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978-0-521-54069-8 - The Politics of Prostitution: Women's Movements, Democratic States
and the Globalisation of Sex Commerce

Edited by Joyce Outshoorn

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1 Introduction: prostitution, women's movements and democratic politics

Joyce Outshoorn

How have women's movements challenged states over the past thirty years to deal with women's status and make them incorporate women as political actors? How have states responded to the challenge posed by the rise of the 'second wave' of feminism? Women's movement activists demanded state measures on a broad and diverse set of issues, ranging from equal representation in political decision-making and anti-discrimination measures on the labour market to the combat of sexual violence and the right to abortion. Governments responded by developing a varied set of 'women's policy machineries' (UN 1993), institutions to deal with such demands, ranging from temporary committees to full-fledged permanent departments within the national bureaucracy. The research described in this book addresses the role of these institutions in advancing the goals of women's movements in a number of post-industrial democracies. It focuses on one of the issues which re-emerged as a feminist concern, prostitution, and it sets out to answer the question of whether these institutions, here termed 'women's policy agencies', have been effective in dealing with the issue.

In this way the book raises the larger issue of whether governments have actually improved women's status, promoted women's rights and reduced gender-hierarchies that are at the basis of the inequalities between women and men. It has always been an issue hotly debated by feminist activists and scholars alike: can the state be 'feminist'? Does the government have the capacity to act on behalf of a feminist agenda and redress sex inequality? Or is the agenda of women's movement activists inevitably rendered innocuous or 'perverted' when they choose to collaborate with the state (Hernes 1987; Franzway et al. 1989; Eisenstein 1990, 1996; Watson 1990; Sawyer 1990; Outshoorn 1994, 1998a; Sawyer and Groves 1994)? Social movement scholars similarly debate the question of how far democratic states can be transformed by social movements (e.g. Kriesi et al. 1995; McAdam et al. 1996; Tarrow 1998; Della Porta and Diani 1999). Do women's movements make democratic states, often criticised for not being inclusive of women's interests and women's participation

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(e.g. Pateman 1988; Phillips 1991, 1995), more democratic? From an earlier study on women's policy agencies it emerged that these can be important vehicles to movement goals, making the case for state feminism (Stetson and Mazur 1995). This study hopes to contribute to comparative social movement theory, comparative public policy and theories of democratic citizenship by a systematic and cross-national empirical study of prostitution politics in twelve countries.

The research presented here grew out of a collaborative project of the Research Network on Gender Politics and the State (RNGS).¹ Using the analytical framework developed by the network, the book explores the politics of prostitution in Australia, Austria, Britain, Canada, Finland, France, Israel, Italy, the Netherlands, Spain, Sweden and the United States, all Western political democracies. It does so in a longitudinal way, covering the women's movements and the issue since the early 1970s. It is also a comparative study of the policy debates on prostitution in these states. In an in-depth analysis of these debates, the researchers determine whether the women's policy agencies bring the prostitution issue into the policy arena and promote feminist framing(s), as well as enable women's movement actors to gain access to the policy arenas of the state. With this information, it becomes possible to sort out why some governments and their women's policy agencies are more responsive to women's movement demands than others, and when women's movements are likely to have success or not.

Prostitution as a political issue was selected for study as it touches on one of the key areas of the prevalent gender order, i.e. the norms, principles and policies informing the allocation of tasks, rights and life chances to women and men (Osner and Lewis 1995: 169, n7). The gender order underpins major social institutions, such as the division of labour in the home and workplace, the organisation of human reproduction and sexuality, and citizenship rights. All of these are crucial aspects of women's lives and potential areas for gender conflicts. A basic tenet of RNGS is that the activities of the women's policy agencies and women's movements should be analysed in each of these issue areas to be able to arrive at reliable statements about the impact of the women's movement and the effectiveness of women's policy agencies.² Issues were selected with an eye to cross-national comparability and the capability of being both gendered and not gendered. Since women's policy agency effectiveness is determined in this study by their ability to bring gender ideas into the policy definitions in debates, issues must not be inherently gendered. It must be possible to discuss them without explicit reference to gendered characteristics of people. Following the original distinction made by Harding (1986) and Scott (1986) between gender – social and cultural

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meanings attached to biological sexual differences – and sex – biological differences between women and men – this study uses gender to refer to meanings or ideas that people attach to biological and demographic differences between them. Its empirical referents are ideas and meanings, different from the referents for the concept of sex (biological differences) and women (demographic characteristics) (RNGS 2002: 10).

Prostitution touches on sexuality. In everyday parlance it is defined as the exchange of sex or sexual services for money or other material benefits; in more academic terms it can be defined as a social institution which 'allows certain powers of command over one person's body to be exercised by another' (O'Connell Davidson 1998: 9). More specifically it involves sexual commands, which involves a wide array of practices ranging from oral sex and sexual intercourse to s/m and urolagnia. Most prostitution involves heterosexual sexual exchanges, with men buying the sexual services of women, within a set of social relations implying unequal power relationships between the sexes. It is also an institution that states have tried to control in many historical periods; today most states have some kind of prostitution policy, even if it is not always actively enforced.

The unequal gender order has been politicised by women's movements at various points in time, giving rise to gender conflicts which found their expression in the political arena. As political issues these may become defined or framed as gendered issues. Although many issues are gendered in explicit ways, policy actors can address and handle issues as if they affect men and women in the same way. Women's movements try to gender issues, or to change their gender content by inserting their own definitions into the debate. The prostitution issue, although nearly always involving heterosexual men buying sexual services from women, has often been defined in gender-neutral ways, such as moral depravity or a threat to public health. Women involved in prostitution debates have usually stressed the gender content and have sought to insert new gender meanings of women, men and sexual practices into the debates.

Theoretical background

The process of gendering, whereby phenomena such as identities, observations, entities and processes acquire meanings based on gender, is central to this study. This study assumes that politics and policy-making are always about a conflict of meanings (Schattschneider 1960: 68); issues only make it to the political agenda when they are defined in such a way that they merit government attention and survive the competition between issues about which are the most important ones for governments to address (Bachrach and Baratz 1970; Cobb and Elder 1972).

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Problem definition is about allotting blame and responsibility: who is to blame for a problem, who has the say over it, and who has to solve it? It also determines the direction for the solution of the problem and who will gain control over the issue. A social movement is faced by the challenge of framing the issue in such a way that it advances its goals (Snow and Benford 1992). Its strategy involves inserting its framing into the policy debate in order to influence policy content and to gain access to policy-makers. In gender conflicts, women's movements try to gender the dominant frames of the contested issues and to insert feminist meanings so as to improve the position of women and ensure their participation in the political arena. Questions to be studied here regard whether the issue is defined as threat, injustice or harm to women and whether women are identified as interested parties. Who do they think is to blame for the situation, and what should be done about it?

Critiques of post-industrialist democracies have put into question the extent to which these can be seen as truly democratic, in the sense of not being inclusive of societal interests, thus questioning their representativeness (e.g. Inglehart 1990; Przeworski 1991; Mény 1992). Much empirical research has demonstrated the conspicuous under-representation of women in political and government institutions, which has only gradually improved over the past three decades (e.g. Lovenduski 1986; Norris 1987; Lovenduski and Norris 1993; Bergqvist et al. 1999). Feminist critiques of Western welfare states have also criticised the consistent under-representation of women's interests in welfare state arrangements showing how these institutionalised a male breadwinner–female housewife model, limiting a woman's access to the labour market and often entitling her to welfare benefits only through her husband (Orloff 1993; Sainsbury 1994, 1996; Ostner and Lewis 1995; Daly 2000).

To analyse representation, Pitkin's (1967) distinction between various types of representation is the starting point. For our purposes here, the relevant distinction is between descriptive and substantive representation. Descriptive representation occurs when a person stands in for others and shares the basic characteristics with them; it is about the actual representation of women. Social movements attempt to access the policy arenas and have their spokespeople included. This holds for the women's movement in a double sense: not only do women's interest groups aim for access, but they have always been in favour in the inclusion of women as a demographic category, with parity – equal representation of the sexes – as the ultimate goal. For other social movements the sex of the representative or spokesperson does not matter; for the women's movement it is pivotal. Substantive representation occurs when policy preferences are incorporated into the policy process, here defined as the demands of

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women's movement groups. Movement groups have always been interested in gaining substantive representation by gendering policy debates in ways compatible to their demands and in achieving policy satisfaction. This study examines whether women's policy agencies contribute to bringing ideas from women's movement groups into the policy debates on prostitution as well as aiding access of women advancing women's movement ideas into the policy process.

The researchers in this volume are well aware of the controversies over the definition of the women's movement. Many contemporary authors, to avoid the deep divisions in present-day feminism, will speak of 'women's movements'; by being inclusive they bypass the debate on what distinguishes these from the 'feminist movement'. Others, acknowledging different types of feminism, do make the distinction: women's movements can be based on other ideals than feminism. Generally speaking, there is a consensus in the literature that feminist movements' *raison d'être* is to improve the position of women in relation to men. Feminist movements organise around eliminating inequality of women or redressing the gender-hierarchy that favours men. Moreover, as Stetson and Mazur (2002: 8) have noted, 'women's movements' is awkward to use when describing research findings. It has proved hard to develop a definition or description that is applicable to cross-national, longitudinal comparative research (Molyneux 1998; Beckwith 2000; Stetson and Mazur 2002). Social movement literature provides little solution as there is no overall consensus on what a social movement is (e.g. Tarrow 1998; Della Porta and Diani 1999).

This study employs a somewhat minimal working definition. It is based on the distinction made by Mansbridge (1996) and Jenson (1996) between the processes of establishing discourses about collective identities and their interests, and the actors that present these discourses in public life. The women's movement produces a set of discourses, beliefs, and opinions and identities around women, but these concepts are hard to define operationally to make for observations that apply across countries and time. Stetson and Mazur point out, however, that the activities of actors who stand for the interests of the movement – derived from ideas developed by women about their identity and on how to improve their status – can be observed (Stetson and Mazur 2002: 15). The resurgence of feminism since the late 1960s produced a whole series of movement actors, such as groups, organisations, movements in institutions, platforms, networks or grass-roots movements. These actors can then stand for the women's movement, an empirical approach that was employed *de facto* in the two earlier studies of RNGS, on job training (Mazur 2001b) and on abortion politics (Stetson 2001a). In this volume the women's movement

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will be defined operationally in a similar way. Feminist movements are then a subset of women's movements; not all women's movements are feminist ones.

While strong women's movements emerged in nearly all the selected countries of this study in the 1970s and addressed a huge range of issues, prostitution was never high on the agenda of the majority until the mid-1980s. Activities remained limited to specific groups. In the late 1980s and the 1990s new discourses and feminist groups formed around the issue; many of these had a service nature, offering advice and support to women in the sex industry. The profound differences among feminists on the issue led to widely different political demands, ranging from the criminalisation of clients in Sweden and in Finland, to regulating prostitution as labour in New South Wales and Australian Capital Territory, and legalising brothels in the Netherlands. This makes assessment of movement success challenging: many Swedish and Dutch feminists, for example, have hailed the diametrically opposed changes in the prostitution laws of their respective countries as feminist successes, while Australian feminists view the decriminalisation in some of their states either as a serious setback or as an important step to improve prostitutes' rights.

Prostitution regimes

The states under study have widely diverging 'prostitution regimes', sets of laws and practices governing prostitution that shape prostitution in their respective jurisdictions in distinctive ways, and make for more or less repression of the women selling sexual services and the possible prosecution of other involved parties, such as clients, entrepreneurs of sex work facilities or pimps. These regimes have in turn been shaped by the outcome of previous political debates. Governments, at all levels, have always attempted to control prostitution and, depending on the dominant definition of the issue, have done so in different ways. The definition determined the goal of state intervention: to maintain law and order, preserve morals, prevent the spread of STDs or protect women from exploitation. It also determined in which political arena and policy (sub)system the politics of prostitution were fought, which actors were able to get in or were excluded, and what interest groups formed around the issue.

Prostitution was often perceived by many authorities as a law-and-order problem, a phenomenon giving rise to rowdiness and drunken behaviour, generally causing public nuisance in the surrounding neighbourhood and threatening a breach of the peace. Authorities usually undertook

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measures to control and contain prostitution by limiting it to certain areas, registering the women providing sexual services as prostitutes, and clamping down on the taverns, pubs and brothels when affairs got out of hand.

In the morality view, prostitution was a sin or a vice. Campaigners would hold sit-ins at brothels and admonish the men who entered the premises. The prostitutes – ‘fallen women’ – would be approached to be saved and redeemed. In the late nineteenth century both women and men were involved in fighting prostitution, inspired by biblical teachings and the feminism of the time. The women’s organisations involved fought against the double standard of sexual morality, which allowed men sexual freedom at the expense of women, a form of sexual domination to be ended by making men just as chaste as women. A target of contention was also state regulation; the state, by facilitating prostitution, was a ‘pimp’ in their eyes. Their overall aim was to abolish prostitution altogether.

Prostitution was also defined as a major health hazard, where women were seen as sources of contamination, passing on syphilis or gonorrhoea to unsuspecting men. Many European states tried to control the spread of STDs in the nineteenth century, especially in garrison towns and naval bases, fearing the infection of its fit and fighting young men. It led to the regulation of prostitution, limiting it to certain areas or houses, and the control of prostitutes, who were registered by local authorities and were often obliged to undergo medical testing. It was the indignity of these examinations and the double standard implied in the regulation that sparked off a strong feminist movement in several countries from the 1860s, with the major goal of abolishing regulation and eliminating prostitution altogether (Walkowitz 1980b; Rosen 1982; Hobson 1987; de Vries 1997).

Abolitionism, the movement to eliminate prostitution, grew into a major international movement when the British and Continental Federation for the Abolition of Government Regulation of Vice was founded in 1875, renamed the *Fédération Abolitioniste Internationale* (FAI) in 1898 (de Vries 1997: 81). It succeeded, in alliance with many Christian-inspired groups, in putting the issue of trafficking in women for the purposes of prostitution on the international agenda. By the first decade of the twentieth century, most European states and the USA had done away with regulation, shutting down the ‘*maisons closes*’, the brothels of the time, so the state no longer was an accomplice to ‘vice’. After these reforms, prostitution ceased to be a major political issue in most states.

The FAI and its allies also made headway in the international arena and the first international agreement was reached in 1904 – the International Agreement for the Suppression of the White Slave Traffic. It was followed

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by the International Convention for the Suppression of the White Slave Traffic in 1910 (Mensenhandel 2002: 18–19). After the First World War the League of Nations continued along this track, passing two more conventions aimed at the trafficking of women and children: the International Convention to Combat the Traffic in Women and Children (1921) and the International Convention for the Suppression of the Traffic in Women of Full Age (1933). The 1933 Convention represented a shift from earlier agreements, as it criminalised 'procurement' for prostitution even if this occurred with the consent of the woman (Wijers 2001: 212). When in 1949 the UN passed the International Convention for the Suppression of the Traffic in Women, this shift was also incorporated, calling on all states to suppress trafficking as well as prostitution, regardless of the consent of the woman involved. The convention superseded the earlier international agreements and set the standard for the next decades, although many states did not ratify it, partly because of its abolitionist intent. It was never monitored properly.

The variation in prostitution regimes has provoked an often confusing terminology in the literature. Terms to characterise policy as regulation, prohibition or abolition abound in the literature, as do (de)criminalisation and legalisation, not always distinguishing precisely what activities or persons in prostitution are criminalised, controlled or permitted. Here abolitionism is taken to refer to the position that prostitution should be banned and third parties criminalised, with the prostitute herself not liable to state penalties. Prohibitionism makes all prostitution illegal and all parties liable to penalties, including the prostitute. Regulation is an overall term denoting state intervention in the running of prostitution. This may take place in a variety of ways, allowing brothels or red light zones, leading to different degrees of control over prostitutes, especially when compulsory STD testing or registration are required. In this volume researchers have aimed at describing the prostitution regimes in their countries in more precise ways and explaining what certain generic terms mean in their specific national contexts.

The revival of prostitution as a political issue

With the increase in international tourism and migration (Truong 1990), growing affluence and important changes in the sexual mores in the West since the mid-1970s, prostitution and the trafficking in women returned to the political agenda of most post-industrial democracies by the end of the 1970s. The process was accelerated by the emergence of AIDS in the mid-1980s, which gave rise to renewed worry about the health hazards of sex. Groups within the women's movement mobilised around

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prostitution and trafficking and sought to develop new definitions of the issues. This produced a novel framing to the many already circulating: prostitution came to be defined as work, or sexual service, an activity that women can take on to earn a living and therefore should be regulated in the same way as other types of labour. Moreover, probably for the first time, women in prostitution started to articulate a new public voice and formed their own interest groups, giving rise to a prostitutes' movement in many countries (Delacoste and Alexander 1987; Phetersen 1989; Jenness 1993; Kempadoo and Doezema 1998).

Prostitution is a specially interesting case for studying the relationship between the women's movement and women's policy agencies, as women's movements are deeply divided over the issue. Although theoretically as many as four positions can be distinguished in feminist debates on prostitution (e.g. Shrage 1994; Zatz 1997), the major divide is between those feminists defining prostitution as sexual domination and the essence of women's oppression (e.g. Barry 1979, 1995; Jeffreys 1997; Hughes and Roche 1999) and those who maintain prostitution is work that women can opt for, the sex work position (Pheterson 1989, 1996; Bell 1994; Chapkis 1997). The first position calls for the abolition of prostitution by penalising those who profit from it, except the prostitute. The second aims at legalisation, usually entailing removal of prohibitive articles in criminal codes, as well as some kind of regulation in order to normalise sex trade and guarantee prostitutes' rights. Movement groups adhering to either of these positions raise very different demands in the policy process and can place women's policy agencies in a quandary about which strategy to follow.

Moreover, this divide influences the way migration of women in sex commerce is viewed. 'Trafficking of women' emerged as a political issue in the 1880s, and was then called 'white slavery'. As it was defined in criminal law as the forced transfer of women across (inter)national borders for the purposes of prostitution, it was intrinsically linked to prostitution. This basic definition characterised all international conventions and treaties after 1904, culminating in the 1949 UN Convention. In the sexual domination view, trafficking of migrant sex workers is always seen as against their will; they are by definition victims of trafficking. The best way to fight trafficking is to abolish prostitution. For those adhering to the sex work position, women can be victims of trafficking, but not all women sex workers migrating are victims of forced prostitution. Many women migrate across borders and increasingly across continents to work in the sex industry to make a living. In this view, trafficking women for prostitution is perceived as undesirable only when a woman is trafficked and forced into prostitution against her will.

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In recent years some feminists have attacked the concept of trafficking itself, pointing out that since prostitution is sex work, it should be regarded as forced labour or slavery, and fought as such (Bindman 1998; Doezema 1998; Murray 1998; Wijers 2001; Sullivan 2003). In this way trafficking is disconnected from prostitution and disappears as a separate offence. It is a move that de-genders, as the link to prostitution reminds us who is usually being trafficked for whom and to what purposes, but at the same time the move would make for more effective strategies against the practice.

The opposing views have led to two different transnational alliances against trafficking: the abolitionist US-run Coalition Against Trafficking in Women (CATW) (of which Kathleen Barry is one of the leaders) and the Global Alliance against Traffic in Women (Global Alliance), based in Thailand, which holds on to the distinction between forced and voluntary prostitution – sex work. It calls for decriminalisation of prostitution and the combat of trafficking and forced prostitution.

The international arena

With the growth of the international sex industry in the late seventies, debate at the supranational level of the UN returned. The loose and fragmented nature of UN institutions allows for constant lobbying by NGOs within the arenas covering human rights, women's rights, children's rights and slavery/forced labour. A wide range of interest groups, including the two major feminist alliances against trafficking, have been struggling to get their framing of the issues into various UN conventions, which, when ratified by member states, set the standard for the legislation at the national level. In the 1990s, UN declarations and conventions triggered new policy debates in the post-industrial states studied in this volume, not only about their ratification, but also when interest groups actively started using them to promote their framing of the issue. Not only women's movement organisations, but also children's rights groups and more traditional and religiously inspired groups against prostitution on moral grounds seized the opportunity to forward their agenda.

The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) contains an article on prostitution calling on states to take measures 'to suppress all forms of traffic in women and the exploitation of prostitution'. According to accompanying documents this was not to be taken that prostitution *per se* should be combated (Wijers and Lap-Chew 1997: 24), but no definition was provided of 'exploitation'. In the 1980s and 1990s, the lobby of NGOs forming the Global Alliance started to attack the abolitionist discourse and try