

2000

Legal Challenges to and by Sex Workers/Prostitutes

Amalia Lucia Cabezas
University of California, Los Angeles

Follow this and additional works at: <https://engagedscholarship.csuohio.edu/clevstlrev>



Part of the [Law and Gender Commons](#), and the [Sexuality and the Law Commons](#)

[How does access to this work benefit you? Let us know!](#)

Recommended Citation

Amalia Lucia Cabezas, *Legal Challenges to and by Sex Workers/Prostitutes*, 48 Clev. St. L. Rev. 79 (2000)
available at <https://engagedscholarship.csuohio.edu/clevstlrev/vol48/iss1/11>

This Article is brought to you for free and open access by the Journals at EngagedScholarship@CSU. It has been accepted for inclusion in Cleveland State Law Review by an authorized editor of EngagedScholarship@CSU. For more information, please contact library.es@csuohio.edu.

LEGAL CHALLENGES TO AND BY SEX WORKERS/PROSTITUTES

AMALIA LUCIA CABEZAS¹

A friend recently asked me, “What is a sex worker? What does a sex worker do? Is sex worker a politically correct way to say prostitute?”

Sex worker is a term that emerges from a particular historical and political juncture. It reflects a change in consciousness imbedded in the political struggles of women prostitutes. In this article, I trace the genealogy of the term to the 1960s, when major changes occurred in the role of women in society and in the reconceptualization of what were heretofore known as “deviant” sexualities. I then shift attention to the Caribbean, where I apply the term to the advent of sex tourism and the development of a sex workers’ movement linked to a human rights agenda.

FROM PROSTITUTION TO SEX WORK

The influence of the New Left and the revolutionary movements of the 1960s created major points of resistance to the dominant ideas on sexual morality. Sexual issues gained prominence when sexual outlaws—lesbians, gays, feminists, and prostitutes—in their struggles for civil rights and self-determination sought to counter the social stigma, marginality, and lack of juridical protection that they experienced in mainstream society. By the late 1960s the country had witnessed some of the most radical changes to the legal framework of sexuality in almost one hundred years. Between 1967 and 1970 alone there were significant new changes to the legislation of divorce, homosexuality, abortion, and stage censorship.²

These were times when the women’s movement began to demand financial independence, control over their bodies, and more sexual choices for women. Radically questioning the prevailing moral and economic arrangements, Black women in the United States led the Welfare Movement, demanding cash payment for the job of raising children. Indeed, women began what has become a demographic trend: the refusal to enter into marriage only to support their children. Black women, Third World women, and poor women all fought against forced sterilization.³ In the United States, women fought for and won the legal right to safe abortions, curtailing the states’ power over their bodies and reproductive rights.

Women also drew attention to the unremunerated work that they performed within families and sexual relationships. In Iceland in 1975, women took part in a national strike known as the “Day Off,” drawing attention to their productivity in and out of the home. In England, women started the Wages for Housework campaign, demanding that industry and government compensate women for their invisible contributions to the economy. In the United States, women such as Bianca Jagger and Michelle Triola Marvin put a price tag on the job of being a wife and a mistress

¹Post-Doctoral Fellow, University of California, Los Angeles.

²JEFFREY WEEKS, *MAKING SEXUAL HISTORY* (2000).

³Elena Gutiérrez, *The Racial Politics of Reproduction: The Social Construction of Mexican-origin Women’s Fertility* (1999) (unpublished Ph.D. dissertation, University of Michigan).

by forcing the courts to consider the value of women's unpaid work within heterosexual relationships.

An advocacy movement of politicized prostitutes got rolling in 1975 when 150 prostitutes took over the main church in Lyons, France.⁴ Protesting the unsolved murders of local prostitutes and daily police harassment, repression, and multiple and exorbitant fines, they staged a take-over of a local church. The movement spread like wildfire to other parts of France.

In Paris, prostitutes took over a church and demanded their full rights as citizens, calling for the abolition of fines and, in their place, a non-punitive tax system that would provide them with the right to pension and welfare benefits like "every other French woman who is a mother." They pressed for the right to be nationalized as civil servants of sex. Indeed, challenging the notion that those who sell sex are deviant and pathological, they claimed that sexual commerce was a "job determined by the sexual needs of one part of society"—the male clients who largely went unpunished. They stressed not just the laws of supply and demand but also the heavy profits reaped by the state in the criminalization of prostitutes. Indeed, the role of the nation-state was conjectured as being complicitous in the pimping of women.⁵

The strike lasted seven days and ended when the police invaded the church, beating the women and ending the occupation. The women's demands were not met, but they did generate worldwide attention to the conditions and abuses that prostitutes suffered. The strike also spurred the organization of the French Collective of Prostitutes and marked the shift from prostitute—a social identity of shame and social isolation—to sex worker—a social identity of empowerment and workers' rights.

The formation of the sex workers' rights movement in France was followed by the development of similar groups in England, Australia, Germany, Italy, Denmark, Canada, and major cities in the United States. The movement brought attention to the difficult and dangerous working conditions facing sex workers. It also raised people's consciousness of the social and economic issues that all women face, such as violence, sexual harassment, discrimination, rape, lack of viable work opportunities, and poverty. A popular slogan used by the sex workers' movement in the United States was "Outlaw poverty, not prostitution." Other sex worker organizations, such as the English Collective of Prostitutes, for example, advocated the abolition of laws against prostitutes, laws that punish women for rejecting poverty.⁶

Globally, prostitutes have continued to organize, demanding the decriminalization of prostitution, equal protection under the law, improved working conditions, the right to pay taxes, the right to travel, and the right to receive social

⁴CLAUDE JAGET ED., *PROSTITUTES - OUR LIFE* (1980).

⁵"No one screws more prostitutes than the government" read a poster campaign in England led by the English Collective of Prostitutes in 1992.

⁶Nina López-Jones, *Workers: Introducing the English Collective of Prostitutes*, in *SEX WORK: WRITINGS BY WOMEN IN THE SEX INDUSTRY* 271, 272 (Frederique Delacoste and Priscilla Alexander eds., 1987).

benefits such as pensions.⁷ Along with prostitute unions, numerous international conventions and platforms have created further awareness of the plight of prostitutes. The International Congresses of Whores (1985, 1986), the International Committee for Prostitute Rights (1985), the World Whores Summit, the National Conference of Prostitutes in Brazil (1987), and the World Charter for Prostitutes' Rights (1985) have articulated a global political movement seeking recognition and social change.⁸

Numerous international organizations have joined in supporting the emerging legal and social position of sex workers. Anti-Slavery International, formed in 1839 and now the world's oldest human rights organization, acknowledges that most men and women working as prostitutes are subject to abuses similar to those experienced by other workers in low-status jobs in the informal sector of the economy. They expressly dispute two human rights instruments, the 1949 UN Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, that identifies prostitution as a human rights violation akin to slavery. They propose the application of existing human rights and labor standards to the sex industry, asserting that the "marginal position of sex workers in society excludes them from the international, national, and customary protection afforded to others as citizens, workers, or women".⁹ Likewise, the International Labor Organization, while failing to recognize prostitution explicitly as work, recognizes that, where prostitutes are considered workers with rights under standard labor legislation, they are entitled to proper working conditions and to protection from exploitation and discrimination.¹⁰

In the 1990s, the sex workers' rights movement includes transgender, Third World, lesbian, gay, bisexual, heterosexual, and migrant men and women. Sex worker organizations continue to form throughout Africa, Latin America, the Caribbean, and Asia. In 1997, Costa Rica hosted the first Latin American and Caribbean sex worker conference, advocating the decriminalization of prostitution, the recognition of prostitution as legitimate work, and the acceptance of prostitutes as working women. Organizations such as *La Unión Unica* (the Unique Union) in Mexico City have organized not just sex workers but all other workers who participate in and profit from the sex industry, such as taxi drivers, bartenders, and hotel workers.¹¹

⁷GLOBAL SEX WORKERS: RIGHTS, RESISTANCE, AND REDEFINITION (Kamala Kempadoo & Joe Doezema eds., 1998).

⁸Amalia Lucia Cabezas, *Discourses of Prostitution: The Case of Cuba*, in GLOBAL SEX WORKERS: RIGHTS, RESISTANCE, AND REDEFINITION (Kamala Kempadoo & Joe Doezema eds., 1998).

⁹Jo Bindman, *Redefining Prostitution as Sex Work on the International Agenda*, ANTI-SLAVERY INTERNATIONAL, London, July 1997, at iii.

¹⁰LIN LEAN LIM, INTERNATIONAL LABOUR OFFICE, THE SEX SECTOR: THE ECONOMIC AND SOCIAL BASES OF PROSTITUTION IN SOUTHEAST ASIA (1998); Kamala Kempadoo & Ranya Ghuma, *For the Children: Trends in International Policies and Law on Sex Tourism*, in SUN, SEX AND GOLD: TOURISM AND SEX WORK IN THE CARIBBEAN (Kamala Kempadoo ed., 1999).

¹¹Amalia Lucia Cabezas, *We Are a World of People: An Interview with Caludia Colomono*, in GLOBAL SEX WORKERS: RIGHTS, RESISTANCE, AND REDEFINITION (Kamala Kempadoo & Joe Doeaema eds., 1998).

Speaking of prostitution as the oldest profession acknowledges its similitude to other professions demanding of certain skills and labor and involving commercial exchange. The sex workers' movement in the past twenty years has made some gains in legitimizing prostitution as a form of labor. In New South Wales, Australia, an official sex workers' union formed in 1996 under the auspices of the Australian Liquor, Hospitality, and Miscellaneous Workers' Union. In Paraguay, the national workers' union recognized sex workers as legitimate workers who can retire and receive full pension benefits.¹² In San Francisco, exotic dancers at one prominent theater are represented by Local 790 of the Services Employees International Union of the AFL-CIO. These workers now have access to the same benefits and protections as other service workers.

The biggest achievement is that the notion of a "sex worker" has given an unprecedented legitimacy to the labor of those who sell sexual services, positioning them to articulate demands for fair treatment and social justice. In March 2000, the highest court of Bangladesh ruled that 3,400 sex workers could not be evicted from the country's largest brothel and that the police raid and eviction were illegal because they violated women's right to work. Because prostitutes vote and pay taxes, they "are in a legal profession," the judges said.¹³

In the Dominican Republic, MODEMU (*Movimiento de Mujeres Unidas* or Movement of United Women) is the outcome of organizing efforts by and on behalf of sex workers and sex worker advocates seeking to educate themselves and their peers about the AIDS pandemic. Headquartered in the capital city of Santo Domingo, MODEMU provides social and health services to sex workers and other poor women. It holds workshops in various provinces of the country to raise women's consciousness about issues of gender equality, fair wages and working conditions, and health and safety issues related to sex work. Their broad concept of health also includes education on issues of self-esteem and women's economic independence. Using the knowledge base of sex workers, they conduct workshops and outreach services in the sex businesses and other places where sex workers congregate.

In 1993 they began publishing a newsletter titled *La Nueva Historia: Periódico de la Noche* (*The New History: Newspaper of the Night*). Sensitive to the lack of literacy skills among their readers, their publications contain pictures and entertaining vignettes, while offering instruction on voting rights and responsibilities, international migration issues, human rights, sexual and reproductive health, and domestic violence. Although most of their work is with women in the national sex trade, MODEMU also educates women about the dangers of trafficking in women and forced prostitution.

As the much-stressed model of economic development for small island nations, tourism has produced a market demand for locals to sell sexual services to tourists. During my field research in the Dominican Republic, I interviewed women who had traveled to other parts of the Caribbean and Western Europe to work in the sex trade. Many young, Dominican men and women migrate to the tourist areas to meet the demands of an expanding sexual market. They also migrate to other countries as

¹²Kempadoo and Doezema, *supra* note 10.

¹³*Eviction of Bangladesh Prostitutes Ruled Illegal*, ATLANTIC CONSTITUTION, Atlanta, Mar. 15, 2000, at 8A.

marriage partners, domestic workers, and workers in the European sex industry. Connections to transnational economies, cultures, and organizations have demystified their social position and informed them as to their rights.

In the following section I examine how the internationalization of the travel and leisure industry has created unprecedented opportunities to access the resources and standard of living of more developed countries. Through sex work and marriage, local men and women produce circuits and linkages to a globalized economy. Despite the efforts of MODEMU and other sex worker advocacy organizations, the mobilization of sex workers in the public sphere is limited by the organizational and structural dynamics of sex tourism.

SEX AND TOURISM

At the tourist beaches, restaurants, and nightclubs of the Dominican Republic, European men are often seen in the company of young, local women and girls. North American and European men are the primary travelers to the Dominican Republic. These pleasure seekers come for the sunny beaches, the picturesque scenery, and sexual experiences with “exotic” people of color.¹⁴ With a population of 7.8 million people, the Dominican Republic has an estimated 100,000 male and female sex workers, with 50,000 more working in Western Europe.¹⁵ Young Dominicans travel from the capital or the rural areas to provide sexual services and pleasure to male and female, both gay and heterosexual, foreign tourists. In return, they hope that their liaisons with foreigners will provide them with the possibility to travel, marry, migrate, or at least make enough money to support themselves and their families. María, a twenty-five-year-old sex worker, has traveled to Germany twice:

Yes, I went twice to Germany, twice with two different men. I liked it there very much. I was very happy. The first time I stayed for two months, and he gave me money to take back for my children and for my return trip. The second time it lasted six months, and he gave me money every week to send home to my family. For my sisters I sent four hundred [Deutsche] marks, five hundred.

So what did you do there?

Nothing. I just stayed home during the week, doing housework, and on weekends we went out sightseeing. It was very peaceful.

I interviewed thirty-five women who work primarily with tourist men in and around tourist resorts. At the time of the interviews, their ages ranged from twenty-one to thirty-five, and they had been working primarily with tourists for more than

¹⁴Amalia Lucia Cabezas, *Women's Work is Never Done: Sex Tourism in Sosúa, the Dominican Republic*, in SUN, SEX AND GOLD: TOURISM AND SEX WORK IN THE CARIBBEAN (Kamala Kempadoo ed., 1999).

¹⁵GINA GALLARDO RIVAS, CENTRO DE INVESTIGACION PARA LA ACCION FEMENINA, BUSCANDO LA VIDA: DOMINICANAS EN EL SERVICIO DOMESTICO EN MADRID (1995); INTERNATIONAL ORGANIZATION FOR MIGRATION, TRAFFICKING IN WOMEN FROM THE DOMINICAN REPUBLIC FOR SEXUAL EXPLOITATION (1996).

five years. They were working in a non-institutionalized, freelance, and transitional form of prostitution connected to the mass tourism market. They negotiated primarily with men from Western Europe and Canada, with an age range between twenty and eighty years. Their clients were married or single, accompanied by their wives, family, and friends, or traveling alone.

The participants in this study were unemployed or underemployed or held menial jobs. They started selling sexual services of their own accord, being informed and initiated by their friends as to the availability of work and the organization of the industry.

The majority of the women procure relationships with tourists that involve elements of friendship, sponsorship, and obligation.¹⁶ They enter into relationships with tourists whom they call “*amigos*” (friends). In fact, all clients are termed *amigos*. *Amigos* generally fall into three categories—the Committed, the Transitional, and the Strictly Short-Term *Amigos*—and these categories intersect and overlap.

The category of the Committed *Amigos*¹⁷ comprises the romantic obligation, whereby the woman or man initiates a discussion about her financial status, usually after the *amigo* declares love, affection, and concern for her, especially for her financial well-being. Shortly after he leaves, he begins to send monthly remittances so that she does not have to work the streets. These Committed *Amigos* contribute to the household economy by sending remittances and buying gifts such as electrical appliances, medicines, and groceries. They return to visit, sometimes often. They might invite the woman to travel to other tourist resorts and provide airfare and visas to Europe, with the promise of a marriage proposal and permanent migration to Europe. These relationships approximate the general patterns and expectations of heterosexual romances. When the man seriously wants the woman as his wife, he pledges financial support in return for her promise of emotional and physical fidelity.

The Transitional *Amigos* are the inconsistently available tourists. They sometimes answer a telephone call or a fax for help. Sometimes they recommend their friends to the woman. Overall, these relationships are sporadic and lukewarm.

The category of the Strictly Short-Term *Amigos* encompasses all of the sexual, commercial relationships that women encounter in the sex trade zones. These encounters average anywhere between five minutes to one hour. The women are then free to procure another tourist or go home for the night. This third category envelops all of the clients whom women service in the sexual marketplace. These encounters are temporary transactions that do not involve more familiarity than necessary. The man’s friendliness and the fact that he paid and did not mistreat the woman makes him *un amigo*.

Most sex workers with whom I spoke perceive work with tourists as a transitional stage to a stable relationship. In fact, they hope to attain what is commonly termed *La Gloria* (The Glory): marriage to a foreigner who will provide them with opportunities for migration and care and protection for their families and children. As with many of the women I interviewed, Yolanda, twenty-three years old, hopes to marry a foreigner and abandon the sex trade. She commented:

¹⁶Cabezas, *supra* note 14.

¹⁷Some women are simultaneously involved with various men.

I have a friend who left with a tourist, and over there she is studying, working. I want to leave this country and make a better life for my children. It's not all of us who have that opportunity. You have to be very lucky.

Despite the social stigma of the activity itself, sex work is not solely a commercial endeavor; it is also a means to attain socially acceptable arrangements, values, and behaviors. Within the political economy of tourism, marriage to a foreigner is not an irrational hope. In the Dominican Republic, the Swiss consulate asserts that, on average, six marriages per week take place between Swiss men and Dominican women.¹⁸

Latin American and Caribbean women are also traveling to Europe and elsewhere in the Caribbean to work in the sex trade. Globalization, as seen through the prism of the international tourism industry, has generated opportunities for local peoples to access the forces of globalization through marriage, sex work, and domestic work, inadvertently blurring the boundaries between these three categories.

The fluidity of these arrangements make sex work with tourists an obstacle for the emergence of a protest movement. Many women undertake sex work sporadically, between marriages, jobs, or when there is a family emergency. Long-term organizing proves difficult because many forms of prostitution are provisional, fluid, and shrouded in fear, shame, and secrecy. Educating and empowering sex workers are difficult tasks because the complex relationships do not readily lead to collective action. In fact, investigations of sex tourism defy easy generalizations. We cannot even speak of relations of domination and exploitation between tourist men and female sex workers in the Caribbean. For example, in their analysis of Jamaican men engaged in sexual commerce with tourists, typically referred to as "Rent-A-Dread," Pruitt and LaFont (1995) found that, although the relationship may appear as one of prostitute (the Jamaican man) and client (the Euro-American woman) to outsiders, both partners in the relationship perceive it as courtship.¹⁹ They term these sexual encounters romance tourism: "The actors place an emphasis on courtship rather than the exchange of sex for money".²⁰ They claim that the term sex tourism reinforces gender domination and power relations of male domination and female subordination. Romance tourism, in contrast, furnishes a playing field for new possibilities in gender arrangements and for new patterns of gender domination.²¹ Their analysis testifies to the ambiguity of these relations and the erosion in the categorical boundaries of prostitute, pimp, husband, wife, domestic worker, and sex worker.

The practical and organizational conditions that might lead to the emergence and action of a specific tourism-related sex worker mobilization prove even more problematic. In tourism, not only are there sexual liaisons between local men and foreign women in Barbados, Cuba, Jamaica, and the Dominican Republic, but also there are patterns of gay, transvestite, bisexual, and child prostitution in the

¹⁸INTERNATIONAL ORGANIZATION FOR MIGRATION, *supra* note 15.

¹⁹Deborah Pruitt & Suzanne La Font, *For Love and Money: Romance Tourism in Jamaica*, 22:2 ANNALS OF TOURISM RESEARCH 422-40 (1995).

²⁰*Id.* at 423.

²¹*See generally* Pruitt & La Font, *supra* note 19.

Caribbean region as a whole.²² Mobilization efforts need to focus on commercial sex work as an activity, not a characteristic or status of women, meanwhile remaining attentive that it is women sex workers who are the only ones subject to violence and discrimination, incarceration and rehabilitation.²³ Of course, as the work of Pruitt and La Font illustrates, economic power relations, and the meanings that people attribute to their actions, cannot be specified in advance.

Despite these and many other obstacles, many men and women around the globe have faced the secrecy, indignity, and shame that keep sex workers from demonstrating publicly against their situation. Opportunities now exist for sex workers to organize locally, regionally, and across national boundaries to challenge the politics of prostitution in the public sphere. Transnational organizations provide the structure for mobilization across boundaries of nation-states and provide a welcome relief from local stigma and other limitations. Likewise, the human rights movement has created a language and rhetoric to fight police harassment and to politicize sex workers as to their rights. In the next section I analyze how these two linkages highlight the possibilities of a “globalization from below” for marginalized sexual communities.

TRANSNATIONAL SEX WORKERS ORGANIZE

Fueled by the dynamics of globalization itself, the sex workers’ movement has become increasingly global. Electronic communication, media coverage, and the alliances, networks, and circuits of information created by transnational nongovernment organizations (NGOs), international conferences, the United Nations’ focus on violence against women, and the AIDS pandemic²⁴ have generated unprecedented opportunities for organizing across the borders of identities and

²²Antonio E. DeMoya, Rafael Garcia, Rosario Fadul, Edward Herold, Sosua Sanky-Pankies and Female Sex Workers (1992) (unpublished manuscript on file with the Instituto de Sexualidad Humana at Universidad Autonoma de Santo Domingo); Antonio E. DeMoya & Rafael Garcia, Three Decades of Male Sex Work in Santo Domingo (1996) (unpublished manuscript on file with the Universidad Autonoma de Santo Domingo); Gisela Fosado, Masculinity and Male-Male Sexualities in Havana, Presentation at the *Latin American Studies Association Congress XXII* (Mar., 2000); Clayton M. Press, Jr., *Reputation and Respectability Reconsidered: Hustlin’ in a Tourist Setting*, 4 CARIBBEAN ISSUES, Apr. 1978, at 109-18; Pruitt, *supra* note 19; Silvester, et al. (1994).

²³Cuba has reinstated the use of rehabilitation camps for women prostitutes. In a recent report, the UN Special Rapporteur on violence against women protested that women are sent to the camps for up to four years without due process. She states in the report: “As prostitution is not a crime in Cuba, the use of criminal procedure, such as imprisonment, forced labour in agriculture and restriction of visiting time to a few hours, violate their rights to due process of law” AGENCE FRANCE PRESSE, March 24, 2000.

²⁴Homosexuals and sex workers were targeted at the inception of the AIDS pandemic for outreach educational programs sponsored by U.S. Agency for International Development and the Pan American Health Organization. As Steve Epstein reminds us, “The stigma of disease has been linked with the stigma of deviant sexuality.” STEPHEN EPSTEIN, *IMPURE SCIENCE: AIDS, ACTIVISM, AND THE POLITICS OF KNOWLEDGE* (1996). And as Donna Guy points out in *Sex and Danger in Buenos Aires*, prostitutes have a long history of being defined as medically dangerous in the gendered constructions of disease. DONNA GUY, *SEX AND DANGER IN BUENOS AIRES: PROSTITUTION, FAMILY, AND NATION IN ARGENTINA* (1990).

nation-states. No longer limited by state-centered politics, transnational NGOs provide an important bridge to dispossessed and exploited people in authoritarian countries, who use transnational social movements as a means to expand local political participation.²⁵

The transnational advocacy networks of the sex workers' movement have linked activists across international borders to produce political mobilization and informational exchanges.²⁶ Women working in prostitution confront problems that are inherently transboundary in nature, and sex workers in many parts of the world face similar social stigma, criminalization, dire working conditions, human rights violations, and lack of health and safety protection, among others. Sharing information, organizing strategies, and support across national borders proves crucial.²⁷ For instance, in Venezuela in 1997, the local sex worker organization, AMBAR, mobilized global support against an illegal office search by the local police. They staged an Internet call-for-action, requesting and receiving worldwide support opposing the abuses perpetuated against them by agents of the state. As a result of their efforts, what had previously been considered a routine violation of the law became an affair of international concern.

International conferences also provide an important arena to organize, network and share knowledge. A 1996 conference at the United Nations organization in Santo Domingo²⁸ brought together sex workers from all over Latin America and the Caribbean. These organizations were joined by European migrant and sex worker advocacy organizations for a conference on the traffic in women.²⁹ Representatives from seven sex worker organizations were able to share information about the practices of the sex trade in their respective countries, organizing strategies, and gains and challenges in obtaining social acceptance.

²⁵Robin Cohen, *Transnational Social Movements: An Assessment*, Department of Sociology, University of Warwick, World Wide Web site for Oxford University Geography Department; MARGARET E. KECK & KATHRYN SIKKINK, *ACTIVISTS BEYOND BORDERS: ADVOCACY NETWORKS IN INTERNATIONAL POLITICS* (1998).

²⁶GLOBAL SEX WORKERS: RIGHTS, RESISTANCE, AND REDEFINITION (Kamala Kempadoo & Joe Doezema eds., 1998).

²⁷There are numerous differences within these organizations. Many of the organizations, especially those that receive support from NGOs or HIV/AIDS-related groups, can more easily take advantage of global communication networks. But many face precarious financial conditions and limited access to technological resources. Furthermore, there is also heterogeneity in the character, structure and organization of sex work between and within the global North and South that is further differentiated by class, race, ethnicity, age, parenthood, immigration status, and sexual orientation, etc.

²⁸The conference took place at the *Instituto Internacional de Investigaciones y Capacitación de las Naciones Unidas Para la Promoción de la Mujer* (United Nations International Institute for Investigations and Training for the Advancement of Women).

²⁹*Prostitutas piden mayor participacion social*, NUEVO EL DIARIO, Santo Domingo, Dominican Republic, Dec. 18, 1996; *Conferencia acusa a paises complicidad trafico mujeres*, EL MUNDO, Santo Domingo, Dominican Republic, Dec. 14, 1996, at 22.

HUMAN RIGHTS AS SEX WORKERS' RIGHTS

The movement to politicize women's rights as human rights was probably not meant to apply to sexual minorities.³⁰ In the realm of the sex trade, working women are readily protected as victims of trafficking or sexual exploitation, but advocacy is more difficult for women who insist on the right to possess their bodies. Sex workers are often victims of extortion, assault, rape, abuse by police officers, robbery, and even murder. Sex workers are at best invisible and at worst considered deserving of abuse. It is ironic, therefore, that they have gained agency and political opportunity in applying the human rights discourse to their mobilization efforts. In fact, human rights discourses serve as a framework for organizing their struggle against the state's monopoly in regulating the practices and politics of sexual commerce and for vindicating the rights of sex workers.

Although violence against women has held an important position in the conception of women's rights as human rights, the "public" and "private" forms of abuse that sex workers face have not been part of the discourse.³¹ Global and local campaigns to raise awareness of violence toward women fail to recognize and include the injustices against commercial sex workers. When female prostitutes enter into the international human rights discourse, they usually do so only if they clearly are victims, either of trafficking or of forced prostitution. Yet the lack of juridical protection, and criminalization by the state renders female prostitutes particularly vulnerable to gender-based violence and abuse. As Jo Bindman asserts: "Their vulnerability to human and labour rights violations is greater than that of others because of the stigma and criminal charges widely attached to sex work".³²

As routine victims of police violence and arrests, sex workers fear reporting the violations of their rights. Yet, women sex workers, derogating from the normative-heterosexual paradigm, are often victims of extortion, assault, rape, abuses by police officers, loss of child custody, robbery, humiliation, harassment, discrimination in employment, housing and law enforcement, and even murder. Protecting the rights of sex workers, and protecting all women from violence, is never as high a priority as arresting women for selling sex.³³ Furthermore, as legal theorists Danielsen and Engle suggest, "The more women deviate from this framework of acceptable

³⁰The issue of prostitution is addressed in United Nations instruments primarily through the prism of sexual exploitation or forced prostitution and trafficking in women. See JULIE PETERS & ANDREA WOLPER, *WOMEN'S RIGHTS, HUMAN RIGHTS* (1995). I borrow the term sexual minorities from Heinze (1995) who defines it as "people subject to discrimination on the basis of lifestyles, intimate associations, or other forms of self-identification or expression regarded as derogating from what in contemporary, statist societies has become the widespread dominance of normative-heterosexual models of social organization." ERIC HEINZE, *SEXUAL ORIENTATION AND HUMAN RIGHTS* 12 (1995). This definition calls attention to failure of the international human rights movement to address the derogation of rights based on sexual orientation and social sexual agency.

³¹See Donna Sullivan, *The Public/Private Distinction in International Human Rights Law*, in *WOMEN'S RIGHTS HUMAN RIGHTS: INTERNATIONAL FEMINIST PERSPECTIVES* (Julie Peters & Andrea Wolper eds., 1995) for an incisive discussion of the effects of the private/public demarcations in international law.

³²See Bindman, *supra* note 9, at 111.

³³*International Prostitutes Collective* 1999.

gendered behavior [the monogamous heterosexual reproductive relationship], the more they risk being disciplined, either directly by the rules criminalizing prostitution, or indirectly, through the law's failure to protect them from abuse".³⁴

At the Fourth World Conference on Women in Beijing in 1995, the language for women's *sexual rights* was debated, but ultimately rejected. The Platform for Action, which outlined the human rights of women in twelve critical areas, also rejected the rights of lesbians and excluded the term sexual orientation from the platform.³⁵ Only in the health section of the platform does it state, "The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination, and violence".³⁶

Since the early 1990s, the Dominican sex worker organization MODEMU has employed the human rights framework to demand recognition of their rights and social respect. In appropriating the human rights discourse, sex worker organizations usurp a space and a language that provide them with legitimacy and the imperative fair treatment to bring about social change.³⁷

The rhetoric of human rights serves as a vehicle for direct social and political action. Indeed, the sex workers' movement has reformulated the concept of prostitution as work and linked it to a human rights discourse for organizing and consciousness-raising. This position was articulated at MODEMU's first national conference:

What does the term prostitute mean to sex workers? We unanimously reject the term prostitute for being pejorative and referring to us as devalued women and human beings. We have been identifying with the term [sex worker] because it at least recognizes that we do a job. We can do this with the name that we want, and we can make society listen to our dreams: of being women with dignified work and with the same opportunities as all Dominicans, to an education, a job, and with the opportunity of walking the same streets during night or day, without a mask. We demand of the Dominican State, and of all society, that they stop rejecting us, and understand us. The Dominican government has the obligation to guarantee us the right to a life of dignity and that is what we want, as a right guaranteed in the Universal Charter of Human Rights.³⁸

The language of human rights—particularly women's human rights—addresses the forms of violent exclusion, discrimination, and abuses that sex workers face. In

³⁴DAN DANIELSON & KAREN ENGLE EDS., *AFTER IDENTITY: A READER IN LAW AND CULTURE* 3, 4 (1995).

³⁵Charlotte Bunch & Susana Fried, *Beijing '95: Moving Women's Human Rights from Margin to Center*, *SIGNS* 22, 1 Autumn 1996, at 200-04.

³⁶*Id.* See also REBECCA WALLACE, *INTERNATIONAL HUMAN RIGHTS TEXT AND MATERIALS* (1997).

³⁷Emma Pérez, *Irigaray's Female Symbolic in the Making of Chicana Lesbian Sitios y Lenguas (Sites and Discourse)*, in *LIVING CHICANA THEORY* (Carla Trujillo ed., 1998).

³⁸Sonia Salas, "Definición de conceptos," *Memorias primer Congreso Dominicano de Trabajadoras Sexuales*, 57-59, Republica Dominicana (Imprenta La Union 1995), 58-59.

using a rights-based discourse, sex workers claim their rights as women, as workers, and as citizens.

In their newsletters and other education materials, MODEMU approaches the empowerment of sex workers using a rights-based feminist discourse. In their *fotonovelas*, they enumerate their social and civil rights and their obligations as citizens:

Not to be seen as criminals; Not to be abused; persecuted; or mistreated. Not to be exploited, by persons or groups in the business of trafficking in women; to have the opportunity to form labor unions and alternative forms of employment. Respect for our right to decide over our bodies and our lives. The right to raise our children. That our children not be discriminated for being the children of sex workers. That authorities rightly attend to our complaints when our rights are violated.³⁹

Therefore, the concept of human rights, with its political claims and challenges, affords sex workers a discourse to mobilize and confront the state in the public sphere while empowering sex workers to form collective, politicized identities and transnational networks and alliances.

The consumption of sex across international boundaries has generated increased global concern, and NGOs, sex worker organizations, feminist groups, and others are constructing sex as a topic of global politics. Sex is a political issue that is being contested, monitored, and disciplined across the boundaries of nation-states. There is now a visible movement for Third World sex workers' rights and debates on the issues of decriminalization, protection from violence for refugee and immigrant sex workers, and recognition of the complex negotiations of sex and sexuality in women's everyday lives.

CONCLUSION

Sex work in the Caribbean cannot be examined simply as a form of female degradation and exploitation because this obscures the many power arrangements that circulate through its practice and erases its many forms of resistance. Studies that construct sex work as social pathology, male dominance, or moral disease alone conceal the multiplicity of discourses produced by a series of mechanisms operating in different institutions. Similarly, sex work with tourists in a country such as the Dominican Republic cannot be studied in isolation from the racial and gender ideologies that inform processes of globalization, the centrality of working-class women's labor to household and national economies, and the processes of labor mobility engendered by the penetration of transnational corporations. These are some of the multiple "sites" that mediate women's entry into the tourist sexual market.

The identities of prostitute or sex worker are enacted in specific situations, within fields of power, history, and culture. Although the term sex worker denotes a common identity, it is an inconsistently constituted category that differs historically and intersects with other systems of identity. For sex tourism workers, in particular, there are no clear affiliations, distinct boundaries, or separate values organized around prostitutes and non-prostituting women. For most women involved in the sex

³⁹NOSOTRAS TAMBIÉN TENEMOS DERECHOS, Santo Domingo, Dominican Republic (1997).

tourism market, sex work is a temporary, provisional, hidden, and fragmented identity and enterprise that easily slides and overflows into legitimate relationships and economic arrangements. What is clear from the different forms of commodification of sexuality is its centrality in the national and international economy.

In the analysis of sex tourism, the notion of work needs to be broadened to encompass the shifting, flexible structures in which boundaries between leisure and labor, paid work and unpaid work, the private and public are sometimes difficult to discern. Sex workers construct permeable boundaries for their clients—*amigos*—and for themselves, so that the “sex worker” identity is something that women become only in particular relations. It is the significance attached to these relations that gives them meaning. Because sex tourism operates in a continuum of legitimate and illegitimate relationships, sex work emerges as an identity and a practice that women use strategically, at times legitimately, to insert themselves into a globalized economy. Not only does this disavow monolithic categories of sex work, but it also highlights how advanced capitalism calls for the transformation and redefinition of work. Efforts to organize and mobilize sex workers must therefore remain equally heteronomous.