

## REGULATING PROSTITUTION

*Social Inclusion, Responsibilization and the Politics of Prostitution Reform*

JANE SCOULAR and MAGGIE O'NEILL\*

*Following Matthews' (2005) recent examination of prostitution's changing regulatory framework, we offer a critical account of the move from 'enforcement' (punishment) to 'multi-agency' (regulatory) responses as, in part, a consequence of new forms of governance. We focus on the increasing salience of exiting—a move favoured by Matthews as signalling a renewed welfare approach, but one which, when viewed in the wider context of 'progressive governance', offers insight into New Labour's attempt to increase social control under the rhetoric of inclusion, through techniques of risk and responsabilization. By exploring the moral and political components of these techniques, we demonstrate how they operate to privilege and exclude certain forms of citizenship, augmenting the on-going hegemonic moral and political regulation of sex workers.*

*Introduction*

This paper offers a critical analysis of recent changes to the regulation of prostitution in the United Kingdom. It focuses on the move from 'enforcement' (punishment) to 'multi-agency' (regulatory) responses designed to exit women from the sex trade. In an earlier edition of this *Journal*, Roger Matthews (2005) praised this 'new direction', viewing it as a positive step away from a previous regime of criminalization towards a more appropriate welfare-based response. Offering a more critical reading of this process of regulatory change, we suggest that the move from enforcement towards multi-agency interventions can be explained by reference not only to shifting police imperatives and the opening up of welfarist responses, but also, crucially, to changes in governance that involve 'the move away from coordination through hierarchy or competition and towards network-based forms of coordination' (Newman 2003: 16). Increasingly termed 'progressive governance', these new arrangements, while appearing to devolve power to partnerships (such as local area partnerships and multi-agency fora), upon closer examination, reveal more expansive forms of control, which are often masked by the emphasis in government rhetoric upon 'inclusion', 'participation' and 'active citizenship'.

The first part of the paper outlines the ways in which the recent changes in the regulation of prostitution are underpinned by these new forms of governance. We focus, in particular, upon the increased salience of multi-agency interventions designed to exit women from prostitution as outlined in the Home Office's *A Coordinated Prostitution Strategy* (ACPS) (2006a). By viewing these developments in the wider context of 'progressive governance', we offer a critical insight into New Labour's attempt to facilitate social inclusion via techniques of risk management and responsabilization. We then go on to consider the moral and political components of these techniques of governance

\* Jane Scoular, School of Law, University of Strathclyde, Glasgow G4 0LT; jane.scoular@strath.ac.uk. Maggie O'Neill, Department of Social Sciences, University of Loughborough, Leicestershire LE11 3TU; m.oneill@lboro.ac.uk.

(Hannah-Moffat 1999: 72), highlighting the ways in which they operate to mirror and entrench the on-going hegemonic moral and political regulation of sex workers by continuing to privilege certain forms of citizenship. The neo-liberal agenda bifurcates control by offering social inclusion to those who responsibly exit and 'resume' normal lifestyles and continued exclusion to those who remain involved in street sex work, and who are constructed and reproduced in law as anti-social. As we show below, the outcome for those who do not responsibly exit involves further criminalization and marginalization.

In the second part of the paper, we examine the politics of reforming the governance of prostitution through a politics of inclusion which would run counter to the current focus upon actuarialism and responsabilization and we call for a renewed research agenda which seeks transformative change through dialogue and re-imagining a radical democratic politics of prostitution in the post-welfare state.

*The 'New' Governance of Prostitution: Who Pays the Price of Social Inclusion?*

The historical context of prostitution policy reform in the United Kingdom includes regulationism, suppression and welfarism (Matthews and O'Neill 2003: xvii) with multi-agency (welfarist) responses to street sex work appearing since the late 1980s in response to conflicting interests and tensions around the needs of communities,<sup>1</sup> sex workers and statutory and voluntary agencies offering services and support. As Matthews highlights (2005: 1), the development of multi-agency responses and specialist support agencies has 'produced a changing regulatory framework in which the nature of prostitution and the conception of the female prostitute have been subject to re-examination'.

In announcing the first review of UK prostitution policy since the *Wolfenden Report* in 1957, the then Home Secretary, David Blunkett, called for a 'new' moral framework to protect communities and 'save' women and children from the evils of what is now to be termed 'commercial sexual exploitation':

We now have practical experience of what works so we can reach out and protect those trapped in prostitution and offer them exit routes .... We in this century must do what Josephine Butler attempted over 100 years ago, in a very different era and in a very different way. (Home Office 2003)

The policy framework that has since emerged (through the consultation document *Paying the Price* (PTP) (Home Office 2004) and the subsequent *A Coordinated Prostitution Strategy* (ACPS) (Home Office 2006a)) is both opaque and contradictory. The strategy proposes a dichotomous regulatory system featuring a limited degree of recognition of indoor work, combined with a zero-tolerance approach to street sex work.<sup>2</sup> Yet, the apparent selective deregulation of indoor work lacks any detail, making it unclear whether the reforms simply re-state current police practice (in which discretion is

<sup>1</sup> The tensions relate in particular to the use of public space, which, as it becomes increasingly commodified, becomes increasingly contested. The marginal status of sex workers, exacerbated by recent reforms, simply adds to a dialogue of exclusion rather than tolerance, sharing and conviviality; see Pitcher *et al.* 2006; Scoular *et al.* 2007; O'Neill *et al.* 2007.

<sup>2</sup> A similar situation appears to be emerging in Scotland. Despite the potentially progressive debate following the Prostitution Tolerance Zone (Scotland) Bill and the proposals in Expert Report *Being Outside* (Scottish Executive 2004), which featured some degree of corporate responsibility and recognition for sex workers, this has been overtaken by political manoeuvring surrounding the Prostitution (Public Places) Bill 2006. By focusing on increasing the criminalizing clients and offering little in terms of rights or resources to sex workers, the position north of the border now follows the more limited visions of the Home Office reform.

routinely applied to avoid prosecution) or whether a new regulatory system with positive rights will ensue. One of the reasons for such vagueness is that any concession to a rights-based framework is at odds with the overriding picture of prostitution as exploitation—a definition that is pivotal to the forms of governance that the Home Office seeks to promote through the politics of prostitution control. It is for this reason that street sex work, which is more easily identified as harmful and is increasingly conflated with abuse, becomes the almost exclusive focus of review. Castigated as ‘not an activity that we can tolerate in our towns and cities’ (Home Office 2006*a*: 1), the stated response is one of eradication, achievable via the increased criminalization of clients combined with the coordination of welfarist policing designed to divert, deter and rehabilitate women from sex work.

Matthews (2005) welcomes this focus upon helping women out of prostitution as signifying a renewed welfare approach. Yet, the policy framework developed across a number of consultations, studies and reviews is more complex and contradictory than Matthews suggests. Not only do elements of punitiveness remain in the new four-stage approach to policing, which features increasing compulsion, ranging from voluntary referral to services to prosecution for those who ‘persist’, but, as a result of the re-framing of street sex work as anti-social behaviour, street sex work now attracts a greater criminal sanction than it did with the previous system of fines.<sup>3</sup> Moreover, the increased coordination of multi-agency interventions, focusing on prevention, harm reduction and exiting, which Matthews welcomes as a ‘new direction’ may, on closer critical examination, reveal a less benign form of governance—one which operates through the intensification of techniques of risk management and responsabilization. Rather than signalling a new approach, this, in many ways, looks very much like ‘the same old story’ of the politics of prostitution reform (Phoenix 2002) as models of intervention take as their starting point a story of a linear victim to be saved by a process of responsabilization and individual change. This is reminiscent of the Victorian era’s focus on saving ‘Magdelenes’ that led to the increased social control of poor women as a result of the efforts and campaigns to save them (Walkowitz 1980).

In order to mount an effective critical resistance to the contemporary politics of prostitution, something more than a ‘we have been here before’ approach is required. The UK minister’s 2003 reference (Home Office 2003) to ‘a very different era’ and ‘very different way’ alerts campaigners to the need to recognize the changes in the political landscape and techniques of power that have occurred since the nineteenth century and, in particular, new forms of governance and welfarism in late-modern societies. It is only by understanding the recent historical context and, in particular, the relationship between governance, responsabilization and the social inclusion/exclusion of citizens that critical responses to the contemporary politics of prostitution can be developed.

### *Prostitution control and progressive governance*

In late-modern societies, the ‘state’ has changed in terms of its formation and the way in which it governs and controls subjects (Foucault 1977; 1991; Garland 2001). Power is no

<sup>3</sup> Anti-social behaviour orders (ASBOs) were introduced by the Crime and Disorder Act 1998 and have increasingly been used in the context of street sex work. When breached, these hybrid orders can lead to a criminal sanction, with imprisonment a more immediate possibility.

longer concentrated at the centre and imposed by a sovereign body but is dispersed through ‘network-based forms of coordination’ (Newman 2003: 16). Often termed ‘progressive governance’, these new matrices of power are increasingly organized around forms of specialist and expert knowledge which seek to manage crime prevention and control through strategies of self-governance and responsabilization.

As Garland documents in *The Culture of Control*, crime control has also been reconfigured to mirror changing forms of power in the light of the collapse of penal welfarism. Garland identifies two dominant approaches to the way in which governments act on crime: a re-emphasis on punitive exclusionary forms of punishment (e.g. ‘criminology of the other’—a focus on exclusion through zero tolerance, punitive segregation and exclusion through anti-social behaviour orders) alongside what he describes as the development of ‘adaptive responses’, which feature a greater rationalization, commercialization and devolution of criminal justice functions. Such adaptive responses utilize ‘local’ resources in ‘preventative partnerships’ and feature a range of multi-agency and community actors, including ‘the criminal as rational actor’ (Garland 2001), who is increasingly brought into programmes of self-governance via, for example, cognitive-behavioural techniques, desistance programmes and, for prostitution, programmes of role exit.

Critical analysis of these changes in governmentality offers an insight into the constructive nature of power in liberal societies which operates not to constrain individuals, but through the creation, shaping and utilization of human beings *as* subjects who voluntarily subject themselves to power (Rose 1990: 256). By operating through practices of freedom, contemporary neo-liberal forms of governance may be more pervasive than previous regimes of control as they operate to co-opt subjectivity, thereby reducing the possibilities for both individual and collective resistance.

As Cruikshank (1994) warns, the recent proliferation of state-sponsored programmes of empowerment must be treated with critical caution. Even while they are utilizing the vocabulary of radical politics, their promise of emancipation may be merely rhetorical—an ‘endeavour to operationalise the self-governing capacity of the governed in the pursuit of governmental objectives’ (Dean 1999: 67). It is within such a context that we offer our analysis of the recent promotion of multi-agency interventions designed to exit women from prostitution.

### *Exiting sex work: from saving to responsabilizing fallen women*

The notion of women leaving sex work is not new. What is new is the way in which the phenomenon of exiting (which occurs regularly in what is by and large a loose milieu) *becomes* the basis of a system of late-modern progressive governance of street sex work. This can be traced back to the ‘adaptive strategies’ introduced by the Crime and Disorder Act 1998—an act which systematically devolved responsibility for crime control and community safety to local people (Matthews and Pitts 2001) by establishing a number of crime-reduction pilot projects (CRPs) across the country. These were then evaluated in order to provide an evidence base for new forms of devolved governance. As part of this initiative, £850,000 was allocated between 2000 and 2002 to part-fund 11 prostitution-related multi-agency CRPs. These projects were then evaluated in ‘Tackling Street Prostitution: Towards a Holistic Approach’ (Hester and Westmarland 2004)—a paper central to recent Home Office policy. In it, and in relation to exiting 43 women, exiting prostitution across five projects is translated as an outcome which then becomes the

'evidence base' and model for recent prostitution policy reforms and the rationale of an apparently new 'holistic approach' premised upon exiting.

Commitment to this singular model means that throughout the Home Office documents, there is a failure to represent the complexities involved in the sexual and social inequalities and exclusions affecting sex workers. Moreover, the most recent strategy document (ACPS 2006*a*) reinforces the hegemonic discourse that interprets prostitution as equivalent to violence and abuse of women. Whilst this can sometimes be the case (violence is an endemic aspect of most sex workers' lived experience and street sex markets take place in the most disadvantaged communities), it is important to hold on to the complexity of women's lived experiences; it is not always the case that 'prostitution makes victims of many of those involved in it, and of those communities in which it takes place' (Home Office 2004: 19). Policy documents do not reflect 'the diversity of the sex industry, nor the diversity of sex workers' experience of it' (UKNSWP 2005: 7). Omissions include research which documents indoor sex work—flats, massage parlours, saunas, escort agencies, independent workers utilizing the press or internet, male sex work, adult sex work, in which no coercion takes place, those who pay for sexual services, and the omission of specific reference to the inclusion of working women or their representative bodies in decision-making processes.

A clear example of the failure to represent complexity is the way in which Månsson and Hedin's study of women leaving prostitution in Sweden (Månsson and Hedin 1999) is used selectively to support the Home Office's position on exiting. The different trajectories of the women's lived experiences presented in the original study are often overlooked, as attention is instead focused on those trapped in prostitution.<sup>4</sup> Yet, the sample of 25 women showed considerable variation in terms of exit experiences: for those who were loosely integrated into the milieu, exit was quick and executed primarily by the women themselves; others, however, 'who had for many years been exploited in prostitution', had reached the limits of what was existentially bearable (Månsson and Hedin 1999: 67). Yet specific outcomes for this latter group (who received considerable assistance to exit) were also variable; a third had found it relatively easy to make the transition to study and 'work', a third remained in treatment and a final number remained unemployed several years later, described as having 'long vacillated between temporary employment, vocational training, welfare dependency and periodic relapses into prostitution' (Månsson and Hedin 1999: 73). This led the authors of the study to conclude that for some women, exiting represented a positive step, but, for others, 'exiting' prostitution signified a 'social death' (Månsson and Hedin 1999: 129).

Social exclusion in relation to prostitution is highly complex and we need to understand the role of stigma, identity politics, governance, patriarchy and the law in structuring the marginal status of sex work. As Zatz perceptively notes, some feminists

<sup>4</sup> Månsson and Hedin's work builds on a more representative study by Vanwesenbeeck (1994), which examined the life-course of 200 women involved in prostitution, against a control population, offering an insight into much more plural and diverse trajectories than those that become the focus of Hester and Westmarland's later exit models. Vanwesenbeeck found that a quarter of respondents managed relatively well as prostitutes; 'their health was better than those in the non-prostitute group', 'they feel and act like professionals' and were satisfied with their role (Månsson and Hedin 1999: 68–9). The same number, however, felt great strain, experienced poor physical and emotional health, and were described as high-risk-taking, with a negative attitude to work. One-third were in between these two extremes, with poorer health than the control group but with a professional approach to work. This diversity, which offers an insight into the varying degrees of agency experienced by sex workers, is overlooked by the recent reforms which seek to promote a one-size-fits-all model of exiting.

and policy makers too often underestimate how much of what they identify as harmful in prostitution is a product, not of the inherent character of sex work or sexuality, but rather of the specific regimes of criminalization and denigration that serve to marginalize and oppress sex workers while constraining and distorting sex work's radical potential to disrupt the sex/work divide (Zatz 1997: 289).

Yet, this discursive context of sex-work identity remains absent in ACPS, which fails to engage with the substantive and established body of research which provides a consistent story of exclusion embedded in the contingent relationship of sex/work to dominant and interrelated structures of gender and sexuality, race, culture and economics (Guy 1995: 182). Instead, PTP and ACPS reinforce binary discourses that present prostitution as violence and abuse, and exiting as the only responsible way forward—totally ignoring discourses that prioritize sex work as work and the need for unionization and the adoption of labour law.

Absence of analysis of the structures and processes that create and sustain particular sets of social relations that underpin involvement in sex work leads to partial analysis and the positioning of a partial subject, cast as a victim, whose agency to exit can be supported by welfare backed up by enforcement to exit. More nuanced understandings are necessary in order to develop public policy reform and social awareness that reflects this very complex social issue and resists collapsing the structural and material conditions of contemporary sex work with the subject of prostitution (Scoular 2004). Yet, unfortunately, the latter is exactly the outcome of the 'model of needs and support' promoted by the Home Office (Figure 1).

Despite its claim to offer an integrated exit model which combines structural, situational, interpersonal and individual factors, the appeal to structure in the model of 'needs and support' is, in effect, rhetorical, and it remains under-theorized in favour of individualistic and responsabilizing social interventions.<sup>5</sup> Although we see mention of poverty, homelessness, abuse, low self-esteem, poor educational achievement and other indicators of deprivation (Home Office 2004: 21–3), such factors are not included to advance a discussion of social justice (especially in relation to the distributive and associational aspects of social justice) but, rather, either to further criminal justice control over those individuals who are constructed as responsible for the harms in prostitution<sup>6</sup> or to inform an individualized model of exit-focused intervention.

Thus, in the name of 'protecting victims and communities', the state simultaneously removes itself from any role in the processes of social exclusion of women who sell sex while extending its control over subjects. In so doing, it re-presents itself as not only the protective force against a demonized and distant organized 'sextrade' (tough on crime and the causes of crime) and the increasingly criminalized client (Brooks-Gordon and Gelsthorpe 2003), but also as the facilitator of exit and support to those re-classified (and not all are) as victims. The state's role in structural exclusion and in perpetuating norms of the sex industry is thus masked by the progressive governance of sex work.

<sup>5</sup> Similarly, while there is some mention of structural factors in the Swedish study, most importantly, the difficulties for those leaving in the 1990s due to the recession and the flexibilization of the labour market, these factors are not sufficiently theorized and are subsidiary to the individual aspects of role ascription, appearing as individualized risks rather than as structural forces beyond individual control.

<sup>6</sup> Justice, in the Home Office strategy, is continually equated with law enforcement: 'This requires proactive policing and a robust legal framework with severe penalties. Bringing perpetrators to justice is the best way to disrupt commercial sexual exploitation and sends a clear message that it will not be tolerated' (Home Office 2006a: 53).

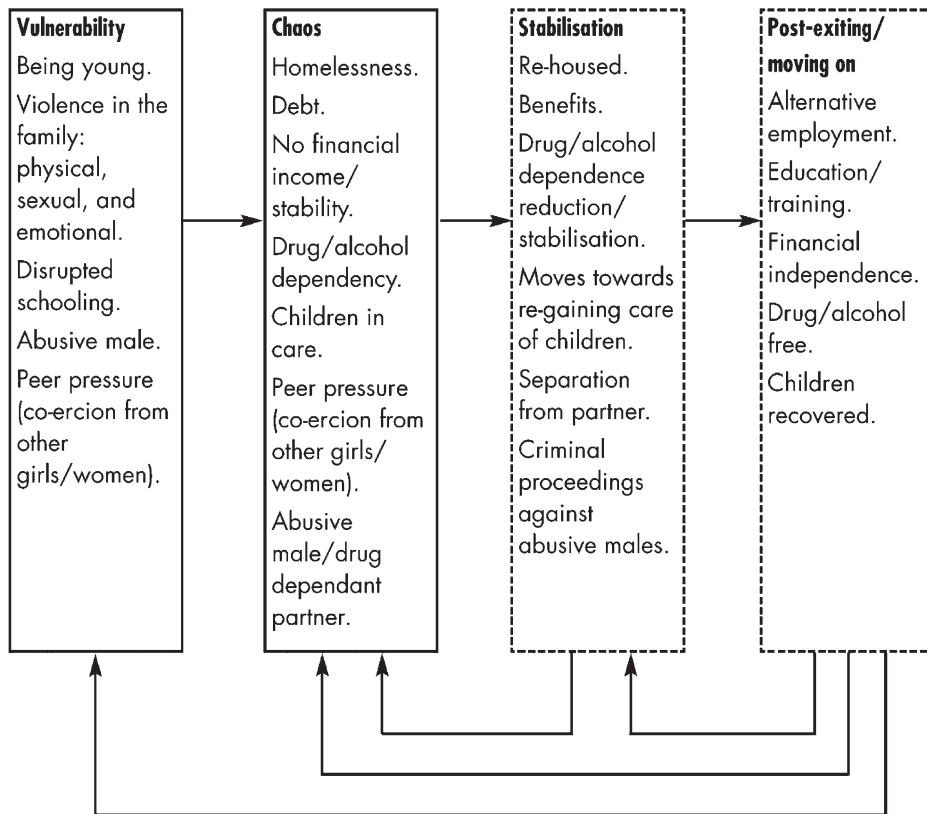


FIG. 1 A model of needs and support (Hester and Westmarland 2004: 131).

While ACPS is seen by some to signal a new direction in the regulation of prostitution, from punishment to welfare (Matthews 2005), it may be the case that the appeal to welfare is, in the main, a rhetorical device. Following Cohen (1985) and, later, Phoenix (2002: 81), we also argue that punishment and welfare can be seen as ‘different sides of the same coin’, as both regimes formulate issues of structure and agency in such a way as to apply individualized techniques of punishment or support.

Structural factors are recognized, but are subject to individualized application, as they are used to identify those most at risk and most in need of support. Disadvantage and exclusion are no longer viewed as structural inequalities and social processes mostly beyond individuals’ control, but are reframed as individual ‘criminogenic needs’, ‘individualised crime risk factors’ or merely ‘private troubles’, all of which are experienced, managed and controlled on an individual basis (Kemshall 2002: 48). Consequently, material realities and structural exclusions recede from official attention, which, instead, becomes focused upon individual needs and in protecting women from risk. Such protection invariably leads to the increased policing of women’s lives.

In this way, by constructing those involved in street prostitution as risky subjects, rather than recognizing them as sentient subjects who manage risks, contemporary forms of governance are able to operate through responsabilization techniques. The answer to social exclusion is not structural change but individual re-education, re-training

and entry into the legitimate economy. It appears that claims to citizenship are conditional on an individual's responsabilization and exit—a move which mirrors the increasing conditionality of the late-modern systems of welfare provision.

*Conditional citizenship: the moral and political techniques of governance*

In the United Kingdom, responsabilization is one of the distinctive techniques of governing in the neo-liberal welfare state and a central part of the New Labour's Third Way politics. Increasing emphasis is placed on education and work as fundamental to contemporary government's conceptions of citizenship. The role of the state is no longer to protect people from the uncertainties of the market economy, but to facilitate the transformation of individuals into citizens who can insure themselves against disadvantage by participating in the market, 'via education, flexible employment and tax incentives' (Turner 2001: 194). This has led to an intensification of moral and behavioural regulation of the poorest sections of society<sup>7</sup> as governments in the United States and increasingly the United Kingdom attempt to re-moralize the link between welfare and good citizenship. Eligibility for welfare is increasingly conditional on behavioural changes such as gaining 'useful' employment under welfare-to-work programmes which have expanded under New Labour governments (Dwyer 2002).

There is a wealth of research that documents the processes of the neo-liberal re-moralization of welfare (Mead 1986; 1992; Turner 2001; White 1999; 2000). Central to this debate has been the question of the justification for conditionality. Lawrence Mead's work, which has been particularly influential in the United States, bases support for increased state control on paternalism and a belief that 'dutiful but depressed individuals' do not respond to financial incentives, but require a more interventionist approach (Mead 1992: 239). White, by contrast, focuses on the contract between citizen and state, arguing that conditionality is dependent upon reciprocal obligations on the part of both citizen and state. He argues that it is only by fulfilling their governmental obligations that it is reasonable for governments to use welfare to encourage and, if necessary, compel citizens to honour their obligations (White 1999: 167).

The governmental obligations that White outlines include ensuring reasonable minimum standards of living, providing citizens with a realistic opportunity to be productive, recognizing other forms of paid work (which raises the political question of the status of sex work) and ensuring a reasonable level of equal opportunities for all members (White 2000). To what extent are the government meeting these responsibilities in relation to those who are involved in prostitution, and who are being increasingly subject to conditional and compulsory forms of welfare intervention?

In the context of prostitution reform, and given the prominence and preference of exiting as the end goal of interventions, the balance appears to be weighted heavily towards individual responsibility. Responsibility is placed with the individual—who can be supported to exit—by a benevolent state whose coercive power is dispersed by a focus on self-regulation and reconfigured to being that of 'facilitator and educator

<sup>7</sup> Sanders and Sothill (2005) note a similar trend in the policing of pleasure more generally, in which there is an on-going transference of regulatory responsibility back to welfare agencies, public health authorities, localized systems of licensing, multi-agency partnerships, communities and a return to the expectation of individualized responsibility. This is applicable to the regulation of gambling, alcohol (Orford 2005) and drugs (Measham 2004).

towards good risk choices: through education, training, health campaigns and moral re-vitalisation' (Kemshall 2002: 43). Exclusion from public spaces through responsabilization and role exit is very much emblematic of the moral and political vision of the current regime of governance. Not only does this fail to engage with the structural features and complexity of the phenomenon of prostitution (highlighted in extensive national research), but it symbolizes a retreat from social justice for women selling sex. The ideal of a welfare state (and hence governance) based on social rights and the sharing of collective risk has retreated. Instead, the state offers only a modest safety net with narrower forms of (conditional) entitlement. The state relocates responsibility for structural exclusion onto welfare recipients themselves. Risk management becomes an 'everyday practice of the self' (O'Malley 1996: 200) as individuals become consumers of privatized welfare regimes. This top-down approach, masquerading as a 'networked' participatory approach, fails to understand not only sex workers' experience of exclusion, but also the complex routes to involvement in sex work (based in gender politics, poverty and criminalization). It frames involvement in prostitution as an issue of personal responsibility. A model of reform emerges which is centred upon individual interventions designed to aid women to exit from sex work and resume 'normal' lifestyles. Increasing emphasis is placed upon counselling, support and retraining to overcome victimhood and re-enter normal society. 'Progressive governance' in this area, rather than engaging with complex claims for justice, is increasingly 'individualistic and corrective' (Kemshall 2002: 47) and is tied to New Labour's project of moral authoritarianism (Phoenix and Oerton 2005).

The moral agenda is less obvious than it was in previous forms of governance, operating not through direct state controls, but by way of a 'plethora of indirect mechanisms that can translate the goals of political, social and economic authorities into choice and commitments of individuals' (Rose 1996: 58). Key to this form of governance are active citizens who are required to self-regulate according to the norms of risk management, which are replete with normative assumptions that inform dominant notions of citizenship. The risk and cost/benefit analyses that inform the Regulatory Impact Assessment of the suggested law reforms (Hester and Westmarland 2004; Home Office 2006*b*) contain a number of normative assumptions that subtly reproduce many of the norms of the neo-liberal state. Actuarial assessments bracket out complex structural factors that impact variously upon unique individuals, and take instead a positivistic approach based upon techniques of risk management and responsabilization. For example, risk is calculated according to cost/benefits to the taxpayer and the social inclusion of those exiting prostitution (Hester and Westmarland 2004: 112) is premised upon entry to 'legitimate' work with child-care costs assumed to reduce if women resume 'normal lifestyles'. Not only does this fail to recognize that a number of women engage in sex work precisely for the flexibility and finance it can offer, but these apparently neutral 'costings' also operate to reinforce particular boundaries and norms of citizenship as, by implication, they construct the prostitute as an unfit mother and her work as incompatible with responsible parenting. As she is cast as a danger and burden to public health, a reduction of costs to public health arising from women exiting sex work are also supposed to arise. Even more explicit are the apparent benefits that are listed as accruing to women who exit sex work; they include increased 'quality of life', 'emotional benefits' and the enhancement of 'bodily integrity' (Hester and Westmarland 2004: 112). Viewing bodily integrity as incompatible with sex work sets a very dangerous

line, reinforcing the misogynistic assumptions that lead to everyday violence in sex work. In sum, increasing evidence of the marginalization, violence and abuse in prostitution has been translated into the need for techniques of risk and responsabilization which operate to control the bodies and subjectivities of women selling sex, offering little more in terms of justice than previous criminalization, and making the appeal to inclusion more rhetorical than real.

*Conditional citizens: inclusion/exclusion via need*

Understanding the operation of governance in advanced capitalist societies furthers understanding of what may appear as contradictory in a prostitution policy which offers social inclusion to sex workers via welfare-inspired exit interventions while continuing to criminalize those who ‘persist’ in selling sex (Home Office 2006*a*). This is evidence of what Sullivan (2001) terms a schizophrenic criminal justice process in which ‘socially inclusive neo-liberal techniques of regulation can co-exist with more overt forms of control and repression’. Such duality is possible because, as Garland notes, inclusion was never really on offer, but was simply utilized as a feature of risk management and responsabilization. By being contingent on offender change and compliance, ‘social inclusion’, when it fails, can be quickly substituted with exclusion by more effective means such as custody and incapacitation (Garland 1997: 6). Yet, these newer forms of control are even more extensive. The current regulatory strategy not only maintains the criminalization of soliciting, but also recommends rehabilitative interventions for ‘those individuals who, for whatever reason, continue to be involved in street prostitution’ (Home Office 2006*a*: 42). Thus, the previous regime of criminalization is re-framed and *actually* augmented by a wider range of control mechanisms and forms of professional intervention that may be even more pervasive than the previous system of cautions and fines, and with the apparent increased ‘protection’ promised by reforms resulting in the increased policing of women’s lives (Phoenix 2002: 82).

The ideology underpinning previous forms of regulation thus continues via the focus on exiting as a means of reducing community harm and the exploitation of women; in effect, the problem is reduced to ‘one of recalcitrant individuals unwilling to accept offers of “help and support”’ (Melrose 2006: 12). This promotes a form of governance that individualizes problems and detracts attention from governments’ failure to tackle the underlying conditions that give rise to prostitution in the first place, such as women and young persons’ poverty and social exclusion (Melrose 2006: 12; Phoenix and Oerton 2005).

Phoenix and Oerton (2005) argue that the official discourse on prostitution ‘consolidates moral authoritarianism ... through the criminalisation and “reform” of women and children in prostitution’ (Phoenix and Oerton 2005: 77). Prostitution, once understood as a victimless crime, has been re-classified as a crime which victimizes the women and children involved and ‘threatens to destroy individuals, families and communities’ (Phoenix and Oerton 2005: 86). This represents a shift in governance which, the authors argue, ‘locates individual women as being responsible for the social problems they encounter, thereby justifying a punitive response, when, despite the best efforts of support agencies around them, they continue with their involvement in prostitution’ (Phoenix and Oerton 2005: 100).

We argue that social exclusion is being used as a leverage for increased control rather than for increased social justice. The moral engineering of advanced liberal governance has co-opted radical feminist concerns into techniques of governance and control. By prioritizing 'exiting' as means of facilitating social inclusion, rather than offering recognition, rights or redistribution to sex workers as a group in a way that supports their citizenship, inclusion becomes a tool of individualized risk assessment facilitating 'rehabilitation' (and inclusion) or indeed segregation.

Moreover, the approach currently taken by New Labour cuts off possibilities for a broader understanding of social inclusion, social justice and citizenship in relation to the complex experiences, structures, processes and practices of sex work for the women and men involved. The suggested reforms offer a genuine attempt to understand and suggest ways forward, but, sadly, one that is in keeping with the parameters of a particular neo-liberal approach identified in New Labour's 'progressive governance'. Additionally, and of major concern to us, is that the initiative looks like it is helping women, as it intends to—but does so by sustaining the binaries between good and bad, deserving and undeserving women, so that only those who responsibly exit, who fit dominant norms of citizenship and resume normal lifestyles and relationships are socially included, leaving those outside increasingly marginalized.

### *The Politics of Reforming the Governance of Prostitution*

#### *A renewed concept of social justice?*

We understand social justice as being constituted by the interrelation of cultural justice (issues of recognition); distributive justice (equality of opportunity, redistribution); and associational justice (patterns of association—networking, participation) (O'Neill *et al.* 2004). We need to engage in a process of *recognition* through the inclusion of sex workers and projects in research, debates and dialogue, and we also need to address the issue of *redistribution*, acknowledging the impact of poverty and routes in (O'Neill 2007). The latter includes a recognition of the importance of what Woods identifies as 'interlocking democratic rationalities', defined as: decisional (involvement in decision making); discursive (participation in debate and dialogue); therapeutic (enhanced self-esteem through involvement); and ethical (aspiration to truth and meaning integral to authentic participation) (Woods 2003: 157). Cultural citizenship, following Jan Pakulski (1977), is understood here as the right to presence and visibility; the right to dignifying representation; and the right to identity and maintenance of lifestyle. Thus, prostitution reform could be informed by a holistic model of social justice that includes the importance and interrelation of cultural, distributive, associational aspects in order to provide a more sophisticated conceptual framework for advancing social inclusion.

We argued earlier in the paper that a linear narrative of the prostitute as a victim of violence, drug abuse and poverty constructs the 'prostitute' as a partial subject/object who has limited agency and could (should) therefore be subject to welfare treatment rather than criminal enforcement, as well as a partial subject that neo-liberal modes of governance can act upon in order that she can be responsabilized towards exit. A more complex analysis and account of subjecthood should produce a more complex understanding and, together with the more holistic accounts of social

justice and cultural citizenship, a better set of resources could be developed in collaboration with women and young people. The latter might include legislative reform, welfare support, exiting and enforcement alongside rights, recognition and increased resources to target structural and social inequalities. Thus, engaging an expanded understanding of social justice via social inclusion and cultural citizenship could provide the leverage for a radical democratic approach to prostitution reform.

### *Social inclusion and cultural citizenship*

Ruth Lister states that citizenship is theory, practice and a pivotal concept in political and social theory. Moreover, it 'operates simultaneously as a force for both inclusion and exclusion' (Lister 2001: 323). In a paper on re-gendering citizenship, Lister argues that by embracing both rights and political participation (the right to participate), re-gendering citizenship is important in challenging the construction of women (especially 'minority group' women) as passive victims, without losing sight of the structural and institutional constraints on their ability to act as citizens (Lister 2001). Lister draws on Mouffe's (1992) concept of 'a radical democratic conception of citizenship' in order to understand how the subject (*in our case, sex worker/prostitute*) is constructed through different discourses and subject positions 'against one that reduces our identity to one single position' (Mouffe 1992: 8).

Following Laclau (2004), we argue that the terrain of radical democracy is a potential site for interventions that might provide counter-hegemonic impulses and attempt a genuine 'understanding' (Bourdieu 1996) of social inclusion that coalesces around rights, recognition and redistribution. This is crucial for understanding the complex lived experiences and cultures of sex workers and for understanding social relations and the multiple means of subordination and oppression. Essentialist ideas of identity and unidirectional binaries that talk about prostitution as abuse or work must be transgressed.

### *A renewed research agenda*

A rich body of sociological and criminological research (much of which escaped the detailed attention of the recent reviews) shows that involvement in street prostitution is an inherently social activity and offers a wealth of phenomenological data and detail about the lived conditions of women's lives and choices; the structural and material conditions and processes they live in and through; the endemic experience of male violence; and the often pragmatic choices made through limited conditions and material realities that can facilitate entry into sex work. To understand the role of stigma, identity politics, governance, patriarchy and the law in structuring the marginal status of sex work, it is essential to do research that provides 'thick' accounts of women and young people's lives (Phoenix 1999; O'Neill 2001; Green 2004). Developing an understanding of the complex impact of social exclusion, and the possibilities for inclusion through a holistic understanding of social justice, governance and cultural citizenship is crucial (O'Neill 2007); a research agenda that values phenomenological, ethnographic and action research and engages with theories and

practices of governance towards transformative change in the post-welfare state is indispensable.

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