



# Is it a human right to prostitute?

by Cecilia Hofmann

Debates on prostitution rage on, as they have for over a hundred years. But if the commerce of sex was once a more hidden or at least discreet business, today there's no ignoring the bombardment of sex sales talk; we live, it has been said, in a culture of pornography. With the worldwide explosion in recent decades of



industries based on the production, sale and consumption of sex primarily personified in women's bodies, there is an even more pressing need to understand the phenomenon of prostitution in the range and diversity of forms that it is taking, and for feminists to analyze these developments for their significance and impact on women's status.

The flesh trade in Thailand has been estimated by End Child Prostitution in Asian Tourism (ECPAT) to generate between US\$18-21.6 billion a year or over half of the entire 1995 budget of that country; in Japan it equals the defense budget.

Perhaps because a powerful economy has arisen around the sale of sex, totally integrated into local and national economies and hugely profitable for industrialists and for states, more voices are being raised to suggest and in some cases, to demand, that prostitution be accepted as commerce and as legitimate work for women and a valid means for women's economic empowerment.

#### **DIFFERING FEMINIST ANALYSES**

Other arguments claim to find in prostitution a practice of women's resistance to and sexual liberation from norms and traditional moral precepts on sexuality that have served to control and subordinate women.

Radical feminist thinking, on the other hand, has analyzed prostitution as a cornerstone of patriarchal control and sexual subjugation of women that impacts negatively not just on the women and girls in prostitution but on all women as a group because prostitution continually affirms and reinforces patriarchal definitions of women as having a primary function to serve men sexually.

#### **HUMAN RIGHTS ARGUMENTS**

Human rights arguments are being marshaled on both sides of the divide for and against prostitution, particularly in light of the feminist movement to apply a human rights framework to women's condition while at the same time challenging and redefining mainstream human rights principles with a women's perspective.

#### **RIGHT TO SELF-DETERMINATION**

For the prostitution advocates, foremost among the human rights principles invoked to defend the right to prostitute is the *right to self-determination*. This is understood as the individual's right to make autonomous choices and decisions which can include engaging in consensual commercial sex as well as of setting the terms of that sexual exchange.

There are many problems with this position, starting with its failure to acknowledge the social, economic and political structural imbalances and the sexual relations of power between women and men which is the context where these choices and decisions are being made.

It also fails to ask the question of whether prostitution can lead to social and sexual equality for women or will in fact continue to reinforce gender disparities of rights and status. As has been pointed out by human rights advocates, "By failing to take the phenomenon of male domination of women in both the public and private worlds into account, the right to self-determination (...) can in

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fact reinforce oppression against women through its complicity in systemic male oppression and violence." (Charlesworth 75)

Worse, it is predominantly a North and class-blind perspective that trivializes the massive phenomenon of the abduction, deception and trafficking into prostitution of women and girls, mostly from countries of the South but today also, from the dislocated economies of eastern Europe, and which constitutes by far the most prevalent procurement method worldwide.

Still less does it take into account the plain fact that the male users of prostitution do not ask to know or care if the human merchandise they purchase consent to being put at their sexual disposal. The stated consent of some, therefore, can damn the others who by no means have consented to prostitution.

The issue of choice and consent as an analytical tool is worthless to understand prostitution. Prostitution pre-exists as a system that requires a supply of female bodies, and women and girls will be kidnapped, deceived, enticed or persuaded to ensure that supply.

What is one to make, for example, of the case of the hundreds of Nepali girls trafficked into India? In the first two or three years of their confinement in Bombay brothels they are kept closely guarded and not allowed outside because at any opportunity they will try to escape. In later years, they will stand displayed in their finery outside the brothel door with no risk of their running away. They may even leave for a time and then return. What then is the quality of that later "consent" that would define the prostitution exchange as consensual activity?

In recommending the recognition of prostitution as legitimate commerce, the government of the Netherlands goes so far as to propose the concept that a person may "*fully and freely consent to his/her own exploitation*" (cited in *le Monde Diplomatique* March 1997). For women (as for workers, indigenous or colonized peoples) whose his-



torical condition has been one of subordination and exploitation, this is clearly a barbarous and unacceptable concept.

Some prostitutes and prostitutes' rights advocates vigorously assert the possibility of the integrity of women's agency in prostitution and accuse antiprostitution feminists of being patronizing and disrespectful of their perspectives. In fact, *how* women get into prostitution is irrelevant to the functioning of the prostitution system; rather, prostitution maintains itself as a system by *what is and can be done to women* in prostitution.

The issue of consent, of "personal choice politics" rests on a Western liberal understanding of human rights that elevates individual will and choice above all other human values and above notions of common good (Barry 83). But for example as a result of certain advances in biotechnology, the concept of personal choice has been questioned and ethical issues raised about the integrity of the human body and person in connection with the sale of human organs, surrogate motherhood or human cloning. Individual choice is also generally not accepted as an argument for drug use.

Against a conception of the human and of social good, human community has often seen the necessity to mark the boundaries of personal liberty. But perhaps because mainstream concepts of social good have never included the good of the class of women, the traditionally "socially subjugated" (Charlesworth 76), it is tolerated that prostitution, a "practice... (that) integrally contributes to the maintenance of an underclass" (Mackinnon 73), be accepted on the basis that some women are freely choosing it. On that same basis, slavery could have been accepted by human society.

#### RIGHT TO WORK

Prostitution advocates invoke the *right to work*. However, the question begs why this work exists in the first place and why an experience of human intimacy has been transformed into the category of *sexual labor*.

Two views are presented, either that prostitution is work like any other such as typing or waitressing, or that it fulfills a number of socially useful functions: sex education, sex therapy, or providing sex for persons who would otherwise be deprived of sex, for example, male migrant workers without their families and disabled or old men—that prostitution can be a rational choice of work. In fact, it is the millions of buyers of sex, far outnumbering the women and the girls that they use who are not only choosing but also ardently defending their practice of prostitution. But *their* choice is not only unexamined and unquestioned, it is brushed aside by such international agencies as the World Health Organization that in a Geneva report on AIDS in 1988 devoted pages to the socioeconomic and cultural profiles of women in prostitution and in a

terse paragraph stated that "Clients are more numerous than the providers of sex ... The factors which lead persons to become clients are largely unknown."

The general refusal to devote critical scrutiny or to assign responsibility to the users of prostitution, who constitute by far the more important component of the prostitution system, is nothing less than tacit defense of male sexual privilege and practice.

The view on the right to work holds that where there are inadequate, poor or outright bad economic options for women, prostitution may be the best option; that in any case, it is work that does no one any harm because the two parties most directly involved agree to what will happen in the prostitution exchange.

Prostitution is possible because of the existence of men's power and domination over women.

This fails to acknowledge that in fact violence is often done to women not just because laws do not protect women in prostitution or that work conditions are not what they should be—but that men's use of women as prostitutes and the acts carried out are specific forms of enactment of a culture and system of subordination of women. Further, the client who is refused condomless sex or a particular sex act by a more empowered prostitute (or wife) will merely hire another woman who may be needier and will accept his demands. Harm will therefore be inflicted on another woman.

Neither does a notion of harmlessness address the issue of human intimacy that is being transgressed. Women in prostitution have told of the elaborate means they employ, refusing the use of some part of their bodies, of their own beds or other such measures, as attempts to preserve some part of an emotional or sexual life that is theirs alone and not for public use. The view that repeated invasions of the body, of unwanted but accepted sexual acts can be passed over harmlessly is questionable, to say the least. Women survivors of prostitution in the Philippines, like those of WHISPER (Women Hurt in Systems of Prostitution Engaged in Revolt) in the U.S., have known "the act of prostitution as intrusive, unwanted, and often overtly violent sex that women endure..." (Giobbe 67)

In fact, the "work" of prostitution mostly consists of *submitting* to acts carried out by clients and pornographers on women's (and children's) bodies. Women have also told of strategies to finish quickly with a client, for if women need and want the money of prostitution, they do not want the sex of prostitution, which as such is a form of "paid rape."



Accepting the fact that there are sometimes no better work options is to give up the political battle for women's economic empowerment and to tolerate the growing operations of enormously lucrative sex businesses that absorb women as the raw material for their industry.

This is not to say that feminists are not in solidarity with women in prostitution and in fact carry out much work with and directly for them while they are in prostitution, precisely recognizing that social and economic life is designed to allow women few good options, and that getting out of prostitution systems is a difficult process. But prostitution is recognized not only as part but also as a foundation of the larger system of subordination of women. Feminists have a duty to imagine a world without prostitution as we have learned to imagine a world without slavery, apartheid, and infanticide. Ultimately gender relations must be restructured so that sexuality can once again be an experience of human intimacy and not a commodity to be bought or sold.

### MALE NEED FOR SEX

The second view assumes that male need for sex is an unquestioned biological need likened to the need for food. This obviously contradicts evidence that people, women and men both have been known to go for long periods without sex and without the fatal outcome that going without food would have!

What is true, if not a truism, is that in a culture of sexual consumerism stoked by patriarchal capitalism, sex is used to sell products of all kinds, and sex itself is a product aggressively marketed—in pornography or sexualized entertainment, for example. It must nevertheless be recognized that there are preexisting and socially constructed sexist concepts of sexuality on which patriarchal capitalism feeds that are not simply biologically determined.

A certain stream of proprostitution advocates seem to look forward to the day when all our irresistible sexual urges, women's and men's alike, will be adequately "served" by commercial sex. The only problem, as Sheila Jeffreys tongue-in-cheek has pointed out, is how to find the millions of men and boys, who will be willing to lie there and let women stick any number of objects into their bodies or to let themselves be photographed in ridiculous or degrading positions!

Prostitution is possible because of the existence of men's power and domination over women. The existence of some men in prostitution is in fact most often in service of other men. Even when it is women who are the clients, the commercial exchange still mirrors class, race, age or other power differentials between the buyer and the bought. Most importantly, the prostitution of women directly results from their subordinate status and serves to maintain it. It is true of course, that class and other

factors also operate in many other labor or employment situations.

But prostitution is more than "work", it is "the most systematic institutionalized reduction of women to sex" (Barry 65). A 1992 UN document recognized the impact of prostitution on women as a class: "By reducing women to a commodity to be bought, sold, appropriated, exchanged or acquired, prostitution affected women as a group. It reinforced the societal equation of women to sex which reduced women to being less than human and contributed to sustaining women's second-class status throughout the world." (Tomasevski 13)

### RIGHT TO FREEDOM OF EXPRESSION

The system of prostitution that includes pornography and sexual entertainment in all its forms is defended as erotic art or as sexual freedom and expression. Invoked here is the exercise of the right to freedom of expression. Strippers and other performers have sometimes even claimed to derive a sense of power in displaying sex that the male viewers are aroused to want but cannot have from the performer.

In fact, it is not true that men cannot have sex when they want it. Millions of women and children all over the world are trafficked precisely so that men can have sex whenever and however they want, and without bounds. Sex is bought and it is inflicted: sexual crimes of rape, incest, sexual harassment are prevalent everywhere: rape occurs every few minutes, every six in the United States, every one and a half minute in South Africa.

If prostitution is a form of sexual freedom and expression for women, then women should be able to determine and demand the sex that happens in prostitution. Obviously, this is not the case. In fact, while prostitution is one of the most debated gender issues, discussions almost never address the sex of prostitution. When a German customer of a Filipina prostitute demands to take a photograph to show his friend back home of the "two best things about the Philippines": a beer bottle in the woman's vagina, *whose* sexuality is being expressed? When a group of men pay a woman to simultaneously ejaculate on her, what sexuality is that? When Patpong offers "blow job bars" and entertainment programs that tout "Pussy pingpong ball, pussy shoot banana, pussy smoke cigarette, big dildo show, fish push inside her, egg push into her cunt, long eggplant push into her cunt," (Odzer 7) or shows where knives and razor blades are inserted into women's vaginas" that are the live versions of the huge pornography industry's images of hand grenades in women's vaginas, live rats coming out of them and dogs penetrating women—is this "adult entertainment," sexual recreation, sexual liberation? In fact, it is true that freedom of expression is amply being exercised there, but *what* sexuality is being expressed and what ideological



statements are made about women?

Such practices as rape, female genital mutilation, the denial of possibilities of contraception, discrimination against lesbians, pornography or "snuff" films where sex acts culminate in the actual death of the woman make it quite plain that sexuality remains political terrain where war continues to be waged against women. In this war, prostitution is a main battleground, where women as a class are reduced to sex, denied equal humanity, and delivered up to such practices.

To purport to promote women's sexual liberation by abstracting prostitution and pornography from male supremacist and woman-hating sexual ideology and practice is disingenuous. It exposes women to harm, besides being plain folly.

And while proprostitution advocates like to promote themselves as being "prosex" and to charge prostitution opponents as being "antisex" or "sex prudes," it is remarkable how they never question basic patriarchal assumptions and male sexual norms and practices. This amounts to complicity with those assumptions and practices or at the very least, to acceptance of the ideological proposition that men have a "naturally" great need for sex, including in the above forms that must be catered to at all cost. Once again, this view ignores the social and cultural construction of sexual attitudes, desires and behavior.

To be prosex is to oppose prostitution by reclaiming and reconstructing sexuality that is life-enhancing, mutually respectful and beneficial and (if it is heterosexual) based on gender equality. This is by far the more revolutionary position; the proprostitution position is merely one of accommodation with the masculinist system already in place.

### THE HUMAN RIGHT NOT TO BE PROSTITUTED

The true human rights that all women must enjoy begin with *the right to non-discrimination on the basis of sex* that is enshrined in all major human rights instruments. Prostitution violates this right because it is a system of extreme discrimination of one group of human beings put in sexual servitude by and for the benefit of another group of human beings, and there is no denying that the overwhelming historical and majority phenomenon is of women and girls being prostituted. It violates *the right to physical and moral integrity* by the alienation of women's sexuality that is appropriated, debased and turned into a thing to be bought or sold. It violates *the prohibition of torture and of cruel, inhuman or degrading treatment or punishment* because practices of sexual entertainment and pornography as well as client's acts are acts of power and violence over the female body. Prostitution violates *the right to liberty and security* and *the prohibition of slavery, of forced labor and of trafficking in per-*

*sons* because millions of women and girls all over the world are held in sexual slavery to meet the demand of even more millions of male buyers of sex and to generate profits for the capitalists of sex. It violates *the right to enjoy the highest standard of physical and mental health* because of the incidence of violence, disease, unwanted pregnancies, unsafe abortions, and AIDS, presenting grave risks for women and girls in prostitution and militating against a healthy sense of and relationship with their own bodies.

If prostitution is a form of sexual freedom and expression for women, then women should be able to determine and demand the sex that happens in prostitution.

Accepting or promoting prostitution as an inevitable social arrangement of sexuality or as fitting work for women also goes against recent articulations of the human rights of women, for example in the Beijing Platform for Action. And although even here, the lobby for the recognition of acceptable categories of prostitution has made headway through the use of language (distinguishing for example between "forced" and "free" prostitution), the document is not consistent throughout, evidence of a continuing discomfort with that proposition. The incompatibility of prostitution with a conception of true sexual self-determination and freedom is articulated in the Platform for Action:

"The human rights of women include their right to have control over and decide freely and responsibly on matters related to sexuality, including sexual and reproductive health, free of coercion, discrimination and violence. Equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, require mutual respect, consent and shared responsibility for sexual behavior and its consequences." ☺

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