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Debates on Prostitution: An Introduction to Feminists Politics and Their Influence Upon International Policy and Practice

Laura Connelly

Introduction

It has become somewhat axiomatic in literature on the sex industry to construct sex work as a “trade as old as trade itself”¹, with pimping and prostitution described as some of the world’s “oldest professions”.² Yet while feminist debates about the morality of prostitution and how best to regulate it are certainly not new, the issue appears to have received *renewed* attention in recent years with many countries reconsidering their policy and practice. Two polarized feminist paradigms thus continue to pervade sex industry discourses, characterized by starkly opposed understandings about the degree to which women’s decisions to work in prostitution are based upon choice or constraint. Broadly speaking, while ‘radical feminists’ tend to argue that prostitution is the epitome of violence against women, ‘liberal feminists’ posit that most sex workers exercise their own free will in their decisions to sell sex. Yet despite liberal feminist advocates finding pockets of support around the globe for their “harm reduction” initiatives, the radical feminist gold standard, the “Swedish Model”, appears at present to be the *en vogue* model of regulation. Indeed, it found prominent support at the EU level in March 2014, prompted by Mary Honeyball’s proposal to the European Parliament to criminalize the purchase of sex, whilst simultaneously positioning those that sell sex as a victim. Despite emphatic opposition from many activists, support services, scholars and sex workers, the ‘Honeyball Proposal’ culminated in the adoption by 343 votes to 139 of a non-binding resolution.³ Overwhelming support for the “Swedish Model” was also demonstrated in December 2013 by the French Assembly, which passed a bill to place criminal liability on

¹ Barry, Kathleen: *The Prostitution of Sexuality*, New York, 1995, p. 198.

² Flowers, Ronald: *The Prostitution of Women and Girls*, Jefferson, 1998, p. 5.

³ 105 EU Parliament voters abstained.

the client whilst exempting those who sell sex. Vehement calls to follow suit have also since been heard in Canada, the UK and even Germany, whose current model of legalized prostitution has given it the epithet of the “bordello of Europe”.

This chapter offers an introduction to the influence feminist politics has had upon the regulation of prostitution globally: arguably a pre-requisite to any detailed exploration of prostitution. Although there are some notable exceptions, there has historically been little written about the implementation of prostitution policy.⁴ The chapter therefore begins by introducing some of the core theoretical arguments of the two key ideological perspectives on prostitution omnipresent in sex industry discourses, before analyzing their impact upon policy and practice in four countries: Sweden, the UK, the Netherlands and New Zealand. These countries have been selected here, in order to demonstrate the diversity in regulatory system employed around the globe. The chapter concludes, however, by questioning the utility of the dichotomous “radical-liberal” divide, examining evidence which supports the advancement of a “middle-ground” perspective. The author’s own research on the governance of sex trafficking in the UK will be utilized to argue the case for a potentially more nuanced position – one that acknowledges the limitations of the “constraint-choice” binary. The purpose of this chapter is not to advocate for one particular form of regulation over another but rather, to analyze the significant effect feminist discourse and activism can have upon policy and practice across the globe.

The Theoretical and Ideological Arguments of Radical and Liberal Feminism

The two major feminist perspectives ubiquitous in sex industry discourses are what I term here “radical” and “liberal” feminism, although it should be noted that different terminology has been used to describe these positions, including: oppression paradigm vs. empowerment paradigm,⁵ the sexual domination discourse vs. the prights/sex work approach,⁶ and radical

⁴ Wagenaar, Hendrik; Altink, Sietske: *Prostitution as Morality Politics or Why It Is Exceedingly Difficult to Design and Sustain Effective Prostitution Policy*, in: *Sexuality Research and Social Policy*, 9:3 (2012), p. 280.

⁵ Weitzer, Ronald: *Sex Work: Paradigms and Policies*, in: Ronald Weitzer (Ed.): *Sex for Sale: Prostitution, Pornography, and the Sex Industry*, London, 2010. p. 5.

⁶ Outshoorn, Joyce: *The Political Debates on Prostitution and Trafficking of Women*, in: *Social Policy*, 12:1 (2005), p. 145.

feminism vs. sex radicals.⁷ In this section, the core theoretical and ideological tenets of the radical and liberal feminist perspectives are examined, including their proposed solutions to the “problems” associated with prostitution. One of the defining principles of radical feminism, that prostitution is the epitome of both actual and symbolic violence against women, is evident in the writings of scholars such as Kathleen Barry, Andrea Dworkin, Shelia Jeffreys and Janice Raymond, amongst others. From this perspective, prostitution is “sexual slavery” and represents little more than a “choice out of no choice”.⁸ Indeed the Coalition Against Trafficking in Women, an international non-governmental organization aligned with the radical feminist perspective, views prostitution as a violation of women’s human rights *regardless* of her consent, for no woman would choose to sell sex.⁹ Instead, “prostitutes” are considered victims of circumstance, with radical feminists frequently pointing to evidence documenting the high percentage of sexual abuse experienced in childhood by women involved in prostitution.¹⁰ The language employed by advocates of this perspective is indicative of the lack of choice they perceive to be involved in engaging in prostitution, referring to those who sell sex as “prostituted women” and/or “survivors” and framing the issue within a discourse of “modern slavery” and “paid rape”. As such, radical feminists traditionally reject the term “sex worker”, arguing instead that “prostitutes” are “sex objects”.

Yet the purchase of sex is not only considered to be violence against the women involved in prostitution but rather, symptomatic of patriarchal oppression more broadly and demonstrative of violence against *all* women. The “prostituted body” therefore becomes the site for the enactment of male domination and female subjugation; the “prostitute” constructed as the paradigmatic image of women’s economic, sexual and social repression in society as a whole.

¹¹ The institution of prostitution is thus described by Kelser as “the

⁷ Scoular, Jane: *The Subject of Prostitution: Interpreting the Discursive, Symbolic and Material Position of Sex/Work in Feminist Theory*, in: *Feminist Theory*, 5:3 (2004), pp. 343-346.

⁸ Bindel, Julie: *Press for Change: a Guide for Journalists Reporting on the Prostitution and Trafficking of Women*, New York, 2006, p. 13.

⁹ Coalition Against Trafficking in Women (CATW). 2012. *An Introduction to CATW*, Available: <http://www.catwinternational.org/about/index.php> (Last access, 9 May 2012).

¹⁰ See for example, Jeffreys, Sheila: *The Idea of Prostitution*, North Melbourne, 1997, p. 242.

¹¹ Giobbe, Evelina: *Confronting the Liberal Lies About Prostitution*, in: Leidholdt, Dorchen; Raymond, Janice (Ed.): *The Sexual Liberals and the Attack on Feminism*, London, 1990, p. 77.

absolute embodiment of patriarchal male privilege.”¹² Considered incompatible with the promotion of gender equality, the sex industry is thus understood to be a male-driven market, built around principles of male gratification. Consequently, it is neither about nor for women. Instead, radical feminists construct clients as “abusers”, “users” and “perpetrators” of prostitution, considering them to, through the very act of buying sex, practice “gross violence against prostitutes.”¹³ It is the male demand for the purchase of sex that is thus considered to be the root cause of trafficking for sexual exploitation.¹⁴

The solution that radical feminists propose, at least broadly speaking, is to strive for the eradication of the sex industry in its entirety. Often this manifests in advocacy for the complete criminalization of prostitution or neo-abolitionist models based upon criminalizing the purchase of sex. Many, for example, share Jeffrey’s sympathies for the “Swedish Model”, which involves targeting:

the perpetrators, both the men who abuse women and those who profit from this abuse, whilst decriminalising and giving practical support to the women who have been abused.¹⁵

They argue that criminalization policies encourage a shift in attitude towards seeing prostitution as an unacceptable social behavior, leading to shrinking sex markets and a reduction in trafficking.

Critics of this perspective, however, argue that anecdotal evidence is presented as fact, with worst case examples depicted as representative of women’s lived experiences. This, Weitzer argues, leads to “tainted findings and spurious conclusions.”¹⁶ By conflating the concepts of prostitution and sex trafficking, Agustin posits that the lived experiences of women involved

¹² Kelser, Kari: *Is a Feminist Stance in Support of Prostitution Possible? An Exploration of Current Trends*, in: *Sexualities*, 5:2 (2002), p. 219.

¹³ Høigård, Cecilie; Finstad, Liv: *Backstreet: Prostitution, Money and Love*, University Park, Pennsylvania, 1992, p. 115.

¹⁴ Raymond, Janice: *Prostitution on Demand: Legalizing the Buyers as Sexual Consumers*, in: *Violence Against Women*, 10:10 (2004), pp. 1156-1186.

¹⁵ Jeffreys, *The idea of prostitution*, 6.

¹⁶ Weitzer, *Social Construction*, p. 5.

in the sex industry are totalized, ignoring variability in levels of personal autonomy.¹⁷ Yet despite critique of the radical position, its influence on the international regulation of the sex industry over the last 100 years is notable.¹⁸ Furthermore, it has also found an outlet in mass mediated discourse, leading to the production of myths around the demographics of people involved in prostitution. Indeed, the omnipresence of victims' "horror stories" within the media reinforces the perception that it is invariably young, (usually) white girls whom are coerced into prostitution by evil organized criminal gangs. These notions of gendered and racialized innocence are ubiquitous and it is by virtue of their gender and "whiteness" that women are considered to become victimized by sex traffickers.¹⁹

Liberal feminists, on the other hand, argue that women have the right to sexual self-determination and the right to embrace commercial sex as a "potentially liberating terrain".²⁰ From this perspective, as autonomous beings, women should have the right to do what they wish with their bodies. Liberal feminist scholars do recognize, however, that while some women's decisions to sell sex may be rational, it is not necessarily a completely free choice.²¹ They emphasize, therefore, the distinction between forced and voluntary engagement in the sex industry, arguing that trafficking is too often conflated with voluntary migrant sex work. Indeed, they point to evidence that some women choose to migrate to work within thriving sex industries,²² and view themselves as neither degraded nor oppressed.²³ Ward and Aral, for example, argue that declining prospects in formal labour sectors in recent years dictate

¹⁷ Agustin, Laura: *Sex Workers and Violence Against Women: Utopic Visions or Battle of the Sexes?*, in: *Development*, 44:3 (2001), p. 107.

¹⁸ Doezema, Jo: *Forced to Choose: Beyond the Voluntary vs. Forced Prostitution Dichotomy*, in: Kempadoo, Kamala; Doezema, Jo (Ed.): *Global Sex Workers: Rights, Resistance and Redefinition*, London, 1998, p. 37.

¹⁹ Berman, Jacqueline: *(Un)Popular Strangers and Crises (Un)Bounded: Discourses of Sex-Trafficking, the European Political Community and the Panicked State of the Modern State*, in: *European Journal of International Relations*, 9:1 (2003), pp. 37-86.

²⁰ Chapkis, Wendy: *Live Sex Acts: Women Performing Erotic Labor*, New York, 1997, p. I.

²¹ Sanders, Teela.; O'Neil, Maggie; Pitcher, Jane: *Prostitution: Sex Work, Policy and Politics*, London, 2009, p. 10.

²² Outshoorn, *Policy Change*.

²³ Weitzer, *Social Construction*, p. 453.

that women are increasingly turning to informal industries including, although not confined to, the sex industry as an alternative source of income.²⁴

Liberal feminists have, therefore, sought to shift the dominant discourse away from a radical ideology towards the viewpoint that sex work is a legitimate form of employment.²⁵ Indeed, sex work may represent a credible, flexible and viable labour option, particularly for migrant women seeking to escape poverty.²⁶ From this position, the sale of sex should be understood in much the same way as any other mainstream business transaction, with sex workers accorded the same basic human, legal, political and worker's rights as those in other professions. To this extent, it is not the sex industry itself that is problematic but rather, it is the ubiquitous poor working conditions and societal stigma that facilitate exploitation.²⁷ In much the same way as the language employed by radical feminists, liberal feminist terminology is indicative of their ideological standpoint. With perceived connotations of shame and wrongdoing associated with the label "prostitute", the term "sex worker" was coined by Carol Leigh in the 1980s and subsequently utilized by liberal feminists to symbolize the recognition of sex work as a form of labour. As such, throughout this chapter the author uses terminology consistent with each perspective.

The solution, liberal feminists argue, is to adopt a regulatory framework in which sex workers are constructed as legitimate workers, rather than as "moral reprobates"²⁸ – that is, to increase the "professionalisation of prostitution".²⁹ Legalized or decriminalized models of regulation are typically sought, in which prohibitive legislation is removed and normalization pursued. At the same time, proponents of liberal feminism posit that policies should be implemented which give sex workers greater control over their own working conditions³⁰, in

²⁴ Ward, Helen; Aral, Sevgi: *Globalisation, the Sex Industry and Health*, in: *Sexually Transmitted Infections*, 82:5 (2006), pp. 345-347.

²⁵ Doezema, *Forced to Choose*, p. 37.

²⁶ Lui, Min: *Migration, Prostitution and Human Trafficking: The Voice of Chinese Women*, New Brunswick, 2011.

²⁷ Sharma, Nandita: *Travel Agency: A Critique of Anti-Trafficking Campaigns*, in: *Refuge*, 21:3 (2003), pp.85-100.

²⁸ Doezema, Jo: *Who Gets to Choose? Coercion, Consent, and the UN Trafficking Protocol* in: Masika, Rachel (Ed.): *Gender, Trafficking and Slavery*. Oxford, 2002, p. 25.

²⁹ Sanders, Teela: *Blinded by Morality? Prostitution Policy in the UK*, in: *Capital and Class*, 29:2 (2005), p. 14.

³⁰ Weitzer, Ronald: *Legalizing Prostitution: From Illicit Vice to Lawful Business*, New York: 2012, p. 7.

order to prevent their exploitation at the hands of others. To this extent, some form of state regulation may be required to uphold workers' rights, often in the form of geographical constraints, age restrictions, health check requirements, licensing and/or registration.³¹

Yet critics of this perspective vehemently caution against models of legalization or decriminalization on the basis that they are considered to create situations in which there is less risk involved for traffickers, leading to a growth in the number of trafficked women.³² Furthermore, they point to high incidences of violence against women involved in prostitution as evidence that it is not merely an "occupation like any other". It is evident, therefore, that radical and liberal feminists differ in their very understanding of the ontology of the sale and purchase of sex, leading them to propose very different forms of regulatory governance. Indeed, neo-abolitionism and prohibition are typically favored by radical feminist advocates, while models of legalization and decriminalization are more often pursued by liberal feminists. The chapter now shifts its focus away from the theoretical and ideological assumptions underpinning the radical and liberal feminist positions to an exploration of the actual impact they have had upon international policy and practice.

The Impact of Radical and Liberal Feminism on International Regulatory Models

There are a number of key models employed around the globe to regulate and/or control prostitution, each influenced to varying degrees by the feminist perspectives described above. Four case study countries will be briefly examined in this chapter: Sweden's model of "neo-abolitionism"; the UK's "prohibitionist" model; the Netherlands' "legalization" model; and New Zealand's "decriminalization" model. The intention here is not to analyze which regulatory model is most effective but rather, to explore the influence feminist politics may have upon the introduction and implementation of policy.

³¹ Ibid., p.76.

³² Jakobsson, Niklas; Kotsadam, Andreas: *The Law and Economics Of International Sex Slavery: Prostitution Laws and Trafficking for Sexual Exploitation*, in: *European Journal of Law and Economics*, 35:1 (2013), pp. 87-107.

Sweden

On the 1 January 1999, *Sexköpslagen*, the sex purchase law came into force in Sweden criminalizing those who buy sex, whilst at the same time permitting the sale of sex. It challenged the dominant approach to policy at the time, which saw governments around the globe constructing the women selling sex as the “problem”.³³ Instead, the Government, following years of lobbying from the Swedish women’s movement, stated that:

it is not reasonable to punish the person who sells a sexual service. In the majority of cases at least, this person is a weaker partner who is exploited by those who only want to satisfy their sexual drives.³⁴

The “prostitute” then, instead of being bound up in the “whore stigma”, was positioned firmly within a “victim” role and promised social assistance to help exit prostitution. With over half of Government ministers having strong links with the women’s movement, the neo-abolitionism model received widespread backing. Indeed, in stark contrast to the harshly fragmented radical-liberal feminist divide which characterized Honeyball’s proposal to the European Parliament in 2014, feminists in Sweden were largely united in their approach to controlling prostitution. Scoular argues that this solidarity flourished because of a lack of organized opposition; women involved in prostitution were not unionized at the time, thus functioning to restrict their “voice”.³⁵ As such, radical feminist notions of prostitution as a patriarchal tool of subjugation incompatible with gender equality and a form of violence against women became central to policy and practice.

One of the fundamental aims of *Sexköpslagen* is to reduce the number of women involved in prostitution.³⁶ Initial evaluations of the law recognized that although levels of street

³³ Svanström, Yvonne: *Prostitution in Sweden: Debates and Policies 1980-2004*, in: Gangoli, Geetanjali; Westmarland, Nicole (Ed.): *International Approaches to Prostitution: Law and Policy in Europe and Asia*, Bristol, 2006, p. 67.

³⁴ Ministry of Labour, 1998, 55 cited in Ekberg, Gunilla: *The Swedish Law That Prohibits the Purchase of Sexual Services: Best Practices for Prevention of Prostitution and Trafficking in Human Beings*, in: *Violence Against Women*, 10:10 (2004), p. 1188.

³⁵ Scholar, Jane: *Criminalising Punters: Evaluating the Swedish Position on Prostitution*, in: *Journal of Social Welfare and Family Law*, 26:2 (2004), p. 196.

³⁶ Levy, Jay; Jakobsson, Pye: *Sweden’s Abolitionist Discourse and Law: Effects on the Dynamics of Swedish Sex Work and on the Lives of Sweden’s Sex Workers*, in: *Criminology and Criminal Justice* (2014), p. 5 (published online version).

prostitution did decrease, this may have been more a product of the displacement of “prostitutes” indoors rather than an actual decrease in the sale of sex. Indeed, the evaluation conducted by the National Council for Crime Prevention indicates that the decline in street prostitution was in fact likely to be only temporary, a product of initial heavy policing.³⁷ Indeed, although Gunilla Ekberg – herself an advocate of radical feminism and proponent of the “Swedish model” – continues to contend that the number of women involved in prostitution has fallen by up to 50% since the law’s inception,³⁸ others argue that the numbers of women involved in street sex work in Sweden had been gradually declining since the late 1970s, making the observed reduction part of a longer-term trend.³⁹ It was also posited that the law would act as a “barrier to human traffickers”,⁴⁰ though the evidence on is, at least according to Dodillet and Östergren, both contradictory and vague. Furthermore, an evaluation by the National Police Board in 2001 described a situation in which street sex work had become “stressful”, with a strong police presence leading to a decline in custom which in turn brought about: less choice in clients, increased competition between women involved in prostitution, and greater risk taking practices.⁴¹ To this extent, “prostitutes” remain severely stigmatized; their lack of consultation in the introduction of the law symbolic of the powerlessness they feel.⁴² Moreover, the law appears to have done little to discourage men from purchasing sex – a conclusion reached by sex workers, support services and the police.⁴³ The “Swedish model” has, nonetheless, been successfully marketed.⁴⁴ Scotland, Northern Ireland and France have all at some point in the last two years considered its

³⁷ Scholar, Jane, *Criminalising Punters: Evaluating the Swedish Position on Prostitution*, in: *Journal of Social Welfare and Family Law*, 26:2 (2004), pp. 195-210, especially p. 199.

³⁸ Ekberg, Gunilla: *The Swedish Law That Prohibits the Purchase of Sexual Services: Best Practices for Prevention of Prostitution and Trafficking in Human Beings*, in: *Violence Against Women*, 10:10 (2004), p. 1193.

³⁹ Holmström, Charlotta (2008), cited in Dodillet, Susanne; Östergren, Petra: *The Swedish Sex Purchase Act: Claimed Success and Documented Effects*, in: *Decriminalising Prostitution and Beyond: Practical Experiences and Challenges Conference*, Den Haag, 2011. URL: <http://gup.ub.gu.se/records/fulltext/140671.pdf>, (Last access, 29 April 2014).

⁴⁰ *Ibid.*, p. 12.

⁴¹ Levy; Jakobsson: *Swedens’s Abolitionist Discourse*, p. 7.

⁴² Dodillet; Östergren, *Swedish Sex*, p. 21.

⁴³ *Ibid.*, p.14.

⁴⁴ Levy; Jakobsson: *Swedens’s Abolitionist Discourse*, p. 13.

adoption and the European Parliament declared its support for this form of prostitution regulation in March 2014.

United Kingdom

Despite recent support from the All-Party Parliamentary Group on Prostitution and the Global Sex Trade for the implementation of the “Swedish model“ in the UK, England and Wales continues at present to adopt a “prohibitionist“ approach to controlling prostitution. Indeed, although the sale of sex is *itself* not illegal, a variety of “objectionable conduct” is criminalized.⁴⁵ Thus a paradoxical situation operates in which despite the act of selling sex being legal, it is difficult to engage in prostitution without committing a number of offenses, including: soliciting or loitering for the purpose of prostitution, kerb-crawling, anti-social behavior, advertising in public places, or inciting prostitution for gain. The influence of radical feminism upon the regulation of prostitution in the UK is thus notable, particularly through the increased criminalization of the client and simultaneous desire to “rehabilitate” and “rescue” women involved in prostitution. As such, the “naming and shaming“ of kerb- crawlers and implementation of “John Schools” have both, at various points, formed part of the Government’s approach, reflecting radical feminist ambitions of ending demand. Similarly, radical feminist influences are also apparent in the increasing salience given to exiting, which reinforces:

binary discourses that present prostitution as violence and abuse, and exiting as the only responsible way forward – totally ignoring discourses that prioritize sex work as work and the need for unionization and the adoption of labour law.⁴⁶

To this extent, attempts by the Government to increase social control manifest under the guise of “welfarism” and a pursuit for social inclusion. Using this rhetoric, policy makers in the UK have sought to pursue the ultimate radical feminist goal – that is, the eradication of the sex industry.

⁴⁵ Sanders; O’Neil; Pitcher, *Prostitution*, p. 123.

⁴⁶ Scoular, Jane; O’Neil, Maggie: *Regulating Prostitution: Social Inclusion, Responibilization and the Politics of Prostitution Reform*, in: *British Journal of Criminology*, 47:5 (2007), p. 769.

Yet while some welcome a (renewed) welfare approach to prostitution, others argue that the prohibitionist model of regulation does little to help women involved in prostitution. Although there has been no *systematic* evaluation of the impact of the UK legislation for women involved in prostitution, research does raise particular concerns regarding the utilization of Anti-Social Behavior Orders. Indeed, despite the fact that “selling sex is no longer an imprisonable offense and has not been so since 1983,”⁴⁷ breach of ASBO conditions can nonetheless result in a prison sentence. Doorninck and Campbell argue, therefore, that one of the consequences of this is a “revolving door” effect, in which fines and prison sentences place greater pressure on sex workers to engage in prostitution. Furthermore, critique endures regarding the prevention of sex workers working in indoor premises with other workers or a maid, which falls under the definition of a brothel. Indeed, the benefits of maids in the screening of clients and provision of assistance during the transaction are well documented by Sanders (2005), whom has conducted extensive research on the UK indoor sex market. Therefore, the “help” the Government provides to women involved in prostitution appears to be conditional upon their exiting, failing to recognize the agency involved in the majority of indoor sex workers’ decisions to sell sex. What is more, confusion remains amongst both the women involved in prostitution and their clients about what aspects of the sex industry are and are not illegal.⁴⁸

The Netherlands

In 1999, the Netherlands adopted a model of regulation based upon legalization, in which prostitution is legal under certain conditions specified by the local authority. At the nucleus of the law was a desire to construct prostitution as “sex work”, a notion reflective of liberal feminist aims. Furthermore, integral to the policy was to distinguish between voluntary and forced/underage engagement in prostitution, with the later remaining criminalized. As such, running a brothel is legal providing that those selling sex are above the age of 18 and engaging voluntarily, whilst buying sex from a minor or the exploitation of a sex worker

⁴⁷ Sanders; O’Neil; Pitcher, *Prostitution*, p. 118.

⁴⁸ Pitcher, Jane; Wijers, Marjan: *The Impact of Different Regulatory Models on the Labour Conditions, Safety and Welfare of Indoor-based Sex Workers*, in: *Criminology and Criminal Justice* (2014), p. 5 (published online).

results in punitive penalties.⁴⁹ It is the local authorities whom are responsible for governing brothel licensing and street sex work is typically prohibited in most localities. In addition, sex workers are given both rights *and* responsibilities:

Sex workers were to get additional rights: the right to do work of their own choosing, to social insurance and the recognition of their right to sexual self-determination. There were obligations too; they would have to pay taxes (if they were known to the revenue services, they were already taxed) and social security contributions.⁵⁰

Outshoorn suggests that proposals for the legalization of prostitution gained considerable support, largely because they were in-keeping with a broader progressive Dutch discourse around tolerance but also, because the Christian Democrats were at the time excluded from cabinet.⁵¹

In much the same way as Sweden and the UK, sex workers in the Netherlands were also not consulted prior to the introduction of the legislative changes nor informed about the consequences the law would have for their rights.⁵² Although legalization of prostitution offers the potential to provide women involved in prostitution greater protection – a core aim of liberal feminism – poor implementation of the law has resulted in significant variability in the experiences of sex workers and the rights accorded to them. As such, their working conditions continue to deviate from those expected in other professions.⁵³ This variability in conditions is exemplified in the materialisation of a two-tiered sex industry, in which (white) Dutch citizens work in the “licensed sector”, while migrant sex workers and minors are pushed into a “non-licensed sector” where they are more vulnerable to exploitation.⁵⁴ A report by the National Reporter on Human Trafficking in 2010 indicated, for example, that reported cases of trafficking increased from 284 in 2001 to 909 in 2009. That said, it remains

⁴⁹ Wijers, Marjan; Van Doorninck, Marieke: 2009, quoted in Pitcher, *Impact*, p. 4.

⁵⁰ Outshoorn, Joyce: *Policy Change in Prostitution in The Netherlands: From Legalization to Strict Control*, in: *Sexuality Research and Social Policy*, 9:3 (2012), p. 235.

⁵¹ Outshoorn, Joyce: *Pragmatism in the Polder: Changing Prostitution Policy in The Netherlands*, in: *Journal of Contemporary European Studies*, 12:2 (2004), p. 171.

⁵² Pitcher, *Impact*, p. 6.

⁵³ Wagenaar, Hendrik.; Altink, Sietske; Amesberger, Helga: *Final Report of the International Comparative Study of Prostitution Policy: Austria and the Netherlands*. Den Haag, 2013, p. 42.

⁵⁴ Outshoorn, Joyce: *Policy Change in Prostitution in The Netherlands: From Legalization to Strict Control*, in: *Sexuality Research and Social Policy*, 9:3 (2012), pp. 233-243, here p. 237.

unclear whether this represent an actual increase in trafficking or rather, whether it is the product of the broadening of the definition to include other forms of (labour) trafficking.⁵⁵ What is clear, however, is that despite the fact that the law does not technically allow for a zero-tolerance approach to prostitution, some orthodox protestant councils have nonetheless refused to license brothels in their local authority⁵⁶, potentially driving sex workers into the “non-licensed sector”. With these problems in mind, the new cabinet opened the debate for a revision to the 1999 law in 2007. As with the UK, political pressure is therefore brewing in the Netherlands to reconsider its approach to regulating prostitution, reflecting a shift away from a liberal feminist doctrine: “No doubt, pressures are constantly being brought upon the city to more conventionally conform to the ordinary – or at least “clean up” its “too liberal” image.”⁵⁷

New Zealand

In June 2003, following persistent lobbying from the New Zealand Prostitute’s Collective and others, New Zealand became the first country to implement a decriminalization model of regulating prostitution through the *Prostitution Reform Act (PRA)*. In contrast to the unified support for legislative change seen in Sweden, however, the *PRA* passed only by one vote.⁵⁸ Decriminalization, a process involving the removal of all laws criminalizing sex work, is often regarded as the preferred model by liberal feminists as a mechanism by which harm to sex workers can be minimized. Indeed, developed in consultation with sex workers, the *PRA* positions prostitution as “service work”, thereby giving those selling sex the same labour rights as those working in other sectors.⁵⁹ Its purpose is not, however, to promote sex work as an “acceptable career option” but rather, to safeguard the rights of those involved in

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Pitcher; Wijers, *The Impact*, p. 10.

⁵⁸ Ditmore, Melissa: *Encyclopaedia of Prostitution and Sex Work*, Westport, 2006, p. 52.

⁵⁹ Abel, Gillian: *A Decade of Decriminalisation: Sex Work ‘Down Under’ But Not Underground*, in: *Criminology and Criminal Justice* (2014) (published online).

prostitution and thus minimize their risk of exploitation.⁶⁰ From this perspective, the health and safety of sex workers and their clients is of utmost importance. The *PRA*, therefore, places an obligation on operators of sex premises to promote safe sex practices and to hold a valid license. Involvement of young people under the age of 18 in prostitution remains criminalized and territorial authorities can make bylaws controlling the location of brothels and their advertising.

For those that opposed the introduction of the *PRA*, there was a concern that it would lead to an increase in the number of women involved in prostitution, although analysis of baseline statistics indicates that this has not been the case.⁶¹ Furthermore, evaluations indicate that it has been successful in improving the health, safety and welfare of sex workers⁶² – that is, one of the fundamental aims of the *PRA* and liberal feminism more broadly. While critics have pointed to three cases of homicide against street sex workers as evidence that the *PRA* has failed to reduce violence against women involved in prostitution, others argue that regardless of the regulatory model adopted, street-based sex work will remain the market most susceptible to violence.⁶³ Moreover, sex workers may in fact be better equipped to avoid or respond to violence as a consequence of the greater employment and legal rights granted to them under the *PRA*.⁶⁴ Yet societal stigma remains: Abel and Fitzgerald’s research suggests that sex workers do not feel that legislative change has the ability to impact upon societal perception enough to give them equal status to those working in other industries. That said, 90% of sex workers interviewed by the Christchurch School of Medicine did suggest that their legal rights under the *PRA* were, at least to some degree, protected. While the Prostitution Law Review Committee found that there was little support available for women

⁶⁰ New Zealand Parliament. 2012. *Research Papers: Prostitution Law Reform in New Zealand*. URL: <http://www.parliament.nz/en-nz/parl-support/research-papers/00PLSocRP12051/prostitution-law-reform-in-new-zealand>, (Last access, 1 May 2014).

⁶¹ Fitzharris, Paul; Taylor, Aline: *Review of the Prostitution Reform Act*, in: Abel, Gillian; Fitzgerald, Lisa; Healy, Catherine; Taylor, Aylene (Ed.): *Taking the Crime Out of Sex Work: New Zealand Sex Worker’s Fight for Decriminalisation*, Bristol, 2010, p. 113.

⁶² Mossman, Elaine: *Brothel Operators’ and Support Agencies’ Experiences of Decriminalisation*, in: Abel, Gillian; Fitzgerald, Lisa; Healy, Catherine; Taylor, Aylene (Ed.): *Taking the Crime Out of Sex Work: New Zealand Sex Worker’s Fight for Decriminalisation*, Bristol, 2010, p. 125.

⁶³ Abel, Gillian; Fitzgerald, Lisa; Abel, Gillian; Fitzgerald, Lisa; Healy, Catherine; Taylor, Aylene (Ed.): *Taking the Crime Out of Sex Work: New Zealand Sex Worker’s Fight for Decriminalisation*, Bristol, 2010, p. 221.

⁶⁴ *Ibid.*, p. 222.

wishing to exit the sex industry, many sex workers were in fact happy in their jobs, finding it offensive that they should be persistently offered exit routes.⁶⁵ Therefore, although the stigmatization of sex workers prevails, women involved in prostitution in New Zealand do have greater citizenship rights than those in most other countries, leading Abel to posit that “they may be ‘down under’ but they are not underground.”⁶⁶

In summary, it is clear that a radical feminist ideology has had some influence upon the development and implementation of policy and practice in both Sweden and the UK, through their “neo-abolitionism” and “prohibitionist” models respectively. It is liberal feminist assumptions, however, that underpin the approach to governance witnessed in the Netherlands’ “legalized” sex industry and New Zealand’s “decriminalization” agenda.

Problematization of the Regulatory Model Classification and the Polarized Debate: The Case of Sex Trafficking in the UK

Although four different regulatory models – neo-abolitionism, prohibition, legalization and decriminalization – have each been explored here in turn, it is important to recognize that this neat classification can be problematic in reality. As Scouler posits, these classifications reflect social and political aspirations, and even diametrically opposed models of regulation can in fact generate very similar results.⁶⁷ A persistent marginalization of street sex workers, for example, is a theme common across the regulatory models outlined in this chapter. To this extent, while the radical feminist ideology may have influenced the approaches adopted by Sweden and the UK and a liberal feminist perspective informed the legalized and decriminalized models taken up in the Netherlands and New Zealand, results on the ground are not all that dissimilar. Thus, although it is undoubtedly important to recognize the influence of law upon governing prostitution, one could argue that the fact that the feminist-

⁶⁵ Prostitution Law Review Committee. 2008. *Report of the Prostitution Law Committee on the Operation of the Prostitution Reform Act 2003*. Wellington: Ministry of Justice, p.15, URL: <http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/plrc-report/documents/report.pdf>, (Last access, 1 May 2014).

⁶⁶ Abel, *A Decade of Decriminalisation*, p. 11.

⁶⁷ Scouler, Jane: *What’s Law Got To Do With It? How and Why Law Matters in the Regulation of Sex Work*, in: *Journal of Law and Society*, 37:1 (2010), p. 13.

informed regulatory models identified here are not easily distinguishable raises questions about the utility of the polarized radical-liberal divide itself. Indeed, perhaps the two positions are themselves less easily differentiated than is often portrayed in prostitution discourses.

The ubiquitous nature of the radical-liberal feminist divide in literature on and activism around prostitution appears to have historically functioned to make some commentators cautious to stray outside of the two establish feminist “camps”, a notion expressed by Chapkis:

The various ‘sides’ in this dispute have faces and names and histories that are well-known to me. I am concerned about exposing myself to the righteous wrath of one, further injuring another, or misrepresenting a third. The certainty and conviction of those who disagree with me make my own enthusiasm for partial and contradictory truths feel inadequate.⁶⁸

Although many do continue to position themselves within one of the two feminist “sides”, gradually more and more scholars are recognizing that there is no *one* truth; rather, the sex industry is more complex that one perspective alone can explain. This reflects a broader shift in post-modern thinking away from grand narratives, towards more nuanced and relative understandings. For some then, the straightforward dichotomization of feminist politics is deemed unhelpful, given that both radical and liberal feminist ideologies may be overly-simplistic in reality. Both perspectives, according to Weitzer, are “one-dimensional and essentialist.”⁶⁹ Instead, he advocates a “polymorphous paradigm” in which the complexity and variability in experiences of prostitution are recognized. Similarly, Maher has argued that while radical feminism virtually denies women’s agency by constructing them as passive victims, liberal feminism can over-endow their autonomy.⁷⁰ As such, the distinction between forced and voluntary engagement in the sex industry may be less clear-cut than the two polarized perspectives espouse. Indeed, monolithic paradigms of this nature fail to recognize variation across geographical location, time, sector of the sex industry, and according to socio-structural conditions.⁷¹ To this extent, both feminist positions are considered to be

⁶⁸ Chapkis, Wendy: *Live Sex Acts: Women Performing Erotic Labor*, New York, 1997, p. 5.

⁶⁹ Weitzer, Ronald: *Sex Work: Paradigms and Policies*, in: Weitzer, Ronald (Ed.): *Sex for Sale: Prostitution, Pornography, and the Sex Industry*, London, 2010, p. 6.

⁷⁰ Maher, Lisa: *Sexed Work: Gender, Race and Resistance in a Brooklyn Drug Market*, Oxford, 2000.

⁷¹ Weitzer, *Sex Work*.

guilty of over-simplification, ignoring the influence of socio-structural context. Indeed, O'Connell Davidson astutely points out that this dichotomy fails to incorporate into the debate those that support the construction of sex workers as legitimate workers but concomitantly, do not wish to celebrate the existence of an industry for commoditized sex.⁷²

The authors' own research on the governance of sex trafficking in the UK⁷³ also raises some question marks around the utility of the radical-liberal debate. There is indeed notable concern that the proliferating "rescue industry" is failing to acknowledge the role of agency in women's decision to migrate to sell sex and instead, positioning migrant sex workers firmly within a victimhood discourse. Simultaneously, in some cases, those working on the ground with women involved in prostitution appear to overstate women's autonomy, with some police officers habitually questioning the authenticity of trafficking claims:

Generally these are the African females who say they've been trafficked into the UK, referred by charity workers. So the charity workers persuade them to make the complaint to the police. They don't want to but the charity workers end up persuading them to. So when you're interviewing them they're either being purposefully vague on the questions that you're asking them or they're lying and they've been given a script (Police key informant, author's own research, 2013).

This simplistic understanding of constraint and choice functions in actuality to construct a two tiered-notion of victimhood, in which those who have exhibited absolutely no choice in their decision to sell sex are deemed worthy of support, whilst those who have displayed some agency are considered complicit in their victimization and thus unworthy of protection. Reinforced by the radical-liberal divide, this "constraint-choice" dichotomy acts as little more than a barrier to effective service provision:

I actually wonder whether the whole polarization is in fact a complete red herring and actually you just end up with mud-slinging on either side of the fence (...) So much mud-slinging has gone on that people realize there is no longer a place for that type of communication (NGO key informant, author's own research, 2013).

⁷² O'Connell Davidson, Julia: *The Rights and Wrongs of Prostitution*, in: *Hypatia*, 17:2 (2002), pp. 84-98.

⁷³ The author's PhD research draws upon semi-structured interview data with NGO and police key informants to explore how the sex trafficking of women into the UK is countered and responded to. In particular, it focuses upon the extent to which different organizations coordinate their independent interest, priorities and politics through the development and implementation of anti-trafficking policy and practice.

Thus for many voluntary sector organizations and police working on the ground with women whom are involved in prostitution, either voluntarily or coerced in to the sex industry, the reality of lived experiences requires a more nuanced perspective than is granted by the radical-liberal divide. Indeed for some, the radical and liberal positions reflect the very extremes of women's experiences of prostitution and as such, "the norm" requires more of a "middle ground" perspective:

We talk about the spectrum where you've got your Belle de Jour type, completely free at one end and a person chained up in a room at the other end. But actually, the majority of people live within the spectrum. (NGO key informant, author's own research, 2013).

The very fact that decisions to sell sex are simultaneously *constrained* – often by drug addition, mental health problems, and social isolation – and *rationally selected* based upon experience of working in less rewarding, and at times more exploitative, non-sexual jobs exemplifies the blurred boundaries between constraint and choice. Similarly, the distinction between a trafficking victim and a voluntary migrant sex worker, though often presented in the literature as clear-cut, is considered to be particularly difficult to make in practice. Many women involved in prostitution fit the UN definition of sex trafficking, yet do not consider themselves to be a victim. Although exploited in some capacity through poor wages, inadequate working conditions and lack of UK citizenship status, the alternative – poverty, persecution, conflict etc. – may in fact be far worse. Further exploration of the utility of a "middle ground" perspective is, however, undoubtedly required to fully challenge the hegemonic radical-liberal divide in prostitution discourses.⁷⁴

Conclusion

Although scholars are increasingly problematizing the ubiquitous radical-liberal divide and instead favoring a more nuanced perspective that accounts for variability in the lived experiences of prostitution, its influence on international models of regulatory is nonetheless noteworthy. It has been demonstrated in this chapter, for example, that the core tenets of a

⁷⁴ For further examination of the blurred lines between the different sex markets, and agency and constraint see the special edition on sex work in the *Graduate Journal of Social Sciences* (forthcoming, 2015) edited by Laura Connelly, Gemma Ahearne and Laura Jarvis-King.

radical feminist ideology underpin both a “neo-abolitionism” and “prohibitionist” approach to regulating prostitution, whereas “legalized” and “decriminalized” models of governance reflect more the aims of liberal feminism. Indeed, through policies which simultaneously criminalize the client and “rescue” the women involved in prostitution, both Sweden and the UK reflect the radical feminist assumption that prostitution is the epitome of male domination and female subjugation. Conversely, the desire to construct prostitution as sex work, as evidenced in the Netherlands and New Zealand, reflects the liberal feminist belief that this form of labour can be both a credible and viable option. Whilst in reality the four regulatory approaches examined here are not easily distinguishable and their effects actually not too dissimilar, it is clear that one model in particular is growing in popularity. Much to the dismay of liberal feminists, sex workers’ rights advocates and supporters of a harm reduction approach, the “Swedish model” appears to have been marketed successfully by its radical feminist promoters. As such, governments across the globe – including most recently Canada, France, the UK and Germany – are under increasing pressure to reconsider their policy and practice by exploring the potential of “neo-abolitionism”. Arguably, therefore, rather than acknowledging the growing body of research (including the author’s own), which highlights the “blurred line” between choice and constraint, many states continue to base prostitution policies on an unhelpful dichotomy. This will ultimately function to allow radical feminist understandings of prostitution to continue their dominance on a global level.

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