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**Policing Women's Sexualities and Getting Credit for It:
Sex Work and the Tunisian State**

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*Since Elissar has founded Carthage a 2800 years ago*¹ is the attention-getter, cliffhanger, cliché beginning, core, or conclusion of almost any Tunisian governmental pseudo-argument in favor of women's rights. The formulation, widely used in combination with series of names such as Aziza Othmana² and Saida El-Manoubia,³ was most recently reiterated by the Tunisian Minister of Women, Family, and Children, Naziha Laabidi, at the 62nd Commission on the Status of Women. The self-exotifying narrative is so popular that one would hear it from women officials or women's rights' activists, in songs,⁴ in advertisements, or even in Arabic language books assigned for the 6th and 9th grades under the theme "women." It is almost as if Tunisian nationals cannot graduate primary or middle school without adhering to the notion that *our* women are exceptionally liberated, just like *our* government. There is no escape; we are born and bred to celebrate a Tunisian exceptionalism in championing "feminism" in the MENA region.

The causes of women have emerged strongly and explicitly in countries of the Global South at the beginning of the 20th century with the resistance movements against colonizers.⁵ It is not to say that people were not organizing along feminist causes prior to liberation movements, but capitalist and imperialist expansions have oriented plights around gender, sexuality, bodily autonomy, and integrity towards a discourse of democratization. Wilson's principle of self-determination⁶ gained much momentum at the rise of the new world order; the rights based discourse was a ready-made, one-size-fits-all etymological vessel for determining people's political destinies, including women's within the nation-state. Tunisia was not an exception. It incorporated women's rights in its state-building process.

One would find Tunisians boasting about Tunisian women being the "first" women doctors and pilots in the MENA regions, criminalization of polygamy, right to abortion, women passing their nationality to their children, etc. But there is one governmental achievement that they shy away from mentioning: the legalization of sex work, a seemingly emancipatory modernization project, falls off the list. The legalization pre-dated the independence of Tunisia, but made it through the national-state building process, and is often omitted from national and regional discussions. The topic would perhaps come up if one's interlocutor is an unimpressed Western national and one attempts to give them their best shot at a compelling argument of Tunisian

¹ There are two etymological fallacies committed in this phrase: first, the historically inaccurate understanding of modern-day Tunisia's beginning of formation with Phoenician princess Elissar/Didon (who some argue is an allegory). Since, the area has undergone multiple changes till the age of nation-state. Yet, it is inevitably Carthage that is held as point of reference in state-formation discourses. Second and unsurprisingly, since the three thousand years benchmark of Tunisian "civilization" celebrates an invader princess, it purposefully omits indigenous Amazigh existence from the national imaginary.

² A princess (1606-1669) who relinquished all she had and freed her slaves.

³ A Sufi scholar and saint (1190-1266).

⁴ Multiple songs celebrate Tunisian women using the same formula, all the while reproducing gendered discourses and discrimination. For example, after the UAE's visa ban to Tunisian women, a rap song employed that rhetoric, also adding that "Tunisian women are more of a man than many males." In another rap song about Qatar's interference in Tunisian internal affairs, Guito'N boasts about "Tunisian" Elissar and threatens to rape Sheikha Moza of Qatar.

⁵ Jayawardena, Kumari. *Feminism and Nationalism in the Third World*. New Delhi, India: Kali for Women, 1986.

⁶ Lynch, Allen. "Woodrow Wilson and the Principle of 'National Self-Determination': A Reconsideration." *Review of International Studies*, vol. 28, no. 2, 2002, pp. 419-436.

exceptionalism. Otherwise, the legalization of sex work remains under-discussed and under-studied because it is not considered “respectable” enough for local academia.

Colonial Legacy of the Legalization of Sex Work

In 1942, the Tunisian government, still under the French colonization, legalized “public”⁷ sex work. Sex workers who are women working in controlled environments exclusively are still recognized as civil servants. They are subjected to health check-ups twice a week, pay taxes to the government, and are categorized as “ministry of interior functionaries” on their identity cards.

After the independence of Tunisia was finalized in 1956, Habib Bourguiba, first president and leader of the separatist movement that self-described as “anti-colonial, [...] not anti-western,”⁸ adopted several reforms concerning women’s status, but he did not amend the legalization of sex work. The modernization process was set to put end to “backwards practices” specifically targeting people’s sexualities. Tunisia inherited the criminalization of homosexuality from the French and moved forth to criminalize polygamy. Albeit different, both practices have something in common: they are deemed against Christian ideals of control over sexuality.⁹ Despite the difference of religious belief, these reforms were sought by both foreign missionaries and local Bourgeoisie – as calling in the first case, and as modernization in the latter. Ben Ali’s regime continued the task that Bourguiba started: stylizing the Tunisian *state* feminism as a model in the MENA region,¹⁰ which at the same time devalued the “unmodern other” and entailed an essentialist, unilinear framework of what movement towards progress looks like.

In light of the Bourguibist reforms to the personal status and status of women, it might seem rather counterintuitive that the legalization of sex work would remain unchallenged as a colonial rule. Yet, a president that urged people not to observe Ramadan in 1960, purporting that “a country fighting to free itself from poverty could not afford to let its production slump to almost nothing for four successive weeks,”¹¹ would be in favor of regulating sex work under governmental supervision to profit from workers’ labor. Women are one of the biggest and cheapest reserve labor “armies” in any given country, along with children, migrants, refugees, and others. Tunisia did not have many non-nationals to exploit, and old customs often made it difficult for women to engage in the market. The “progressive” reforms that moved women from the private to the public sphere came to mend the mobility challenge, and with it, the access to capitalist market.

⁷ As opposed to “private” sex work that freelancers engage in, bypassing taxation and governmental control.

⁸ <https://www.economist.com/node/303168>

⁹ Jayawardena (1986) mentions multiple examples from the Global South. In Sri Lanka, for instance, remnants of matriarchy and sexual autonomy were destroyed in favor of heterosexual monogamy.

¹⁰ Antonakis, Anna (2017). *In Transformation? Renegotiating Gender and State Feminism in Tunisia between 2011 and 2014: Power, Positionalities and the Public Sphere*. A Dissertation Submitted in Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy (PhD) To the Department of Political Science, the Otto-Suhr-Institut, Freie Universität Berlin, 2017.

¹¹ <https://www.nytimes.com/1964/02/09/archives/tunis-fails-to-curb-fasting-in-ramadan.html>

Sex work is legal, within assigned houses that are controlled by the government, with workers who obtain their permits from a judge, and who have their profession alluded to on their identity cards. They are taxed, branded, and subjected to regular health check-ups that not only monitor infection, but also pregnancy. Clients are required to use condoms, and women are required to use contraceptives. The sex workers' labor rights are limited: they are only to take time off during menstruation. Their freedom of movement is restricted as well: if they are to leave their area of work without a permit or caught working elsewhere, they are subjected to the loss of their license and a criminal status. They are also allowed this one profession only; any work on the side, no matter of what nature, is strictly prohibited. Freelancers, on the other hand, are criminalized and penalized. It is not sex work that is legal; it is working for the government.

While perhaps the move from criminalization to legalization of sex work might be telling of a progressive teleology, the governmental control over the commerce does not call for standing ovations and applause. It allows the government to brand itself as secular in contrast with their political rivals, the Islamists, while contributing to justifying the policing of women's bodies and sexualities. Both these patriarchal institutions, religious and governmental, rely on such control to (re)produce the nation, and both are fought by feminists. However, with Tunisia being a one-party state since the independence and until post-uprising transitional process, the secular government used political Islam as a scarecrow to rally people around a modern national identity, although it makes uses of its power to employ similar strategies of oppression and policing. State building is a project of inclusion/exclusion: it entails a process of othering and disenfranchising, making certain people more vulnerable than others, including when they challenge the state. For example, the private use of one's sexual labor for remuneration without benefiting the state remained illegal, as what governments truly seek is control, not liberation.

In a one-party state, the secular agenda and discourse played a two-edged role: first, it maximized governmental control over all types of commerce and workers. Second, to distract public attention from the regime's dictatorship, it focused its propaganda machine to portray Islam and political Islam, often interchangeably used, as the sole and biggest threat to liberation. While the control over women's bodies and sexualities is a classic pillar in the establishment of states and the production of the nation, the Tunisian regime's subsistence also required the promotion of not simply secular ideals, but Islamophobia. The state created a legacy of Islamophobic state feminists and increased political Islamic movement's desire to bring back Tunisian women to their "authentic" selves, free from the legacy of colonialism herein equated with Bourguibism. In the times of Bourguiba and Ben Ali, the veil was banned in public institutions following a French tradition of laicity,¹² and men with a record of rigorous religious practice were imprisoned out of fear of political counter-organizing. Despite women being central instruments for both types of organizing, religious and secular, a Western "modernization" process had the upper hand. State feminism promoted the

¹² The ban excluded all veiled women, not only those engaged in political organizing.

idea that Islamic ideals, reflecting the religion of the majority of Tunisians, threaten women's rights,¹³ enhancing Islamophobic feelings on the one hand, and turning a blind eye to the practices of the state on the other.

After the December 17, 2010 Uprising in Tunisia, at a time of challenge to both the secular police state and the rise of Islamist movements, the media reported that Islamists were once again a threat to Tunisian feminism and to sex workers more specifically. An attempt to forcibly close off some brothels was reportedly orchestrated by devout Muslims. Not only did this have historical resonance and followed the logic of the state, but it also pleased the Western gaze as it confirmed the need for an "enlightened dictator" backed by foreign patrons, and "backwards" people deserving the dictatorship they have. When remnants of the regime and police officers contributed to the vandalizing of the brothels in the aftermath of the ousting of Ben Ali,¹⁴ it was easily brushed off as Islamist activity. The police were once again enacting their role of administering punishment for dissidents, as sex workers, who are "functionaries" of the ministry of the interior, had allegedly participated in protests calling for the ousting of Ben Ali. Symbolically, the loss of Ben Ali was portrayed as a loss of modernity – a narrative that purported that, under his dictatorship, Islamists were either in jail or in exile, and women roamed "freely."

In a nutshell, "the government used women's rights to demonstrate to the world the modernity of the Tunisian state, it also required women's activism be performed only through state-controlled channels."¹⁵ Similarly, it requires sex commerce to happen through state controlled channels. It is an "indirect" socio-economic challenge that uniquely impacts women, as they are the only ones criminalized for "private" sex work on the one hand, and policed in the public commerce on the other.

States and Profit: Anything, as Long as it Serves Capital

Unlike the default premise that legal work is safe(r) work, the intersection of labor with visibility is a site of disenfranchisement in the case of the legalization of sex work. Prior to its entry to a controlled public realm, sex work could evade governmental crackdowns. Following the logic of Hannah Arendt in her discussion of the public/private spheres, the introduction of practices into the visible realm called for their control and administration. The absence of the recognition of sex work in the public sphere meant it was not a public matter; it meant the absence of its prohibition in the public eye, away from state control. This meant that the

¹³ While some people were imprisoned under Ben Ali and Bourguiba for throwing acid on women's faces, the equation of every Islamist prisoner to an acid-thrower is inaccurate. During the 1980s, the regime has arrested, imprisoned, and tortured thousands of those who engaged or sympathized with Islamic organizing.

¹⁴ Shortly after the ousting, the remnants of the regime have released inmates with a vandalizing purpose to install insecurity. The police has participated in acts of violence against citizens promoting the fictive choice between democracy and security.

¹⁵ Warren, Roslynn Anna Applebaum, Briana Mawby, Holly Fuhrman, Rebecca Turkington, and Mayesha Alam. "Inclusive Justice: How Women Shape Transitional Justice in Tunisia and Colombia." *Georgetown Institute for Women, Peace, and Security*, 2017, p14.

state could neither profit off sex workers' labor, nor off of its criminalization. Yet, the *spatial* quality of public life created the binary between public/private sex work, where one became controlled, and the other illegal.

There is much insight in the selective governmental approach to what kind of sex work is legal. Sofiène Chourabi¹⁶ [reported](#) the words of lawyer Nadhir Ben Yeddir, who conceded that the legal texts organizing sex work in Tunisia are limited and archaic, as they do not recognize modern forms of sex work, such as male sex work, or sex work for a non-monetary remuneration. The lawyer asks whether “a young woman having sex in exchange for someone covering the expenses of a night-out is classified as sex work or not.”¹⁷ But that question would also entail recognizing ancient forms of sex work where a woman has sex with a man who covers her living expenses under the institution of heterosexual marriage.

A friend of mine once brilliantly observed that sex work is one of the few, if not only, jobs that enable the worker to keep her own surplus labor value, when she is working independently. If we posit that the constant capital is the ability to have sex, and the variable capital is the space in which this sex is had, then the value of the sex worker's labor bypasses the capitalist system's channels of wealth accumulation, provided the space is available and the work independent from patrons and taxes. Instead of simply decriminalizing sex work, legalizing it is not charity; it is surveillance. The government does much more *to* the workers than *for* them.

Governments, then, act like racketeers, or big criminal networks that gather their income through coercion and instilment of fear in their populace through a system of rewards and punishments. Governments use the same mechanisms as mafias, but we are conditioned to consider those mechanisms legitimate, as acts derive their legality from the state. Nevertheless, this only holds an element of truth if governments are democratically elected. Even then, legitimization only functions through the Weberian notion of the state's right over the monopoly of violence: that the state is allowed to threaten, use, or allow another party to use violence against people on its given territory after the process of “legitimation,” by which such value becomes a norm takes place. Removing that definition, there is not much left to back governmental policing and use of intimidation techniques as means towards a “public good.”

To regulate public life and citizenship rights, the state codifies and criminalizes certain behaviors and identities that are deemed incompatible with its state-building project. In Tunisia, acclaimed as a regional feminist exception, the identity-marker of the nation-building process circled around a “modern” image of women – one that can divorce at her own will, run for public office, and most certainly engage in sex work provided that she has a license for it. The state collects taxes in exchange for protection from what it would inflict upon someone in the case of their refusal to pay. States require taxes and rents to sustain their administrative apparatus, and generate them through a coercive mechanism. Thus, it is not the work itself

¹⁶ Sofiène Chourabi is/was a Tunisian journalist and blogger, part of the Ettajdid Movement. In September 2014, he went on a journalistic mission to Libya with photographer Nadhir Guetari as part of his work for First TV, where both went missing. On January 8, 2015, the Islamic State announced their execution.

¹⁷ Chourabi, Sofiène. “The Prostitution Phenomenon in Tunisia: between the legal and the social.” *Attariq Aljadid*. Ettajdid Movement, 2009.

that is legal, but it is the work to the extent that it profits the government in capital and in control. Maintaining brothels profits the government and is no act of charitable provision of reproductive health services to the workers, as often portrayed by speakers who boast this Tunisian exclusivity and take pride in what boils down to the state's policing of both women and the commerce. It profits the capitalist system and the nation-building process.

Conclusion

Legalizing sex work is another kind of policing the national body and it cannot be discussed without thinking of other demographic politics, such as the embrace of "family values," welfare dependency, availability of health services, family planning, incarceration of illegal sex workers, and the rape and torture Tunisian women have endured in prisons. Because individual's control over their body is the outer layer propaganda central to neoliberal tradition, because it is a vague promise stripped from the historical, economic, contextual, and social conditions making it more difficult for some than others, there is radical potential in rethinking legalized sex work in Tunisia as a challenge to communal liberation within the commerce, in light of the general criminalization of freelance sex work and other forms of sex.¹⁸ While some state feminists still boast about women choosing to apply for the sex work license and the government facilitating the sector, the idea of such "choice" obscures the social conditions in which it was made and through which it must sustain itself, as well as the governmental control over the lives of these workers. A freelance "choice" is not an option. Decriminalization of sex work in all its forms and easy access to accurate information and reproductive health services for all is what would make choices possible. Making these choices does not require governmental control and regulation of the profession, but rather requires guaranteed civil liberties and socialized health services.

There is a visibility bias in the determination of criminality/innocence, and backwardness/modernity. Delinquency is reserved for those who do not profit the government, as they need to be disciplined into cooptation or appropriation. The state produces disenfranchisement, which produces "crime," and yet manages to profit from both, in matter through taxes and in symbol through nation-building. "[T]he existence of a legal prohibition creates around it a field of illegal practices, which one manages to supervise, while extracting from it an illicit profit through elements, themselves illegal, but rendered manipulable by their organization in delinquency. Delinquency represents a diversion of illegality for the illicit circuits of profit and power for the dominant class."¹⁹ This Tunisian "modernization" process and its "feminism" thus still feed into a state monopoly over women's sexuality and labor independently and as they intersect, a coercive monopoly that simultaneously gives us model reputation and white street credibility.

¹⁸ Mainly extramarital and same-sex sex. The report by the Commission for Equality and Individual Liberties, released on June 1st, 2018, has recommended that the Tunisian government decriminalizes those practices. The recommendations are not binding. The full report available in Arabic on this link: <https://colibe.org/report/?lang=en>

¹⁹ Foucault, Michel. *Discipline and Punish*. New York: Vintage, 1995, p. 280.