

Sexual work in Brazil: An approach to the protagonism of prostitutes in their struggle for recognition of the right to exercise the profession

Trabalho sexual no Brasil: uma abordagem do protagonismo das prostitutas na luta pelo reconhecimento do direito ao exercício da profissão

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ABSTRACT This essay aimed to study the struggle of Brazilian prostitutes for the recognition of sexual work as a profession. Through a bibliographic review, it presents the establishment of the Brazilian Prostitutes Movement and its claims, seeks to define sex work, and, finally, shows the trajectory of their claims in the Legislative Branch. It concluded that the obstacles to the recognition of the profession by the Brazilian State are related to the stigma that marks sex workers.

KEYWORDS Sex work. Right to work. Respect.

RESUMO O presente ensaio teve como objeto de estudo a luta das prostitutas brasileiras pelo reconhecimento do trabalho sexual como profissão. Utilizando revisão bibliográfica, apresenta a formação do Movimento das Prostitutas no Brasil e suas reivindicações, busca definir o que é trabalho sexual e, ao final, discorre sobre o percurso dessas reivindicações no Poder Legislativo. Conclui-se que os entraves ao reconhecimento da profissão pelo Estado brasileiro estão relacionados com o estigma que marca as trabalhadoras do sexo.

PALAVRAS-CHAVE Trabalho sexual. Direito ao trabalho. Respeito.

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Introduction

This essay aims to present the protagonism of Brazilian prostitutes in their struggle for the recognition of sexual work as a profession. As we dwelled into the past, we identified that the marginalization of sex workers is not a separate chapter in the social forge that established gender conceptions and relegated women to a subordinate place in their legal-political institutional structure.

Friedrich Engels¹ explains that when private property boiled down to personal property, the legal tradition of the West was that, in the case of the death of the father, his assets passed to the maternal brothers/sisters, nieces/nephews or cousins because the daughters and children of a man did not belong to his gene, but to that of the mother. When it was possible to accumulate riches, the transmission of the estate acquired a new meaning, for it was now a man to deprive his descendants of valuable goods and give them to another gene. In favor of their children, men changed the order of the established inheritance to solve this issue. Therefore,

It was enough to simply decide that, in the future, the descendants of a male member would remain in the gens, but the descendants of a female member would leave it, moving to his father's gens. Thus, female affiliation and maternal hereditary law were abolished and replaced by male affiliation and paternal hereditary law¹⁽⁶⁸⁾.

The custom of giving daughters the name of the paternal family would be, for Engels¹, another way to break the tradition without leaving it, resulting in a profound change in the economy and culture. However, the rules on the transmission of inheritance had no merely economic implications. Simone de Beauvoir² proposes that the ontological sense of property is that the subject integrates the goods with his identity, making it a value that subsists beyond death.

Thus, if this good must continue in the hands of individuals in whom this subject recognizes himself if his existence is perpetuated and conditioned beyond the materiality of the world, the replacement of uterine affiliation with agnation created, in favor of men, a way of controlling procreation: women became pregnant, but men had the prerogative of recognizing affiliation and transferring the inheritance. The transmission of inheritance as a stage of procreation reduced women to the condition of object:

By marriage, a woman is no longer borrowed from one clan to another; she is radically taken from the group in which she was born and attached to that of her husband; he buys her as he buys a res or a slave and imposes on him the domestic deities; and the children she engenders belong to her husband's family. If she were a heiress, she would transmit the riches of the paternal family to her husband, carefully excluding her from the succession. However, conversely, because the woman is not elevated to a person's dignity because she does not possess anything; she is part of the man's heritage, first of her father and then her husband²⁽¹²³⁾.

Above all, chastity was required from this object acquired through marriage since extramarital sexual relationships endangered the transmission of inheritance. Hence the imperative of controlling female sexuality and what Elizabeth Badinter³⁽¹²⁷⁾ defines as an obsession with adultery that "makes the wife suspicious: an adversary" that led men to live the marital state as "a combat that required absolute vigilance". The husband feared being unable to erase his wife's burning desires and "he was afraid of low blows, betrayal".

It is for no other reason that the system of norms, rules, laws, and values on permissions and prohibitions of sexual practices was explicitly defined by male morality and that the ideal model of women combined a body that supported the sexual act with the passivity

of objects to a cordate and selfless spirit that renounced flesh and pleasure.

Sex workers understood that “among those who sell themselves for prostitution and those selling for marriage, the only difference is the contract’s price and duration”²⁽⁷³⁷⁾ and that their fundamental distinctive trait is that they made decisions about their body and sexuality without male protection.

Unable to subjugate them and discard them, nasty advertising against sex workers was undertaken as a last resort, a campaign, said Rachel Soihet⁴, divided between those who considered them as a disseminating scum of disease and those who saw some relevance in the profession. After all, every service to satisfy a man has its importance.

Therefore, there is an emerging need for the debate to be placed in its proper terms. The recognition and regulation of prostitution must focus on sex workers, their labor rights, and social security, “besides others aimed at improving their social condition”⁵⁽¹³⁷⁾.

This essay uses the bibliographic review to address this issue and is structured in three parts. The first presents the establishment of the movement of prostitutes in Brazil and their claims. In the second seeks to define what sex work is. In the third, current debates are discussed about the recognition of sexual work as a profession.

Prostitutes’ movement

Gabriela Leite⁶ says that, in 1984, she lived and worked at Vila Mimosa, Rio de Janeiro, and was invited to participate in a Pastoral of Marginalized Women meeting in Salvador, ‘a euphemism to the prostitute’, as the pastoral defended “the end of prostitution and believed that the prostitute is a victim of macho society”⁶⁽¹⁴¹⁾. Leite⁶ says he was very mistreated at the meeting because she did not assume the victimization of prostitutes as

desired by the Pastoral. Thus, she and Maria de Lourdes Araújo Barreto, a sex worker in the state of Pará, began to think of an autonomous movement of prostitutes without the custody of the Church.

From this idea, both held the first national prostitute meeting in July 1987 in Rio de Janeiro, coordinated by Gabriela Leite, to mainly build a network of contacts and exchanges between prostitutes that allowed them to propose joint actions and claims of civil rights⁷. Leite narrates that the event was attended by the national and international press and participation of more than two thousand people, including Rose Marie Muraro, Lúcia Arruda, Lucélia Santos, Elza Soares, and Martinho da Villa. She said,

Society has seen us organized in the name of our profession. We first saw each other this way [...] it was a mature and well-organized event. That was the right time. It was in the collective unconscious, and society needed to take a big step towards a whore. We paved the way and left the dark to practically reach stardom⁶⁽¹⁴⁹⁾.

Aparecida Fonseca Moraes⁷ also refers to the event as an opportunity for women to assert themselves as workers who worked in a legitimate profession, enabling a consensus on the need to fight for the profession’s recognition. During the meeting, the Brazilian Prostitutes Network (RBP) was created to assist in organizing local associations, promoting and supporting events and meetings of the category, formulating public policies in partnership with government agencies, and fighting for legal recognition of the profession⁷.

In its letter of principles, the network stated that sexual work is inserted in the field of sexual rights. It defended the regulation of the prostitute’s work and repudiated discrimination, prejudice, and stigma directed at them⁸. Thus, it condemned the victimization of prostitutes, health control, the establishment and existence of delimited and confined areas, the criminalization of clients, the association

of prostitution with crime, human trafficking, and abolitionism⁸.

From the first meeting, associations were founded in several Brazilian states, especially the group of women prostitutes of the State of Pará (GEMPAC), under the coordination of Lourdes Barreto. The coordinated performance of prostitutes resulted in the inclusion of sexual work in the Brazilian Classification of Occupations (CBO) of the Ministry of Labor and Employment under the ‘sex professional workers’ category (Code 5198) on October 22, 2002. The names of Gabriela Leite and Lourdes Barreto are included as experts in the list of participants in the occupation’s description. This list also includes associations of prostitutes from Bahia, Rio de Janeiro, Pará, and Rio Grande do Sul. Regarding the profession, the CBO says the following

Summary description

They offer sex for money; they serve and accompany customers; they participate in educational actions in the field of sexuality. The activities follow rules and procedures that minimize the profession’s vulnerabilities.

Training and experience

For professional practice, workers are required to participate in safe sex workshops, and access to the profession is restricted to those over eighteen; the mean schooling level ranges from fourth to seventh grades of elementary school.

General Professional Conditions

They are self-employed and operate in several places and at irregular times. Some of their activities may be exposed to weather and social discrimination. There are still risks of STD contagions, abuse, street violence, and death⁹.

Although the inclusion of sex professionals in the CBO is a victory, sex work has not been regulated and, therefore, does not ensure any labor, social security, and other rights to improve the social condition of sex workers.

What is sex work?

What is important is not how society conceives prostitution but how prostitutes, in full enjoyment of their autonomy, understand and assert themselves as historical subjects. Sex workers believe prostitution is not a body sale or rent, if you prefer, but the provision of a service that “involves practices, relationships, desires, and values that underpin a broad universe marked by economic-sexual exchanges”⁸ established in processes in which there is

[...] some engagements between different stakeholders, in different social, cultural, and economic situations and contexts, not based on criteria that conceal moral foundations that, in principle, exclude from this field what may be positive in it, of choice, affection, playfulness, or political⁸.

It is no coincidence that one of RBP’s charter of principles’ central points is the statement that prostitutes provide sexual services, and that the profession can only be practiced by people over 18 and legally capable since there is no such thing as ‘child prostitution’, but rather the commercial sexual exploitation of children and adolescents. This understanding is found in Lourdes Barreto’s speech to the Parliamentary Commission of Inquiry into Human Trafficking in Brazil, held in 2013 at the House of Representatives:

I am a woman who, at 71, has a great desire to tell society that this project is fair and real. With this project, you will combat the sexual exploitation of children and adolescents. You will not have a child in a situation of exploitation because a child is not a prostitute; he or she is in a situation of exploitation¹⁰.

The understanding that prostitution is a profession, therefore, is a valuable contribution to the understanding of women’s sexual rights, autonomy, citizenship, and

the preservation of the best interests of children and adolescents, and respect for their condition as a developing personality that enjoys all the fundamental rights inherent to the human person, without prejudice to the complete protection provided for in the Statute of Children and Adolescents¹¹, including opportunities and facilities so that they can develop (physically, mentally, morally, spiritually, and socially) in freedom and with dignity.

Furthermore, by expressing the contradiction of the term ‘child prostitution’, she highlights the condition of children or adolescents as subjects of rights and, besides the vulnerability resulting from the socioeconomic situation, criminal sexual exploitation is sustained by the naturalization of machismo, violence, and discrimination to which all women are subjected.

Current debates on the regulation of sex work in the Brazilian Legislative Branch

There are three possible political approaches to sex work: prohibitionism, abolitionism, and regulationism. Prohibitionism considers prostitution a criminal activity and punishes all those involved, including sex workers.

Prohibitionism treats prostitution as a social scourge by attempting to punish all people involved in prostitution without differentiating between those who merely engage in prostitution and those who exploit it. Therefore, for this system, even clients and prostitutes should be punished. Fortunately, this is a minority view, even due to its abstraction degree, given the difficulty of determining who sex workers are¹²⁽²⁵²⁾.

Thailand and Iran are prohibitionist countries. The former imposes fines on sex

workers and clients. Iran imposes a penalty of 75 lashes on clients, besides their expulsion from their communities for three months. Women are also subject to the same number of lashes and a prison sentence¹³.

Abolitionism, on the other hand, considers the prostitute as a victim and, therefore, only criminalizes people who contribute somehow to engage in the profession, which is the case in Brazil. This country does not criminalize sex work or the client but those who collaborate somehow with the activity¹⁴.

The option for abolitionism was the subject of intense debates, in which, on the one hand, prohibitionists – influenced by works such as ‘The Delinquent Woman: The Prostitute and the Normal Woman’, by Cesare Lombroso¹⁵ – placed prostitution in the field of perverted sexuality and criminality and demanded punishments for both the prostitute and those who, in somehow, collaborated with the activity and, on the other, the abolitionists, who considered, with Thomas Aquinas¹⁶, that prostitution is a necessary evil and that prostitutes were victims.

Regarding this last point, Soraya Simões¹⁷⁽⁴³⁾ argues that the idea of the prostitute as a victim was based on the theses of the French positivist doctor Parent-Duchâtelet, according to whom, “women are more easily carried away by their passions, and their main characteristic is passivity, becoming easy prey in the hands of those who want to exploit them”. Abolitionists described sexual intercourse in cabarets as sordid and abominable practices and explained that this was done by imposition and for the profit of pimps and ruffians.

In the dispute between prohibitionists and abolitionists in the field of Brazilian Criminal Law, the latter won, first with the approval of the Mello Franco Law¹⁸, which included in the Penal Code of the Republic¹⁹ the crime of having or operating brothels or places intended for clandestine meetings

for sexual purposes, and, subsequently, with the inclusion, in the subsequent Penal Code, of the crimes of mediation to serve the lust of others, facilitate prostitution, brothel, and pimping. However, the prohibitionist conception was not swept away from the legal world, as, in administrative law, it was reflected in several regulations associated with the hygienist policy of the time.

From a hygienist perspective, prostitutes were considered a threat to the construction of a sanitized family. They were seen as responsible for the physical and moral degradation of men and, by extension, for the destruction of children and families. Furthermore, they perverted, with the unruly example of their lives, the morality of the woman-mother with men. The advent of venereal diseases (in this case, syphilis, for which there was no effective cure) brought the need to implement a preventive intervention regarding prostitution. This fact fostered the discussion between neo-regulationists and abolitionists that guided the health policy to combat prostitution implemented at the time in Brazil. One of the consequences of this policy was the confinement or isolationist regulation, which tolerated prostitution only in the closed environment of the brothel, combined with the repression of street prostitution. Although it was known that other forms of prostitution existed, especially the more refined ones, it was considered that these involved a small number of women and, therefore, did not require intervention¹²⁽²⁵¹⁾.

According to Margareth Rago²⁰, these health measures resulted in the obligation for brothels to be registered with the police, monitored by the administration and health authorities, becoming as close as possible to a bourgeois domestic environment. Furthermore, health regulations did not apply to women who worked as prostitutes in refined environments, thus creating first-, second-, and third-class prostitutes,

ratifying the positivist theses about the typical woman and the prostitute.

Currently, it can be said that the Brazilian prostitutes' movements – the RBP, the Central Unified Sex Worker Union (CUTS), and the National Articulation of Sex Professionals (ANPS) – advocate for a regulating system that recognizes their human rights. Thus, they advocate the decriminalization of activities related to prostitution and subsequent regulation so that sex workers can enjoy the rights granted to all workers, such as job security and social security.

To date, two bills have been introduced to address this issue. On February 19, 2003, Representative Fernando Gabeira introduced Bill PL/98/2003²¹, which provided for the requirement of payment for the provision of sexual services by those who had provided them or who had remained available to provide them and revoked Articles 228, 229, and 231 of the Penal Code. The backlash against the Bill came in the form of Bill PL/2.169/2003²², authored by Representative Elimar Máximo Damasceno, proposing the criminalization of clients and those who provide paid sexual services. Both bills were shelved at the end of the legislature, as they had not been submitted to the Chamber for deliberation and did not contain a favorable opinion from all the Committees.

On July 12, 2012, Representative Jean Wyllys presented PL N° 4.211²³, named PL Gabriela Leite, in honor of the prostitute and activist who died in 2013. The Gabriela Leite project defines a sex worker as any person over 18 and competent who voluntarily provides sexual services for remuneration. Furthermore, it makes the payment for providing these services legally enforceable. It prohibits the practice of sexual exploitation, which it defines as the total appropriation or greater than 50% of the income from the provision of sexual services by a third party, non-payment for

the contracted sexual service, and forcing someone to practice prostitution through serious threat or violence.

Regarding the type of work, the Bill provides that sex workers can offer services independently or collectively in cooperatives. It also allows brothels as long as no type of sexual exploitation is performed there. Regarding criminalizing provisions, the Bill amends articles 228, 229, 230, and 231 of the current Penal Code to criminalize sexual exploitation, besides creating article 231-A with the same objective. Moreover, it provides that sex workers will retire after 25 years of work.

On June 13, 2013, the rapporteur of the Human Rights and Minorities Committee, Representative Pastor Eurico (PSB-PE), presented an opinion rejecting the Bill. However, it was shelved at the end of the legislative term, on January 31, 2019, without further analyses. Currently, no bill regulates the profession in progress in the Senate or the House of Representatives.

Conclusions

The lack of regulation of prostitution is related to the stigma that marks sex workers. This stigmatization, far from being arbitrary, is based on values that prohibit some social,

economic, and emotional practices in order to impose a social model in which women are subordinated and hierarchized.

This purpose is perceived in the belief that sex workers do not have the total capacity to decide on the exercise of their profession and the discourses that call for an individual change of paradigms and life plans, disregarding the subjectivity of those involved.

Finally, the refusal to decriminalize essential prostitution-related activities to provide a minimum of legal protection to the profession is a way of preventing someone from disposing of their own body as they see fit.

Therefore, only individual references to what dignity is can operate as a criterion for valuing an activity that concerns only those involved. From this viewpoint, adults should not be punished, by legal or moral means, directly or indirectly, for adopting behaviors that only interest them.

Collaborators

Beltrão JF (0000-0003-2113-043X)* and Bispo AF (0009-0006-4832-7266)* equally contributed to the elaboration of the manuscript. ■

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