

BETWEEN MORAL PANIC AND THE DENIAL OF RIGHTS: ANTI-TRAFFICKING RHETORIC IN BRAZILIAN LEGISLATIVE DEBATES ON SEX WORK

ENTRE O PÂNICO MORAL E A NEGAÇÃO DE DIREITOS: A RETÓRICA DE COMBATE AO TRÁFICO DE PESSOAS NOS DEBATES LEGISLATIVOS BRASILEIROS SOBRE O TRABALHO SEXUAL

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Abstract: This article examines how anti-trafficking rhetoric and moral panic shaped Brazilian legislative debates on the legal recognition of sex work. The analysis focuses on Bills No. 98/2003, No. 377/2011, and No. 4,211/2012, together with the reports, opinions, and justifications produced during their legislative proceedings. It adopts a qualitative approach based on documentary analysis and a re-examination of empirical material originally

produced for a master's dissertation, including an interview with former Federal Deputy Jean Wyllys and contact with sex worker organizations. The central argument is that the recurrent association of consensual adult sex work with sexual exploitation and human trafficking was more than a matter of conceptual imprecision. It operated politically by moving the discussion away from working conditions, autonomy, safety, and social protection and toward morality, victimization, and punishment. In the legislative record, sex workers were represented either as passive victims incapable of consent or as subjects linked to organized crime, drug trafficking, family disruption, and the sexual exploitation of children and adolescents. These representations diminished the political authority of sex worker organizations, even when they had participated in drafting legislative proposals. The article concludes that anti-trafficking rhetoric helped preserve the Brazilian contradiction between the administrative inclusion of sex work in the Brazilian Classification of Occupations and the criminalization of aspects of its material organization. By treating penal tutelage as protection, the debates reinforced stigma, legal insecurity, and barriers to the recognition of labor and social rights.

Keywords: sex work; human trafficking; moral panic; criminalization; social rights.

Resumo: Este artigo examina a forma pela qual a retórica antitráfico e o pânico moral atravessaram os debates legislativos brasileiros sobre o reconhecimento jurídico do trabalho sexual. A análise concentra-se nos Projetos de Lei n. 98/2003, n. 377/2011 e n. 4.211/2012, bem como nos pareceres, votos e justificativas produzidos durante sua tramitação. A pesquisa adota abordagem qualitativa, baseada em análise documental e na releitura de material empírico produzido em pesquisa de mestrado, que incluiu entrevista com o então Deputado Federal Jean Wyllys e contatos com organizações de trabalhadoras sexuais. O argumento central é que a aproximação entre trabalho sexual consentido, exploração sexual e tráfico de pessoas não decorreu apenas de imprecisão conceitual. Ela operou politicamente ao deslocar o debate sobre condições de trabalho, autonomia, segurança e proteção social para os campos da moralidade, da vitimização e da punição. Nos documentos legislativos, as

trabalhadoras sexuais foram apresentadas ora como vítimas passivas, incapazes de consentir, ora como sujeitos vinculados ao crime organizado, ao tráfico de drogas, à desagregação familiar e à exploração de crianças e adolescentes. Essa construção reduziu o peso político das organizações de trabalhadoras sexuais, inclusive quando participaram da elaboração de propostas legislativas. Conclui-se que a retórica antitráfico contribuiu para manter a contradição brasileira entre a inclusão administrativa do trabalho sexual na Classificação Brasileira de Ocupações e a criminalização de aspectos de sua organização material. Ao converter tutela penal em sinônimo de proteção, os debates legislativos reforçaram o estigma, a insegurança jurídica e os obstáculos ao reconhecimento de direitos trabalhistas e sociais.

Palavras-chave: trabalho sexual; tráfico de pessoas; pânico moral; criminalização; direitos sociais.

1 Introduction

Brazilian law approaches sex work through a contradiction that is easy to identify and difficult to defend. The consensual exchange of sexual services between adults is not a criminal offence. Sex work also appears in the Brazilian Classification of Occupations, created for administrative and statistical purposes. That inclusion, however, does not regulate the profession, create an employment relationship, or guarantee labor rights. At the same time, the Penal Code continues to punish conduct connected with the organization of prostitution, including the facilitation of prostitution, the maintenance of establishments in which sexual exploitation occurs, and the extraction of profit from another person's prostitution (Brasil, 1940; Brasil, 2025).

The result is not a coherent division between lawful work and criminal exploitation. In practice, the individual act is tolerated while much of the material environment in which it takes place remains under criminal suspicion. A person may sell sexual services without

committing a crime, but sharing a workplace, relying on an intermediary, organizing collectively, or working in an establishment may bring the activity close to offences whose wording has historically failed to draw a stable boundary between prostitution and exploitation. This is the legal limbo described by sex worker movements (Leite, 2009; Ribeiro, 2008; Nucci, 2014; Gusso, 2013).

That contradiction has consequences outside legal doctrine. It makes workplace rules less transparent, weakens the possibility of collective organization, and leaves workers more dependent on informal arrangements. It also creates room for selective police intervention. The sex market does not disappear because the law disapproves of the conditions in which it operates. It continues to function, often in plain sight, but with fewer mechanisms through which workers can challenge non-payment, arbitrary fees, unsafe premises, threats, or abuse. Reports produced by sex worker organizations have repeatedly described this gap between the formal tolerance of the activity and the practical denial of protection (Davida, 2009; Angelino, 2021).

Brazilian lawmakers have proposed different answers to this problem. Bill No. 98/2003, introduced by Fernando Gabeira, sought to make payment for sexual services legally enforceable and to repeal criminal provisions associated with prostitution. Bill No. 377/2011, introduced by João Campos, moved in the opposite direction and proposed criminal punishment for those who pay or offer payment for sexual services. Bill No. 4,211/2012, known as the Gabriela Leite Bill and introduced by Jean Wyllys, attempted to distinguish voluntary sex work from exploitation and to regulate autonomous work, cooperatives, and establishments.

The three proposals did not merely offer competing regulatory techniques. They exposed different ideas about sexuality, labor, consent, and the role of criminal law. During their legislative treatment, arguments against legal recognition repeatedly associated prostitution with organized crime, drug trafficking, the exploitation of children and adolescents, violence,

family disintegration, and human trafficking. These risks cannot be dismissed as imaginary. The critical question is different: whether their existence in some settings is enough to define all adult sex work and to justify a general punitive response.

This is where anti-trafficking rhetoric became decisive. In the parliamentary record, trafficking often appeared less as a legally delimited offence than as a broad moral vocabulary through which prostitution itself was described. The distinction between voluntary sex work, abusive working conditions, forced prostitution, and trafficking was blurred. Once that happened, the recognition of labor or social rights could be presented as an incentive to exploitation rather than as a possible means of reducing it (Bernstein, 2010; Blanchette; Silva, 2011; Clemente, 2017; Ribeiro; Clemente, 2017).

The concept of moral panic helps explain the force of this movement. A moral panic does not require an invented problem. It may begin with real violence and real victims. What characterizes it is the disproportionate expansion of the threat, the production of a simplified enemy, and the demand for urgent control before the underlying evidence has been carefully examined. In debates on commercial sex, the image of modern slavery supplied an especially powerful narrative: innocent victims must be rescued, traffickers must be punished, and anyone who questions the boundaries of the category risks being portrayed as indifferent to exploitation (Cohen, 1972; Bernstein, 2010; Horning et al., 2014).

I argue that the conflation of prostitution, sexual exploitation, and trafficking was not only a conceptual error. It worked as a political mechanism. It shifted attention away from remuneration, occupational safety, access to justice, social security, and collective organization. At the same time, it authorized lawmakers and external organizations to define sex workers' interests without granting equivalent authority to the workers who spoke for themselves. Protection was therefore offered through a structure that first denied the protected group the capacity to participate in defining the problem.

The article adopts a qualitative documentary approach. Its primary corpus is composed of Bills No. 98/2003, No. 377/2011, and No. 4,211/2012, together with the legislative reports, opinions, and justifications discussed during their proceedings. The analysis also revisits empirical material originally produced for the author's master's dissertation, including an interview with Jean Wyllys and information obtained from the Brazilian Network of Prostitutes, Davida, the Association of Prostitutes of Minas Gerais (APROSMIG), and Grupo Liberdade. The material is not treated as a representative sample of all sex workers. It is used to compare parliamentary representations with the positions articulated by organized actors directly affected by the proposals (Angelino, 2021).[\[2\]](#)

The discussion proceeds in four stages. The first separates consensual adult sex work from sexual exploitation and human trafficking. The second examines stigma, moral panic, and the political uses of anti-trafficking discourse. The third compares the three legislative proposals and the arguments mobilized around them. The final analytical section identifies the mechanisms through which sex workers were victimized, epistemically excluded, and replaced by penal responses. The conclusion returns to the central contradiction: a legal order that invokes protection while preserving the conditions that make rights difficult to claim.

2 Sex Work, Sexual Exploitation, and Human Trafficking: Necessary Distinctions

Any analysis of the Brazilian debate must begin by separating three categories that legislative discourse often treated as interchangeable. In this article, sex work means the voluntary provision of sexual services for remuneration by an adult who has legal capacity to consent. Sexual exploitation refers to abusive relations in which another person obtains an advantage through force, threat, fraud, restriction of freedom, abuse of authority, non-payment, confiscation of earnings, or comparable forms of control. Human trafficking is a distinct offence, built around particular acts, means, and exploitative purposes. These categories may overlap, but they do not describe the same situation (Piscitelli, 2012;

Piscitelli, 2014).

Drawing that line does not require an idealized account of prostitution. Sex workers do not enter the activity under identical conditions. Poverty, racism, gender inequality, transphobia, exclusion from formal employment, the possibility of higher earnings, family obligations, personal preference, and restricted alternatives can act together. Some workers describe the activity as a choice; others describe it as the least harmful option among several precarious forms of labor. Many move between these positions over time. A useful concept must be able to accommodate that diversity without turning every worker into either an entirely free entrepreneur or an entirely passive victim (Prada, 2018; Mac; Smith, 2018; Angelino, 2021).

The issue is not whether choice takes place outside social constraint. It never does. Occupational decisions are shaped by class position, education, race, gender, family responsibilities, and the labor market. The difficulty begins when these constraints are invoked selectively. Economic necessity is treated as proof that consent to sex work is impossible, while the same necessity is rarely said to invalidate consent to domestic work, agricultural labor, delivery platforms, or other poorly paid and dangerous occupations. Such selectivity reveals that the dispute is not only about exploitation. It is also about the social meaning attached to sexual labor.

Brazilian criminal law has made the conceptual problem harder. The 2009 reform of the Penal Code placed prostitution and “other forms of sexual exploitation” within the same expressions used in the offences related to facilitation and establishments. That wording encouraged the reading that prostitution was itself a species of sexual exploitation, even when performed voluntarily by an adult. In 2016, Law No. 13,344 revoked the former trafficking offences in Articles 231 and 231-A and introduced Article 149-A, which requires specified conduct carried out through serious threat, violence, coercion, fraud, or abuse for an exploitative purpose. The reform improved the legal structure of trafficking, but it did not resolve the broader ambiguity that remains in the prostitution-related offences (Brasil, 1940;

Brasil, 2016; Nucci, 2014).

The absence of a precise statutory definition of sexual exploitation has allowed the expression to carry very different meanings. It may refer to forced prostitution, to the retention of a worker's income, to abusive workplace practices, to any profit made by an intermediary, or to prostitution as such. These are not minor variations. They determine whether the law investigates the conditions of a relationship or condemns the occupation before those conditions are known (Piscitelli, 2012; Piscitelli, 2014).

Piscitelli identifies three broad understandings of exploitation in debates on prostitution. The first, associated with abolitionist approaches, considers prostitution inherently violent. Because the sexual transaction is understood as an expression of patriarchal domination, valid consent is excluded in advance. Under this view, the distinction between voluntary and forced prostitution loses practical relevance. The worker may describe the activity as chosen, but the structure of the activity is taken to invalidate her account (Piscitelli, 2012; Matthews, 2008).

A second approach begins from the premise that sex work is labor and asks how that labor is organized. Exploitation is then identified through concrete economic and managerial practices: excessive deductions, compulsory payments for rooms or food, arbitrary fines, indebtedness, non-payment, control of schedules, unsafe premises, restrictions on refusing clients, or the impossibility of leaving. The sexual character of the service does not disappear from the analysis, but it is not treated as sufficient proof of exploitation. What matters is the relationship between the worker and those who control the conditions of work (Piscitelli, 2012).

The fieldwork carried out in Belo Horizonte pointed in this direction. The president of APROSMIG did not define prostitution itself as exploitation. Her concerns involved daily room charges, transport costs, access to condoms, and the possibility that a worker might end the

day without earning enough to cover the expenses required to work. The account is important because it refuses a false alternative. Sex work may be recognized as work and, precisely for that reason, its forms of economic exploitation must be named and regulated (Angelino, 2021).

A third understanding reserves the language of sexual exploitation for situations involving involuntary entry into commercial sexual activity, coercion to remain, serious abuse, or the participation of children and adolescents. Here, the decisive point is not remuneration or the sexual nature of the service, but the absence of valid consent and the presence of a coercive relation. Forced labor is not defined by the morality or legality of the occupation. It is defined by the worker's relationship with the person who exercises control (Piscitelli, 2012).

The definition adopted here combines the second and third approaches. Sexual exploitation is present when the conditions of work deprive the person of meaningful control over whether, how, and under what terms services are provided. Violence, threats, fraud, restriction of movement, abuse of dependency, involuntary entry, prevention from leaving, non-payment, and confiscatory economic practices are relevant indicators. No fixed percentage or single contractual label can exhaust the inquiry.

Consent must still be read materially. A statement of consent does not end the analysis when fear, debt, dependency, deception, or abuse are present. Nor should it be romanticized as proof of unrestricted freedom. Yet vulnerability cannot become a shortcut to presumed incapacity. When the State assumes that poor, migrant, transgender, or racialized people are unable to make legally meaningful decisions, vulnerability changes function: instead of grounding additional rights, it authorizes tutelage and the replacement of the person's own account by an external judgment (Blanchette; Silva, 2011; Clemente, 2017).

Human trafficking must likewise be kept conceptually separate. Under the Palermo Protocol, trafficking involves recruitment, transportation, transfer, harboring, or receipt through force,

coercion, abduction, fraud, deception, abuse of authority or vulnerability, or the provision of benefits to a person who controls another, for the purpose of exploitation. In the case of adults, the definition requires attention to the means employed and to the intended exploitation. Migration, transport, third-party assistance, or the provision of sexual services does not establish trafficking by itself (Brasil, 2004).

Nothing in the Palermo Protocol requires States to criminalize consensual adult sex work. The instrument addresses the exploitation of the prostitution of others within the definition of trafficking and leaves domestic systems to decide how prostitution itself will be regulated. Using the Protocol as evidence that every form of prostitution amounts to trafficking therefore goes beyond its text. An instrument directed at coercive exploitation is converted into a general justification for repressing consensual sexual labor.

The same care is needed when migration is involved. Sex workers who travel between cities or countries may borrow money, rely on contacts, share accommodation, or receive help with documents and transport. These arrangements can become exploitative, but they are not automatically so. Ethnographic research on Brazilian women in transnational sex markets has shown that mobility may include aspiration, strategy, constraint, affection, deception, and exploitation in combinations that cannot be reduced to the image of a kidnapped victim (Piscitelli, 2013; Blanchette; Silva, 2011).

Once these boundaries disappear, the word trafficking loses analytical precision and gains rhetorical power. It becomes a general description of the sex industry. Workers are then divided into victims who must accept rescue and offenders or accomplices who can be policed. Demands concerning payment, safety, collective organization, and access to public services are displaced by surveillance and punishment (Bernstein, 2010; Ribeiro; Clemente, 2017).

This distinction does not minimize forced prostitution, trafficking, or abusive labor conditions.

The opposite is true. A concept that classifies every form of sex work as exploitation makes it harder to identify the practices that most seriously violate freedom. Effective protection requires a vocabulary capable of distinguishing coercion from consent, abuse from intermediation, and vulnerability from incapacity. The legislative debates considered below repeatedly failed to preserve those distinctions.

3 Stigma, Moral Panic, and Anti-Trafficking Rhetoric

Stigma provides the social background against which legislative arguments about prostitution become intelligible. It is not an inherent quality of the person who carries it. It is produced in a relationship between an attribute and a normative expectation. The person is marked as discredited because she is measured against a model of proper behavior and found to fall outside it. In the case of sex work, that judgment is tied to dominant expectations about femininity, sexuality, family, and the legitimate use of the body (Goffman, 1988; Becker, 1997; Sacramento; Ribeiro, 2014).

The stigma of prostitution works by contrast. The “bad woman” gives shape to the supposedly respectable woman: wife, mother, sexually restrained, and located within the family. Condemning the prostitute is therefore not only a judgment about a specific occupation. It disciplines women more broadly by defining the sexual conduct that places them beyond full social respectability. The category reaches far beyond those who sell sexual services (Juliano, 2005; Rodrigues, 2003).

Brazilian history offers several forms of this control. Medical and hygienist discourses once described prostitutes as sources of disease and disorder. Police practices organized urban space by separating acceptable women from women of the street. During the HIV/AIDS epidemic, sex workers were again represented as vectors of danger, even while their organizations became central partners in prevention policies. The language changed, but the underlying distinction between normal and deviant sexuality remained remarkably persistent

(Rodrigues, 2003; Rodrigues, 2009; Foucault, 1997).

Sex work is singled out from other forms of bodily labor because it openly places a price on sexual access. Many occupations require workers to expose, discipline, or risk their bodies; few are treated as evidence that the worker has lost dignity merely by performing them. The moral objection emerges with particular force when sexuality becomes an explicit object of negotiation. This helps explain why arguments framed as concern with exploitation often carry an unspoken judgment about what sex should mean (Leite, 2009; Prada, 2018).

Stereotypes translate that judgment into apparently stable descriptions of a group. The sex worker appears as immoral, diseased, irresponsible, coerced, or connected to crime. The diversity of biographies and working arrangements disappears. Once the stereotype is accepted, evidence is no longer needed to determine whether a specific person is vulnerable or whether a specific establishment is abusive. The category itself seems to provide the answer.

Moral panic describes the moment when these representations acquire urgency and political force. A group or practice is presented as a threat to fundamental values; the threat is enlarged through repetition, exceptional cases, emotionally charged images, and uncertain numbers; and control is demanded before the proportionality of the response has been tested. The process may begin with genuine harm, but it reorganizes that harm into a simplified narrative of danger (Cohen, 1972).

Human trafficking has become one of the most influential vehicles of moral panic around prostitution. The language of modern slavery offers a clear moral scene. There is an innocent victim, a predatory trafficker, and a duty of rescue. What falls outside the frame receives less attention: migration restrictions, unequal labor markets, family obligations, police violence, racism, transphobia, and the economic conditions that shape mobility and work (Bernstein, 2010; Clemente, 2017).

The problem is not the recognition that trafficking exists. It plainly does. The problem begins when its meaning expands to include situations in which force, fraud, coercion, or exploitation have not been demonstrated. Consensual sex work, migration for sexual labor, and trafficking are then treated as stages of the same phenomenon. The number of presumed victims grows, but the category becomes less capable of explaining what happened to any particular person (Blanchette; Silva, 2012; Piscitelli, 2013).

Vulnerability is central to this expansion. Women, migrants, transgender people, poor people, and racialized groups are described as vulnerable and therefore in need of protection. The first part of that statement may be accurate. The second becomes problematic when vulnerability is converted into a presumption that their decisions cannot be autonomous. Protection then takes the form of restricting mobility, closing workplaces, or criminalizing transactions without the meaningful participation of those affected (Blanchette; Silva, 2011).

This produces the ideal victim. To be fully legible within anti-trafficking discourse, the person must be passive, deceived, coerced, and willing to leave the sex industry. A worker who identifies the activity as work, explains a migration strategy, or demands safer conditions does not fit the expected script. Her account may be dismissed as manipulation, false consciousness, or failure to understand her own victimization (Bernstein, 2010; Clemente, 2017).

The construction is difficult to contest because it is circular. Sex workers are denied authority on the ground that they are victims. If they reject that identity, the rejection is taken as further evidence of their inability to recognize exploitation. Any answer can be absorbed into the original diagnosis. The discourse speaks in the name of the worker while making her disagreement irrelevant.

Anti-trafficking campaigns also benefit from methodological uncertainty. Hidden populations are difficult to count, definitions vary across institutions, and available data often mix

suspected cases, persons considered at risk, and confirmed situations. Estimates may circulate without a transparent explanation of how they were produced. Repetition then gives them the appearance of settled fact, particularly when they move from reports to media coverage and parliamentary speeches (Horning et al., 2014).

Uncertainty does not prove that trafficking is rare, just as an alarming estimate does not prove that it is widespread. It calls for better definitions and more cautious claims. In the legislative debate, however, uncertainty was often used asymmetrically. The possible harms of legal recognition were treated as self-evident, while evidence about the harms of criminalization was required to meet a far higher standard.

Bernstein describes a political convergence between conservative religious actors and strands of feminist activism that regard criminal law as the primary means of protecting women from prostitution. The premises are not identical. Conservative positions may rely on family, morality, and sexual restraint; abolitionist feminist positions may invoke patriarchy, commodification, and gender violence. Even so, both can arrive at the same institutional preference for policing, prosecution, and incarceration. This convergence is one expression of what has been called carceral feminism (Bernstein, 2010; Arruzza; Bhattacharya; Fraser, 2019).

That observation should not flatten ideological differences or turn every feminist criticism of prostitution into a conservative argument. There are serious questions about gender inequality, commodification, and the distribution of choice in the sex market. A critical analysis must engage them. The concern arises when these questions are treated as already resolved by punishment and when the voices of sex workers are excluded because they complicate the preferred answer.

Criminalization also has unequal effects. Measures formally directed at buyers, intermediaries, or establishments are more likely to reshape the lives of street workers,

migrants, transgender people, and those who lack access to private spaces. Wealthier clients and workers can move to more discreet markets. Those with fewer resources face hurried negotiations, displacement, and greater exposure to police surveillance. Protection is therefore distributed through the same class, race, and gender inequalities that structure the criminal justice system (Sanders; Campbell, 2014; Mac; Smith, 2018).

Moral panic changes the terms of legislative debate before the merits of a proposal are considered. Once prostitution is made inseparable from trafficking, organized crime, and the destruction of families, labor rights appear to legitimize violence. A bill on payment or workplace organization is no longer read as an attempt to regulate an existing market. It is treated as a decision about whether the State will approve slavery.

For the purposes of this article, anti-trafficking rhetoric refers to this broader discursive operation. It extends the category of trafficking beyond coercive exploitation, constructs an ideal victim, treats vulnerability as incapacity, uses uncertain estimates as evidence of emergency, and presents criminal law as the natural response. These elements provide the analytical frame for examining the Brazilian legislative proposals.

4 Brazilian Legislative Proposals: Rights, Punishment, and Political Exclusion

The selected bills occupy different positions on the legal regulation of sex work. Bill No. 98/2003 focused on payment and the repeal of criminal provisions. Bill No. 377/2011 sought to punish the purchase of sexual services. Bill No. 4,211/2012 proposed a broader framework for voluntary adult sex work. Read together, they reveal not only competing legal models, but different answers to a prior question: can a sex worker appear before the law as a worker and a political subject?

4.1 Bill No. 98/2003: Civil Recognition Without a Protective Framework

Fernando Gabeira's Bill No. 98/2003 was an early attempt to remove sex work from the

exclusive domain of criminal law. Its central provision made payment for sexual services legally enforceable, including payment for the period in which the service provider remained available. The bill also proposed repealing Articles 228, 229, and 231 of the Penal Code as they then stood (Brasil, 2003).

The proposal addressed a real contradiction. An adult could lawfully provide the service, but the legal system offered no clear route for demanding payment. A client could therefore benefit from the activity and then rely on its stigma to avoid the agreed obligation. By recognizing enforceability, the bill treated non-payment as a legal wrong rather than as an unavoidable risk of an activity left outside respectable contractual relations.

Its reach, however, was narrow. Payment is only one part of the conditions under which sex work occurs. The bill said little about violence, arbitrary workplace rules, police abuse, access to social security, health protection, collective organization, or the bargaining power of workers in establishments. It assumed a civil transaction between formally equal parties without confronting the material inequalities that often structure that transaction (Davida, 2009; Angelino, 2021).

The proposed repeal of criminal offences also required more careful drafting. The existing provisions were broad and morally loaded, but simply deleting them would not by itself create a legal distinction between voluntary intermediation and coercive exploitation. A reform had to remove the criminalization of consensual organization while preserving effective sanctions for force, threat, fraud, non-payment, and restriction of freedom. Bill No. 98/2003 opened the discussion but did not complete that task.

This limitation matters because decriminalization is not exhausted by the withdrawal of criminal prohibitions. If the law removes offences and leaves workers without access to ordinary labor, civil, health, and safety protections, informal power may remain untouched. Decriminalization is best understood as the removal of a barrier to rights, not as a substitute

for the rights themselves.

The parliamentary response to the bill mixed technical objections with moral rejection. Questions about legislative technique, the scope of the repeals, and the limits of contractual autonomy were legitimate. The proposal did have defects. Yet some opinions moved beyond those concerns and invoked public morality, family integrity, social productivity, and the supposed incompatibility of prostitution with dignity. At that point, legal criticism became a vehicle for deciding which forms of work deserved recognition.

The distinction is important. Not every objection to a decriminalization proposal is evidence of stigma, and treating it as such would weaken the analysis. The critical issue is whether the objection examines the likely effects of the rule or simply assumes that sex work is too degrading to enter the field of rights. In the latter case, dignity is used against the person whose dignity the argument claims to defend.

4.2 Bill No. 377/2011: Protection Through the Punishment of Clients

João Campos's Bill No. 377/2011 adopted the opposite strategy. It proposed criminal punishment for anyone who paid or offered payment for sexual services. The person selling the service would not be punished. The bill therefore followed the basic logic of the Swedish or Nordic model: reduce prostitution by directing criminal law toward demand (Brasil, 2011).

The proposal presented punishment as protection. Its justification associated prostitution with organized crime, bodily harm, the sexual exploitation of children and adolescents, and drug trafficking. These concerns are serious, but the bill moved too quickly from the existence of crime in some parts of the sex market to the conclusion that every purchase of adult sexual services should be criminalized. The connection was asserted more often than it was demonstrated.

This is a problem of overgeneralization. Violence, trafficking, and organized crime may occur

in many economic sectors. Their occurrence does not ordinarily lead the law to prohibit every transaction in the sector. In the case of sex work, however, the sexual nature of the activity appears to lower the evidentiary threshold for criminal intervention. A risk that would justify targeted regulation elsewhere becomes a reason to condemn the market as a whole.

The claim that only the buyer is criminalized also hides the indirect effects on the seller. A transaction cannot be altered on one side without changing the conditions faced by the other. When clients fear detection, negotiations may become faster, meetings may move to isolated places, and workers may have less opportunity to assess risk. The worker is not formally prosecuted, but the legal pressure directed at the client reorganizes her work (Sanders; Campbell, 2014; Mac; Smith, 2018).

These effects would not be distributed evenly in Brazil. Street-based workers, poor women, transgender people, migrants, and racialized groups are more visible to police and more dependent on public space. Wealthier participants can move to private apartments, online platforms, or exclusive venues. A criminal offence aimed at buyers would therefore likely intensify surveillance in already marginalized areas while leaving more protected markets comparatively untouched.

The bill did not offer a convincing answer to this selectivity. Nor did it explain how punishment would address the poverty, discrimination, unemployment, and family responsibilities invoked in its own justification. If structural inequality is the reason many people enter sex work, criminalizing clients does not remove that inequality. It may reduce income or displace the market without creating housing, education, employment, or social protection.

Another weakness was the limited engagement with sex worker organizations. The proposal claimed to protect a group whose organized members were not treated as authoritative participants in defining either the harm or the remedy. Protection was formulated from

outside, on the assumption that workers could not reliably describe their own interests.

This does not mean that testimony from organized sex workers should determine criminal policy automatically. No association speaks for every worker, and movements contain real conflicts. The problem is democratic rather than absolute: a policy cannot credibly claim to protect a group while treating the group's participation as irrelevant whenever its members disagree with the preferred solution.

4.3 Bill No. 4,211/2012: Participation, Recognition, and Unresolved Contradictions

Bill No. 4,211/2012 was the most comprehensive of the three proposals. Introduced by Jean Wyllys and named after Gabriela Leite, it defined a sex worker as an adult with legal capacity who voluntarily provides sexual services for remuneration. It permitted autonomous work and cooperatives, recognized the possibility of lawful establishments, and sought access to labor and social rights. It also attempted to distinguish prostitution from sexual exploitation (Brasil, 2012).

Its participatory origin is one of its strongest features. The proposal was developed through dialogue with Gabriela Leite and the Brazilian Network of Prostitutes. That history does not make the text immune from criticism, but it changes the quality of the legislative process. Workers were not introduced only as objects of concern. They participated in identifying the problems that the bill sought to address (Barreto, 2015; Angelino, 2021).

This matters because direct experience reveals issues that abstract moral debate tends to ignore: non-payment, room charges, fines, unsafe premises, police extortion, lack of retirement protection, and obstacles to collective organization. Participation improves the informational basis of legislation even when the participants disagree among themselves.

The bill defined exploitation through three main situations: non-payment, force or serious threat, and the appropriation of more than fifty percent of the value of the sexual service by

a third party. The first two criteria drew a clear boundary between consensual work and coercion. The percentage rule was more problematic. It offered apparent certainty, but it risked legitimizing substantial appropriation below the threshold.

Economic exploitation cannot be reduced to a single percentage. A worker may retain more than half of the price and still be subject to debt, compulsory purchases, unsafe conditions, arbitrary fines, rigid schedules, or an inability to refuse clients. Conversely, a high deduction may sometimes reflect transparent costs accepted in a genuinely cooperative arrangement. The inquiry must examine control, risk, transparency, and bargaining power rather than rely on one numerical test.

The disagreement recorded during the research illustrates the point. APROSMIG accepted the fifty-percent ceiling, while Grupo Liberdade opposed it. This divergence should not be treated as a weakness in sex worker participation. It shows why participation is necessary. There is no single experience of the sex market and no organization can substitute itself for every worker (Angelino, 2021).

The bill's treatment of cooperatives also confronted an important contradiction. If sex work is listed as an occupation, workers should be able to share premises, security, and expenses without the arrangement being presumed criminal. Collective organization may reduce isolation and increase the ability to establish common rules. The current legal framework, however, can make cooperation appear indistinguishable from third-party exploitation.

Employment status posed a more difficult problem. Some workers value mobility and reject a formal employment relationship with an establishment. Others work for long periods in the same place, follow schedules, pay fines, and operate under managerial control. Treating every worker as self-employed may hide subordination. Treating every worker as an employee may impose registration, reduce mobility, and create privacy risks. The proposal recognized the issue but did not fully resolve it.

A more adequate framework would apply ordinary labor criteria to determine when subordination exists while preserving genuine autonomous and cooperative arrangements. The label chosen by the parties should not decide the matter by itself. At the same time, formalization must not become compulsory identification of workers in a stigmatized occupation.

Privacy is therefore not a secondary concern. Registers, licenses, and health controls can expose sex workers to discrimination in later employment, housing, family disputes, or access to services. Regulation may reproduce exclusion when legality is reserved for those willing to enter a restrictive administrative system. This is one reason to distinguish legalization, which often creates a special regulatory regime, from decriminalization, which removes criminal penalties and applies general law.

Bill No. 4,211/2012 was consequently more advanced than its predecessors, but it was not a complete solution. Its participatory construction, recognition of agency, and distinction between work and exploitation were substantial gains. The fixed percentage, the unresolved treatment of employment relations, and the possible risks of registration required further debate. A critical defense of the bill must acknowledge these limits rather than convert it into an ideal model.

4.4 Parliamentary Discourse and Unequal Evidentiary Burdens

The parliamentary debates reveal an unequal distribution of evidentiary burdens. Proposals for recognition were expected to prove that reform would not increase trafficking, violence, drug use, child exploitation, or family disruption. Punitive proposals were allowed to rely on the assertion that these consequences were likely. The harms attributed to reform were hypothetical but politically decisive; the harms of the existing framework were documented yet often treated as secondary.

This asymmetry appeared in the treatment of Bill No. 98/2003. Some parliamentarians

accepted that prostitution would not disappear through repression and that Brazilian society already tolerated the activity. Even so, they opposed legal recognition by invoking morality, public order, family protection, or the need to guide sex workers toward more “productive” occupations. The argument did not merely criticize the technical content of the bill. It established a hierarchy of work in which sexual labor could not qualify as socially useful.

The opinion issued by João Campos connected the recognition of payment for sexual services with child exploitation, drug trafficking, domestic violence, alcohol consumption, crime, and family destruction. The accumulation of threats is characteristic of moral panic. A specific proposal becomes the symbol of a broad social disorder, and the emotional force of the association substitutes for evidence that the bill would produce those consequences (Angelino, 2021).

Opposition to the Gabriela Leite Bill reproduced a related pattern. Arguments against it asserted that prostitution was incompatible with dignity, that genuine consent was impossible, and that legal recognition would encourage trafficking and street prostitution. Structural inequality was invoked to invalidate the worker’s decision, but not to support a program of income, housing, education, health care, or access to alternative employment.

The criticism of formal consent should not be dismissed. Economic and social constraints do shape occupational decisions. The problem lies in the remedy and in the selective way the argument is applied. If inequality limits choice, the legal response should expand material alternatives and reduce abuse. Criminalizing the market without changing those conditions leaves the source of the constraint intact.

Jean Wyllys’s interview also described resistance from more than one political field. Conservative religious actors opposed the bill, but resistance also came from sectors of the left and from feminist positions that regarded prostitution as incompatible with women’s emancipation. The arguments were not identical, yet they converged in refusing the

possibility that sex work could be both socially constrained and legally recognized as work (Angelino, 2021).

That convergence should be stated carefully. It would be inaccurate to erase the differences between religious morality and feminist criticism of patriarchy. The point is institutional: distinct premises may lead to the same reliance on criminal prohibition and the same exclusion of sex workers from defining policy.

The legislative record repeatedly discussed sex workers as objects of policy rather than participants in it. Even though the Gabriela Leite Bill had been built with the involvement of sex worker organizations, contrary opinions rarely engaged with the knowledge those organizations had produced. External claims about incapacity carried greater weight than the workers' own accounts.

The comparison among the three bills therefore leads to a qualified conclusion. Bill No. 98/2003 addressed payment but lacked a broader protective framework. Bill No. 377/2011 relied on punishment without adequately examining its distributive effects. Bill No. 4,211/2012 offered the strongest recognition of agency and rights, but retained important regulatory problems. The decisive asymmetry was that recognition had to answer every possible objection, while criminalization was often accepted on the strength of symbolic claims.

5 Mechanisms of Silencing: Victimization, Epistemic Exclusion, and Penal Substitution

Sex workers were not silenced only because they were absent from particular parliamentary meetings. Silencing also occurred through rules about what counted as credible speech. Workers could organize, publish documents, draft proposals, and describe their experiences, yet their accounts lost authority when they challenged the dominant representation of prostitution as exploitation. The issue was therefore not simply who could speak, but whose speech could alter the legal definition of the problem.

5.1 Producing the Sex Worker as an Incapable Subject

The first mechanism was victimization understood as incapacity. Parliamentary discourse frequently assumed that prostitution could not result from valid consent because poverty, discrimination, and gender inequality shaped entry into the activity. A worker who said she had chosen sex work was not necessarily heard as an agent describing a constrained decision. Her statement could be treated as evidence that she had internalized her own oppression.

There is an important truth behind the critique: autonomy is not exercised in a social vacuum. Yet the legislative response turned that insight into a categorical denial of agency. Economic necessity was used to invalidate consent to sex work, although the same necessity structures entry into many other forms of precarious labor. Vulnerability ceased to ground additional protection and became a reason to disregard the worker's expressed interests.

The argument then became circular. Sex workers were considered unable to speak for themselves because they were victims. When they rejected the classification, the rejection was read as proof that they did not understand their condition. No statement could displace the diagnosis because every statement was interpreted through it.

The ideal victim produced by this logic must be passive, deceived, coerced, and willing to leave the sex industry. A person who demands safer workplaces, better payment, or decriminalization does not fit the expected identity. She becomes politically inconvenient: too active to be a proper victim, yet too stigmatized to be recognized as a worker (Bernstein, 2010; Clemente, 2017).

This does not mean that declarations of consent must be accepted without inquiry. Fear, debt, dependency, fraud, and abuse can shape what a person is able to say. The critical requirement is evidentiary. Those conditions must be investigated rather than presumed from the occupation itself.

5.2 Conceptual Conflation as Political Exclusion

The second mechanism was the conflation of consensual adult sex work, sexual exploitation, and trafficking. Once the categories were treated as synonyms, legal recognition could be described as legalization of exploitation. The distinction proposed by sex worker organizations was excluded before the merits of the policy were debated.

The rhetorical effect was powerful. Trafficking transferred its legal and emotional gravity to every discussion of prostitution. A proposal on payment, cooperatives, workplace safety, or social security no longer appeared to concern the conditions of an existing occupation. It became a decision about whether the State would tolerate slavery and organized crime.

This framing also made criticism of criminalization morally risky. Anyone who defended conceptual distinctions could be accused of minimizing violence or protecting traffickers. Precision was recast as indifference to victims, even though imprecision makes it harder to identify the situations in which force, fraud, or coercion actually occurred.

When every sex worker is presumed to be trafficked, the category loses its capacity to distinguish severe violations. It becomes a moral classification rather than an analytical tool. The apparent expansion of protection is accompanied by a reduction in the law's ability to explain the different forms of harm present in the market.

The conflation also hid the possibility that criminalization itself might increase vulnerability. Raids, closures, displacement, and prosecutions may remove workers from visible settings without changing the economic conditions that led them there. The formal appearance of rescue can therefore coexist with lost income, greater isolation, and increased dependence on less accountable intermediaries (Blanchette; Silva, 2012; Mac; Smith, 2018).

5.3 Replacing Lived Experience with External Expertise

A third mechanism concerned the hierarchy of knowledge. Parliamentary opinions drew on

legal doctrine, religious morality, abolitionist campaigns, and generalized accounts of trafficking. The experience of sex workers was rarely treated as a source capable of defining the legal problem on equal terms.

This was not a case in which workers had produced no public knowledge. Brazilian sex worker movements had organized for decades, participated in health policies, documented rights violations, and formulated legislative demands. Their knowledge was available. It was subordinated to narratives produced by actors who claimed the authority to speak on their behalf (Leite, 2009; Davida, 2009; Barreto, 2015).

The Gabriela Leite Bill altered this relation because workers participated in its development. They were not only the population to be protected after lawmakers had defined the problem. They helped decide which practices required regulation and which criminal categories obscured their working conditions.

Rejecting their contribution without substantive engagement is a form of epistemic exclusion. It allows institutions to retain the power to define who sex workers are, what they experience, and what they need, even when organized workers contest those descriptions.

Recognition of lived experience does not mean treating movement organizations as infallible. APROSMIG and Grupo Liberdade disagreed over the fifty-percent rule in Bill No. 4,211/2012. Organizations may have limited representativeness, internal hierarchies, and competing interests. These are reasons for broader participation, not for returning authority exclusively to external experts.

Consultation must also be more than symbolic. Inviting representatives to a hearing does not prevent silencing when their statements cannot affect the categories, evidence, or alternatives considered legitimate. Participation is substantive only when it can change the definition of the problem and the range of available responses.

5.4 Moral Claims and Unequal Burdens of Proof

A fourth mechanism was the different evidentiary status assigned to punitive and non-punitive claims. Legal recognition had to prove that it would not increase trafficking, violence, drug use, or child exploitation. Criminalization was often justified by the possibility that those harms existed somewhere in the market.

The existing framework was therefore treated as a neutral baseline rather than as a policy choice with its own effects. Non-payment, police abuse, extortion, unsafe premises, arbitrary fees, and barriers to collective organization were documented by sex worker groups. They did not generate the same legislative urgency as speculative claims about the consequences of reform (Davida, 2009; Angelino, 2021).

Trafficking estimates reinforced the imbalance. Because the phenomenon is difficult to measure, numbers depend heavily on definitions and methods. Yet uncertain estimates acquired authority as they circulated through campaigns and political debate. The larger the number, the easier it became to present punishment as an obvious response (Horning et al., 2014).

A critical approach must avoid the opposite mistake. Weak data do not prove that trafficking is insignificant. They require transparent methods, narrower claims, and careful differentiation among mobility, labor, coercion, and exploitation. The legislative debate used uncertainty selectively: caution was demanded from advocates of recognition, while broad allegations were permitted to support punishment.

5.5 Penal Substitution and the Depoliticization of Exploitation

The fifth mechanism was the replacement of social and economic policy by criminal intervention. Parliamentary discourse often described prostitution as a result of poverty, gender inequality, and vulnerability. The practical response, however, remained punishment

directed at buyers, establishments, or intermediaries.

The contradiction is evident. If structural inequality restricts occupational alternatives, criminalizing one side of the transaction does not alter the structure. It may reduce visibility, move the market, or change prices. It does not provide housing, education, income, documentation, health care, or access to formal employment.

A narrative centered entirely on traffickers also removes the State from the account of exploitation. Restrictive migration rules, labor informality, racial inequality, transphobia, police violence, and the absence of social protection create conditions in which abuse becomes easier. When these structures disappear from view, exploitation is reduced to the conduct of an individual offender and criminal law appears sufficient.

This is a form of depoliticization. Poverty, racism, sexism, and exclusion are acknowledged rhetorically, but the response avoids redistribution and institutional reform. Punishment offers a visible act of government without confronting the policies that shape vulnerability (Arruzza; Bhattacharya; Fraser, 2019).

Penal protection is not neutral in its effects. Criminal justice institutions concentrate surveillance on poor, racialized, transgender, migrant, and street-based populations. A measure adopted in the language of protection may expand control over the same people it claims to protect.

The alternative cannot be reduced to formal decriminalization. Removing criminal offences without addressing police practices, labor informality, discrimination, and unequal access to public services may leave much of the existing exploitation intact. Decriminalization removes a barrier and changes the institutional terrain; it does not abolish inequality.

The same critical standard must therefore be applied to proposals supported by sex worker movements. Decriminalization should not be presented as an automatic cure for violence or

poverty. Its strongest argument is more limited and more concrete: it may improve the capacity to organize, screen clients, negotiate conditions, report abuse, and seek legal protection without self-incrimination (Abel; Fitzgerald; Brunton, 2007; Sanders; Campbell, 2014).

5.6 From Silencing to the Denial of Rights

Taken together, these mechanisms prevented sex work from being addressed consistently as a labor and social-rights issue. Victimization denied agency. Conceptual conflation transformed recognition into complicity with trafficking. Epistemic exclusion displaced the knowledge of workers. Moral panic lowered the evidentiary burden for punishment. Penal substitution moved structural inequality outside the effective response.

The denial of rights did not require the direct criminalization of the person who sells sex. It operated through the criminal regulation of workplaces, intermediaries, clients, and collective arrangements. Workers remained formally free to provide services while lacking lawful and secure conditions in which that freedom could be exercised.

The legal structure individualizes the worker and criminalizes parts of the work environment. It recognizes the occupation administratively, but restricts organization. The sex market survives under selective tolerance, and the people with the least bargaining power remain the most exposed to abuse (Brasil, 2025; Nucci, 2014; Angelino, 2021).

Silencing is therefore material, not only discursive. It influences which harms the law recognizes, which evidence counts, where public resources are directed, and which policies are considered possible. Excluding sex workers from the definition of the problem contributes directly to excluding them from the rights offered as its solution.

The legislative debates did more than reject particular models. They preserved a hierarchy in which lawmakers and external organizations could speak for sex workers while denying those

workers equal status as political participants. Anti-trafficking rhetoric was central to that hierarchy because it turned the denial of agency into an act of protection.

A rights-based approach must reverse the order of the debate. It must begin with a clear distinction between consensual work and coercive exploitation, examine the real effects of criminal intervention, incorporate the knowledge of affected workers, and confront the material inequalities that restrict their options. Otherwise, protection remains paternalistic and the language of human rights continues to support the exclusion it claims to remedy.

6 Final Considerations

Brazilian legislative debates on sex work were not organized only around different legal techniques. They were shaped by prior moral judgments about sexuality, labor, and agency. Anti-trafficking rhetoric gave those judgments a particularly forceful language by collapsing the distinctions among consensual adult sex work, sexual exploitation, and human trafficking.

The conflation had practical consequences. Once prostitution was defined as inherently exploitative, recognition of rights could be described as support for violence and organized crime. Questions about payment, safety, access to justice, social security, and collective organization were displaced by the imperatives of rescue and punishment.

The three bills responded differently. Bill No. 98/2003 challenged the invisibility of payment but reduced a broad social problem to a contractual remedy. Bill No. 377/2011 proposed the punishment of clients without adequately demonstrating that the measure would reduce exploitation or improve safety. Bill No. 4,211/2012 offered the clearest distinction between work and exploitation and included sex worker participation, but its percentage rule and its treatment of employment status required further development.

The comparison also exposed an evidentiary imbalance. Punitive proposals could rely on broad associations between prostitution and multiple social harms. Proposals for recognition

were required to prove that reform would produce no new risk. Criminal control appeared as the neutral position, although it also creates displacement, informality, selective policing, and obstacles to organization.

The persistence of this framework has not eliminated prostitution, establishments, intermediation, or exploitation. It has produced a system of selective tolerance in which the market continues to operate while workers face legal insecurity. The individual service is tolerated, but the collective and material organization of the work remains suspect.

Protection must therefore be evaluated by its consequences, not by the number of offences created or establishments closed. A policy that expands surveillance and reduces the ability to negotiate, screen clients, work collectively, or report violence may deepen the vulnerability it invokes as justification.

Criminal law remains necessary where force, threats, fraud, restriction of freedom, trafficking, or the exploitation of children and adolescents is present. Rejecting the automatic equation between prostitution and exploitation does not weaken the response to these practices. It makes that response more precise.

Decriminalization should be understood as a beginning rather than an endpoint. It may remove legal barriers to organization and access to justice, but it does not by itself eliminate poverty, racism, gender inequality, transphobia, migration restrictions, or abusive labor relations. A rights-based policy must combine decriminalization with labor protection, social security, health care, housing, education, anti-discrimination measures, and genuine options for those who wish to leave the activity.

Sex worker participation is indispensable, but it should not be romanticized. Organizations disagree, and their positions must be examined critically. The democratic requirement is not unanimity. It is the recognition that people directly affected by a policy produce knowledge that cannot be replaced by external assumptions about what they should want.

The broader lesson concerns the language of human rights itself. Dignity and protection can support the expansion of rights, but they can also legitimize tutelage when the protected person is denied authority over her own account. Invoking human rights is not enough. The institutional effects of the invocation must be tested.

The central conclusion is that anti-trafficking rhetoric helped maintain the denial of labor and social rights by turning recognition of sex work into a threat to morality and public order. It protected an abstract victim while failing to respond to many of the concrete risks identified by workers.

Recognizing sex workers as subjects of rights does not require an idealized view of prostitution. It requires abandoning an idealized view of criminal law. Neither recognition nor punishment can erase the structural conditions surrounding the sex market. The more useful question is which legal arrangement gives workers greater capacity to refuse, negotiate, organize, leave the activity, and seek protection against violence.

Measured by that criterion, the Brazilian model remains inadequate. It tolerates the market, criminalizes important aspects of its organization, and repeatedly invokes trafficking to preserve the contradiction. Overcoming it requires moving the debate away from moral judgment and toward material rights, and away from tutelary protection and toward democratic participation.

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