clients, sex workers must now take more risks, accepting clients they would otherwise refuse. ‘Clients’ may turn out to be predators who attempt to steal from sex workers or leave without paying. Médecins Du Monde received twice as many reports of violent attacks made by sex workers in the year that followed the criminalisation of clients.

Testimony Anais:

“it was last August (2018) and I hadn’t had a client for a week. I didn’t trust the man on the phone because he asked me if I was alone. He called with a hidden number which I would have refused to answer prior to the law change, but then I thought maybe he was too scared because of the law and I eventually agreed to meet him. Once he arrived at my apartment, he seemed very anxious and quite quickly asked me for money. I told him that I had no money which was true because I had no clients for a week, so he attacked me and raped me. After the attack I didn’t report it to the police because I don’t want them to warn my landlord that I am a sex worker and lose my flat.”
Exploitation by third parties

The purported aim of the 2016 law reform was to fight exploitation and human trafficking—it has not proven successful. Chinese women who work in Paris explain that they can no longer work on the streets because clients are too scared to talk to them. Because they do not speak French or English, they need more time to communicate with clients, but clients do not want to risk being seen talking to sex workers, so it has become impossible this way. The only solution they have found is to pay intermediaries to write adverts and answer their phones to arrange appointments. Of course, they must pay these intermediaries when they used to be completely independent.

STRASS noticed that all the sex worker members of their union who live close to a neighbouring country now work on the other side of the border. Some sex workers travel very far to work abroad. This often means having to work for a landlord or an employer when they used to work for themselves.

The exit pathway

Many defenders of the Nordic model praise France for having created a so called ‘exit pathway’ which other countries have not included in their model.

The exit pathway was supposed to ‘help’ 500 to 1000 sex workers a year and was allocated five million euros a year in government funding. In mid-2019, three years after the law changed, only 180 sex workers had ‘benefited’ from the exit pathway. This programme does not work for several reasons.

The allowance sex workers can access through the exit scheme is 330 euros per month—less than the amount people can access through the national social benefits system. Only undocumented migrants or migrants with fewer than five years’ presence in France cannot access these benefits and may therefore benefit from the exit pathway allowance.

Officially, the path confers a six-month residency permit, but this is conditional at the discretion of the authorities and about half of all requests have been refused. In practice, sex workers who most closely fit the abolitionist idea of trafficking victims, and who may identify as victims, are those who struggle the most to benefit from the exit pathway, because anti-migration political policies create barriers to their access.

Conclusion

The implementation of the Nordic Model has been disastrous for sex workers in France. They face extreme financial hardship, increased risks of violence and a continuing threat of arrest and harassment by police. The premise that sex workers in France have been decriminalised is false, and support for an exit pathway is both extremely difficult to access and inadequate. Migrant sex workers are especially vulnerable since the criminalisation of clients as they must now rely on third parties to work and continue to face the threat of deportation.
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