

Sex Work in South Korea

A Call for Decriminalisation

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1. Introduction

The first time I came in contact with sex workers was on vacation with my parents in Italy when I was around eight years old. On our way back from the opera in Verona I spotted lots of trees with bright coloured reflection tape and women in front of them. My mom desperately tried to cover my eyes and refused to explain why there were scantily dressed women standing in front of those trees. It was not until a few years later that I understood why my mother reacted a little bit hysterical, for those women were sex workers. My guess is that, because of this event, I have always been curious about how the dynamics in the sex industry work, especially since the differences in regulation between countries can be enormous. When I was older my parents were very open about the subject and I never really met anyone in my direct surroundings who is opposed to sex work. Accordingly, I was very surprised when I met a South Korean exchange student who seemed disgusted by the subject. When I asked her about the situation in Seoul she tried to avoid the subject and never really answered my question. I decided to find my own answers and I found something striking: sex workers protesting in South Korea against a law that was established to protect them.

The South Korean authorities looked the other way as the red light districts developed and sex work was actually booming until 2002. The tolerance of sex work ended after several sex workers died in a fire while being locked up in a brothel room. This event shed light on the elaborate sex work industry and the government, influenced by the public outrage and the voice of women's rights activists following the event, started a more aggressive campaign against sex work, which called for total eradication. Police crackdowns intensified and red light districts were shut down as the new law took effect in 2004. Sex work became a punishable offense. To accommodate the sex workers, the government invested in special houses and programs to rehabilitate sex workers so that they would be able to find a job outside the sex industry.

The crackdowns continued and sex workers protested in public against the new law between 2011 and 2015. They stated that the law threatens their livelihoods and that there “would be more rapes and other sex crimes if the red light districts were closed.”¹ Kim Jeong-

¹ “Suit has South Korea Looking Anew at Its Hard Line on Prostitution,” The New York Times, accessed September 25, 2016, http://www.nytimes.com/2015/06/21/world/asia/suit-has-south-korea-looking-anew-at-its-hard-line-on-prostitution.html?_r=0. “Before Ruling on

mi, a 45 year old sex worker submitted a petition to repeal the act in 2012.² 882 sex workers signed the petition that stated that the government has no right to use criminal punishment to discourage voluntary sex among adults.³ The judge Oh Won-chan filled a request of revision to the Constitutional Court on behalf of the sex workers. After three years of hearings and deliberation, six of the nine judges in the Constitutional Court of South Korea decided to uphold the ban on sex work on Thursday March 31 2016.⁴ The majority in the Court believed that “decriminalising sex work would encourage the sex industry and further degrade the sexual morality.”⁵ The decision was met with disappointment among the sex workers.⁶

The situation in South Korea made me wondering not only how sex work regulation develops, but also what a good regulation for sex workers would look like. Therefore my research question is: *“How did sex work regulation develop in South Korea and what are the effects of the current regulation on sex workers in South Korea?”* Since the terms prostitute and prostitution carry a heavy stigma I will use the term sex worker and sex work, with the exception of quotes and references that might use other terms. I will keep to the simplest definition of sex work, namely: the exchange of money or other valuables for sexual intercourse or other sexual acts between consenting adults. Regarding the implications, I will look primarily at the social, humanitarian and public health implications. Although human trafficking and sex work often go together, it will not be covered in this thesis.

In order to answer my research question I will start with a theoretical framework in which I explain the foundation on which my research is based. The theoretical framework is partly based on research of the criminologist Ronald Weitzer and is split into three sections. In the first section I shine light on different paradigms, namely the oppression, empowerment and a new paradigm developed by Weitzer, the polymorphous paradigm, which helps to understand the different motives for the regulation of the sex industry. In the second part I will go through the commonly used forms of regulating sex work, namely criminalisation,

Prostitution, Masked Sex Workers to Rally in Seoul,” The Hankyoreh, accessed September 25, 2016, http://english.hani.co.kr/arti/english_edition/e_national/685988.html.

² “Court Rules Ban on Prostitution Constitutional,” The Korea Herald, accessed September 26, 2016, <http://www.koreaherald.com/view.php?ud=20160331000970>.

³ “Suit has South Korea Looking Anew at Its Hard Line on Prostitution.”

⁴ “Court Rules Ban on Prostitution Constitutional.”

⁵ “South Korean Court Upholds Ban on Prostitution,” The New York Times, accessed September 20, 2016, http://www.nytimes.com/2016/04/01/world/asia/south-korea-upholds-prostitution-ban.html?_r=0.

⁶ “South Korea: Prostitutes Decry Court Ruling, Demand Right to Work,” Reuters, accessed September 2016, <http://in.reuters.com/article/southkorea-prostitution-idINKCN0WX0XD?feedType=RSS&feedName=worldNews>.

decriminalisation and legalisation. The third part, which is based on research by Weitzer, focuses on his criteria for a “best practice” of sex work regulation, which are divided in the following pillars: visibility, eligibility, health, rights and safety. Before I analyse the current sex work legislation in South Korea, I will first look at the history of sex work in South Korea. Sex work in (South) Korea has a long history, characterised by constantly changing regulations. Observing and analysing the changes over time is crucial to understand why a contemporary situation is the way it is. Changing the current legislation cannot be done without a sense of how regulations have changed over time.

Thereafter I will analyse the new regulations surrounding sex work. I will analyse the effect of the current regulation on different kinds of sex work based on the criteria provided by Weitzer’s pillars. In particular, I will look at female indoor sex workers, male indoor sex workers and Bacchus ladies. Bacchus ladies are a special category of elderly sex workers who make a living selling energy drinks, with additional sexual services. This recent phenomenon is a remarkable development in a society where elders are generally treated with respect,⁷ which might also point to other problems than just the regulation of sex work. My research is based on official laws, documents provided by the government, newspaper articles, blogs and documentaries. I will end my research with a discussion, in which I will discuss the results of this research, the positive effect decriminalisation can have on sex workers in South Korea from an international perspective. Lastly, I will give recommendations for policy reform and suggestions for researching the sex work industry.

⁷ Peter H. Lee, William Theodore De Bary and Yǒng-ho Ch’oe, *Sources of Korean Tradition Vol. 2* (New York: Columbia University Press, 2000), 29.

2. Theoretical framework

In chapter 2, I will highlight the characteristics of different paradigms regarding sex work; the oppression, empowerment and the more recent polymorphous paradigm in order to get an understanding of the different ideas that form the basis for regulating sex work. Following these paradigms I will look at the various ways in which sex work can be regulated. Thereafter I will look at the pillars, which provide a handhold for understanding the dynamic nature of sex work.

2.1 Paradigms

I will discuss three paradigms regarding sex work in academic literature: the oppression paradigm, the empowerment paradigm and more recently, the polymorphous paradigm. People who view sex work as negative or even as a purely evil phenomenon belong to the oppression paradigm. They see sex work as a “quintessential expression of patriarchal gender relations and male domination.”⁸ In their eyes sex work cannot be a neutral practice or a normal job, they see it by definition as a form of “violence against women”.⁹ According to them, legalising will not improve the situation of sex workers because it will not alter the gender inequality that is at the core of the sex industry.¹⁰ Hence, their goal is not only the prohibition of sex work, but also the abolition of the entire sex industry.¹¹ The voice of this group, including academics, politicians and administrators, has become louder and louder in recent years and can sometimes be considered radical. Among this group there are influential activists, organisations and academics that managed to influence public policies of some nations.¹²

The complete opposite from the oppression paradigm is called the empowerment paradigm. Followers of this paradigm argue that there is “nothing inherent in sex work that would prevent it from being organised for mutual gain for all parties.”¹³ In short, they see it as

⁸ Weitzer, *Legalizing Prostitution: From Illicit Vice to Lawful Business*, (New York: New York University Press, 2012), 10

⁹ Ibid., 16. Ronald Weitzer, “The Mythology of Prostitution: Advocacy Research and Public Policy,” *Sex Res Soc Policy* 7 (2010): 15.

¹⁰ Weitzer, *Legalizing Prostitution*, 11.

¹¹ Weitzer, “The Mythology of Prostitution,” 15.

¹² Ibid.

¹³ Weitzer, *Legalizing Prostitution*, 7.

a normal job, which can also benefit the worker, since the sex workers is able to acquire professional working skills.¹⁴ In stark contrast with the oppression paradigm followers, the empowerment paradigm followers argue that most of the problems associated with sex work are due to its criminalisation and are not inherent to sex work.¹⁵

In my opinion oppression paradigm followers have a rather shallow vision of what sex work is. They discard the notion that sex work can be voluntary and argue “that prostitution is something that is done to women” and that legalisation “grants more men moral and social permission to practice the prostitution of women and children.”¹⁶ It is of course true that there are women who experience violence and are coerced into sex work, which is not always the case. Followers of this paradigm reject the fact that sex work can be a voluntary choice and it also fails to account for the practice of male sex work, thereby overlooking important aspects of the sex industry. Unfortunately, due to media reporting and lobbying of this group, they often get favourable hearing at government circles.¹⁷ Regarding the empowerment paradigm, I think that it is almost impossible to view sex work solely in a positive light. In some cases it does give the sex workers empowerment, but it is nonsensical to think that is always the case, since a lot of people fall victim to third parties and are coerced into sex work without a choice.

Ronald Weitzer offers a different view on the matter of sex work. He calls the oppression and empowerment paradigm one-dimensional and essentialist.¹⁸ The two aforementioned paradigms have many weaknesses and fail to account for all the issues surrounding the sex industry. Therefore he offers an alternative paradigm that recognises the diversity of the sex industry. In his polymorphous paradigm, Weitzer argues that we should not see sex work as a simple construction, e.g. as evil or empowering, but that we need to “identify structural arrangement that have negative effects and bolster those with more positive outcomes.”¹⁹ All dimensions of sex work, such as location, exploitation, job satisfaction, victimisation and others should are not constants but need to be treated as “variables” that vary depending on the type of work, location and other conditions.²⁰ The most important variable is the location of sex workers. Brothel workers, window workers and

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Janice C. Raymond, “Prostitution on Demand: Legalizing the Buyers as Sexual Consumers,” *Violence Against Women* 10 (2014): 1183.

¹⁷ Weitzer, “The Mythology of Prostitution,” 25.

¹⁸ Ibid., 16.

¹⁹ Ibid.

²⁰ Weitzer, “The Mythology of Prostitution,” 26.

independent sex workers are active in completely different environments and consequently face different risks. Other variables are: reason for entry, number of clients, age, appearance and ethnicity.²¹ Weitzer also emphasises that we should not forget the clients of sex workers, for they are as diverse as sex workers themselves. For example: age, race, social class and reason for buying sex.²² In the words of Weitzer: “polymorphism offers a rich and more sophisticated template than the other two frameworks.”²³ The current situation of the sex industry in South Korea is diverse and complex, therefore looking at it one-sided will not provide sufficient answers or solutions to the current problems. The polymorphous paradigm will prove to be the most suitable paradigm to analyse the complex previous and current regulations of sex work in South Korea. By embracing the polymorphous paradigm I recognise the diversity of variables in the sex industry that is necessary to effectively analyse the previous and current regulation and issues surrounding sex work in South Korea.

2.2 Diverse Regulations

For centuries legislation around the world regarding sex work has shifted between opposites. Whereas the sex work was tolerated during the Medieval 12th and 13th century and even institutionalised in the 15th century, it was condemned in the 16th century.²⁴ There are three main approaches to sex work regulation: criminalisation, decriminalisation and legalisation.

Criminalisation means that sex work is included in the criminal code of the law in a country, which makes sex work and related acts illegal and punishable by law. Full criminalisation means that not only the sex workers themselves are criminalised but the client of sex workers can also face criminal penalties. Partial criminalisation, where, for example, only the client or the sex worker is criminalised, is also an option. Criminalising clients is also known as the “Swedish Model.” In 1999 Sweden criminalised buying sex, which was based on the radical feminist argument that claimed that sex work is male violence against women.²⁵ The aim of criminalisation is to deter sex workers and future clients of taking part in this

²¹ Weitzer, *Legalizing Prostitution*, 18.

²² *Ibid.*, 19.

²³ *Ibid.*, 21.

²⁴ Leah Lydia Oris, “Prologue to Part One: Toward a Chronology of Medieval Prostitution,” in *Prostitution in Medieval Society: the History of an Urban Institution in Languedoc*, (Chicago: University of Chicago Press, 1985) 9-14.

²⁵ “Briefing Paper #02: The Criminalisation of Clients,” Global Network of Sex Work Projects, accessed October 18, 2016, http://www.nswp.org/sites/nswp.org/files/Criminalisation%20of%20Clients_Summary-c.pdf.

industry. The opinions on whether criminalisation is the best approach to effectively combat sex work are divided. Nonetheless, one proven and problematic consequence of criminalisation is that active sex workers are driven in the underground industry, which is a dangerous environment. The sex workers cannot turn to the police in case of emergency, for they have no rights and are, in fact, criminals themselves. This is one of the main reasons why, amongst others, Amnesty International has pleaded for decriminalisation of sex work.²⁶

Decriminalisation refers to the removal of sex work and associated activities from the criminal code; this can be a full or partial removal.²⁷ This enables the sex industry to be treated as any other legitimate industry. This approach directly has a positive effect on violence against sex workers, because it is easier to step to the police if they are no longer working in the underground industry. On the longer term decriminalisation could also stimulate the de-stigmatisation of sex work, as sex workers are no longer seen as criminals in society, however, this might take some time. Another option is de facto decriminalisation, which means non-enforcement of the law, but the offences remain in the penal code.²⁸

Legalisation declares the act of sex work legal and provides mechanisms for the government to regulate paid sex transactions.²⁹ The one aspect that characterises legalisation is official regulation. The difference between legalisation and decriminalisation is that with decriminalisation sex work is only removed from criminal law, whereas with legalisation sex work is removed from criminal law and officially regulated. Examples thereof are health requirements, age restrictions and the licensing of businesses. Under legalisation sex workers have rights, which could improve their working conditions, if correctly applied. There are two types of legalisation; de jure and de facto legalisation.

De jure legalisation includes decriminalisation and formal government regulation of the sex industry.³⁰ There are no guidelines to what extent and which acts should be regulated, this means that legalisation can take different forms depending on the country. However, legal tolerance does not automatically mean social tolerance. Even where selling sex is legal, sex workers face the possibility of being stigmatised and discriminated by those who disapprove of sex work. De facto legalisation implies that sex work is illegal, but regulated by the

²⁶ “Decision on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers,” Amnesty International, accessed September 17, 2016, <https://www.amnesty.org/en/policy-on-state-obligations-to-respect-protect-and-fulfil-the-human-rights-of-sex-workers/>.

²⁷ Weitzer, *Legalizing Prostitution*, 49.

²⁸ Ibid.

²⁹ Ibid., 76-77.

³⁰ Ibid., 77.

authorities.³¹ As long as the participants do not disturb the social order and violate any other laws they are allowed to operate by the rules imposed on them.³² De facto legalisation of regulation currently exists in Antwerp and used to be the practice in the Netherlands before official decriminalisation and de jure legalisation.³³ This sounds conflicting, but a good example is the selling and buying marijuana in the Netherlands, which is illegal. However, the famous Coffeeshops that sell marijuana have to abide by a certain set of rules, which regulate and permit the sales of marijuana.³⁴

All aforementioned approaches are in place in various legal systems nowadays. These different regulations have different implications and consequences for all parties involved in the business of prostitution. For example in the Netherlands, sex work has been recognised as a profession in 1988. A new law that was introduced in October 2000 makes sex work legal, subjecting it to the municipal regulations about the organisation and the practice of businesses. The authorities try to regulate sex work, aiming at protecting minors and eliminating forced sex work.³⁵ A counterpart example is Iran, where sex work, brothel ownership and pimping are illegal. Sex workers face prison sentences, lashing or in the worst-case scenario execution by stoning.³⁶

One simple set of rules would not polish off and address all (vulnerable) parties involved because the sex industry is more diverse than most people acknowledge. The problem with most regulations is that it only applies to a small part of the whole business. For example, the regulation only focuses on female sex workers, while males can also engage in sex work. Thus, managing and regulating the sex industry is by no means an easy task. The pillars discussed in the next subchapter might provide some more grip for understanding issues surrounding sex work and for developing a sustainable sex work regulation framework.

³¹ Ibid., 79.

³² Ibid.

³³ Ibid.

³⁴ Ibid., 79-80. "Gedooigbeleid Softdrugs en Coffeeshops," Rijksoverheid, accessed September 17, 2016, <https://www.rijksoverheid.nl/onderwerpen/drugs/inhoud/gedooigbeleid-softdrugs-en-coffeeshops>.

³⁵ "Dutch Prostitution Laws," Amsterdam Info, accessed September 17, 2016, <http://www.amsterdam.info/prostitution/>.

³⁶ "Iran Woman Risk Being Stoned to Death," Amnesty International, accessed September 17, 2016, <https://www.amnesty.org.uk/press-releases/iran-woman-risk-being-stoned-death-after-being-driven-prostitution-poverty>.

2.3 Pillars

Sex work regulations differ greatly across the world and depend on all kinds of developments unique to each country, such as religious, political or cultural influences. A question many have wondered about is whether there is a golden set of rules to regulate sex work, which not only accounts for the sex workers but also for all parties involved, for example local residents. This can be a rather difficult quest, since often there are radical groups involved who aspire total eradication of sex work. Following Weitzer's research, he distinguished a set of standards that address the central pillars that can form the base for effective sex work regulation.³⁷

The first pillar is visibility. Sex work should be kept discrete, which will first and foremost reduce the chances that local residents will demand re-criminalisation. Regarding location, the businesses should not operate where it is visible to children. Advertisement and signage of sex businesses should be discrete and should take into account what the local community will tolerate.³⁸

The second pillar is eligibility. The term eligibility refers to the requirements to partake safely in the sex industry, as well as providing adequate support for exiting the sex industry. Eligibility relates to the requirements for sex workers themselves and the requirements for possible work places, such as brothels. A minimum age for entering the sex industry should be established and minors should be prohibited to enter premises where sex work takes place. A point of discussion is whether sex workers should be registered or not. The predominant view is that registration would make it easier to manage the industry, many sex workers will likely resist to register due to the stigmatising potential a register carries. Businesses, for example brothels, on the other hand, should be licensed. Furthermore, the costs for such a licence should not be so great that the operators are forced out of the legal market. In addition, a full background check on the operators of such businesses is a must. If the authorities find any prove of illegal activities, such as violence, drugs or coercion, a license should be denied. Lastly, the specially trained and educated police or designated supervisors should conduct periodic examinations to the site to make sure that everyone complies with the rules, as is the common practice in Amsterdam's red light district.³⁹

³⁷ Weitzer, *Legalizing Prostitution*, 207.

³⁸ *Ibid.*, 209.

³⁹ *Ibid.*, 209-10. "Prostitutiebeleid en APV," Gemeente Amsterdam, accessed October 18, 2016, <https://www.amsterdam.nl/zorg-ondersteuning/prostitutie/veelgestelde-vragen/prostitutiebeleid-en/>.

The third pillar is health. Health is a very important aspect since poor health and sexually transmittable diseases can have grave consequences for the workers and their clients. Therefore safe sex, including condom use, should be strongly encouraged. In addition to safe sex, regular health check-ups should also be supported. However, mandatory check ups can stigmatise sex workers. Instead, testing should be encouraged and stimulated through safe sex education, not only for the sex workers themselves, but also for the clients.⁴⁰

Rights is the fourth pillar. Sex workers should have the right to turn to the police in case of need without the fear of prosecution. In order to create a safe and desirable environment for the workers themselves, they should be granted the right to refuse to engage in any sex act or to engage with a particular client. Sex workers have the right to work in a safe environment and thus employers should be held responsible that their workplace is a safe environment.⁴¹ Discrimination against sex workers and business operators should be prohibited. The businesses should be exempt from paying taxes prior to the decriminalisation and criminal record of individuals who engaged in sex work and related acts should be expunged.⁴²

Last but not least is safety. Sex workers always face risk since they are working directly with their clients who expect and demand certain actions. The first step to guaranteeing safety for the workers is that sanctions against those who abuse, coerce or threaten sex workers should be intensified. The police should also be educated to treat sex workers as workers with rights and that their protection is the responsibility of state officials.⁴³ The government is responsible for periodically reviewing the sex work related laws and the sex workers and their employees should be informed of their rights and obligations.⁴⁴

Regulation of the sex industry by these five pillars provides a sound basis and a safe and comfortable environment for employees, workers and clients. In chapter 4 I will use these pillars as guidelines for investigating the situation of sex workers in Korea and the implications the current regulation has on their work.

In the next chapter I will look at the regulation of sex work in Korea throughout the years and provide a more in depth analysis of the current regulation of prostitution in South Korea.

⁴⁰ Weitzer, *Legalizing Prostitution*, 211.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid., 212.

⁴⁴ Ibid.

3. Sex Work in South Korea

Prostitution has a rich history in South Korea. In the first part of this chapter I will highlight the most important development in sex work regulation that shaped the Korean “way of doing things.” In the second part of this chapter I will take an elaborate and more detailed look at the current regulation of sex work in South Korea.

3.1 From Kisaeng to Lawsuits

There have been three main religious practices in South Korea, Buddhism, Shamanism and Confucianism. Especially Confucianism has had a lasting impact on Korean society. Regarding women, traces of the prescribed ideals of chastity, purity and womanly propriety constructed during the Chosŏn dynasty (1392-1910) can still be found nowadays.⁴⁵ During the preceding Koryŏ dynasty (918-1392) women had more rights and enjoyed more freedom than the women of the Chosŏn dynasty. The implementation of Neo-Confucianism resulted in strict social and legal emphasis on women’s chastity.⁴⁶ Chastity was regarded a woman’s greatest virtue and had to be maintained at all costs. Even monuments were erected for women who sacrificed their life rather than being “defiled.”⁴⁷ This emphasis on chastity, however, did not mean that sex work was absent. Since the Koryŏ dynasty professional female court entertainers called kisaeng served the aristocratic men with the art of music, dance, poetry and sexual services. These women came from the lowest classes of society, but received official education in special institutes and belonged to the government offices.⁴⁸ The kisaeng working at court were recorded as slaves of the government.⁴⁹ In the late Chosŏn dynasty, a classification system developed, which categorised kisaeng in three categories. The

⁴⁵ Hyaewool Choi, “Construction of Marriage and Sexuality in Modern Korea,” in *Routledge Handbook of Sexuality Studies in East Asia*, ed. Mark McLelland and Vera Mackie. (London: Routledge, 2015), 87.

⁴⁶ Katherine H.S. Moon, “Partners in Prostitution,” in *Sex among Allies: Military Prostitution in U.S.-Korea Relations* (New York: Columbia University Press, 1997), 40.

⁴⁷ Choi, “Construction of Marriage and Sexuality in Modern Korea,” 87.

⁴⁸ Moon, “Partners in Prostitution,” 39.

⁴⁹ Yung-Chung Kim, “Lowborn Women of Influence,” in *Women of Korea: A History from Ancient Times to 1945*, ed. Yung-Chung Kim (Seoul: Ewha Womans University Press, 1976), 139.

highest category served at court, the second worked privately and the lowest served in taverns.⁵⁰

The Sino-Japanese War (1894-5), the Russo-Japanese War (1904-5) and the following annexation of Korea by Japan in 1910, resulted in a boom of the sex industry providing sexual services for military personnel who sought some comfort from war.⁵¹ The first red light district opened in 1902 and was located in Pusan.⁵² In 1904 the Japanese authorities permitted public sex work.⁵³ It was not until 1908 that the traditional models of state owned kisaeng were changed under the *Kisaeng Regulation Order*, which ordered all kisaeng to register with the colonial police.⁵⁴ Visiting a kisaeng was still for men of privilege, but new low cost entertainment in bars also emerged, making the profession of kisaeng more competitive.⁵⁵ However, in 1909 the kisaeng and street sex workers were grouped together, which drastically changed the position for the kisaeng.⁵⁶ They were now required to take regular health examinations to check for sexually transmittable diseases twice a week in Seoul.⁵⁷ This meant that their activities were now closely monitored by the protectorate state.⁵⁸ In 1916 sex work was recognised as an official business under the *Regulations Concerning the Acquisition of Prostitutes*.⁵⁹ Several other laws, such as the *Inn Control Regulations* allowed the government to collect taxes and set out detailed regulations to control sex work.⁶⁰ In the 1920 and 1930, the Japanese empire advertised kisaeng to promote sex tourism to their colony.⁶¹ The Japanese saw the kisaeng as a “beautiful embodiment of a charmingly backward

⁵⁰ “The Courtesan’s Journal: Kisaeng and the Sex Labour Market in Colonial Korea,” *Intersections: Gender and Sexuality in Asia and the Pacific* issue 29, May 2012, accessed September 29, 2016, <http://intersections.anu.edu.au/issue29/barraclough.htm#n4>.

⁵¹ Ruth Barraclough, “A History of Sex Work in Modern Korea,” in *Routledge Handbook of Sexuality Studies in East Asia*, ed. Mark McLelland and Vera Mackie. (London: Routledge, 2015), 296

⁵² Barraclough, “A History of Sex Work in modern Korea,” 296.

⁵³ Seungsook Moon, “Regulating Desire, Managing the Empire: U.S. Military Prostitution in South Korea 1945-1970,” in *Over There: Living with the U.S. Military Empire from World War Two to the Present* (Durham and London: Duke University Press, 2012), 42.

⁵⁴ “The Courtesan’s Journal.”

⁵⁵ Choi, “Construction of Marriage and Sexuality in Modern Korea,” 93. “The Courtesan’s Journal.”

⁵⁶ “The Courtesan’s Journal.”

⁵⁷ Na Young Lee, “The Construction of Military Prostitution in South Korea during the U.S. Military Rule, 1945-1948,” *Feminist Studies* 33 (2007): 458.

⁵⁸ “The Courtesan’s Journal.”

⁵⁹ Moon, “Regulating Desire, Managing the Empire,” 42.

⁶⁰ Lee, “The Construction of Military Prostitution in South Korea during the U.S. Military Rule, 1945-1948,” 458.

⁶¹ Barraclough, “A History of Sex Work in modern Korea,” 296.

civilisation.”⁶² With the introduction of capitalism and a growing clientele, kisaeng, who formerly belonged to the lowest classes, found empowerment in brothels, cafes and bars. The expanding and diversifying clientele allowed the kisaeng to make a fortune.⁶³

During the imperial endeavours of Japan between 1930 and 1945, the Japanese government used the emerging red light districts solely for military use.⁶⁴ In 1937 the first full scale military brothels (comfort stations) were erected in order to manage the Japanese imperial armies.⁶⁵ First, they recruited poor Japanese women from the rural areas, but in order to combat the outbreak of STDs the Japanese government turned to young Korean women. As discussed above, chastity was important for Korean women. The Japanese were aware of this and replaced the Japanese women with “fresh” Korean women who were believed to be free of STDs.⁶⁶ Through the state-regulated system of sex work, the Japanese authorities could quickly mobilise large numbers of young Korean women. Approximately 200,000 Korean women, which made up about 80% of the total number of comfort women,⁶⁷ were drafted as sex workers and stationed throughout Asia for the service of Japanese military.⁶⁸

After the liberation from the Japanese by the U.S. army in 1945, the U.S. military made use of the foundation of sex work regulations that the Japanese had instituted. The U.S. military government controlled and regulated sex work rather than suppressing the practice.⁶⁹ Due to the system laid in place by the Japanese government sex workers were confined to selected areas, which made it easier to regulate. However, private and unregulated sex work also grew rapidly as well paid U.S. soldiers searched for local women who provided sexual

⁶² Ibid.

⁶³ Barraclough, “A History of Sex Work in Modern Korea”, 296.

⁶⁴ Lee, “The Construction of Military Prostitution in South Korea during the U.S. Military Rule, 1945-1948,” 459.

⁶⁵ Ibid. Moon, “Regulating Desire, Managing the Empire,” 42.

⁶⁶ Moon, “Regulating Desire, Managing the Empire,” 41.

⁶⁷ Barraclough, “A History of Sex Work in modern Korea,” 297.

⁶⁸ Lee, “The Construction of Military Prostitution in South Korea during the U.S. Military Rule, 1945-1948,” 460. The women were required to work in atrocious circumstances and comfort women became somewhat of a synonym for “sex slavery.” The women referred to the camps as “rape camps.” When these women eventually returned after the war, they were shamed and disowned by their families, since they no longer complied with the Confucian values of chastity and virtue. The women were so ashamed that it was not until 1990, they told their story and demanded apology and compensation from the Japanese government. Barraclough, “A History of Sex Work in modern Korea,” 297. Choi, “Construction of Marriage and Sexuality in Modern Korea,” 94.

⁶⁹ Lee, “The Construction of Military Prostitution in South Korea during the U.S. Military Rule, 1945-1948,” 464.

services.⁷⁰ In order to minimize the spread of diseases and protect the soldiers from sickness the government tried to prohibit sex work. In 1947 the U.S. military government prohibited sex work under the *Public Act 1947*, effective 1948.⁷¹ The punishment was imprisonment for up to two years and/or fines of up to 50,000 Won (\$50).⁷² However, this policy only abolished licenced sex work and thus made unlicensed sex work flourish. Due to the scattering of sex workers, STDs also spread further.⁷³ The government, however, did not make any effort to enforce and criminalise sex work. Rather, the *Veneral Disease Control Section* was established in 1947 to introduce regular examination and treatment for sex workers who were infected, which continued after the prohibition law.⁷⁴ Remarkably, on the one hand, the government cracked down on sex workers that spread diseases among the military, on the other hand, the government practiced strict regulation of sex workers through health examinations.⁷⁵

During the Korean War (1950-53) military sex work spread even further as 300,000 Allied Forces poured into South Korea and continued afterward, with support of the Korean government.⁷⁶ Leaders of the new Republic of South Korea built on the already existing system laid down by Japan to entertain the soldiers and keeping them motivated and protect Korean women from foreign soldiers. Two separate systems were maintained: UN comfort stations, also called camptowns, for the Allied forces and special comfort stations for Korean soldiers.⁷⁷ Sex work was still illegal during the war, but tolerated and frequent health examinations took place.⁷⁸ The amount of women working in comfort station remains unclear, but an estimated 64,000 sex workers were active in Seoul alone and around 78 comfort stations were established in Pusan in 1952.⁷⁹ Due to the difficulties of the wartime the Korean government saw sex work as a necessary evil to feed its population and to keep the foreign soldiers motivated. After the Mutual Defence Treaty in 1953 camptown sex work grew

⁷⁰ Moon, "Regulating Desire, Managing the Empire," 43.

⁷¹ Ibid.

⁷² Lee, "The Construction of Military Prostitution in South Korea during the U.S. Military Rule, 1945-1948," 468.

⁷³ Moon, "Regulating Desire, Managing the Empire," 49.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Choi, "Construction of Marriage and Sexuality in Modern Korea," 95.

⁷⁷ Moon, "Regulating Desire, Managing the Empire," 51.

⁷⁸ Ibid., 51-2.

⁷⁹ Ibid., 51.

further due to the permanent U.S. bases stationed throughout Korea. In 1958 there were around 300.000 sex workers and about 60 percent were camptown sex workers.⁸⁰

After the coup of Park Chung-hee in 1961 the junta enacted the *Act on the Prevention of Morally Degrading Behaviour* that replaced the *Public Prostitution Elimination Law* of 1947, which stated that all parties involved in sex work must be punished.⁸¹ It turned out to be no more than an empty letter because by 1962 the junta established 104 special districts where sex work was allowed and closely monitored.⁸² As comfort stations were shut down after the war, red light districts were replacing them. Under the *Tourism Promotion Law*, enacted in 1961, camptowns became special tourism facility businesses.⁸³ Women in camptowns were required to register and to carry health cards. The camps served as an important means to generate foreign capital and it was estimated that women working in camptowns earned \$8 million annually.⁸⁴ In 1965 Japanese tourist began to travel to Korea in large numbers. In order to earn more foreign currency, the Korean government made sure that the U.S. soldiers as well as the Japanese tourist had the opportunity to buy sex without the consequence laid down in the law. However, outside the selected locations sex work was prohibited.⁸⁵ By 1979 the number of Japanese tourist traveling without girlfriends of wives rose to 649.707.⁸⁶

From 1971 to 1976 the government waged a campaign in order to correct the image of Koreans in the eyes of the U.S. army. The campaign was called the Camptown Clean-Up Campaign or Camptown Purification Movement.⁸⁷ The Korean government set up two committees to direct the purification plan, a Blue House Committee and the Base-Community Clean-Up Committee.⁸⁸ Resulting in: registration of sex workers, mandatory health check-ups and detention of sex workers who had contracted a STD.⁸⁹ Women had to take western etiquette classes and were urged to take charge of national prestige. The sex worker's services

⁸⁰ Ibid. 54

⁸¹ Jeong-mi Park, "Paradoxes of Gendering Strategy in Prostitution Policies: South Korea's Toleration-Regulation Regime," 1961-1979," *Women's Studies International Forum* 37 (2013): 74.

⁸² Ibid., 61-62

⁸³ Ibid., 63.

⁸⁴ Ibid. 67.

⁸⁵ Park, "Paradoxes of Gendering Strategy in Prostitution Policies," 77-78.

⁸⁶ Moon, "Partners in Prostitution," 45.

⁸⁷ Katherine H.S. Moon, "Prostituted Bodies and Gendered States in U.S.-Korea Relations," in *Dangerous Women: Gender and Korean Nationals*, ed. Elaine H. Kim and Chungmoo Choi (New York: Routledge, 1998), 143.

⁸⁸ Ibid., 145.

⁸⁹ Moon, "Regulating Desire, Managing the Empire," 68.

were seen and promoted as patriotic acts, but the sex workers themselves did not see it that way.⁹⁰ The regulations were very strict and the examinations were described as humiliating.⁹¹

In 1989 the Korean government proclaimed that they “would permit prostitution in the areas in which prostitutes are guided.”⁹² In short they tolerated sex work in special districts and in special tourist hotels for foreigners. The economic development of South Korea, weak value of the U.S. dollar, stigma associated with sex work and other job opportunities led to a shortage of Korean sex workers.⁹³ Filipinas and Russian women now make up the majority among military sex workers serving U.S. soldiers.⁹⁴ Until 2004 the Korean government turned a blind eye towards sex work, but that changed when several sex workers, locked in brothels, died during fires in 2000 and 2002. A feminist campaign was started by the Korean Women Association United (KWAU), which is an umbrella organisation of progressive women’s groups.⁹⁵ They argued that sex work is a form of sexual slavery and demanded legal reform that would eradicate sex work, but also protect the sex workers.⁹⁶ Through demonstration, campaign and signature seeking they put pressure on the government to change the law. The KWAU took advantage of the 2003 TIP evaluation of Korean status on anti trafficking laws to vernacularize “sex trafficking” into “prostitution.”⁹⁷ After four years of lobbying by the KWAU the National Assembly passed the *Act on the Punishment of Acts of Arranging Sexual Traffic* and the *Act on the Prevention of Sexual Traffic and Protection, etc. of Victims* in 2004. After the law passed many red light districts were shut down, but other forms of sex work flourished.⁹⁸ The new law divides sex workers into two categories: victims of sex work and agents of sex work. If a sex worker has evidence he/she is a victim then punishment is exempted. So, sex workers are criminalised unless they can provide proof that they are

⁹⁰ Moon, “Prostituted Bodies and Gendered States in U.S.-Korea Relations,” 163-65.

⁹¹ Ibid. In 2014, 120 former sex workers sued their own (South Korean) government, demanding apology and compensation for the work they did in the camptowns. They argued that they were not sex slaves, but that the system that was put in place leaves them in poverty now. Furthermore, they argued that they were all “victims of government policies.” “Did Korea Encourage Sex Work at US bases?” “Ex Prostitutes Say South Korea and U.S. Enabled Sex Trade Near Bases.”

⁹² Moon, “Regulating Desire, Managing the Empire,” 69.

⁹³ Barraclough, “A History of Sex Work in Modern Korea,” 299.

⁹⁴ Moon, “Regulating Desire, Managing the Empire,” 69.

⁹⁵ Park, “Paradoxes of Gendering Strategy in Prostitution Policies,” 80-81.

⁹⁶ Ji Hye Kim, “Korea’s New Prostitution Policy: Overcoming Challenges to Effectuate the Legislature’s Intent to Protect Prostitutes from Abuse,” *Pacific Rim Law & Policy Journal Association* 16 (2007): 493.

⁹⁷ Park, “Paradoxes of Gendering Strategy in Prostitution Policies,” 81.

⁹⁸ Ibid.

victims. The KWAU argued that the “patriarchal society stigmatises prostitutes while accepting men purchasing sex” and they refuse to believe that women voluntarily enter into the sex industry.⁹⁹ The focus on women as victim is a characteristic feature of followers of the oppression paradigm.¹⁰⁰ It is therefore no surprise that almost 2700 sex workers protested against this law arguing that they entered by choice and that they have a right to make a living as sex workers.¹⁰¹ Though sex workers frequently protested no big changes have been made in the regulation of sex work.

3.2 Sex Work anno 2016

Though small changes were made, the current regulations of 2016 carry the same tone. The purpose of the *Act on the Punishment of Acts of Arranging Sexual Traffic* is defined as “eradicating sexual traffic, acts of arranging sexual traffic, etc. as well as human traffic aimed at sexual traffic and to protect the human rights of victims of sexual traffic.”¹⁰² The term sexual traffic sounds confusing due to the association with human trafficking. However, in the Act the term is used to describe the profession of sex work. Sexual traffic is defined in the Act as having sexual intercourse or pseudo sexual intercourse using other parts of the body or implements in return for receiving or promising to receive money, valuables or other property gains. The following activities fall under acts of arranging sexual traffic: arranging, soliciting for, enticing or coercing to engage in sexual traffic; providing a place for sexual traffic and providing funds, land or buildings, in awareness that they are used for sexual traffic. A victim of sexual traffic is defined in the Act as “a person compelled to engage in sexual traffic by means of a deceptive scheme or by force or as “a person who has engaged in sexual traffic, while addicted to narcotics, psychotropic drugs or cannabis by a person protecting or guarding him/her due to business relationships, employment relationships and other relationships.”¹⁰³

Article 6 of the Act, specifies that no victims of sexual traffic shall be punished. However, the same Act specifies that a person who has engaged in the conduct of sexual

⁹⁹ Kim, “Korea’s New Prostitution Policy,” 501.

¹⁰⁰ Weitzer, “*Legalizing Prostitution*,” 11.

¹⁰¹ Kim, “Korea’s New Prostitution Policy,” 506.

¹⁰² Act on the Punishment of Acts of Arranging Sexual Traffic, September 23, 2004, Ministry of Gender Equality and Family. Available at <http://www.law.go.kr/eng/engMain.do?menuId=0>. The act of human traffic will not be further discussed in this thesis.

¹⁰³ A juvenile and a person who has been trafficked aimed at sexual traffic are also included in article two of the Act, but are omitted in this thesis.

traffic shall be punished under Article 21 of the Act by imprisonment with labour for not more than one year, by a fine not exceeding tree million won, or by misdemeanour imprisonment or by a minor fine. This penalty also applies to the clients buying sex.

These penalties are relatively mild compared to possible third parties that are involved in the business. Anyone who forces or threatens someone into sexual traffic or related acts faces imprisonment for not more than ten years or by a fine not exceeding 10 million won, roughly 80.000 euro. Any advertisements with the purpose of brokering or arranging jobs for other people to engage in selling sex or advertisement that solicit or entice other persons to purchase sex is punishable under Article 20 of the Act by imprisonment with labour for not more than three years or by a fine not exceeding 30 million won, roughly 24.000 euro. The harsh punishments on third parties would imply that the law's main purpose is to discourage sex work by eradicating parties or persons who coerce others into sex work.

The Act on the Prevention of Sexual Traffic and Protection, etc. of Victims, has the purpose to prevent sexual traffic and to protect victims of sexual traffic. In article three of the Act, persons who did sex work themselves are referred to as “victims of sexual traffic.”¹⁰⁴ Defining every sex workers as a victim, confirms that the current legislation is based on the believe that women will never voluntary engage in sex work.

The Act specifies educational programs and promotional videos and even a *Week for Elimination of Sexual Traffic* in order to raise awareness and to prevent sex work. Aside from that this Act included four different support facilities for rehabilitation of those who engaged in sex work, namely a general support facility, a support facility for juveniles, a support facility for foreigners and a group home facility for assistance in self-reliance. However, the Act does not specify whether they have separate facilities for men and women who engaged in sex work, since not only women but also men can work as sex workers and it is sensible not to put women or man who have been coerced into sex work or want to exit the industry in the same rehabilitation centre, at least not at the beginning.

The consequences of upholding the current regulations around sex work for different kinds of sex workers will be discussed in the next chapter.

¹⁰⁴ Act on the Prevention of Sexual Traffic and Protection, etc. of Victims, September 23, 2004, Ministry of Gender Equality and Family. Available at <http://www.law.go.kr/eng/engMain.do?menuId=0>.

4. Case studies

In chapter 4 I will discuss the effect of the current sex work law on different kinds of sex work in South Korea. For the analysis I use the pillars provided by Weitzer, which I discussed in the theoretical framework. I will firstly discuss the effect of the current law on indoor sex work, which is the biggest category, followed by male sex work and lastly I will discuss the very recent Bacchus ladies phenomenon.

4.1 Female Indoor Sex Workers

Since all forms of sex work are illegal, official governments documentation of the situation of indoor sex work is limited. According to a 2007 report by the Ministry of Gender Equality and Family about 270.000 women worked in the sex industry, unclear however is at what kinds of sex workers they looked.¹⁰⁵ According to the same report, the size of the entire industry was estimated around 14 trillion won, which is around 11 billion euros.¹⁰⁶ The ministry has conducted another report in 2010 but did not release the results.¹⁰⁷

Indoor sex work takes place in several locations, such as brothels, bars and hotels.¹⁰⁸ One of the reasons that indoor sex work locations managed to diversify and grow is because the recourses that are put in combating sex work are scarce. The size of the police force is limited; for each police station only three or four police officers on average can work on sex work cases.¹⁰⁹ While the limited police forces focussed on the more visible variants of sex work, such as the red light districts, the workers have diversified in more creative variants of sex work. For example, a client can go to a massage parlour, barbershop or karaoke bar for a quick and relatively cheap experience.¹¹⁰ A more luxurious experience can be delivered in

¹⁰⁵ “South Korea’s Sex Industry Thrives Underground a Decade After Crackdown,” The Wall Street Journal, accessed October 8, 2016, <http://blogs.wsj.com/korearealtime/2014/11/28/south-koreas-sex-industry-thrives-underground-a-decade-after-crackdown/>.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Weitzer, *Legalizing Prostitution*, 22.

¹⁰⁹ “Is the Prostitution Law Enforced?” The Korea Herald, accessed October 7, 2016, <http://www.koreaherald.com/view.php?ud=20130902000661>.

¹¹⁰ “Prostitution Variants in Korea,” Reddit, accessed October 13, 2016, https://www.reddit.com/r/korea/comments/1udy8q/prostitution_variants_in_korea_in_case_you_were/.

“room salons,” which are fancy karaoke bars, where clients can sing and sing with the sex workers, the actual sexual service usually takes place off site.¹¹¹ While the aforementioned kinds of sex work takes place in establishments, clients can also choose “delivery,” where clients go to a motel and call a number on a business card, which are abundant on the streets, for a sex worker to come to the motel for the service.

Visibility of female indoor sex work has decreased, however, this does not necessarily mean that sex work also decreased. Looking at the numbers, it becomes evident that ten years after the passing of the law red light districts decreased from 69 in 2002 to 44 in 2014. While the police focussed on closing red light districts, sex work took various new forms and remains to flourish underground. The number of busted hidden sex work business increased from 2068 in 2010 to 4706 in 2013.¹¹² According to a police officer from the Gangnam Police Station the businesses “spring up everywhere.”¹¹³ The covert businesses can emerge everywhere, which can cause problems if it is near residential areas. There are even reported cases of sex businesses operating near primary schools.¹¹⁴ Visibility of sex workers appears to have decreased, but the industry has expanded and businesses can pop up anywhere.

The eligibility or the requirements to partake safely in the sex industry, as well as providing adequate support for exiting the industry, has been partially improved. Noticeable improvement has been made in facilities that cater to the sex workers who want to leave the sex industry. After the enactment of the law, council and shelter facilities have increased from 61 in 2004 to 91 in 2014.¹¹⁵ The protection of the human rights in, case of victims of abuse, have increased with more medical and legal support services than before and the maximum stay at a shelter facility has increased to two years and six months.¹¹⁶ In these centres they receive counselling, training and monthly allowance. However, the number of users decreased from 18.424 in 2005 to 8.782 in 2013.¹¹⁷ Be that as it may, it is too early to conclude that this

¹¹¹ Ibid.

¹¹² “Sex Industry Still Thrives in Underground Brothels,” The Korea Times, accessed October 7, 2016, http://www.koreatimes.co.kr/www/news/nation/2014/12/116_169467.html.

¹¹³ “Sex Industry Still Thrives In Underground Brothels.”

¹¹⁴ Ibid

¹¹⁵ “10 Years of Special Acts on Sexual Traffic, the Outcome and the Task,” Ministry of Gender Equality and Family Republic of Korea, accessed October 10, 2016, <http://www.mogef.go.kr/eng/press/index04.jsp?menuID=eup0300&id=eup0300&cate=&key=&search=&order=&desc=asc&year=&smmonth=&sdate=&eyear=&emonth=&edate=&deptcode=&menuID=eup0300&pg=3&mode=view&idx=7187>.

¹¹⁶ Ibid.

¹¹⁷ “South Korea’s Sex Industry Thrives Underground a Decade After Crackdown.”

decrease is a consequence of an effective crackdown on sex workers, since underground sex work, discussed above, seems to be thriving.

The health of female indoor sex workers is compromised under the new law. The results from a study conducted in 2010 about the effect of criminalising sex work on the STD control program, show that after the enforcement of the law registration of sex workers to public health centers and STD examinations has decreased.¹¹⁸ The study also reported that only 23 percent of the sex workers used condoms.¹¹⁹ Until 2004 the government allowed sex workers to work in special districts, they were also required to test for STD periodically and every six months for HIV.¹²⁰ After the new law made sex work illegal, these practices ended. From 2003 to 2004 STD examinations decreased in half from 5922 to 2632 and further decreased to 1914 in 2006.¹²¹ A possible reason for the low registration rate could be that the sex workers became reluctant to register for tests because they feared prosecution. The use of condoms is not promoted and clients can force sex workers to work without protection, whereby sex workers face health risks.

Rights of female indoor sex workers are also compromised under the new law. In case they need to go to the police they are seen as criminals unless they can prove that they are victims who are coerced into sex work. Consensual adult sex workers who are caught are categorised as criminals and are treated as such. This proves a problem, for example, when a sex worker is abused by a client, the worker is most likely to be treated as an illegal sex worker instead of a victim deserving protection. It is difficult for sex workers to refuse clients and they cannot turn to the police to enforce a contract when a third party does not abide by the contract. Furthermore, the crackdowns have not promoted a favourable image of the police among sex workers. During a crackdown the police needs concrete evidence of prostitution, such as a picture taken in the act or a used condom. The need for concrete evidence poses a problem, as there are reported cases where sex workers swallow condoms

¹¹⁸ Jungwhan Lee and Sungyong Lee, "Impact of Anti-Prostitution Law on Sexually Transmitted Disease Control Program," Korea Institute for Health and Social Affairs 30 (2010): 230.

¹¹⁹ Ibid., 235.

¹²⁰ John Godwin, *Sex Work and the Law in Asia and the Pacific*, Bangkok: UNDP Asia Pacific Regional Centre, 2012, 111.

¹²¹ Lee and Lee, "Impact of Anti-Prostitution Law on Sexually Transmitted Disease Control Program," 231.

during raids.¹²² In 2014 a sex worker even died after jumping off a motel in an attempt to flee from the police and in 2016 another was injured in an attempt to escape during a raid.¹²³

The safety of female indoor sex workers is in jeopardy under the current regulations. As long as consensual sex is criminalised, female indoor sex workers remain vulnerable to coercion, abuse and violence. Brothels operate illegally in South Korea and do not have to abide by official safety regulations and monitoring is absent, thereby compromising the safety of sex workers.

4.2 Male Indoor Sex Workers

Sex work is often perceived as a women's job, illustrated by the fact that until the last decade scholars mainly focussed on female sex workers and ignoring male sex workers.¹²⁴ This is not only visible in scholarly work, but also in regulations and law enforcement. The new harsh line law on the prevention of sex work does not specifically declare that sex workers can be female and male. However, in the law enforcement it is evident that mostly female sex workers are targeted. Since the police in Korea started crackdowns on sex workers, their focus has mainly been on the visible forms of female sex workers, e.g. red lights districts. It should be noted that male sex work consists of heterosexual, as well as homosexual activities. In the case of South Korea more information is available about male-female sex work than male-male sex work.

One of the reasons that male indoor sex workers are ignored in South Korea is that the current law is based upon the believe of oppression theorists that "sex work is violence against women." Men do not fit in this narrative because they do not conform to the stereotypical image of a "female victim that needs to be saved from a life of sex work."¹²⁵ Furthermore, male sex workers who provide sexual services to other men go against the norms of masculinity.¹²⁶ Therefore, male sex work defies the notion that sex work is

¹²² "Every Human Deserves Safety," Groove Magazine, accessed October 9, 2016, <http://groovekorea.com/article/every-human-deserves-safety/>.

¹²³ "Sex Worker Plummets from Building During Police Raid," The Korea Times, accessed October 13, 2016, http://www.koreatimes.co.kr/www/news/nation/2016/08/116_211610.html.

¹²⁴ Ronald Weitzer, "Male Prostitution," in *The Routledge Handbook of Deviant Behaviour*, ed. Clifton D. Bryant (New York: Routledge, 2011) 378.

¹²⁵ "Briefing paper #08: The Needs and Rights of Sex Workers," Global Network of Sex Work Projects, accessed October 17, 2016, <http://www.nswp.org/sites/nswp.org/files/Male%20SWs.pdf>.

¹²⁶ Ibid.

embedded in a patriarchal system that is based upon female exploitation.¹²⁷ However, ignoring male sex work does not make it non-existent. On the contrary, the male sex workers can operate more freely and in less fear of crackdown than female sex workers.

In terms of visibility, male indoor sex workers are not less visible than female indoor sex workers in South Korea, just less looked at. In the Gangnam area there has been a bloom of *ho-bba* (호빠) or host bars, formed after the Japanese “host bars,” where women go to talk and relax with good-looking male hosts. According to estimates, over 100 *ho-bba* can be found in the Gangnam area alone, with an average of 10,000 female customers every day.¹²⁸ Different kinds of host bars can be found in South Korea and not in all occurs sex work, and on top of that, when a customer wants additional sexual services, the sex worker and client go out to a motel, which makes gathering hard numbers on male sex workers difficult. There are also more discrete forms of male sex work, such as are erotic massages that can be ordered easily through the Internet. The male sex worker visits the clients at their home or arranges a meeting in a motel, making the chances of a police bust the smallest.¹²⁹ The aforementioned figures concentrate on male-to-female sex work, no figures could be found on male-to-male sex work in South Korea.

Under the current law the eligibility of male sex workers is mostly overlooked. Male sex workers are engaged in sex work in more sporadic and temporary way than women.¹³⁰ In South Korea most of the male sex workers are between 20 and 40 years of age and, for example, enter the industry to pay for college or as a side job to earn and save up some money.¹³¹ They are also less likely to have pimps or be coerced into sex work.¹³² Be that as it may, sex work remains illegal, which puts male sex workers at risks of coercion, threats and violence. Unfortunately, there are no numbers of incidents involving male prostitutes in South Korea. According to a report by the Ministry of Gender Equality and Family, the facilities for shelter and rehabilitation have increased, but it makes no mentions about separate facilities for

¹²⁷ Ibid.

¹²⁸ “What is Going on in a Gangnam Host Bar at 2AM? (Part 1),” The Grand Narrative, accessed October 9, 2016, <https://thegrandnarrative.com/2011/03/13/korean-host-bars-male-prostitution/>.

¹²⁹ “Exposing Invisible Male Sex Workers in South Korea,” The Korea Herald, accessed October 9, 2016, <http://www.koreaherald.com/view.php?ud=20151108000311>.

¹³⁰ Weitzer, “Male Prostitution,” 378.

¹³¹ “Exposing Invisible Male Sex Workers in South Korea.” “What is Going on in a Gangnam Host Bar at 2AM? (Part 1).” “What is Going on in a Gangnam Host Bar at 2AM? (Part 2),” The Grand Narrative, accessed October 9, 2016, <https://thegrandnarrative.com/2011/03/21/korean-host-bars-male-prostitution-2/>.

¹³² Weitzer, “Male Prostitution,” 379.

men and women.¹³³ It remains unclear whether men and women are allowed to stay in the same facility and if there are facilities for men at all to begin with.

The health of male sex workers is compromised under the current law. They face the same problems as female sex workers such as fear of prosecution as discussed in 4.2, but in addition suffer from additional stigmas that can affect their access to health services. They face stigma due to their work as sex worker and face an additional stigma of being perceived homosexual, which is not always the case.¹³⁴ Due to the taboo on the profession and the double stigma male sex workers might feel reluctant to seek help. The nature of the health care services also plays a big role, since male sex workers require different healthcare than female sex workers. Unfortunately, there is no specific data on male sex worker health care in South Korea.

In the official law the gender of sex workers is not specified. But a report by the Ministry of Gender Equality and Family specifically mentions the “promotion of support for victimised *women*” (emphasis added).¹³⁵ Many rights of male sex workers are ignored because the law is based on the ideas of oppression theorists, which see sex work as an act of violence against women. On the one hand, male sex workers generally can operate without fear of prosecution, since the police do not actively focus on finding and busting male sex work businesses. On the other hand however, they still face the same dangers as female sex workers when dealing with clients and third parties.

Regarding safety, although less prevalent, male indoor sex workers face the same risks as female indoor sex workers when working in a brothel, as discussed in 4.2. However, according to the available information most male sex workers work in clubs, bars, at the home of clients or in motels. This situation might not be ideal, but it is safer than brothels, which do not always abide by safety regulations. The clubs and bars where male sex workers work are often registered as just an ordinary club or bar, which means that they have to abide by specific safety rules, creating a safer environment. The actual sexual acts often take place somewhere else, such as a motel, which also abides by official safety regulations.

¹³³ “10 Years of Special Acts on Sexual Traffic, the Outcome and the Task.”

¹³⁴ “Briefing paper #08: The Needs and Rights of Sex Workers.” Weitzer, “Male Prostitution,” 379.

¹³⁵ “10 Years of Special Acts on Sexual Traffic, the Outcome and the Task.”

4.3 Bacchus Ladies

The name “Bacchus lady” stems from a type of energy drink named Bacchus that the elderly women appear to be selling. The appearance of elderly sex workers has been documented for the first time in 2013. Since it is a very recent phenomenon, no elaborate data or research covers the topic. However, a film about the subject was screened at the Berlin Film Festival this year and shed light on the subject. The movie tells the story of a Bacchus lady, who worked as a comfort woman for the American Army in her younger years.¹³⁶ The movie draws attention to the need of proper elderly care in the rapidly changing times in South Korea.

Not all elderly women worked in the sex industry prior to becoming a Bacchus lady, some were ordinary housewives.¹³⁷ Working as a sex worker is most likely not voluntary choice for these women, but rather a choice of survival.¹³⁸ One of the main reasons these women work in this industry is because they found themselves without a social safety due to becoming a widow, a divorce or being abandoned by their children.¹³⁹ This kind of sex work falls under the category of “survival sex,” which makes it inherently different than the two aforementioned kinds of sex work.

Whereas the visibility of indoor sex work has decreased, the visibility of the presence of Bacchus ladies has increased. According to Lee Ho-sun, a professor working at Soongsil Cyber University, the Bacchus ladies peaked at 300-400 in the Jongno neighbourhood alone in late 2013 and early 2014.¹⁴⁰ After a police raid in 2015, there are roughly 200 women active in that area.¹⁴¹ Middle aged women in their 40s and 50s mostly work around subway stations and the older women in their 60s and 70s hang around at Jongmyo Park, where elderly men come to play board games.¹⁴² Hundreds of women are believed to be working across South Korea.¹⁴³

¹³⁶ “Berlin: Sex and Death for Sale in E-Yong’s Bacchus Lady,” Variety, accessed November 5, 2016, <http://variety.com/2016/film/asia/sex-and-death-for-sale-in-bacchus-lady-1201706318/>.

¹³⁷ “Abandoned Elderly Turn to Sex Work,” IOL, accessed November 5, 2016, <http://www.iol.co.za/news/world/abandoned-elderly-turn-to-sex-work-1921270>.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² “Special Reportage Part 1: Elderly Prostitution at Jongmyo Park,” The Hankyoreh, accessed October 8, 2016,

http://english.hani.co.kr/arti/english_edition/e_national/584863.html.

¹⁴³ “Abandoned Elderly Turn to Sex Work.”

Regarding eligibility, these elderly women work as sex workers out of dire need for money, and most likely not out of free choice, as mentioned above. The elderly (65+) poverty rate in South Korea is 49.6 percent, which is the highest rate among Organisation for Economic Cooperation and Development member states.¹⁴⁴ South Korea's elderly care is built on a society of filial duty, where children have the obligation to take care of their parents. However, in the last decades and especially due to the rapid economic growth of the South Korean society, this system started to crumble down as children do not want or cannot take care of their parents.¹⁴⁵ Elderly women in need of assistance can apply for alimony under the *National Basic Living Act*, but elderly women who have children are not entitled to receive social assistance from the government.¹⁴⁶ The elderly women do not have enough money for basic livelihood, and some see sex work as one of the few rational options at their age. Taking into account the reason behind their choice for sex work and the age of these women, the established rehabilitation centres are to no avail for these women.

Health risks are prevalent among elderly sex workers as well. Most of the clientele of these elderly sex workers consist of equally old men. The women carry with them special injections that help their older clients to achieve erections. However, according to professor Lee, the needles are not disposed of afterwards and are used several times, which increases the spread of STD among elderly people.¹⁴⁷ There is no information about the condom use. Since most of the women do sex work to earn money and to escape poverty, it is reasonable to argue that they might not even have the money to treat whatever disease they carry with them. Looking at the contents of the current law, there are no special provisions regarding health for senior sex workers.

Bacchus ladies are in most cases probably not victims that are coerced into sex work by third parties, which means they are criminals in the eyes of the police under the current

¹⁴⁴ "Poverty Rate 65 Years Old or More," The Organisation for Economic Co-operation and Development, accessed November 8, 2016, <https://data.oecd.org/inequality/poverty-rate.htm>.

¹⁴⁵ Chau-kiu Cheung, "Parent-Child and Sibling Relationships in Contemporary Asia," in *Routledge Handbook of Families in Asia*, ed. Stella R. Quah (New York: Routledge, 2015), 238.

¹⁴⁶ National Basic Living Security Act, October 1, 2000, Ministry for Health, Welfare and Family Affairs. Available at <http://www.law.go.kr/eng/engMain.do>. There are several categories in which case a person in need can receive alimony if an obligatory provider is unable or unwilling to do so in theory, but in practice this seems hard to receive alimony, which leaves the person in need of support without support.

¹⁴⁷ "The Korean Grandmothers Who Sell Sex," BBC, accessed October 10, 2016, <http://www.bbc.com/news/magazine-27189951>.

law. However, the fines and possible humiliation that come with crackdowns on sex workers does not withhold them from doing the work.

The safety of Bacchus ladies is less in jeopardy compared to the other two kinds of sex work. The women do not work in brothels, but do their business in motels, which is a relatively safer environment. Also taking into account the old age of their clientele, violence and abuse is much less likely to appear. However, this does not mean that it does not occur, in which case the Bacchus ladies face the same dangers as the aforementioned kinds of sex workers, e.g. violence, abuse and coercion.

In the next chapter I will provide an analysis of the results, discuss the positive effects decriminalisation can have for sex workers in South Korea and give recommendations for policy reform and suggestions for further research regarding the sex work industry.

5. Discussion

The discussion of this thesis consists of three sections. Firstly, I will discuss the results of my research. Thereafter I will look at the effect decriminalisation can have on sex work(ers) in South Korea, from an international perspective. Especially New Zealand and Australia are worth looking at regarding the positive effects of decriminalisation of sex work. Lastly, I will give recommendations for policy reform and suggestions for researching the sex work industry.

I began this thesis by asking the question “*How did sex work regulation develop in South Korea and what are the effects of the current regulation on sex workers in South Korea?*” In the historical analysis it became evident that sex work has a long and rich history in (South) Korea. As early as the Koryŏ Dynasty sex workers were already active under the name *kisaeng*. These lower class women were educated in entertaining and worked in service of the government. With the annexation of Korea by the Japanese, the traditional system of the *kisaeng* became officially regulated, subjecting them to regular health checks. From 1930 to 1945 the Japanese also established the so-called comfort stations for the Japanese army. Many young Korean women were drafted or tricked to work as sex workers in these comfort stations for the Japanese military. Nowadays this is still a painful memory in the history of Korea. After 1945, the American army built on the existing system of sex workers to entertain the American army. In addition, the Korean government set up special places for sex workers to entertain the Korean soldiers. Under the Park Chung-hee government the comfort stations were shut down and, on paper, sex work was prohibited. Be that as it may, red light districts replaced the comfort stations and sex work was allowed on these locations. Most surprisingly, these locations were seen as important means to generate, highly needed, foreign capital. Looking at the history of sex work in (South) Korea, it is evident that (South) Korea has always had difficulties managing the industry, alternating between tolerance and prohibition. The government especially tolerated sex work when it would benefit their own interests, such as generating foreign capital and satisfying the sexual needs of Korean and foreign troops.

Until 2000, the South Korean government tolerated sex workers. However, after much upheaval, the government decided to outlaw sex work with the enactment of two special acts in 2004. The special law on sex work had several implications for sex workers, which I analysed with the help of Weitzer’s pillars of visibility, eligibility, health, rights and safety.

The visibility of female indoor sex workers has decreased due to the closing of the red light districts, but it managed to diversify none the less. Male indoor sex workers are generally overlooked because the government mostly focuses on female sex workers. The Bacchus ladies, on the other hand, are quite visible, but largely ignored by the government as well as the police. The support for exiting sex work seems sufficient for female indoor sex workers. However, male indoor sex workers are not specifically addressed in the regulations for support facilities. In case of the Bacchus ladies it is even worse, as they engage in sex work out of dire need for money and since it is not a voluntary choice the current support facilities do not match their needs. The health is jeopardised for all categories of sex work. For the biggest group, female indoor sex workers, it is already evident that although the registration for STD examinations decreased, the actual STD rate increased.¹⁴⁸ Healthcare services for sex workers are an obstacle as long as sex work is criminalised. The fact that male indoor sex workers might be reluctant to seek healthcare due to stigmatisation is overlooked and the poverty among Bacchus ladies is an obstacle for their access to healthcare. All voluntary sex workers have limited rights under the current law, since they are seen and treated as criminals. They are denied one of their basic human rights, the right to self-determination. All sex workers are potentially put in a dangerous position regarding third parties, since they are unable to turn to the police in case of need when experiencing coercion, violence or abuse. Furthermore, while sex work is criminalised sex workers, especially those working indoors, continue to work in potentially unsafe buildings. One of the starting points of the discussion about sex work was the death of several sex workers who were locked up in a brothel during a fire. It is therefore ironic that the current regulations only endanger sex workers and do next to nothing to prevent such an incident from happening again.

Using Weitzer's pillars to analyse the impact of the new law on sex workers gives a clear view on the current situation on different kinds of sex work. The analysis provides an organised overview of the weaknesses and dangers of the criminalisation of sex workers. Now that the most important issues regarding the effect of criminalisation of sex workers have been identified one question remains: "What can be done to improve the situation of sex workers in South Korea?" Weitzer provides little guidance for what is necessary to improve the situation of sex workers. He states that it is vital for good regulation that "*consensual adult prostitution be officially recognized as work and that participants be accorded the rights and protections*

¹⁴⁸ The same development is seen with the enactment of the Act of 1947. As sex work was criminalised, there was an increase in the spread of STD.

available to those involved in other occupations.”¹⁴⁹ In my opinion, sex work will always generate problems as long as people look at it as something deviant. Therefore, I agree with Weitzer’s standpoint to regard sex work as a normal job, since sex was, is and will forever be part of society. However, whereas Weitzer advocates for the legalisation of sex work, I am in favour of decriminalisation. Decriminalising sex work transforms sex work to a normal service job, which means that sex workers have the same employment and legal rights as any other working person. It is arguable that legalising sex work, by contrast, treats sex work not as a normal job, but as a separate category, subjected to special regulations.

The most important and pressing issues for sex workers in South Korea in regard to health, rights and safety will greatly improve as sex work is decriminalised. Decriminalisation will most likely increase the condom use rate in South Korea, as the police will no longer use condoms as evidence and sex workers will be more willing to apply for health examinations. In New Zealand a decrease in HIV and STD rate is reported since decriminalisation and condom use is close to 100% in brothels.¹⁵⁰ With regard to rights, decriminalisation ensures the self-determination of sex workers and therefore also supports the basic human rights of sex workers. The police, support systems and healthcare will be easier accessible by sex workers when they are no longer working illegally. Additionally, there will be a shift in balance between sex worker and client and/or employer. In New Zealand it is evident that after decriminalisation, sex workers utilized their rights more, for example in rape cases, and now have more freedom to govern their own sex work.¹⁵¹ With an increase of rights the safety of male and female indoor sex workers will also increase significantly. The situation for the Bacchus ladies will improve on some aspects, such as better health and no fear of prosecution by the police. Nevertheless, their situation is dramatically different from ordinary sex workers. The Bacchus ladies are more or less forced to engage in sex work due to inadequate social security and, therefore, solutions for these issues should be looked for outside the realm of sex work regulation.

Simply changing the current legislation from criminalisation to decriminalisation is not sufficient, critical-looking and well-informed policymakers are fundamental to successful

¹⁴⁹ Weitzer, *Legalizing Prostitution*, 207. I absolutely agree with his standpoint, but I also believe that the problems sex workers face on a daily basis is largely due to the stigmatisation of their work. Therefore calling sex workers prostitutes, a highly stigmatised and negative term that Weitzer uses constantly, is something that should be avoided in the first place.

¹⁵⁰ Scarlet Alliance, *The Principles for Model Sex Work Legislation*, Sydney: Redfern 2014, 30.

¹⁵¹ Gillian M. Abel, “A Decade of Decriminalization: Sex Work Down Under But Not Underground,” *Criminology and Criminal Justice* 14 (2014): 585.

regulation. It is argued that the full consultation of sex workers during and after policymaking is the reason why the legislation of sex work in New Zealand is considered a success and a model for the rest of the world.¹⁵² The Australian Sex Workers Association goes even further to argue that “governments, researchers, academics and feminists must recognise that sex worker involvement in policy development, research and theory is valuable, necessary and essential.”¹⁵³ Up until now in South Korean history the government laid an emphasis on controlling sex workers, while the sex workers were denied the right to represent themselves. In addition, history in South Korea has shown that, when other people speak for sex workers, e.g. feminists groups that oppose to sex work, the result is policies that potentially endanger the situation and livelihood of sex workers. A shift from control to an emancipatory-based approach is necessary and essential to improve the situation of sex workers in South Korea.

There is a need for further research on sex work in South Korea. For researching the sex work, the recognition of the diversity and different variables of sex work, as Weitzer urges everyone to do so with his polymorphous paradigm, is essential. Furthermore, sex workers should be involved in the different stages of research. Research on sex work is often ideologically based and sex workers are either excluded during research or their experiences are misinterpreted.¹⁵⁴ Involving sex workers and listening to their opinions avoids methodological flaws that can result in misinformed conclusions and bad policies. Sex workers involvement in research, as well as policy-making gives them the recognition as experts on their own lives as sex workers, which directly strengthens their position in society. As the former manager of South Australian Sex Industry Network, Ari Reid, said, “(...) *when you write or research sex workers, examine your reasons for doing so and write about, or study something that will be useful to sex workers and not just to satisfy your or the publics curiosity. (...)*.”¹⁵⁵

¹⁵² Abel, “A Decade of Decriminalization,” 582.

¹⁵³ Scarlet Alliance, *The Principles for Model Sex Work Legislation*, 126.

¹⁵⁴ *Ibid.*, 127.

¹⁵⁵ *Ibid.*, 137.

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