

SEX WORK AND REGULATION: HOLDING ON TO AN IMAGE—A SOCIOLOGICAL REFLECTION

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THIS PAPER DOES NOT ATTEMPT TO INDICATE PREFERRED OR MORALLY CORRECT forms of regulation. As a sociologist, it is hard to be prescriptive. What is intended by this paper is to define the meaning and outcome of social control policies and the assumptions behind them. The constant emphasis on sex work as problematic, and existing apart from the society which defines it as such, serves to hide the meaning which sex work has always had for this society. Moral judgments are implicit in all discussions of prostitution which do not exist for other forms of work (even other forms of deviant work). There are very few conferences based around 'theft and social policy' or 'the production of toxic chemicals and social policy'. Sex work—and specifically female prostitution—holds us in thrall as do few other things. It is constructed as a problem, and new examples of old problems are demanding our attention again.

This problem can be defined as follows. With the coming of AIDS, the identification of 'high-risk' groups and strategies for the prevention of the spread of the infection has again spotlighted those involved in the sex industry. Specifically, prostitutes (who are overwhelmingly female) are being targeted because of their sexual activities. The three groups being stigmatised currently are homosexuals, injecting drug-users and prostitutes. The popular imagination assumes them to be interrelated and equally to 'blame' for the spread of the disease. This vision is important to understand if we are to legislate practically, rather than fearfully.

In view of the fact that historically, prostitutes have been seen as the spreaders of sexually transmitted diseases (STDs), those in power have rarely analysed the veracity of these claims or their justice. Calls for regulation on the grounds of public health are being heard, and assumptions about the nature and meaning of prostitution are being made. The legal structure is predominantly male in membership and outlook which is reflected in the laws on prostitution.

Laws which determine the circumstances in which prostitutes (mainly women) provide sexual services to clients (mainly men) reflect the overwhelming

dominance of a masculine ideology of women's sexuality, in which the exciting but wicked stereotype of the whore is counterposed to that of the wife and mother (Neave 1988, p. 203).

Prostitutes are expected to be female and the laws are so framed. This is also reflected in the study of sex work which has concentrated on female workers. There is much to be done to understand the nature of male sex work.

Marcia Neave (1988) states that, rather than affecting the extent or even existence of prostitution, the law shapes the form in which it is pursued. However, in an increasingly bureaucratic society, the state may use means other than the legal system to control and regulate the activities of individuals and groups. It is not unreasonable to assume that the medical system is implicated in this control. The call for compulsory testing of deviant groups for HIV status against evidence of its impracticality and even uselessness is an example of the health and legal systems being intertwined parts of the social control apparatus. Sociologists such as Max Weber clearly saw the expansion of rationalist bureaucracies as part of the state's arsenal of control, and Foucault (1981) cogently analysed the prevailing debate around the control of sexuality in the 19th century, which included the newly emerging medical and welfare professionals. For a clearer understanding of the debate, some historical analysis seems to be in order.

To paraphrase Simone De Beauvoir (1972), prostitution has followed humanity from antiquity to the present day: so have many other phenomena which have not created such emotional and even vitriolic responses. To understand why this is so, it is worthwhile studying the 'image' of the prostitute in our society so that we can go some way to explaining the paradox, which is evidently her lot in this life, and the inappropriate legal responses to the issue which are based on inaccurate imagery.

Feminist (and even many non-feminist) writers about prostitution have linked prostitution to the situation of women in a given society—specifically to marriage and 'woman's place'. De Beauvoir (1972) suggests that, while the situation between the wife and the prostitute is comparable, the difference is profound. The difference lies in the fact that although both barter sexual favours for their existence, the wife is respected as a human being despite being oppressed, while the prostitute sums up all the forms of female slavery without the ability to 'check the opposition'.

The prostitute is a scapegoat; man vents his turpitude upon her and he rejects her. Whether she is put legally under police supervision or works illegally in secret, she is in any case treated as a pariah (De Beauvoir 1972, p. 569).

While there is no evidence that prostitution has existed in every historical period across all cultures, the history of western culture gives prostitution a long lineage. However, even in western cultures, the meaning of prostitution has changed over time.

In ancient Greece, prostitution took many forms. There existed *dicteriads* who were similar to prostitutes as we know them; *auletrids* who were dancers and flute players; and the *hetairae*, the most literate and cultured women of ancient Greece who were free to dispose of their own wealth and were the lovers of influential men. Considering that 'respectable' wives were in virtual bondage to their husbands, prostitution in its various forms was not necessarily the worst of all possible fates (De Beauvoir 1972). Some writers on the history of prostitution have found it almost impossible to separate the commercial proposition (which is prostitution) from non-monogamous sex practised by women. Western society has had a tradition of sex for money stretching from ancient times to the present day. However, some societies, such as native American societies, had various traditions which were interpreted as prostitution by European writers only because the 'loose' woman and

the prostitute were one and the same thing in their world views (cf. Henriques 1963). The view of European men towards Koori women was very similar.

Foucault (1981) disputes the accepted notion that Victorian society repressed sexuality by dismissing its existence. Rather, the control over sexuality took the form of a 'discourse', or language of naming the evil. For him, power lies in the ability to control the 'discourse' and therefore the language. Each intimate aspect of sexuality was dissected and discussed by the new power brokers in bourgeois society. These new power brokers were the rising medical specialists who defined 'normal' sexual behaviour in the language of science. Psychiatry, sexology and criminal justice were the sites of power, and political power lay in the ability of the middle-classes to align themselves with these new sites. The trick in delineating sexuality was to define its 'normal' and 'abnormal' limits to the utmost. Everyone was to know these limits. Victorian society was not a silent society; like the medieval confessors, it wanted to know the intimate detail of all its citizens.

The 19th century Victorian prostitute became the centre of one of these new sites of power. She became synonymous with filth and degradation at a time when the cities appeared to be deluged with the results of the industrial revolution. She became the symbol of both class and gender politics. The unwashed poor were flocking to cities that were falling apart with disease, while the middle-class was desperately trying to lock its women into the home to keep them safe with the children.

The prostitute was defined primarily in terms of her difference from the feminine ideal, and, as a system, prostitution was seen as a negation of the respectable system of marriage and procreation (Nead 1988, p. 99).

The image of the 'fallen woman' was necessary at this time, according to Nead, to assist in establishing the moral authority of the newly emerging medical profession which began to dominate the debate. She (the prostitute) then became a fallen woman—pathetic and out of control.

The prevailing view of the world was of the need for strong control to stop it falling into social chaos. This chaos was the result of industrialisation and rapid urbanisation which brought with it disease. The language of the rising health professions took over as the new morality; filth and infection were the new evils to be combated. Public health debates were concerned with the fear of miasma—a silent and festering emanation which crossed all boundaries of class and could infect even respectable society. The prostitute may have spread venereal disease through contagion but her moral evil lay in the way she threatened respectability with 'miasma'. She then needed to be contained and regulated.

Images of prostitution were everywhere in Victorian England. The linking of prostitution with decay and disease was part of a very public debate.

Public health became an issue chained to political upheaval. Disease and political sedition were not regarded as discrete problems; both were seen as the inevitable outcome of dirty and unhygienic living and working conditions (Nead 1988, p. 118).

The prostitute was prominent in this philosophy. Graphic images of fallen and destitute women were part of the popular literature and the new professionals wrote many scholarly articles on the topic. Nead writes of the linking of prostitution, sewerage and garbage in the popular imagination.

The language of the 1859 publications on prostitution was vivid and obsessive and the same images of disease were invoked again and again (Nead 1988, p. 121).

The current obsession with sex workers and their involvement with the transmission of the HIV virus is relevant in this context. Again, disease is the excuse for a moral war against workers in the sex industry and, again, it is a disease which has no immediate cure and can be blamed on marginal groups. Only this time the imagery takes a multimedia form.

In the USA where the Social Hygiene Association was much more powerful with its eugenic policies in a multi-racial state, the suppression of prostitution took on a different form. The Social Hygiene Association worked with the US military to promote celibacy outside of marriage and so tried to rid military bases of prostitution, rather than institutionalise military prostitution, which was the method preferred by the European and British authorities. The US military was given the ability to arrest, detain and incarcerate women suspected of prostitution around training camps. By 1919, 30,000 women had been incarcerated in thirty states (Daly 1988, p. 196). However, the spread of STDs was not contained by this action.

In Australian history the occupation of prostitute was one of the very few means of economic support for women from the beginnings of white settlement. Not even marriage was seen as a viable option for many women because of the itinerant nature of the male population (Allen 1984). Notwithstanding the obviously practical nature of prostitution for women at the time, the prevailing view of the prostitute was the classic Victorian image: she was the fallen woman and a danger to others. State control did not come into the picture until the middle of the 19th century when a growing middle-class demanded the cleaning up of areas which prostitutes traversed. Police became actively involved in restricting the trade to certain areas of a city. As in the UK and the USA, state intervention was used to control all women and the growing urban working class. Fear of infection, both in a public health and moral sense, fuelled the intervention. This fear exists to the present day. Marcia Neave comments that there was a number of submissions to the Inquiry into Prostitution in Victoria in which it was claimed that without legal sanction, respectable women would be drawn into prostitution (Neave 1988). As in the 19th century, this moral fear cannot be easily separated from the fear of disease which sex workers are supposed to spread.

The term 'prostitute' is an historical construction which works to define and categorise a particular group of women in terms of sex and class:

The prostitute was understood in terms of respectable femininity: if the feminine ideal stood for normal, acceptable sexuality, then the prostitute represented deviant, dangerous and illicit sex (Nead 1988, pp. 94-5).

No discussion which has prostitution as its central theme can avoid this definition of female sexuality by male demands. As Neave (1988) notes, the person who accepts the inevitability of prostitution assumes an immutable male sexuality and female subordination to it. The current discourse of HIV infection and the promiscuous prostitute who helps spread it is no different. There is little recourse to known facts in the debate, but rather assumptions about the links between prostitution and disease. These are historically embedded in our consciousness and can claim direct descent from the initial Contagious Diseases Acts of the mid-19th century, through the World War I venereal disease epidemics, and the explosion of penicillin-resistant strains of gonorrhoea after the Vietnam War. (Filipino women are currently the scapegoats for the source of penicillin-resistant strains of gonorrhoea when the original and continuing source is US servicemen [Tan et al. 1989]).

The fear of the explosion of the AIDS crisis into the western heterosexual population centres again on the promiscuous, deviant woman. The principle carriers (male) define the problem as needing a solution among prostitutes (female) rather than their clients (male). Women, once again, must be regulated, albeit by health rather than criminal legislation, to save the population.

Epidemics of particularly dreaded illnesses always provoke an outcry against leniency or tolerance—now identified as laxity, weakness, disorder, corruption and unhealthiness. Demands are made to subject people to 'tests', to isolate the ill and those suspected of being ill or of transmitting illness, and to erect barriers against the real or imaginary contamination of foreigners (Sontag 1989, p. 80).

In Australia there has been no serious attempt—outside of the groups directly involved with prostitution—to alter the way society deals with the problems associated with sex work. There has still been no serious effort by Australian authorities to use the Swedish model, which relies on giving women in the sex industry real, practical options for other types of employment. The fear of infection in a physical and moral sense still pervades this society. There has been a shift, however, from the criminal justice system to that of health and welfare. The debate is seen as more benign by some authorities, but as the situation in Victoria has demonstrated, town planning controls can be just as negative in stigmatising sex workers as the police ever were. In suggesting any form of mandatory testing for HIV status of sex workers, the health authorities can also be substituted for the police as well. Gagnon puts this well when he writes:

Immediately after the onset of the epidemic (in the USA) there was a hue and cry about the dangers of transmission of HIV from women who gave sex for pay, and in a number of jurisdictions there were implementations of the police power to test for HIV seropositivity or to otherwise constrain sex for pay, constraints imposed entirely on women. The initiatives were taken without any evidence at all to support them and in some cases the AIDS epidemic appeared to be used as an opportunity to impose moral values under the guise of disease control (Gagnon 1989, p. 61).

Without understanding prostitution in a social context and giving it a sociological definition, the moral and practical elements will never be adequately separated.

The sociological study of sex work has traditionally been locked into that section of the discipline called 'deviance' which deals with outsider groups and their place in society. A certain logic tells us that this is a legitimate place for the sex worker because she is a 'deviant'—a member of a group spurned by mainstream society and made to feel dirty and immoral. On the other hand, the study of deviance in the sociological literature has succeeded in cordoning off the prostitute; making the prostitute an exotic and 'different' type of woman who can be identified easily and quarantined. As the case of the resistance to the Contagious Diseases Acts proved, there is no way of distinguishing the professional from the amateur, the prostitute from the non-prostitute. Herein lies the difficulty, too, with the intention of enforcing compulsory health checks on female sex workers—how does a society tell a working woman from others without locking her up or indelibly painting the colour red on her face?

It is by the process of 'stigmatisation' or the naming and identifying of 'outsider' groups that society tries to separate and distinguish them from the 'normals'. Social control and the maintenance of social order are inherent in any discussion of changes to the structure of sex work.

Social control includes all social measures which involve the management, containment, punishment, repression, direction or redirection of individuals and groups who are perceived to constitute a threat or problem for society (Edwards 1988, p. 65).

Social control here means not just the traditional law enforcement agencies but also the medical, health and public welfare agencies. All these structures have the ability to enforce negative labels and stigmatise individuals and groups according to some predetermined

moral position. Deviance is not an inherent or intrinsic property of a person, but it is the way in which an act is viewed by particular groups in society who have the power to make their moral world view predominate.

. . . deviance is created by society. I do not mean this in the way that is ordinarily understood, in which the causes of deviance are located in the situation of the deviant or in 'social factors' which prompt his action. I mean, rather, that groups create deviance by making the rules whose infraction constitutes deviance and by applying those rules to particular persons and labelling them as outsiders. From this point of view, deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an 'offender'. The deviant is one to whom the label has successfully been applied; deviant behaviour is behaviour so labelled (Becker 1963, p. 9).

As Carol Smart (1976) has remarked, prostitution has traditionally been viewed as a female vocation and the laws surrounding it have reflected this. In the USA, the group which has traditionally been arrested on solicitation grounds is women, but when this was seen as discriminatory in terms of constitutional rights, male rates for solicitation rose dramatically (Symanski 1981). However, this is only a hiccup in the apparatus.

The current attack on sex workers and their relationship to HIV infection is gender-biased. There is a problem with definition because it is assumed that prostitutes are female. This means that society generally takes little note of male prostitutes, and their relationship to the spread of HIV is not well understood. The figures on seropositivity among sex workers bear this out. They refer to women, rather than men. The labelling and stigmatising of sex workers is structured on sexist lines, and power relations between women and the legal and medical systems control the stigmatisation process. Below are some examples of studies in the area of sex work and how they manage 'spoilt identities'. ('Spoilt identities' are the identities which deviants take on after they have been so labelled. cf. Goffman 1963).

A study of massage parlours in a west-coast city in the USA describes the process of stigma and how it effectively locks women into prostitution. Velarde (1975) charted the voyage of some women from masseuse to hand-whores to prostitutes. In this particular city, as in many others, massage parlours became big business in the 1970s. Many young women accepted employment through advertisements which did not suggest any sexual services but rather training in the massage trade with large financial rewards. Once they were accepted into the job, it was made clear that part of the service offered was masturbation, by the woman, of the client. This was known as a 'hand job'. While this was distasteful to many, the financial rewards were good at a time of high unemployment.

The early applicants for jobs felt their job was as a 'physical therapist' rather than sex worker, but this rapidly changed when the newspapers caught on to the business and a series of articles appeared headlining the supposed activities in the parlours. Because of this attention, the local council passed ordinances demanding licensing of the workers. The labelling process became a permanent feature.

The licensing process included: police 'mug shots', fingerprints, an interview with the vice squad chief, a medical examination limited in scope to detection of venereal disease (blood test and smear). This licensing was put into effect for all masseuses. When a masseuse applies for licensing, she is generally treated by those officials as a prostitute (Velarde 1975, p. 257).

The effect of this process was to stigmatise the masseuses while at the same time alerting many new customers to the parlours. These men expected much more than the 'hand jobs' and many of the original women felt they had no more to lose by providing greater

services. Prostitutes from other areas were drawn to the city because of the publicity and the interaction between the two groups heightened the feeling of stigma. At the same time ' . . . (t)he earning capacity of masseuses increased while their public image decreased' (Velarde 1975, p. 258). The process had a snowballing effect.

To summarise, the re-labelling from physical therapist to prostitute was facilitated by two events: newspaper publicity and licensing laws. The media influenced the general public into believing that masseuses were prostitutes. The city council reacted to mounting pressure by establishing licensing procedures which appeared to have implications of prostitution: police fingerprinting, 'mug shots', VD check-ups, and a lecture from the vice squad chief (Velarde 1975, p. 259).

And so it goes . . . This is a scenario which was enacted in many parts of the USA at the time (Symanski 1981). If, as has been suggested, the licensing of sex workers is self-defeating on purely health grounds—because there are always many more unlicensed than licensed workers—the strategy is a waste of time.

Groups of individuals use this shared stigma to support each other in subcultures. Writers in the field of prostitution often note the way that sex workers give each other support and information as well as being a friendship and peer group. This may be very positive for the workers themselves but at the same time may also lock them into the subculture, especially if there is a great distance between the prostitutes and mainstream society. An example of positive support is the way that the Prostitutes Collective of Victoria gives information and support to its members. The most effective work is with those workers who identify as sex workers and who have occupational health and safety issues which they attend to.

There are many workers in the community who do not identify as sex workers and, therefore, disregard the information available to them. An analogy can be made here between these sex workers and bisexual men who do not identify with gay culture and consequently are less likely to accept the 'safe sex' message. A study of the interaction in a public toilet used as a meeting and recreational place by homosexual men found that many men who frequented this place on the way home to their wives denied their homosexual identity and therefore placed themselves outside the culture (Humphreys 1973). It becomes a fine line to draw when identification with the sex worker role could be healthy in terms of protection against disease, but unhealthy in terms of that same identity and the stigma associated with it.

Conclusion

When prostitution is illegal, the dominant social control agency is the legal system. Even when prostitution is legalised in the way that it is in West Germany or Nevada, the police exert great control over it. However, legalisation also brings in health controls so that the medical system is then implicated. Medicine is not value neutral and its practitioners have their own ethical and moral positions to protect. Without feeling totally secure about the information, many sex workers will not succumb to compulsory testing.

The process of lining up to have a weekly check can be degrading and ultimately stigmatising, as happened with the masseuses in Velarde's study. Also, without a proven benefit to the worker, the feeling that she is being used as a scapegoat is not unreasonable. In a world increasingly interested in documenting people's lives for databases, it is debatable whether there are any benefits accruing from an admission of being a sex worker. Even in a

country which has a guarantee of individual rights, such as the USA, the civil rights of sex workers are systematically and continually abrogated (Symanski 1981).

Attempts to change public policy in relation to sex work will inevitably fail if no regard is taken of the meaning that this particular activity has for the society as a whole. The image of the prostitute has been constant over the last 200 years even with changes in legislation. As the Victorian situation has shown—with the striking out of parts of the initial legislation which were central to effective change, and no attempt to alter the image of the workers—almost nothing has altered.

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