



This paper is taken from

*Human Rights and Citizenship Education
Proceedings of the eleventh Conference of the
Children's Identity and Citizenship in Europe
Academic Network*

London: CiCe 2009

edited by Peter Cunningham, published in London by CiCe, ISBN 978-0-9562789-6-8

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Gaynor, A. (2009) What kind of citizens are commercial sex workers?, in Ross, A. (ed) Human Rights and Citizenship Education. London: CiCe, pp 443 - 449

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Lifelong Learning Programme

This project has been funded with support from the European Commission. This publication reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

Acknowledgements:

This is taken from the book that is a collection of papers given at the annual CiCe Conference indicated. The CiCe Steering Group and the editor would like to thank

- All those who contributed to the Conference
- The CiCe administrative team at London Metropolitan University
- London Metropolitan University, for financial and other support for the programme, conference and publication
- The Lifelong Learning Programme and the personnel of the Education and Culture DG of the European Commission for their support and encouragement.

What kind of citizens are commercial sex workers?

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Introduction

The overall aim of this paper is to argue that an alternative conceptualisation of citizenship is needed with regard to commercial sex workers (henceforth CSWs). The paper will investigate the extent to which CSWs (particularly female, street and indoor workers) can lay claims to a full British civil citizenship identity and the rights and duties afforded to citizens. Divisions and fractions within the social world can result in the marginalisation of various groups of people and can restrict their access to key resources; such as health care, education and social support. In order to provide an egalitarian concept which encompasses marginalised individuals, citizenship is being reformulated and contested within several disciplines (Brannan et al. 2006; Faulks, 2006; Lister, 2007; Simpson, 2007) and policy research (Goldsmith, 2008; Heath and Roberts, 2008); whilst generating much media debate – both negative and supportive (Doughty, 2008; Garton Ash, 2008; Johnston, 2008).

The initial section examines some issues in relation to the rights and duties of citizenship for CSWs. The importance of being a British citizen on two levels - a vertical relationship with the state (Lister, 2006) and a horizontal relationship to a citizens' community (Goldsmith, 2008) is ratified, both these relationships are problematic and ambiguous on several levels for CSWs. For example, the confusion regarding the legal status of commercial sex work (Sexual Offences Act, 2003) and the social and economic rights to work and pay tax (Marshall, 1963). Also, it will be argued that definitions of appropriate citizenship-like behaviours (Goldsmith, 2008) may impact on CSWs active involvement in the community.

The second section will draw on conceptualisations of 'citizenship' which are useful for this paper and the authors PhD thesis, as they present challenges to civil citizenship ideals. Questioned will be the extent to which CSWs are too sexual to be full citizens; 'sexual citizenship' provides useful points of comparison between citizenship, sexual behaviour and marginalisation (Evans, 1993; Bell and Binnie, 2000). Within the concept of intimate citizenship, Plummer (2003) explores how citizen's rights could be extended into the private arena. For CSWs, this includes the problem of taking sexual intercourse out of the private and into the public arena.

Particularly interesting and linked to 'exiting' strategies (Home Office, 2006); is the idea of intimate confessions which can be utilised to support claims to citizenship (Plummer, 2003) for repentant and thus deserving citizens (Foucault, 1977). Scouler and O'Neill, (2007, p.11) argue that 'exiting' strategies create disciplined citizens leading to 'social exclusion' rather than full citizenship rights. Lastly, the work of Beck et al., (2003) highlights how globalisation has led to reflexive citizens; adapting to contemporary society which is to some extent free of ascriptive labour constraints. The same may be related with regard to CSWs whereby sex work is a career option (especially high class CSWs (Bernstein, 2007)) who may not feel disciplined or marginalised and remain indifferent to citizenship ideals.

Discussion

Marshall's (1950) tripartite (civil, political and social) conceptualisation of citizenship informs the basis for contemporary civil citizenship ideals (Goldsmith, 2008). Citizenship as a legal status is bestowed on full (for example those born in Britain since 1/1/83 (British Nationality Act, 1981)) and 'active' members of a society. It is intended to encompass all people who have a legitimate claim to British citizenship. Opposition from feminist citizenship theorists has won rights for female citizens by contesting and redefining citizenship ideals that marginalise (Lister, 2003; Lister et al, 2003; Mason, 2007). Mason (2007, p.307) provided a framework for citizenship suggesting five key requirements:

the recognition of women's diversity; bridging the public-private divide; addressing women's oppression; acknowledging women's agency; and facilitating women's active participation in social, political and community life.

Here, Mason (2007) highlights some complexities of women's relationship with citizenship. This is certainly the case for CSW's whose work takes the private into the public and when coupled with negative perceptions in the social world (Hubbard, 2004; Bellis et al. 2007) can prevent active participation in community life (O'Neill et al, 2008). Lister's (2003) supports this view explaining how, in relation to citizenship status, gender is further compounded by other social divisions; including divisions related to employment which would incorporate commercial sex work. There is a tension between a universal citizenship identity and one that incorporates the experiences of everyday lives for those with marginalised identities (Purvis and Hunt, 1999).

With this in mind, the next section of this paper will consider the extent to which CSWs' identity impacts on citizenship identity; whether they can be regarded as full civil and active citizens within their communities.

Citizenship...embodies two relationships. A vertical relationship runs between citizen and State, connecting the group of humans who can exact the highest protection from the State and who owe it the most onerous duties. A horizontal relationship connects citizens themselves, developing a community of people who share loyalties, civic allegiance, and national character. (British Institute of International and Comparative Law, 2008, p.9)

Within the vertical relationship there are two levels to consider - formal (for example legal status) and substantive (rights and duties), connecting citizen and the State (Lister, 2003). The formal component of the vertical relationship bestows citizenship rights for 'lawful' British citizens. The expectations of behaviours which conform to those of a 'good citizen' (Dean, 1999, p.33) are identified by those which do not. The issue here is a paradox in relation to the legal status of commercial sex work and how this may impact on civil citizenship status. That is, although the current legislation in relation to commercial sex work does not criminalise the act of selling sex, it criminalises specific associated activities which can result in a criminal offence (Sexual Offences Act, 2003).

Such legislation makes it almost impossible to be a CSW and not break, or be perceived to be breaking, the law. This confusion may have been compounded further by The Home Secretary's (Home Office, 2008, p.2) review which attempts to criminalise 'the sex buyer, the person responsible for creating the demand for prostitution markets' rather than the seller. Clearly, the ambiguous criminal legislation in relation to commercial sex work means that they will continue to have their citizen status affected formally and informally. Until CSWs' legal status is clarified this will continue to be the case.

Secondly, the substantive relation to the state, such as the right to work and pay tax (Marshall, 1963; Goldsmith, 2008) is problematic for CSWs. Whether income is earned legally or by other means it is still subject to taxation. Some CSWs, especially brothel workers, do pay income tax on their earnings – the same as other self employed persons – even employing accountants to complete their tax returns. Further, working and pay tax is established, within the social world, as a component of 'good' citizenship:

The extent to which the young people identified themselves as citizens reflected developments in their own lives such as whether or not they had achieved waged employment and paid tax... (Lister et al. 2003, p.242)

Ironically, whilst work and income tax continue to be understood as clear components of citizenship duties and rights (Goldsmith, 2008) - they remain an unresolved issue for CSWs. Whether or not sex is 'first and foremost work' is a key factor in this debate (Pateman, 1988; MacKinnon, 1989; Oerton & Phoenix, 2001, p.402). It is argued here that sex has to be regarded as work and a CSW as 'any other wage labourer' (Leigh, 1997; Bellis et al. 2007; Weitzer, 2007) if they are to be regarded as full civil citizens.

If commercial sex work is to be regarded as work and thus assist claims to civil citizenship it necessitates an examination of the kind of work it is. There is an extensive literature tracing attempts to either legitimate commercial sex work or keep its current status (Farley, 2003; Prostitution Reform, 2008). However, economic motives prevail in commercial sex work and are mostly concerned with economic independence rather than work for survival (Weitzer, 2007). This is indeed the case with some male sex workers (Legros, 2005), and recent claims of increased commercial sex work by British female undergraduate students (Roberts et al. 2007) – selling sex is selected from several options (including

'legitimate' work) in order to pay for expenses with regard to 'personal debt, unexpected life events, further education fees' (Legros, 2005, p.5).

In order to support the claims that voluntary commercial sex work is work (Sanders and Campbell, 2008); the next section will briefly detail how it may be possible to argue the case within British (and capitalist) society. Commercial sex work is related to aesthetic and emotional labour – whereby workers 'manage' their feelings during the transaction (Wellington and Bryson, 2001; Hochschild, 2003) – for some CSWs this is just another art form, 'it's just acting' (Sanders, 2005, p.319). However, in order to take this argument further, there are certain parts of the capitalist work contract that need further analysis. A case in point is commodities; an essential component of the work contract. In order for something to be transformed into a commodity a 'product must be transferred to another, whom it will serve as a use value, by means of an exchange' (Marx, 1867/1999, p.1). As Marx (1844/2000) indicates that human labour can be regarded as a commodity - it should follow that commercial sex can be regarded as a commodity also (Denham, 2004). From this it appears that commercial sex work, on this level at least, can be aligned with the capitalist work contract. CSWs are partly fulfilling the civil citizenship duty to work but they are not all paying tax. This area will remain problematic until clarity in relation to commercial sex work is established – the author intends to develop this argument with their PhD thesis.

This paper will now consider how the horizontal relationship between citizens who are actively involved in the development of their community (British Institute of International and Comparative Law, 2008) is being distorted by state intervention. Recent figures indicate that almost three quarters (73%) of adults in England had completed some voluntary work 'in the 12 months prior to interview in April to September 2007' (National Statistics Online, 2008); consistent with developing a 'sense' of community. There is an increased focus on this expansion of citizens' community involvement including incentives to reward certain 'active' citizenship like behaviours:

What I propose is that local councils give consideration to whether key opportunities such as helping children with reading in schools, organising recycling within a neighbourhood or setting up a residents' association where one does not exist, should be supported by giving participants a partial rebate of their council tax. (Goldsmith, 2008, pp.103/104)

Here, the government is explicitly defining which activities are citizenship-like; this changes the nature of the horizontal community based relationship into a vertical relationship with the state. For CSWs, a government based initiative – exiting – provides evidence of appropriate citizenship behaviour for CSWs; it rewards reformed CSWs with a programme for reintegration into mainstream society which includes education, training, and re-housing (The Home Office, 2006). Exiting can be utilised as a vehicle for improved citizenship status but is problematic; in that not all CSWs are able to or want to exit commercial sex work. However, formal and informal exclusion from citizenship identity continues until or even after they reform (Scoular and O'Neill, 2007). Consequently, whilst the state defines the conditions of British citizenship identity for both the vertical and horizontal components this will continue to impact on CSWs claims to full civil citizenship and thus increase their marginalisation.

The next section of this paper will highlight how the concepts of sexual, intimate, disciplined and reflexive citizenship provide challenges in relation to state derived citizenship ideals; indicating how the horizontal relationship can become viable. Therefore, they are useful as a 'springboard' for a more inclusive citizenship identity in both the public and private arenas (Faulks, 2000) for CSWs. The concept of 'sexual citizenship' provides useful points of comparison between citizenship, sexual behaviour and marginalisation (Evans, 1993; Bell and Binnie, 2000). Contemporary sexual citizenship involves remodelling principal 'legal and political articulations of rights, responsibilities, inclusion, nationhood, and legitimacy' (Grabham, 2007, pp.35-36). The intention is to remodel the 'heterosexual' representation of a citizen portrayed in traditional civic citizenship (Evans, 1993). This model has been useful to inform the debate for 'rights-based claims' coming from the gay, lesbian and bisexual (GLB) movements in the UK (Langdridge, 2006).

Langdridge's (2006) work on sadomasochism (SM) and citizenship reveals how practicing SM 'may produce a sexual citizen that is simply too sexual...too transgressive for full citizenship'. Similarly, it could be argued that CSWs could be perceived as being a too 'sexual' in relation to state defined citizenship ideals. Therefore, although there will be clear demarcations between the GLB research and commercial sex work, it could inform the debate with regard to CSWs and citizenship claims. For example, and especially problematic, CSWs are taking the sex act out of the private arena where it is

regarded as an intimate act and into the public. Citizenship values and rights should be applied to relations in both the private and public arenas (Faulks, 2000).

This could provide an interesting synthesis of sexual and intimate citizenship for the authors PhD thesis. Plummer (2003) asserts that intimate citizenship lays out 'the social flows of late modern intimacies'. These 'flows' have brought a 'digitalization' of intimacies. For example, the new media technologies, facilitate intimate interaction; internet 'chat rooms' also provide a form of confessional. Intimate confessions are arguably perceived by the audience as the 'truth' and allow the marginalised person to support their claim to citizenship by showing that they are now a righteous and deserving citizen (Foucault, 1977). Typically, those marginalised agree to some kind of reparation for their 'bad' behaviour – engaging in rehabilitation to redeem their previously 'un-citizen like' behaviour. For CSWs this can be linked to 'exiting' – whereby current social policy is being utilised to provide a platform for them to be reintegrated into mainstream society (Matthews, 2008; Shearing, 2008; UK Network of Sex work Projects, 2008).

However, 'exiting' is problematic Scouler and O'Neill, (2007, p.11) argue that attempts to reintegrate CSWs into the mainstream society are having an undesirable outcome; disciplined citizens; 'social exclusion is being used as leverage for increased control rather than for increased social justice'. For example; instead of allowing all CSWs the rights of full-citizen, government policy encourages them to facilitate their individual social inclusion/citizenship status by 'exiting' sex work. However, it needs to be ascertained whether this individualistic notion leads to disciplined citizens or if it is more about reflexive citizenship.

Beck et al. (2003) highlights globalisation has lead to the shift in modern society from the constraints of labour, whereby 'fate' no longer exists.

The result has been the erosion of several ascriptive patterns of collective life, each of which has gradually lost its legitimacy.
(Beck et al. 2003, p.6).

Consequently, people have had to adapt and become reflexive citizens. The same may be related with regard to CSWs. For example, it may be argued that high class, male and student CSWs, who have chosen this line of work, may not feel disciplined or as acutely marginalised as those from the lower class (Bernstein, 2007). Also, a CSW from the working or 'underclass' may be marginalised but remain indifferent. The extent to which CSWs feel marginalised from citizenship or from society in general, needs to be established. Therefore, for the authors PhD thesis, it is important to discover how CSWs narrate their relationship to commercial sex work and citizenship in order to provide an alternative conceptualising of citizenship for this group.

Conclusion

This paper argues that an alternative conceptualisation of British citizenship identity is required in order to incorporate CSWs whose citizenship rights and duties are curtailed by a negative identity. The vertical relationship between citizens and the state is problematic for CSWs on both levels - formal and substantive - due to the paradoxical nature of contemporary British criminal laws in relation to the legal status and the inability to ascertain if commercial sex is work. This report has identified how recent government proposals for increasing horizontal citizenship activity change the nature of this level of citizenship to the extent where it has become another example of vertical citizenship.

The danger of such intervention has been highlighted in relation to commercial sex; it is argued that the government initiative of exiting rather than providing a more inclusive community based citizenship has led to disciplined and further marginalised citizens. The concepts of sexual, intimate and reflexive citizenship reveal how the horizontal relationship can become possible; for example, sexual citizenship, and the idea that some individuals are too sexual, when linked with intimate citizenship allows for an exploration of rights and duties within the private as well as the public arenas. However, as Beck et al (2003) and Bernstein (2007) suggest, CSWs may not feel marginalised from citizenship identity or disciplined – commercial sex work is a chosen career. With this in mind, empirical work carried out within the authors PhD thesis, will establish the extent to which CSWs have an alternative citizenship conceptualisation.

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