



# Under the “guise of protection”

The construction of sex trafficked female prostitutes under the  
German prostitution policy

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## Abstract

Sex trafficking, as part of irregular migration, has caught worldwide attention in recent years and is affecting mainly women. This phenomenon is highly apparent in Germany where prostitution is legalised and is therefore often referred to as “brothel of Europe”. In 2017 the Prostitute Protection Act (ProstSchG) was introduced with the common goal to combat sex trafficking. Therefore, this study aims understanding how involuntary migrant prostitutes are constructed in the German prostitution policy, and how the sex trafficked women’s protection is determined. Considering the challenge of getting protection by the law, it is necessary to find out how discussing protection might affect their vulnerability caused by a gendered and racialised discursive background. The theoretical underpinnings, which incorporate the feminist post-structuralism and feminist security approach, provide a framework to analyse the policy document regarding gendered categorisations and the issue of protection. The study was conducted using Carol Bacchi’s WPR approach to policy analysis. This qualitative study is structured by four guiding questions of the WPR method analysing the represented problem and its deep-seated presumptions in ProstSchG. Moreover, it shows what is left unproblematic in the law and which effect results from it. The results of this thesis presented various discrepancies in the construction of the sex trafficked female prostitutes. Accompanying with it, the protection provided by the law with the primary goal to combat trafficking, has a harming impact on sexually exploited female migrants instead.

**Keywords:** sex trafficking, protection, gender, Germany, prostitution policy, WPR approach

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## 1 Introduction

One form of migration is irregular migration which includes the subcategory trafficking in persons. Human trafficking is a human rights violation that distresses every country in the world. In the European Union under the period of 2015-2016, there were 20.532 registered victims of human trafficking and 56 percent of the victims were being trafficked for the purpose of sexual exploitation (EU Commission 2018: 13f.). Sex trafficking, as part of human trafficking, has caught worldwide attention in recent years and is often portrayed as modern-day slavery (Meshkowska et al. 2015: 383f.).

Within the migration framework, the understanding of human trafficking is driven by the process of categorisation. It starts with the differentiation of irregular, illegal, or undocumented migration (Aradau 2008: 24). Another differentiation is the one between trafficking and smuggling. These two can be distinguished between their aspect of exploitation in trafficking (Salt 2000: 34). This study focuses on irregular migration in form of sex trafficking. Further concepts like migration, border controls, regulations, and vulnerability, are discussed on an abstract level of the state, the EU or policy. Categorical approaches, which aim at talking about differences, have disbenefits and unintentional effects of reifying classifications (Staheli/Kofman 2004: 8). There are problems to expose where national or global powers unite to construct racialised, and gendered images of vulnerable female trafficked migrants (FitzGerald 2010: 279; Valadier 2018: 503). Further, there are different policy approaches, in which the victims of sex trafficking are represented (Jakobsson/Kotsadam 2013: 90). Consequently, the policies construct sex trafficked humans in different ways which influences the way how these people are protected by the policies.

Focussing on the European context, Germany, which is seen as the “brothel of Europe” (Hill/Bibbert 2019: 92) has to deal with the subject of sex trafficked migrant prostitutes. The EU asserts that migrant women who are working as prostitutes in Germany account for 70 percent of the total number of prostitutes (Schulze et al. 2014: 43). Most of the trafficked women in Germany come from Rumania and Bulgaria (BKA 2019: 7f.)<sup>1</sup>. That is why the public discussion is often formed by stereotypical categories in terms of naïve, poor women who are portrayed as vulnerable and passive victims (Valadier 2018: 507).

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<sup>1</sup> <sup>1</sup>From the 430 victims of human trafficking for sexual exploitation, most of the victims consists of Germans (79), Bulgarians (66) and Romanians (63), followed by African and other European countries (BKA 2019: 8).

The current German law, the Prostitute Protection Act (ProstSchG), was introduced in 2017. This Act regulates and legalises prostitution. Further, as the name suggests, it focuses on the shelter of prostitutes but from the perspective of the abolitionist approach<sup>2</sup>, it is claimed that ProstSchG is not a law for the protection of prostitutes. Instead, it is more a law which implements more rights for the operators of brothels and pimps to suppress the prostitutes.

Moreover, migrant prostitutes are forced to work illegally because they do not have the same rights and possibilities, like renting a flat for their work. Also, it is not clear if the ProstSchG, which aims to identify the victims of human trafficking, can do this (Hill/Bibbert 2019: 47). Besides, it is moot whether the new law is paying heed to migrant prostitutes. So, the law which might be made for protection seems to be a law of expulsion (ibid.). According to this critique, the position of sex trafficked migrant prostitutes<sup>3</sup> in the German law has to be researched.

All in all, one can say that migration entailing trafficking has an impact on the matter of security. It is crucial to understand the connection between international migration and security to prevent trafficking (Lobasz 2009: 323). Moreover, the analysis of protection in migration studies offers a detailed understanding of the policy in which power relations, from the view of a marginalised group like migrants, become visible (Fluri 2015: 238). Further, the construction of sex trafficked women is characterised by a gendered discourse (FitzGerald 2010: 279). Thus, it transmits gendered concepts, and it reinforces the picture of female migrants as a threat to the state (Lobasz 2009: 322).

### 1.1 Purpose and research questions

In regard to sex trafficking, gendered and categorisations appear consistently. Hence, there is a need to analyse the sex trafficked migrant prostitutes in a way that does not lead gendered categorisations. According to it, a theoretical and methodological framework in research will be

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<sup>2</sup> The abolitionist approach allows for selling sex, but one gets punished for buying sex. This approach was instituted first by Sweden in 1999. The Nordic Model approach to prostitution decriminalises prostitutes and offers them support for leaving the sex industry while at the same time, criminalising those who buy sexual services (Roth 2011: 31f.).

<sup>3</sup> One has to be aware when using the term "forced/ involuntary prostitution", one should avoid gendered categorisations which results in making women to passive objects. So, there is a critique of this term, but I am aware of it and will use this terminology with the intention of not objectifying women. Moreover, I will not use the term of sex workers for the group to be researched because sex work includes a voluntariness, consent, and a free will (Valadier 2018: 507). All these points are not given for the sex trafficked female migrants. In general, I will use different terms for the same group of sex trafficked female prostitutes. These different terms are used as synonyms. Those are sex trafficked migrant prostitutes, sex trafficked female prostitutes, sex trafficked migrants, sex trafficked women, sexually exploited female migrants, sexually exploited migrant women, involuntary migrant prostitutes and forced migrant prostitutes.

included that can examine critically how involuntary migrant prostitutes are constructed in policies.

Furthermore, Germany has been criticised by several sides. It is downgraded in the “Trafficking in Persons Report 2019” for the first time (J/TIP 2019: 206)<sup>4</sup>. GRETA requests Germany to strengthen its prevention measure, to raise the awareness among the general public and to do some research about the topic (GRETA 2019: 64)<sup>5</sup>. In addition, the 3P-method shows that Germany’s policies lead to a rank 30 on the worldwide list (Cho 2015)<sup>6</sup>. Accordingly, it becomes clear, that there is a need to do research on the issue of sex trafficking in Germany and to examine the current law critically.

Thus, the aim to contribute to an understanding of how involuntary migrant prostitutes are constructed in the German prostitution policy, and how the sex trafficked women’s protection is determined. Considering the challenge of getting protection by the law, it is necessary to find out how discussing the protection of involuntary migrant prostitutes might affect their vulnerability caused by a gendered discursive background. The following questions will guide this research:

- How are sex trafficked migrant prostitutes constructed concerning their protection in the German policy?
- Which impact does the protection discourse have on the vulnerability of trafficked female prostitutes?

## 1.2 Delimitations and limitations

There are several delimitations when it comes to the research topic. The first delimitation concerns the discourse. The discourse focuses on the protection of sex trafficked migrant women and it stresses the vulnerability of them (Hill/Bibbert 2019: 80). The position of the autonomy discourse will be mentioned to explain some issues but it will not be used as another line of

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<sup>4</sup> Trafficking in Persons Report" is a published yearly by the US Department's Office to Monitor and Combat Trafficking in Persons. It ranks governments based on their discerned achievements to grant and combat human trafficking (J/TIP 2019).

<sup>5</sup> “GRETA” is a group of experts on action against trafficking in human beings. It is a monitoring mechanism by the EU, which is responsible for controlling the conversion of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. Furthermore, they evaluate the legislative situation of the EU countries and publish reports about it (GRETA 2019).

<sup>6</sup> The 3P Anti-trafficking Policy Index evaluates governmental anti-trafficking efforts in the three main policy dimensions (3Ps), based on the requirements prescribed by the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The three main policy dimensions (3Ps) are Prosecution of perpetrators of human trafficking; Prevention of human trafficking and Protection of the victims of human trafficking (Cho 2015).

argumentation because the aim of this thesis is to examine how sex trafficked migrant women are constructed with the focus to detect their protection in the policy. According to the limit of time and space, the analysis focuses on four out of six guiding questions of the method. Those four questions stress the correlation between the construction of gender and the issue of protection and help to examine the research aim. To delimit this thesis, I will not focus on the reasons why the trafficked female prostitutes are belonging to a vulnerable group in their countries of origin and become victims of trafficking. The focus is therefore on the country of the destination, in this case Germany. This territorial delimitation is made because Germany is currently downgraded and criticised caused by their lacking achievements to combat trafficking.

### 1.3 Contextual Background

#### *Sex trafficking in relation to migration and Europe*

Reflecting political documents, there are many reasons why trafficking can be simply linked to migration even though the UN's definition does not include the term migration. In Article 3, paragraph (a), the UN protocol defines trafficking in persons as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (UN 2004: 42).

However, in the European context, trafficking is often related to the term of migration, especially in form of cross-border migration, both from within as well as from outside members states of the European Union (EU). According to the European Commission, “[t]he prevention of and the fight against human trafficking is an essential element of the EU's efforts to improve the checks and surveillance at the external borders and to enhance the fight against illegal immigration” (COM 2005). Furthermore, if sex work would be seen as a form of labour, it would create an approach to trafficking through migration and would address the current vulnerability that illegal migration creates for sex workers (Agustín 2006: 31f.).

In Europe, there has been a trend since the collapse of the Soviet Union and the expansion of the EU. Along with Bulgaria and Rumania accessing the EU in 2007, there were further resultant reductions of barriers concerning travel and residence within the European Union. This led to a rising movement of human trafficking victims (Morawska 2007: 95f.).



Having a closer look at Western and Southern Europe, it is to say that victims come more frequently from outside the country but in general from neighbouring countries. A third of the victims had their origin in Central and South Eastern Europe (EU Commission 2018: 13; UNODC 2018:54). It can be assumed that the women who are trafficked come from countries with a weaker economic and are trafficked to richer countries in which, generally, besides the local customers, there is sex tourism (Campani 1998: 238).

### *Political situation in Germany*

To understand the situation of involuntary migrant prostitutes, it is necessary to explain the development of the political situation in Germany. In 2002, Germany first introduced a liberal Prostitution Act (ProstG), which aimed both to protect the self-determination right and prevent violence against prostitutes. Moreover, the act should reduce the involvement of organised crime and other criminal aspects of prostitution. The law tended to make prostitution a more regular job including, for instance, social insurances (BMFAFJ 2007: 9f.). However, there was much critique regarding the Prostitution Act. This act could not achieve aims like decreasing the prevention of crimes against trafficking. Furthermore, the prostitutes who became victims of human trafficking had the feeling that their exploitation was legal and legitimated by the state (Der Tagespiegel 2015).

In 2017, the law was changed. The Prostitute Protection Act (ProstSchG) was introduced. Prostitution is still allowed despite all the critique. The crucial elements of the ProstSchG can be summarised as follows: It is mandatory to register if one work as a prostitute, brothels need special permits in order to operate and customers are obliged to use condoms. Further, the prostitutes must see a counsellor about health and their rights (ProstSchG 2017). However, the obligation to register is criticised by the prostitutes because the anonymity is no longer offered for them.

## **1.4 Thesis Outline**

This study starts with an introduction which presents the topic with some contextual background, purpose and research questions and the delimitations and limitations of the thesis (*Chapter 1*). In a next step, the previous literature is reviewed (*Chapter 2*). Afterwards, the theoretical framework is constructed by focussing on feminist poststructuralism and the feminist security concept (*Chapter 3*). Following, the methodological framework is outlined, which

includes leading questions to analyse policy documents (*Chapter 4*). After that, building on those questions, the analysis of the study is structured (*Chapter 5*). In a final *Chapter 6*, I will conclude the research and discuss suggestions for future studies.

## 2 Literature Review

The following literature review is divided into two critical aspects relevant to this thesis. The first section describes the area of conflict surrounding sex trafficking. The polarisation of the conversation regarding the issue will be outlined and the composition of the subject group will be explored. The second part of this literature review focusses on the legal protection sex trafficked migrant prostitutes have access to. Issues with legal frameworks regarding the implementation of protection will be taken in account.

### 2.1 Area of conflict over sex trafficking

There is a discourse between different approaches to prostitution. According to Valadier (2018), there is a general distinction between legitimising and abandoning prostitution. She describes it as a “sex war” (ibid. 503) in her qualitative study. This discourse can be connected to migration. Here, the discourse is between forced migrant prostitutes and voluntary migrant sex workers. Further, there is an oppositional discussion about protection or autonomy of these women (ibid. 507f.). Therefore, Valadier reviews a typological approach that aims to give an overview of the current discussion on the issues of prostitution, sex trafficking and migration of sex workers. Taking different theoretical approaches such as feminist poststructuralism into consideration, may help understand the underlying theoretical framework of this study. Particularly, the link between the different camps of the debate and how they influence the categorisation of gender facilitate the analysis.

Meshkovska et al. (2015) summarises relevant issues and current debates on female sex trafficking in their qualitative research. However, in contrast to Valadier, a human rights and migration approach, instead of a typological approach, guides the discussion. The scholars emphasise gender and its influence on the debate. A focus is put on the “battleground between those who consider it possible for sex work to be a voluntary choice and those who consider prostitution to always be forced” (ibid. 382). Furthermore, an emphasis is on the interrelation between security, migration, and human rights and which policies are applied (ibid. 384).

Examining the aspect of security highlights that the protection policy of states is primarily focused on state security (ibid. 385). Moreover, it becomes apparent that there is a period of increased female migration, leading these women more susceptible to abuse these women and simultaneously increase the supply side of trafficking (ibid. 385). By giving the example of an innocent, unknown female victim versus the evil male trafficker, it is hint at the polarisation of the topic of female sex trafficking. Thus, this approach helps to understand the binaries that are analysed in chapter five.

Reviewing a legalising perspective, the anthropologist Agustín (2006) criticises the amalgamation between human trafficking and prostitution in her qualitative research. An approach to trafficking can be formed by recognising sex work as a form of labour. This enables women to safely perform prostitution, either in their country of origin or destination. Agustín argues for a diversity of experiences that these women have made and to consider them as transnational migrants, as members of diasporas, or as active agents participating in globalisation (ibid. 43). Thereby, it is possible to avoid stigmatising the women as instruments for sex and preserving the perspective of commercial sex as the end of morality. Reconsidering this proposed approach, it addresses the vulnerability that undocumented migration generates for sex workers. Moreover, Agustín warns about moral panicking on sex trafficking (ibid. 29). By dint of this approach, the liberal argument which supports autonomy is helpful for understanding one side of the opposing discussion in chapter five.

Another side of the opposing debate is the abolitionist perspective that is summarised in the quantitative study by Jakobsson and Kotsadam (2013). This study focusses on the law and economics of prostitution on an international scale. The scholars aim to represent the four different categories of prostitution policies (ibid. 90): Abolitionism, prohibitionism, regulation and neo-abolitionism. Abolitionism argues that prostitution should be banned by criminalising third parties. Neo-abolitionism criminalises the buyer and not the prostitutes. Prohibitionism makes prostitution illegal and the prostitute responsible to sanctions which leads to a criminalisation of prostitutes. Lastly, regularisation, as a liberal form, considers prostitution as legal with state interventions. As a result, they identified that countries that implement stricter laws regarding prostitution might get a lower distribution of trafficking (ibid. 101). Moreover, such laws lead to an increase in violence, other related criminality, and stigmatisation for women in the prostitution market (ibid. 102).

## 2.2 Display of legal protection of sex trafficked migrant prostitutes

Regarding the situation in Germany, the qualitative study by Hill and Bibbert (2019) is significant. They investigate the evolution of the prostitute protection law in the context of sociological discourse analysis at the levels of parliamentary, media and activist interpretive struggles. Here as well, tensions surrounding the debate on autonomy or protection can be identified. Thus, it is crucial to examine how a discourse focused on protection is positioned hegemonically to show which actors can enforce. Analysing different interpretations about ‘the truth’ of prostitution and placing them in the historical problematisation of prostitution since the early 19th century, helps to contextualise prostitution in Germany (ibid. 5-12). Furthermore, it supports the understanding of the issue by analysing the topic of migration and prostitution. An approach is explained which frames forced migrant prostitutes in the protection discourse, and it points out the vulnerability of trafficked women (ibid. 80). Nevertheless, the protection discourse is not seen as an anti-prostitution discourse; it has to be seen as liberal in a differentiated, international context (ibid. 81). Considering this is thus crucial for analysing the protection of the sex trafficked female prostitutes in the ProstSchG. And for identifying the influence protection has on the women’s construction in the law.

The qualitative study “Combating Human Trafficking. Gaps in Policy and Law” by Mishra (2015) helps identify and understand the lack of laws in general. Primarily, in chapter five, Mishra examines how and why law enforcement fail to address the problem of trafficking (ibid. 153). Thus, this work can help analyse the ProstSchG regarding what is left unproblematic in the problem representation and where there is an insufficiency in coverage. The reasons for gaps in law enforcement are diverse, ranging from problems in organisation to a lack of prioritisation of the matter. Furthermore, there is a lack of training of the responsible authorities and issues such as mistrust in the legal system and the police are often disregarded (ibid. 154f.). Furthermore, it is determined how the law correlates to protection given by the law in the case of India. The implementation of the protection for sex trafficked humans is criticised because the law has direct ramification on the prosecution, but the link between protection and prosecution is not determined (ibid. 171f.).

### 3 Theoretical Framework

In order to better understanding the theoretical perspectives affecting the issue of sex trafficking, two feminist approaches will be used in the subsequent analysis: feminist poststructuralism and feminist security approach. In general, feminist studies prioritise women's perspectives in interdisciplinary research and aim to make the women visible. According to Hyndman (2004), gender is always the origin of oppression, persecution, or exclusion (ibid. 309). Thus, those approaches can be applied for this work which focus on protection of the female involuntary migrant prostitutes.

#### 3.1 The argumentation of Feminist Poststructuralism

The combination of feminism and poststructuralism works as a useful conceptual foundation. Poststructuralism recognises social construction of realities and the possibility of sustainment of construction generated by power interest (Frost/Elichaooff 2014: 43). As aforementioned, it helps to recognise and uncover dominant patriarchal construction and consequently, patriarchal power interest (ibid.). It highlights gender inequality as constructed and not natural, so those gender inequalities appear in social relationships, and it structures social institutions (Allan 2010: 11). Thus, this theoretical approach supports formulation of alternative ways of considering gender without either simply reversing the previous hierarchies or certifying them (Scott 1988: 33).

There are four terms in post-structural feminism that recur. Those are language, discourse, difference, and deconstruction (Scott 1998: 34). Language is the origin of power structures and accounts for repressive structures by linking biological sex with masculinity and femininity (Frost/Elichaooff 2014: 45). Moreover, it is the starting point for understanding how social constructions are conceived (Scott 1988: 34). The differences construct the discourse through contrasting dichotomies like active/passive, voluntary/involuntary, or empowerment/vulnerability. At which, the first term is dominant or prior, and the opposite one is weaker (ibid. 37). So, there is a hierarchical interdependence. Based on Foucault's understanding of the discourse, the conflict of the discursive fields aims to illuminate deep-seated assumptions as well as the hierarchical interdependence and to deconstruct them (ibid. 36). Destruction enables the recognition that the binary terms are constructed and following a specific purpose.

Linking the recurring foci of feminist poststructuralism to policies, it is crucial to recognise the claim that policies are gendering at which it is essential to understand that policy is constructed as a discourse (Bacchi 2017: 21). Thus, gendering policies include thus an additional view of

categorisations that become apparent by analysing a policy document. This categorisation influences the composition of the group to be researched which becomes apparent in the analysis part of the study. Feminist poststructuralism enables therefore to illuminate how gendered dynamics influence policies (ibid. 34). Post-structural feminism provides an analytical framework that highlights the power of discourse and maintains an awareness on how gender and other forms of identity differences operate as mechanisms of social stratification (Allan 2010: 12).

### 3.2 Feminist security framework

In migration studies, it is necessary to understand the link between international migration and security as key elements to prevent human trafficking. Trafficking is embodied as a security threat in this respect as trafficked people are often irregular migrants. The theoretical approach of feminist security makes it possible to determine two crucial inputs to migration studies (Lobasz 2009: 323): The approach analyses trafficking in order to account for the exploitation of the victims of trafficking. Moreover, it recognises how the conception of human trafficking is socially created. Thus, migration scholarship can counteract towards repressive policies which make migration itself more problematic and expand the vulnerability of migrants.

#### *Distinction to traditional security approach*

A traditional security approach accentuates border security, migration controls and international law enforcement cooperation. In contrast, the feminist academics focuses on the security of trafficked individuals and acknowledging the circumstances in which the victims are threatened by traffickers and the state itself (Lobasz 2009: 319). The way politics deal with this issue influences the construction of how those to be protected in policies. Recognising those different foci on security, the feminist approach can change the policy focus on human rights, safe migration, worker protections and draws attention to the status of prostitution (ibid. 321).

Thus, the feminist security approach recognises two levels which cannot be found in the traditional approach: the ethical and pragmatic (ibid. 322). The former claims that trafficking is a human right violation. The traditional approach sees trafficking as a security threat for the state and does not recognise the abuse of human right. Therefore, it abandons the security and perception of trafficked persons. On a practical level, the traditional way prevents distinction between two kinds of security, and only focusses on the security linked to the state. The feminist research includes the analysis of experiences of trafficked humans, especially women, with the

purpose of sexual exploitation (ibid. 322). For this thesis, the feminist approach is relevant because it acknowledges the sex trafficked women as subjects and not as passive objects. This perception is crucial for examining the construction of sexually exploited female migrants to understand and detect their protection in the prostitution policy.

Moreover, the feminist security approach goes along with feminist poststructuralism. The discourse is guided by the questions for whom and how is security constructed (Hyndman 2004: 319; Lobasz 2009: 343). Those questions are essential for the analysis, as it enables the dissection of the protection discourse and the knowledge it is based. Reflecting on destructive stereotypes, the feminist security theory illuminates the category of sex trafficked female prostitutes in terms of gendering policies.

#### *Feminist security approach as an analytical background*

As already mentioned, there is an attempt to shift from a state security approach to a person-centred approach that appeals to viewing trafficked humans to see as vulnerable people rather than perilous threats (Lobasz 2009: 321). According to FitzGerald, it is crucial to highlight exposed female trafficked migrants as a symbolised matter that provides the demand for securitisation more discernible (ibid. 2010: 288).

This theoretical approach identifies gender stereotypes which reproduce and construct categories, such as putting migrant women into the category of victims of trafficking and disregarding the aspects of other inequalities which might influence the migration circuits itself (Askola 2007: 207). It is essential to highlight these social constructs and deep-seated presumptions to uncover and deconstruct the reproduction of previous racial and gender stereotypes as well as the categorisation of trafficking victims. This is applied in the analysis by examining the language of the protection discourse that is found in German prostitution policy.

Furthermore, the inequalities of less powerful and vulnerable groups become noticeable because the feminist security approach analyses the protection discourse in detail (Hyndman 2004: 317). According to it, it is crucial to examine in the analysis how protection is constructed in the ProstSchG and to distinguish for whom this protection is valid. It has to be considered, that there arises a problem in the analysis of vulnerability. Vulnerability has a different meaning once it is noticed, and the identification of the vulnerability may, in turn, amplify the state itself (FitzGerald 2012: 230). This is due to the fact, that the term vulnerability as such might indicate that there is something wrong about being vulnerable; it seems to be less attractive

(FitzGerald/Munro 2012: 185). The reasons for this assumption can be traced back to the issue that vulnerable people are poor, homeless, sick, or marginalised in another way by society or have a terrifying effect on the more influential part of society. They are reminders of mortality and the fleeting power of nature (ibid. 185). Due to this aspect, it is essential to include the impact of the protection discourse on vulnerability in the analysis and it should be left open to what extent and whether the targeted protection is upheld by the prostitution policy.

All in all, it is crucial to reconsider the protection discourse, which contains a deep-rooted assumed portrayal of the sex trafficked female prostitutes. Therefore, it is necessary to deconstruct the categorisation in gendering policies through feminist theories and to find out what is left of the protection in the ProstSchG.

## 4 Methodological Framework

This study is based on a qualitative method to get a deeper understanding of the topic and it is designed as a policy analysis with an inductive approach. This chapter discusses the method used in this research. It starts with the presentation of the applied method and used material. Then, the methodological considerations are discussed. Further, the position as a researcher, the validity, and the reliability as well as ethical considerations will be elucidated.

### 4.1 The WPR approach

To understand the construction of the protection discourse on involuntary migrant prostitutes in the German prostitution policy, the Foucault influenced policy analysis concept by Carol Bacchi will be used. The “What’s the Problem Represented to be?” (WPR) focuses on analysing how subjects and problems are represented and conceptualised within policy documents.

#### *What’s the Problem Represented to be?*

WPR is a resource or an analytical tool which questions critically public policies (Bacchi 2012a: 21). This approach is material-driven and thus inductive because it needs a policy document to be analysed (6/Bellamy 2012: 77). It starts with the idea that every policy aims to solve a specific problem. The policy has to be seen as the representative of the problem that it should solve (Goodwin 2012: 28). Building on it, policies might cover some problem representations they



intend to address (ibid. 31). The selection of these representations is useful for some groups and makes it difficult for others. It means that some subjects or objects are structured in the policy in a way with advantages for them and others are subordinate and have less of the policy. This statement becomes clear in the analysis later. Moreover, it is reinforced by deep-seated assumptions. That is why the WPR focuses on underpinned premises and discourses that lead to dominating problem representations in politics (ibid. 29). It should be mentioned here, that the WPR is based on the researcher's opinion of how and what needs to be changed and it is evaluated critically in policy (Bacchi 2012a: 22). The analysis is impacted by the bias of the researcher but the subsection, role of a researcher, discusses in-depth this issue.

The key distinction of Bacchi is made between the term "problem" and "problematization" (Bacchi 2015: 2f.). There, the problem is seen as fixed and identifiable, taken for granted and not scrutinised critically. Whereas problematization is described as an outcome of problematizing as such, it is part of a process. It means that problematization is not defined on a uniform understanding; instead, it includes a critical analysis (Bacchi 2012b: 3). Bacchi therefore favours the term problematization because it includes the genealogy and history as the social process of the problem represented to be (Goodwin 2012: 29).

The task of WPR is to read the policy and simultaneously to think about how the problem is embodied within it and to highlight this problem representation to critical examination (Bacchi 2012a: 21). Thus, the aim of it is to draw attention to possible gaps or limitations in problematizations and how the subjects or objects are constructed within it. It counteracts against the taken for granted concepts that influence policies to scrutinise the formulated problem within the policy. Moreover, it helps to get a better understanding of the policies concerning to a representation of the problem. Hence, in the end of the research, there is an analytic setting that investigates how the examined issue has been problematized, understood, and what the produced effects are (Goodwin 2012: 34).

### *The toolbox of the analysis*

To achieve the WPR approach's critical thinking that goes beyond the analysis of public policy, the following six guiding questions are necessary for the policy analysis. They help to uncover how knowledge of problems in policies are socially constructed and influenced. Besides, identifying the underpinned assumptions, the subsequent questions are tools to the investigation (Bacchi 2012a: 21):

1. What's the problem (for example "gender inequality", "irregular migration", etc.) represented to be in a specific policy or policies?
2. What deep-seated presuppositions or assumptions (conceptual logics) underlie this representation of the "problem" (problem representation)?
3. How has this representation of the "problem" come about?
4. What is left unproblematic in this problem representation? Where are the silences? Can the "problem" be conceptualised differently?
5. What effects (discursive, subjectification, lived) are produced by this representation of the "problem"?
6. How and where has this representation of the "problem" been produced, disseminated and defended? How has it been and/or how can it be disrupted and replaced?

Question one starts with analysing the required solution concerning to critically examining and identifying indicated problem representation within policy. It helps to examine and summary problem representations in policy analysis. The goal of question two is to reflect on the taken for granted conceptual logics that underpin problem representation. This question is essential to analyse the underlying presumptions for understanding how the represented problem is constructed. The purpose of question four is to consider and reflect possible limitations in the problem representation and to show possible replacements. Moreover, it can help to imagine futures for the problematising. Question five aims to examine the different effects that the problem representation creates so that they can be critically evaluated. Further, this question can ask who advantages and disbenefits from the current definition (Bacchi 2012a: 22). For the following analysis, the questions three and six are not used because they are essential for analysing the research aim. The genealogy (question three) and improvement proposals (question six) of the problem represented to be are not part of the research focus of this thesis. But it would be interesting to investigate on them in further research.

### *Discourse within policy*

Focussing on the discourse, Bacchi's WPR is influenced by Foucault's post-structural analysis in which thinking problematically (problematisation) is his essential method of analysis (Bacchi 2012b: 1). It is argued that the problems are not produced outside of the policy process, but they are formed as problems within the policy (Bacchi 2016: 1). It means the dominant epistemology has to be researched from a problem-questioning perspective to dismantle presupposed issue (Bacchi 2012a: 22). Further, following the historical process of the taken for granted issues, it is crucial to illuminate the categorisations that are constructed in the past and are still implemented in the current discourse.

Due to this account, WPR offers a more detailed examination of how we are governed (Bacchi 2015: 9). Governments and policymakers are active producers of problematisations and thus

responsible for the way we think about the problematisation and how we understand the implied system in which we stand (Bacchi 2012b: 5; 2016: 11). Therefore, it is essential to stress out that the represented problems are formed within the policy and therefore they are not neutral. An advantage of the WPR method is that it enables examining how subjects are affected by policies in terms of embedding presumptions that effect the ways of how they are perceived (Bacchi 2012b: 3).

#### *WPR approach for the topic of sex trafficking*

Applying the WPR method in this thesis, it will provide the necessary tools to understand the social construction in the problem representation in the Prostitute Protection Act regarding to how the problematisations of involuntary migrant prostitutes are created and discussed in the policy. Knowledge of socially vulnerable issues could be embedded in protection as a practical category in which policies inadvertently or purposely define characteristics of gender as well as characteristics of victimisation. It is therefore essential to illuminate the discourses that are embedded in the problematisation because they consequently reinforce assumptions of gendered categorisations and harm the group to be protected at the same time. That is why the analyses of the policy documents have to go beyond approaches that think about policies just in an aspect of neutrally addressing problems. This method enables thus to consider the problematisation of the construction of the sex trafficked migrant women as passive, vulnerable victims without specifying the gender. Besides, the guiding questions helps to find out whether the prostitution policy aims to achieve the offered goals and protection. Moreover, during the analysis, the correlation between the construction and protection becomes noticeable due to the method that examines effects of deep-seated presumptions.

#### **4.2 Material**

To understand how involuntary migrants are constructed under the German law, this study uses Carol Bacchi's qualitative WPR policy analysis on the "Prostitute Protection Act" (ProstSchG), consisting of 20 pages and presented by the government in October 2016. This act was chosen as the primary source because the WPR analysis enables an alternative approach of critical thinking than other policy analysis and in-depth assessment into a limited number of sources due to the precision of making discursive patterns detectable. The act was a reaction on the rising critique towards the previous act, the Prostitution Act, which was accused of making

Germany “the brothel of Europe” and accompanied with it an increase in human trafficking. Thus, the government aimed at the regulation and introduction of an act that protects women from human trafficking and sexual exploitation (Hill/Bibbert 2019: 92). According to this aim of the ProstSchG, the study will focus on the construction of sex trafficked female migrants regarding their protection in the law. In order to grasp the language exactly, the policy document was used in the original language, German. As a next step, quotations used in the analysis were translated into English. The translation aims to keep the same meaning and that the content is not getting lost.

Additionally, primary sources are the articles §232 (human trafficking) and especially §232a (forced prostitution) in the German Criminal Code (StGB) (StGB 1998). Due to the EU human trafficking directive from 2011, Germany reformed the offence of trafficking in October 2016 with a significant delay (Renzikowski 2017: 358). These documents serve for a supplemented discourse implanted in ProstSchG. Furthermore, secondary sources consisting of academic articles were used to provide answers to the guiding questions posed in the WPR approach, as the approach requires comprehensive knowledge of the problem representation.

### 4.3 Methodological Considerations

Taking aside in philosophical questions decides the scientific questions we, as researchers, consider significant and answerable, as well as the methods we utilise to answer them. The positioning allows us to recognise what kind of knowledge we are generating as well as its limitations (Rosenberg 2012: 3). This thesis is based on a poststructuralist and social constructivist thinking. The feminist security approach that can identify constructed gender categories relates to the WPR approach and its guiding questions due to the consideration of historical and social processes that create specific assessments of social reality. Hence, it becomes clear that neither the theoretical nor the methodological frameworks treat the subject of the study as something objective and naturally constructed. Instead, both see the involuntary migrant prostitutes as socially constituted. Moreover, both frameworks are rooted in Michael Foucault’s thinking. Foucault-influenced poststructuralism political subjects are represented in discourses, understood as broad, socially generated types of knowledge (Bacchi 2015: 3). Regarding the ontology of the thesis, it becomes apparent that the study is based on relativism.

In general, the thesis is epistemologically based on the concept of understanding. 6 and Bellamy describe epistemology as “the sub-discipline of philosophy concerned with the truth status of knowledge that can be achieved either by observation or by inference” (6/Bellamy 2012: 11).

So, what can we know about the social world? There are two perspectives of epistemology: subjective and objective. In this case, there is a subjective approach which claims that the relationship between the researcher and the research topic is interdependent and biased (Rosenberg 2012: 276). Furthermore, understanding is associated with epistemological subjectivism and this approach matches again with the constructivist perspective (ibid. 43). According to the subjective epistemology, I do not hold a neutral position and shall recognise my position in the research and how this may affect the research. This will be the topic of the next section.

#### 4.4 Role of the Researcher

As mentioned in the previous section, my role as a researcher is biased and interdependent. Therefore, it is important to reflect on it. The task to apply the four questions of WPR to my own work leads to the inclusion of myself and my thinking as part of the material, which is analysed. It means that I will construct a reality by being an active actor in the research and being involved in creating meanings. Hence, self-problematisation or reflexivity creates a significant part of the analysis (Bacchi 2012a: 22).

Consequently, I shall, for instance, be aware of how and when to apply, the terms “involuntary migrant prostitutes” or “protection” because I can accidentally provide gendered or racialised stereotypes, despite my attempt to highlight the discursive patterns of vulnerable trafficked migrants. Furthermore, they can become passive objects neglecting the aspect of human beings who actually have to be seen as such. Additionally, the problem concerning the notions of security which depend on protection substantiate gender hierarchies that, in turn, weaken humans’ real security. So, when protection or vulnerability is discussed, it is crucial to be aware of not producing and substantiating gendered categorisations.

Lastly, I am aware of my subjectivity while interpreting and analysing the data. According to Foucault (in Rosenberg 2015: 157), individuals have unintentionally subjective thoughts that make us act as interpretive instruments while we examine variable settings. In social science, scholars cannot but make use of a double interpretive research process. Thus, in this thesis, I was indebted in a reflexive position in interpreting and analysing by self-reflecting on stereotypical patterns. Beyond that, I will present the results as precise and transparent as possible and debate the issue objectively. However, to better understand how the thesis will gain validity and reliability, the following section addresses it.

#### 4.5 Validity and Reliability

Qualitative studies and especially text analyses are often criticised for not creating generalising results because of the limited number of sources that minimise the reliability and validity (6/Bellamy 2012: 22). In contrast to it, few cases enable to uncover the discursive patterns which lies in a minor number of sources.

##### *Reliability*

How we measure things and achieve consistency constitutes reliability (ibid. 21). Qualitative reliability suggests that our approach in research is dependable across scholars, making it possible for others to use the same tools to achieve similar results (ibid.). Therefore, it is significant to document the steps and process of analysis, as well as how theoretical stances affects specific interpretations. Considering my theoretical framework and the questions of the WPR method, the study achieves reliability due to the guidance of the four applied questions. However, it should be mentioned that my examination of the problem representation can differ from other scholars because of my role as a researcher in this qualitative thesis. Consequently, this thesis aims for reliability by providing transparency of documentation and reflection of the researcher's biases.

##### *Validity*

Accuracy and capturing the intention of the findings establish validity (ibid. 21). Even if the external validity is weak in the study, validity is in general a strength of qualitative research. According to 6 and Bellamy, the external validity is the warrant how the result of the research can hold in other settings that were similar in important ways (ibid. 22). Further, generalisations are not achievable here, which leads to the fact that the external validity is harmed as well. However, the way to overcome this challenge is due to the increasing internal validity of this study.

Internal validity links to how well a study is conducted (ibid.). Further, the advantage of my method is the in-depth understanding of the topic and the analysis of the specific discursive patterns due to the limited number of sources. Commenting on the internal validity, purposeful sampling leads to a richness of information and a deeper understanding. So, it can be assumed that the thesis will have high internal and a low external validity.

## 4.6 Ethical Considerations

The research aims to examine the involuntary migrant prostitutes concerning their protection under the German law. There would be more ethical considerations to reflect over if this study did interviews. Because the interviewees would be victims of trafficking that directly exposed and so, they belong to a group which has to be tactfully handled in the frame of ethical considerations.

However, there is another aspect that needs to be considered. The researched group of this thesis includes victims of trafficking, but in general, there can be found dispute in the literature regarding prostitution and migration. Nonetheless, it has to be mentioned already here to avoid “moral panic”<sup>7</sup> (Agustín 2006: 29) that the migrant prostitutes are in the centre of the debate which is filled with polarisations. Moreover, migration studies neglect migrant women selling sex because of this “moral panic” on trafficking along with the fusion between trafficking and prostitution. Thus, it could be argued that the researchers are reproducing the panic within the scholarship. Nevertheless, the point here is to highlight an approach that goes beyond polarisation and considers the complexities of this field.

## 5 Analysis

This chapter examines the construction the protection for sex trafficked female prostitutes under the German prostitution policy in order to address the aim and the research questions of the study. This analysis is divided into four subsections by selecting four out of six guiding questions of the WPR-method. As mentioned before, those four questions were chosen to understand the protection of involuntary migrant prostitutes in detail. This cutback is made caused by spatial limitation. The chapter ends by discussing what remains of the protection and influences the vulnerability of involuntary migrant prostitutes.

### 5.1 What’s the problem irregular migrant prostitutes represented to be?

The first question posed in Carol Bacchi’s policy analysis is what the problem is represented to be aims to examine and summary problem representations in policy analysis (ibid. 2012a: 22).

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<sup>7</sup> By “moral panic” one understands the moralising position regarding the topic of prostitution (Agustín 2006: 43). It is characterised by a sequence of incidences where a group, in this case, sex trafficked women, results in their designation as a threat to societal values.

The problem represented to be in Germany is complex. To answer this first question, this study focuses on two main aspects by examining critical keywords, and the language applied to communicate the problem. First, the social construction of gender has to be mentioned in order to understand in-depth the represented problem. As a result of the first aspect, there is the issue of protection and how it relates to sex trafficked female prostitutes.

### *Construction of gender*

In Germany, prostitution is regulated and legal, and so there is an inherent tension in the representation of prostitution as “not immoral, not normal” (DW 2017) but legal. It results in prostitutes being considered as sex workers and thus gives rise to the question as to how it can be best regulated. That is why the people who are involved in sex trafficking are not only represented as part of undocumented migration but also as problem produced by a local prostitution industry (Carson/Edwards 2011: 77). The term prostitution is the generic term. At the same time, the following terms of sex work and sex trafficking appear (Hill/Bibbert 2019: 2). This distinction is essential to recognise the general “sex war” (Valadier 2018: 503) that takes place in the prostitution debate. Focusing on the German prostitution policy, it is necessary to illuminate the construction of the binary positions in the law.

The ProstSchG discerns between those two forms. Firstly, focus on the group sex trafficked prostitutes, they are described in the ProstSchG as:

[...] a person who is **exploited** by a third party because of their **predicament**, their **helplessness**, that relates to their residence in a foreign country. Or [a person] is or will be **utilised** because of their personal or economic **dependence**, and therefore gets **forced** to prostitution or this person is or will be depleted by third parties. (ProstSchG 2017: § 5 II 5, transl.)

Examining the keywords, it seems that the involuntary migrant prostitute is constructed as a weak, dependent person without assuming the gender of the prostitute. The construction leads to examining the idea of what is the best way to protect them. Moreover, focussing on the genus of the verbs, which means whether the verb is written actively or passively, it becomes clear that the sex trafficked person is not doing anything active. They are constructed passively. It leads, as mentioned above, to a more helpless picture of the involuntary migrant prostitutes. According to these findings, deep-seated assumptions are linked to it. Those assumptions are discussed in-depth in the next sub-chapter.

Moreover, the term “person” keeps the language gender neutral. Furthermore, the personal pronouns are written in a plural form to avoid using a specific gender. It should be mentioned here,



that in the German language the article of a noun or the ending of a noun indicates the grammatical gender and using the plural form, the word becomes gender-neutral. Considering the numbers of sex trafficked prostitutes, it becomes clear that it is a business occupied by women because 96 per cent of sex trafficked humans are women (BKA 2019: 7). Consequently, there is a tension between gender awareness and gender neutrality caused by the problem of representation (Hill/Bibbert 2019: 3). Following the feminist post-structural approach, it is necessary to point out the social construction of the gender from the group to be researched.

In order to remain in the migration field, the construction of the migrant sex worker is considered. Migrant sex workers are portrayed gender-neutral too, but the way of describing them varies from sex trafficked humans. They are portrayed as:

[...] Foreign citizens who are not entitled to freedom of movement, have to prove that they are authorised to **engage** in employment or **self-employment** during the period of registration. (ProstSchG 2017: § 4 II, transl.)

As mentioned before, sex workers are termed in a gender-neutral way because the law uses the plural form in order to avoid gendered forms. Using the plural form of citizens avoids specifying the gender. Accordingly, the ProstSchG becomes genderblind for the second time. Consequently, categorising prostitution as gender-neutral leads to more inequalities because the law is unable to detect the root for inequalities.

Nevertheless, the main difference gets noticeable by analysing the genus of verbs. Based on a voluntary background, the migrant people who want actively to work in Germany as prostitutes are thus described differently according to the genus of the verbs. It indicates they are powerful enough to perform on their own. The verb voice, which is used in the law is active. Besides, sex work belongs to an autonomous debate, whereas sex trafficking is linked to forced prostitution and is thus part of the protection discourse; it is to say that both migrant prostitutes, voluntary and involuntary, are packed in gendered categorisations. According to feminist post-structuralism, this categorisation creates more inequalities. Uncovering the roots of these inequalities becomes difficult to detect because a reason cannot be found due to the gender-blindness.

### *Construction of security*

Focussing on the protection debate, Germany is downgraded. There are insufficient measures in place in Germany in order to combat sex trafficking and this shows that there is a problem in the policies that might be made for the protection of involuntary migrant prostitutes (GRETA

2019; J/TIP 2019). Reconsidering the aim of the current prostitution policy, it is to counteract trafficking by identifying victims of human trafficking and strengthening their security (Hill/Bibbert 2019: 47). The way that this policy frames prostitution stresses the protection and security aspect, but it is not focused on the protection of prostitutes. Thus, the construction of protection in the law has to be analysed. Moreover, the problem of representation is linked to a theoretical security approach because the group to be examined is primarily seen as part of irregular migration flows. Here, it is essential to highlight the feminist view as person-centred that sees the trafficked humans as subjects to protection and not as a threat to the state.

First and most significant, the ProstSchG enforces a mandatory consultation while registering. This is done in order to prevent people from being registered as prostitutes who are forced or exploited to prostitute themselves. The protection issue is formulated as:

The responsible authority must immediately induce the necessary measures to protect the person if there are actual indications [...]. (ProstSchG 2017: § 9 II 1, transl.)

The formulation of sex trafficked person follows this. Here, the correlation between the protection of sex trafficked human becomes apparent. Like it is mentioned before the involuntary migrant prostitute is constructed in a passive way, whereas the protection is described as active and fast-acting. Thus, the protection prevails the group to be examined.

In a second step concerning health consultation, it is written that:

[...] The counsellor has to point out the confidentiality of the advice, and there is the opportunity to disclose any existing predicament or distress. (ibid. § 10 II, transl.)

Here, protection or security is not written as such, but it becomes clear that it targets the protection of sex trafficked prostitutes. In the ProstSchG, the protection is also mentioned in different aspects by withdrawing the pimp's permission to run a brothel because the prostitutes' protection is not given or prostitutes are exploited, and it contradicts the right of sexual self-determination (ibid. § 14 II 1 and 4). Thus, the protection of involuntary migrant prostitutes is created by refusing the brothel or other practising places the legal right to operate. This purpose should help to make it more difficult for traffickers to position the sex trafficked women on the legal prostitution market. The ProstSchG tries to prevent sex trafficking at an earlier stage through penalties for the traffickers.

All in all, sex trafficking is not seen as a single problem, rather it is perceived as a matter connected with broader issues concerning the protection of the irregular migrant women. Gender is thus explicit and named in this problem representation because it is crucial to emphasise the significance of the language used when describing gender used in ProstSchG.

## 5.2 What deep-seated presuppositions or assumptions underlie this representation of the “problem”?

The next question examines the taken-for-granted background knowledge assumed regarding the problematisation. When analysing the assumptions included in the problematisation, one can identify the conceptual logic that relates to the problem representation in the ProstSchG (Bacchi 2012a: 22). The underlying presumptions will be adumbrated to understand how the represented problem is constructed. It is done by identifying key concepts, binaries, and categories that all shape the societal understanding of the problematisation (Goodwin 2012: 32). As previously noted, there are tensions within the topic, that have to be explained. Those tensions can be found in the language and perception of the group which are examined. To understand the background of the inconsistency, the area of conflict between prostitution and migration is explained as a starting point. It is necessary to comprehend these discrepancies to allow for a better understanding the deep-seated assumptions of construction of sex trafficked female prostitutes.

### *Key concepts*

First, there are dichotomies in the issue of prostitution: There are those who support it and those who are against it. One can find the different attitudes towards prostitution in the prostitution policies. As mentioned before, there are the legal options of abolitionism, prohibitionism, regulation and neo-abolitionism (Jakobsson/Kotsadam 2013: 90). Regularisation, as a liberal form, considers prostitution as legal with state interventions. This form is found in German law, where prostitutes have to register (ProstSchG 2017: § 3) and they have to pay taxes like in a “normal” job (ibid. § 7 V). It should be mentioned here that these two scholars identify that countries which implement less strict laws regarding prostitution might get a broader distribution of trafficking within the country (Jakobsson/Kotsadam 2013: 101). This assumption could be part of further research to compare two opponent policies and evaluate the results concerning the number of trafficked humans.

Key concepts believed by the opponents to prostitution are the radical abolitionist and the liberal regulating approaches. The radical abolitionist approach completely opposes prostitution. This approach evaluates prostitution as “a categorical form of oppression and of social subordination of women” (Valadier 2018: 505) and uses it synonymously with sexual slavery. It argues that prostitution is an indication of persistent patriarchalism with violence against women (FitzGerald 2012: 228). Furthermore, opponents claim that women are reduced to

sexual objects and that they are moralised and victimised in terms of naïve and poor women. The latter are vulnerable and passive victims (Valadier 2018: 507). Moreover, it considers all prostitution as harmful and thus, the difference between forced and voluntary is dismissed. And so, the link between trafficking and prostitution is rarely to be found (Jakobsson/Kotsadam 2013: 91).

The liberal perspective advocates prostitution and advances the rights and empowerment of sex workers (Valadier 2018: 508). This approach wants to highlight that prostitution should be seen as a regular job and not criminalise the prostitution market (Agustín 2006: 30). Because marginalising and criminalising these women makes them vulnerable and not the work as such (FitzGerald 2012: 228). Additionally, the focus is on autonomy and freedom of sex workers as well as recognising them as active subjects who can claim political rights (Valadier 2018: 508). This approach becomes apparent in the ProstSchG because the prostitutes have to pay taxes like in a “normal” job (ProstSchG 2017: § 7 V) and the prostitution is allowed in Germany if the prostitutes work voluntarily in this business (ibid. § 3 III). This aspect leads to the next binary.

### *Voluntary vs. involuntary*

In this next section, the discussion is related to migration. Terms like involuntary versus voluntary migrant prostitutes are used. However, to avoid this polarisation of terminology, the terms of sex trafficked migrant prostitutes and migrant sex workers are more neutral. In this study, I will use the term involuntary migrant prostitutes as a synonym to the sex trafficked women with my full awareness, not to objectify these women. The literature refers to general migrant sex work, for example people who have left their home country in order to work in the sex industry, and that is based on a voluntary level (Valadier 2018: 502). Voluntarism is in contrast to the sex trafficked people who were forced to migrate, which is based on an involuntary background. In general, female sex trafficking seems to be a “polarised field” (Meshkovska et al. 2015: 392) in which politicians, as well as scholars, might maintain one extreme view or another. However, the binary and polarised differences indicate the construction of hierarchical interdependence within the discourse. Based on feminist poststructuralism, it is crucial to deconstruct the binary terms. Instead, the construction and specific purposes of the problematisation should be illuminated. As mentioned before, the ProstSchG differentiates between migrant sex workers and sex trafficked prostitutes (ibid. 2017: § 4 II, § 5 II 5). The voluntary and involuntary aspect becomes noticeable by analysing the language. Migrant sex workers are described in an active form, and sex trafficked prostitutes in a passive form.

### *Autonomy vs. protection*

Finally, the dichotomy between protection versus autonomy discourse can be found in all conflict areas. Those in favour of autonomy want to make the migration visible and politicised. So, it is possible to deconstruct the homogenised categories (Valadier 2018: 512). Furthermore, it aims to recognise the difference between forced prostitution and legal, voluntary prostitution. The autonomy discourse is represented in the liberal regulating approach, and it argues for the term of sex workers which, as mentioned before, represents the self-reliance in form of “self-employment” (ProstSchG 2017: §4 II) and the active role of the women.

The protection discourse is not just an anti-prostitution discourse for the case of Germany and other European countries; it is still based on liberalism (Hill/Bibbert 2019: 81). Nevertheless, the protection discourse mainly aims to exclusion, so legal prostitution is banned (Hill/Bibbert 2019: 82). This camp uses moralisation and takes a conservative outlook on the issue that means they consider prostitution as exploitation (Valadier 2018: 502). Opponents claim that this thinking could lead to stigmatisation and marginalisation. However, it should be mentioned here that the focus is on the victims and that it has a different focus compared to the autonomy discourse. So, it is about how can prostitutes be protected. According to the claim, that the abolitionist approach portrays that the women that must be protected, the protection is then given by the state (ibid. 510). The feminist security approach portrays the women as subjects that have to be protected and not as a threat to the state. It can therefore be concluded that this theoretical approach advocates the self-reliance of the women.

Those tensions are embedded in the ProstSchG. Reconsidering the binaries between voluntary and involuntary, it becomes clear that autonomy and protection are explicitly linked to those binaries. Focusing on protection, as it is mentioned before, security does not automatically correlate to an anti-prostitution discourse. As in the case of Germany, a liberal regulating approach provides protection of sex trafficked humans, without denying prostitution as such.

To conclude all the facts mentioned before, it is crucial to see the sex trafficked women as subjects in a discourse that is based on entrenched presuppositions. Considering all the binaries and key concepts lead to a constructed picture of involuntary migrant prostitutes as passive, who are in need of protection, but gender is overlooked. According to the feminist poststructuralism, binary differences categorise women and create more inequalities caused by the categorisation which are unable to detect the causes of the protection disparities. Therefore, in the next section, how and for whom protection is made in the ProstSchG will be analysed. Like the name of the law suggests protection of the prostitutes should be in the foreground.

### 5.3 What is left unproblematic in this problem representation? Where are the silences?

The next question shows the limitations of the problem of representation by discussing alternative ways to consider the problematisation that may be silenced due to the specific way of the issue is represented (Goodwin 2012: 33).

#### *Gendered policies*

If one includes the theoretical framework regarding the question for whom the protection is made, it becomes clear that there is a silenced area. It is a gendered practice, but it is treated gender neutrally by the law. Looking at the data of trafficked humans and their corresponding gender, it becomes apparent that almost all of them are female. Although using the plural forms of the word prostitute, which is utilised in this form in the ProstSchG, it is impossible to recognise the gender of most of the victims. Thus, the impacts of this on these women are unexplored. Here, stigmatisation and vulnerability should be mentioned because they are categorised, like mentioned above, as passive objects, also written in a passive formulation. And so, sex trafficked prostitutes are seen as a threat to the state, instead of as subjects in need of protection. However, the problem is that a shift to the publicly inaccessible promotes the vulnerability of those affected (Hill/Bibbert 2019: 28). This way of looking includes risk from the start that is analysed in-depth in the next sub-chapter.

Disregarding the need for gendered policies but regarding the stigmatisation, it results in unequal power relations. The tensions described before that prostitution is considered as “not immoral, not normal” (DW 2017) but legal are left unproblematic. The binary created by sex work and sex trafficking as counterparts created categories and generates an internal logic where consent is the factor that distinguishes normal, acceptable forms of prostitution from immoral, unacceptable ones. Therefore, consent regarding to sex trafficking is constrained in the presumption that forced prostitutes have not chosen to work in this job field and they are passive. It becomes apparent in the way of formulation, so that the power relations are unequal, and they cannot actively change their position caused by the categorisation. The sex trafficked women become stigmatised.

Moreover, the sex industry is shaped by social, economic, political issues or labour market considerations (Carson/Edwards 2011: 80). These different influences of power relations are necessary to understand the broader context of sex trafficking and the different impacts on the

irregular migrant prostitutes. As parts of further research, those different aspects could be analysed.

Examining the relationship between prostitution and sex trafficking, another fact is left unproblematic. Sex trafficked women, which are categorised as immoral, unactable prostitutes, are part of the legal, normal sex industry. They work abreast sex workers in brothels, or as street prostitutes. It becomes apparent that the distinction between the “normal” and “immoral” prostitution is difficult to detect. After examining who is protected in the Prostitute Protection Act, the following section explains how the protection is made for sex trafficked women, although they are theoretically part of the legal prostitution.

### *Lack of conceptual literacy*

Identifying gaps in the law, Mishra (2015) explains that a lack of conceptual literacy leads to another problematic field in the represented problem. How should the sex trafficked female prostitutes be uncovered to get protection? This question has to be answered by authorities who are responsible for registering prostitutes. Here, Mishra describes the problem that the responsible authorities are not truly educated about what sex trafficking entails and they do not have “bleakest of idea as to what constitutes human trafficking” (ibid. 2015: 154). The ProstSchG prescribes a mandatory consultation while registering so that the “responsible authority must immediately induce the necessary measures to protect the person if there are actual indications [of sex trafficking]” (ProstSchG 2017: § 9 II 1). However, it is left unproblematic, how the counsellors are educated to identify the “actual indications” of predicament or distress that indicates forced prostitution (Hill/Bibbert 2019: 148). Additionally, the time of such counselling is limited (Friedrich-Eberhart-Stiftung 2018). Thus, it is impossible to build up a bond of trust between counsellor and the prostitute, which is necessary. Even the “confidentiality” (ProstSchG 2017: § 10 II) is of little use when there is a lacking bond of trust. Consequently, the problem is that it is just written theoretically in ProstSchG § 9 II 1 and § 10 II that the counsellors are responsible for identifying the predicament. But in practice it is not so simple to implement due to the reasons mentioned above. However, due to a lack of conceptual literacy, it has to be seen critically.

§ 232 of the German Criminal Code (1998) does not just oblige the counsellors to report the cases of forced prostitution. This article further requires customers to intervene actively and to report this if they suspect forced prostitution. Customers and third parties get punished if they

are “condoning sexual acts [of an exploited person]” (ibid. §232 I 1 a). However, this can be perceived as problematic because the customers do not generally come into contact with forced prostitutes, but also because the interpretation of the dimensions requires specialist knowledge, experience and interpersonal knowledge (Hill/Bibbert 2019: 149).

Another problematic element is when a person is forced to work as a prostitute, and if that person is not given the real opportunity to reveal their predicament because there is no foundation of trust. And so, as a consequence, the sex trafficked prostitutes get given a “voluntary stamp” (Friedrich-Eberhard-Stiftung 2018) by the registration certificate and so they receive a “stigma of registration” (Meshkovska et al. 2015: 383). Not only that these women’s protection is harmed, but also, they will have difficulties in the future to convince a court of their predicament if necessary (Friedrich-Eberhard-Stiftung 2018).

To briefly address a second reason for gaps in the law, Mishra identifies confusing legal provisions as an explanation for this (ibid. 2015: 162). It goes along with the problem mentioned above of recognising the forced situation. Furthermore, the prostitution policy document is written in a nested way. So, it becomes difficult to understand what it aims to express. The phrases do not lead to a way which makes the protection easier for the sex trafficked female prostitutes.

All in all, the explicit requirement of being able to diagnose forced prostitution is considered as problematically because it aims to protect sex trafficked prostitutes, but the implementation as such is not so easy to do. Therefore, it is crucial to do more research on how protection can be constructed in a way that has a positive impact on the involuntary migrant prostitutes. Considering for whom and how the protection is made is the guiding line to analyse the construction of security.

#### 5.4 What effects are produced by this representation of the “problem”?

This question aims to examine and describe how the specific problem of representation in the policy creates difficulties that occur and have a more substantial influence on some groups than others (Bacchi 2012a: 22). Bacchi presents three interconnected and overlapping effects which need to be evaluated: First, discursive effects are linked to our unevaluated thoughts, which limit and reflect the inherent opposed structure of the represented problem. Secondly, the subjectification coheres the portrayal and presentation of groups within the problem representation, for instance, who one is or who is ascribed in the problem. Thirdly, lived effects broach the



issue of how specific issues of representation in policies have a material impact on individuals; for example, emotional distress, vulnerability, or stigmatisation (Goodwin 2012: 33).

### *Discursive effects*

The discursive effects of the German prostitution policy, are those effects which influence, limit, and construct the way that issues are thought about and reflect the immanent opposed form of the represented problem. The first effect is produced by the legal and regulated situation that allows sex work. Nevertheless, there is an inherent tension in the representation of prostitution as “not immoral, not normal” (DW 2017) but legal. Consequently, prostitutes are seen as voluntary sex workers, but these assumptions disregard sex trafficked prostitutes. That is why sex trafficked humans are not only constituted as part of irregular migration but also as a problem produced by a local prostitution industry. Thus, it is crucial to differentiate between sex work and sex trafficking because it has multiple effects. One is that it describes the subject of trafficking as passive “victims of a crime in form of human trafficking by third parties” (ProstSchG 2017: § 16 II 2 b) and the sex worker as a voluntary and “self-employed” (ibid. § 4 II). It becomes visible in the way these two groups are described in the ProstSchG that there is a discursive effect that influences subjectification and lived effects. These other effects are discussed in-depth in the following sections.

Focussing on another discursive effect, it should be asked whether legalised prostitution increases sex trafficking (Cho/Dreher/Neumayer 2013). To ascertain it, one should know that there are two effects: There is a scale effect of legalisation which results in the growth of the prostitution market and thus an increase in human trafficking. A substitution effect lowers the demand for trafficked prostitutes by favouring prostitutes who have legal residence in a country. As a result, countries which legalise prostitution face more reported human trafficking accesses (ibid. 75). This has a potential effect on the way in which sex trafficked female prostitutes are thought about in terms of objects being in need of protection. As mentioned before, protection is structured as active and fast-acting and in contrary to it, sex trafficked migrants are described passively (ProstSchG 2017: § 9 II 1). Thus, the protection prevails the sexually exploited migrants. According to it, the resulting higher number of sexually exploited migrant women suggests that the German government had to react to it in order to combat trafficking in general and to protect the trafficked people. Here, it could be critically questioned whether it is the reason why the law is called Prostitute Protection Act with the central aim to combat sex trafficking.

### *Subjectification effects*

This effect focusses on how sex trafficked female prostitutes are portrayed. There is the claim that in the protection discourse, all female prostitutes are presented as victims of patriarchal power relations and require protection by the state (Hill/Bibbert 2019: 28). Here it is essential to highlight that the people to be examined are victims of trafficking and not just victims of a general simplified portrayal. Focussing on their construction is, therefore, crucial to see how they are described in the law and which impact it has on them. As mentioned before, sex trafficked women are described as passive objects and gender-neutral; even the law uses a passive language. Therefore, it is problematic to deconstruct the submissive formulations of these women, but it is necessary to start by describing them as subjects who act. According to the feminist post-structural theoretical background, their construction goes back to the fact that binary differences generate categories and those categorisations create more inequality. So, disparities are not just caused by patriarchal power relations but also by simplified portrayals which are unable to detect the roots of inequalities. The lived effects overlap with the subjectification effects; therefore, the consequences are described together in the following section.

### *Lived effects*

The lived effects target the second research question: Which impact does the protection discourse have on the vulnerability of trafficked female prostitutes? Here, it is crucial to understand the impacts that the problem representations in policy documents have on the individuals. Under the premise of protection, the law has changed to tackle prostitution itself rather than to eliminate exploitation and abuses in sex trafficking (Hill/Bibbert 2019: 150). As the name of the policy suggests, protection of prostitutes should be in focus. When examining the law, it becomes apparent that it is not just a policy for prostitutes as protected subjects. It is a law that protects the right of brothel operators and people who are affected by prostitution, for example, residents close to a brothel, the costumers, or the youth. These other forms of protection are repeated many times in the prostitution policy (ProstSchG 2017: § 11 III; § 17 I; § 18 I; § 21 II). The “instructions for prostitutes” (ibid. § 11 III) makes it apparent. Here the protection of other is exemplified:

1. For the protection of customers or other persons against dangers to life, freedom, sexual self-determination, or health,
2. for the protection of minors, or
3. for [...] the public interest, in particular for the protection of residents, neighbouring residents or the general public from noise, behavioural or other nuisances. (ibid., transl.)

Here, the people who should be protected by the policy are not the target group anymore. Instead, the group to be protected are the people who must respect and protect others. And so, the law has a lack of protection for prostitutes and especially sex trafficked migrants.

Moreover, the political implementation leads to the result that prostitution and trafficking are recognised as social problems, and the policy tries to regulate them (Hill/Bibbert 2019: 149). Additionally, scandalisation and dramatisation of social problems create effects related to the description and evaluation of the problematised issue. The dramatisation is reinforced by dichotomies as mentioned before like voluntary/involuntary, active/passive or empowerment/vulnerability (Scott 1988: 37). At which, the first term is dominant or prior, and the opposite one is weaker. So, there is a hierarchical interdependence that becomes visible due to the construction of sex trafficked female prostitutes in the policy document. This goes hand in hand with the theoretical concept, which states that binary differences categorise women and therefore it creates inequalities.

There is a victim perspective that interprets the precarious living and working conditions of prostitutes as harmful (Hill/Bibbert 2019: 28). Here the assumption scandalises those conditions as violations of human dignity. There is an explicit human trafficking paragraph in the ProstSchG that describes the exploited humans as:

[...] victims of a crime of human trafficking [who] are got to start or continue prostitution by a third party (ibid. 2017: § 16 II 2 b, transl.).

This human trafficking paragraph shows that prostitutes are increasingly being defined as victims over and over again. It must be mentioned here, the construction of the group being examined is written in passive once again. This increases the portrayal the sex trafficked women as victims, and it overlaps with the subjectification effect on sex trafficked women. In return, these assumptions lead to criminalising prostitution again. However, the previous policy (ProstG) advocated the legalisation, and therefore the decriminalisation, of prostitution (BMFAFJ 2007: 9f.). It makes clear that the ProstSchG harms sex trafficked women.

Moreover, there is another effect caused by the construction of sex trafficked female prostitutes. Although the ProstSchG is intended to make forced prostitution visible and thus accessible to the authorities (ProstSchG 2017: § 9 II); prostitution itself is moreover primarily removed from public life. In order to guarantee the “protection of residents, adjoining owner, or the general public” (ibid. § 18 I 3, transl.), facilities used for prostitution are being more remote because to avoid “noise, behavioural or other nuisances” (ibid. § 11 III 3, transl.). Accompanied by a spatial shift to protect the residents, there is also a social exclusion of the prostitutes caused by

stigmatisation and discrimination (Hill/Bibbert 2019: 147). The constructed attributions and stigmatisations of characteristics, such as passive and vulnerable, harm the actual vulnerability of the sexually exploited women. Additionally, the protection discourse is characterised by moralising, which further impacts the vulnerability of sex trafficked prostitutes (Friedrich-Eberhard-Stiftung 2018). Thus, the irregular migrants are placed in multiple precarious situations: They are facing discrimination and violence due to prejudices and stigma against sex work in general; then there are many layers of criminalisation due to their race and gender; and lastly, they are harmed by the process of trafficking. The sexual exploited women who should be in the focus of the policy, are becoming increasingly more excluded spatially and socially. According to the commingling of prostitution and trafficking, it results in the exclusion of the “foreign” (ProstSchG 2017: § 4 II) and a demarcation between us, the civilised and them, the “not normal” (DW 2017). It can be concluded that being foreign impacts the perception and position in society. Furthermore, the polarisation is ultimately summarised under the “guise of protection” (Hill/Bibbert 2019: 149). To conclude all the facts mentioned before, removing the issue of sex trafficking from the public eye, it promotes the vulnerability of those affected.

On the whole, it becomes visible that the group to be protected becomes a group to be excluded. Considering, the aim of the prostitution policy is to combat sex trafficking, it has to be criticised, and the lived effects must be pointed out that lead to social exclusion and stigmatisation, instead of protection against vulnerability.

## 5.5 Discussion

Bacchi’s methodological approach examines how policies shape the problem. A distinctive feature of this approach is that it is able to uncover and construe the central issues of the represented problem. Thus, it was useful to understand the problem of construction of sex trafficked female prostitutes in the ProstSchG regarding their protection under this law.

Considering the problem representation, tensions appear regarding the issues of gender and protection in the prostitution policy. There is a dichotomy between not immoral, not normal. This is due to the legal situation and the kind of market that the state supports (Carson/Edwards 2011: 84). As a consequence, there is a first internal binary between the liberal, regulating and radical, abolitionist approach of dealing with prostitution. Germany legalises and regulates prostitution. Thus, the state impacts on how the debate on prostitution is positioned. For the case of Germany, the state becomes the responsible level that offers protection for sex workers.

Creating a prostitute protection policy, the German state uses a gender-neutral approach which fails to address the inherent gender policy. The majority of the sex trafficked are female, that is to say 96 per cent (BKA 2019: 7). This impact cannot be found in the law because they use a language that avoids specifying gender. Focusing on the applied language, it becomes clear that the protection is described as active and fast-acting (ProstSchG 2017: § 10 II). The state holds the role of a protector. This, in turn, reinforces the passive position of those to be protected. According to the feminist security approach, the subject of it is the person and not like the traditional approach claims a threat to the state (Lobasz 2009: 319). Therefore, it is essential to recognise the sexually exploited migrant women as subjects in need of protection and not as undocumented migrants who pose a risk to the state.

A further contradiction can be stated between prostitution and sex trafficking based on an illegal sector that is caused by the legal situation. It is in two minds about the illegality: On the one hand it concerns the failure to register at the authority, which shall be discussed below. And on the other hand, it is about undocumented migration. Focussing on irregular migration, sex trafficking is a result produced by the local sex industry. At this point, the impact of whether legalised prostitution increases human trafficking should be taken into account (Cho/Dreher/Neumayer 2013). Consequently, an increase of trafficked humans leads to a higher irregular migration number (ibid. 75). Here, combating sex trafficking as a primary aim of the ProstSchG can be reminisced to recognise this contradiction produced by the legal situation in Germany.

According to the representation of the problem, it illuminates the silenced parts of the law. One issue of this thesis is to find out for whom the protection is made. Like the name of the law suggests prostitutes are the group to be secured. However, while analysing the law, it becomes apparent, that this law is not just made for the prostitutes. It is moreover a policy that supports the rights of brothel operators and protects residents and adjoining owners (ProstSchG 2017: § 24-28; § 18 I 3). As it was mentioned before in the methodology section, the WPR approach makes the different selections of the problem representation visible because every policy obtains to solve a specific problem (Goodwin 2012: 28). At which some of them have an advantage of it and other are subordinate and have less of the policy.

Due to the fact that sex trafficked female prostitutes are obliged to protect others (ProstSchG 2017: § 11 III), it leads to the marginalisation of prostitutes. Accompanied with it, the sexually exploited female migrants are more vulnerable because they are excluded caused by the “moral panic” (Agustín 2006: 29) of the society. This is reinforced by the claim that the protection discourse moralises through the polarised portrayal of sex trafficked women. As a consequence,

the sex trafficked female migrants are socially and spatially excluded and become thus intangible to the society.

Besides, registration and counselling interviews should grant the protection that is offered in the policy as supposed (ProstSchG 2017: 9 II; § 10 II). Here, it becomes problematic because there is a lack of conceptual literacy. It is left unproblematic how the counsellors are educated to identify the actual indications of predicament or distress that indicates forced prostitution (ibid. § 9 II 1). Additionally, time limitations aggravate it. Moreover, there is a stigma of registration. Due to the pressure to register, stigmatisation and the associated categorisation might be the real reason for prostitutes to avoid the registration and to remain illegal and thus vulnerable to exploitation, even though they have the possibility of legality (Meshkovska et al. 2015: 383). Anonymity is also essential for sex trafficked women because prostitution is not legalised or frowned upon in their country of origin. Furthermore, this process is especially crucial for sex trafficked women because registration can put a stamp of voluntariness on them.

Moreover, stigmatisation leads to another contradiction of the ProstSchG. Accompanying with underlying presumptions and assumptions, there are different effects on sex trafficked female prostitutes. Due to underpinned presumptions, the field of sex trafficking and prostitution, in general, is polarised. It starts with the internal binary between the legal situation of prostitution in a country, continuing with binaries like voluntary/involuntary, active/passive, and autonomy/protection. Those polarisations are found in the ProstSchG. Sex trafficked female prostitutes are described as passive, weak and gender-neutral, but it is not the description itself; the language that is used for these women reinforces this portrayal. The sexually exploited migrants are not constructed as subjects who can act, instead, they are treated as passive objects. The simplified victimisation makes these women more vulnerable because their portrayal in binary differences categorises them and creates hierarchical interdependences. This becomes visible in the human trafficking paragraph (ProstSchG 2017: § 16 II 2 b). Here the language and construction result in the portrayal of the passive, gender-neutral victim and it correlates with subjectification effects on sexually exploited female migrants. In return, these assumptions lead to criminalising prostitution again and therefore, it becomes noticeable that the ProstSchG harms sex trafficked women. The vulnerability is a result of the protection discourse and it is covered under the “guise of protection” (Hill/Bibbert 2019: 149).

To conclude all the facts mentioned above, the ProstSchG represents the social recognition of a social problem. At the same time, it is part of making prostitution invisible, due to marginalisation and spatial exclusion. Rather than protecting prostitutes, the complex regulations can

result in repression and expulsion of some groups in the sex industry, like sex trafficked women, transgender, and other vulnerable individuals.

## 6 Conclusion

This paper aimed to get a more in-depth understanding of how sex trafficked female prostitutes are constructed in the German prostitution policy, and how the involuntary migrant prostitutes' protection is determined. Considering how the law is aimed at protecting the focus group, it is necessary to investigate how debating the protection of involuntary migrant prostitutes might affect their vulnerability.. Hence, there is a need to analyse the sex trafficked migrant prostitutes in a way that does not lead to being trapped in gendered categories. The main research question has been to analyse how sexually exploited female migrants are constructed concerning their protection in German policy. Furthermore, the aim was to investigate which impact the protection discourse has on the vulnerability of sex trafficked female prostitutes.

In order to answer the questions of the thesis, a qualitative approach as a method was chosen. Carol Bacchi's WPR method was applied to analyse the policy document. This methodological approach allows to look beyond policies, to addressing problems neutrally. Building on this, policies might appear to cover some problem representations they intend to address. Thus, the aim of it is to draw attention to possible gaps or limitations in problematisations and how the objects to be researched are constructed within it. It counteracts against the taken for granted concepts that influence policies.

As a theoretical background, there are used two different feminist theories. Prioritising women's perspectives in research, they aim to make the women visible because gender is the origin of oppression or exclusion. The applied theories are feminist poststructuralism and feminist security approach. Both of them examine how sex trafficked migrant prostitutes are constructed in policies which aim to protect them by analysing the language and reproduced binaries within the policy document. Furthermore, the feminist security approach supports analysis of trafficking considering the exploitation of the victims of trafficking, and it recognises how the conception of human trafficking is socially created.

Therefore, it was significant to analyse the Prostitute Protection Act through Carol Bacchi's WPR approach, as policies are full of meanings which may replicate existing discourses. The theoretical framework and the WPR approach are crucial for highlighting the underlying

assumptions behind policies as they demonstrate that policies are not neutral. Embedded polarised presumptions influence the way sexually exploited migrant women are constructed concerning their protection.

Analysing the ProstSchG, it becomes clear that the prostitute's protection is not in the foreground as the name of the law suggests. To start with examining the problem represented to be, there are tensions with the policy document. The construction of gender and the issue of protection includes inconsistency. The ProstSchG is written gender-neutral, although it deals about a topic that is characterised by gender. The represented problem is silenced regarding its gender because the ProstSchG avoids being specific by using the plural form to make it indiscernible which gender is meant by the policy. Moreover, the language which is used for the group to be researched is passive. This can be attributed to the innate assumptions, underlying the portrayal of sex trafficked women, such as being involuntary, weak, and in need of protection. This polarisation and categorisations influence the way the protection discourse is constructed.

The discussion on how the law gives protection depends on the construction of for whom the protection is made. The target group of the policy should be the prostitutes with a primary focus on sex trafficked people, as one primary goal of the policy is to combat trafficking. Dissecting the protection policy, it becomes apparent that the registration and counselling interviews are the tools to detect predicament or a forced situation. However, it is left unproblematic that there is a lack of conceptual literacy. The counselling and obligation to register are unable to achieve the declared goal because victims of human trafficking often need a longer period and a relationship of trust in order to reveal themselves to third parties. Moreover, the registration includes stigmatisation. This stigmatisation results in social and spatial exclusion.

Additionally, the stigmatisation impacts the vulnerability of sex trafficked female migrants because, as on the one hand, the construction of them in the law as passive and weak makes them more vulnerable. On the other hand, the way the protection discourse is held, strengthens the simplified, binary victim perspective on them. These assumptions lead to criminalising prostitution again, and it thus becomes clear that the ProstSchG harms sex trafficked women and covers the harm under the "guise of protection" (Hill/Bibbert 2019: 149).

According to the critique from several sides that complain that Germany does to less among others research on the topic of sex trafficking. It is thus crucial to reconsider the process of categorisations that creates inequalities and interdependence. The categorisations are not only found in the topic of sex trafficking, but also generally in understanding of human trafficking within the migration framework. All in all, it appears that migration entailing trafficking has an



impact on the matter of security. It is thus, essential to understand the connection between international migration and security to prevent trafficking.

### 6.1 Further Research

Due to limitations in both space and time, but also considering the specific aim of the thesis and selection of method, this study may be considered as an entry point for further research. As previously mentioned, research on sex trafficking in Germany as a focus is not sufficiently studied within the framework of migration studies, which is why there is a need for further research on the subject.

For future research, it would be valuable to investigate different aspects and impacts that influence the power relation in which sexually exploited female migrants are placed and constructed. Because the sex industry is shaped by social, economic, and political issues as well as labour market considerations, it would be interesting to analyse how one of those impacts affects involuntary migrant prostitutes.

Moreover, shedding light on the genealogy of the problem by analysing news articles or policy documents from the past would be another relevant investigation. In this way, one can define how the phenomenon and understanding of the racialised and gendered stereotypes have become dominant and pervade our way of thinking.

Moreover, it might be interesting for future research to solely investigate on the protection of the sex trafficked women. According to the problem of diagnosing a forced situation or predicament by counselling interviews and registration, a comparison to other legal prostitution policies would be interesting to find out how they construct protection for sexually exploited migrants.

As a final proposal, the literature on sex trafficked men within the migration framework is under-researched. Thus, it would be fascinating to investigate what the situation is like for the opposite gender. Sex trafficked men constitute the remaining four per cent of sex trafficked humans. Thus, it would be valuable to investigate how they are perceived and further, how are they interconnected as male victims in a patriarchal industry sector? According to this simplified binary calculation, it should also be questioned where transgender migrants fall into and how they are constructed in the law, research, or other investigations.

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