
Sex work: a survey of social, philosophical and human rights issues

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Abstract: This paper looks at the social, philosophical and human rights issues around sex work, concluding that the so-called 'New Zealand model' of decriminalisation and labour protection is more compatible with the fundamental human rights of sex workers and the 'right of protection', which is one of green economics' key concerns, than the alternative models provided by Sweden or the USA.

Keywords: prostitution; sex work; human rights; decriminalisation.

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1 Introduction

1.1 Why?

You might be surprised to find yourself opening an economics journal reading a paper on sex work – at least a paper that is not narrowly focused on the 'economics' of prostitution – supply, demand, prices, *etc.* (such research has been conducted).¹ Yet sex work is undeniably an aspect of the economy, as defined both traditionally and in green economics. Traditional models of development have encouraged the consumerisation and commodification of services of all kinds, including sexual services. The website of the Green Economics Institute says that among its aims are to focus on globalisation, quality of life and culture of consumerism. Prostitution is part of all those three elements: women (and men) moving countries and continents for sex work, and entering the industry in larger numbers, has been a significant part of the globalisation process, measured economically or socially, and the quality of life of those workers is an issue with which green economics should certainly be concerned. Whether or not you believe that this work should be accepted or prohibited – issues that the 'philosophy' part of this paper will address – it certainly exists now, and is an issue that 'green economics' needs to address.

Furthermore, it is now a political issue attracting considerable attention. Debate about sex work is intricately interlaced with debates about one of the ‘hot’ political issues of the day – trafficking, a working often used as synonymous with ‘sex slavery’, although the majority of individuals who might be labelled as ‘trafficked’² are of course employed in other industries. It has previously also been at the centre of debates about the transmission of HIV/AIDS, and about child prostitution, both continuing issues. (For the avoidance of doubt I will note here that wherever this paper is referring to sex workers, it means adults. The still imperfectly practiced government approach of regarding under-18s in sex work as an issue to be dealt with as a child protection matter is supported by this author, and has not to her knowledge been seriously questioned by any side in this debate.)

Further driving the specific issue of sex work, across Europe at least, are proselytising proponents of what is known as the ‘Swedish model’ of prostitution: criminalisation of the clients of prostitutions (normally implicitly formulated as the male clients of female prostitutes). So the government states:

“In Sweden prostitution is regarded as an aspect of male violence against women and children. It is officially acknowledged as a form of exploitation of women and children and constitutes a significant social problem... gender equality will remain unattainable so long as men buy, sell, and exploit women and children by prostituting them.” (De Santis, 2005)

This is an approach that ignores the existence of adult male sex-workers.

There is also, with less publicity and less well-funded support, an alternative model, the total decriminalisation model that has been in legislation in New Zealand since 2003, with the focus being on ensuring the safety and rights of workers in the industry. Four sex workers are allowed to operate from premises without any form of licensing, although local councils can ban brothels from certain areas. Any place that is used for sex work must display health promotion messages, and make condoms available, and there are strong measures within the law to indicate that no worker can be asked to do anything against their will. The effects of this legislation have now been reviewed, in work with impeccable academic credentials, and found to be generally positive in that workers reported that they knew about their rights, felt more able to say ‘no’ to acts they did not want to perform, and that there had been some improvement in protection from violence.³

The British government has concluded on several occasions that the current British legal situation – in which prostitution is legal, but most of the actions commonly needed to be a sex worker (such as soliciting, loitering and brothel-keeping) are not – is unsatisfactory, and a complete overhaul of the law has been mooted, since the preparation in 2004 of the government Green Paper, ‘Paying the Price’), but has not been instituted (Brooks-Gordon, 2006, p.45).

2 Definitions

Readers may have noted my general use of the term sex work, rather than the better-known prostitution. There are two main reasons for this: one practical – prostitute is normally taken to mean a worker who offers particular services, but often not to include sex work such as provision of phone sex, stripping, various performances, and others that might reasonably be grouped and linked to prostitution. Additionally, it is a gender-neutral term, where ‘prostitute’ is often implicitly or explicitly gendered female.

Secondly, prostitute or various synonyms such as whore have frequently been used as terms of abuse, and the term itself carries to many people a stigma. (I should note, however, that the English Collective of Prostitutes, among others, has sought to recover this term for the traditional stigma, and many of its members identify themselves as 'prostitute women'.) Further, someone a person who does sex work can also, outside their working life, clearly have other identities, other activities. An anthropologist working in London reported:

"Time and again in the clinic, women described their work, made comparisons between different kinds of work and explained carefully and patiently that work had nothing to do with sexuality of anything that lay beyond the workplace."
(Day, 2007, p.35)

By contrast the label prostitute is all embracing, covering the person for every aspect of their lives, possibly forever (as in the legal classification of 'common prostitute').

There are three primary legal models for dealing with sex work: legalisation, criminalisation (of either workers, clients, or both), or decriminalisation. These three models will produce distinctly different types of industry.

Legalisation tends to involve very tight controls over workers, and significant restrictions on their human rights. For example in Nevada, unlike 46 other states in the USA where prostitution is illegal, counties with populations under 250 000 can choose to permit brothels to operate there. Typically:

"prostitutes are photographed, issued with a work permit, fingerprinted, and forced to submit to a medical check-up before beginning work. In addition, they are prohibited from entering bars and gaming houses, from renting rooms in the town center, and they may even be prohibited from living in the same areas where their families reside. The hours when they are permitted outside the prostitution houses may be regulated, as might their dress and hygiene."
(Freeman, 1997, p.78)

Criminalisation, in any of its forms, naturally drives the industry underground. If the law is enforced, it prevents workers from operating from regular 'beats' in which they can set up safety routines, makes indoor work for individuals or small groups problematic, and tends to force workers into larger organised units that develop sophisticated and expensive strategies to evade the law (often by corrupting law enforcement).

Decriminalisation, as has now been in force in New Zealand for five years, tends to produce a decentralised industry in which many women work individually or in small groups. As it operates in New Zealand, the decriminalisation is accompanied by considerable regulation of brothels, focused on the health and safety of the workers. (These include provision of condoms, display of notices saying that workers cannot be coerced into any act against their will, *etc.*)

3 Economic

To attempt to classify the 'economic' nature of sex work, many labels might be applied. One hundred and twenty sex workers from 26 European states in October 2005 endorsed a Sex Workers in Europe Manifesto that declared sex work is "a service in the market

economy” (Agustin, 2007, p.72). Since the service sector of the economy has grown enormously in recent decades, it is perhaps not surprising that the sex industry – at least in visible forms – has clearly also grown enormously.

But it is work that occurs in economies of different types all around the world. A study that attempted to quantify the number of female sex workers (Vandepitte *et al.*, 2006, p.19) in various regions of the world found up to 4% of women in urban areas in sub-Saharan Africa had been involved in sex work. In Latin America the figure ranged up to 7%, in Asia to 2.4%, and in Europe to 1.4%. These numbers can only be approximate, and turning them into total figures has little meaning, but it is clear that this is an economic activity in which huge numbers of women around the world have been involved.

To consider the British context, a study in 2001 concluded that the value then of the UK sex industry was £770bn (Coyle, 2001). What percentage of this goes to the workers, as opposed to their associated service sectors is unclear, but it is certain that the balance is considerably swung against the former by the illegality of the work. Overheads including advertising, rents, phone bills, and wages for staff were vastly inflated to cover the illegality or ‘grey’ nature of the activities. And there is the cost of fines (Day, 2007, p.127). Additionally, workers who are making and seeking to save money find it difficult to find and keep reliable accountants, lawyers, *etc.* (Day, 2007, p.174).

Despite this, however, when Day followed workers in the London industry for 14 years, she found that while a few were still in poverty and struggling to make ends meet, most had made considerable economic advances. Twenty-four out of 50 owned their own homes; more than a third had degree level or vocational training. The following comment was left on a sex worker website in 2000: “It is a terrible moment when financial hardship forces women into a demeaning situation. The Sex Industry has spared many women from that fate” (Day, 2007, p.9).

4 Philosophical

One philosophical approach to the sale of sexual services has already been alluded to – that behind the ‘Swedish model’ of regulation. It views any sale of sexual services as rape, and a reflection and reinforcement of patriarchy. The distinguished philosopher Nussbaum (1999, p.295) responds to this that the single institution that most reinforces patriarchy is marriage, with its propensity to encourage domestic violence and marital rape, to damage women’s economic and employment prospects and affect their rights to their children. But she rules out banning marriage as an excessive intrusion on liberty. This philosophical approach assumes that any worker who denies what it sees as the true nature of the commercial sex transaction, who claims to have made a free choice, is in fact a passive victim, prey to false consciousness. As Agustin (2007) explains, in discussing the conflict between the arguments between pro and de-criminalisation advocates:

“The conflicts... hinge crucially on whether poor people, migrants, women, can be said to have any control over their lives, given the unjust structures of the patriarchy, globalisation and capitalism that they live in. Speakers ... who advocate labour and human rights believe that even the least advantaged individuals have some power over their destiny ... This vision sees individuals as creative.” (p.183)

The alternative view is that there is nothing inherently different about sex work from any other sort of labour. Nussbaum (1999) writes:

“All of us, with the exception of the independently wealthy and the unemployed, take money for the use of our body. Professors, factory workers, lawyers, singers, prostitutes, doctors, legislators – we all do things with parts of our bodies for which we receive a wage in return... some are socially stigmatized and some are not.” (p.276)

And that stigma is of course very much a product of any particular social environment. She quotes the example of the economist Adam Smith, who recorded that the opera singers, actors and dancers of his day had to be highly paid to compensate for the stigma of performing on stage. Yet, as Nussbaum notes, today being an opera singer is a highly honoured occupation.

5 Human rights

The most basic human right is that to life; then are the rights to avoidance of injury or unnecessary suffering. Yet it is clear that the current British regime, and that in much of the rest of Europe and the world, is ineffective in delivering these rights. The British Medical Journal reports that mortality rates for sex workers are six times those seen in the general population (their rate of being victims of murder is 18 times higher), the highest for any group of women. On average about six sex workers are murdered in the UK each year (Anon, 2007, p.52).

There are a number of practical actions that can increase safety for workers. One of the simplest and easiest is working indoors in some form of controlled environment – where the risk of serious assault and murder is only half or less likely (Kinnell, 1993; Church *et al.*, 2001).

Yet anyone who supplies her with this safety net is now at risk of being criminalised, and jailed for a considerable term, as a pimp, a brothelkeeper, if she should be a foreign worker they face trafficking charges, or possibly a charge of ‘living off immoral earnings’. (As does any spouse of a sex worker who lives with them.)

There are also, for street workers, many potential safety steps that make what appears to be a highly dangerous action – that of getting into a car driven by a strange man with sex on his mind – safer. In environments where workers do not fear arrest, experienced individuals speak about ‘sussing out’ a client, speaking to them, negotiating with them, making a judgement about their state of mind (Brooks-Gordon, 2006, p.32). And this period of time allows precautions such as other workers noting the car’s registration number. Yet workers in Sweden now speak of how they have to get quickly into cars, and then try to judge the client’s state of mind, while also negotiating service and price from a more vulnerable position.

Yet a further question beyond gross injury is a human right to work that does not cause damage of a more subtle sort. The position of some radical feminists is that sex work by its very nature causes serious psychological harm. There have been, however, few serious attempts to study the effects of sex work on women and/or men. Many studies that have appeared are clearly seriously flawed, most basically in the selection of study subjects. They have found their subjects among the most visible sex workers – those on the street, who are also the most disadvantaged and vulnerable.

Others have found subjects in prisons, or in drug treatment programmes, without making attempts to assess how representative these sources might be of the general sex working population (Vanwesenbeeck, 1994, p.160).

Very few studies have then carried out the obvious step of comparing the sex workers they have studied against a matched group of non-sex workers. As a model, we might consider a study in Canada in 1987 that compared 45 sex workers and 45 controls for an overall scale of mental health. It found that severity of sexual abuse before the age of 16 was a more important predictor of poor health than was being involved in sex work (quoted in Vanwesenbeeck, 2005). One of the few detailed studies of well-being, of female sex workers in Holland, with a wider policy context of stronger women's rights legislation overall, found that over a quarter were, when judged by self-reported incidents of somatic and psychosocial problems, doing better than the average non-prostitute. At the other end of the scale, about a quarter experienced suffering even greater than an average control group of heavily traumatised non-sex workers. The middle group fared only slightly less well than their non-sex-worker compatriots (Vanwesenbeeck, 1994, p.147).

Then there are questions about more subtle harms still. Does having to 'fake it', in the form not just of sexual enjoyment, but in showing care, attention and concern, damage sex workers psyches? Agustin (2007) has some provocative thoughts on this, comparing aspects of sex work to another job that is also one taken by many immigrant workers into wealthy countries, and poor women in their home countries: "babysitters and carers of grannies may also pretend to care, by smiling on demand, listening to boring stories, or doling out caresses without feeling any affection" (p.62).

Another human rights question is whether sex workers are 'forced' into the trade, or make a free choice about it. Studies (in developed Western countries) that look across a range of sex workers, rather than focusing on those on the streets, tend to find that a majority of their respondents have made a choice to enter this employment rather than others that may have more rigid working conditions or lower pay levels (Vanwesenbeeck, 1994, p.149). This is a free choice as most people understand it. There are smaller groups that might be seen to have less of a choice: a sub-group of girls who enter young, most usually as runaways from home, somewhat less commonly with a history of childhood sexual abuse. There is also a group that clearly enter the sex industry to support a drug habit (Vanwesenbeeck, 1994, p.148).

When, however, a cross-section of sex workers is surveyed, there is clear evidence of calculated choice. Economics is a large factor, but the workers are not forced to choose between the industry and total deprivation. Many workers say that they want more than basic benefits, or a minimum wage job, and so choose to enter the industry. A speaker at a Green conference (paper supplied by speaker, Liverpool, Green Party Conference Autumn, 2007), a former prostitute woman, explained:

"I was born into a white middle class family. I had a good education ... I had been a teacher...I was completing a degree course and bringing up two small children, when my husband was made redundant and our finances ran out. We found ourselves in a financial crisis, so to make ends meet, I started working for an escort agency." (Text provided by the speaker)

This and many other anecdotal accounts square with the conclusion of Vanwesenbeeck (1994, p.28): "The majority of prostitutes choose prostitution as the occupational alternative that affords them the highest attainable standard of living."

And while the general model is that prostitutes are simply, definitively that, labelled by their occupation both within and outside their working time, Day (2007) provides a sample of 51 London women who had worked in the industry over a long period:

“Sixteen combined sex work with other jobs, a further five with education as well; five with education alone, and 25 worked only in the sex industry. Sex work subsidised further training or business ventures, and supported more interesting activities such as freelance writing, photography, jewellery making, music, tarot card reading, aromatherapy and volunteering in non-government organisations.” (p.64)

6 Conclusion

Freeman (1997), who clearly situates herself on the philosophically anti-sex work position, comes, however, to the following conclusion “if radical feminists seek to eliminate prostitution, they should align themselves with liberal prostitutes’ rights groups and support decriminalization, while simultaneously undermining gender hierarchies by every means at their disposal” (p.109). Support for decriminalisation has in recent years also come from many groups with professional knowledge and access to data, among them the Royal College of Nurses, the National Association of Probation Officers, the British Medical Journal (which editorialised in 2007 “criminalisation of prostitution limits access to health and social care and contravenes United Nations’ guidelines on human rights”). They have read the reports from Sweden, official reports, indicating that there is no decrease in street solicitation there, an increase in internet advertising, and accounts from social workers about how it is harder to reach clients, plus police reports that it is more difficult to prospect pimps and traffickers, since clients who might previously have given witness now decline to do so (Brooks-Gordon, 2006, p.54).

Ultimately, more will have to be done – not by governments, but by us. I will conclude with a quote from researchers who made a serious study of the effect of being sex workers on the individual workers. They said:

“Legal rights for sex workers as a professional group are a precondition for adequate government intervention, but ... the struggle against social stigma of sex workers and the reduction or prevention of negative social reactions toward them should be an additional aim of any policy working toward improvement of sex workers’ social status and well-being.” (Vanwesenbeck, 2005)

When the legal rights appear under threat in the UK from the political climate, it might be hard to think about addressing social stigma, but, independent of government and its current puritan-driven turn, there is increasing sympathy for, and even understanding of sex workers – if from a stance that still generally has yet to accept that they might be free agents rather than victims. Infamously, during the rampage of the murderer known as the Yorkshire Ripper, West Yorkshire’s Acting Assistant Chief Constable, Jim Hobson: “He has made it clear that he hates prostitutes. Many people do ... But the Ripper is now killing innocent girls” (Self, 2003, p.291). Yet many have noted that during a similar, if more concentrated killing spree in the English town of Ipswich in 2006, public and official attitudes towards the victims were considerably more sympathetic.

The UK has made advances towards an approach to sex work that a green economics could be comfortable with, but it is now approaching a potential key choice, and the wrong choice, for the dangerous Swedish model, could be made. It is essential that

the decision is made on factual, solid grounds, not in response to hysteria and the half-disguised exercising of religious-based moral views now rejected by the majority of this democratic society.

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Notes

- 1 For example, Moffatt (2005).
- 2 The problems around the definition of 'trafficking' are too big to be fully explored here. Agustin provides a nuanced account that acknowledges that while conditions akin to slavery do occur, most 'trafficked' individuals have made choices, taken risks, have understood the circumstances into which they are placing themselves in broad terms. (Which is not of course to defend those who mistreat them, rather to acknowledge their agency.)
- 3 Ministry of Justice, New Zealand, Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003, May 2008, <http://www.justice.govt.nz/prostitution-law-review-committee/publications/plrc-report/index.html>.