



# European Morality Politics in the European Union: The Case of Prostitution

François Foret<sup>1</sup> · Lucrecia Rubio Grundell<sup>1</sup>

© Springer Science+Business Media, LLC, part of Springer Nature 2020

## Abstract

Prostitution is a standard case of morality politics (MP), defined as a particular type of politics that engages issues closely related to religious and/or moral values, giving way to strong and uncompromising value conflicts in both societal and political spheres. This kind of issues have increasingly become a European policy matter due to their transnational nature and the tensions they create between different legal principles. Our hypothesis is that this leads to the emergence of a specific type of *European* morality politics (EMP) reflecting the particular constraints of the policy-making of the European Union (EU). The purpose of this article is to understand to which extent the rise of prostitution on the EU agenda alters usual patterns of MP to shape a distinctive type of EMP. Our findings suggest that prostitution characterizes EMP albeit with a significant difference, namely the challenge to regulatory inertia through the successful mobilisation of European values by some policy entrepreneurs to promote a neo-abolitionist approach.

**Keywords** European Union · Morality politics · Values · Prostitution

## Introduction

Prostitution is ubiquitously identified a standard case of morality politics (MP), broadly defined as a particular type of politics that engage issues closely related to religious and/or moral values giving way to strong and uncompromising value conflicts in both societal and political spheres (Euchner and Knill 2016). Indeed, prostitution and its regulation have always been the subject of strong value conflicts. In Europe, a particularly stringent system of regulation was set up in the nineteenth century based on the understanding of prostitution as a *necessary evil*: a sinful and

---

✉ Lucrecia Rubio Grundell  
Lucrecia.rubio@eui.eu

François Foret  
fforet@ulb.ac.be

<sup>1</sup> Cevipol-IEE, Université Libre de Bruxelles, Brussels, Belgium

immoral activity yet indispensable as an outlet for extramarital sexuality, and on the state-run-brothel as the key mechanism of control (Corbin 1990). By the end of the nineteenth century such system was collapsing internally at the same time as it was being harshly criticised from outside, mainly for its inefficiency and the sexist and illiberal treatment it proffered to prostitutes and by the emerging abolitionist movement: a coalition of religious, feminist and liberal actors advocating for the total repeal of regulation (Walkowitz 1982). Their success across Europe by the 1950s put a definitive end to regulation giving way to a new regional consensus based on deregulation coupled with the criminalisation of third-party involvement (Summers 2008).

Prostitution re-emerged in national, regional and international political agendas in the 1980s as a result of sexual liberation, increasing international tourism and migration, the discovery of AIDS and the changing nature of the sex industry itself, all of which contributed to question the legitimacy and efficiency of the regulatory status quo (Outshoorn 2005). Such re-emergence took place in a novel form, however, marking the beginning of what Greggor Mattson calls the *new politics of prostitution* (2016). According to Mattson, three elements define this renewed interest in prostitution: first, it is women and not men who are at the forefront of prostitution debates; second, the regional consensus on deregulation and third-party criminalisation has given way to a growing polarisation between two policy solutions: the legalisation of voluntary prostitution as sex work, epitomised by the Netherlands, and its abolition as a form of violence against women through client criminalisation, epitomised by Sweden; lastly, a dense network of government agencies and civil society organisations has developed around the issue which also extends vertically given the transnational ties that exist between them (2016: 4).

These elements have had a significant impact on the nature and content of the value conflicts surrounding prostitution by rendering it a feminist and a national controversy as well as a supranational cause. Indeed, prostitution has been arduously debated in international forums (Reanda 1991), and more recently, also become a European concern, increasingly debated and addressed within the political and policy agenda of the European Union (EU). The lack of horizontal and vertical convergence in the politics of values between member states and the EU regarding prostitution has been said to act as an agenda-repellent for the EU, rendering agenda denial and thus non-intervention the norm (Euchner and Engeli 2018). A close analysis of the EU's gender equality policies, and its policies on violence against women in particular, however, shows that this is not really the case. Starting in the mid-1990s and intensifying in the mid-2000s, the EU, through the European Parliament (EP) in particular, abandoned its ambivalent position towards prostitution and began to side with Sweden in its definition as a form of violence against women and in the defence of client criminalisation, thus fostering the transfer of contemporary prostitution debates from the national and international domains to the level of the EU (Outshoorn 2019).

The emergence of prostitution on the political agenda of the EU is not an isolated case, however, but has taken place alongside the emergence of other morality issues. The EU's largely technocratic nature, its focus on consensus-building based on knowledge and expertise, its lack of competences on the matter and its

respect for pluralism and diversity have tended to keep morality issues at bay (Mondo and Close 2018). Since the 1990s, however, the EU has been *creeping competences* into new policy domains, such as non-discrimination, human rights or scientific research, which often include morality issues (Foret and Littoz-Monnet 2014). As a result, stem-cell research, abortion, gay marriage or prostitution now feature considerably on its political agenda.

This has in turn coincided and indeed interacted with the intrinsic evolution of the EU's legitimation, and particularly with the rise of *European values* in its incessant quest for normative foundations. EU institutions have recurrently invoked common values to foster a common sense of belonging and legitimise European integration, alternating with output-based and nation-building-style arguments in a recurrent back-and-forth (Foret 2011). The current context it is facing, however, shaped by the long-term effects of enlargement and the economic crisis, the rise in populism, nationalism and xenophobia and other geopolitical challenges such as international terrorism or the migration crisis, have rendered such quest more pressing than ever. In such context, *European values* have increasingly become a complement and even a substitute of *European identity*, as a flexible narrative that, on the one hand, is congruent with output-based sources of legitimacy and the ethos of a market-friendly Europe expressed by some legal and policy principles turned into values (good governance, transparency, freedom of movement and labour); and on the other profitably replaces the quest for a great narrative shaped on the nation-state model, with a myth of origin, a claim for cultural homogeneity and a full-fledged political symbolism. Indeed, to fulfil their functions, European values must be kept without strong cultural roots, in permanent tension between national and universal values (Foret and Calligaro 2018).

The interaction between the emergence of ethically sensitive issues on the political agenda of the EU and the rise of EU value politics is bound to give way to European specificities in the declination of the usual features of MP, that is, to foster a specific type of *European morality politics* (EMP). The aim of this article is to explore this contention in relation to the issue of prostitution. In this regard, prostitution is a good touchstone for four reasons. First, it has recently become a particularly salient bone of contention in EU arenas, particularly in the domain of gender equality, attesting to the conflictuality of morality issues. Second, prostitution involves a stronger economic dimension than other morality issues, as the exchange of sexual services for money involves financial transaction between individuals and thus represents a significant business sector. As such, it is a benchmark of the tensions between logics of values and interests. Third, prostitution is relatively scantily invested in religious terms, at least far less than other classic moral topics such as abortion. Indeed, it is structured by different secular fundamental rights related, on the one hand, to human dignity and gender equality and, on the other hand, to freedom of movement and labor, all of which are particularly salient as European values. In short, compared to usual MP, prostitution is less framed in terms of clashes between religious versus secular "first principles" and more by a competition between secular norms. Fourth, despite all odds the EU has not only intervened in contemporary prostitution debates but actually taken sides, positioning itself clearly in favour of the adoption of a neo-abolitionist approach. As a result,

the case of prostitution offers a high-level of Europeanisation in terms of magnitude and direction of regulation.

These features thus highlight the relevance of prostitution to test the model of EMP. They also emphasize the necessity, however, to extend the analysis to other case studies, in order to further test the adaptation of usual MP to EU policy-making, be it in relation to the resilient economic dimension and the competition between legal principles (for example, through the case of surrogacy) or the effects of a stronger religiously-laden conflict (such as in the case of abortion). Undertaking a comparative analysis between such cases could either ratify or contest the saliency of European values in general, and market-related values specifically, as an intrinsic characteristic of EMP, as well as the levels of Europeanisation around EMP. We will tackle these questions in future publications.

The analysis starts in the mid-1990s, when prostitution emerged on the agenda of EU institutions. We refer to European multi-level governance to emphasize the intertwinement and interactions between levels of power and advocacy, from the local to the supranational, where the EU often works as a nexus of this political system in interactions with other European (e.g. Council of Europe) and global (e.g. United Nations) frameworks. Regarding methods and data, we draw on the content analysis of policy documents, reports of legal experts, materials issued by civil society organisations and mass media outputs. As such, the research goes beyond the ‘usual suspects’ (e.g. EU institutions, European political parties, and expert committees) to consider the role of non-governmental organisations and social movements that intervened in the debate on the regulation of prostitution at EU level.

The article is organized in two parts. The first part characterises EMP by means of their comparison with MP at large, largely defined through the study of national cases and the comparison with the US. The second part then asks whether the issue of prostitution confirms the model of EMP on the basis of three defining features previously identified. First, the replacement of religious and moral values by *European values* enshrined in the treaties as core symbolic resources securing the control of the agenda, though too weak to enlarge the debate towards the societal level. Second, a restricted form of conflictualisation resulting from the constraints of EU multi-level and multi-cultural governance, leading to conflicts at policy rather than political or polity levels. And third, the propensity towards regulatory inertia given the EU’s limited competences and the impossibility of achieving consensus. In the case of prostitution, our findings show the resilience of the usual patterns of EMP regarding the range and limits of values in EU governance and the potentialities of conflictualisation, yet it qualifies the iron law of inertia by highlighting that regulatory evolutions occur, though without altering dramatically the rules of political competition and the hierarchies of values.

## **EMP: Less Fundamental, Less Uncompromising and More Frozen than Usual MP?**

The distinction between morality and non-morality politics is a contested matter. An underlying consensus has nonetheless been reached which defines MP as a particular type of politics that engages issues closely related to religious and/or moral

values, giving way to strong and uncompromising value conflicts in both societal and political spheres. In this regard, we cut through the rich scholarship on MP in order to retain only the most relevant dimensions likely to be challenged by the characteristics of the EU, grouping such dimensions into three basic characteristics. First, MP engage issues closely related to religious and/or moral values in which *first principles* are at stake rather than material interests or concerns of effectiveness (Knill 2013). Second, they give rise to strong and uncompromising value conflicts in both political and societal arenas which often cut across traditional political cleavages (post/materialist, left/right, secular/religious) and thus have the potential to reorganise usual patterns of political competition (Giric 2016; Goode 1998; Weitzer 2006). Lastly, MP tend to be characterised by the prevalence of the *status quo*, given the high political costs of debating such issues and the difficulties in reaching consensus, which advantage established actors, policies and discourses (Banchoff 2005; Engeli and Rothmayr 2013; Mooney 1999). How, then, do these characteristics unfold at EU level?

### EMP Driven by Core Values Rather than by Interests and Effectiveness?

The basic characteristic of MP is that they engage issues strongly related to values and beliefs and thus in relation to which *first principles* take centre stage, rather than considerations related to material interests or effectiveness (Knill 2013). As such, MP often involve issues that concern fundamental aspects of life which instigate clear-cut ideas of *right* and *wrong*, such as those related to life and death (abortion, euthanasia); gender and sexuality (homosexuality, prostitution) or individual freedom (religious practices, gun control) and are thus rendered technically more simple (Mooney 2001; Euchner 2019b). This explains why the saliency of religion is often highlighted as typical of morality issues. Yet the definition of MP based solely on the substantive content of the issues they tend to address has been criticised on several grounds. First, the extent to which morality issues exclude material interests or effectiveness concerns has been questioned. Christoph Knill distinguishes between *manifest* and *latent* morality issues, being the latter defined as those in which “value conflicts overlap more strongly with instrumental considerations” (2016: 40). Secondly, the fact that issues can shift between morality and instrumental modes, transitioning from a manifest morality issue to a latent one and even a non-morality one, and vice versa, has been stressed (Euchner et al. 2013; Knill et al. 2016). Thirdly, the saliency of religious values has been contested and indeed subsumed within the superior importance of liberal values (Mourão Permoser 2019).

Regarding the specific case of EMP, the multi-level nature of the EU and its acknowledged plurality of cultures and values entail that any successful articulation of values must remain fairly general and polysemic (Foret and Calligaro 2018: 13). As a result, even if some values, such as *freedom*, *equality* or *human rights*, have become increasingly institutionalised and even codified in EU law, they tend to be submitted to competing interpretations by different actors. In addition, the fact that European policymaking unfolds in a constant mix between levels of governance, high and low politics and *manifest* and *latent* morality issues entails that the shift

from EMP to business as usual and vice versa is likely to be frequent. Indeed, the same issue can be considered a matter of values of the highest importance by some actors; and a technical or economic issue for others, each framing leading to a different political repertoire. Finally, the secularisation of Europe, understood as the loss of social relevance of religion as well as the multiple secularisms of public institutions in the EU multi-level governance, conceived as the more or less strict distinction (rather than the strict separation) of the secular and religious realms, leads to a lesser salience of religion at the EU level. Arguably, the consensual reference to abstract *European values* turned in some cases into legal principles with the force of law (like fundamental rights enshrined in the treaties) and in others to mere wishful thinking, may replace the missing role of the sacred instead of religion.

### EMP Less Salient and Uncompromising than Usual MP?

The limitations of defining MP solely on the basis of the issues they address has led some authors to turn to the specificities of the *political process* they instigate, highlighting both the saliency and the pervasiveness of value conflicts between intractable and irreconcilable positions in societal and political arenas (Mooney 2001). While value conflicts have been said define politics in general, there is an agreement that in MP such conflict acquires specific characteristics. First, MP are said to foster conflicts that cut across the state/civil society divide, pervading not just the political sphere but also civil society and the public at large, provoking high levels of civic mobilisation and participation (Mooney 2001). Second, such conflicts also tend to cut across traditional political cleavages. As such, similar positions on morality issues tend to be fractured by different political and/or religious views while otherwise consonant political and religious views may defend different positions on morality issues. As a result, morality issues can significantly reorganise the usual patterns of political competition, fostering internal contradictions and ‘strange bedfellows’ (Giric 2016; Goode 1998; Weitzer 2006). Lastly, MP are characterised by a particular conflict *style*, where ideology and symbolic positions prevail over expertise, facts and concern for effects. In its extreme, such conflicts take the form of a *moral crusade* (Weitzer 2007), in which the aim is to render one’s stance *hegemonic*, “crowding out other ideas and positions to the point that these appear dubious, wrong or utterly unintelligible” (Wagenaar and Altink 2012: 283). MP can thus obstruct traditional consensus-building mechanism such as deliberation or bargaining and become a fundamental stake thwarting the functioning of *normal politics* (Euchner 2019b: 1).

The EU is commonly defined as a compound polity relying on a horizontal coordination discourse between elites, experts and lobbies and dealing with cognitive arguments articulating a logic of interests, rather than on a direct vertical communication from the elites to the masses and framed by values (Schmidt 2006, 175–176). Subsequently, the absence of a cascade effect and congruence between the institutional supranational sphere, national and grassroots politics prevent the contagion of values conflicts between societal and institutional arenas. As a result, values are much less carriers of multi-level polarisation than in the national domain.

Something that is compounded by the fact that the shifting and overlapping party cleavages in the European Parliament frequently do not correspond sufficiently with the divisions in civil society and public opinions to create dynamics of alignment and mobilisation. Morality issues are not important enough at EU level to impulse such a momentum and to dictate the particular conflict style characterising MP, therefore, where ideology and symbolic positions prevail over expertise and search for efficiency. As a result, political entrepreneurs on these issues are likely to remain lone riders with limited agency.

Still, it has been argued that the gradual institutionalisation of participatory mechanisms in the EU's policy-making process as a response to its 'democratic deficit' may have significantly opened it to civil society, and thus to value-based coalitions of civil society organisations (Kohler-Koch and Quittkat 2013). A prominent example is the long-lasting controversy around the status of the stem cells in EU-funded research. The issue became a bone of contention at the EP in 2005–2006 and 2013, being the key question whether European Framework Programmes for Research should finance such scientific activities, with the status of the embryo at stake. The final documents, however, left the choice to member states and skipped the value dimension by focusing on the means rather than on the ends. In a similar way, the battle around the Estrela report on sexual and reproductive health and rights in 2013 dramatized again the impossibility of consensus as well as of a clear-cut decision on a normative basis. Again, the solution was to defer the choice to member states in a non-binding resolution. In this case, however, the debate was enlarged to the societal sphere through the aggressive lobbying of conservative Christian interest groups, particularly, through the 'One of Us' initiative. Using the recently established procedure of the European Citizens' Initiative, this endeavour gathered almost two million signatures online 'to protect the embryo in Europe'. The organisers tried, albeit unsuccessfully, to convert this mobilisation into electoral capital during the 2014 European elections, showing both the range and limits of such a politicisation.

Lessons taken from these episodes is that political entrepreneurship on morality issues is confined to narrow political spaces occupied mostly by individuals coming from the extremes; and that dynamics are frequently launched from civil society towards political arenas rather than the contrary. Ultimately, these controversies at supranational level are not solved by a ruling on fundamental values such as the pro-life/pro-choice alternative or the priority given to the human dignity of the embryo or of the mother, but by a convergence on subsidiarity, a *European value* leading to decide on means rather than ends and to attribute the decision to national authorities and to experts.

### **The Prevalence of the Status Quo at EU Level?**

The last characteristic of MP is their tendency towards the prevalence of the *status quo*, given the high political costs of discussing them and the difficulties in reaching consensus (Banchoff 2005; Engeli and Rothmayr 2013; Mooney 1999). This explains why *change*, particularly in their regulation, has emerged as key question in the field. In general, change can take place as a result of societal evolution,

institutional agency and/or policy and judiciary implementation. These can be but are not necessarily related, in the sense that change in one may or may not contribute to foster change in the other. Regarding societal evolution, an overarching explanation for the general trend towards *permissiveness* points to the rise of cultural liberalism and values such as gender equality or sexual freedom (Inglehart 2008). It is important to note, however, that societal change does not immediately foster regulatory change. The latter requires “a clear and unambiguous impulse destabilising the status quo and suggesting a clear direction in which it is to be shifted” (Knill et al. 2016: 55). Common factors explaining the occurrence and direction of morality policy change as a result of institutional agency, secondly, range from macro-level factors such as the institutionalisation of political and/or religious cleavages in the political system and the influence of social movements and interest groups to micro-level factors such as individual convictions (Euchner 2019a). Recent studies have shown these factors to be largely inconclusive, however, and ultimately dependent on the morality issue addressed (Knill et al. 2016). Lastly, change at the level of *policy and judiciary implementation* is particularly important in the case of morality issues as their high political cost and the difficulties in reaching consensus are often circumvented through their juridification or delegation to experts, civil society and grassroots practitioners.

In EMP, the prevalence of the status quo is even more probable, given the limits met by the usual triggers of change in MP. Social and cultural change occurs in plural forms and at different speeds across European societies (Bréchon and Gonthier 2017). Hence the absence of a European public sphere, pan-European value cleavages and, ultimately, a European *demos* renders a homogeneous transformation unlikely (Risse 2015). Institutional agency is hampered by the lack of EU competences to address normative issues and its tendency to avoid intervening in ethically contentious issues given the different normative standards that prevail among member states (Kurzer 2001; Salter 2007). Policy and judiciary implementation are the best structure of opportunity for EMP. Still, European institutions have little to say or do regarding the practical implementation of these policies. Their influence is thus bound to take place in the form of a cumulative regulatory evolution. EU actors may play their part as mediators, mainly through soft law instruments which impose no legal obligation on member states but organize the circulation of best practices and connect experts and grassroots practitioners across national borders and policy sectors (Mondo and Close 2018). Prostitution offers a showcase study to assess the relevance of these specific features of EMP regarding an issue that challenges the sovereignty of member states, the usual coalitions of civil society and the balance between social rights and market.

## The ‘New Politics of Prostitution’ in the EU: EMP as Usual?

As stated above, the defining characteristics of the new politics of prostitution in Europe is that they have become a feminist and a national controversy as well as a supranational cause, rendering it a clear case of MP. Indeed, it is not just women who are at the forefront of contemporary prostitution debates but *feminists* who

confront each other around the key values of *sexual freedom* and *gender equality*. Two main positions structure the debate: a neo-abolitionist approach that defines prostitution as a paradigmatic example of women's sexual exploitation and domination and as such a form of violence against women that must be criminalised (Barry 1984; Raymond 2013); and a sex work approach that distinguishes between voluntary and forced prostitution, considering the former an expression of sexual self-determination and thus advocating for its regulation as *sex work* (Agustín 2007; Jagger 1994). These positions are mirrored in the domain of regulation and in the growing polarisation between client criminalisation, epitomised by Sweden, and the legalisation of sex work, by the Netherlands. As a result, prostitution has also become a debate about national values. Indeed, prostitution policy reforms in both countries were justified in nationalistic terms, through references to Sweden's exceptionalism in gender equality and moral righteousness and the very Dutch traditions of pragmatism, compromise and tolerance (Kulick 2003; Outshoorn 2005). Lastly, both neo-abolitionists and advocates of legalisation have reached across borders in search of allies resulting in the politicisation of the issue at the transnational level, adding human rights and sex trafficking to the already high stakes of the debate (Mattson 2016: 4).

How then, does this scenario change when translated to the level of the EU and does it duplicate the "less fundamental, less uncompromising and more frozen" EMP pattern compared to usual MP? The answer is not black and white. The issue of prostitution dramatizes the clashes between fundamental European values, particularly between gender equality and sexual freedom, on the one hand, and freedom of movement and labour, on the other. It creates patterns of conflicts that can tend to a certain polarisation in restricted policy spaces, particularly feminist ones, but which cannot create cleavages capable of cutting across political and social spheres so as to gain a systemic dimension. Instead, divergences emerge within existing ideological and civil society constituencies, and this fragmentation hampers the enlargement of the conflict. Finally, some policy evolution has taken place, suggesting that the regulatory *status quo* of EMP is not given once for good, but can change through the agency of national models and networks and under the pressure of global evolutions.

### **Prostitution as a Stake for Clashes of Fundamental European Values**

Prostitution fulfils the first criterion of EMP, the opposition between fundamental values. However, such opposition does not result in a strong polarisation at polity level, but rather between competing European values advocated by different constellations of actors. And it is this fragmentation of normative oppositions that hampers the enlargement of the conflict. Indeed, prostitution at EU level has been addressed essentially within its gender equality agenda and in particular within its violence against women policies. As a result, it has been framed through the structuring principles of such policies: gender equality, sexual freedom and human rights. The latter played a key role in putting violence against women on the political agenda of the EU in the first place, and through it, the issue of prostitution, leading ultimately to the adoption of a neo-abolitionist approach. Of particular importance in this regard

were the Parliament's 1997 resolution on *the need to establish a zero-tolerance campaign on violence against women*, drafted by the Swedish parliamentarian Marianne Eriksson, which defined prostitution as a form of violence against women, a cause and consequence of gender inequality and a violation of women's human rights based on the key argument that women are forced into prostitution and controlled therein by individuals and structural forces "beyond their individual power of influence" (1997: 12); its 2004 report *on the consequences of the sex industry*, again drafted by Eriksson, which continued to define prostitution as the opposite of free choice and bodily control, and thus as a form of violence against women contrary to gender equality and women's human rights, and its 2014 report on *prostitution and its impact on gender equality*, which for the first time openly advocated for client criminalisation, citing article 2 of the Lisbon, and thus explicitly invoking gender equality and human rights as *fundamental values* of the EU (2014).

The EU's neo-abolitionist turn thus coincided with the progressive identification of gender equality and women's human rights as *European values*. Despite being totally absent in the original project and institutional design of the EU, gender equality and human rights have been progressively absorbed into its political identity, developed in legislation and proclaimed by EU institutions as part of its *foundational values*; a process that culminated in their explicit recognition as such in Art. 2 of the Lisbon Treaty (Macrae 2010; Smismans 2010). As a result, both have acquired an increasing normative authority. Moreover, a specific understanding of both became institutionalised in the EU's policy on violence against women. Crucial in this regard was the redefinition of the concept of gender equality from an *economic* phenomenon to a *sexual* one through the substitution of economic subordination with sexual subordination as the main cause of gender inequality. This put sexual freedom, and concretely the concept of sexual self-determination, at the centre of the EU's gender equality regime, defined as the absence of coercion and violence in turn guaranteed by the presence of free choice and bodily control (Commission 1998; Parliament 1997). As such, sexual self-determination allowed to link violence against women to gender equality in a way that could justify the involvement of the EU, at the same time as it allowed to depict prostitution as a form of violence against women by presenting it as a non-choice and a form of sexual commodification (Sabsay 2015).

This explains why advocates of the sex work approach in the EU, mobilising particularly from within civil society, have tended to use both political and legal venues for their advocacy and to mobilise alternative European values to legitimise their approach, particularly those of free movement and labour. Indeed, sex workers have periodically turned to the European Court of Justice to claim their right to free movement as workers, explicitly framing it as a fundamental value of the EU (see *Adoui and Cornuaille v. Belgium* 1982; *Jany and Others v. Staatssecretaris* 2001). And in all cases, the ECJ, while explicitly rejecting an intromission into the debate over values, has sided with the plaintiffs, ultimately recognising voluntary prostitution as sex work. This legal recognition has had very little impact on the symbolic hegemony of neo-abolitionist positions in other EU institutions, however. As a result, sex worker organisations have also targeted them directly in their advocacy strategies. Freedom of movement and work continue to be central in this regard,

though in their political advocacy they are compounded with the mobilisation of the EU's commitments in matters of human rights (though tellingly, not *women's* human rights) as well as to participatory democracy, in order to push legitimise their approach and denounce their exclusion from policy debates as *undemocratic* (Andri-jasevic et al. 2012).

This tension between human rights-related values and market-related ones highlights the competition between ideational and interest logics in EMP. Indeed, while prostitution debates do centre on values, particularly sexual freedom, gender equality and human rights, those defending a sex work approach very often refer to the material interests of sex workers and the ineffectiveness of neo-abolitionist approaches in protecting their rights when defending the regulation of sex work, sometimes even as an explicit de-moralising strategy (Doezema 2010; Weitzer 2010). This is facilitated by the fact that prostitution is an income generating activity, regardless of whether it is considered a legitimate one or not, and thus has a much stronger economic dimension than other morality issues. The hegemony of the neo-abolitionist approach suggests the prevalence of the ideational logic. Yet the global picture may be more complex and dissimulate important power relationships—as sex workers do not have the political resources nor the same structural opportunities as neo-abolitionists do to voice their interest in the EU (Rubio Grundell 2015)—as well as other material concerns, like security ones, for example, the neo-abolitionist agenda being connected to restrictive purposes against irregular migration through the domain of human trafficking (Aradau 2004).

### **Prostitution Debates in the EU: Less Salient and Uncompromising than Usual EMP?**

The Europeanisation of prostitution has resulted in patterns of consensus and conflict at EU level that align certain actors and values with the two approaches structuring feminist debates on prostitution. As is to be expected from morality issues, such positions are irreconcilable, often defended in the form of a moral crusade, and cut across the institutional/civil society divide as well as traditional political and religious cleavages. Indeed, while the main drivers behind the EU's neo-abolitionist approach were Swedish feminists in the Commission and the Parliament, they followed the traditional form of women's political mobilisation in the EU, known as the *velvet triangle*, for being characterised by the collaboration of feminist politicians, experts and civil society actors who share a strong collective identity, similar ideas and biographical experiences (Woodward 2000). Regarding prostitution, the velvet triangle that developed around violence against women in the mid-1990s through the creation of strong links between the femocrats of the Commission, the Parliament and the European Women's Lobby, all of which also shared a strong neo-abolitionist approach to prostitution, and thus fought to put it too on the agenda (Locher 2007: 90).

The patterns of consensus and conflict that surround prostitution at the level of the EU, however, while articulating intractable and irreconcilable positions, do not acquire an amplified saliency, indeed, they do not pervade the societal and political

realms, nor have enough significance to thwart the functioning of normal politics. This is not just an effect of the specific characteristics of the EU outlined above, which hinder the creation of dynamics of alignment and mobilisation, but of the issue of prostitution itself. Opinion surveys show that prostitution has never been a polarising issue among the general public in Europe (European Social Survey 2018), and its saliency within party manifestos is very low, especially when compared to other morality issues (Euchner 2019b: 30; Volkens et al. 2018). As such, prostitution has rarely become a stake capable of radically reorganising the usual patterns of political competition nor of thwarting the functioning of normal politics. The uncompromising, conflictual nature of prostitution remains largely limited to feminist *milieus*, and even more so at EU level, where value-loaded issues remain marginal and even less publicized than usual EU business. And yet, despite or rather because of this lack of public dimension, policy change regarding prostitution has occurred at EU level.

### Policy Change Despite Societal Inertia and Political Division

How does prostitution relate to the propensity to *status quo* in MP and to the three usual potential triggers of policy change: societal evolution, institutional agency and policy and judiciary implementation? The EU's involvement in contemporary prostitution debates and its adoption of an explicit neo-abolitionist approach is in itself a radical departure from the status quo, especially if we consider its lack of competences on the matter and its tendency to avoid intervening in ethically sensitive issues. As expected, however, change takes place by means of a cumulative regulatory evolution under the impulse of moral entrepreneurs rather than a societal revolution or a piecemeal legislative transformation. Again, however, this is not just an effect of the EU, but of the specificities of prostitution.

As far as *societal evolution* is concerned, the modernisation thesis linking an increasing permissiveness in the regulation of morality issues in western liberal democracies to a societal shift towards post-material values such as gender equality or sexual freedom is not verified in the case of prostitution even in the national domain. While the post-WWII consensus on deregulation and third-party criminalisation does reflect a trend towards permissiveness, as indicated above, such consensus was followed by radically diverging regulatory patterns, with some countries shifting to a more permissive approach (the legalisation of sex work) and other to a more restrictive one (client criminalisation).

Change in the regulation of prostitution has thus usually taken place as a result of *institutional agency*, though generally under two basic conditions: “a high ideological fit between governmental preferences and relevant interest groups or social movements, such as feminist movements; [which] are characterised by a highly coherent and homogenous structure and dispose of a privileged political access point” (Euchner and Knill 2016: 131), something which is also verified at EU level. There was political and moral entrepreneurship on the issue of prostitution within EU institutions, therefore, but underlined by national agency and advocacy networks (particularly through the exportation of the Swedish model), backed by a strong

mobilisation of the main feminist civil society organisations operating in the EU, the EWL, and supported in turn by a global trend and the importation of its policy and normative agenda from the international domain to the EU. This assessment highlights the extent and limits of political agency coming from or through the EU's political system proper. It also emphasizes a condition, the relative absence of media and public opinions and the containment of politicisation in small policy circles.

Finally, like in many morality issues, policy and judiciary implementation has been a key element for prostitution in EMP. The circulation of best practices from one issue/country to another operated efficiently through the velvet triangle. Apart from this, the most significant element is the jurisprudence of the ECJ. As stated above, however, this legal recognition of sex work has had very little impact on the symbolic hegemony of neo-abolitionist positions in the Commission and especially in the Parliament. The debate over European values had been lost and sex worker's individual legal victories were not sufficient to alter the regulatory evolution towards neo-abolitionism.

Overall, then, the combination of these three factors—lack of incremental societal evolution, limited political agency of moral entrepreneurs within EU institutions; influence in terms of policy implementation more than of jurisprudence—has produced the final output, a doctrinal shift of the regulatory pattern at EU level towards a neo-abolitionist stance. This significant evolution does not mean that national legislations will automatically follow. It still characterizes prostitution as an issue which creates a less controversial and politicized debate than usual MP and even than usual EMP, but which leads to more policy change, mainly through the drive of a successful ownership of European values by neo-abolitionists.

## Conclusions

The aim of this article was to analyse whether and how the emergence of morality issues on the political agenda of the EU and its coincidence with the rise of EU value politics fosters a specific type of *European Morality Politics* and whether this challenges the usual patterns framing normative issues in EU policy-making, using prostitution as a case study. In this regard we have showed that EMP does not drastically alter the way in which European multi-level governance accommodates value-laden issues, essentially by avoiding to tackle them frontally, by hollowing them from their normative charge, by channelling them through established EU processes and repertoires of action and by delegating them to member states, experts and civil society. Against this background, prostitution appears as a relatively standard EMP issue with this important difference that it exemplifies the possibility of regulatory evolution, despite the absence of consensus and because of the confinement of conflictualisation to restricted policy spheres together with the fragmentation of established social constituencies, both of which prevent an extension of the conflict at polity level and an absolutisation of the clashes of values. Prostitution also confirms the fresh symbolic importance of European values as the new mantra of European morality politics and as a resource to control the policy agenda as well as their limited capacity to reach out to larger public and political spheres.

As we have shown, agenda denial and non-intervention are not the norm regarding the EU's approach to prostitution. To the contrary, EU institutions, and the European Parliament in particular, have not only intervened in current prostitution debates but actually taken sides, actively defending a neo-abolitionist approach that defines prostitution as a form of violence against women and defends the adoption of client criminalisation. This has resulted in complex patterns of consensus and conflict around the issue of prostitution at EU level, which align certain actors, European values and approaches towards prostitution. In this regard, the politicisation of prostitution at EU level largely follows the specificities that characterise it as a morality issue, though these are in turn influenced by the specificities of EU governance, with important consequences not just at the level of the EU, but in the region at large.

Indeed, the EU's neo-abolitionist turn, even if developed through mechanisms that impose no legal obligations on member states, has not only managed to become hegemonic within the EU but also contributed to the expansion of client criminalisation in the national domain, featuring prominently in the justifications for reform that have led to its recent discussion and even adoption in member states such as Ireland or France. The Commission and the Parliament were more successful than the ECJ in rendering their approach to prostitution hegemonic because they successfully mobilised gender equality and women's human rights as European values to connect neo-abolitionism and *Europeanness*. In short, featuring the EU as a polity characterised by its gender and sexual progressiveness (Ammaturo 2016), they managed to put forward the conception that to be a good European standing for its values means to uphold a neo-abolitionist regarding prostitution. This evolution of prostitution from a non-issue to a matter framed in a progressive way by European soft law and as a showcase of European global identity while remaining a bone of contention at home illustrates the ambivalent status of values, factor both of empowerment and division of the EU.

**Funding** This research was supported by Fédération Wallonie-Bruxelles: [Grant ARC (Action Recherche Concertée)], conceded to François Foret.

## Compliance with Ethical Standards

**Conflict of interest** We hereby declare that this article has no conflict of interests.

**Ethics Approval** This research contained no animal or human participants performed by any of the authors.

## References

Adoui and Cornuaille v. Belgium. (1982). Judgment of the Court of 18 May 1982. - Rezguia Adoui v Belgian State and City of Liège; Dominique Cornuaille v Belgian State. - References for a preliminary ruling: Tribunal de première instance de Liège - Belgium. - Public policy - Right of residence or establishment. - Joined cases 115 and 116/81. European Court Reports 1982-01665. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61981CJ0115>.

- Aldona Malgorzata Jany and Others v Staatssecretaris. (2001). Judgment of the Court of 20 November 2001. - Aldona Malgorzata Jany and Others v Staatssecretaris van Justitie. - Reference for a preliminary ruling: Arrondissementsrechtbank te 's-Gravenhage - Netherlands. - External relations - Association agreements between the Communities and Poland and between the Communities and the Czech Republic - Freedom of establishment - "Economic activities" - Whether or not they include the activity of prostitution. - Case C-268/99. European Court Reports 2001 I-08615. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61999CJ0268>.
- Agustín, L. M. (2007). *Sex at the margins: Migration, labour markets and the rescue industry*. London: Zed Books.
- Ammaturo, F. R. (2016). *European sexual citizenship: Human rights, bodies and identities*. New York, NY: Palgrave Macmillan.
- Andrijašević, R., Aradau, C., Huysmans, J., et al. (2012). European citizenship unbound: Sex work, mobility, mobilisation. *Environment and Planning D: Society and Space*, 30(3), 497–514.
- Aradau, C. (2004). The perverse politics of four-letter words: Risk and pity in the securitisation of human trafficking. *Millennium-Journal of International Studies*, 33(2), 251–277.
- Banchoff, T. (2005). Path dependence and value-driven issues: The comparative politics of stem cell research. *World Politics*, 57(2), 200–230. <https://doi.org/10.1353/wp.2005.0014>.
- Barry, K. (1984). *Female sexual slavery*. New York, NY: NYU Press.
- Bréchon, P., & Gonthier, F. (Eds.). (2017). *European Values. Trends and divides over thirty years*. Leiden: Brill.
- Corbin, A. (1990). *Women for hire: Prostitution and sexuality in France after 1850*. Cambridge, MA: Harvard University Press.
- Doezema, J. (2010). *Sex slaves and discourse masters: The construction of trafficking*. London: Zed Books.
- Engeli, I., & Rothmayr, C. (2013). Diverging against all odds? Regulatory paths in embryonic stem cell research across Western Europe. *Journal of European Public Policy*, 20(3), 407–424.
- Euchner, E.-M. (2019a). Morality policy. *Oxford Research Encyclopedia of Politics*. <https://doi.org/10.1093/acrefore/9780190228637.013.641>.
- Euchner, E.-M. (2019b). *Morality politics in a secular age*. New York, NY: Palgrave Macmillan.
- Euchner, E.-M., & Engeli, I. (2018). Conflict over values in the European multilevel space: The case of morality issues. In F. Foret & O. Calligaro (Eds.), *European values: Challenges and opportunities for EU governance*. London: Routledge. <https://doi.org/10.4324/9781351037426-4>.
- Euchner, E.-M., Heichel, S., Nebel, K., et al. (2013). From 'morality' policy to 'normal' policy: Framing of drug consumption and gambling in Germany and the Netherlands and their regulatory consequences. *Journal of European Public Policy*, 20(3), 372–389. <https://doi.org/10.1080/13501763.2013.761506>.
- Euchner, E.-M., & Knill, C. (2016). Prostitution: Sin, unavoidable evil, or recognized profession? In C. Knill, S. Hurka, & C. Adam (Eds.), *On the road to permissiveness?: Change and convergence of moral regulation in Europe* (pp. 129–156). Oxford: Oxford University Press.
- European Commission. (1998). *Communication from the Commission on violence against children, young persons and women. Proposal for a Council Decision on a medium-term Community action programme on measures providing a Community-wide support to Member States action relating to violence against children, young persons and women (Daphne Programme) (2000–2004)*. COM (98) 335 final.
- European Parliament. (1997). *Resolution on the need to establish a European Union wide campaign for zero tolerance of violence against women*. A4-0250/1997. Brussels.
- European Parliament. (2014). *Report on the on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI))*. A4-0372/97, 4 February. Brussels.
- European Social Survey Round 9 Data. (2018). *Data file edition 1.2. NSD - Norwegian Centre for Research Data, Norway – Data Archive and distributor of ESS data for ESS ERIC*. <https://doi.org/10.21338/NSD-ESS9-2018>.
- Foret, F. (2011). La mémoire européenne en action. Acteurs, enjeux et modalités de la mobilisation du passé comme ressource politique.
- Foret, F., & Calligaro, O. (2018). Analysing European values: An introduction. In F. Foret & O. Calligaro (Eds.), *European values: Challenges and opportunities for EU governance* (pp. 1–20). London: Routledge. <https://doi.org/10.4324/9781351037426-4>.
- Foret, F., & Littoz-Monnet, A. (2014). Legitimation and regulation of and through values. *Politique européenne*, 45(3), 8–25.

- Giric, S. (2016). Strange bedfellows: Anti-abortion and disability rights advocacy. *Journal of Law and the Biosciences*, 3(3), 736–742. <https://doi.org/10.1093/jlb/lsw056>.
- Goode, E. (1998). Strange bedfellows: Ideology, politics, and drug legalization. *Society*, 35(4), 18–27. <https://doi.org/10.1007/bf02686378>.
- Inglehart, R. F. (2008). Changing values among western publics from 1970 to 2006. *West European Politics*, 31(1–2), 130–146. <https://doi.org/10.1080/01402380701834747>.
- Jaggar, A. M. (1994). *Living with contradictions controversies in feminist social ethics*. Boulder: Westview Press.
- Knill, C. (2013). The study of morality policy: Analytical implications from a public policy perspective. *Journal of European Public Policy*, 20(3), 309–317. <https://doi.org/10.1080/13501763.2013.761494>.
- Knill, C., Hurka, S., Adam, C., et al. (2016). *On the road to permissiveness?: Change and convergence of moral regulation in Europe*. Oxford: Oxford University Press.
- Kohler-Koch, B., & Quitkat, C. (2013). *De-mystification of participatory democracy: EU-governance and civil society*. Oxford: Oxford University Press.
- Kulick, D. (2003). Sex in the New Europe the criminalization of clients and Swedish fear of penetration. *Anthropological Theory*, 3(2), 199–218.
- Kurzer, P. (2001). *Markets and moral regulation: Cultural change in the European Union*. New York: Cambridge University Press.
- Locher, B. (2007). *Trafficking in women in the European Union—Norms, advocacy-networks and policy-change*. Berlin: Springer.
- Macrae, H. (2010). The EU as a gender equal polity: Myths and realities. *JCMS Journal of Common Market Studies*, 48(1), 155–174. <https://doi.org/10.1111/j.1468-5965.2009.02046.x>.
- Mattson, G. (2016). *The cultural politics of European prostitution reform: Governing loose women*. London: Palgrave Macmillan.
- Mondo, E., & Close, C. (2018). Morality politics in the European parliament. A qualitative insight into MEPs' voting behaviour on abortion and human embryonic stem cell research. *Journal of European Integration*, 41(1), 1001–1018.
- Mooney, C. Z. (1999). The politics of morality policy: Symposium editor's introduction. *Policy Studies Journal*, 27(4), 675–680.
- Mooney, C. Z. (2001). *The public clash of private values: The politics of morality policy*. New York: Chatham House Publishers of Seven Bridges Press.
- Mourão Permoser, J. (2019). What are morality policies? The politics of values in a post-secular world. *Political Studies Review*, 17(3), 310–325. <https://doi.org/10.1177/1478929918816538>.
- Outshoorn, J. (2005). The political debate on prostitution and trafficking of women. *Social Politics: International Studies in Gender, State & Society*, 12(1), 141–155.
- Outshoorn, J. (2019). European Union and prostitution policy. In S. Økland Jahnsen & H. Wagenaar (Eds.), *Assessing prostitution policies in Europe* (p. 363). London: Routledge.
- Raymond, J. G. (2013). *Not a choice, not a job: Exposing the myths about prostitution and the global sex trade*. Sterling, VA: Potomac Books Inc.
- Reanda, L. (1991). Prostitution as a human rights question: Problems and prospects of United Nations action. *Human Rights Quarterly*, 13, 202–228.
- Risse, T. (Ed.). (2015). *European public spheres. Politics is back*. Cambridge: Cambridge University Press.
- Rubio Grundell, L. (2015). Sex worker organisations and EU policy-making: Explaining an institutional and ideational exclusion. In *4th European conference on politics and gender*, Uppsala University, Sweden, 2015, p. 32.
- Sabsay, L. (2015). The ruse of sexual freedom: Neoliberalism, self-ownership and commercial sex. In N. Dhawan, A. Engel, C. H. E. Holzhey, et al. (Eds.), *Global justice and desire: Queering economy* (pp. 180–194). London: Routledge.
- Salter, B. (2007). Bioethics, biopolitics and the moral economy of human embryonic stem cell science: The case of the European Union 6th Framework Programme. *New Genetics and Society*, 26(3), 269–288.
- Schmidt, V. A. (2006). *Democracy in Europe: The EU and national politics*. Oxford University Press.
- Smismans, S. (2010). The European Union's fundamental rights myth\*. *JCMS: Journal of Common Market Studies*, 48(1), 45–66. <https://doi.org/10.1111/j.1468-5965.2009.02041.x>.
- Summers, A. (2008). Introduction: The international abolitionist federation. *Women's History Review*, 17(2), 149–152.

- Volkens, A., Lehmann, P., Regel, S., et al. (2018). Manifesto project dataset. *Manifesto Project*. <https://doi.org/10.25522/manifesto.mpps.2012b>.
- Wagenaar, H., & Altink, S. (2012). Prostitution as morality politics or why it is exceedingly difficult to design and sustain effective prostitution policy. *Sexuality Research and Social Policy*, 9(3), 279–292. <https://doi.org/10.1007/s13178-012-0095-0>.
- Walkowitz, J. R. (1982). *Prostitution and victorian society: Women, class, and the state*. Cambridge: Cambridge University Press.
- Weitzer, R. (2006). Moral crusade against prostitution. *Society*, 43(3), 33–38. <https://doi.org/10.1007/BF02687593>.
- Weitzer, R. (2007). The social construction of sex trafficking: Ideology and institutionalization of a moral crusade. *Politics & Society*, 35(3), 447–475. <https://doi.org/10.1177/0032329207304319>.
- Weitzer, R. (2010). The mythology of prostitution: Advocacy research and public policy. *Sexuality Research and Social Policy*, 7(1), 15–29. <https://doi.org/10.1007/s13178-010-0002-5>.
- Woodward, A. (2000). Building velvet triangles: Gender in EU policy making. In: *European Consortium for political research, 28th Joint Sessions Copenhagen, April, 2000*.

**Publisher's Note** Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.