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Sexual Labor and Human Rights: Sex Work, the Military, and Community Development

In Berta E. Hernández-Truyol and Jane E. Larson's *Sexual Labor and Human Rights*, the subject of sex work is analyzed as a prominent contemporary feminist issue that involves elements of both labor rights and human rights. That said, Hernández-Truyol and Larson make a point to note the two major positions on sex work within feminist discourse: abolitionism and autonomy; and further they make a point to note that these positions are not comprehensive of the entire issue, but rather singular interpretations of a multi-faceted question. Thus, this essay will not only outline the views of aforementioned positions and the conclusions Hernández-Truyol and Larson make as a middle-ground to these positions, but this essay will also introduce an intersectional analysis to these conclusions in relation to the proximity of sex work and the military in developing communities, as researched by Cynthia Enloe's *Maneuvers: The International Politics of Militarizing Women's Lives*.

In regards to the current debate over the place of prostitution in feminist discourse, Hernández-Truyol and Larson begin by outlining the position of abolitionist feminists. The overarching belief of those holding this position is the idea that all prostitution is a manifestation of violations to civil, political, and economic rights, and thus is both akin to slavery and fundamentally aligned with institutional sexual violence and gender subjugation. Notably, those holding this position generally support the partial decriminalization of sex work, which would

remove criminal charges for sale and solicitation while still maintaining restrictions against patrons, pimps, and other exploitative business interests (Hernández-Truyol, 2006, p. 400-402). This is noteworthy particularly due to a distinction in defining exploitative labor practices—to remove criminal charges from sex work would remove sex work from the informal labor sector, thus allowing sex workers both the benefit of social services as well as lawful protection against harm in their chosen work.

For example, under the current system that criminalizes prostitution, a sex worker may be hesitant to report sexual violence or rape to authorities due to the criminal stigma of her work—because there is a distinct separation between the authorities and the informal sector, the criminal stigma of her work may overshadow the illegality of the rape. The illegality of the rape, that is, may be thought of as secondary to the illegality of the work itself, thus nullifying the criminal accountability of the rape itself. Furthermore, because of the gendered element of sex work, authorities may believe she brought the sexual violence on herself and thus bestow criminal charges on her, rather than the perpetrator of the rape, due to the illegality of her labor and the feminized stigma of prostitution.

Despite the advocacy for partial decriminalization, however, abolitionists are often wary to suggest that this position legitimizes sex work:

Although there is nothing in the abolitionist position that necessarily opposes amelioration of working conditions in the sex trade, abolitionists historically have been wary of any compromise that might suggest the legitimation of prostitution or trafficking. Their position is that prostitution must be condemned uncompromisingly like slavery, and never equated with acceptable practices like work or with legitimating ideas

like consent or equality. Legally and politically, this translates into a refusal to distinguish voluntary prostitution and immigration for sex work from forced prostitution and trafficking, as well as resistance to any regulatory framework (Hernández-Truyol, 2006, p. 401).

Thus, while abolitionists may support partial decriminalization, this position does not remove the exploitative aspects of sex work that abolitionists equate to slavery. Sex work is not legitimate labor, *per se*, but rather a manifestation of violations to civil, political, and economic rights that have combined in such a form so women must commodify their bodies. Partial decriminalization thus allows prostitutes the ability to sell their bodies legally without the exploitive figures of patrons or pimps, but the work itself is still inherently tied to the commodification of the female body as well as factors of economic and social oppression, and in this way is an illegitimate form of labor.

A woman working as a sex worker in this scenario—freely able to solicit and sell her body in return for monetary compensations without a third party to force her into the work or collect her pay—may not be free from oppressive social and economic circumstances. For example, this has manifested in the situation on the island of Okinawa, in which after the Cold War, an agreement between Japan and the United States positioned nearly thirty thousand U.S. troops on the island. This agreement, however, was not the beginning of U.S. military occupation of the island—rather, from World War II and on, Okinawa was the main strategic base of U.S. Pacific strategy. That said, this large presence of troops defined the commercial opportunities of Okinawa residents—with restaurants, souvenir shops, bars, tailor shops, tattoo parlors, and prostitution businesses designing their enterprises to the tastes of American military personnel

and thus flourishing around U.S. military bases (Enloe, 2000, p. 112). With the fundamental economic and social basis of the island focused on the desires of American military personnel, a demand was created for prostitution within the community. Thus, women unable to get jobs in other sectors catering to this military presence often turned to prostitution as a means of living—because military presence had created an ingrained demand for prostitution within the community, women without other options were forced to conform to this economic system—this is not a free choice, but rather a form of economic and social enslavement by structures within the community, given the lack of economic alternatives for these women to support their livelihoods. Under the abolitionists perspective, however, the economic and social conditions that force women into sex work is of more significance than the importance of the labor itself for the survival of the sex worker within those conditions.

The overarching hope and goal by abolitionists, all things considered, is the eradication of commercial sex—a goal that seeks to go further than partial decriminalization by eradicating the social and economic factors that perpetuate sex work as a means of living for many women. The question this raises, however, is how far efforts to eradicate these conditions would have to go to be truly effective. In regards to the aforementioned Okinawa example, in order to make a significant global difference, a complete restructuring of globalized institutions would have to be considered and implemented, given their role in perpetuating sex work as the only viable option for many women throughout the developing world.

On that note, Hernández-Truyol and Larson describe the autonomy position held by a number of feminists. This position follows the idea that some prostitution, namely sex work carried out by adults under terms of economic necessity, is a free choice made by autonomous

individuals. Those advocating this discourse generally call for a form of partial decriminalization based on a different set of reasoning than their abolitionist counterparts:

[They] argue that sex workers are harmed by limits on freedom to market their resources and urge that women be allowed to use their bodies and labor to greatest personal advantage, especially when women around the globe have few other economic opportunities and their need is great. This economic need argument grows more compelling in a globalizing economy as modernization, urbanization, structural reform, and international trading systems disrupt traditional household and social organizations, diminish governmental investment in social welfare, and drive down wages. A globalized economy presses more women into waged work for the support of themselves and their children, with few other viable economic opportunities and less household and familial support (Hernández-Truyol, 2006, p. 402).

It is important to point out, however, that a choice made out of economic necessity may not be a free choice at all, but rather coerced from social and economic structures in society. If those following the autonomy position believe sex workers are harmed by restrictions on the freedom to market their resources—especially for poor women who have few other economic opportunities, then their position can be undermined by the argument that these women are harmed by structures that necessitate the commodification of their own bodies due to their poverty. Furthermore, autonomists argue that, by arguing first that sex work is indeed *work*, one can then focus on creating legislation that allows sex workers to be protected from exploitation and discrimination (Hernández-Truyol, 2006, p. 403).

Referring back to the Okinawa example, however, the legal institutionalization of prostitution does not negate the social structures in place that make prostitution necessary. With the exploits of soldiers well known by their commanding officers, the role of sex workers as connected to the military is widely understood and recognized by the institution—not only does regulated community prostitution control the sexual activity of soldiers, it also seeks to ‘other’ prostitutes from their more respectable counterparts: the wives and women on the home front (Enloe, 2000, p. 112). Thus, legalizing prostitution allows women to freely sell their goods on the open market, but it further subordinates women as commodified sexual objects who work under an imposed system of economic servitude. Legitimizing sex work as a form of labor, then, does allow women free, legal reign of the market—but it does not eliminate the societal structure within the Okinawa community that make sex work an economic necessity for women.

The middle-ground on these positions, as identified by Hernández-Truyol and Larson, is the interconnection of labor rights and human rights. Essentially, the autonomist position is based almost entirely on the idea of labor rights, without considering the idea that sex work itself in and of itself is exploitative, not just because of the illegal conditions imposed on it. The abolitionist position, on the other hand, puts more consideration into how human rights intersect with prostitution—while neglecting to legitimize the current necessity in the labor of sex workers under current legal regimes. That said, the overarching position that Hernández-Truyol and Larson take is the idea that labor rights are human rights. The human rights elements of the abolitionist positions are thus expanded, just as the labor elements of the autonomists are analyzed in conjunction.

The first conclusion drawn pertains to labor rights: the illegality of sex work as a form of labor. Hernández-Truyol and Larson conclude that full legalization would not overhaul the conditions that make sex workers vulnerable to coercion, abuse, and exploitation—considering that coercion, abuse, and exploitation are often part of legal labor system. As long as a third party can profit from another's labor, the worker is subject to the threat of this third party exploiting them for profit. Legalization, then does not negate the presence of third party figures, such as pimps and patrons, who seek to coerce, abuse, and exploit women for the profit of their labor. Similarly, criminalization would prevent the exercise of labor rights entirely. Partial decriminalization, however, would protect fundamental labor and human rights of sex workers, allow sex workers to organize and freely associate, and puts legal restraints on patrons, pimps, and other business incentives—thus allowing sex workers the right to legitimate work and to free choice of employment (Hernández-Truyol, 2006, p. 439-440).

The second conclusion drawn is in line with the human rights aspects of prostitution in relation to labor rights: as a form of labor, sex work conforms women to traditional gender roles and commodifies the female body, thus reaffirming the idea of women as subordinates. That said, sex work as a form of labor, legal and legitimate or not, conflicts with women's basic human right to equality and dignity—undermining the provision within the Universal Declaration of Human Rights that grants all workers just and favorable remuneration ensuring an existence worthy of human dignity (Hernández-Truyol, 2006, p. 441).

The last conclusion drawn is also in line with the human rights aspects of prostitution in relation to labor rights: sex work as a form of labor impairs human developmental capacity. Sex work is marked by abusive working conditions; serious impairment of worker health; indignities;

unfair exchanges, and further acts as labor that harms and exhausts body, diminishes the worker, and impairs fundamental human activities—undermining the provision within the Universal Declaration of Human Rights that grants all workers the right to just and favorable conditions of work (Hernández-Truyol, 2006, p. 443).

That said, to apply these conclusions to society would entail applying these conditions to institutions that reach outside of our society into the global sector—with one institution prevalent particularly in reference to sex work being the United States military. The attempts of military policy makers to construct a specific type of masculinity to fit the specific and designated missions of soldiers is often connected to the role of prostitutes in connection with soldiers (Enloe, 2000, p. 51). In Okinawa, the militarization of gender dynamics not only ‘other-ed’ prostitutes from their more respectable female counterparts waiting for soldiers on the home front, but also created a colonial dynamic that fostered a distinct dependence of the community to the military base, and furthermore, a dependence of women to the military base.

To address sex work within the context of our own society, then, does not address an intersectional aspect of how sex work manifests in connection to our particular state institutions throughout poor and developing communities. If, theoretically, the United States were to address sex work under the basis of Hernández-Truyol and Larson’s conclusions, it would not necessarily address how the U.S. military uses prostitution as a strategic method of control, both for their own soldiers and for the community effected, because the military does not have to act within the social norms of the at-home society. While the United States military does have to conform to international law, however, international law cannot take into account the particular manifestations of social, economic, and gender dynamics within every community by instituting

widespread, overarching legislation. For example, if the United Nations were to pass a charter to institute partial decriminalization of sex work, it would not change the fact that in Okinawa, sex work has already been made legal, for all intents and purposes, because the overarching authority on the island—the United States military—has created a demand for it. This charter would not address the economic necessity the island has on the military, and even if sex workers were able to freely market their goods without a third party profit motive, they would still be commodifying their bodies due to the long term economic environment that has necessitated prostitution.

To not support sex work within the context of our how it manifests under current human rights and labor rights conditions but to still support the modern military complex that utilizes sex work to further its own goals contradicts itself. Thus, in order to address the multi-faceted conditions of sex work under both human rights and labor rights conditions, one must do so by also considering power dynamics between the developed and developing world as well as gendered power dynamics that stem from militarization.

In Okinawa, a community dependent of the military base, the institution of prostitution was legitimized and essentially legalized given the military's support for the institution in the community—creating a form of labor that nonetheless put women, already in a community sphere of economic enslavement to the military base, in a form of gendered economic enslavement. By fostering an environment that operates under different legal and social norms than that of the institution's home country, the military had created a community catered to its own desired image of the community—with every aspect of community enterprise tailored to the tastes of American personnel. Despite the fact that the military is a state institution, the

community they have created is not, and thus the social and economic norms the military imposes on the community exist apart from the norms that the state may recognize within its own society. Essentially, prostitution manifests itself differently in the United States and Okinawa. While international law would apply to both, overarching and singular legislation cannot entirely change social dynamics within a community as it relates to sex work. Thus, in Okinawa, in order to address prostitution, one must also address the prominence of the United States military in the social and economic sphere of the community. To partially decriminalize sex work, address the role of sex work in the subordination of women, and address the role of sex work in restricting the developmental capacity of women under international law would not provide economic alternatives for these women because it wouldn't change the demand imposed for prostitution in the community.

That said, the legitimization of prostitution on Okinawa by the military manifests as form of sexual colonization—with not only the community dependent on the military for survival of the existing social and economic structures in place, but the work of prostitutes dependent as well, the institution of a foreign state has dictated the commodification of a community 'resource'—female bodies—for their own purposes and direction. Furthermore, the dominating presence of the military on the island restricts the opportunities for alternative labor or education—there must be a constant supply of what the dominating consumer on the island (military personnel) desires, and thus a supply of sex workers adequate for demand by soldiers must be maintained. A prostitute looking for alternative labor to remove herself from sex work may not be able to because the demand for other military based enterprise may not be as high as it is for

sex work. Furthermore, she may not have the skills for other work, or alternatively, the gendered stigma of sex work may prevent others from hiring her.

The main economic force within the community, essentially, is a state institution from the developed world. Though some Okinawans felt as is U.S. presence was an economic opportunity—a presence that gave them a distinct Western model to build their enterprise around—others felt as if the military presence was more imperialistic: not only did it directly militarize the lives of islanders, but it created a hierarchy between soldiers and the community. When prostitutes were not enough, for example, sexual assault on Okinawan women and girls was often ignored or unpunished by military officials. As a form of peacetime occupation, the United States military effectively created a hierarchy of laws for soldiers and islanders: what the soldiers need comes before that of the islanders, and, if necessary, they can take from the islanders without serious repercussions—with ‘take’ in this scenario referring to the forceful taking of autonomous bodies for their own sexual desires.

Okinawa, however, is just a singular example. The main point rests in the idea that in order to make a significant analysis of prostitution within an increasingly interconnected world, one must not only analyze labor rights and human rights—one must analyze how existing structures interact with labor rights and human rights to create the manifestations of distinct dynamics within communities. Militarization is one of these structures, given the role of militaries in perpetuating sex work as the only viable option for many women. The United States military is a clear example of this because of its role and presence in many developing countries, making it a facilitator of sexual commodification and colonization for women within these countries.

In conclusion, Berta E. Hernández-Truyol and Jane E. Larson's *Sexual Labor and Human Rights* establishes prostitution as a phenomena that intersects human rights and labor rights—and thus, in modern feminist discourse, must be addressed in a way that acknowledges the necessity and legitimacy of sex work as a form of labor for women under current human rights norms, but also acknowledges the civil, political, and economic human rights elements that have adapted sex work as an inherently exploitative nature of prostitution as a form of labor. That said, in order to apply this discourse to the modern issue, it is important to analyze and consider the intersectional implications of sex work as a product of human rights and labor rights for women in the developing world whose sex work had been perpetuated by the United States military.

Bibliography

Berta E. Hernández-Truyol & Jane E. Larson, *Sexual Labor and Human Rights*, 37 Colum. Hum.

Rts. L. Rev. 391 (2006), available at <http://scholarship.law.ucla.edu/facultypub/193>

Enloe, Cynthia. *Maneuvers: The International Politics of Militarizing Women's Lives*. University of California Press, 2000.