

Sexin' Work: The Politics of Prostitution Regulation

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ABSTRACT. The following essay explores regulation in both the institutionalized and discursive production of prostitution control. The contemporary regulation of prostitution in the Canadian and international context are explored to show that prostitution has never been seriously targeted for elimination, and the representation of street sex work(ers) in the Winnipeg print media sharpens my analysis. I argue that the symbolic of prostitution is a cultural and political necessity deployed by nation-states to discipline women, regulate their bodies, and ensure they uphold reproductive normativity. This essay will show that the purpose of these regulatory processes in its many guises is underwritten by the drive to strengthen national/ethnic/racial/class identities within normative forms of gender and sexuality.

Key words: gender regulation; identity; normativity; function of prostitution; street sex work; transgressive sexualities; criminalization

Indeed, states have seldom sought to abolish prostitution outright; rather, they have sought to curb sexworkers control of the trade. [McClintock 1992:76]

The way prostitution is conceptualized in a given society reveals key cultural ideals and assumptions about gender and sexuality. Prostitution, then, is not merely about transactional sex nor is it a discursive object/product for academics, activists, politicians, and social policy makers to debate. Prostitution involves a full range of activities that are historically and culturally variable, as are the subjectivities and perspectives of the actors involved in the business of transactional sex (Zatz 1997; Vance 1984). According to Tracy Quan (2006), a retired New York sex worker, it is the idea of prostitution rather than the work itself that is problematic. Quan describes sex work to be a "normal human activity," a point repeatedly echoed by her contemporaries in

the North American sex worker rights movement for over a generation (Kempadoo 1998; Highcrest 1997; Chapkis 1997; Davis and Schaffer 1994; Pheterson 1993; Jenness 1990; Bell 1987).

Prostitution or Sex Work?

The term sex work focuses on the labour of performing sexualized services for pay. These occupations include escorting, dancing (strip or exotic), erotic massage, modelling and performing for erotic and hardcore films, magazines, and Internet, and the indoor and outdoor 'skin' trades known as prostitution (Jeffrey and MacDonald 2006:4). The purpose of the umbrella term 'sex work' is to unite rather than divide sex professionals as workers who are susceptible to public scorn at best, criminalization, violence and discriminatory policies at worst, simply for doing their jobs. There is tremendous diversity in sex work as each occupation and worker is ranked along a hier-

archy that is reflected in the workers' relative safety, salary and status. The skin trade is located at the bottom of this ordering and street sex work(ers) occupy the lowest rung. This essay focuses on that aspect of sex work, prostitution or the skin trade with an emphasis on street-based sex work, as that symbolic is overwhelmingly used to 'educate' the public about who prostitutes are and what prostitution is.

Still, prostitution is an assemblage of contested identities that are based on gender presentations and heteronormative sexuality. These constructions are continuously renewed and connected to the nation-state through institutional and discursive regulation, but they are also imbricated by complex social processes (Jeffrey 2002:153). Anne McClintock points out that, "whatever else it is, female prostitution is the erasure of a woman's sexual desire in exchange for cash" (1992:94). That women constitute the majority of sex sellers worldwide is no accident, according to Lenore Manderson, as "both first and third world women work as prostitutes primarily because of factors that relate to gender rather than desire" (1992:454). Yet, as we shall see, gender does not have the final word in this complex as sexuality, race/ethnicity, social class, and citizenship play fundamental roles in the positionality and subjectivities of gendered sex workers, and the different forms of regulations they contend with in their respective social fields.

The following essay explores regulation in both the institutionalized and discursive production of prostitution control. The contemporary regulation of prostitution in the Canadian and international context will be explored to show that prostitution has never been seriously targeted for elimination, and the representation of street sex work(ers) in the Winnipeg print media sharpens my analysis. I argue that the symbolic of prostitution is a cultural and political necessity deployed by nation-states to discipline women, regulate their bodies, and ensure they uphold reproductive normativity. This essay will show that the purpose of these regulatory processes in its many guises is underwritten by the drive to strengthen national/ethnic/racial/class identities within normative forms of gender and sexuality.

A Note on Prostitution Studies

Federal governments typically take responsibility for prostitution control. That control assumes a variety of forms as laws and policies, or prostitution regimes, are dependent upon dominant definitions of the issue and therefore change over time. While the connection between political debates and a nation's particular prostitution regime are intimately connected, so too is the business of transactional sex as it is directly shaped by political processes and state intervention. Contemporary prostitution studies by social scientists reveal prostitution control to be a multidimensional phenomenon that also implicates cultural, economic, political, and sexual dynamics (Jeffrey 2004; Lyons 2004; Outshoorn 2004; Wright 2004; Kempadoo 2001; Brock 1998; Chapkis 1997; Zatz 1997; Shaver 1996; McClintock 1992). Recent ethnographic research on prostitution reveals much larger processes shaping regulation by connecting the complexities of everyday social processes to the interplay of global political economic forces, affecting and framing practices and perceptions of transactional sex (see Wardlow 2006; Brennan 2004; Cabezas 2004; Chernoff 2003; Nencel 2001; Law 1997; Masquelier 1995). Building on these analyses, the regulation of prostitution becomes apparent both institutionally and discursively as all of the following play specific roles: the media, police, medical system, academic theory and research, all levels of government, public opinion, social service agencies, residential organizations, sex workers' rights groups, and sex workers themselves.

Studies of prostitution regimes generally outline four categories of prostitution control. The legalization of prostitution involves the state operation of sexual commerce, which can include licensing brothels, escort agencies, and establishing red light "tolerance" zones. Legalization often requires the registration of sex workers and regular STD testing. Abolitionist policies seek to eradicate prostitution by criminalizing third parties but not prostitutes, whereas prohibitionist policies render all prostitution activities illegal, and finally, decriminalization refers to the operation of prostitution as "legitimate" independent businesses (Outshoorn 2004). The following section explores the wider implications of prostitu-

tion regimes as regulation writ large, that are built on a series of historical cultural/social processes.

On Regulation

Streetwalkers display their sexual and economic values in the crowd—that social element permanently on the edge of breakdown—and thereby give the lie to the rational control of ‘deviance’ and disorder. Hence the fetishistic investment of the law in violently policing the prostitute’s body. [McClintock 1992:73].

Regulation encompasses a wide range of social/cultural and institutional practices and processes. While at once regulation overtly relies on tangible controls and restrictions of behaviours in a given society’s legal, medical, political, economic, and educational realms, regulation also refers to the normalization of particular identities and social locations at the expense of others. To regulate within this formulation, then, is to “*make regular*” both structurally and ideologically (Butler 2004:55. Original emphasis). Those who are marginalized within normative frames are marked as other/deviant/abnormal, but their removal is never total. Rather, such individuals/groups remain in the field of binary oppositions, “because each term can only achieve its value in relation to its apparent opposite” (Namaste 2000:17). Those who are positioned outside the foundational binaries of gender and sexuality, however, disrupt or destabilize those fragile constructions and are effaced by the same regulatory processes that are designed to uphold social order (Butler 2004: 52-53; Namaste 2000:18).

Normativity, then, refers to the assumed naturalness of gender and sexuality and to be “normal” is to be ideologically *unmarked*. While transgendered people are, as we shall see, outside of those categories and therefore threaten their stability, transgressive sexualities such as prostitution, homosexuality, and promiscuity, do the opposite. These particular sexualities provide a key service in the operation/stability of hetero-normativity, as they have “all been the object not merely of stigma, but often of outright repression aimed at minimizing the threat that they pose to normal sexuality” (Namaste 2000; Parker 1991:96). Thus,

the cultural symbol of the female “prostitute,” more so than the male, remains marked and in turn reaffirms the norm of reproductive heterosexuality. Leslie Ann Jeffrey elaborates: “The prostitute is a symbol that powerfully evokes the limitations of acceptable female behaviour. It is an important tool, therefore, in disciplining female identity...[reflecting] the social desire to police female behaviour” (Jeffrey 2002:143; 153).

Sexuality underpins social structures through its regulation because all things sexual are organized both institutionally and ideologically. What is deemed to be sexual has “somehow become ‘central to the meaning of individual existence, to the definition of the self’” (Foucault 1978). That means to be human is to be sexual and that notion is translated into every social and institutional realm from individual interactions and relationships, to the organization of the family, to economic relations, and the presentation and reproduction of national identities. Yet what constitutes the sexual is explicit in this formulation as it can only be heterosexual, monogamous, and reproductive. The roots of that ideology can be traced back to the earliest days of Canada, prior to Confederation, but those roots are indisputably colonizing, far reaching and effective, as they were designed and institutionalized to regulate and reproduce a complicit citizenry.

Sexual ideologies are historically significant because their presumed naturalness continue into the present. For example, prostitution has always been defined and understood as a female occupation that is equated with female promiscuity, despite the historical and contemporary presence of male prostitutes (Larsen 1991: xi-ii). Yet continued attempts to define prostitution merely as the commercialization of sex masks the social processes that frame its construction. Brock argues that:

The regulation of prostitution is structured, through criminal code provisions, as sexual regulation, because it is the sexual character of the activity which makes it a target of regulatory strategies. However, we must be clear that from the standpoint of prostitutes themselves, it is not their own sexuality which is being regulated, but their work. [Brock 1998:9]

Discursive Regulation (Identification)

She stands as moral outrage, a damned spot to be cleansed from the public psyche, a non-woman who is, at the same time, Everywoman. [Jeffrey and MacDonald 2006:7]

Frances Shaver (1996) points out that while the practice of street prostitution has changed little in Canadian history, the perception of who and what is harmful about street sex work has undergone significant changes over time. Shaver examines this phenomenon by tracking Canada's social and legal discourses surrounding the criminalization of prostitution from 1759-1990's, to show that prostitution has historically and contemporarily been *made* deviant through social, legal and political projects. Shaver connects the current socio-legal problematic of prostitution to notions of social purity and passive female sexuality from the Victorian era (see also Walkowitz 1980).

That means if prostitution were to be decriminalized tomorrow the regulation of sex workers' lives would continue. Noah Zatz (1997) contends that it is the total criminalization and stigmatization of prostitutes that seals their reproachable social positionality. Socio-legal discourses effectively define and punish prostitutes by emphasizing the sexual aspect of their lives and identities, denying their labour, isolating them from other women, neighbourhoods, society, and cutting off their abilities to work in other fields, while simultaneously condemning them to poverty and criminality (CHALN 2005; Pivot 2004; McClintock 1992).

Viviane Namaste (2000) explains that where transsexual and transgendered people are produced for symbolic obliteration (institutionally erased from public life) sex workers are systematically produced *for* regulation. Namaste connects the gendering of public spaces to specific constructions of violence that are continuously played out on gender and sexual minorities, to illustrate the ways specific *types* of people are either demonized or simply made non-existent. The connections between violence and producing prostitution for regulation are an important one as Jo Doezema points out: "It is precisely in these times of crisis, when community identities are threatened,

that the policing of boundaries becomes paramount. These boundaries are laid out along class, race, and gender lines, with sexual behaviour as a crucial marker of community inclusion or exclusion" (2000:44). That means prostitutes, whether they are portrayed as victims or deviants, serve a particular function in society, which is evidenced by the fact that no post-industrialized nation in the west has ever tried to eradicate prostitution (Outshoorn 2004). The issue instead is always centered on controlling prostitution through institutional and discursive structures that will never allow street sex workers to be anything other than *whores*.

This brings Gail Pheterson's (1993) analyses of the whore stigma into view. She illustrates that the identity category of prostitute has been written into western culture as *female* and their livelihoods have come to be known as debased and dishonourable women. Whores are literally and figuratively symbolic of what is most morally repugnant in womanhood: her ability to negotiate her own sexuality. The two associated terms 'pimps' and 'clients' are also morally suspect in the North American public imagination, yet, it is these characters' *behaviours* that are culturally loathsome rather than their identities, as they are thought to constitute male categories that benefit and instigate the disgrace of all whores. Pheterson examines these categories to divorce such morally gendering codes from the sexual labour of women. Once again, Anne McClintock adds to the argument in that, "the whore stigma polices the racial divide, stigmatizing and endangering the lives of women of color, as well as perpetuating racism within the sex industry." (McClintock 1992:87).

Another element of the whore stigma is the overused but highly effective regulatory discourse of human trafficking. Racism, national identity, classism, and morality, all play important roles in the life of this discourse, which has been revived from the social purity anti-white slavery campaigns. According to Doezema (2000:23-24) European feminist organizations were major figures in both movements even though the focus has shifted: the previous campaigns centered on deep-seated racially driven fears of forced prostitution of European women in colonial possessions by non-western men; whereas the current

threat is couched in protectionist lingo that help- less so-called Third World Women, particularly from Asia but also Indigenous, are passively “trafficked” and exploited by both western and non-western men. Doezenia equates the current movement with its predecessor as they were both similarly driven by greater fears of transgressive gender presentations and sexualities as “...the real concern for public and policy-makers is not with protecting women in the sex industry, but with preventing ‘innocent’ women from becoming prostitutes, and keeping ‘dirty’ foreign prostitutes from infecting the nation” (2000:36-37).

Noulmook Sutdhibhasilp (2002) explores the regulation of migrant sex workers’ lives as they are legally and socially located beyond the reach of labour rights and basic human rights. Sutdhibhasilp argues that all sex workers in Canada are made vulnerable to exploitation because of the criminalization of their ‘activities,’ which has never been officially recognized as work in this country owing to its criminalized and stigmatized status. In addition to these layers of discrimination, migrant sex workers must also contend with the overwhelming hardships of non-citizenship. Sutdhibhasilp examines the role of the Toronto police and media in their directed campaign of constructing a decontextualized victimhood against female Thai migrant sex workers in the 1990s, to justify expensive police investigations into organized crime. Brock (1998) also examines this phenomenon in the Toronto print media during that era and the accompanying moral panic that ensued. Constructing migrant sex workers as unwitting victims of sex trafficking was the only way to muster public sympathy and understanding for such “Third World” whores, yet Sutdhibhasilp and Brock explain that the true source of migrant sex workers’ exploitation and victimization in Canada rests in the state’s role of regulating and restricting their labour, bodies, and basic human rights, none of which were ever raised or questioned in the media.

Scratching the Surface...

It’s well known among thinking whores that the more sexually regulated a society becomes, the better business gets. [Highcrest 1997:62]

Until the 1970s police in larger Canadian urban centers used Vagrancy Laws to control the activities of women they defined to be “prostitutes” or, put simply, women who engaged in activities that police disapproved of (Brock 1998; Larsen 1991:105). Those laws were repealed in 1972 and replaced with anti-soliciting laws that focused instead on the activities rather than the identity of sex workers, as it was no longer illegal to be a prostitute but now an offence to solicit business in public (Larsen 1991:153). That meant police could no longer harass or arrest a ‘prostitute’ for simply being a prostitute, instead the onus was on the police to prove that sex workers were engaging in illegal activities and threatened society at large. After much conflict and debates stemming from well-connected interest groups, most notably police departments across Canada, the sex-worker friendly anti-solicitation laws were tightened and replaced by the anti-communication laws under the Mulroney government in 1985 (Larsen 1991:153).

Currently Canadian prostitution laws are the harshest they have ever been in this nation’s history (Jeffrey 2004). While selling consensual sex between adults is legal under the *Criminal Code* it is illegal to *communicate* for the purposes of selling or buying sex in a public place. That means commercial sex is impossible to conduct in the open, as street sex workers are literally gagged by the law and forced to work in dangerous conditions removed from the public eye, which attracts violent predators and forces street sex workers to take inordinate risks to earn their wages (Pivot 2004). As McClintock soberly states: “Murderers know the weight of a prostitute’s life in the scales of the law” (McClintock 1992:88). Thus, the shift from anti-soliciting laws to anti-communicating laws in Canada is significant: the newer set of laws institutionally silences street sex workers as the restrictions on their ability to communicate are total.

Most strikingly, the rights of prostitutes have never been a pressing issue in the Canadian political arena. While the Vagrancy Laws were repealed in 1972 on the basis that they were discriminatory against women, Canadian feminists and the women’s movement were primarily concerned with *women’s* rights in general rather than those of women in sex

work (Larsen 1991:112). When sex workers' rights have improved in this country it has been by default; Larsen concludes that Canada is hardly original in this respect as feminist groups and other political lobby groups in the U.S. and England made similar strides for women rather than sex workers (Larsen 1991:114; Outshoorn 2004). Still, while Canadian laws have been historically prohibitionist, prostitution has never been illegal in Canada, nor has its eradication been seriously pursued by any of the actors involved in the numerous political debates surrounding it, despite the public outbursts and moral/medical panics fuelling the issues (Larsen 1991).

Sexual Regulation and National Identity

When we treat prostitution as simply a social problem, relying uncritically on knowledge derived from 'authoritative' sources like the police, the courts, and the media, we unwittingly participate in the silencing, marginalization, and control of prostitutes. [Brock 1998:12]

Discursive and spatial regulations of sexuality also uphold national identities. Don Kulick's (1998) ethnographic research, for example, on the *travestis* in Salvador, Brazil, shows that the dominant Brazilian discourse of national identity is based on an open-minded sexuality (see also Parker 1991). The national fascination with all things *travesti* is part of that discourse and is continuously drawn upon as proof of Brazilian sexual tolerance and liberation. Such representations, however, are illusionary as the *travestis'* everyday lives are completely removed from the ubiquitous mythological depictions of their gender inversion, which is based on rigid gender and sexual hierarchies (1998:9). Rather, Kulick explored the way *travestis* challenge those binaries in their everyday lives through their perfecting performances of gender and sexuality in marginalized but specific spaces, which means they negotiated their identities in relation to the dominating categories that constrained them yet also offered them freedom. (1998:9).

In Thailand the construction of national identity is also closely linked to the construction of gender identity and the regulation of sexual behaviour. Lesley Ann Jeffrey (2002) argues that women's "cor-

rect" sexual behaviour is connected to heterosexual, reproductive marriage, whereas prostitution points to its inversion. Prostitution, then, is an affront to responsible normative sexuality and the prostitute herself is its living symbol (Jeffrey 2002: xx-xxi). The directive for responsible womanhood is clear: "the control of women and women's sexuality remains central to ideas of national identity" as women's proper and improper sexual conduct is understood to be directly related to the purity and impurity of the nation, as women are both its biological and cultural reproducers.

The prostitute, therefore, appears as a liminal figure in relation to the mother, as she marks the borderlands of female sexuality. She is the internal 'other' that threatens the 'purity' of the nation. The rise of prostitution, in this formulation, signals the loss of control over female sexuality and, therefore, is a harbinger of the disintegration of national culture and identity. [Jeffrey 2002: xxii]

Don Kulick's analysis of Swedish laws targeting male sex buyers provides another interesting perspective. In 1998 it became a crime to purchase "a temporary sexual relationship" in Sweden. As the majority of sex buyers are male, the law was the first of its kind in any post-industrialized nation-state to criminalize male sexual consumers. Kulick points out that while on the surface the law may appear progressive, as it was the result of a decade of feminist groups and politicians struggling to secure it, in reality such legislation had more to do with nationalistic anxieties about joining the European Union than protecting the rights of sex workers. Kulick concludes that prostitution serves:

Swedish politicians, policy makers and journalists with a metaphor for Sweden's relationship to the European Union. Swedes suddenly see ourselves as the victim. As a small, weak, innocent victim threatened with exploitation by a dirty masculinized foreigner like the European Union, Sweden suddenly begins to look very much like a prostitute. [2003:211]

The distinction between adult sex worker and child sexual abuse victim has also entered the global discourse effecting transnational regulations of pros-

titution. Penelope Saunders (2005) explores the success of NGOs to infiltrate the human rights discourse with their agenda to effect socio-legal policies internationally. Saunders describes the pervasive attitudinal shift in the international community that has replaced the once stigmatized identity of child prostitution, to that of the commercial sexual exploitation of children (CSEC), as the result of a two-decade conscious campaign by the international NGO sector. While this approach is lauded for its superiority to the previous model, the current framework of CSEC as it has been written into U.N. policies and in turn numerous nations is based on a narrow construction of childhood and moral/social purity. Saunders argues that CSEC is based on a middle class western heteronormative gender binary that destructively regulates and/or obliterates all children and youth from qualifying for human rights, as they live outside those frames.

Prostitution is never simply about transactional sex. Prostitution defies middle class sexuality, confronts national purity, challenges gender and sexual hierarchies, and is an entity that must be controlled. However, there is typically one form of prostitution that has become the cornerstone of all that ails society and it is a certain kind of sex work that stands out from all of its counterparts: street prostitution.

The Problematic of Street Prostitution in Winnipeg

Sex trade! What is that? It's not like there's an apprenticeship. It destroys people, destroys neighbourhoods...I am concerned about the welfare of my wife and three daughters living in that area [Winnipeg's inner-city]. I don't want to have them thought of as prostitutes. [VCRS 2001:14. Members from Residency Advisory Committee Group]

Prostitution regulations are always political and their enforcement is equally contradictory. That is because sex work is paradoxical as police must find a balance between enforcing what is a relatively minor offense in criminal terms, to that of appeasing/catering to powerful interest groups, residency associations, municipal and provincial governments, in a given city (Larsen 1996). Street sex work and its practitioners

are typically the losers in this dialectic as they are handy scapegoats for the police to target in their effort to appear to be handling the "problems" of prostitution without eradicating it entirely. While police forces must abide by federal laws in the way they enforce prostitution, they also have considerable leeway in their interpretations of those laws when the public and municipality supports their efforts; this is the result of a convergence between police, media, residency associations, and the municipality (Larsen 1996).

Discourses and representations of street sex work, or prostitution in general, are uniquely played out in Winnipeg in several ways. Winnipeg is a medium sized city with a population of approximately 700,000 (City of Winnipeg 2008), which is representative of most Canadian cities. Located at the center of Canada, Winnipeg is also geographically isolated from other urban centers as the province of Manitoba is primarily rural, consisting of a few very small cities, towns and regional municipalities.

The overwhelming majority of research on sex work and sex workers' rights activism and organizations in Canada is based out of Montreal, Toronto and Vancouver, and is understandably geared around the needs of workers in those areas. That means the sex workers' rights movement is nonexistent in Winnipeg, as in most Canadian cities, and there are no organizations that emphasize the rights of sex workers as labourers. The few resources available to sex workers in Winnipeg are provided by social service agencies who necessarily assume an advocacy role for their clients, as they offer essential harm-reductive services to a small group of adult "street-involved women," which is the standardized abolitionist model used by Canadian social service institutions nationally (see Agustín 2007 for a discussion on the philosophy of the rescue service industry as an institutionalized form of social control). Thus, prostitution in Winnipeg is primarily understood, approached, presented and institutionalized in one of two ways: as either sexual deviance personified, as we shall see, or the extreme sexual exploitation of women and children by male 'johns' (see Seshia 2005).

Street prostitution, then, is immediately recognizable as a sentinel symbol of moral decay and sexual danger which is regularly used to manipulate the public in Winnipeg's media. For example, the daily newspaper the *Winnipeg Free Press* is a standard platform used by the Winnipeg Police Department, social agencies, and the municipal and provincial governments to rally public support for particular initiatives with prostitution as its beacon. Prostitution is blamed by all these groups for a host of problems, such as its link to derelict housing and attracting "more crime and dangerous traffic" into poor neighbourhoods (Welch et. al. 2007; Turner 2007); the threat of prostitution is used to justify increased voluntary Foot Patrols (Welch 2006); new police and prosecutor hires (Rabson 2006); and multi-million dollar projects to track crime statistics (Welch and Owen 2006). These arguments are consistently and unquestionably made in the name of the menacing triad of "gangs, drug dens and prostitution" (Welch and Owen 2006).

The innocence and protection of young girls and women are also reportedly threatened by street sex work. Attempted kidnappings of young girls are reported to be the fault of street "prostitutes" because their presence attracts sexual predators into neighbourhoods (Skerritt 2006). Manitoba's Justice Minister Gord Mackintosh also joined the chorus: "Along with the police, we have got to step up curb-crawling strangers who come into our neighbourhoods and leave behind decay...The world's oldest profession should more rightly be called the world's oldest oppression" (Rabson 2006). That statement was used to support a publicly acceptable program of "johns" losing their licenses if caught soliciting. The implications are clear that once a woman or girl is forced to engage in sex work, she is a powerless victim who is now ruined and doomed to a life of misery and failure, and the insatiable sexuality of men lies at the root of her downfall. Shockingly, the issues of structural inequality, racism, sexism and the harsh reality of criminalization are never mentioned in these articles.

Race is often at the root of prostitution discourses in the media. As Winnipeg has the largest urban Indigenous population in Canada racial profiling in

the media connecting Indigeniety and sex work is rampant and largely unquestioned (Statistics Canada 2006). For example, articles in The *Winnipeg Free Press* about the dangers of sex work are often followed by "Profiles" of people involved in Winnipeg's street sex trade:

Average John: 30-39; white; educated; employed; married with familial support system; financially independent; car and homeowner. **Average Prostitute:** age started on the street 14; Aboriginal; grade 8 education; unemployed; "unmarried, from broken family, with history of sexual abuse and family violence; drug addict; financially dependent on being paid for sex; homeless, too young to drive let alone own a car." [Rabson 2006]

If we are to take these images at face value, and many readers of the *Winnipeg Free Press* have few reasons not to, *he* is a white man who should know better than to prey upon vulnerable Indigenous girls who are socially dislocated throwaways. Regardless of the offensive racist and sexist caricatures, this portrayal is factually incorrect as typical "johns" arrested in every Canadian city including Winnipeg are primarily non-white, working class immigrants, as dark-skinned male 'clients' are overwhelmingly targeted by police rather than white, middle-class suburbanites. But arrests of women working as sex sellers are arrested far more often than men, as either sellers or buyers, and no other group is arrested or suffers more violence than Indigenous women working the street sex trade across Canada (Lowman and Atchison 2006).

Still, some programs are immediately unpopular when the average tax-paying Winnipegger is pulled into the fray. For example, the provincial government's plan to raise fines for speeding tickets to fund the city's *Clean Sweep* program, yet another initiative that uses the dirt of street prostitution as its modus operandi, was met with widespread disapproval (Owen 2006b). That announcement was followed by a Winnipeg Police and Salvation Army campaign months later entitled, "A Reality Check for Men Buying Street Sex" that sought to "educate" the public about the moral, social, and physical dangers of participating in the local street sex trade (Owen 2006a). The images were clearly based on a stereotypical portrayal of street sex workers and clients: the

photos were of middle class white suburban men with their heads held in their hands, with the caption saying he was endangering the health and safety of his family, and those of the young clearly Indigenous girls and women whom he bought sex from.

Street prostitution is reviled and strictly controlled in every city in the nation, paraded in the media, used strategically by social agencies to promote their agendas, including pro-active police crack-downs, “john schools,” and creative funding formulas that are devised in the name of quelling and educating the public on street prostitution’s inherent exploitation (Kohm and Selwood 2004:16). Interestingly, however, is the fact that somehow sex work stops being exploitative when it is practiced indoors. That is, massage parlours, escort agencies, and so on, provide tremendous tax and licensing revenue to Canadian municipalities and police departments, which includes the City of Winnipeg, as both entities are the primary regulators and financial benefactors of those businesses (2004:16).

Lewis and Maticka-Tyndale (2000) studied the advantages that municipal governments and police forces gain from this arrangement in Ontario and Winnipeg. Escort agencies and escort workers are easier to monitor and control than street sex workers, and licensing fees provide an important source of revenue for the city and police. While the current anti-communicating law (Bill C-49) facilitates such interventions, municipalities and agency operators are forced to walk a line between what is legal and what is viable to operate such businesses, leaving little room to consider the health and well-being of escorts. The authors argue that it is the strict legislation that undermines the rights of escort workers as they must pay to endure increased police surveillance and harassment that transcends their work environment, while simultaneously coping with the constant threat of losing their licenses.

In contrast to the rhetoric street prostitution can engender several benefits to workers that are impossible to secure in licensed institutions. Street sex workers can be financially independent, set their own schedules, and have access to quick cash (Lewis and Maticka-Tyndale 2000; Highcrest 1997; Pheterson 1993). Many escort agencies, for example, are only

open to migrant prostitutes because of citizenship issues and are therefore completely dependent upon their place of work for their survival (Sutdhibhasilp 2002), whereas other businesses are simply closed to certain “types” of women, forcing Indigenous, dark-skinned, and transgendered women into the most dangerous forms of sex work, which is on the street (Kempadoo 1998).

The main problem with street sex work rests in its criminalization. Street prostitution is the main target of police harassment, public discontent, and stigma, which is ironic given street sex work constitutes only 20% of the entire sex industry (Lowman and Atchison 2006). Furthermore, sex work is racialized and those with the lightest skin tones and highest class affiliations enjoy more freedom in every sector; these sex workers can command a much higher price for their services, choose their clients, and the conditions of their work (Kempadoo 1998). Indigenous women are overrepresented in Canada’s street sex trade and therefore face the greatest arrests, violence, deaths and disappearances than any other group nationwide (Lowman and Atchison 2006; Kohn and Selwood 2004). While there is tremendous diversity within sex work, every sex worker rights group agrees that sex workers’ ability to choose one’s work is the tipping point between sexual labour and sexual exploitation.

By focusing on adult prostitution laws in Canada a number of issues rise to the surface: classism, patriarchy, race, heterosexism, and in the current parlance, violations of basic human rights and civil liberties. All these forms of discrimination were and continue to be cloaked under the rubric of legislated morality in Canadian law, which is routinely filtered down into municipalities. As we have seen, the colonial and middle class ideas buttressing the social purity movement or Victorian sexuality can be traced to its current configuration that has even refashioned the anti-white slavery campaign as “human trafficking.” The following section explores these ideas in relation to the current movement to secure sex workers’ rights in the face of institutional/structural discrimination that intentionally silences any such challenges to its regulation.

Sex Workers' Rights as Human Rights

Prostitution catches the law with its pants down. In the eyes of the prostitute, the emperor has no clothes. [McClintock 1992:91]

Although North American sex workers' rights movements have been mobilized for more than a generation, their efforts to effect legislative reform has been ignored by both nation's federal governments. Still, two significant events pushed sex workers' rights into the Canadian political arena during that time. The first was the HIV/AIDS crisis, which has been touted as the sole reason such groups have received funding and were able to create an infrastructure (Jenness 1990). The other major development brought the contradictory public perceptions of sex work(ers) into bold relief: the disappearances and murders of countless women who were predominantly Indigenous, all over the nation but disproportionately from Vancouver's Downtown Eastside.

There are currently 18 unsolved murders of women connected to Winnipeg's street sex trade spanning two decades. Ironically and painfully, it is through the institutionalization of violence and its personal expression that supports the cultural symbolic of the prostitute as she is either a deviant or a victim. Such ideological constructions effectively deplete all sex workers' agency and increase their vulnerability to violence. As long as sex workers lack the institutional protections afforded every other Canadian citizen, they are made vulnerable and susceptible to unimaginable indignities and threats to their well-being and survival (Sutdhibhasilp 2002).

It has taken the extreme actions of a serial killer to garner a degree of public sympathy for sex workers as human beings in the Canadian public imagination. Most strikingly, there has been a shift in prostitution debates in this country as the need to review the Canadian prostitution regime is urgent. Recent federal hearings into the issue uncovered the fundamental disagreement that underlines the current debates in this country on prostitution, as they centered on *how* to improve and secure the lives of sex sellers (SCJHR 2006). These debates remained fixated on prostitution as either an inherently exploitative

activity or a human and labour rights issue, meanwhile women and transgendered persons continue to be criminalized for engaging in a putatively legal occupation.

Nonetheless a project on criminal law, prostitution, and the health and safety of sex workers was conducted in an effort to explore these issues in Canada. The Canadian HIV/AIDS Legal Network (CHALN) was mandated to conduct research into the relationship between criminal law, sex work, and HIV/AIDS by the Subcommittee on Prostitution Laws in 2003 and commissioned Pivot Legal Society's (2004) study. The CHALN uses the liberal human rights discourse that is instituted within specific United Nations treaties, to measure the erosion of sex workers' human rights under the current Canadian criminal law framework. The CHALN (2005) concludes that adult sex workers' agency, dignity, and basic human rights are threatened by Canadian criminal laws and such extreme exploitation renders all sex workers vulnerable to violence, disease, poverty, and HIV/AIDS.

Pivot Legal Society conducted a qualitative project on the expertise and standpoints of 91 active and former sex workers in Vancouver. This report is remarkable as it firstly, contextualizes the lived realities of Canada's highly regulated criminal law framework on a specific group of sex workers, which is brought into bold relief by the sex workers' expertise on the laws and the myriad ways their supposedly legal behaviour is contradictorily criminalized, infringing on their lives, bodies, minds, in every imaginable social, political and economic sphere. Secondly, Pivot uses the sex workers' knowledge and positionality to detail how the three major laws that criminalize an otherwise legal action contravenes the *Canadian Charter of Rights and Freedoms*. Pivot argues the current regulation of prostitution is unconstitutional as these laws infringe on the work, safety, lives, health, and well-being, of all sex workers in Canada. While these studies represent a major shift in the political mobilization of sex workers' rights, the issue remains entirely political as the following attests. On July 23, 2007 Canada's current Conservative government rejected calls from Liberals and New Democrats, as well as its own MPs, to rewrite federal

criminal laws in order to shift the burden of punishment away from prostitutes and onto their 'clients' and 'pimps' (Greenaway 2007).

The lobby groups espoused a prohibitionist stance in their fight to stiffen laws against "clients" and "pimps," and referred to the inherent dangers of "human trafficking." While they ignored the central arguments of both studies, the mounting literature on the regulation of prostitution and calls for the decriminalization of the current regulatory regime, the important point remains: the Canadian federal government can no longer avoid the issue of prostitution.

Prostitution continues to be endlessly political and tied to the most fundamental social processes that underpin structural power: gender hierarchies, heteronormativity, and the structural and ideological regulation of women's behaviour. As long as the cultural symbolic of prostitution remains firm in any prostitution regime, the accompanying structural violence will continue unabated in all its cultural and institutionalized forms terrorizing street sex workers most acutely, which is truly the world's oldest **oppression**.

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