

# DEMANDING SEX: CRITICAL REFLECTIONS ON THE REGULATION OF PROSTITUTION

Vanessa E. Munro, Marina Della Giusta (eds)  
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## Review by Paul Hamilton<sup>1</sup>

At a time when the number of men paying for sex appears to be on the rise (Ward et al, 2005; Groom and Nandwani, 2006), it is perhaps unsurprising that - having historically been overlooked in legislation - 'punters' are increasingly finding themselves subject to the gaze of the Government's policy lens. Such observations take on even more relevance when set against the backdrop of Governmental concern for 'community cohesion', 'social capital' and eradicating public nuisance and Anti-Social Behaviour (Kantola and Squires, 2004). In no uncertain terms, the Home Office (2008) have made their ideological position clear; paying for sex is unacceptable and will not be tolerated.

Against this background, Vanessa E. Munro and Marina Della Giusta's 'Demanding Sex: Critical Reflections on the Regulation of Prostitution' collection is a welcome addition to the growing literature base that seeks to critically evaluate the evolution of prostitution control in the UK since the publication of the 1957 Wolfenden Report. But Munro and Della Giusta's collection is more than a re-hash of routine critiques of prostitution policy controls and the age-old 'choice versus coercion' debates that have dominated prostitution research in recent years. Uniquely for a collection series of this type, the commitment to a multi-disciplinary approach - economics, law, political and social theory, human geography and anthropology are all represented - not only ensures that divergent perspectives are heard (particularly with regards to the recent policy paradigm shift towards tackling the demand for prostitution), but also that any policy developments are understood in the under-researched context of the 'market' and the complex interrelationship between demand and supply. Herein lies one of the original and key achievements of this essential text in the burgeoning field of prostitution research.

'Demanding sex' is clearly written with policymakers in mind and the editors in their introductory comments make no attempt to hide their disappointment that recent consultations (primarily *Paying the Price*, 2004 and the *resultant Coordinated Strategy*, 2006) have so obviously failed to 'embrace a more deep-seated reform of the UK domestic response to prostitution' (p.5). That said (and ably demonstrating the books commitment to 'moving beyond the polarity and politics' of debate) Munro and Della Giusta simultaneously acknowledge in their introduction, the dangers of falling into the 'transplant model' of regulatory reform. As they go on to argue, assuming

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‘that legislative change will [...] bring about attendant social change [...] places far too much faith in the power of the law as a reformist institution’ (p.5).

By avoiding simplistic, popularised and polarised rhetoric, Munro and Della Giusta’s edited collection provides an insight into a world where policy decisions are best served by the application of considered evidence and alternative theorising rather than entrenched ideology. As the editors point out, such nuances are important if we are to ‘move discussion beyond the dichotomous conflict between ‘pro-sex work’ and ‘abolitionist’ positions that has too frequently paralysed sustained engagement’ (p.7).

Perhaps most striking about this collection is the way in which the divergent contributions coalesce to challenge the view that there is somehow a universal ‘truth’ about prostitution and/or that prostitution exists as a homogeneous entity (as suggested by a number of academics and policymakers (see Home Office, 2008). Once again, this takes us back to the strengths of the multi-disciplinary (and by default, multi-perspective) approach underpinning this collection.

Focusing broadly on the notion of governance, the first three chapters of the book explicitly seek to engage ‘with the perceived shortfalls of current regulatory approaches’ (p.8) to prostitution in the UK.

Jane Scoular and Maggie O’Neill’s chapter ‘Legal Incursions into Supply/Demand: Criminalising and Responsibilising the Buyers and Sellers of Sex in the UK’ makes a vital contribution to the critique of UK prostitution policy by highlighting the limitations of the ‘abolitionist vision’ (p.13). Owing to the well-documented harm and social marginalisation experiences of women involved in prostitution, there has been an attempt by policymakers and prostitution opponents to reconfigure the identities of women involved in prostitution as victims. Whilst Scoular and O’Neill recognize the importance of harm reduction for such women, they argue that the resultant abolitionist policy reforms - characterized by the ‘increased criminalisation of clients while promoting women’s rehabilitation (via social-welfare exit programmes)’ (p.17) – does little to challenge ‘root causes and may lead to an overly simplistic view of the complexities involved’ (p.21). Moreover, for Scoular and O’Neill such reconfigurations merely ‘mirror an old paradigm of welfare responses that focus on ‘saving’ and ‘responsibilising’ fallen women’ (p.22). Providing policymakers with the moral justification to enforce policy reform on their terms, rather than that of the women involved in prostitution, ultimately serves to ‘reinforce a particular and hegemonic version of citizenship’ (p.21). Fortunately, Scoular and O’Neill offer a way out from this narrow definition of ‘social inclusion’, by suggesting a ‘politics of inclusion’ that: a) focuses on ‘de-Othering’ sex workers through the removal of the counter-productive ‘victim’ label; b) recognizing the harms associated with selling sex, whilst rejecting the notion of compulsory engagement with rehabilitation/support services on the basis that further criminalisation through ‘non-engagement’ will only serve to sustain the binaries between ‘good/bad women’ (p.26) and; c) that the voices of women involved in prostitution are better incorporated through the adoption of participatory methodologies. Given the recent policy recommendations in the *Policing and Crime Bill* (2008) stipulating that ‘sex workers’ should no longer be burdened with Level 2 and 3 fines for ‘loitering and soliciting’, but should instead be subject to ‘Compulsory Rehabilitation Orders’, Scoular and O’Neill’s concerns appear especially pertinent.

Following on from this critique of ‘abolitionism’, Jo Phoenix’s chapter ‘Be Helped or Else! Economic Exploitation, Male Violence and Prostitution Policy in the UK’ also traces how the evolution of prostitution policy reform has resulted in prostitution being framed around a discourse of ‘women’s victimisation’ (p.45). Sharing theoretical commonalities with the previous chapter, Phoenix recognizes how the ‘lived realities of selling sex’, especially in relation to sexual health, ‘violence, drugs, criminalisation, financial security and poverty’ (p.37), coupled with a concern for *Safeguarding Children Involved in Prostitution (2000)*, has been largely responsible for the rise in prominence of the victim paradigm and the subsequent plethora of support agencies set up to work alongside the police to ‘produce a more ‘manageable’ street trade without resort to [...] hard-line policing, arrest and conviction’ (p.40). However, like Scoular and O’Neill, Phoenix expresses some concern that the creation of local agencies has resulted in an ‘imperative for state-centred action’ and a ‘re-trenchment of criminal justice responses to prostitution’ (p.41). Once again, Phoenix argues that ‘the paternalistic model of intervention in which women are saved’ (p.45) only serves to create a sense of Other-ness, whilst simultaneously encouraging increasing ‘levels of coercive and punitive regulation of women in prostitution’ (p.46). In addition to *compelling* ‘women to leave without any attention being paid to the circumstances that created the impetus for prostitution’ (p.46), Phoenix expresses concern that the support agencies set up in the 1990s to provide non-judgmental support are being increasingly politicised, principally by subjecting their terms of operation (and funding) to regulation by central government (p.47).

Although the Scoular and O’Neill and Phoenix chapters use different evidence to make their points, the conclusions they reach demonstrate considerable synergy: namely the view that the ‘enforcement plus support’ flavour of ‘abolitionism’ is fundamentally flawed. In the following chapter, Sophie Day revisits ‘State Policy and the Politics of Sex Work’, focusing specifically on the impact of prostitution policy since the implementation of the Wolfenden Report. Day notes how, until recently, the guiding principles of Wolfenden— namely, that the policing of prostitution should focus on public nuisance rather than serving subjective notions of ‘morality’ – has ensured that the tentacles of abolitionism have been less concerned with the private sphere of prostitution (‘off-street’ markets) than they have with the public sphere (‘street-level’ markets). Day goes on to argue that ‘abolitionism did not simply limit the market, it created one’ (p.55). However, following a series of developments associated with an anti-trafficking discourse, Day proposes that this delineated ‘small space of licit sex work’ (p.56) has all but disappeared. In effect, the publication of the 2006 *Coordinated Strategy* heralded the dismantling of the Wolfenden architecture so that ‘the categories of public and private that constituted a fulcrum around which the abolitionist consensus was sustained’ (p.58) has been fundamentally redefined. Whilst Day goes on to argue that formal and informal ‘sex work’ politics could feasibly hijack this repressive regime to the benefit of the sex workers’ movement, the important point here is that - in line with the arguments in the preceding two chapters - Day convincingly questions the Government’s attempt to ‘rehabilitate fallen women, through compulsory drug and alcohol treatment [...] and ever more complex Anti-Social Behaviour Orders’ (p.58) so that they can learn to work and live properly and ‘renounce their past sins’ (p.59).

Chapters 1-3 provides a compelling overview of the inherent shortfalls of the abolitionist model and provides an important counterpoint to the idea that the 'enforcement plus support' approach is necessarily a better solution to solving the 'problems' of prostitution than the overtly punitive model it replaced. However, as valid as these analyses are, one of the limitations of these first three chapters is that the voices of 'sex workers' and other social actors in the policy arena are strangely absent from this debate. Rather than simply referring to the 'evidence emerging from empirical studies' (back cover), directly incorporating the narratives of those directly affected by such legislative changes (principally the 'sex workers') would no doubt add value and integrity to the arguments underpinning these early chapters.

Acting as a bridge between the first and second sections of the book, Gill Allwood provides an intriguing insight into 'The Construction of Prostitutes and Clients in French Policy Debates' in the ten years between 1997-2007. Demonstrating clear parallels with the UK's construction of female 'sex workers' as 'helpless victims' in need of state sanctioned rehabilitation, there is some evidence that the French abolitionist, anti-trafficking approach to prostitution policy reform has been in part driven by an anti-immigration agenda (p.78). Significantly, Allwood's account of the French policy debate is not dissimilar to Day's assertion that, pre-2006, UK policymakers were broadly content to delineate their efforts between the public and private spheres. Based on Allwood's research, there seems little appetite from the French authorities to deal with 'middle class' predilections for off-street sex with 'traditional sex workers'. This is in direct contrast to the control of demand and supply operating within 'visible' immigrant-dominated street-level sex markets. Significantly, it is this relationship between demand and supply that is revisited in latter chapters of the book.

Before this inter-relationship between demand and supply is explicitly addressed, chapters 5 and 6 further open up the debate about the intersection between immigration and trafficking via a discussion of policy initiatives in the international context. Largely concerned with *theorising* the concept of 'exploitation' and its application to sex trafficking, Vanessa Munro's chapter 'Exploring Exploitation: Trafficking in Sex, Work and Sex Work' argues for a greater appreciation of the moral, political and social debates underpinning 'exploitation'. In short, Munro's concern is with the homogeneous (mis)interpretations of 'exploitation' and the way in which this potentially restricts our understanding of 'what is trafficking' and the socio-political climate in which the 'reliance on criteria of coercion and harm' perpetuates 'the current prioritisation of sex trafficking over its equally significant labour counterpart' (p.94). Munro concludes that being morally 'squeamish' about raising these difficult questions, simply serves to re-affirm the trafficking hierarchy and fails to recognise the difference between 'wage labour and servitude' (p.95).

Like Allwood and Munro, Sharron A. Fitzgerald identifies the ways in which nation states' immigration policies and debates are increasingly framed by the (feminist) construction of female 'victims' of trafficking. Fitzgerald's 'Putting Trafficking on the Map: The Geography of Feminist Complicity' chapter concludes that an urgent reconfiguration of knowledge production is required in order that policies resulting in the 'further victimisation of female migrants' (p.116) are eradicated.

Extending the multi-disciplinary and theoretical approach yet further, Chapters 7 and 8 [‘Simulating the Impact of Regulation Changes on the Market for Prostitution Services’ (Marina Della Giusta) and ‘Client Participation and the Regulatory Environment’ (Allan Collins and Guy Judge) respectively] provide ‘an economic approach to studying prostitution’ (p.121). As Della Giusta astutely recognises, the neglect of economics within prostitution research is somewhat surprising given that many of the key features of prostitution markets – including the dynamics of international labour mobility, women’s entrepreneurship, pathways out of poverty (p.122) and the relationship between demand and supply – have traditionally interested economists. This, of course, is not to say that economists will be any better than ‘social scientists’ at providing solutions to the harms inherent to prostitution. Fortunately, one of the major strengths of these ‘economic modelling’ analyses are that they appear cognisant of the multifaceted motivations of ‘clients’ and ‘sex workers’ (as evidenced in Della Giusta’s review of ‘economics and prostitution’ (pg. 122-123)). That said, ‘modelling’ inevitably requires that simplified (and occasionally, homogenised) assumptions *are* made at *some* point within the equation. Falling back on the principle of *ceteris paribus* for any shortfall in the models results (p.123) is a luxury that non-economists – particularly those from the qualitative tradition - are generally not afforded. Consequently, it is highly contestable that ‘economising’ prostitution markets in this way adequately explains the nuances of local markets and local conditions (see Pawson and Tilley, 1996). Moreover, it seems somewhat curious that the conclusions reached from the modelling process can be produced without any tangible research evidence being gathered from the population (‘clients’ and ‘sex workers’) under consideration.

Criticisms aside, these two ‘economics’ Chapters potentially bring with them a number of important policy implications, particularly if the ‘social scientific’ community are able to test these theories out through well-designed research projects. For example, at a time when the Government is seeking to use ‘naming and shaming’ as a key ‘demand reduction’ strategy (Home Office, 2008) it is noteworthy that Della Giusta’s model predicts that ‘clients will participate in the ‘market’ for paid sex if their marginal willingness to pay for sex exceeds [...] the marginal costs of a worsened reputation’ (p.125). Collins and Judge take up this point and contend that clients – acting as ‘rational actors’ – might be influenced by the relative ‘revelation risks’ (p.143) between different ‘red light’ districts. This would seem to suggest that pursuing a policy of ‘stigmatisation’ and perceived enforcement might have some value in reducing demand. Nevertheless, as all three authors point out, such an approach is inherently risky owing to the likely ‘unintended consequences’ of displacing prostitution activities and encouraging prostitution to become less visible and more risky for those on the ‘supply-side’. Despite the value in applying economic principles to stigma and its relationship with demand and supply, what is arguably missing here is an appreciation of the potential stigmatisation disparities between different sex markets (the ‘street’ versus ‘escorts’ for example) and the associated ‘motivational’ disparities within these markets. In this sense, a ‘catch all’ economic model is unlikely to fully capture these nuances.

Continuing the focus upon the client, David Archard’s ‘Criminalising the Use of Trafficked Prostitutes: Some Philosophical Issues’ chapter is of particular relevance seen in the context of the Government’s plans to make it a *strict liability* offence to buy sex from a person ‘who is controlled for another person’s gain’ (Home Office,

2008). By abandoning the notion of *Mens Rea*, Archard asks not if such a policy would work, but ‘could it be justified morally’ (p.160)? Archard ultimately rejects the idea that any man unwittingly paying for sex with a trafficked woman should be prosecuted as having committed rape. Even in circumstances where the ‘client’ is aware that the woman is from overseas and works in a brothel, this knowledge by itself ‘does not provide any man using a prostitute with a reasonable assurance that the prostitute he is using is subject to coercion and unlawful detention’ (p. 153).

Having brought the ‘client’ firmly into focus in the preceding two chapters, Teela Sanders and Rosie Campbell provide a contemporary and insightful exposition of recent UK policy shifts associated with ‘tackling the demand for prostitution’. In asking the question ‘Why Hate Men Who Pay for Sex?’ Sanders and Campbell brilliantly expose the flaws, inconsistencies and lack of appropriate evidence that characterise this policy paradigm shift. Charting the development of recent policy initiatives, Sanders and Campbell question the rationale for employing anti-demand strategies that range from media-driven ‘marketing messages’ directed towards potential ‘punters’, through to anti-kerb crawling initiatives as enshrined in the Sex Offences Act, 1985 (latterly updated in the Criminal Justice and Police Act, 2001) and the ‘naming and shaming’ of those caught paying for sex. And all, Sanders and Campbell argue, in the vain attempt to create a ‘mythical utopian state’ where ‘men do not buy sex and women do not sell sex’ (p.168). Critically where is the evidence that such interventions ‘work’? Although the authors are unable to provide their own empirical evidence, Sanders and Campbell are particularly dismissive of the recent lurch towards ‘Kerb Crawler Rehabilitation Programmes’.

Demonstrating parallels with Munro and Della Giusta’s earlier ‘transplant model’ commentary, this penultimate chapter most notably raises concerns that the UK Government is increasingly showing signs of sympathy towards the ‘Swedish model’ of criminalizing demand. With patchy evidence (at best) that such an approach has had any discernible benefits for those involved in prostitution, Sanders and Campbell are especially dismissive of ‘morally driven legislation and administration that serves no practical result or achieves little or no change is arguably not the purpose of legal statutes’ (p.171). In fact, it is argued that such ‘punter’ criminalisation interventions may actually serve to ‘undermine initiatives to promote the safety of sex workers’ (p.175) and end up ‘penalising women involved in the sex industry’ (p.176). Whilst there will be those that disagree with such sentiments, I have considerable sympathy with Sanders and Campbell’s resentment at policy being driven by radical feminist ideology rather than thorough and realistic evidence. As the authors conclude, ‘if law is passed that criminalizes men who buy sex, the moral message of commercial sex as ‘wrong’ will be based on the force of change and not evidence or fact’ (p.176).

In contrast to the above account, Madeleine Coy argues in the final chapter that we should actively seek to eradicate the normalisation of sex work that stems from an increasingly sexually commoditised culture. Interestingly, of all the chapters in this edited collection, Coy provides – for example, via the inclusion of ‘life story’ narratives - the most comprehensive empirical data to support her arguments, leading her to contend that these rich accounts help to ‘strengthen the evidence base of harm in relation to prostitution’ and for ‘aspects of objectification that perpetuate views of women as depersonalised’ (p.195). Yet, I have to confess to being somewhat surprised that this insightful and thought-provoking collection of essays should finish

with such a traditionally 'abolitionist' standpoint. This is not to say that I affiliate myself with a 'pro-sex' stance or that I am for the censoring of such viewpoints. Indeed, the view that 'prostitution constitutes not only a significant barrier to gender equality but also a form of violence against women' (p.181) is perfectly valid and Coy's arguments are well made. However, such an account is not new and is arguably misplaced in a collected series of this kind. For the reader, it becomes difficult to reconcile such accounts with the claim from the editors that 'this project seeks to move discussion beyond the dichotomous conflict between 'pro-sex work' and 'abolitionist' positions' (p.7). No doubt the previous chapters are equally liable to criticisms of ideological bifurcation, but I would assert that up until this final chapter, all the essays in this collection at least shared a commitment to nuanced and original perspectives. A counterpoint is always welcome in an edited collection of this kind, but arguably not when it descends into a retrenchment into the 'coercion versus choice' debate.

Nevertheless such criticisms should not detract from what are generally contemporary, thought-provoking and well-informed essays. Given the Governments recent sex work policy proposals, it is unfortunate that - at a time of flux and change with regards to policy - those responsible for such proposals appear not to have given due consideration to many of the timely contributions contained in this well-researched book.