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# Space, street prostitution and women's human rights

The effects of spatial segregation in the perpetuation of violence  
against women in prostitution

Author: Clara Ferrerons Galeano  
Supervisor: Lorenza Perini

## ABSTRACT

This thesis analyses the role of Italy in fostering violence against women in street prostitution. Since the National Law 125/2008 on urgent measures on public security was passed in this country, city councils have applied municipal ordinances at the local level that prohibit the practice of outdoor prostitution in the public space, thereby criminalising it. Feminist geographers and urbanists argue that spatial arrangements in the city play a key role in the experience of violence against women in urban spaces. As a socially marginalised group, women in prostitution are extremely vulnerable to violence, which is further emphasised when criminalisation of this practice obliges women to move to peripheric and isolated areas of the city or to start working indoors. Taking Padova as a paradigmatic example of the typology of municipalities that have legislated the most on street prostitution, this thesis critically engages with international women's human rights standards and argues that two ordinances passed in this city in 2011 and 2014 represent a failure of the State to act with due diligence in preventing, protecting and prosecuting all forms of violence against women as provided in CEDAW and the Istanbul Convention. In addition, this thesis argues that violence against women in prostitution should not be regarded as a side-effect of this activity but rather as a structurally mediated gender-based discrimination that needs to be decidedly recognised as such at the international level if the universality of human rights is to be applied rigorously to all individuals.

Keywords: street prostitution, spatial segregation, women's rights, violence against women, Italy

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## TABLE OF ABBREVIATIONS

CATW	Coalition Against Trafficking in Women
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COE	Council of Europe
EURES	Italian Institute of Economic and Social Research
GAATW	Global Alliance Against Traffic in Women
GBV	Gender-Based Violence
GRETA	Group of Experts on Action against Trafficking in Human Beings of the Council of Europe.
IOM	International Organization for Migration
TAMPEP	European Network for the Promotion of Rights and Health among Migrant Sex Workers
THB	Trafficking in Human Beings
UN	United Nations
UN TIP	United Nations Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children
VAW	Violence Against Women

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# 1. INTRODUCTION

Cities are not neutral entities. The way cities are thought and organised have a direct impact in the socio-spatial inclusion and exclusion of its inhabitants. Therefore, special attention should be given to the physical location in the city of those vulnerable groups that, because of their sex, gender, ethnicity, legal status, religion, origin or class face multiple and intersected forms of discrimination. In this regard, studies have demonstrated that women and men experience the urban space very differently<sup>1</sup>. The former are more exposed to violence against them in public spaces not only because the persistence of global and structural discrimination against women but also because the lack of a gender-based perspective applied in urban management and planning strategies lead to gendered urban insecurities<sup>2</sup>.

Moreover, given that the multiplicity of identities of women impede classifying this group under an umbrella of homogeneity, their experiences of safety in the urban space vary according to the intersectional discrimination they face. As such, it is the most marginalised women that have more risk to suffer violence against them in public spaces because their capacity to choose the spaces they occupy is drastically reduced<sup>3</sup>. Following these lines, spatiality of outdoor prostitutes in the city acquires great importance when we think about the historical public policies of exclusion of street prostitutes from the urban centres in the name of morality, public decency or hygienic necessities that have been applied in the urban West<sup>4</sup>. In this regard, it has been demonstrated that street-based women in prostitution are particularly vulnerable urban dwellers because physical, sexual, psychological and economic violence is perpetrated against them with impunity by both State and non-State actors in the public space of the cities<sup>5</sup>.

Taking this into consideration, it is alarming that since the Law 125/2008 on urgent measures on public security<sup>6</sup> was passed in Italy, street prostitution has been politically

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<sup>1</sup> ActionAid, *Women and the City: Examining the Gender Impact of Violence and Urbanisation. A comparative study of Brazil, Cambodia, Ethiopia, Liberia and Nepal*, 2011, p. 12.

<sup>2</sup> ActionAid, *Women and the City*, p. 11.

<sup>3</sup> Action Aid, *Women and the City*, p. 12.

<sup>4</sup> P. Hubbard, *Sex and the City: Geographies of Prostitution in the Urban West*, London and New York, Routledge, 1999, p. 3.

<sup>5</sup> S. Smaoun, *Violence Against Women in Urban Areas: An Analysis of the Problem from a Gender Perspective*, Nairobi, Urban Management Programme, 2000, p. 31.

<sup>6</sup> L. 24 luglio 2008, n. 125, Conversione in legge, con modificazioni, del decreto-legge 23 maggio 2008, n. 92, recante misure urgenti in materia di sicurezza pubblica.

and legally approached as a problem of public security. As a result, this law has given Italian local governments the power to legislate on issues related to the practice of prostitution in the urban space of the cities. Since then, municipal ordinances restricting the use of public space to these women have been passed all around the country, thereby criminalising women in prostitution on the grounds that their very presence in the street represents a threat to urban decorum and to the security of the population. This has obliged women in prostitution to move either towards peripheric areas of the cities or to closed spaces to avoid being fined or even detained.

Examining the effects that the prohibition on the use of public space might have in the bodily integrity and safety of these women is one of the purposes of this thesis. The main premise is that Italy, by passing these municipal ordinances that criminalise and spatially segregate outdoor prostitution is violating the right of women in prostitution to live free from violence. However, the scope of this research goes beyond the specific case of Italy. That is, by taking a particular case where the rights of women in prostitution have allegedly been violated, this thesis has the purpose to critically engage with international human rights law in order to underline the extent to which discrimination against this group of individuals is structurally mediated and thus contribute to develop current human rights standards in order to ensure full protection of the rights of women in prostitution.

Academic, political and activist discussions about prostitution have been for years, and still are, orbiting around two main debates. On the one hand, the legal approaches states should adopt regarding the legalisation or criminalisation of prostitution. On the other hand, the opposing positions feminist thought has taken regarding this practice: prostitution as a historical and violent domination heteropatriarchy has had over the female body or prostitution as an empowering tool for women, non-binary individuals and non-heteronormative people to recover the control of their bodies and sexualities and to challenge capitalist logics of production and reproduction<sup>7</sup>.

Although these debates are extremely necessary to rethink how economic, social and cultural power is constructed, the megaphone has rarely been given to people in prostitution themselves, thus maintaining women in prostitution in a secondary position that impedes them to articulate their demands and their needs in their everyday realities.

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<sup>7</sup> See S. Federici, 'Why Sexuality is Work' (1975) in Federici, S., *Revolution at Point Zero: Housework, Reproduction and Feminist Struggle*, Oakland, PM Press, 2012.



It is true that the existence of transnational trafficking nets has put in the international political and legal agendas the urgent need to combat the global phenomena of trafficking for sexual exploitation and enforced prostitution. Yet, the reality of prostitution goes beyond trafficking, and the extreme complexity that supposes eradicating the violation of human rights caused by these phenomena should not render invisible multiple forms of violence that have been assumed as inherent to the condition of the prostitute. That is, physical and sexual violence, extortion, harassment or assault individuals in prostitution are exposed to on an everyday basis have not been prioritised as a matter of human rights violations but as an inevitable side effect of prostitution. For this reason, closely analysing how public policies on street prostitution might perpetuate violence against women in prostitution is necessary first to determine whether State practices discriminate against this group of individuals and second to hold accountability for such human rights violations.

Focusing on the case of Italy, the first chapter of this thesis will provide a short overview of the literature on critical feminist geography and feminist urban studies in order to understand, on the one hand, the relationship between gender and space and, on the other hand, the role that the construction, distribution and planning of the urban public space can have in the perpetuation or eradication of discrimination against women, and more concretely, violence against women. This framework will serve as a basis to analyse the spatiality of women in street prostitution in Italy.

The second chapter will first analyse the phenomenon and the legal approach to prostitution in this country. The provisions contained in the National Law 125/2008 will be closely examined in order to study the legal background that justifies the enforcement of municipal ordinances at the local level that prohibit street prostitution. In this regard, this thesis focuses on the municipal ordinances that have been passed in Padova, given that this city represents a paradigmatic example of the typology of municipalities that have regulated the most in Italy in terms of street prostitution. The content of those legal texts will be analysed to depict how the discourse of prostitution as a problem of public security is articulated and how its criminalisation is legally justified. Drawing from studies carried by academics, international NGOs and sex workers groups, the final section of this chapter will examine the impact that the criminalisation of prostitution has in the bodily integrity and safety of women in prostitution.

The third and final chapter will first delve into the reasons behind the historical neglect of human rights standards in addressing violence against women in prostitution, underlining the role that feminist movements have had in this process. Then, it will examine the position international criminal law and human rights law take in relation to prostitution, deeply focusing on women's human rights standards at the international and regional levels. The final sections of this chapter are devoted to the analysis and interpretation of the right of women to live free from violence and the obligations that State parties have under CEDAW and the Istanbul Convention to act with due diligence to prevent, protect and prosecute crimes of violence against women. This analysis will elucidate whether both conventions are applicable in cases of violence against women in prostitution and whether Italy has failed to act with due diligence to prevent violence against women by passing municipal ordinances that spatially segregate and criminalise street prostitution.

As a final remark, in this thesis, the term 'women in prostitution' has been chosen over 'prostitutes' or 'sex workers' in an attempt to include all women that by different reasons and circumstances engage in this sexual and economic activity. It must also be stated that the fact that the scope of this thesis is the female experience of street prostitution does not imply a lack of awareness of the multi-gendered reality of street prostitution, which includes men as well as transsexual individuals, but rather an acknowledgment that carrying a rigorous research on male and transsexual individuals in prostitution requires studying them separately given that their gender identity is a determinant and differentiating factor with regard to their relation with society, the State and human rights law.

## 2. THE GENDERED CITY: VIOLENCE IN THE PUBLIC SPACE

### 2.1 *Gender as a social construct*

Gender is not an essential or empirical category pre-existing in nature. It is rather a way of categorizing individuals that has been historically and socially constructed. That is, the division of human beings between men and women does not correspond to an objective biological difference but to a false binary category that establishes what behavioural norms are adequate for and correspond to men and women respectively<sup>8</sup>. The meanings attached to what is being a woman and what is being a man, therefore, goes beyond the biological sex each of us have when we are given birth, and differs historically and between cultures<sup>9</sup>. As Lombardi states, recalling Beauvoir, ‘we are born as male or female; however, we are later socialised as men or women’<sup>10</sup>.

The social construction of gender identity means that every culture ascribes meaning to masculinity and femininity. Thus, a kid that is born with female genitals within a given culture and in a given period of time will be expected to develop her identity based on social assumptions on what is to be a woman in her culture and in this particular period of history. This same process will apply to a kid that is born with male genitals, whose identity will be shaped by social norms of masculinity as they are understood in his culture. In their interaction with society and family education, individuals are taught and learn, on an everyday basis, gendered norms of behaviour, of interaction with individuals as well as the different study, labour, hobbies or sexual orientation they should have according to their gender. These expectations therefore demonstrate that gender is not an independent and natural inner expression of one’s biological identity which means that individuals become gendered in their process of socialisation and thus acquire a gender identity<sup>11</sup>.

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<sup>8</sup> J. Butler, ‘Performative Acts and Gender Constitution: An Essay in the Phenomenology and Feminist Theory’, *Theatre Journal*, vol. 40, no. 4, 1988, p. 524.

<sup>9</sup> Butler, ‘Performative Acts’, p. 524.

<sup>10</sup> L. Lombardi, *Società, culture e differenze di genere. Percorsi migratori e stati di salute*, Milan, FrancoAngeli, 2005, p.10. (Translated by the author).

<sup>11</sup> For a detailed study on the process of gender socialisation see J. Archer and B.B Lloyd, *Sex and Gender*, 2nd edn., Cambridge University Press, Cambridge, 2002.

Gender identity, that is, the self-perception of an individual as pertaining to a specific gender, is not, as any other socially constructed identity, negative *per se*. Acknowledging that gender is an abstract concept that does not correspond to an empirical reality but rather to a culturally informed category does not prevent individuals to explore one's sense of self and to identify with a specific gender. Nonetheless, freedom to experiment with one's identity is accepted in society as long as the individual self-expression does not disrupt the normative gender order<sup>12</sup>. It is precisely for this reason that the focus should be placed on the problematics arising from the meanings ascribed to each gender during the process of creation and recreation of gender identity because it is the very mode in which gender categories are constructed and armoured what sustains and justifies discriminatory practices towards individuals.

The Western conception of gender has organised and classified society privileging maleness over femaleness, the latter being relegated to a secondary position, complementary to that of men but insufficient in itself in the hierarchy of gender. In this regard, Acker underlines that society not only creates gendered individuals, but that gender is an ideology around which society itself is constructed and reproduced<sup>13</sup>. That is, this sociologist understands gender not only as a form of self-identity but as a central 'organizing principle'<sup>14</sup> of human life based on an unequal system of power, by which women, who are considered to hold inferior physical, psychological and mental capacities than men consequently have unequal access to the social, economic, political and cultural spheres of human life. Acker uses the concept 'gendered institutions'<sup>15</sup> to underline that all social institutions, such as the family, law, politics, economy, schools and religion have been forged on the basis of gender differentiation and stratification that has normalised the all-pervasive relationship of dominance and power between men and women and has thus led to an interpretation, definition and control of such institutions from the point of view of the dominant group<sup>16</sup>. Therefore, the application of a gender-based perspective to analyse social phenomena is essential if all the social and cultural processes that support and make invisible at the same time patterns of power and unequal relations that discriminate against women in all spheres of life are to be dismantled.

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<sup>12</sup> Butler, 'Performative Acts', p. 522.

<sup>13</sup> See Acker, J., 'From Sex Roles to Gendered Institutions', *Contemporary Sociology*, vol. 21, no.5, 1992, pp. 565-569.

<sup>14</sup> Acker, 'From Sex Roles', p. 568.

<sup>15</sup> Acker, 'From Sex Roles', p. 567.

<sup>16</sup> Acker, 'From Sex Roles', p. 567.

## 2.2 Gender and space

The study of relationship between space and gender was developed in the 1980s and 1990s by feminist geographers that engaged and further developed critical Marxist geography. In the 1970s, critical Marxists geographers introduced a new intellectual and procedural approach to space that would consider spatial processes as a mirror of social processes. That is, these pioneers in critical spatial studies underlined the idea that, far from being neutral, space was the concretisation of economic and social structural processes and therefore, discriminatory social and economic exclusions would inevitably have their correspondent exclusions expressed spatially<sup>17</sup>.

However, feminist scholarship studied the interrelatedness between gender and space and underlined that space was not only the location of social processes, as the first critical geographers stated in the 1970s, but rather that what was at play was a bidirectional process by which ‘society [was] necessarily constructed spatially’<sup>18</sup>. One of the pioneers in introducing a feminist perspective in the analysis of the production and reproduction of space, Doreen Massey, stated that ‘geography matters to gender’<sup>19</sup> to underline that gender, as a social construct, is expressed spatially but that, in turn, spatial arrangements that divide societies into women’s sphere and men’s sphere serve to reinforce gender stratification and inequalities. This ‘socio-spatial dialectic’<sup>20</sup>, as was later defined by Soja, underlines that space is also one of Acker’s gendered institutions; therefore, the administration of who and how has access to space is a means to control social groups based on their gender. Processes of segregation and discrimination, consequently, are spatially reinforced and thus, discrimination also needs to be addressed spatially.

The first feminist studies that focused on gender-based spatial discrimination studied the historical spatialization of gender in Western societies, which has been reflected in an artificial divide between public and private space, the former being the domain of men and the latter the place of women, a distinction that corresponds to the sexual division of labour, in which men are given the role of bread-winners and women the task of care-givers. Or, in other words, men as waged producers and women as non-waged

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<sup>17</sup> B. Neely and M. Samura, ‘Social Geographies of Race: Connecting Race and Space’, *Ethnic and Racial Studies*, vol. 34, no. 11, 2011, p. 1936.

<sup>18</sup> D. Massey, *Space, Place and Gender*, Cambridge, Polity Press, 1994, p. 254.

<sup>19</sup> Massey, *Space*, p. 177.

<sup>20</sup> E. W. Soja, *Seeking Spatial Justice*, Minneapolis, University of Minnesota Press, 2010, p. 1.

reproducers<sup>21</sup>. In their respective analysis of capitalist production, Fortunati<sup>22</sup> and Federici<sup>23</sup> underline how the capitalist mode of production has given economic value in the form of wage to the work carried out outside the home by male workers, whereas tasks of reproduction —care work and housework— have been economically unvalued and presented as natural duties of women or even as ‘acts of love<sup>24</sup>’. This sexual division of labour however, presented as inherent roles of men and women, was, in fact, a means of controlling women and their identity by relegating them to the private space:

The public/private dichotomy (both the political and spatial dimensions) is frequently employed to construct, control, discipline, confine, exclude and suppress gender and sexual difference preserving traditional patriarchal and heterosexist power structures<sup>25</sup>.

Thus, physical isolation and economic dependency on the men’s waged labour have been the two main causes that have hindered the advancement and empowerment of women and have facilitated physical and sexual abuses committed with impunity against them in the domestic sphere. It is in this context that Spain, underlining the role that spatial boundaries have in restricting women’s equal participation in all spheres of life, points at the necessity of women to change spaces in order to ‘change the status hierarchy’<sup>26</sup> that discriminates against them. However, the increase in the participation of women in the public space of the cities resulting from their incorporation to the paid labour market underlined the extent to which the city, as a historical men-dominated terrain, was inadequate for and discriminated against women:

Dwellings, neighborhoods, and cities designed for homebound women constrain women physically, socially, and economically. Acute frustration occurs when women defy these constraints to spend all or part of the work day in the paid labor force. I contend that the only remedy for this situation is to develop a new paradigm of the home, the neighborhood, and the city; to begin to describe the physical, social, and economic design

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<sup>21</sup> L. Fortunati, *The Arcane of Reproduction. Housework, Prostitution, Labor and Capital*, New York, Autonomedia, 1995, pp.8-9.

<sup>22</sup> See L. Fortunati, *The Arcane of Reproduction*, 1995.

<sup>23</sup> See S. Federici, *Wages against Housework*, Bristol, Falling Wall Press, 1975.

<sup>24</sup> Federici, *Wages against Housework*, p.3.

<sup>25</sup> ‘Renegotiating Gender and Sexuality in Public and Private Spaces’, in Duncan, N. (ed.), *BodySpace: Destabilizing Geographies of Gender and Sexuality*, London and New York, Routledge, 1996, p. 128.

<sup>26</sup> D. Spain, *Gendered Spaces*, Chapel Hill and London, The University of North Carolina Press, 1992, p.233.

of a human settlement that would support, rather than restrict, the activities of employed women and their families<sup>27</sup>.

Drawing from Wilson's spirit to transform the cities in order to 'maximise the freedom and autonomy they offer and make it available to all classes and groups'<sup>28</sup>, feminist urbanists started to explore by the end of the 1990s how the application of a gender-based perspective in urban planning would help improving women's status in society. With the purpose to transform traditional male-centric conceptions of the city, urban planners have proposed new strategies of intervention at the urban spatial scale which Roberts divides in three pillars: the analysis of the gendered inequalities in the distribution of social and economic resources of the city, the recognition and acknowledgment of the differences between social groups in their use of the city and the encounter and consultation with those groups<sup>29</sup>.

In this regard, the 1994 European Charter for Women in the City represented a first step in bringing feminist analysis forward in order to put into practice and achieve gender-equal cities<sup>30</sup>. Funded by the Equal Opportunities Unit of the Commission of the European Union, this study in form of a charter underlines the extent to which women have been historically absent in the decisions that touch upon city planning and thus establishes four areas of intervention where policy makers should prioritise and apply the analysis, recognition and consultation processes mentioned above: town planning and environment, mobility, housing and social safety. Since then, several institutions at the international level such as UN Women have developed programmes to address spatial expressions of gender inequality and underlined the necessity of governments at all scales to include strategies of gender-mainstreaming in urban planning, especially focusing on the application of gender lenses in the analysis of the difference between men and women in their experience of security and safety in the city<sup>31</sup>, as it will be analysed in the following section.

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<sup>27</sup> D. Hayden, 'What Would a Non-Sexist City Be Like? Speculations on Housing, Urban Design, and Human Work', *Journal of Women in Culture and Society*, vol. 5, n. 3 suppl., 1980, p. 171.

<sup>28</sup> E. Wilson, *The Sphinx and the City. Urban Life, the Control of Disorder, and Women*, Berkeley, Los Angeles and Oxford, University of California Press, 1991, p. 9.

<sup>29</sup> M. Roberts, 'Introduction: Concepts, Themes and Issues in a Gendered Approach to Planning', in Madariaga, I. and Roberts, M. (eds), *Fair Shared Cities. The Impact of Gender Planning in Europe*, Burlington, Ashgate Publishing Company, 2013, pp. 7-8.

<sup>30</sup> The European Charter for Women in the City. Moving towards a Gender-Conscious City, Brussels, Commission of the European Union (Equal Opportunities Unit), 1994.

<sup>31</sup> See UN Women, *Safe Cities and Safe Public Spaces. Global Results Report*, New York, UN Women, 2017.

### 2.3 Violence against women in the urban space

As it has been mentioned above, gender inequalities are expressed and reinforced spatially. In the case of the public space of the cities, their planning, construction and distribution, although they are presented under an appearance of neutrality, do discriminate against women because they are not thought from a women's perspective and do not take into consideration the gendered differences between men and women in their use of the city. This results in the normalisation of direct expressions of gender-based discrimination against women which take place in the public space and that target their bodily integrity: violence against women (VAW) in the city. In this regard, Smaoun underlines that the differentiation between the private and the public space when analysing this form of discrimination against women is more artificial than real<sup>32</sup>. This means that violence in both spheres cannot be studied as two separate phenomena because the causes producing and justifying violence against women in the private and the public spaces emerge from a continuous, global and structural hierarchization of gender that discriminates against women and that expropriates women the control over their own body.

In her seminal study of the women's use of public spaces and their perception of security and safety in it, Valentine argued that women and girls navigate the streets of the city applying strategies of avoidance and self-protection due to their perception of insecurity and risk to their bodily integrity in certain areas of the urban space stemming from their actual or other women's experiences of acts of violence perpetrated against them by men in those or similar spaces, such as comments on their body, physical assault or sexual harassment<sup>33</sup>. This feminist scholar further underlined that women, from an early age, trace 'geographies of fear'<sup>34</sup> that lead them to internalise that isolated, deserted, poorly lit areas of the city and, in general, the totality of the urban space at night-time, are not women's spaces because they pose a risk to their safety and, consequently, must be avoided.

It must be stated, however, that this internalisation not only corresponds to particular and individual experiences of violence in the urban space but that it is rather socially created

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<sup>32</sup> S. Smaoun, *Violence Against Women in Urban Areas: An Analysis of the Problem from a Gender Perspective*, Nairobi, Urban Management Programme, 2000, p. 28.

<sup>33</sup> G. Valentine, 'The Geography of Women's Fear', *Area*, vol. 21, no. 4, 1989, p. 386.

<sup>34</sup> Valentine, 'The Geography of Women's Fear', p. 386.



and reinforced. That is, cultural norms that inform the inhabitancy of the cities normalise inequalities between women and men in their use and experience of this very space through gender stereotypes that establish how men and women must use it and behave in it and at what time of the day<sup>35</sup>. In this process, the consideration of public urban space as a male domain produces a feeling of inadequacy on the part of women that transit through or occupy this space that has multiple effects. On the one hand, it can lead to a self-imposed avoidance or restriction on the use of the street<sup>36</sup>. On the other hand, if the space is not avoided and an act of violence is perpetrated against a woman, the victim is likely to be re-victimised because of her presumed irresponsibility in not taking enough preventive measures to avoid the attack<sup>37</sup>.

Hence, in this logic, instead of pointing at the inherent inadequacy of the public space for the needs of women, it is the victim who is deemed to be the responsible of her safety. Nonetheless, what is at stake in all cases is an unequal access to public space and a restriction to women's freedom of movement, in which 'the architecture and the organisation of a city are directly connected with the violence which is to be noticed in the streets'<sup>38</sup> and, as such, 'women should no longer have to be considered as the only people in charge of their personal safety'<sup>39</sup>. Therefore, the application of a gender-based perspective in the analysis of the experiences of fear and violence in the cities is needed in order to challenge the norms on the use of urban space that perpetuate gender hierarchies and normalise VAW in the public space.

The international NGO ActionAid, in a global study on the impact of VAW in public spaces, points out that insecurity women face in the city stem from, on the one hand, social attitudes that normalise VAW and, on the other hand, urban insecurities that foster this kind of violence<sup>40</sup>. In other words, all forms of violence, either physical, sexual or psychological, that are inflicted against women and girls by men in all spheres of women's life, are exacerbated in the public space by poor urban infrastructures and by the lack of effective preventive and protective measures in the form of both social —by

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<sup>35</sup> A. Falú, 'Violencias y discriminaciones en las ciudades', in Falú, A. (ed.), *Mujeres en la ciudad: de violencias y derechos*, Santiago de Chile, Ediciones SUR, 2009, p. 23.

<sup>36</sup> Valentine, 'The Geography of Women's Fear', p. 389.

<sup>37</sup> Falú, 'Violencias y discriminaciones', p. 23.

<sup>38</sup> The European Charter for Women in the City, p. 16.

<sup>39</sup> The European Charter for Women in the City, p. 16.

<sup>40</sup> ActionAid, *Women and the City I: Examining the Gender Impact of Violence and Urbanisation. A comparative study of Brazil, Cambodia, Ethiopia, Liberia and Nepal*, 2011, p. 13.

other citizens that witness the attacks—, and legal sanctions —by law enforcement bodies. Thus, it has been reported that the application of a gender-aware urban planning<sup>41</sup> could reduce both the perception of insecurity and actual violence against female urban dwellers by simply improving street lighting or promoting the creation of adequate transport services adapted to women's routes and times of use.

This does not mean, however, that public policies at the city level must be directed to reduce women's time spent in the street, because doing so would represent a further perpetuation of gender stereotypes and inequalities. It rather means adapting the city to women's and girl's necessities so that they can use, enjoy and participate in the public space of the city in equality with men. Nonetheless, changing infrastructure and applying gender lenses to urban planning is only but a first step in the reduction of VAW in public spaces. Given the structural prevalence of this human rights abuse in a gender-hierarchical society, architectural modifications and corrections represent only but a first step in the eradication of VAW in public spaces. Social and cultural roles ascribed to women and that discriminate against them must be addressed in parallel to the construction of gender equal cities because it is only through a holistic approach to the phenomenon that it can be eliminated.

In this regard, the analysis of women's feeling of insecurity, fear and actual violence in public spaces must consider social and identity differences between women given that violence perpetrated against them in public spaces is not only determined by their gender, but also by their age, social class, sexual orientation, ethnicity, race and lifestyle, which shape the typology as well as the spaces where this violence occurs<sup>42</sup>. As in the case of gender as a social category, those identities are expressed spatially, and in turn, the unequal distribution of space contributes to the perpetuation of class, sexual and racial hierarchies and urban segregation<sup>43</sup>. In this sense, the international NGO Action Aid underlines that it the most discriminated and marginalised women in society that are the

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<sup>41</sup>B. Wotha, 'Urban Governance and Gender-aware Planing', in Madariaga, I. and Roberts, M. (eds), *Fair Shared Cities. The Impact of Gender Planning in Europe*, Burlington, Ashgate Publishing Company, 2013, pp. 91 – 106.

<sup>42</sup> L. Bondi and D. Rose, 'Constructing Gender, Constructing Urban: A Review of Anglo-American Feminist Urban Geography', *Gender, Place and Culture: A Journal of Feminist Geography*, vol. 10, no. 3, 2003, p. 232.

<sup>43</sup> J.F. Inwood and R. A. Yarbrough, 'Racialized Places, Racialized Bodies: the Impact of Racialization on Individual and Place Identities', *GeoJournal*, vol.75, no. 3, 2010, p. 299.

ones more vulnerable to violence in public urban spaces, since they have less choices about the spaces of the city that they can use in relation to other women<sup>44</sup>.

When it comes to violence against street-based women in prostitution, Smaoun indicates that the high levels of stigmatisation and marginalisation that affect this collective in all societies makes them an extremely vulnerable group to VAW in public spaces<sup>45</sup>. Women in prostitution are sexually harassed, kidnaped, beaten and raped in higher levels than any other group of women<sup>46</sup>. Additionally, such acts of violence against women in prostitution are largely condoned because the intersecting institutional discrimination those women are exposed to legitimises non-State and State violence against them and fosters community attitudes that normalise violence against women in prostitution<sup>47</sup>. Paradoxically, current initiatives that work at the international level to promote the creation of gender fair cities consider the presence of women in prostitution in the streets as a factor contributing to the insecurity of women in the public space of the cities<sup>48</sup>—as if prostitutes were not women—, thereby exacerbating the marginalisation and stigmatisation of this group of individuals and perpetuating the historical politics of exclusion and segregation from the urban spaces that has characterised Western State practice in relation to street-based prostitution.

The history of outdoor prostitution and its spatial segregation is inextricably linked to the creation and development of the cities in the urban West and the strict control exercised over the female body in the public space. In that sense, in her historical revision of street prostitution, Ruhne argues that the increasing presence of women in prostitution in the European cities of the 18<sup>th</sup> and 19<sup>th</sup> centuries was perceived as a threat to the morals of the ‘bourgeois gender order’<sup>49</sup> because their very existence challenged the artificial role of domesticity ascribed to women. The presence of the prostitute’s public sexuality in the street called into question gender stereotypes about the body and sexuality of the ideal woman, who was expected to be pure, monogamous, to engage in sexual intimacy only

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<sup>44</sup> ActionAid, *Women and the City I*, 2011, p. 12.

<sup>45</sup> S. Smaoun, *Violence Against Women in Urban Areas*, p. 31.

<sup>46</sup> ActionAid, *Women and the City III: A Summary of Baseline Data on Women’s Experience of Violence in Seven Countries*, ActionAid International, 2015, p. 31.

<sup>47</sup> ActionAid, *Women and the City III*, p. 22.

<sup>48</sup> The NGO Womenability’s report on the creation of safe cities for women claims that ‘the presence of crime and prostitution in the city play a major role in women feeling unsafe and unwelcome in the city, as it can directly evoke gender-based violence and the exploitation of women’, in Womenability, *Solutions for Gender Fair Cities. An International Action-Research Report*, Paris, Womenability, 2017.

<sup>49</sup>R. Ruhne, ‘Space Power(s) Gender-Socio-Spatial Control of Prostitution and the Bourgeois Gender Order’, *Les cahiers du CEDREF*, no. 21, 2014, p. 7.

as a culmination of romantic love and to be submissive to her husband's sexual will<sup>50</sup>. Considering them morally and sexually disruptive, European authorities adopted in the mid-nineteenth century public policies of segregation aimed at controlling prostitution in order to protect public order and morals<sup>51</sup>, by which women were subject to strict police controls that would either clear them out of the streets or force them to work in State-regulated brothels<sup>52</sup>.

Collecting those accounts about the moral dangers arising from the presence of non-sexually normative women in the public space, Hubbard argues that current perceptions and State practice vis-à-vis prostitution in the cities of the West still today apply a management of the urban space informed by the necessity to protect public morality. Thus, street prostitution is socially controlled through the legal restriction on the use of public areas of the cities, a prohibition that forces them to 'work by soliciting in public places in a way that heightens their vulnerability to violence and exploitation'<sup>53</sup>. In this regard, the tyranny of gender, defined by Doan as the tyranny that 'arises when people dare to challenge the hegemonic expectation for appropriately gendered behaviour in Western society'<sup>54</sup> is notoriously exercised in the urban management of street prostitution. The challenge posed by the presence of 'amoral' women in the urban space is channelled through its segregation and it is precisely this very segregation that reinforces the idea of amorality and marginality with which women in prostitution have traditionally been labelled. Nonetheless, if the socio-spatial dialectic theory is applied to analyse the effects of the segregation of street prostitution, it is acknowledged that prostitutes' spatiality is socially created and hence, that changing the discriminatory spatial distribution of street prostitution has the potentiality to reduce women in prostitution marginal position in society that lies at the heart of the acts of violence committed against them in public urban spaces.

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<sup>50</sup> Ruhne, 'Space Power(s)', p 8.

<sup>51</sup> J. R. Walkowitz, 'Sexualidades peligrosas', in Duby. G. and Perrot, M. (eds.), *Historia de las mujeres en Occidente. El siglo XIX. Volumen 4*, trans. Galmarini, M. A., Madrid, Taurus, 1993, p. 397.

<sup>52</sup> Walkowitz, 'Sexualidades peligrosas', p. 398.

<sup>53</sup> Hubbard, *Sex and the City*, p. 25.

<sup>54</sup> P. Doan, 'The Tyranny of Gendered Spaces. Reflections from beyond the Gendered Dichotomy', *Gender, Place and Culture: A Journal of Feminist Geography*, vol. 75, no. 5, 2010, p. 635.

### 3. OUTDOOR PROSTITUTION IN ITALY: CRIMINALISATION AND SEGREGATION

The previous chapter has analysed how gender stereotypes shape the distribution and use of space but also how spatial arrangements reinforce these very gender hierarchies. In this analysis, the chapter has particularly focused on the public space of the cities, where gender inequalities are expressed through inadequate infrastructure and gender-blind urban planning that foster and normalise VAW. It has been underlined that violence in public space affects women differently depending on their identity and that women in prostitution, as a socially marginalised and a historically segregated group in urban spaces are particularly vulnerable to it. This chapter will focus on the spatial segregation of street prostitution that has been applied in Italy since 2008, when local governments started a politics of prohibition of prostitution in the public spaces of the cities, even though the national law regulating prostitution in the country does not criminalise it.

In order to offer a clear picture of the reality of prostitution in the country, the chapter has been divided into six sections. The first one provides an overview of the evolution of prostitution in the country since the 1990s within the framework of feminisation of migration. The second section analyses the provisions included in the Italian national legislation devoted to the phenomenon of prostitution and in force since 1958. The third section focuses on the reality of outdoor prostitution in Italy and provides data on the numbers and origin of women working in street prostitution today. Underlining the effects that the increase of the presence of migrant women in the street had in shaping public opinion and local people's feeling of insecurity in the street, the fourth section analyses the national Law 125/2008, which conceded municipalities more power to regulate in matters of urban security. Since then, legislation approaching street prostitution as a source of criminality and insecurity, and thereby prohibiting it, has been passed at the local level all around the country, with a special prevalence in the Northern regions. Thus, Padova has been taken as a paradigmatic example of the municipalities that have legislated the most in terms of street prostitution and, as such, the fifth section of this chapter analyses the content and effects of two municipal ordinances passed in this city that segregate street prostitutes into space. Finally, the last section is devoted to examining the effects that the prohibition of street prostitution has in the safety and bodily integrity of women in prostitution themselves.

### 3.1 Facts and figures

The numbers and origin of people working in prostitution in Italy have fluctuated over the years and have been shaped by global events that have provoked an increase in intensity and numbers of migratory movements at both the regional and international levels. Until the 1980s, the sector was predominantly dominated by Italian women. However, by the end of the 1980s, Italy experienced an internationalisation of prostitution with the first arrival of foreign women coming from Nigeria, that was complemented at the beginning of the 1990s, coinciding with the fall of the Soviet Union and the troubles in the Balkans, with arrivals from Albania, Moldova, Belarus, Slovakia and Ukraine<sup>55</sup>. In the last two decades, Italy has witnessed an increase in the arrivals of Romanian and Bulgarian women after the 2007 enlargement of the European Union, and Nigerian women arriving from the Libyan route to the Italian territory<sup>56</sup>.

The internationalisation of the Italian sex industry should be understood within the feminisation of migration framework. According to Catarino and Morokvasic, the use of the concept ‘feminisation of migration’ does not correspond to an increase in the participation of women in transnational migratory processes; it is rather an analytical tool applied to understand the gendered ways in which international migration is experienced<sup>57</sup>. Hondagneu-Sotelo points out that women have been historically unrepresented in migration studies or, in other words, that ‘gender is still ghettoized in immigration scholarship<sup>58</sup>’ by either theorising migration exclusively as a male experience or by not applying gender-sensitive analyses to female migration projects. Acknowledging the gendered processes underpinning migration movements is therefore understanding that the situation in the country of origin, the journey as well as the settling process in the country of reception are differently experienced by men than by women. This thus underlines the necessity to analyse the push and pull factors for migration from a gender perspective.

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<sup>55</sup> P. Degani and L. Perini, ‘The Italian Public Policies Frame on Prostitution and the Practical Overlapping with Trafficking: an Inevitable Condition?’, *Peace Human Rights Governance*, vol. 3, no. 1, 2019, pp. 35-68, p. 42.

<sup>56</sup> Degani and Perini, ‘The Italian Public Policies Frame on Prostitution’, p. 42.

<sup>57</sup> C. Catarino and M. Morokvasic, ‘Femmes, genre, migration et mobilités’, *Revue Européenne des Migrations Internationales*, vol. 21, no. 1, 2005, pp. 7-27, p.8 – 9.

<sup>58</sup> P. Hondagneu-Sotelo, P., ‘New Directions in Gender and Immigration Research’, in L. Oso Casas and N. Ribas Mateos, (eds.), *The International Handbook on Gender, Migration and Transnationalism*, Cheltenham, Edward Elgar Publishing, 2013, pp. 233 – 245, p. 233.

In order to have a clear picture about the overwhelming presence of female migrants in the Italian sex industry, the pull factor represented by the labour dynamics in the country should be closely analysed, since it has a clear gender dimension directly linked to both the process of emancipation of Western women and the demand for cheap and unskilled labour in informal areas of the Italian economy<sup>59</sup>. Defined as care crisis in feminist scholarship<sup>60</sup>, the emancipation of Western women represented by an increase in the female participation in the public and remunerated labour market historically occupied by men has created a socioeconomic pull factor that demands for unskilled labour in the reproductive sector in Western countries, which has been filled with female migrant labour<sup>61</sup>. Significantly, studies on migrant women in Italy carried in the early 2000 described that by the end of the 1990 —the decade that, as mentioned above, marked a turning point in the origin of the workers in the Italian sex industry— non-EU migrant women occupied the job positions of the underground, low-skilled and gendered economy, working as housewives, domestic servants and/or prostitutes<sup>62</sup>.

This phenomenon was described in 2000 by Hochschild as global care chains, meaning a ‘series of personal links between people across the globe based on the paid or unpaid work of caring<sup>63</sup>’, which reflect the effects of globalisation in the sexual division of care and reproductive work intersected by elements of class, gender and race. In its original definition, Hochschild referred only to tasks of child caring and elder caring. However, Yeates underlined the necessity to broaden the concept by introducing other types of care

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<sup>59</sup> V. Chell-Robinson, ‘Female Migrants in Italy: Coping in a Country of New Immigration’, in F. Anthias and G. Lazaridis (eds.), *Gender and Migration in Southern Europe. Women on the Move*, Oxford, Berg, 2000, pp. 103-123, p. 105.

<sup>60</sup> For an extensive review of the concept, see C. Verschnur, ‘Theoretical Debates on Social Reproduction and Care: the Articulation between the Domestic and the Global Economy’, in L. Oso Casas and N. Ribas Mateos, (eds.), *The International Handbook on Gender, Migration and Transnationalism*, Cheltenham, Edward Elgar Publishing, 2013, pp. 145-159. For an analysis of the consequences of the care crisis in global development see UN INSTRAW, ‘Global Care Chains’, *Gender, Migration and Development Series*, Working Paper n.2, Santo Domingo, UN INSTRAW, 2009.

<sup>61</sup> One should therefore remain critical to the process of emancipation of Western women since, in terms of participation in labour and public life, it has only been possible because of the presence of non-Western migrant women in developed countries who have taken on the responsibility of the precarious reproductive work previously assigned to the now emancipated women. Intersectional forms of oppression have gone unchallenged during this process. Rather the opposite, it has reinforced them by, on the one hand, not ‘degendering’ nor giving value to unpaid social care and precarious reproductive work and, on the other hand, deeming migrant women, because of their class, ethnicity and gender, as the adequate individuals to fulfil this role.

<sup>62</sup> M. Orsini-Jones and F. Gattullo, ‘Migrant Women in Italy: National Trends and Local Perspectives’, in F. Anthias and G. Lazaridis (2000).

<sup>63</sup> A. R. Hochschild, ‘Global Care Chains and Emotional Surplus Value’, in W. Hutton and A. Giddens (eds.), *On the Edge*, London, Jonathan Cape, 2000, p.131.

in the global care chain in order to ‘capture the diversity of care workers and care contexts<sup>64</sup>’, thus including sexual services.

Therefore, the production of global care chains, which include both care and sexual work, respond to global economic processes that are the result of, on the one hand, socioeconomic inequalities between the global North and the global South by which changes in the labour market of the so-called developed countries demand for cheap female migrant labour to fill these roles. In this sense, Mohanty underlines the necessity to ‘look at, name and see the raced and classed communities of women from poor countries, as they are constituted as workers in sexual, domestic, and service industries; as prisoners; and as household managers and nurturers<sup>65</sup>’ in order to ‘make gender and power visible in the processes of global restructuring<sup>66</sup>’. On the other hand, these processes also respond to gender inequalities between men and women within both Northern and Southern countries<sup>67</sup>, which reflect a structural discrimination against women in the socioeconomic sphere concretised in the lack of equality between men and women in both private or domestic work and public work.

### *3.1.1 Human trafficking for purposes of sexual exploitation in Italy*

The above-mentioned factors shaping the experience of female migration are the risk elements for the development of trafficking of human beings (THB) for the purpose of sexual exploitation affecting women<sup>68</sup>. Gendered socioeconomic inequalities in both the country of origin and of reception of female migrants situate the latter in a position of vulnerability to be trafficked. This does not mean, however, that women are inherently vulnerable or that they do not hold individual migratory projects, but rather, as Agustín points out, that ‘informal work often comes about as the only available way to earn a living<sup>69</sup>’ for migrant women. That is, intersectional forms of discrimination and gendered

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<sup>64</sup> N. Yeates, ‘Global Care Chains: Critical Reflections and Lines of Enquiry’, *International Feminist Journal of Politics*, vol. 6, no. 3, 2004, p.379.

<sup>65</sup> C.T. Mohanty, ‘“Under Western Eyes” Revisited: Feminist Solidarity through Anticapitalist Struggles’, *The University of Chicago Press*, vol. 28, no. 2, 2003, p. 526.

<sup>66</sup> Mohanty, ‘Under Western Eyes’, p. 526

<sup>67</sup> F. Anthias, ‘Metaphors of Home: Gendering New Migrations to Southern Europe’, in F. Anthias and G. Lazaridis (2000), p.16.

<sup>68</sup> The concept ‘trafficking in human beings’ is used as defined in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (2000).

<sup>69</sup> L. M. Agustín, *Sex at the Margins. Migration, Labour Markets and the Rescue Industry*, London and New York, Zed Books, 2007, p.21.



inequalities as well as the presence of channels of migration characterised by restrictive immigration policies push women in migration into labour informal sectors often dominated by human traffickers<sup>70</sup>.

In Italy there is not a uniform system of identification of the victims of THB; nonetheless, the Department of Equal Opportunities presents on an annual basis data on the number of victims who have received assistance in the country, which depicts the prevalence of female migrants victims of trafficking for sexual exploitation in Italy. In 2017, 85,6% of victims assisted were female and 78% of the victims of THB were victims of sexual exploitation. In 2018 both numbers increased: 92,6% of the victims assisted were female and, in relation to the form of exploitation, 90% out of the total victims were forced into sexual exploitation<sup>71</sup>. The predominant countries of origin of the victims in 2017 and 2018 were Nigeria, Romania, Morocco, Bangladesh, Pakistan, Albania and Bulgaria<sup>72</sup>. It should be noted, however, that as the GRETA Committee underlined with concern in its 2019 report monitoring the implementation of the COE Convention on Action against Trafficking in Human Beings in Italy, the data published does not reflect the full picture of THB in Italy, since the data collected refers only to victims assisted and not to presumed victims and non-assisted victims<sup>73</sup>.

Additionally, it is worth mentioning the special risk of being trafficked for purposes of sexual exploitation that Nigerian women and girls face. According to the IOM, 80% of female individuals arriving in Italy from Nigeria are likely to be victims of trafficking for sexual exploitation<sup>74</sup>. However, as Degani and Perini correctly point out, in the Italian context:

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<sup>70</sup> Note UNGA Res. 71/167 UN Doc A/RES/71/167: “pervasive gender inequality, poverty, unemployment, lack of socioeconomic opportunities, gender-based violence, discrimination and marginalization and persistent demand for trafficked women and girls are among the underlying causes that make women and girls vulnerable to trafficking”.

<sup>71</sup> Council of Europe, Group of Experts on Action against Trafficking in Human Beings, *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Italy. Second evaluation round*, GRETA (2018)28 (25 January 2019).

<sup>72</sup> COE – GRETA, *Report on Italy* (2018)28.

<sup>73</sup> COE – GRETA, *Report on Italy* (2018)28.

<sup>74</sup> International Organization for Migration, *Human Trafficking through the Central Mediterranean Route: Data, Stories and Information Collected by the International Organization for Migration*, Rome, IOM, p.9.

It is important to note that not all foreign women and girls who arrive in Italy through illegal ways are then exploited in prostitution and it is important to challenge and dismantle the idea that all women in prostitution are trafficked and exploited<sup>75</sup>.

Thus, the subjective migratory experiences together with the particular migratory projects of each female migrant; their journey from the country of origin to the receiving country; the working conditions which they face; the socioeconomic dynamics in their sending country as well their individual family duties should not be disregarded if a holistic understanding of the subjective experiences of migration projects ending up in prostitution wants to be achieved in order to adopt comprehensive policies that have the capacity to respond to the criticalities that stem from the internationalisation of prostitution in Italy.

### 3.2 *The legal approach to prostitution in Italy*

The Merlin Law passed in 1958 and still in force nowadays in Italy takes an abolitionist legal approach vis-à-vis prostitution<sup>76</sup>. The final goal of the abolitionist model is to eliminate prostitution since it is considered a form of violence against women and a representation of the patriarchal domination over the female body that perpetuates inequality between men and women<sup>77</sup>. This consideration is in itself problematic. When the Merlin Law was passed back in 1958, almost the totality of people in prostitution were women; however, even though the sex industry is still mostly female, there is an increasing number of transsexual individuals —mostly male to female— as well as some men selling sex in Italy, as will be analysed in the following sections. A second consideration that must be underlined regarding the abolitionist approach is that it does not conceive the possibility to freely choose prostitution as one's profession; it rather considers that the practice of prostitution inevitably involves an element of coercion.

Nonetheless, the 1958 Law does not prohibit the practice of prostitution itself nor disallows clients to pay for sex, thus applying a *laissez-faire* approach, as Immordino and

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<sup>75</sup> Degani and Perini, 'The Italian Public Policies Frame on Prostitution', p.42.

<sup>76</sup> L. 20 febbraio 1958, n. 75, Abolizione della regolamentazione della prostituzione e lotta contro lo sfruttamento della prostituzione altrui.

<sup>77</sup> J. Outshoorn, 'Debating Prostitution in Parliament. A Feminist Analysis', *European Journal of Women's Studies*, vol. 8, n. 4, 2001, p. 473.

Russo describe it, by which prostitution is tolerated and legal but not regularised as a job<sup>78</sup>. What is prohibited and criminalised, however, is the existence of brothels, which until 1958 were regulated by the state. This ban on indoor prostitution *de facto* means that the space left for this activity is the street (outdoor prostitution).

Article 3 of the law contains provisions on the criminalisation of all those acts providing an economic benefit to individuals other than prostitutes<sup>79</sup>. Thus, it prohibits and criminalises hiring a person to exercise prostitution; aiding or abetting prostitution; enticing prostitution and exploiting prostitution. It is worth mentioning the ambiguous elements inherent to the crime of abetment that Degani and Perini highlight. On the one hand, they mention that the provision has been used to criminalise relatives, partners and friends of the individual in prostitution; on the other hand, it also affects prostitutes' initiatives to self-organise<sup>80</sup>. In this respect, the law regulating prostitution in Italy denotes a traditional liberal feminist approach that considers prostitutes as victims with no agency that need to be helped and saved<sup>81</sup>. Significantly, Chapter II of the law is devoted to the 're-education' of prostitutes and contains provisions aiming at assisting them in 're-joining an honest lifestyle' after the closure of brothels (Art. 8). Finally, it is worth mentioning the provisions contained in Article 7, which prohibit public security authorities, health authorities and administrative authorities to record in a register, either directly or indirectly, women who presumably or effectively work in prostitution.

### *3.3 Street prostitution in Italy*

#### *3.3.1 Historical evolution*

The internationalisation of prostitution in Italy in the 1980s-1990s shaped the spatiality of commercial sex in the country. Until that period, the streets of Italy were mostly occupied by autochthonous sex workers working in commercial sex with a certain degree of voluntariness although in the 1970s a first wave of Italian prostitutes moved from the streets into apartments as a consequence of the police repression exercised collaterally

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<sup>78</sup> G. Immordino and F. Russo, 'Regulating Prostitution: Theory and Evidence from Italy', *CSEF Working Paper no. 308*, 2012, p. 3.

<sup>79</sup> G. Immordino and F. Russo (2012), p. 6.

<sup>80</sup> Degani and Perini, 'The Italian Public Policies Frame on Prostitution', pp. 44 – 45.

<sup>81</sup> L. M. Agustín, 'A Migrant World of Services', *Social Politics*, vol. 10, no. 3, 2003, p. 378.

against prostitutes under the anti-terrorist laws passed in Italy in the Years of Lead ('Anni di piombo' in Italian)<sup>82</sup>. Additionally, the opening of new segments of the labour market to women offered an incentive to many autochthonous sex workers to abandon the streets and join regularised professions. In the 1980s, therefore, the dimension of outdoor prostitution in Italy was very reduced.

However, the arrival of the first trafficked women for purposes of sexual exploitation coming from Nigeria in the last decades of the 1980s reactivated street prostitution and created more demand since stereotypical ideas about the sexuality of African women fed the imagination of Italian clients<sup>83</sup>. Finally, the visibility of prostitution in outdoor settings dramatically increased as a consequence of the increase of arrivals of foreign women coming from the former Soviet Union, the former Yugoslavia, Albania and Eastern Europe who predominantly started working in the street. This, in turn, created a 'decrease in the price of the services, a broad deregulation and a harsh competition between the newcomers and the 'old' ones<sup>84</sup>' which made the few Italian women still working in the streets abandon outdoor settings.

### 3.3.2 *Outdoor prostitution today*

Nowadays, the picture of the Italian outdoor prostitution reflects the changes occurred in the 1990s onwards. Currently, the street is predominantly migrant and female, although there appears to be a small number of men as well as a remarkable number of transsexual women. The numbers that will be exposed hereafter are the result of three national mappings on outdoor prostitution in Italy carried out in 2017 and 2018 by mobile street units<sup>85</sup> and coordinated by the National Anti-Trafficking Platform, the National Coordination Centre for Home Affairs and the National Anti-Trafficking Toll Free Number of Italy<sup>86</sup>. The aim of mapping street prostitution is to collect data to better

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<sup>82</sup> C. Corso, C. and A. Trifirò, *E siamo partite! Migrazione, tratta e prostituzione straniera in Italia*, Firenze, Giunti, 2003, p. 23.

<sup>83</sup> Corso and Trifirò, *E siamo partite*, p. 23.

<sup>84</sup> Corso and Trifirò, *E siamo partite*, p.24. Translation by the author.

<sup>85</sup> Street Units in Italy operate since the 1970s in different areas of intervention (drug addicts, homeless people and people in prostitution) with the principles of health prevention and harm reduction. In the case of prostitution and prevention of trafficking for sexual exploitation, they carry health prevention activities, they provide information and legal support to people in prostitution, and work towards the creation of bridges between potential victims of trafficking for sexual exploitation and the anti-trafficking Italian programme (P. Degani and L. Perini, 2019, pp. 54 - 55)

<sup>86</sup> Degani and Perini, 'The Italian Public Policies Frame on Prostitution', p. 55.

monitor and address the changes occurring within the phenomenon of street prostitution at the national level.

The first mapping was carried during the night of 3 May 2017, it covered 57% of the Italian territory and 11 out of 14 of the metropolitan cities of Italy (Torino, Genova and Palermo are missing), where 57% of the populations inhabits<sup>87</sup>. The second mapping was carried during the night of 26 October 2017, it covered 61% of the Italian territory and 13 out of 14 of the metropolitan cities of Italy (Palermo is missing), where 75% of the population inhabits<sup>88</sup>. Finally, the third mapping was carried during the night of 5 June 2018 and during daytime on 7 June 2018, it covered 64% of the Italian territory and 13 out of 14 of the metropolitan cities of Italy (Bari is missing), where 75% of the population inhabits<sup>89</sup>.

The numbers of people in prostitution found at night in all three mappings remain constant: 3280 individuals in May 2017, 3728 in October 2017 and 3294 in June 2018. Similarly, there is a stability in the number of individuals in the street if analysed by gender, with a remarkable predominance of women, that in all three mappings show they are the group conforming around 81% and 82% of the total. The presence of transsexual women diminishes from 18% in May 2017 to 16% in June 2018. The number of men in prostitution remains constant at 1% in all three mappings.

In relation to the national origin of people in prostitution mapped in 2017 and 2018, the three mappings show a very limited presence of Italian individuals working in outdoor settings compared to the migrant population. The numbers of Italians oscillate between 87 and 92 individuals, which represent 2% of the total, whereas Eastern European — including Romanian, Albanian, Bulgarian, Ukrainian and Moldavian women— and African —predominantly Nigerian women—, represent the highest numbers. In 2017, Eastern European women in outdoor prostitution represented 40% of individuals and in 2018 this group constituted more than half per cent of women in prostitution (54,1%). In the case of African women, they proved to be the second largest regional group in prostitution: in 2017 they comprised the 38% of the total and in 2018, the 39,5%.

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<sup>87</sup> Unità di Contatto Italiane, Numero Verde Nazionale Anti-Tratta, *Mappatura Nazionale della Prostituzione di Strada 3 maggio 2017*, 2017.

<sup>88</sup> Unità di Contatto Italiane, Numero Verde Nazionale Anti-Tratta, *Mappatura Nazionale della Prostituzione di Strada 26-27 ottobre 2017*, 2018.

<sup>89</sup> Unità di Contatto Italiane, Numero Verde Nazionale Anti-Tratta, *Mappatura Nazionale della Prostituzione di Strada 5 e 7 giugno 2018*, 2018.

It should be noted, however, that if the absolute numbers provided by the three mappings are closely analysed, a dramatic decrease in the presence of African women in outdoor prostitution can be observed, given that it presents a diminution of 348 women in 2018 since the mapping of May 2017 (1434 individuals in May 2017 and 1086 in June 2018). This decrease, however, is not due to the incorporation of African women into other labour sectors but rather, as explained in the analysis provided in the mappings, due to the general diminution of Nigerian women arriving in Italy: in 2016 11009 Nigerian women arrived in Italy whereas in 2018, only 213 reached the Italian coasts.

Significantly, this data provides evidence on the effects that female migration fluxes arriving in Italy have in shaping the national composition of individuals in prostitution. The example of the diminution of Nigerian women in prostitution in 2018 is paradigmatic in the sense that it underlines the ways in which commercial sex is one of the informal and unregulated labour markets that absorbs the majority female migrant labour arriving in Italy in precarious conditions. Additionally, the minimal participation of Italian women in outdoor commercial sex vis-à-vis that of migrant women shows how street prostitution nowadays has clear ethnic, racial and class hierarchy dimensions that are expressed spatially. As Hubbard points out ‘hierarchy of sex work has low-class street work at its base and high-class flat work and escort agency work at its apex<sup>90</sup>’. And this, in turn, influences the levels of tolerance citizens have towards the presence of these individuals in the public city space.

In this regard, analysing the changes that the internationalisation of prostitution in Italy brought into the street, Pia Covre, from the Committee for the Civil Rights of Prostitutes, a former Italian sex-worker herself and current activist for the rights of sex workers, underlines the effects that the visibilisation of street prostitution represented by these arrivals had in shaping the debate about prostitution in Italy. She mentions that ‘the social alarm that the presence of these women in the street created within the Italian population was accompanied by racist attitudes that lead to citizen protests and demonstrations’ in the main cities of Italy<sup>91</sup>, which asked the local and national governments for an increased regulation of this activity.

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<sup>90</sup> Hubbard, *Sex and the City*, p.24.

<sup>91</sup> P. Covre, Personal Interview, 17 May 2019.

### *3.4 The security approach to prostitution: The Law 125/2008*

The Decree Law 92 of 23 May 2008<sup>92</sup> converted in Law 125 of 24 July 2008<sup>93</sup> untitled ‘Law regarding urgent measures on public security’ contains twelve articles aimed at the control and eradication of the elements considered to be the source of insecurity in Italy: drug dealing, begging, illegal occupation of buildings, violence, damage to public assets, urban degradation and prostitution. This law amends Article 54 of the 2000 Law on the Competences of Municipalities<sup>94</sup> and extends the power of mayors in the regulation and legislation on matters of urban security.

On the one hand, it should be noted that this law includes a set of provisions that merge the discourse of the regulation of migration with that of urban security in one single document, by providing mayors mechanisms in the field of control of irregular migration by which they are given legal tools to cooperate with judicial and public security authorities in the identification of irregular migrants that will subsequently be expelled to their countries (Art. 6.5 bis). On the other hand, the law establishes that mayors, as representatives of the government, have the authority to adopt ordinary and urgent measures to contrast problems of urban security and public decorum in the cities in order to better contrast criminality at the local level (Art. 6.4) in cooperation with the local police (Art.6.2).

Acknowledging the necessity to define the concepts of ‘public decorum’ and ‘urban security’ mentioned in Article 6.4 of the Law 25/2008 in order to clarify the scope of application of the text, the Minister of the Interior Roberto Maroni passed a two-article decree in August 2008<sup>95</sup>. In the text, ‘public decorum’ is defined as the physical integrity of the population; and ‘urban security’ as a public good that needs to be protected at the local level to ensure the respect for the norms that regulate civil life as well as to improve both the living conditions in urban centres and the social cohesion within the population. But, most importantly in this decree is Article 2, which works as an exclusionary statement that underlines exactly who is the population mentioned in Article 1 that needs to be protected. It underlines that drug dealing, prostitution and violence correlated to

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<sup>92</sup> D.L. 23 maggio 2008, n. 92, Misure urgenti in materia di sicurezza pubblica.

<sup>93</sup> L. 24 luglio 2008, n. 125, Conversione in legge, con modificazioni, del decreto-legge 23 maggio 2008, n. 92, recante misure urgenti in materia di sicurezza pubblica.

<sup>94</sup> D.Lgs. 18 agosto 2000, n. 267, Testo Unito delle leggi sull’ordinamento degli enti locali.

<sup>95</sup> D.M.I 5 agosto 2008, Incolumità pubblica e sicurezza urbana: definizione e ambiti di applicazione.

alcohol abuse are phenomena producing urban degradation and affecting the quality of the urban environment. And as such, they should be regulated by the municipalities of the Italian cities. Moreover, it adds that behaviours such as street prostitution may offend public decency or may seriously disturb the free use of public space. It is clear, then, that drug dealers, drug addicts, alcoholics and outdoor prostitutes become a category of individuals not recognised under the meaning of ‘population’, but that are rather an ambiguous threat to the ‘real’ population.

The Law 125/2008 is the culmination of what Pitch theorises as a process of redefinition of the concept ‘security’ in the Italian public discourse<sup>96</sup>. Previously thought as a term defining an inclusive social protection aimed at broadening the distribution of wealth amongst all the population, ideas of security were latter reshaped to include policies articulated around the idea of protection of the safety of a restricted number of individuals, whose integrity, both moral and physical, is thought to be endangered by the presence of the source of criminality in the urban environment: the non-population. In this discourse, the city, as a container of an ever-changing multiplicity of identities, origins, skin colours as well as more or less illicit sources of earning a living, seems to be the arena for a fight over the monopoly of public space, which needs to be cleaned and sterilised<sup>97</sup> if social anxieties about the safety of the population are to be reduced.

In order to do that, the 2008 Law on Security provides the implementation of administrative sanctioning mechanisms to control and repress the sources of these anxieties in the public city space, thus following the logics behind the broken windows theory developed within the field of criminology<sup>98</sup>. According to this theory, the presence of a deteriorated environment in a city or neighbourhood enhances more degradation and leads to an increase in the levels of criminality. A preventive action aimed at avoiding the presence of such deterioration of the public city space is therefore the solution to eradicate criminality. However, this theory presents itself to be problematic when it is individuals themselves that are targeted as deteriorating elements in the city<sup>99</sup> and not criminal acts, as it is the case with women in outdoor prostitution.

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<sup>96</sup> T. Pitch, ‘The Issue of Security’, *Soft Power*, vol. 3, no. 1, 2014, p. 79.

<sup>97</sup> Pitch, ‘The Issue of Security’, p. 80.

<sup>98</sup> G. Kelling and J. Wilson, *Fixing Broken Windows: Restoring Order and Reducing Crime in our Communities*, New York, Martin Kessler Books, 1996.

<sup>99</sup> D. Cooper, ‘Regard between Strangers: Diversity, Equality and the Reconstruction of Public Space’, *Critical Social Policy*, vol. 18, no. 4, 1998, p.471.



Carriers of amoral attitudes and sexuality as well as uncivil behaviours, the very presence of the foreign prostitute needs to be controlled in order to avoid the spreading of these reprehensible practices within the population. And this control is carried out through spatial segregation exercised by means of economic sanctions. This implies not only that the *problem* of prostitution does not disappear from certain spaces —it only becomes invisible in some areas of the city—, but that the social stigma on prostitutes and the cognition of certain individuals as dangerous elements is further enhanced.

Following the arguments laid out in the previous chapter, if analysed from the perspective of the socio-spatial dialectic developed by Massey and Soja, the theory of the broken windows has devastating effects over the individuals that are labelled as risk elements for the public order. Moral disruptors need to be excluded from the public space in order to avoid an increase in levels of degradation in this space; however, and this is where the socio-spatial dialectic comes into play, this very segregation produces ‘spaces of Other<sup>100</sup>’, which further perpetuate an imaginary of marginality, danger and dirtiness that negates the prostitutes both the use of public space and hence their human rights, since they are thought as a problem of public security and not as right holders in a situation of vulnerability stemming from the problematics inherent to the irregular nature of prostitution.

### *3.5 Municipal Ordinances on urban security. The case of Padova*

A study carried by the Foundation Cittalia and the National Association of Italian Municipalities in March 2009 analysing the number and the content of municipal ordinances on urban security passed after the Law 25/2008 underlines that most of these ordinances, 16% out of the total, were devoted to the regulation of prostitution in the public space of the cities<sup>101</sup>.

In relation to the regional distribution, 66,7% of these legislative texts had been passed in North-East and North-West Italy. Additionally, the study shows that the largest municipalities of Italy had been the ones more active in passing municipal ordinances.

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<sup>100</sup> P. Hubbard, ‘Sexuality, Immorality and the City: Red-Light Districts and the Marginalisation of Female Street Prostitutes’, *Gender, Place and Culture*, vol. 5, no. 1, 1998, p. 56-57.

<sup>101</sup> CITTALIA, *Oltre le ordinanze: I sindaci e la sicurezza urbana*, Rome, Associazione Nazionale Comuni Italiani, 2009, p. 16.

75% of the municipalities with more than 250,000 inhabitants and 80,6% of the municipalities having between 100,000 and 250,000 inhabitants had legislated on urban security issues after the Law 25/2008<sup>102</sup>. Finally, Veneto was the region of Italy with more municipalities passing laws on urban security compared to the rest of regions: 8,6%<sup>103</sup>. Significantly, this region, in May 2017, was the third in Italy, after Lombardia and Emilia Romagna, with more individuals working in outdoor prostitution<sup>104</sup>; and in October 2017, it was the fourth region, just after Lombardia, Emilia Romagna and Lazio<sup>105</sup>.

Analysing the municipal ordinances passed in the city of Padova after the adoption of the Law 25/2008 therefore offers a paradigmatic example of the phenomenon: with almost 210,000 inhabitants, Padova is a representative example of the type of municipalities having legislated the most on issues of urban security; it is located in the North East of Italy; and demographically, it is the third city in the Veneto region and the first in terms of the inhabitants residing in its metropolitan area.

### *3.5.1. Women in prostitution in Padova*

The data that will be presented hereafter about street prostitution in the city of Padova has been provided by Associazione Mimosa/Cooperativa Sociale Onlus and corresponds to the presence of individuals in outdoor prostitution for the years 2012, 2013, 2014, 2015, 2016, 2017 and 2018. Although these data do not correspond to the absolute numbers of prostitution in outdoor settings in Padova, they nonetheless provide a reliable estimation of the presence of women in outdoor prostitution collected in a process of observation and mapping of the phenomenon by Associazione Mimosa in its role as a street unit of health prevention and harm reduction.

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<sup>102</sup> CITTALIA, *Oltre le ordinanze*, p. 13.

<sup>103</sup> CITTALIA, *Oltre le ordinanze*, p. 15.

<sup>104</sup> Unità di Contatto Italiane, Numero Verde Nazionale Anti-Tratta, *Mappatura Nazionale della Prostituzione di Strada 3 maggio 2017*, 2017.

<sup>105</sup> Unità di Contatto Italiane, Numero Verde Nazionale Anti-Tratta, *Mappatura Nazionale della Prostituzione di Strada 26-27 ottobre 2017*, 2018.

*Tab. 1 Street prostitution in Padova in the years 2012-2013, 2014 and 2015*

ORIGIN	2012	2013	2014	2015	2016	2017	2018
Eastern Europe	154	136	173	151	130	94	71
Africa	71	52	61	76	129	188	100
Latin America	20	21	25	14	6	17	14
<b>TOTAL</b>	<b>245</b>	<b>209</b>	<b>259</b>	<b>241</b>	<b>265</b>	<b>299</b>	<b>185</b>

*Source: Associazione Mimosa/Equality Cooperativa Sociale Onlus*

As Tab. 1 indicates, outdoor prostitution in Padova corresponds to its national dimension: an absence of Italian women and an internationalisation of the phenomenon. Women in street prostitution in Padova, which were 243 on average between the years 2012-2018, are mostly Eastern European. However, the increase in the arrival of African women results in the diminution of Eastern European presences in the streets of Padova. It should also be noted that, as at the national level, in 2018 there is a decrease in women in prostitution coming from Africa, which, as it has been explained above, is the result of the diminishment in the arrivals of Nigerian women in Italy. Finally, the number of Latin American presences is very reduced, although it is constant, if compared to the other two major regional origins.

### *3.5.2 Measures adopted to contrast problems of urban security*

Following the Law 25/2008 that invested mayors the power to regulate, through administrative mechanisms, issues related to urban security, the municipality of Padova adopted the Municipal Ordinance n.19 of 2011<sup>106</sup> and the Municipal Ordinance n.17 of 2014<sup>107</sup> both of them containing provisions aimed at the repression of prostitution in the streets of Padova and still in force in 2019.

#### *3.5.2.1 Content of the ordinances*

The objectives of the Municipal ordinance n.19 of 2011 as established in its preamble are the following:

<sup>106</sup> Comune di Padova, Segretaria Generale, Ordinanza Sindacale n. 19, 10 Maggio 2011.

<sup>107</sup> Comune di Padova, Segretaria Generale, Ordinanza Sindacale n. 17, 24 Aprile 2014.

- Improving road safety;
- Reducing acts that might induce the demand for sexual services;
- Protecting and reinforcing urban security;
- Safeguarding decorum and common decency in the public urban space;
- Diminishing insecurity or perception of insecurity experienced by the citizens of Padova;
- Diminishing social and urban degradation produced by the presence of outdoor prostitution in the city;
- Diminishing hygienic degradation caused by street prostitution;
- Combating sexual exploitation and forced prostitution.

Aiming at the diminishment of situations endangering traffic safety, Article 1 sanctions the following actions committed by clients of prostitution:

- Stopping the car in public roads to purchase sexual services;
- Stopping the car to seek information about sexual services with individuals in prostitution or individuals that because of their behaviour or clothing manifest their intention to exercise prostitution;
- Allowing one or more prostitutes to get in the vehicle.

These prohibitions are applicable in sixty-four streets within the Districts 2, 3, 5 and 6 of Padova.

Article 2 is devoted to individuals in prostitution themselves, who are prohibited from:

- Showing themselves in public with clothes that might offend the common sense of modesty and public decency and that induce the demand for sexual services.

This sanction is applicable in all 6 Districts of Padova.

Finally, Article 3, with due respect to the provisions regarding the protection of victims of sexual exploitation and forced prostitution included in the Italian legislation, envisages an administrative sanction ranging from 25€ to 500€ in case the provisions of the ordinance are violated. Therefore, both clients and people in prostitution can be penalised.

In relation to the Municipal Ordinance n.17 of 2014, the text amends Article 1 of the Ordinance of 2011 to which it adds two streets of District 1 of Padova.

### 3.5.2.2 *Comment of the ordinances*

Ambiguous and conceptually complex, the preamble of the 2011 municipal law, on the one hand equates moral, hygienic and social degradation with the presence of prostitutes in the streets of Padova; on the other hand, it points at this phenomenon as the source of traffic unsafety in the streets of Padova. The text therefore works as a mechanism sanctioning both amoral behaviours and improper driving or, in other words, individuals in prostitution and their clients.

The adoption of the 2011 Ordinance is justified around the idea that street prostitution increases both insecurity and the perception of insecurity within the citizens of Padova. In this regard, it is worth underlining that by mentioning the perception of insecurity experienced by the *citizens* of Padova because of the presence of prostitution in the streets, this Municipal Ordinance clearly establishes the security of which individuals are being discussed in the text. The acceptance of the term *citizens* as it is used in this administrative mechanism does not seem to consider prostitutes as inhabitants of the urban space, but rather as an element of disorder producing social and environmental degradation. Consequently, their presence in the urban space needs to be banned.

The preamble subsequently points out that the imprudent behaviours violating the Italian road code that have been observed in the areas of Padova where street prostitution is practised have increased, and it underlines that these infractions are committed by clients of prostitutes that suddenly brake or unexpectedly stop their cars in order to seek sexual services. It is important to stress the sexist conceptions about the sexuality of men and women that lie behind the formulation Article 2 of the text. Eventual offenders of the Italian road code, the clients of sexual services, in this ordinance are presented as victims of the provocation of perverse and sexually dangerous women, as described by Walkowitz<sup>108</sup>, that because of their openly sexual behaviour and clothes distract men that are driving their vehicles, induce them to seek sexual services and, consequently, to infringe the Italian traffic norms by stopping their vehicles.

In this regard, the ordinance seems to work as a *police des mœurs*<sup>109</sup>, that is, a moral police, aiming at the repression of behavioural conducts and attires that are considered

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<sup>108</sup> See J. R. Walkowitz, 'Sexualidades peligrosas'.

<sup>109</sup> Walkowitz, 'Sexualidades peligrosas', p. 398.

indecent and provocative. Under the justification of protecting and promoting road safety in the city, the prohibition to stop the car in five districts out of six of Padova is in fact a moral sanction of prostitutes' openly sexual behaviour. An evidence of that is given by the fact that not only infringing drivers can be fined but also individuals in prostitution or individuals that seem to be engaged in prostitution. Furthermore, fining these acts is justified on the grounds of offending public decency. Therefore, not only soliciting is prohibited under this Ordinance but also loitering, that is, simply being in the street and/or wearing sexually provocative outfit. These administrative mechanisms thus blur the line between a social approach and a criminal approach to the problematic of prostitution in what has been described as an 'untechnical attempt of applying criminal law at the municipal level<sup>110</sup>', which implies a *de facto* criminalisation of (street) prostitution and a contradiction of the *laissez-faire* principle contemplated under the 1958 Merlin Law.

Hubbard points out that 'law is implicated in the creation of a spatialised moral order<sup>111</sup>', and it is precisely a legal tool devoted to morally and spatially control prostitution what lies behind the 2011 and 2014 Municipal Ordinances. The objective of both Ordinances is not to make demand and supply for sex disappear, but rather to oblige them to move to other areas of the city in what could be called a process of ghettoization of prostitution<sup>112</sup>. In an attempt to making prostitution invisible to the public gaze and thus reducing the perception of insecurity by citizens produced by the presence of street prostitution, the strategy of fining clients as well as individuals in prostitution in specific streets of Padova forces outdoor sex industry to move to remote areas of the city not subject to police surveillance and where neither clients nor women in prostitution would be fined.

### *3.6 Effects of the socio-spatial segregation of prostitution*

Women in prostitution are a vulnerable group exposed to multiple forms of violence perpetrated by multiple actors as a consequence of the intersectional discrimination they

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<sup>110</sup> C. Ruga Riva, C., 'Il lavavetri, la donna col burqa e il Sindaco. Prove atecniche di "diritto penale municipale', *Rivista Italiana di Diritti e Procedura Penale*, 2008, pp. 133 – 148, cited in C. Mantovan and E. Ostanel, *Convivenza, conflitti, e governance nelle zone Stazione di Padova e Mestre*, Milano, FrancoAngeli, 2015, p. 75.

<sup>111</sup> Hubbard, *Sex and the City*, p.4.

<sup>112</sup> Hubbard, *Sex and the City*, p. 177.

suffer and the stigmatisation that sex industry has within society. They suffer psychological violence, as well physical violence, which includes murder, physical force causing harm or injury, beating, deliberate burning, being threatened with a weapon, being forced to take drugs or alcohol. They face sexual violence such as rape, gang rape, sexual harassment, sexual exploitation, being forced to engage in any form of sexual act against one's will. Women in prostitution may also suffer economic violence, such as theft or not being paid for the sexual service they have provided. And, of course, there is a high risk of sexual exploitation and forced labour in the sex industry<sup>113</sup>. Regarding the perpetrators of these acts of violence, these can be both State and non-State actors, the former including for instance police, military bodies, or prison officers; and the latter partners, relatives, clients and individuals not having either an economic nor a family relationship with them<sup>114</sup>.

In Italy, violence against people in prostitution at large is not documented. However, studies on femicide in the country do include women in prostitution. According to the fourth EURES report on femicide in Italy<sup>115</sup>, between 2000 and 2016, there were 184 reported cases of women in prostitution that had been killed. 84,8% of these women were foreigners, with a prevalence of Nigerian women (25,3%) and Romanian women (18%). The perpetrators of this violence were all men, of which 70,6% were Italian and 29,4% non-Italian. This study underlines that cases of femicide targeting prostitutes are the less resolved in relation to all cases of gender-based killings: whereas the total number of unresolved cases of femicide is 11,4%, in the case of female prostitutes killed this number amounts to up to 44,6%. This is an indicator of, on the one hand, the low priority given to violence against prostitutes in both the political and social agendas, and on the other hand, the existence of a culture of impunity in Italy regarding such violence, which, as the WHO points out, is exacerbated by public policies and laws criminalising prostitution<sup>116</sup>, such as the municipal ordinances on urban security.

In this regard, in its 2011 Concluding Observations on the sixth periodic report of Italy, the CEDAW Committee underlined the problematics inherent to the criminalisation of prostitution in public spaces provided in a national law that was under discussion in that

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<sup>113</sup> World Health Organization, *Implementing Comprehensive HIV/STI Programmes with Sex Workers. Practical Approaches from Collaborative Intervention*, Geneva, WHO Press, 2013, p. 23.

<sup>114</sup> WHO, *Implementing Comprehensive HIV/STI Programmes*, p. 24.

<sup>115</sup> EURES, *Quarto Rapporto Eures sul femminicidio in Italia*, 2017.

<sup>116</sup> WHO, *Implementing Comprehensive HIV/STI Programmes*, p. 24.

period in Italy<sup>117</sup>. Although the law was not approved, the criminalisation of prostitution in the public space, as it has been analysed in the previous section, is currently being applied at the local level by means of the anti-prostitution ordinances, carrying similar effects to individuals in prostitution as if it had been applied nationally. In relation to this, the CEDAW Committee expressed its concern regarding the policies approaching prostitution as a problem of public security and decorum of urban life, and it added that rights of women in prostitution, the majority of which are migrants, had not been considered in the process of formulating such measures. The criminalisation of prostitution through its socio-spatial control and segregation in the urban space has, in fact, a direct impact in the rights of women in prostitution, and economic sanctions applied to both clients and women selling sex play a major role in endangering the safety of the latter.

In the city of Barcelona (Spain) where criminalisation of street prostitution is also applied at the local level through Municipal Ordinances, it was reported that women in prostitution were accumulating fines, a situation that created a debt with the local administration that positioned them in a situation of further vulnerability<sup>118</sup> by pushing them to extend their working hours to pay such fines<sup>119</sup>. In addition, fines indistinctively applied to victims of trafficking and non-trafficked women, makes the phenomenon invisible and subjects trafficked women to a secondary victimisation. That is, migrant women in an irregular situation that have been trafficked are not recognised as victims of this human rights violation and might be deported, in a violation of the principle of non-refoulement of victims of violence against women as set out in the Istanbul Convention<sup>120</sup>. Furthermore, the economic pressure to pay the debt caused by such fines is added to that of the debt that women victims of trafficking might have with their traffickers. In this regard, the Municipal Ordinances of Padova analysed in the previous section raises some doubts over the strategy to be applied in order to distinguish victims of trafficking for

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<sup>117</sup> UN Committee on the Elimination of Discrimination against Women, 'Concluding observations of the Committee on the Elimination of Discrimination against Women' (26 July 2011) UN Doc CEDAW/C/ITA/CO/6.

<sup>118</sup> E. Bodelón and P. Arce, 'La reglamentación de la prostitución en los ayuntamientos como una técnica de ficticia seguridad ciudadana', *Revista Crítica Penal y Poder*, n. 15, 2018, p. 75.

<sup>119</sup> Reguero, P., 'Las ordenanzas que sancionan la prostitución penalizan a las mujeres', *El Salto Diario*, 3 November 2017, <https://www.elsaltodiario.com/trabajo-sexual/encarna-bodelon-ordenanzas-prostitucion-mujeres-multas-derechos> (accessed 27 March 2019).

<sup>120</sup> Council of Europe Convention on Action against Violence against Women and Domestic Violence (Istanbul Convention), CETS No. 210, 11 May 2011, art 61.



sexual exploitation and non-coerced women, since its provisions do not include any mechanism nor guidelines for the police to recognise them. Moreover, fining a woman for being engaged in prostitution contradicts Article 7 of the 1958 Merlin Law regulating prostitution in Italy, which forbids direct or indirect registration of women in prostitution.

In the relation to people who demand for sex, it has been demonstrated that policies and laws criminalising clients increase the risk of violence against women in prostitution<sup>121</sup>. Far from reducing the demand, the effect of these laws obliges street prostitution to move into less accessible areas of the city not subject to restrictions of use. Lacking adequate public lighting, poorly connected to the city centre in terms of transport and with a low level of passers-by, industrial and peripheral areas of the cities facilitate physical violence and sexual abuse against them, which in turn, are very likely to go unreported given the general feeling of prosecution experienced by women in prostitution vis-à-vis the police. In addition, law enforcement bodies might also be the perpetrators of such abuses or might simply not give consideration to crimes reported by prostitutes<sup>122</sup>. A further consequence of fining clients is the increase in the health risk faced by women. Pressure on the client as a consequence of police surveillance diminishes women's time to evaluate the eventual danger that might suppose getting in the car with the client. Similarly, the bargaining power of women in prostitution in the process of negotiation of the service is drastically reduced when clients demand promptness in such negotiation to reduce their exposure to a sanction. In this context, the European Network for the Promotion of Rights and Health among Migrant Sex Workers (TAMPEP) has warned that young sex workers in Italy have started to accept unprotected sex after the adoption of the municipal ordinances criminalising street prostitution<sup>123</sup>, thus increasing their exposure to sexually transmitted diseases.

The socio-spatial control of prostitution in the cities might also entail an increase in indoor prostitution, which has been the case in Italy, as TAMPEP underlines<sup>124</sup>. One of the problematics linked to indoor prostitution is that the activity goes underground and,

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<sup>121</sup> NSWP – Global Network of Sex Work Projects, *The Impact of Criminalisation on Sex Workers' Vulnerability to HIV and Violence*, 2017, p. 6.

<sup>122</sup> Amnesty International, *Sex Workers at Risk: a Research Summary on Human Rights Abuses against Sex Workers*, POL 40/4061/2016, p.12.

<sup>123</sup>Licia Brussa (ed.), *Sex Work, Migration, Health. A Report on the Intersection of Legislation and Policies regarding Sex Work, Migration and Health in Europe*, Hamburg, TAMPEP International Foundation, 2009, p. 63

<sup>124</sup> Brussa, *Sex Work, Migration, Health*, p. 63.

consequently, becomes more difficult to monitor. Social services and NGOs face difficulties in reaching women in indoor settings, and thus there is a reduction in the impact of their activities of health prevention, harm reduction and identification of victims of trafficking<sup>125</sup>. Additionally, the engagement of criminal organisations increases in this process. As a consequence of the prohibition of the use of public space for street prostitution, flats become an alternative for this activity. However, for an economic and socially vulnerable group as women in prostitution, rents might be beyond reach for them, which forces them to rely on criminal organisations<sup>126</sup>. Pia Covre, from the Italian Committee for the Civil Right of Prostitutes is clear in that aspect: ‘street prostitution must never be criminalised, since it is accessible to anyone. For the most desperate woman, for the woman who has no means, the street is the simplest and the less dangerous place to work, unless you oblige this woman to work in the periphery<sup>127</sup>’.

The *de facto* criminalisation of street prostitution, as provided in the Municipal Ordinances analysed in the previous section, increases sex workers’ vulnerability to violence, which can be perpetrated by non-state actors, such as clients, as well as state-actors, such as policemen. In this sense, banning individuals that work in street prostitution the use of the public city space forces them either to move to remote areas of the city or to start working indoors, where abuses are less visible and likely to go unreported. Additionally, equating street prostitution to crime implies employing repressive policing measures against vulnerable groups, which not only represents a failure in protecting human rights of women in prostitution and preventing abuses against them, but it also undermines women’s trust in law enforcement bodies. Finally, the adoption of public policies treating street prostitution as a problem of public security exacerbates the stigma on street prostitution. This, in turn, plays a major role in fostering a culture of impunity that, not being adequately addressed by public authorities, normalises violence against prostitutes.

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<sup>125</sup> Brussa, *Sex Work, Migration, Health*, p. 63.

<sup>126</sup> Brussa, *Sex Work, Migration, Health*, p. 63.

<sup>127</sup> P. Covre, Personal Interview, 17 May 2019.

#### 4. CHANGING PARADIGMS: VIOLENCE AGAINST PROSTITUTES IS A HUMAN RIGHTS ISSUE

The previous chapter has provided an analysis of the reality of prostitution and, more concretely, street prostitution in Italy. It has been discussed how the Law 25/2008 adopted at the national level has given Italian mayors more powers to legislate at the local level on the matter of urban security. In this process, municipalities have started passing laws prohibiting street prostitutes the use of public space, which has resulted in a *de facto* criminalisation of the phenomenon. The content of the anti-prostitution laws passed in the city of Padova in 2011 and 2014 has been analysed, as well as the implications the spatial segregation of street prostitution have in the security and bodily integrity of women in prostitution themselves. Being a vulnerable group given their condition of being women, migrant, in a situation of prostitution and, in some cases, victims of trafficking, their criminalisation exacerbates their risk to be exposed to violence and other human rights abuses.

Chapter 4 aims at rethinking the social, political and ideological processes that have normalised violence against women in prostitution. The first section analyses the two main positionings international feminism holds in relation to prostitution, and it argues that the lack of a unified vision results in a failure to bring to the local, national and international political agendas the human rights abuses perpetrated against prostitution. The second section is devoted to point at the social, political and cultural processes that have normalised violence against prostitutes and assumed it as a private act in which states do not hold any responsibility. The third section, however, argues that states do have to respond to acts of violence against prostitutes. For this reason, it is analysed how under international and regional standards of women's human rights women in prostitution are right holders. Finally, applying the provisions and normative framework of CEDAW and the Istanbul Convention addressing gender-based violence against women, the responsibility of Italy in the violence committed against street-based prostitutes as a consequence of its spatial segregation and criminalisation is analysed within the scope of the principle of due diligence.

#### 4.1 *The role of feminism*

International feminist advocacy has played a major role in both lobbying for the recognition of women's rights and violence against women as a human rights issue at the international arena and in ensuring states are held accountable for such abuses, especially in the decade of the 1990s when local, national, regional and international women's groups joined efforts and worked together to ensure that gender-based violations of human rights were given top priority at the 1993 UN World Conference on Human Rights' agenda<sup>128</sup>. At the ideological level, however, there has been a historical lack of consensus within feminism in relation to its political and moral positioning vis-à-vis prostitution, which has resulted in an absence of a strong and hegemonic movement denouncing the multiplicity of violence and human rights abuses perpetrated against women in prostitution that has the capability to change policy approaches to prostitution.

As it has been mentioned in the previous chapter, the legal approach to prostitution in Italy is abolitionist. According to the categorisation of feminist positions regarding prostitution established by Outshoorn, in the nineteenth century, first wave liberal feminists sought the abolition of prostitution and the elimination of state regulation of such activity in order to better protect and reinsert in society prostitutes working in brothels, given that selling one's body was not contemplated as a morally and socially licit labour activity for women<sup>129</sup>.

With second wave feminism in the 1960s and 1970s, Outshoorn points out, two positions regarding prostitution emerged. On the one hand, the sex work/pro-rights approach defends prostitution as a legitimate means to earn a living and thus demands both the legalisation of all sectors of the sex industry and the regulation of prostitution under labour laws. On the other hand, radical feminist thought on prostitution represented an evolution towards what has been called neo-abolitionism<sup>130</sup>. Focusing on gender as the ultimate system of oppression, radical feminism considers prostitution to be the maximum exponent of the patriarchal domination over the female body<sup>131</sup>. Under the neo-

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<sup>128</sup> C. Bunch and N. Reilly, *Demanding Accountability: The Global Campaign and Vienna Tribunal for Women's Human Rights*, New York, UNIFEM, 1994, p. 6.

<sup>129</sup> J. Outshoorn, 'The Political Debates on Prostitution and Trafficking of Women', *Social Politics*: vol. 12, no.1, 2005, p. 145.

<sup>130</sup> Outshoorn, 'The Political Debates on Prostitution', p. 143.

<sup>131</sup> Outshoorn, 'The Political Debates on Prostitution', p. 145.

abolitionist approach, prostitution is conceptualised as a form of sexual violence against women and as a practice perpetuating inequality between men and women, hence feminist movements' efforts, in the opinion of radical feminists, should be placed in advocating for the total eradication of prostitution. In this regard, neo-abolitionism precludes the possibility of consent within prostitution that pro-rights feminists defend, as prostitution, according to the former, is regarded as inherently coercive and thus annuls the possibility to be regularised as a job, as the latter demand.

Such historical polarisation in the theorisation of prostitution within feminism is further emphasised in its corresponding views regarding the relationship between trafficking of human beings and prostitution. In the 1980s, neo-abolitionist positions started equating prostitution with sex trafficking coinciding with both the internationalisation of prostitution and the emergence of transnational criminal networks trafficking with women in migration with the purpose of sexual exploitation<sup>132</sup>. According to this positioning, involvement of migrant women in prostitution necessarily corresponds to a situation of trafficking and hence prostitution and forced prostitution are two concepts that can be used interchangeably, since they describe the same exploitative reality. Additionally, for neo-abolitionists the very existence of prostitution is regarded as the source of trafficking; therefore, the abolition of prostitution would imply the end of trafficking in human beings<sup>133</sup>.

The cognition of women in prostitution as victims of both patriarchy and of trafficking of human beings is harshly opposed by pro-rights feminists, activists and sex workers themselves. They propose instead applying an analysis of prostitution based on the distinction between an exploitative situation and a non-coerced practice of commercial sex. Thus, trafficking for labour exploitation and trafficking for sexual exploitation are both described as human rights abuses; however, just as labour *per se* is not a human rights abuse, prostitution does not infringe upon the fundamental rights of women. This position underlines the necessity to focus on the context within which prostitution is practised and thus calls for political and social efforts to be directed to fight trafficking for sexual exploitation and forced prostitution.

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<sup>132</sup> Outshoorn, 'The Political Debates on Prostitution', p. 142.

<sup>133</sup> Outshoorn, 'The Political Debates on Prostitution', p. 146.

Nonetheless, Mayer underlines that the hegemony of the abolitionist approach to prostitution at both the academic and political spheres has resulted in a practice of symbolic violence directed against women in prostitution<sup>134</sup>. Considerations of prostitution as a form of violence against women automatically deny women in prostitution themselves the possibility to participate in the ideological, social and political debates framing international, national and local policies regulating prostitution. This, in turn, portrays these individuals as voiceless victims and fails to recognise the multifaceted nature of prostitution, the multiplicity of forms in which it is exercised as well as the subjective experiences of each women engaged in prostitution. Such symbolic violence represented by the depiction of prostitution as violence in and of itself would thus explain the failure of feminism in recognising and correctly addressing forms of violence informed by racial, ethnic and class discrimination directed against prostitutes because they are prostitutes, and that originate from sources other than trafficking and exploitation. In this regard, Massari, after a two-years research project on the experiences of migrant women in prostitution in Italy concluded that:

Not all violence that can be found in this universe can be linked to exploitation by illegal networks. From the stories collected during the fieldwork, it is possible to identify a multiple range of abuses during encounters with clients, as well as a number of violations due to the social control actions carried out by police forces and institutions—both public and private—, not to mention the violence related to the street, such as the risk of becoming a target for various forms of aggression, assault, brutality, insult, humiliation.<sup>135</sup>

The divergence within feminist conceptualisations of prostitution might find its origin in what Rubin describes as a ‘profound polarisation<sup>136</sup>’ existing in feminism regarding sex and sexuality. This anthropologist underlines that this polarisation stems from an overlap in the analysis of two intersecting but distinct systems of oppression: the socially construct gender system and the socially construct sexual system. In other words, as gender inequalities and gender-based discrimination are embedded in all spheres of society, so they are in prostitution. Therefore, this does not necessarily mean that prostitution in itself produces gender inequality but rather that prostitution has been

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<sup>134</sup> S. Mayer., ‘Ethnographier la violence dans la prostitution. Effets du contexte, effets du terrain et force des émotions’, *Parcours anthropologiques*, no. 11, 2016, p. 64.

<sup>135</sup> M. Massari, ‘The Other and her Body: Migrant Prostitution, Gender Relations and Ethnicity’, *Cahiers de l’Urmis*, vol.12, 2009, p. 5.

<sup>136</sup> G. Rubin, ‘Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality’, *Pleasure and Danger: Exploring Female Sexuality*, Vance, C. (ed.), Boston, Routledge, 1984, p. 167.

constructed around unequal power relations that discriminate against women. Thus, labelling prostitution as a form of violence against women not only precludes the possibility to radically rethink and transform gender roles in prostitution but also reinforces a moral hierarchy of sex that considers, *inter alia*, non-heterosexual, extra-marital and commercial sexual interactions as aberrations of the socially constructed sexual system. For this reason, Rubin calls for the creation of a democratic morality that ‘should judge sexual acts by the way partners treat one another, the level of mutual consideration and the presence or absence of coercion<sup>137</sup>’

Applied to prostitution as a sexual and economic activity, a morally democratic feminism should focus on underlining all kinds of oppression and violence occurring within the sphere of prostitution and not negating its existence by situating prostitution itself as the source of all violence. In this process, indirect violence<sup>138</sup> against prostitutes should be analysed in order to adequately address the intersecting forms of discrimination affecting women in prostitution that justify and perpetuate direct violence against them and that, in turn, promote a culture of impunity that normalises physical, sexual, psychological and economic violence against women in prostitution.

Understanding prostitution in Western countries today forces us to think about global and structural socioeconomic inequalities informed not only by gender but also by class and racial discrimination that situate migrant women at the lower echelons of society and, therefore, of the labour market<sup>139</sup>. For this reason, a transformative and progressive process aimed at the restructuring of the socioeconomic conditions that force migrant women to engage voluntarily or coercively in prostitution must necessarily be accompanied by a day-to-day feminist advocacy that analyses and denounces the conditions in which prostitution is practised in order to understand, from a human rights perspective, the root causes that normalise multiple forms of violence directed against women in prostitution. This does not mean overlooking the inherent brutality of trafficking and sexual exploitation but rather pointing at cultural practices that normalise other forms of violence against prostitutes in order to make them visible.

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<sup>137</sup> Rubin, ‘Thinking Sex’, p. 153.

<sup>138</sup> According to the European Institute for Gender Equality, indirect violence is defined as ‘attitudes, stereotypes and cultural norms that underpin gendered practices and may cause gender-based forms of direct violence’.

<sup>139</sup> See S. Federici, ‘Prostitution and Globalization: Notes on a Feminist Debate. In: Davies, M. and Ryner, M. (eds.), *Poverty and the Production of World Politics*, London, Palgrave Macmillan, 2006, pp. 113 – 136.

## 4.2 *The invisibilization of violence against women in prostitution*

Although persistent and widespread, violence against prostitutes has been lacking recognition at the human rights institutions and, more concretely, within the women's human rights agenda. This in part is explained because, as it has been mentioned above, when approaching prostitution, the focus has been put in combating trafficking for sexual exploitation but not in other forms of violence occurring within prostitution. Nonetheless, the failure in addressing human rights abuses against women in prostitution is also explained by a failure in analysing the extent to which this violence is structurally mediated and the gender-based discrimination that lies at its heart.

All forms of violence are encouraged by stereotypes and social and cultural norms that justify it<sup>140</sup>. In this regard, violence perpetrated against street prostitutes nowadays is inextricably linked to racial, gender and class stereotypes that render women in prostitution a target of human rights abuses perpetrated with impunity against them. As it has been analysed, the internationalisation of street prostitution in Italy, and in Europe more broadly, has resulted in the substitution of previously native prostitutes with newly arrived migrants. Thus, the individual in prostitution is currently a female individual coming from a different culture and, in many cases, with a skin colour different than the native one, who embodies what Massari has called 'the radical other'<sup>141</sup>, discriminated against for being migrant, non-white and a prostitute<sup>142</sup>.

Thus, the radical other is an individual that simultaneously endangers the so-called national identity of the country of reception with its very presence and transgresses the social and cultural norms based on gender stereotypes that rigidly define the adequate sexual behaviour a woman should perform. In this regard, Pheterson in her indispensable analysis of the 'whore stigma', underlined that prostitution is highly stigmatised because it breaks with the socially constructed image of the submissive, sexually inactive, domestic and economically dependent woman<sup>143</sup>. Lack of adherence to such roles results

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<sup>140</sup> World Health Organization, *Violence Prevention: the Evidence. Changing Cultural and Social Norms that Support Violence*, Geneva, WHO Press, 2009, p.

<sup>141</sup> Massari, 'The Other and her Body', p. 4.

<sup>142</sup> A. Cardonna, 'We speak but you don't listen: migrant sex worker organising at the border', in Maciotti, P.G. and Garofalo Geymonat, G. (eds.), *Sex Workers Speak. Who Listens?*, BTS Short Course, London, Open Democracy, 2016, p. 26.

<sup>143</sup> G. Pheterson, 'The Whore Stigma: Female Dishonor and Male Unworthiness', *Social Text*, n. 37, 1993, p. 46.



in dishonour and thereby in being treated as a second-class citizen. In this process, the prostitute is regarded as a public woman who sells her body at any expense that cannot expect but to be abused given her amoral and illicit behaviour. As Barnard puts it:

There exists a perception that prostitutes who are attacked do in some way deserve it because of the work that they do. There are undoubtedly those who'd argue that prostitutes cannot be raped since they are in the business of providing sex anyway.<sup>144</sup>

Stigmatisation of and discrimination against women in prostitution, Benoit and Jansson argue, is articulated around three levels of society which in turn mutually reinforce each other: at the level of laws and policies, at the justice system and within the general population<sup>145</sup>. Laws treating prostitutes as criminals, tribunals blaming women in prostitution for the crimes perpetrated against them, and the media portraying distorted images of the reality of prostitution are all forms of structural violence that make physical, sexual and psychological violence against prostitutes invisible, or even normalises it.

Therefore, it can be stated that violence against women in prostitution has undergone an analogous process than violence against women in armed conflicts in relation to its historical unrecognition as a human rights violation under the international framework of human rights. In this regard, Reilly points out that one of the gendered effects of the hierarchical binary thinking that has divided human rights discourse into a false dichotomy of public and private spheres, in which States were only deemed to have responsibilities over the former, has been the 'privatisation' of human rights abuses against women<sup>146</sup>. She argues that such privatisation has resulted in a failure to recognise rape and other forms of sexual as well as physical violence against women in the context of armed conflicts as human rights abuses specifically targeting women because they were women<sup>147</sup>. Such abuses were rather considered natural and inevitable side effects of wars. Similarly, in the context of prostitution, violence against women has been also categorised as a private act and as an inevitable side effect of prostitution that is beyond accountability of the State and inherent to the condition of being a public woman who sells her body.

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<sup>144</sup> M.A. Barnard, 'Violence and Vulnerability: Conditions of Work for Streetworking Prostitutes', *Sociology of Health and Illness*, vol. 15, n. 5, 1993, pp. 683-705, p. 702.

<sup>145</sup>See C. Benoit et al., 'Prostitution Stigma and Its Effect on the Working Conditions, Personal Lives, and Health of Sex Workers', *The Journal of Sex Research*, vol. 55, no. 4-5, 2017, pp. 457 – 471.

<sup>146</sup> N. Reilly, *Women's Human Rights*, Cambridge, Polity Press, 2009, p. 31.

<sup>147</sup> Reilly, *Women's Human Rights*, p. 31.

Nonetheless, violence against women in prostitution is undoubtedly a form of violence against women. In other words, women in prostitution who are victims of violence are victims of gender-based violence against women, which implies that making a distinction between non-prostituted and prostituted women when addressing violence against women is not only a fallacy but also a negation of the universality of human rights, which has devastating effects in the safety of female individuals who are in prostitution. Examining the role of the States in the perpetuation of such violence becomes essential for the protection of the dignity and bodily integrity of women in prostitution. Therefore, prostitutes who are victims of violence must legally, judicially but also socially be treated as victims of gender-based discrimination and violence. As such, they must be given institutional recognition and States must assume their responsibilities in addressing pernicious stereotypes about women in prostitution and in eliminating all forms of gender-based violence against prostitutes under their jurisdiction, regardless their national origin or legal status.

### *4.3 The responsibility of the State*

#### *4.3.1 Prostitution under international law*

The ambiguous treatment of prostitution under international criminal law and under international women's human rights law reflects both the divergencies within feminism in relation to its position regarding prostitution and the lack of homogeneity within groups and movements advocating for the recognition of women's rights at the international level. At the UN level, those discrepancies are manifested in the way in which prostitution is formulated under international criminal law tools and human rights law mechanisms.

##### *4.3.1.1 Prostitution under international criminal law*

The 2000 UN Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP), includes in its definition of human trafficking 'forced labour', 'slavery and servitude', 'exploitation of prostitution' and 'other forms of sexual exploitation' as purposes of trafficking, the third element of the definition together

with those of act and means<sup>148</sup>. It must be noted that this enumeration of purposes underlines the necessity to think of and approach human trafficking as a phenomenon affecting not only women and girls but also men and boys in multiple social and labour sectors. Nonetheless, given the prevalence of female adult and minor individuals within the total of victims trafficked in the world<sup>149</sup> as well as the gendered nature of forced prostitution and sexual exploitation, it is remarkable that UN TIP does not provide a definition of ‘exploitation of prostitution’ in the text. For this reason, the fact that a clear definition has not been provided has resulted in the emergence of two opposite interpretations of the UN TIP coming from two distinct transnational women alliances: the Coalition Against Trafficking in Women (CATW) and the Global Alliance Against Traffic in Women (GAATW)<sup>150</sup>.

On the one hand, the CATW, founded in 1988 in the United States, embodies the position of radical feminists and lobbies accordingly at the international level. For this Coalition, the UN TIP reflects the idea that any migrant individual engaged in sex work or in the sex industry has necessarily been trafficked. Therefore, ‘exploitation of prostitution’ for the CATW is equivalent to ‘prostitution’, since it does not contemplate the possibility of migrant individuals to engage voluntarily in prostitution. The Coalition argues that the use of the term ‘migrant sex workers’ is misleading given that, according to its point of view, it makes prostitution and trafficking acceptable<sup>151</sup>. On the other hand, the GATW, which was created in 1994 in Thailand, represents a harsh postcolonial critique and response to Western abolitionist discourses on human trafficking that, according to their point of view, perpetually victimise women from the global South<sup>152</sup>. They propose instead an analysis of trafficking placed within the global framework of labour migration. Thus, the GATW lobbies at the international level for states and international institutions to distinguish between trafficking and prostitution, as well as between forced and voluntary prostitution. According to them, the UN TIP intentionally does not define

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<sup>148</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (adopted 15 November 2000, entered into force 25 December 2003), 2237 UNTS 319 (Protocol) art 3.

<sup>149</sup> According to the UN Office on Drugs and Crime, 72% of victims of THB in the world were women and girls in 2016. See United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons 2018*, New York, UNODC, 2018, p. 10.

<sup>150</sup> Outshoorn, ‘The Political Debates on Prostitution’, p. 150.

<sup>151</sup> CATW, *Prostitution is not “Sex Work”*, 2011, p. 2.

<sup>152</sup> GATW, *Sex Workers Organising for Change. Self-Representation, Community Mobilisation and Working Conditions*, 2018, p.2.

‘exploitation of prostitution’ in order to leave states the possibility to focus only on forced prostitution and sex trafficking under the same parameters than labour trafficking<sup>153</sup>.

#### 4.3.1.2 Prostitution under international women’s human rights law

The international legal framework of women’s human rights is formulated using the same wording applied at the UN TIP, given that the latter draws on the terminology formulated in the former. The 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) considers all forms of traffic of women and exploitation of prostitution as a form of discrimination against women and thus, calls States to take all appropriate measures to eliminate such human rights abuses<sup>154</sup>. This provision, however, as the UN TIP, does not include a definition of ‘exploitation of prostitution’. In relation to this, Chuang argues that not providing such definition was a deliberate decision taken by the CEDAW drafters in order to avoid labelling all prostitution as discriminatory and therefore obliging states to eliminate it under all its forms<sup>155</sup>. Yet, even though the CEDAW took this position as a sort of compromise between the two main political and ideological positions regarding the nature of prostitution, having a missing definition in an international human rights treaty makes its interpretation complex by all the relevant stakeholders, that is, States, women’s human rights advocates and women in prostitution themselves.

The reticence of the CEDAW Committee to take a firm stand in relation to prostitution was further emphasised thirty years after the adoption of the text, in 2008, when this monitoring body issued its General Recommendation 26 on women migrant workers (GR 26)<sup>156</sup>. Underlining the vulnerabilities and human rights abuses that female migrant workers are exposed to due to sex and gender-based discrimination, GR 26 focuses on non-professional and undocumented migrant workers due to their high risk of exclusion and unprotection under the law<sup>157</sup>. GR 26 emphasises the vulnerabilities women migrant workers face in the country of destination, which, *inter alia*, are due to the sexual division

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<sup>153</sup> Outshoorn, ‘The Political Debates on Prostitution’, p. 150.

<sup>154</sup> Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW) art 6.

<sup>155</sup> J. Chuang, ‘Commentary on CEDAW Article 6’, in Freeman M.A. (ed.), *The UN Convention on the Elimination of All Forms of Discrimination Against Women. A Commentary*, New York, Oxford University Press, 2010, cited in Global Network of Sex Workers Project (NSWP), *The Smart Sex Worker’s Guide to the Convention on the Elimination of All Forms of Discrimination Against Women*, 2018, p. 7.

<sup>156</sup> UN Committee for the Elimination of All Forms of Discrimination against Women, ‘General Recommendation No 26’ (5 December 2008) CEDAW/C/2009/WP.1/R.

<sup>157</sup> GR 26 para. 4.

of labour<sup>158</sup>. The text further underlines that gendered notions of appropriate labour for women result in female migrants working in precarious and informal segments of the market and cites as examples domestic work and ‘certain forms of entertainment’<sup>159</sup>. Whether ‘entertainment’ under this text includes prostitution and, more broadly, the sex industry remains unclear. What is true, however, is that under GR 26 the CEDAW Committee avoids acknowledging the gendered nature of the sex industry as well as the structural socioeconomic and gender inequalities that oblige women in migration to enter this sector to earn a living. This, in turn, represents a failure in recognising foreign women in prostitution as labour migrants. Furthermore, GR 26 significantly refers to Article 6 of CEDAW as the adequate framework to address situations of trafficked migrant women<sup>160</sup>. However, as it has been stated above, Article 6 remains vague and needs interpretative guidance<sup>161</sup>.

Nonetheless, within the framework of international women’s human rights, prostitution is never explicitly presented as a form of discrimination and hence neither as a form of violence against women *per se*, which provides a basis for the CEDAW and other women’s human rights instruments to be applied and interpreted to recognise and protect the fundamental rights of women in prostitution. Furthermore, the General Recommendation 28 (GR 28) of the CEDAW Committee on the core obligations of States<sup>162</sup> interprets Article 2 of CEDAW applying an analysis of intersectional discrimination against women, obliging States to legally recognise and address it under their jurisdiction<sup>163</sup>. Additionally, GR 28 underlines that the CEDAW applies to both citizens and non-citizens —asylum seekers, refugees, migrant workers and stateless individuals<sup>164</sup>—, thus underlining the duty of State parties of the CEDAW to recognise all women, especially the most marginalised, as right holders under their jurisdiction<sup>165</sup>. Consequently, the framework offered by international women’s human rights provides

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<sup>158</sup> GR 26 para. 13.

<sup>159</sup> GR 26 para. 13.

<sup>160</sup> See Footnote 4 in GR 26.

<sup>161</sup> The CEDAW Committee is currently working on a General Recommendation on trafficking of women and girls in the context of global migration, for which it called States, United Nations bodies, NHRIs, NGOs and other relevant stakeholders to submit reports that will contribute to writing the final draft by the Committee. After its publication it should be closely analysed whether a clear distinction between trafficking, exploitation of prostitution and sex work is provided in the text.

<sup>162</sup> UN Committee for the Elimination of All Forms of Discrimination against Women, ‘General Recommendation No 28’ (16 December 2010) CEDAW/C/GC/28.

<sup>163</sup> GR 28 para. 18.

<sup>164</sup> GR 28 para. 12.

<sup>165</sup> GR 28 para. 26.

the most adequate tools to address violence against women in prostitution in Italy as a form of discrimination against women, given their position of vulnerability on the basis of their sex, gender, race, ethnicity and migrant status.

#### *4.3.2 Freedom from violence*

At the time of the adoption of the CEDAW, States were reluctant to include provisions aimed at combatting one of the most pervasive cause and consequence of the historical, structural and persistent inequality between men and women: gender-based violence against women (GBV). Likewise, on the face of the absence of a legally-binding instrument at the UN level nowadays, it can be argued that States still oppose assuming their responsibilities vis-à-vis GBV and, more broadly, women's human rights. Nonetheless, the CEDAW Committee under Article 21 of the Convention has worked to tackle the absence of a binding instrument in the form of either an optional protocol to the CEDAW or a new treaty directed at combatting GBV and has, in this way, established the social, political and legal bases to approach violence against women (VAW) as a human rights violation.

With the publication of the General Recommendation 19 (GR 19) on violence against women in 1992<sup>166</sup>, the CEDAW Committee established the link between the principle of non-discrimination against women and GBV against women. Broadly interpreting the provisions of the CEDAW regarding non-discrimination and non-discrimination against women in family relations, the Committee identified physical, mental and sexual violence against women as a form of discrimination directed against women because of their gender, and stated that this form of discrimination was a violation of the fundamental human rights of women<sup>167</sup>. In 2017, the CEDAW Committee published its General Recommendation 35 updating the provisions included in GR 19<sup>168</sup> (GR 35) in order to provide State parties further guidance on how to tackle VAW, to expand their obligations, as well as to contribute to a holistic understanding of the phenomenon by elaborating on the persistence of VAW at all levels and in all countries.

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<sup>166</sup> UN Committee for the Elimination of All Forms of Discrimination against Women, 'General Recommendation No 19' (29 July 1994) UN Doc HRI/GEN/1/Rev .1

<sup>167</sup> GR 19 para. 6-7.

<sup>168</sup> UN Committee for the Elimination of All Forms of Discrimination against Women, 'General Recommendation No 35' (26 July 2017) CEDAW/C/GC/35

Even though the international framework addressing VAW has been criticised on the basis of its inefficiency to adequately respond to this violation of the human rights of women<sup>169</sup>, the existence of legally-binding instruments aimed at eliminating VAW at the regional level implies the existence of legal obligations on State parties to address VAW. In the case of Europe, the Council of Europe adopted the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)<sup>170</sup> in 2011 and was ratified by Italy in 2013. Drawing on the CEDAW as well as its Committee jurisprudence, the Istanbul Convention is an instrument including the developments within the UN in relation to VAW and further developing them. For this reason, given the status of customary international law of the prohibition of GBV at the international level<sup>171</sup>, reading and applying in conjunction the provisions of both the UN and COE instruments permits analysing holistically and in its full complexity violence perpetrated against women in prostitution and, consequently, holding Italy accountable for such violations.

#### *4.3.3 Vulnerability of prostitutes to VAW*

The discrimination clause of the Istanbul Convention obliges State parties to implement the provisions of the text without discrimination based on sex, sexual orientation, gender, gender identity, race, colour, language, religion, political opinion, national or social origin, ethnicity, property, birth, migrant status or other status<sup>172</sup>. Additionally, the text underlines that the measures taken by State parties to eradicate VAW shall include all women victims of such human rights abuses, which confirms the applicability of the Convention in cases of violence perpetrated against women in prostitution.

Significantly, GR 19 stresses the inherent vulnerability prostitutes are exposed to due to their legal status and the marginalisation they are subject to. Thus, it calls States to pass laws ensuring equal protection against rape and other forms of violence<sup>173</sup>. At the European level, Article 36 of the Istanbul Convention imposes State parties the obligation

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<sup>169</sup>J. Jones, 'The Importance of International Law and Institutions', in R. Manjoo and J. Jones (eds), *The Legal Protection of Women from Violence: Normative Gaps in International Law*, London and New York, Routledge, 2018, pp. 9 – 39, p. 19-20.

<sup>170</sup> Council of Europe Convention on Action against Violence against Women and Domestic Violence (Istanbul Convention), CETS No. 210, 11 May 2011.

<sup>171</sup> The CEDAW Committee considers in GR 35 para. 2 that 'the prohibition of GBV against women has evolved into a principle of customary international law'.

<sup>172</sup> Istanbul Convention, art 4 (3).

<sup>173</sup> GR 19 para. 15.

to criminalise sexual violence, including rape, and emphasises that the lack of voluntarily consent to engage in any sexual act regardless of its nature is sexual violence<sup>174</sup>. Interpreting both provisions —GR 19 and the Istanbul Convention— in conjunction is particularly important to address the social stereotypes that justify sexual violence against women in prostitution under the ideas that those women cannot be raped given that they are selling their bodies and, thus, making them available for public use.

Additionally, it contradicts the abolitionist idea that ‘prostituted sex [cannot] even be considered consensual, because coercion itself renders sexual consent impossible<sup>175</sup>’. Therefore, thinking about consent within prostitution opens the door to analyse this phenomenon in all its complexity and differentiating violence perpetrated against women because they are in a situation of exploitation and violence perpetrated against women because of the vulnerabilities stemming from a situation of prostitution. In other words, sexual violence against women in prostitution must be addressed regardless whether they are in a situation of exploitation or that they have been trafficked, since such human rights violations constitute two distinct criminal acts that must be legally and judicially addressed accordingly.

The vulnerability of women in prostitution is further stressed in GR 35, where the CEDAW Committee sustains that ‘being in prostitution<sup>176</sup>’ intersects with gender and other factors of women’s lives to generate unique forms of discrimination. Especially relevant for violence against outdoor prostitutes, this same paragraph underlines that urban location is also an element shaping the experience of discrimination, and hence, of violence against women. Moreover, the text later points out that GBV against women is present in ‘all spaces and spheres of human interaction<sup>177</sup>’, public space being one of such sites of interaction, according to GR 35. For this reason, such provisions demonstrate the necessity to carefully consider the location that women in street prostitution, as a vulnerable group of individuals, occupy in the public space as well as how the management of such space can have a positive or negative impact in relation to the eventual violence perpetrated against them.

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<sup>174</sup> Istanbul Convention, art 36.

<sup>175</sup> R. Moran and M. Farley, ‘Consent, Coercion, and Culpability: Is Prostitution Stigmatized Work or an Exploitive and Violent Practice Rooted in Sex, Race, and Class Inequality?’, *Archives of Sexual Behaviour*, 2019, pp. 1-7, p. 5.

<sup>176</sup> GR 35 para. 12

<sup>177</sup> GR 35 para. 20.



Furthermore, GR 35 insists on the obligation of States to eliminate all laws, provisions and public policies that discriminate against women and that, as a consequence ‘encourage, facilitate, justify or tolerate any form of GBV<sup>178</sup>’. Making history in its role as interpretative body, the CEDAW Committee states in this GR that laws criminalising women in prostitution are among the provisions that perpetuate GBV<sup>179</sup>. Applied to the Municipal Ordinances passed in Padova in 2011 and 2014, the provisions and obligations underlined in GR 35 regarding the duties of State parties to the CEDAW vis-à-vis the elimination of violence against women requires such municipal laws to be closely scrutinised, given that they suppose a *de facto* criminalisation of street prostitution and a spatial segregation into peripheric areas of the city of women in prostitution. Additionally, the fact that such legal provisions had been issued at the local level does not exempt Italy to take responsibility about the effects of these laws in the violation of the fundamental rights of women in prostitution. As Chiarotti points out, even though municipalities tend to neglect it, the international mandate to eradicate discrimination against women is binding not only at the national level but also at the regional and local levels of governance<sup>180</sup>, as it is emphasised in multiple international and regional human rights documents<sup>181</sup>.

#### 4.3.4 *The principle of due diligence*

Holding accountability for acts of VAW committed by non-state actors requires an application of human rights law overcoming the historical understanding of state responsibility that prioritises the violation of civil and political rights in the public sphere<sup>182</sup>, which has been the responsible of the ‘near-universal history of non-responsiveness to, State approval of, and all-too-frequent participation in gender violence<sup>183</sup>’. This implies that the traditional application of State responsibility in human rights law considered only cases of direct intervention of the State in the enjoyment of the fundamental rights of individuals<sup>184</sup>. Such gender-biased interpretations of

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<sup>178</sup> GR 35 para. 31 (a).

<sup>179</sup> GR 35 para. 31 (a).

<sup>180</sup> S. Chiarotti, ‘La responsabilidad de los municipios en la prevención de la violencia contra las mujeres en las ciudades’, in Falú, A. (ed.), *Mujeres en la ciudad: de violencias y derechos*, Santiago de Chile, Ediciones SUR, 2009, pp. 61 – 75, p. 69.

<sup>181</sup> See for instance GR 28 paragraph 25, GR 35 paragraph 26, Istanbul Convention art 7.

<sup>182</sup> Reilly, *Women’s Human Rights*, p. 30.

<sup>183</sup> J. Goldschild and D.J. Liebowitz, ‘Due Diligence and Gender Violence: Parsing its Power and its Perils’, *Cornell International Law Journal*, vol. 48, n. 2, 2015, p. 303.

<sup>184</sup> Reilly, *Women’s Human Rights*, p. 34.

accountability for human rights violations thus failed to recognise the responsibility of the State in addressing structural inequalities between women and men based on gender stereotypes that fostered VAW by non-State actors. In this context, the principle of due diligence in international human rights law dismantles this conception and aims at ensuring full accountability of the State for acts of commission or omission perpetrated either by State-actors or non-State actors, addressing thereby *de jure* and *de facto* discrimination against women.

GR 19, interpreting Article 2 of the CEDAW on State obligations vis-à-vis discrimination against women, underlines that ‘discrimination is not restricted to action by or on behalf of Governments’, but that States have the obligation to ‘take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise’<sup>185</sup>. And, in relation to the elimination of VAW as a form of discrimination against women, the text then introduces for the first time in a CEDAW document a definition of the principle of due diligence, by which, the Committee points out, States may be held accountable for a failure in preventing, investigating and/or punishing acts of violence against women perpetrated by private actors and in compensating victims of such abuses.

This principle is further developed in CEDAW’s GR 28, which underlines that the responsibility of the State concerns cases of VAW in all spheres, including domestic violence or violence occurring in any kind of interpersonal relationship<sup>186</sup>. Finally, GR 35 provides further analysis of the nature of this principle and points out that a failure to act with due diligence in cases of VAW represents a ‘tacit permission or encouragement’ by the State to perpetrate such human rights abuses against women. In addition, it specifies that the principle to act with due diligence is applicable at all branches of the State power and at all levels of government.

Unlike the UN system, within the COE system the obligation of the States to act with due diligence to prevent, prosecute and punish VAW is legally binding, as it is included in the Istanbul Convention. Added to the obligation to ensure that State-actors do not commit acts of VAW, Article 5 sets the duty of State parties to take all legislative and other measures to ensure that acts of VAW are not committed by private actors (prevent), and, that in case they are committed, that the crime is duly investigated (investigate),

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<sup>185</sup> GR 19 para. 9.

<sup>186</sup> GR 28 para. 19.

perpetrators are held accountable (prosecute) and women victims of VAW receive compensation (repair).

The development of the due diligence principle within the framework of women's human rights overcomes the historical negligence to overlook the private sphere as a site of State intervention by obliging State parties to the CEDAW and to the Istanbul Convention to actively engage in the elimination of VAW in all spheres of human interaction. It underlines the State responsibility to not only refrain from committing VAW, but to take action to eliminate such human rights abuses committed by private individuals, since a failure in doing so would amount to a violation of the human rights of women committed by the State by an act of omission of its responsibilities. It must be noted that, as the former Special Rapporteur on VAW, Rashida Manjoo stated, the principle of due diligence imposes an obligation of means rather than one of results. This means that States must take all legal and judicial measures as well as policies addressing cultural practices and beliefs responsible to perpetuate patterns of violence, ensure the efficacy of such measures in the eradication of VAW as well as their availability to all women without discrimination of any kind<sup>187</sup>.

#### *4.3.5 The failure of Italy to act with due diligence*

The 2011 and 2014 Municipal Ordinances issued in Padova following the Italian national Law 25/2008 prohibit the use of public space to women in prostitution, a segment of the population in a situation of vulnerability given their gender, migration status, race, ethnicity and urban location. Those administrative laws contain provisions that criminalise street prostitution, which implies putting outdoor prostitutes in a situation of further vulnerability. Additionally, those women are fined on the grounds that their presence in the public city space offends public decency and produces hygienic degradation as well as an increase in road traffic offences. Clients of outdoor prostitution are likewise fined in an intend to make this visible sector of the sex industry disappear. The result, however, is a segregation in space, either in the city itself or towards closed spaces, where they face an increased risk of suffering VAW. Those administrative instruments, therefore, have a direct impact in the safety and bodily integrity of women in prostitution, two elements that seem to have been disregarded at the time of drafting

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<sup>187</sup> UNHCR, 'Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences' (14 May 2013) UN Doc A/HRC/23/49, para. 72.

and adopting the Ordinances. In such a context, the principle of due diligence provides a lens for analysis regarding the responsibility of Italy in fostering or perpetuating violence against outdoor prostitutes.

#### *4.3.5.1 Prevent*

Article 5 of CEDAW and Article 12 of the Istanbul Convention oblige States to take measures to eradicate both cultural prejudices that reinforce stereotypes about the roles of women and men and ideas about the male superiority over women, which cultivate the grounds for the existence of VAW. Furthermore, GR 19 underlines that such stereotypes propagate an image of women as sexual objects<sup>188</sup>, and Article 12 (3) of the Istanbul Convention underlines the necessity to consider the specific needs of women that, because of their circumstances, are made vulnerable.

The wording used in the 2011 Municipal Ordinance, however, far from preventing the promotion of stereotyped ideas about women in prostitution, it rather fosters it. It presents a highly essentialist image of those women, reducing them to a sexual danger to which men inevitably surrender. Women in prostitution are thereby hypersexualised, and in turn, this false characteristic is presented as the source of social disorder, traffic perils and hygienic degradation, which justifies fining women in street prostitution and their clients. The rhetoric depicting women in prostitution as whores together with their criminalisation represents a failure in addressing both the stigma they have on them and their situation of vulnerability. Additionally, such representations of prostitution promote an idea that their sexual behaviour, which is deemed to be amoral, justifies human rights abuses against them. This, in turn, is a failure in the obligation of Italy to ‘dismantle the commonly held victim-blaming belief that make women responsible for their own safety<sup>189</sup>’, as stated in GR 35.

Another measure of prevention is stated in both Article 15 of the Istanbul Convention and GR 35, which call State parties to train professionals on the prevention and detection of all forms of VAW<sup>190</sup> and on the measures to be adopted to avoid secondary victimisation. Nonetheless, the Municipal Ordinances do not contain any provisions underlining the necessity to provide gender-sensitive training to the Municipal Police of Padova as the

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<sup>188</sup> GR 19 para. 12.

<sup>189</sup> GR 35 para. 35 (b).

<sup>190</sup> GR 35 para. 35 (b) and para. 45.

body in charge of the enforcement of the municipal laws. Additionally, the text of the 2011 Ordinance claims to have as an objective the fight against sexual exploitation and forced prostitution. However, none of the clauses of the text are devoted to such actions, but rather to sanction clients and women in prostitution.

As it has been mentioned above, GR 35 underscores the necessity to develop measures to ensure the safety of all women in public spaces<sup>191</sup>, which is extremely relevant when it comes to women in street prostitution. Nonetheless, one of the side-effects of sanctioning outdoor prostitution is the spatial segregation of women towards the periphery and industrial areas of the city. This increases their insecurity and their risk to be exposed to multiple forms of violence. The lack of consultation of women's groups, NGOs and sex workers activists as well as street prostitutes themselves in the process of planning and drafting the content of the Ordinances results in a failure in analysing the direct and indirect gendered effects that the prohibition on the use of public space will have in the security and bodily integrity of the segregated group, as well as in promoting the participation of all relevant stakeholders in the adoption of measures aimed at eliminating VAW<sup>192</sup>.

#### *4.3.5.2 Protect and prosecute*

The criminalisation of prostitution as provided in the Municipal Ordinances discourages women to denounce aggressions and acts of violence perpetrated against them either by State-actors, such as law enforcement bodies, or non-State actors<sup>193</sup>. That is, the prosecution of street-based prostitution and more specifically, of women in prostitution themselves, diminishes the level of trust they have vis-à-vis policemen, who have the mandate to fine them in the case they are occupying a restricted area of the city instead of offering them protection. Moreover, given that almost all women in outdoor prostitution are migrant, there might be reluctance amongst them to denounce acts of violence because of the fear of having their migration status altered or, in case of irregular migrants, to be deported. Such effects of the criminalisation of street prostitution result in a violation of the rights of women in prostitution to equal access to justice and

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<sup>191</sup> GR 35 para. 36.

<sup>192</sup> GR 35 para. 35.

<sup>193</sup> Amnesty International, “*What I’m Doing is Not a Crime*”. *The Human Cost of Criminalizing Sex Work in the City of Buenos Aires, Argentina*, AMR 13/4042/2016, p. 26.

protection under the law<sup>194</sup>. In addition, it fosters a culture of impunity that violates the obligation of Italy to prosecute perpetrators of VAW and to provide reparation to the victims<sup>195</sup>.

The Law 125/2008 together with the anti-prostitution ordinances that *de facto* criminalise prostitution in the urban public space of Padova are two instruments that discriminate against women in prostitution. Municipalities, as representatives of the government, in their provisions to sanction street prostitution fail to recognise and adequately address the high risk and vulnerability to GBV that women are exposed to due to the intersectional forms of discrimination they suffer because of their gender, their race, their ethnicity, their migrant status as well as their situation of being in prostitution. Moreover, the formulation of those administrative laws in terms of public decency and hygienic degradation convey an image of amorality and criminality that foster and exacerbate stereotypes and stigma on women in prostitution that justify forms of VAW against them. Finally, such Municipal Ordinances work as a tool of social and spatial control that ignores women's urban vulnerabilities and the ways in which outdoor prostitutes experience spatiality and safety in the city. They are, therefore, inadequate instruments to address the problematics inherent to street prostitution, since they exacerbate the situation of vulnerability to violence street prostitutes are exposed to and, consequently, violate Italy obligations to act with due diligence to eliminate all forms of violence against women.

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<sup>194</sup>CEDAW art 15.

<sup>195</sup> Istanbul Convention art. 29 and GR 35 para. 44.

## 5. CONCLUSION

The motivations of the author to research in the topic discussed in this thesis was the emerging discourse that defends the necessity to apply human rights standards at the local level, in the cities, in our everyday lives. The way cities are thought, planned and organised must take into account the realities of all its inhabitants, whether they are nationals or non-nationals and regardless their sex, gender, ethnicity, race, age or work. The impact certain decisions taken at the municipal level regarding the use of public space or its very distribution must necessarily be monitored applying human rights lenses if the universality and indivisibility of human rights are to be taken seriously and applied rigorously without discrimination of any kind at all levels of State government.

Prostitutes however, seem to be the eternal invisible living elements of the cities, the ones we all know exist but that we do not want to see. Cities, as we know them nowadays, are not welcoming for prostitutes because they violently disrupt a certain image of cleanliness and moral correctness. Following this logic, in Italy, a discourse has been shaped since 2008 around the notion of security equating the presence of prostitutes in the public space of the city as a degrading element and a source of crime that needs to be eliminated.

However, as it has been analysed, women in street prostitution in this country are an extremely vulnerable group to human rights abuses. On the one hand, engagement in this sexual and economic activity implicates that they are highly stigmatised and, consequently, marginalised in and by a society constructed around gender roles and stereotypes that holds rigid norms about the adequate sexual behaviour of women. A woman selling her body to multiple clients, in this logic, is unworthy and dishonourable and, as such, physical and sexual violence perpetrated against her is not conceptually, socially and legally recognised as a violation of her fundamental rights but rather as an act that has been provoked by the attitude, aesthetics and economic activity of the victim.

Additionally, the internationalisation of prostitution in Italy means that the majority of women in street prostitution in all the cities of Italy, including Padova, which has been the case study of the research, are individuals in migration coming from different regions of the world and with a diverse ethnicity than the one in their country of reception. On the one hand, this implies that they are likely to be subject to discrimination based on their national origin, ethnicity and/or race. On the other hand, they might be in an irregular

situation in terms of their legal status. Added to that, the phenomenon of trafficking for sexual exploitation is widespread in street prostitution in Italy, especially in the case of Nigerian women, as it has been underlined in Chapter 3, although it must be stated that not all women that engage in prostitution have been trafficked nor that they are being exploited.

All these factors—their gender, their national origin, their ethnicity, their race, their legal status, the fact that they are prostitutes and some of them victims of trafficking—shape their unique experience of marginalisation, stigmatisation and discrimination. In this context, Italy by framing public policies regarding urban security situating street prostitution within a discourse of danger, amorality and dirtiness does nothing but to exacerbate the marginalisation this segment of the population is subject to. Additionally, the analysis of the wording and content of the Municipal Ordinances n.19 and n.17 issued in Padova in 2011 and 2014 respectively, denotes a sexist ideology coming from an official institution in which the woman in prostitution herself is portrayed as an individual provoking men to purchase sex.

Thus, the legal discourse supporting the provisions contained in both Ordinances present women in prostitution as a peril in terms of, on the one hand, morality and urban decorum, and, on the other hand, in terms of road safety. That is, the very presence of women in prostitution in the street wearing inappropriate outfit, as it is discursively constructed in the text of 2011, are the cause of traffic insecurity because it leads men to infringe the road code when they stop their cars to purchase sexual services. Consequently, the prohibition of street prostitution in certain areas of the public city space is justified. It is surprising, however, that even though it is men who infringe the road code, the Municipal Ordinances contain provisions that foresee not only fining clients but also women in prostitution. This represents a *de facto* criminalisation of street prostitution and hence a contradiction of the national legislation on prostitution, the 1958 Merlin Law, which does not prohibit street prostitution but applies a *laissez-faire* approach.

Numerous studies carried either by academics, international NGOs or sex workers groups have proved that criminalisation of prostitution has fatal effects for women in prostitution themselves. As a group that is vulnerable to multiple forms of psychological, physical, sexual as well as economic violence perpetrated by multiplicity of actors, the prohibition of prostitution in the street implies that they move to peripheric areas of the city, with poor public lighting, badly connected in terms of transport and extremely isolated, where



they are more vulnerable to acts of violence committed against them with impunity. Additionally, provisions fining clients have proved to have an effect in disempowering women when it comes to negotiate the conditions of the service with the client, such as the use of prophylactics, which exposes them to sexually transmitted diseases. It has also been proved that criminalisation of prostitution discourages women to denounce abuses committed against them, as perpetrators can also be State actors. Moreover, if women in street prostitution are treated either as criminals or as sexual provokers and not as women in a position of vulnerability, violence perpetrated against them becomes normalised and therefore, invisible although it is structurally and culturally mediated.

Even though further research on the effects of the Municipal Ordinances passed in Italy after the Law 125/2008 in the violation of human rights of women in street prostitution needs to be carried at the national level applying a methodology that permits a continuous monitoring of the spaces of street prostitution in all cities of the country, that thoroughly analyses the content of all the anti-prostitution ordinances passed in Italy since 2008, that collects data on the reasons and quantity of sanctions clients and women in prostitution receive by local law enforcement bodies and that gathers the first-hand experience of women in prostitution, social workers and policemen, the contribution of this thesis should not be dismissed.

Chapter 3 has critically engaged with feminist positionings in relation to prostitution in order to propose new possibilities that can overcome the debate that has historically divided women's movements in relation to whether prostitution is violence or whether it can be considered a job. It has been argued that this division in feminism has hindered the possibility to practice an emancipatory feminism with the capacity to lobby at the international level for a full recognition of the historically invisibilised forms of violence against women in prostitution and that considers the experiences and reality of all women analysing them from the same starting point: human rights. For this reason, this thesis has contributed to the development of the feminist theory about violence against women in prostitution with the purpose of advocating for a recognition of this abuse under international human rights law.

In this regard, this thesis represents a bottom-up approach to the system of human rights put in practice. The examination and critical interpretation of the regional and international frameworks of women's human rights has demonstrated that, even though there is an urgent need to further develop and concretise them, current standards on

violence against women do apply to women in prostitution. Thus, it has been underlined that human rights of women in prostitution are women's human rights and that violence perpetrated against prostitutes is a form of gender-based violence against women. As such, States have the obligation to act with due diligence to prevent and protect victims and prosecute and punish perpetrators of violence against prostitutes. However, in the case of Italy it has been demonstrated in Chapter 3 that the State has failed in acting with due diligence to prevent violence against women in prostitution by passing municipal laws in Padova that criminalise street prostitution and segregates it in space.

In this analysis, the incorporation of feminist urban studies as a theoretical framework to understand the processes and effects of spatial segregation of women in prostitution has been used to emphasise that the experience of space is not gender-neutral and that women experience unique forms of insecurity and discrimination in the public space. Thus, it has been underlined that urban planning strategies can foster violence against women if they are not applied with a gender-based perspective, which has been the case with the two Municipal Ordinances passed in Padova after the Law 125/2008. The spatial segregation of women in prostitution in Padova furthers their social position as marginalised urban dwellers instead of situating them at the centre of public policies aimed at tackling and reducing their vulnerability.

In relation to that, it is important to emphasise that collecting, analysing and publishing data and statistics on all forms of violence against women is an obligation of States under CEDAW and the Istanbul Convention. However, in Italy, even though statistical data on violence against women is published every year, the lack of accessible and disaggregate data on violence against street prostitutes in the city is as an indicator of the processes of normalisation and invisibilisation of urban violence. Including data that considers being in prostitution as a risk factor into the national statistics would facilitate explicative analysis of the causes and effects of such violence. Moreover, these data should include the typology of crimes perpetrated against women in prostitution, the relationship between the victim and the perpetrator as well as the areas of the city in which those crimes are committed. This would facilitate the prevention of violence against prostitutes as well as an evaluation of the safety of every area of the city that would help analysing the role urban space has in fostering violence against them.

Nonetheless, in order that Italy, and more broadly all States, apply preventive measures and protective mechanisms in relation to violence against women in prostitution,

monitoring bodies of the UN and the COE mechanisms of women's human rights should take a firm stance in relation to their position vis-à-vis prostitution. In that way, the CEDAW Committee and the GREVIO could oblige States to monitor abuses related to public policies and laws that criminalise prostitution. In this process, the participation of civil society, women's groups as well as NGOs working with women in prostitution in these mechanisms should be potentiated in their role of documenting and shadow-reporting human rights abuses against prostitutes to both treaty bodies. Additionally, carrying a study on the characteristics, reasons and consequences of violence against women in prostitution by the UN Special Rapporteur on Violence against Women would represent a further engagement of the international human rights mechanisms in understanding the phenomenon.

This thesis has been written as a first step in the process of re-thinking the space of women in prostitution in the city. As such, this research wants to provide a basis and a very localised contribution to carry further investigation aiming at not only underlining and studying the effects that spatial segregation of street prostitution has in the safety of women in prostitution themselves from a gender-based perspective, but at investigating how a safe city for prostitutes would look like. In this regard, it is important for political actors, policy makers and women's movements to assume that the phenomenon of prostitution is very unlikely to disappear in the following years. Restrictive migration policies that impede a legal and regular entry of women in migration in Europe, together with the intersectional discrimination these women face in the Western labour market situating them in the lower echelons of labour value represent a push factor for many of these women to engage in the unregularized sectors of the market in order to earn a living. In this context, human trafficking for purposes of sexual exploitation must be understood in all its complexity and as a reality of many female migration projects that emerges precisely because of the closure of legal ways to entry in Italy, and Europe in general.

For all these reasons, as it has been mentioned above, prostitution as a strategy of survival will not disappear until the socioeconomic and political factors that lie at the heart of the phenomenon itself and are the root causes for prostitution to emerge are not addressed. This necessarily implies an application of a holistic approach to prostitution in which cities and municipalities can play a strategic role in ameliorating the living conditions of these women. As it has been demonstrated, it is necessary to think about new paradigms and strategies at the local level that stop criminalising the use of public space by women

in street prostitution because doing so implies situating them in a position of further vulnerability to human rights abuses and violence by both State and non-State actors. Additionally, this criminalisation does not eliminate the problems inherent to prostitution nor abolishes the phenomenon itself. For this reason, instead of segregating street prostitutes and making them invisible in the city, it would be necessary to think about strategies that can safely accommodate women in prostitution in the city.

Future research could focus on the strategies and viability to create safe zones for street prostitution in Italian cities and thus contribute to shape the public policies and discourse regarding street prostitution in order to apply a human rights-based approach at all decisions taken at the local level. Research could also inquire into the role that the eventual creation of a safe space for street prostitution managed by the municipality would have in the detection of cases of trafficking in human beings and sexual exploitation. Furthermore, new lines of research could analyse the potentialities that including in the process of planning safe urban spaces all social and political actors directly or indirectly involved in the phenomenon of street prostitution —women in prostitution, local administration, social workers, experts in women’s human rights, experts in human trafficking and sexual exploitation, urbanists, law enforcement bodies— would have in ensuring a fully human rights-based strategy. What is clear after this thesis, however, is that public policies and laws that touch upon street prostitution must situate at its core the protection of the bodily integrity and safety of women in prostitution and, for this reason, laws and ordinances criminalising street prostitution and spatially segregating it must be removed if the right to live free from violence is to be applied universally to all women without discrimination of any kind.

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## ANNEX I

COMUNE DI PADOVA

Codice fiscale 00644060287

SETTORE POLIZIA MUNICIPALE

SERVIZIO 2° MOTORIZZATO TERRITORIALE

10 Maggio 2011 – Registro Ordinanze n° 19

**OGGETTO:** Interventi finalizzati alla sicurezza stradale, alla tutela del demanio pubblico ed alla sicurezza urbana.

### IL SINDACO

Permesso che il Sindaco assume il duplice ruolo di Capo dell'Amministrazione Comunale e di Ufficiale di Governo;

Considerato che il Sindaco, quale espressione della comunità locale è chiamato a rispondere ai cittadini degli indirizzi e dell'attuazione delle politiche di governo locale che si concretizzano anche in interventi per prevenire e contrastare atti e comportamenti tali da compromettere la vivibilità in città e tali da provocare disagio e allarme alla popolazione in quanto idonei è facilitare l'insorgenza di più gravi fenomeni criminosi od in quanto lesivi delle regole sociali o di costume sui quali si regge un'ordinata e civile convivenza;

Preso atto che tra i compiti primari dell'Amministrazione Comunale vi sono la tutela della collettività, del demanio pubblico e della viabilità comunale e la salvaguardia dell'ambiente come bene e risorse anche futura della comunità;

Ritenuto che le situazioni di degrado urbano, aventi impatto diretto sui compiti primari dell'Ente Locale, contribuiscono ad acrescere l'insicurezza reale e la percezione di insicurezza tra la cittadinanza a cui l'Amministrazione Comunale di Padova intende contrapporsi con ogni iniziativa utile a migliorare la vivibilità e la qualificazione dei luoghi di vita, la convivenza civile e la coesione sociale nel perseguimento del benessere dei consociati;

Considerato che con Ordinanza Sindacale n. 13 del 4 maggio 2007 sono state adottate per l'intero territorio comunale specifiche misure finalizzate ad una maggior sicurezza stradale ed al decoroso utilizzo del demanio comunale;

Appurato che dalla data di adozione del succitato provvedimento la Polizia Municipale e le Forze dell'Ordine hanno redatto oltre mille verbali di violazioni alle disposizioni ivi contenute, contribuendo a restringere il fenomeno del degrado urbano ad alcune porzioni di territorio situate nel Quartiere 2, nel Quartiere 3, nel Quartiere 5 e nel Quartiere 6 sulle quali è necessario intensificare i controlli per prevenirne il radicamento;

Rilevato altresì che in tali zone il meretricio esercitato su suolo pubblico è ancora diffuso, come da accertamenti diretti della Polizia Municipale e delle Forze dell'Ordine e da esposti avanzati dai cittadini, da Comitati e dal Consigli di Quartiere, riportati anche dai mass media locali, segnalanti la persistenza della situazione di degrado sociale ed ambientale indotta dalla prostituzione su strada tale da incidere sulla sicurezza reale e sul senso d'insicurezza percepito dai residenti;

Ritenuto di aggiornare l'Ordinanza n. 13/2007 per tutelare, tramite le iniziative del Settore Servizi Sociali dell'Amministrazione Comunale, le persone dedite alla prostituzione quando vittime della tratta di esseri umani e/o sfruttate da organizzazioni criminali ed al contempo privilegiare alcuni ambiti territoriali d'intervento per rispondere con servizi mirati alla domanda sociale di sicurezza posta dalla collettività;

Datto atto che il territorio del Comune di Padova costituisce il principale polo economico e produttivo del Veneto con un'articolata economia terziaria ed è sede di una delle più importanti Università nazionali con la conseguenza che, durante tutto l'arco dell'anno ed in tutte le ore del giorno e della notte, è soggetto ad un costante flusso veicolare, con un rapporto transiti giornalieri-residenti molto elevato;

Attesa, altresì, la rilevazione della frequenza, nel contempo, di comportamenti imprudenti e comunque in violazione del Codice della Strada nelle zone in cui è esercitata la prostituzione; da correlare allo svolgersi di trattative per prestazioni sessuali da parte di soggetti alla guida di veicoli;

Considerato che la domanda di prestazioni sessuali proviene prevalentemente da conducenti i veicoli in circolazione sulla pubblica via, che con comportamenti che sono causa di pericolo per la sicurezza stradale per il generarsi al code di traffico, di frenate

improvvisi e di repentini arresti dei mezzi a motore costituiscono intralcio al traffico veicolare;

Considerato, peraltro, che per ragioni di organico e di priorità operative, è impossibile garantire specie nelle ore notturne, un servizio di presidio del traffico veicolare da parte della Polizia Municipale volto a prevenire gli anzidetti comportamenti imprudenti e trasgressivi, collegati allo svolgimento su suolo stradale di trattative per prestazioni sessuali a pagamento;

Visto l'articolo 5 del Regolamento di Polizia Urbana che preliminarmente vieta nei luoghi pubblici, o in vista del pubblico, di compiere atti o esporre cose che possano recare pericolo, incomodo o allarme alle persone, offendere il comune senso di pudore ed il decoro della città, pregiudicare l'igiene e la vivibilità dell'abitato ed in particolare di mostrarsi in pubblico in abiti che offendono il comune senso del pudore;

Ritenuto altresì che l'abbigliamento e l'atteggiamento indecoroso o indecente delle persone dedite alla prostituzione, oltre ad offendere la pubblica sensibilità e generare episodi di tensioni con i residenti, sollecita ed induce la domanda di prestazioni sessuali a pagamento ed è quindi concausa e occasione dei predetti comportamenti che interferiscono con la regolare circolazione veicolare e mettono a repentaglio l'incolumità delle persone sulle pubbliche vie;

Rilevato che l'uso generale dei beni demaniali, ivi compresi quelli comunali, deve svolgersi nei limiti consentiti dal dovuto rispetto per l'analogo diritto di cui sono titolari gli altri soggetti, con il conseguente potere-dovere ex art. 823 del Codice Civile per l'Amministrazione preposta alla tutela del bene demaniale di adottare i provvedimenti che siano necessari alla sua conservazione ad ordinata utilizzazione, nonché a prevenire ed evitare violazioni delle regole generali connesse a detta conservazione ed ordinata utilizzazione;

Constatato che nelle aree abitualmente frequentate dalle persone dedite alla prostituzione si verificano in violazione all'art. 2 del Regolamento di Polizia Urbana ed al Regolamento per la gestione dei rifiuti urbani, situazioni di degrado igienico ambientale per la presenza di rifiuti e residui organici;

Ritenuto per i motivi fin qui adottati che il divieto di cui alla presente ordinanza debba riguardare tutte le parti della contrattazione e tutti i soggetti che vi partecipano;

Visti il Regolamento di Polizia Urbana ed il Regolamento di gestione dei rifiuti urbani;

Vista la legge 20 febbraio 1957 n. 75;

Visto il D. Lgs. 25.7.1998 n. 286;

Visto l'art. 7 bis, l'art. 50 e l'54 del D. Lgs. 16.08.2000 n. 267;

Visto il D. M. 15.8.2008;;

Visto il D. Lgs. 30.04.1992 n. 285;

Vista la L. 24.11.1981 n. 689;

Visto lo Statuto del Comune di Padova;

#### DISPONE

La revoca dell'Ordinanza Sindacale n. 13 del 4 maggio 2007;

#### ORDINA

1. Nel territorio di Padova nelle vie del **Quartiere 2**, Avanzo, de' Menebuoi, Bordone, Enselmini, Altichieri da Zevio, Bressan, Duprè, Bartolino da Padova, Perosi, A. da Bassano, A. da Forti, Mendelssohn, Aspetti, Callegari, Leonati, Lippi, Moretto da Brescia, Strazzabosco, Arcella, Viotti, Pontevigodarzere, Storiato, Longhi, Fasolato, Gloria, Benedetti, J. Da Montagnana, Reni, Liberi; del **Quartiere 3**: Corso Stati Uniti, Plebiscito, Vigonovese, Mortise, Camin, Uruguay, Lisbona, Grecia, Portogallo, Cile, del Progresso, Basilicata, Brasile, Bajardi, Pettinati, Baviera, Messico, Danimarca, Francia, Grassi; **del Quartiere 5**: via Goitó; **del Quartiere 6**: Po, Natisone, Tevere, Rocco, Retrone, Proimboe, Pirano, Varmo, Sacro Cuore, Ronchi Alti, Montá, Marmocchi, del Cimitero è fatto divieto a chiunque di fermare il proprio veicolo per contrattare sulla pubblica via prestazioni sessuali a pagamento. Se l'interessato è a bordo di un veicolo, la violazione si concretizza nella "fermata del veicolo" per richiedere informazioni ovvero contrattare ovvero concordare prestazioni sessuali con soggetti che esercitano l'attività di meretricio su strada o che per l'atteggiamento ovvero l'abbigliamento ovvero per la modalità comportamentali manifestano comunque l'intenzione di esercitare l'attività consistente nella fornitura di prestazioni sessuali. Consentire la salita sul proprio veicolo di uno o più soggetti come sopra identificati costituisce conferma palese dell'avvenuta violazione della presente Ordinanza.

2. In tutto il territorio del Comune di Padova, ai sensi dell'art. 6 punto 1) del Regolamento di Polizia Urbana, è fatto divieto di mostrarsi in pubblico con abiti che offendendo il comune senso del pudore. Tale divieto, per coloro che esercitano il meretricio oltrechè motivato da esigenze di tutela del decoro e della decenza in luogo pubblico, è preordinato altresì ad evitare comportamenti ed atteggiamenti che inducono la domanda di prestazioni sessuali, con conseguente interferenza con il regolare svolgimento del traffico e con la sicurezza della circolazione veicolare.

3. Nel rispetto delle disposizioni di cui all'art. 18 del D.Lgs 25.7.1998 n. 286 in ipotesi di persone dedite alla prostituzione, vittime di violenza o sfruttamento, e fatte salve le sanzioni penali ed amministrative previste della L. 20.02.1958 n. 75 e dal vigente codice penale, nonché le sanzioni amministrative previste dal vigente codice della strada e fermi i limiti edittali fissati ai sensi dell'art. 7 bis del D. Lgs. 18.08.200 n. 267, per le violazioni alla presente Ordinanza è prevista la sanzione amministrativa da 25 a 500 euro.

4. La presente Ordinanza è immediatamente esecutiva e sarà pubblicata per 15 giorni consecutivi all'Albo Pretorio Informatico, dandone altresì notizia mediante comunicato stampa agli organi d'informazione locali e sul sito comunale.

Il presente provvedimento sindacale è trasmesso alla Questura di Padova, al Comando Provinciale dei Carabinieri di Padova, al Comando Provinciale della Guardia di Finanza di Padova, al Corpo di Polizia Provinciale, al Corpo di Polizia Municipale di Padova, al Settore Servizi Sociali del Comune di Padova e per conoscenza all'Ufficio Territoriale del Governo – Prefettura di Padova.

A norma dell'art. 3, comma 4 della L. 07.08.1990 n. 241 avverso il presente provvedimento può essere proposto ricorso per vizi di legittimità entro 60 giorni alla pubblicazione all'Albo Pretorio al T.A.R – Tribunale Amministrativo Regionale del Veneto ovvero ricorso straordinario al Capo dello Stato entro 120 giorni dalla citata pubblicazione.

Dalla Residenza Municipale, il 9 maggio 2011

Il Comandante P.M

Dr. Aldo Zanetti

Il SINDACO

Flavio ZANONATO

## ANNEX II

COMUNE DI PADOVA

CORPO DI POLIZIA LOCALE

24 aprile 2014 – Registro ordinanze n. 17

**OGGETTO:** Interventi finalizzati alla sicurezza stradale, alla tutela del demanio pubblico ed alla sicurezza urbana – Integrazione Ordinanza n. 19 10 maggio 2011.

### IL SINDACO

**Richiamata** l’Ordinanza n. 19 del 10 maggio 2011 avente ad oggetto “Interventi finalizzati alla sicurezza stradale, alla tutela del demanio pubblico ed alla sicurezza urbana” con la quale il Sindaco ha disposto per chiunque il divieto di fermare il proprio veicolo in determinate vie di Padova al fine di contrattare sulla pubblica via prestazioni sessuali a pagamento, in quanto ciò può mettere a rischio l’incolumità pubblica e la sicurezza dei trasporti ed intole ciò porta degrado e compromette la piena fruibilità del demanio pubblico;

**Vista** la relazione della Polizia Locale di Padova di data 24/04/2014 con la quale si segnala la necessità di estendere il divieto di cui sopra alle vie Venezia e Tommaseo, vie nelle quali si è di recente riscontrato l’estendersi del fenomeno della prostituzione e delle situazioni di degrado ad essa connesse, e ritenuto necessario provvedere anche su tali strade all’efficace tutela della sicurezza stradale ed urbana, considerato anche che si tratta di strade con elevato volume di traffico e quindi da considerare con attenzione;

**Visti** il Regolamento di Polizia Urbana ed il Regolamento di gestione dei rifiuti urbani;

**Vista** la legge 20 febbraio 1958 n. 75;

**Visto** il D. Lgs. 25.7.1998 n. 286;

**Visto** l’art. 50 e l’54 del D. Lgs. 18.08.2000 n. 267;

**Visto** il D.M I 5.8.2008;

**Visto** il D. Lgs. 30.04.1992 n. 285;

**Vista** la L. 24.11.1981 n. 689;

**Visto** lo Statuto del Comune di Padova;

#### ORDINA

1. Di integrare l'Ordinanza Sindacale n. 19 del 10 maggio 2011 al punto 1. del dispositivo con la seguente aggiunta:

“Nel territorio di Padova nelle vie del Quartiere 1 Venezia e Tommaseo”.

2. Di precisare che resta ferma ogni altra disposizione dell'Ordinanza n. 19 del 10 maggio 2011.

3. La presente Ordinanza è immediatamente esecutiva e sarà pubblicata per 15 giorni consecutivi all'Albo Pretorio Informatico, dandone altresì notizia mediante comunicato stampa agli organi d'informazione locali.

Il presente provvedimento sindacale è trasmesso alla Questura di Padova, al Comando Provinciale dei Carabinieri di Padova, al Comando Provinciale della Guardia di Finanza di Padova, al Corpo di Polizia Provinciale, al Corpo di Polizia Municipale di Padova e per conoscenza all'Ufficio Territoriale del Governo – Prefettura di Padova.

A norma dell'art. 3, comma 4 della L. 07.08.1990 n. 241 avverso il presente provvedimento può essere proposto ricorso per vizi di legittimità entro 60 giorni alla pubblicazione all'Albo Pretorio al T.A.R – Tribunale Amministrativo Regionale del Veneto ovvero ricorso straordinario al Capo dello Stato entro 120 giorni dalla citata pubblicazione.

Dalla Residenza Municipale,

IL VICE SINDACO

Dr. Ivo ROSSI

Il Comandante di Polizia Locale

Dr Lorenzo PANIZZOLO